

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2023-005

Referral from

RCMP “J” Division

February 4, 2023

Erin E. Nauss
Interim Director
February 16, 2024

MANDATE OF THE SiRT

The Serious Incident Response Team (“SiRT”) has a mandate under the Nova Scotia *Police Act* to investigate all matters that involve death, serious injury, sexual assault, and intimate partner violence or other matters determined to be of a public interest to be investigated that may have arisen from the actions of any police officer in Nova Scotia. Through agreement and the New Brunswick *Police Act*, the SiRT is authorized to review this matter in New Brunswick.

At the conclusion of every investigation, the SiRT Director must determine whether criminal charges should result from the actions of the police officer. If no charges are warranted the Director will issue a public summary of the investigation which outlines the reasons for that decision, which must include at a minimum the information set out by regulation. Public summaries are drafted with the goal of adequate information to allow the public to understand the Director’s rationale and conclusions.

INTRODUCTION

On February 4, 2023, the SiRT received a referral from the New Brunswick RCMP regarding an incident that took place on February 3, 2023, in Saint-Joseph-de-Madawaska, New Brunswick. As a result of the incident, the Affected Party (“AP”) died from a self-inflicted gunshot wound, resulting in the SiRT commencing an investigation. This investigation was completed on January 31, 2024.

The decision summarized in this report is based on evidence collected and analyzed during the investigation, including, but not limited to, the following:

1. Initial Investigation Reports
2. Search Warrant and ITO
3. 911 Calls
4. Statement from 911 Dispatcher
5. Civilian Witness Statements (6)
6. Reports and Notes of Witness officers (41)
7. Autopsy Report
8. Toxicology Report
9. Exhibits seized from the scene
10. Forensic Identification Occurrence Report
11. Critical Incident Program Deployment Plan

Any death that may have resulted from the actions of a police officer fits the mandate of the SiRT. It should be noted; however, that a subject officer whose actions may have led to the AP’s death was not identified in this investigation. The investigation found that the injuries of the AP were self-inflicted and occurred during the police response to execute a search warrant and arrest the

AP. As such, the focus of this summary is on the police response in general, rather than the actions of a specific officer or officers.

INCIDENT SUMMARY

Between January 29, 2023, and February 2, 2023, the RCMP received several complaints regarding the AP, which resulted in the police becoming concerned about the safety of the AP and the public.

The complaints are summarized as follows:

Complaint 1: 911 Call from Civilian Witness 1 (January 29, 2023)

- Civilian Witness 1 (“CW1”) stated that he received a text from the AP talking about his life being cut short. The AP also showed up at his residence driving an ATV and carrying what appeared to be a 12-gauge shot gun in his lap and a .308 rifle strapped to his back. CW1 placed a 911 call to police.
- In following up on this complaint, police learned the AP had recently broken up with his girlfriend due to his increased drug and alcohol consumption. The police also learned that the AP did not have a valid license to possess firearms.
- Officers attended the residence of the AP to conduct a wellness check. There was no answer at the door and the residence was unsecure. They entered the residence and called out to the AP. At this time, they observed a .22 rimfire firearm with a scope and open boxes of ammunition. The firearm did not have a trigger lock attached. The officers also observed a short barreled tactical style black firearm on the counter with a trigger lock, 12-gauge ammunition and another hunting rifle with a scope.
- It was determined there was no immediate threat to life or safety and the check was completed. Officers decided a warrant should be prepared to seize the firearms; however, it was not considered urgent.

Complaint 2: Arson File (January 29, 2023)

- Police received a call of a possible arson of a cottage located next to the cottage of the AP. There was a previous history of animosity between the AP and the owner of the cottage. When firefighters responded, they located a loaded, short-barrelled shotgun laying in the middle of the road, which was turned over to police. The AP’s ex-girlfriend believed the gun belonged to the AP.

Complaint 3: Shots Fired (February 1- 2, 2023)

- On February 2, 2023, at 9:30 a.m., the AP's ex-girlfriend reported to police that she had not heard from the AP since January 29, 2023. On February 1, 2023, around 7:00 pm, she attended the AP's cottage to pick up items. When she arrived at the bottom of the driveway, she heard 3-gun shots come from the direction of the cottage. She provided a statement to police on February 2, 2023, stating she believed these shots were "warning shots". She also indicated that throughout the course of their relationship of 8 and a half years she was familiar with the cottage. She stated the AP kept ammunition and multiple guns in the residence, usually in the bedroom closet, including a 12- gauge, 16- gauge, 22-250, .308, and a .30-06. She also stated that the AP had commented that he would never be put inside a police car again.
- Following the statement, police began drafting a search warrant for seizure of the firearms.

Complaint 4: 911 calls from the AP (February 2, 2023)

- On February 2, 2023, around 8:30 pm, several 911 calls were made by the AP. The dispatcher was aware the RCMP were on the lookout for the AP. The dispatcher recognized his voice when he called, as she knew him personally. During the 911 calls, the AP sounded distraught and stated the address of his ex-girlfriend's family and asked if anyone was going to that address. He also stated he had been hiding for 3 days and was going to shoot himself several times. He stated that he was shot at and asked the RCMP to attend. He stated he was in the woods waiting for something to happen and "I am shooting, I am armed".
- Following these calls the RCMP attended the residences of the AP's ex-girlfriend and her family to check their wellbeing, clear the residences, and look for the AP. While clearing the residences, police observed an individual drive by on an ATV at a high rate of speed without any headlights. Police noted that they felt they may be ambushed. They were unable to identify the driver.
- Civilian Witness 2 called the police, advising that the AP had driven by and called her, and stated in a very low tone of voice that he had written something for the ex-girlfriend, and it was at the end of the driveway. He asked if she had spoken to police and how many officers were there. He also stated that he would not get through the next few days, as he would get killed.
- Police were unable to locate the AP on this date. At this point, police believed that the AP's mental health was deteriorating and there was an urgency to seek and execute a warrant to maintain public safety.

Police Action (February 3, 2023)

As police had determined that the deterioration of AP's mental health resulted in an elevated threat to public safety, the decision was made on February 2, 2003, to expediate a search warrant for the AP's property and to activate the Critical Incident Program ("CIP") to assist with the AP's arrest and execution of the warrant on February 3, 2023. The CIP includes several trained units, including the Emergency Response Team, a negotiator, electronic surveillance, tactical armoured vehicle, and an explosives unit.

Prior to the arrival of the CIP, police obtained a judicially authorized search warrant and assessed the area around the AP's property. They believed the AP was inside the residence on the property. A plan was devised to attend the area and order the AP out of the residence. A Critical Incident Program Deployment Plan was developed, and the risk assessment noted that the risk of the operation was high, as the AP could show aggressive behaviour likely to cause serious bodily harm or death. It also noted that the residence was in a wooded and isolated area, road conditions could be challenging, and the AP had surveillance cameras on the property. The briefing board clearly notes that the plan was to execute the search warrant and arrest the AP safely.

The plan was activated, and resources made their way to the residence. The AP's residence was in a very remote area 34 km north of Edmundston. Upon leaving the paved portion of road, it is approximately 13 km on a maintained forestry road. At the time of this incident, the area had received an extreme amount of snow over the winter to date. It is also important to note that at the time of the incident the temperatures were in the range of -30 to -44 degrees Celsius, making the operation difficult for officers. It also made it challenging to use certain battery-operated technological devices that could be used as part of the plan.

Within a minute and twenty seconds of negotiation over a loud hailer, a gun shot was heard coming from the garage and an officer reported the projectile hit the trees behind them. Police took cover in various locations and continued to order the AP out of the residence. The AP was observed inside the residence holding a firearm with a scope by the barrel. The AP yelled for officers to leave his property from a window. He was told to drop the gun and come out and the negotiator continued efforts.

With the goal of forcing the AP out of the house and to prevent him from taking any further hostile action, the CIP made the decision to deploy gas munitions. They also disabled the surveillance cameras that were located on the AP's property. After several hours of gas infill and requests to exit the residence, the AP still had not left the house. Hours had passed without the police seeing the AP within the residence. The police then decided to breach the door to gain access. After several minutes of waiting with no response, it was decided to enter the residence with the

assistance of a Police Service Dog to locate the AP. The AP was located deceased inside the residence with a single gunshot wound to the throat. The AP was laying on top of three loaded firearms and a sawed off 20-gauge shotgun, which had a spent shell in the chamber. A totality of the evidence reviewed indicates that the wound was self-inflicted and that he had been deceased for some time. It is noted that the officers arrived on scene at 9:00 p.m. and entered the home at 3:35 a.m., where they found the AP deceased.

Firearms Seized

There were a number of firearms found in various locations of the residence. Many were loaded, with safeties off/ready to fire.

Photos of some of the firearms at the scene



The following firearms were seized from the property:

1. Winchester Model 840, 20 gauge with spent shell casing (gun used by AP February 3, 2023).
2. Remington Woodmaster Model 742 30-06 with scope loaded with magazine.
3. .223 loaded single shot sawed off.
4. Charles Daly Honcho, pump action 12-gauge shotgun loaded.
5. 12-gauge garage – in case.
6. 16-gauge in garage Sawed off bolt action.
7. Loaded .22 calibre bolt action in a case inside garage.
8. 2 x .303 British with Mag in garage, one loaded, one empty.
9. .22-250 with ammunition and magazine unsecure inside residence.

Autopsy Report

On February 3, 2023, at 6:20 p.m., the Coroner from New Brunswick Coroner Services arrived on scene and an autopsy was ordered. The autopsy was completed in Saint John, NB on February 7, 2023. The autopsy report was received by the SiRT on January 31, 2024. It concluded that the cause of death was a single penetrating gunshot wound to the neck. The toxicology results indicated that the ethanol levels in the AP's body may be associated with "impaired coordination and judgement, decreased reaction time, loss of concentration and emotional stability".

Other Considerations and Background

The SiRT interviewed the AP's family and others close to him or who knew him. This provided helpful background and context. One of the AP's family members, Civilian Witness 3 ("CW3") noted in an interview with the SiRT investigator that the AP always said if the police came with a warrant for his guns, he never would go inside a police car. The AP had previously stated something to the effect of "They will have to shoot me. However, before they shoot me, I will be shooting as well." CW3 noted that they wanted to get some help for the AP.

Civilian Witness 4 ("CW4") was interviewed by the SiRT and noted that they saw a person with a gun strapped to his back and on his side on an ATV on January 29, 2023. CW4 stated that it was not uncommon to see the AP with guns and they frequently heard gunshots from his residence at all hours. The AP had previously told CW4 that the police would never catch him and that he would die first.

A notebook was found at the scene and indicates that the AP was struggling and was contemplating ending his life.

LEGAL ISSUES & ANALYSIS

In this situation, the circumstances that took place on February 3, 2023, ended with the death of the AP. While the AP's death was self-inflicted, the death occurred while the police were present on the AP's property. Consideration must be given to whether the actions of the police resulted in the AP's death or if there was any criminal wrongdoing on the part of police. In the present case, the injuries that resulted in the AP's death were self-inflicted. Although this occurred during the police response to execute a search warrant and arrest the AP, no subject officer was identified and for the reasons outlined below, I have concluded the police conduct does not amount to a criminal offence.

Between January 29, 2023, and February 2, 2023, police received multiple reports about the deteriorating mental health of the AP. They also witnessed and received information that led them

to have reasonable grounds to believe the AP was in possession of firearms (including prohibited firearms) without a valid license and was storing firearms in a careless manner. Police have a duty to investigate crimes. A judge of the Provincial Court provided judicial authorization to the police to search the AP's residence. Prior to February 2, 2023, the situation was not considered urgent. It was not until the AP made several 911 calls and contacted CW2, that the police determined there was an increased threat to the safety of the public and the AP.

I am satisfied that the police were acting lawfully when they attended the AP's residence to execute the warrant and effect his arrest. Considering the ongoing actions of the AP, the knowledge that he was in possession of firearms, and his deteriorating mental health, it was reasonable to engage the CIP. Furthermore, I am satisfied that the actions of the officers and the CIP in the planning of the operation and its execution on scene was reasonable. When the officers arrived on scene, they were immediately met with a gunshot fired in their direction. Their responses of using a negotiator, gas and then ultimately breaching the door to enter were justified decisions and that took place over several hours. The police provided the AP ample opportunity to surrender.

The police response did not include any lethal force or unreasonable response that amounted to a criminal offence.

CONCLUSION

As a result of the death of the AP, the SiRT initiated an investigation of the incident, which has now concluded. My review of the evidence indicates that the police response and actions were reasonable in the circumstances and that there are no reasonable grounds to believe that a criminal offence occurred. The death of the AP was tragic and unfortunate and the SiRT extends condolences to his family.