

SiRT

SERIOUS INCIDENT RESPONSE TEAM

Summary of Investigation

SiRT File # 2024-066

Referral from

RCMP “J” Division

New Brunswick

September 9, 2024

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Director

April 1, 2025

TRIGGER WARNING

This summary contains content about suicide and mental health. If you or someone you know is in immediate danger, call 911. For less urgent situations, support for mental health, addiction and wellbeing is available for children, youth and adults, and information can be found at:

https://www2.gnb.ca/content/gnb/en/departments/health/Suicide_Prevention.html .

MANDATE OF THE SiRT

The Serious Incident Response Team (“SiRT”) has a mandate under the Nova Scotia *Police Act*, and through agreement, under the New Brunswick *Police Act*, to investigate or take other steps related to all matters that involve death, serious injury, sexual assault, 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 or New Brunswick.

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

Mandate invoked: This investigation was authorized under Section 24.6 of the New Brunswick *Police Act* due to the death of the Affected Party (“AP”).

Timeline & delays: The SiRT investigation started on September 9, 2024, and concluded on January 30, 2025. There was some delay in receiving police reports and the availability of some witnesses.

Terminology: This summary uses the following language in accordance with regulations made under the *Police Act* and to protect the privacy of those involved:

- “**Affected Party/AP**” means the person who died or was seriously injured in relation to a serious incident.
- “**Civilian Witness/CW**” means any non-police individual who is a witness to, was present at or has material information related to a serious incident.
- “**Witness Officer/WO**” means any police officer who is a witness to, was present at or has material information related to a serious incident.
- “**Subject Officer/SO**” means the police officer who is the subject of an investigation of a serious incident or whose actions may have resulted in a serious incident.

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

1. Subject Officer Description of Events (written notes)
2. Police Incident Reports and Notes
3. Witness Officer Statements and Reports (4)
4. Civilian Witness Statements (14)
5. Affected Party Autopsy, Toxicology and Coroner Reports
6. Police Radio Transmissions
7. Forensic Specialist Reports
8. 911 call recordings
9. 3D Scan of Scene
10. Videos of Incident
11. CEW/Taser Download Analysis
12. Firearm Certificate of Analysis

INTRODUCTION

As I write this report, I am mindful of SiRT’s mandate, but also the impact this incident has had on the Elsipogtog community, those involved in the incident, the Affected Party’s family, and the broader societal context regarding the relationship between law enforcement and Indigenous communities. SiRT’s mandate is narrow and specific to the assessment of the facts and the law to determine whether criminal charges are warranted. Questions of a national public interest surrounding systemic racism, the way policing and other support services are delivered, and historical and contemporary injustices are all relevant topics in our communities. Suggestions or recommendations related to these topics are outside the scope of SiRT’s mandate, this investigation, and this summary report.

SiRT remains relatively new to the Province of New Brunswick and is committed to the principle of police accountability through highly professional and independent investigations. SiRT engaged community liaisons for this investigation with the goal of keeping family and community members informed, and to provide cultural, historical and community background to assist SiRT in interacting with and understanding the family and community while conducting the investigation.

INCIDENT SUMMARY

In the early morning hours of September 9, 2024, SiRT was contacted regarding a male (the “Affected Party/AP”) who was shot by police in Elsipogtog First Nation, New Brunswick on September 8, 2024. Two members of the RCMP responded to 911 calls which reported that an adult male had weapons and stated he wanted to kill himself. The two officers responded to the call and engaged with the AP. The AP was in possession of multiple throwing axes and forcefully threw one in the direction of the officers and others in the home. Video showed that he made

motion to throw another axe. One officer discharged a Conducted Energy Weapon (“CEW/Taser”), and the other officer discharged a firearm, striking the AP. Emergency Medical Services (“EMS”) was called and the AP was pronounced deceased at hospital.

I have reviewed the investigation and each piece of evidence in its entirety. The following is a description of events that led to the SiRT investigation, a summary of the investigation, relevant evidence, and a legal analysis.

911 Calls, Police Dispatch & Radio

SiRT obtained copies of all 911 calls related to the incident, as well as police dispatch and radio records as part of the investigation.

On September 8th, 2024, at approximately 11:15pm, Civilian Witness #1 (“CW1”) and Civilian Witness #2 (“CW2”) each separately called 911 reporting that the AP was suicidal and had a knife in his possession.

CW1 was at the residence with the AP. She stated that he was trying to leave with a knife. The AP can be heard yelling and swearing in the background of the call. CW1 stated he was trying to slit his arm. When asked by the operator if the AP was being violent toward her, CW1 stated “he’s being violent toward me but he doesn't mean it”. The AP said something to her and she said, “you pushed me away”. The AP can be heard yelling, swearing, and becoming very angry in the background.

CW2 called from another residence. The AP was on the phone with the partner of CW2. She told the 911 operator the AP was violent and was psychotic and not himself. She stated he was thinking about injuring himself. She said he had weapons including guns, knives, and axes.

911 calls initially go to a dispatch centre and the information is then relayed to the police or ambulance. These two calls to 911 were re-directed to Ambulance NB.

There was a brief dispatch to officers at the Elsipogtog RCMP Detachment at 11:19 pm about a suicidal male with a knife. In this case, the officers did not receive information that the AP was heard in the background screaming aggressively and using foul language or was being violent towards CW1. The computer aided dispatch software system (CAD) in the police vehicle was activated to indicate their arrival at scene at 11:23:41 pm. At 11:25:50 pm, the Subject Officer (“SO”) is heard saying: “shots fired, shots fired” over the police radio transmissions.

Subject Officer

The SO is not required by law to provide his police notes to SiRT or to submit to an interview. Although not required by law, the SO provided a written account through his legal counsel describing the incident from his perspective. This account is summarized and paraphrased below.

The SO was working at the Elsipogtog RCMP detachment on September 8, 2024. He wrote that at approximately 11:30 pm, Elsipogtog members received a dispatch of a suicidal male with a knife at an address in Elsipogtog. The SO and Witness Officer #1 immediately departed to the address.

The SO had attended the residence on a previous occasion and he noted that he knew the entrance was at the rear. On arrival, he saw CW1, who he understood to be the AP's partner. She told them the AP was in a room inside the residence, and she then entered the residence. The SO and WO1 followed her inside to the entrance of a bedroom. The SO stood on the left side of the doorway looking into the bedroom, and WO1 stood on the right side. He observed the AP standing approximately three to four meters inside and appeared to be holding a weapon in the shape of a tomahawk. The SO noted he gave verbal commands to drop the weapon, but the AP refused and stated something to the effect that he was going to use the weapon against the officers. The SO's account states that he does not recall exactly what the AP said, but the implications of his words were clear to the SO that he was not prepared to cooperate and was prepared to use the weapon.

The SO noted the AP appeared to be under the influence of alcohol based on his speech and body movements. He observed that the AP was actually holding multiple throwing blades, in the shape of tomahawks, which were pressed together into a singular sheath. The sheath covered the blade of the tomahawks. They appeared to be made out of metal of some sort. Based on their design, the SO believed that the tomahawks were intended for throwing. The SO's account notes that when the AP refused to drop the weapons and told the officers that he was going to use the weapons against them, he indexed his firearm (*Director's Note: Clarification was requested from the SO's Legal Counsel, who stated this meant the SO removed his firearm from his holster.*). His assessment of the risk at that point was high, as the AP was wielding weapons that he knew could cause grievous bodily harm or death.

The SO noted that while WO1 tried to line up the display dots for a CEW deployment (taser), he continuously gave verbal commands and pleaded with the AP to drop the weapons. He noted he maintained lethal overwatch (*Director's Note: Lethal Overwatch is a term used to describe a high-risk situation where one officer is prepared to use lethal force and another officer is prepared to use non-lethal force. The officer with the lethal force tool is prepared to use it in the event the situation requires lethal force and/or the other officer's non-lethal tool fails or is not an option in the circumstances.*) with his firearm and attempted to build a rapport with the AP by referring to

an encounter the previous week which had ended successfully. The AP did not drop the weapons. The SO noted that when WO1 entered the room with his CEW, CW1 exited and remained outside the room. A male standing beside the SO was attempting to de-escalate the situation. The SO noted he ensured the civilians remained behind him due to the threat from the AP.

The SO's account notes that the following events occurred very quickly, and that his description of these events is to the best of his recollection. The SO recalled that before WO1 deployed his CEW, the AP faced the officers and pulled the tomahawks apart, holding some in his right hand and some in his left, out of the sheath. The AP pulled his right arm back in a winding up motion, with at least one tomahawk in his right hand. The SO heard the CEW going off, and recalls a tomahawk being thrown and striking who he believed to be WO1. An excerpt from the SO's account of events reads as follows:

Fearing for his life, [WO1's] life and the civilians standing behind them, [the SO] fired his duty pistol two to three times at [the AP]. At that time, [the SO] knew that [the AP] had other tomahawks and responded in accordance with his training. [The SO] firmly believed that [the AP] was fully capable of imminently causing grievous bodily harm or death.

The SO radioed to other members that shots had been fired. He provided verbal commands to the AP to drop the tomahawks while maintaining visual sight of him. He noted the AP was handcuffed, and the officers administered first-aid treatment. Once paramedics arrived, he left the room and was transported to the Richibucto detachment of the RCMP where his uniform and intervention tools and weapons were turned over, and protocols were followed after such an incident.

Witness Officers

Witness Officer #1

SiRT obtained copies of Witness Officer #1's ("WO1") notes and police reports, and he was interviewed by SiRT on September 19, 2024. I have summarized the relevant portions of his reports and interview statement for the purposes of this summary.

When the 911 calls came in, the SO was dispatched to the call. WO1 put on his soft body armour and told the SO he would attend the call with him. He stated he was not sure what dispatch had said regarding a knife, so he looked at the dispatch ticket which said, "with a knife". WO1 stated this raised his risk assessment. WO1's Subject Behaviour Incident Report (also known as a Use of Force Report) ("SBOR") stated that his risk assessment was high "...because the subject was in possession of an edged weapon that could be used on himself, others, or against [the SO] and I. To me this meant that if he wanted to harm himself or take his own life than he might not care about

our lives or others.” WO1 has been with the RCMP for 15 years and has dealt with hundreds of calls related to suicide. WO1 and the SO did not formulate a plan before attending the call. They were a short distance from the residence. WO1 stated he planned to engage with the AP and speak to him.

When they arrived at the AP’s residence, WO1 recognized the house from a call years ago where a young person took his own life with a firearm. He had not dealt with the AP before. He assumed the SO had been there before. A female met them as they exited the police vehicle (later identified as CW1). She led them into the house. WO1 recalls asking CW1 if the AP had a knife on him. Either she did not respond or he did not hear her answer. Before they went inside, WO1 told the SO to be careful due to it being a high-risk situation, to which he responded “yes”.

CW1 led them to a bedroom, where he saw a male (the AP) standing, not facing in their direction. WO1’s SBOR states the SO stood at the left side of the bedroom door frame and WO1 at the right side of the bedroom. They started talking to him to see how he was doing. It appeared the AP was holding something in his hands as he had both of them in front of him near his waistline. They remained approximately 10 feet away from him and the officers tactically positioned themselves there to create some time and distance. The report notes that at this time, WO1 feared the AP was in danger of harming himself, so he unholstered his Conducted Energy Weapon/Taser (“CEW”) and kept it at the low ready position by his side and, out of sight so the AP did not see it. He wrote that he did not want to escalate things, but he wanted to be ready to activate it quickly if needed, while trying to engage in conversation with the AP.

WO1 noted in his SBOR that the AP turned his back to them, bent over and appeared to pick something up from off the floor. When he stood up, turned and faced them he was holding a bundle of metal/silver throwing axes/hatchets in his hands, with a black sheath over the axe heads. WO1 noted that his risk assessment increased as he recognized what the weapons were, and the type of damage and injury they could cause. He noted they can penetrate hard and soft materials without much effort, and inflict devastating trauma, grievous bodily harm or death if someone is struck with one. WO1 activated his CEW, pointed it at the AP and demanded that he drop the weapons or he was going to get tased. WO1 noted that the AP brought the axes to his chest and started pulling on one of the throwing axe handles with his right hand while holding onto the others with his left, trying to remove it from the sheath/cover. He noted in his SBOR that to him the AP was exhibiting abnormal behaviour compared to what he had encountered over the years in his response to suicidal or mental health calls. He noted that the AP appeared angry toward them as officers, which in his experience is not usually the case. WO1 wrote in his report that to pick up an edged weapon and direct it towards police is not a normal reaction.

WO1 noted that he distinctly heard the SO unholster his pistol and began demanding that the AP drop the weapons as well, but the AP's demeanor and behaviour did not change. WO1 stated that the AP's facial expressions stayed the same, and it was obvious to WO1 that he was enraged and not calming down. The following excerpt from WO1's SBOR is relevant:

Myself and [the SO] continued yelling out demands to drop the weapon and I also said that he did not want to do this. I immediately feared grievous bodily harm or death. What I mean by that is I feared for my life and [the SO's] life. The subject's behaviour demonstrated the highest level of threat towards us. The subject went from being passive resistant, not wanting to engage in a civil conversation, with possibly having a weapon in his hands right into exhibiting grievous bodily harm or death when being in a possession of a weapon for a dangerous purpose. I knew that if the subject throws the axe/hatchet at me or [the SO] that it could cause grievous bodily harm or death. The axe head could strike me in the chest, throat, head/face, legs or arms, and sever an artery causing me to bleed out and die. My soft body armour vest is designed to protect against bullets but will not be able to protect against edged and spiked weapons.

WO1 deployed his CEW and the AP did not react. He stated he expected the AP to stiffen up, as has been the case in other high-risk incidents where he has deployed it, but nothing happened.

The AP then pulled one of the axes out and wound up to throw one, similar to how you would wind up to throw a baseball. WO1 believed the AP was going to release the axe and it was coming in his direction, and that he was going to be hit with the axe and killed. He stated he clenched his body/flinched as he felt the axe was coming straight for him and deployed his CEW a second time involuntarily as he feared for his life. His SBOR states that he simultaneously heard two shots from the SO's firearm. The AP released the axe. The WO1 stated the AP threw an axe hard enough to kill someone, it nearly struck his right leg/hip, and it fell to WO1's right, just missing him. The AP then fell over and landed on the floor.

Responding to questions from the SiRT investigator, WO1 stated that police want everybody safe, and that nobody wants to be in these situations. He explained that if the SO had taken out his CEW, he would have taken out his pistol in lethal overwatch, in accordance with training. It was a scary situation to realize the CEW was not effective. He acknowledged he may have deployed his taser twice, and the second time could have been a reaction.

WO1 stated that since his CEW had not worked, he told the SO to keep his pistol on the AP, who was still moving when he fell to the ground. He handcuffed the AP in the front for safety. WO1 recalled a number of people screaming, yelling, and threatening them. He tried to keep the crowd back, and he described it as a terrible situation. WO1's SBOR notes that his risk assessment was

extremely high as the AP had just thrown an axe at him, they were in a confined space, and tensions were escalating rapidly. WO1 spoke to the AP encouraging him to breathe and kept him on his right side in the recovery position. He stated they were unable to apply first aid immediately due to the crowd and safety concerns. When he saw Witness Officer #2 (“WO2”) he asked for bandages. Once he had the bandages, he applied first aid and continued to encourage the AP to hang on and that help was coming.

The emotions were very high, it was a chaotic situation. Witness Officer #3 (“WO3”) took some of the weapons and moved them out of the way towards a bathroom. Paramedics arrived and left with the AP on a stretcher. WO1 saw the wires from his CEW in the AP’s shoulder and near his hip. The probes were still connected to the CEW in his holster. He took out his CEW, extracted the spent cartridges, and placed them with the AP.

The residence began emptying. CW1 and a male left the room with the officers. CW1 went back into the room and WO1 followed. He heard a male without a shirt say, “you guys have a job to do, you did what you have to do”. People were yelling they were going to burn police cars. WO1 told the SO to call Indige-Watch to help with the crowd. He is not sure who ultimately called them. WO1 stated he has used Indige-Watch in the past to help talk to people and help calm them down; however, they cannot be put into dangerous situations. He stated he would not bring them to a call like this one due to safety reasons.

WO1 stated he remembered seeing a monitor in the room and he had noticed a video camera in the corner when they entered the room. He heard a female state the police were going to tamper with the videos. Other people showed up, including more officers and the Fire Department. WO1 saw a male enter who looked like he just woke up, along with a female. They had been in the house during the incident. WO1 stated that during the interaction with the AP he was aware there were others in the house but was not sure how many. He was concerned for the safety of the people in the house. WO1 was directed to leave by a colleague and he left in a police vehicle.

Witness Officer #2

Witness Officer #2 (“WO2”) was working at the Richibucto RCMP detachment on the night in question. He heard “shots fired” over police radio and recognized the SO’s voice. He stated they all rushed out the door. He heard “med kit” (*Director’s note: first aid kit in police vehicles*) and confirmed he would take it along. A police recruit drove and he was a passenger. Upon arrival, he took the med kit and ran to the house. He saw the AP on the ground, the SO and WO1 on either side of him, and a number of people in the house. He stated he observed an axe on the ground and what looked like a hand-held camera pointing at them. He also saw a live feed in the bottom left corner of the bedroom.

He stated the AP was alive and he assisted with first aid. His colleagues attempted to control the people in the home, who were yelling and threatening the officers. When EMS arrived, he assisted them, and removed one of the handcuffs to allow more access to the AP. He traveled in the ambulance with EMS staff and continued to assist with CPR until they arrived at the hospital and medical staff took over. Later, when the AP was pronounced deceased, he seized a knife from the AP's hip and the CEW cartridge and wire.

There was a large group of family and friends at the hospital and the situation was chaotic. WO3 stated he helped facilitate access to the AP by the AP's next of kin and remained with the body and the coroner while access was facilitated to family and community members. A smudge ceremony was held before the body was taken from the hospital following normal procedures.

Witness Officer #3

Witness Officer #3 ("WO3") was present when members of the Richibucto RCMP were advised of Elsipogtog RCMP members responding to a suicidal male and shots being fired. He left the detachment for the residence and when he arrived, he noted the SO and WO1 administering first aid to the AP. The AP was handcuffed and still breathing. WO3 noticed there were axes on the floor, within the AP's reach. He also noticed there were approximately 10 weapons (blades, axes, and knives) in the room where members were dealing with the AP (*Director's note: this is the same room the shooting occurred in*). When EMS arrived, he helped by carrying in medical supplies and helping place the AP on the stretcher.

Witness Officer #4

Witness Officer #4 ("WO4") arrived on scene at the same time as WO2. He went into the house, and stated a woman was screaming behind the SO. He stated he saw a drawer full of knives and a machete on the ground. He stated he took the knives from the drawer and provided them to WO3. WO4 assisted with moving the ambulance stretcher out of the room and assisted guarding the scene after the ambulance left. There was suggestion from other witnesses that WO4 had blocked the ambulance from leaving. In his statement to SiRT WO4 stated he did not prevent the ambulance from leaving the residence.

Witness Officer #5

Witness Officer #5 ("WO5") was dispatched to respond, and he stayed outside when he arrived on scene. He assisted EMS to get through to the house. WO4 asked him to go inside, he saw the AP on the ground and the other officers. He tried to keep people out of the room and then left with the SO and assisted with the documentation procedures for when such an incident occurs. He then assisted at the hospital.

Civilian Witnesses

Civilian Witness #1

CW1 was interviewed by SiRT on September 9, 2024, and again on November 18, 2024. She was the AP's girlfriend and witnessed the entire interaction with police.

At around supper time on September 8, 2024, the AP messaged her to pick him up after a round of golf and she described him as happy and jolly. They made a stop and went to pick up her 9-year-old son. She took her son in the house to bed, and the AP stayed in the vehicle to listen to music, and then he was drinking in the shed with friends. She went to the shed at approximately 10:30 p.m. and the AP was crying. When she asked him why he did not say.

The AP came into the house at approximately 11:10 p.m., and she could hear him on the phone arguing with someone. She stated she heard things getting louder and then received a text message from CW2 stating that the AP wants to kill himself and to call 911. She jumped up and walked into the room. She observed the AP had a silver carpenter blade and was on the phone getting mad. She stated she grabbed the blade as she knew he would let it go. The AP let go of the blade, and she told him to stop as her son was upstairs. The AP continued arguing on the phone but was now whispering. It escalated more, and she said she was calling 911. The AP told her not to, but she told him he was scaring her. CW1 called 911 and was on the phone with paramedics. She noted they sent the police instead. When she was on the phone with the paramedics waiting for them to arrive, the AP was still on the phone arguing. She stated she was at the door, and paramedics told her not to approach him in case he was dangerous. She did not think he would hurt her.

CW1 stated that the police know the AP, the house, and his dogs, and knew where his room was. When police arrived, she led them inside to the bedroom, and the AP was digging in a drawer at the bottom of his wardrobe. Police asked what he was doing. He was grabbing throwing axes. CW1 described the axes as thin, not very big, and wobbly. She stated the AP told the cops to get the fuck out of his house. The police told him they could not because they were afraid he would endanger himself. She heard the AP mumble something like "I'm going to hurt you or himself". CW1 stated the AP was not calming down and he had never been violent to the point he couldn't be calmed down. He was not responding to her, Civilian Witness #4 ("CW4"), or the officers.

CW1 stated she was standing at the door and was trying to squeeze in. She told the police to let her through, that she could calm him down, that he would not hurt her. The police said no. CW1 stated the AP had weapons and they told him to put them down. CW1 noted that the AP had thrown his phone, and it went in the toy box or on the floor.

CW1 stated that one officer said he was going to tase the AP and he told him to lower his weapon. The AP brought out three throwing axes. She was behind the police and did not have a clear view, but she could hear everything. She told the AP to stop, and that they were going to tase him. Before he was tased she saw a green light on his stomach. CW4 ran in and was trying to calm him down too, but they wouldn't let him into the room. CW1 stated the AP was so drunk that when he threw the axe it wasn't strong, and she described it as "limpy". She heard the axe and police tase the AP. She stated that when the AP was tasered he tossed the axe. She stated he did not whip it at the officers, and that he has a good arm. CW1 stated that if the AP would have whipped it, she or one of the officers would have got hit. She could hear the axe and acknowledged that it needed velocity to create a noise, but stated he did not throw it hard. CW1 stated she was standing behind WO1 on the right-hand side some of her view of the room and the AP was obstructed.

CW1 stated that as soon as she heard the taser she heard gun shots. She estimated the shots were fired about 2.5 seconds after the taser. CW1 stated that the taser would have been enough. The AP was then on the ground, and the officers handcuffed him. She stated they put him on his back. She was very upset, she grabbed an officer and yelled at him and then ran upstairs to check on her son who was crying. When she returned paramedics were in attendance.

CW1 stated that the AP had called the police himself on previous occasions. Prior to that night the AP had threatened to kill himself on previous occasions with a knife and pills. He was struggling with mental health and alcohol issues.

Civilian Witness #2

CW2 was one of the callers to 911. Her partner, the AP's brother ("Civilian Witness #3/CW3"), was speaking with the AP on speaker phone, and she could hear their conversation. She recorded part of the conversation. CW2 heard the AP getting mad and extremely upset. There was a lot of swearing back and forth. CW3 asked her to call 911 as the AP wanted to kill himself. She called 911. CW2 stated that ambulance and police had been called the week before related to the AP trying to kill himself. She asked why he had not been taken care of at that time.

CW2 texted CW1 to advise her to check on the AP. She then heard CW1 over the phone telling the AP to calm down. CW2 heard the police and stated one of them said "remember we are friends". The AP said, "you are no friend of mine". CW2 stated they could hear the police say, "drop your weapon, drop your weapon". She heard CW1 telling the AP to drop it, and police say, "we are going to tase you". CW2 heard the taser deployed and at the same time heard a noise and then someone say "no, no, no." She heard the AP say, "give me a bottle of water and I'll be all right". Police said to call an ambulance and that he was under arrest.

CW2 went to the AP's house with another family member, parked, and ran to the house. She stated that a police officer was behind the ambulance and would not let it leave. She traveled to the hospital and advised that an ambulance was on its way.

Civilian Witness #3

CW3 is the AP's brother and was on the phone with him at the time of the incident. He provided statements to SiRT on September 9, 2024 and November 18, 2024. His statements are consistent with those of his partner, CW2. He was on the phone throughout the AP's interaction with police.

CW3 referred to his phone and explained he had a few calls with the AP the night in question. The AP called him at 10:37 pm, 10:42 pm and 10:57 pm, which was a 40-minute call, when everything happened. They argued about a boat and fishing, and the AP was getting angrier. He was discussing who in his family would get his possessions. He had been drinking, and CW3 stated that when he drank, he was "not all there". CW3 stated that the AP said something to the effect of, "do you want to see this and why don't I put on the video camera,". CW3 was panicked and concerned the AP wanted to take his life on camera, which is why he wanted someone to call 911. The AP had a knife, and CW3 heard CW1 speaking to him, control the situation, and get the knife away from him. CW3 stated the AP was starting to calm down when the police showed up.

He described hearing the police arrive, and that things happened quickly. He stated he heard the police say, "[AP name, AP name] I am going to tase you". He heard the taser go off along with three gunshots. CW3 heard an officer say, "you're arrested." He heard the AP say to get him a bottle of water and he would be alright. He jumped in his car; drove to his sister's and they traveled to the AP's house. CW3 observed police standing by the AP, who had cuffs on. He observed lots of blood. He stated the police were not applying first aid initially but then began to put pressure on the wounds. CW3 stated a police officer was standing behind the ambulance, not letting the ambulance assist the AP.

Civilian Witness #4

Civilian Witness #4 ("CW4") was in the shed before the incident. He stated he heard a vehicle, came out and saw the police, and ran inside the house. He saw two police officers trying to calm the AP down. The AP was turned around in a different direction and put a knife in the side of his shorts or pants. The AP then got axes. CW4 stated that he was in between the officers trying to defuse the situation. CW4 stated the AP looked emotionless and he does not think he has seen him like that before. Both officers were talking to the AP, trying to get his attention. CW4 stated he told the AP to stop in his language, but he did not respond to CW4 either, and was emotionless. One of the officers had a taser pointed at the AP with a green laser on his chest and was calling him by name. CW4 stated the AP threw a hatchet towards him, CW1 and the officers. CW4 ducked

and does not know if anyone was struck. CW4 stated it scared him when the AP threw the hatchet, and that the AP threw the hatchet overhand, hard. CW4 described the weapon as being small blades, flat silver, 9-10 inches. He said they were worn out and unsure if they would hurt anyone. CW4 stated one of the officers deployed his taser and the other one fired his firearm, and then put cuffs on the AP. He heard three shots. One of the officers still had his gun drawn on the AP after he was down, trying to see if he was responding.

Civilian Witnesses #5 and #6

Civilian Witnesses #5 and #6 (“CW5 and CW6”) were staying in a room at the AP’s house and were downstairs at the time of the incident. They heard gunshots but did not witness the interaction with police. They both heard shots and people told them the AP had been shot, but they did not initially know the police were there or involved.

Civilian Witness #7

SiRT learned that Civilian Witness #7 (“CW7”) was in the shed with the AP before the incident, and CW1 stated she believes he came inside while officers were speaking with the AP. This indicates he may have witnessed the interaction. Despite several and varied attempts by the SiRT investigator, he did not agree to be interviewed as part of the investigation.

Civilian Witness #8

Civilian Witness #8 (“CW8”) is the AP’s sister. Her brother, CW3 stopped at her place and picked her up and they traveled together to the AP’s house. When they arrived, CW8 saw the AP laying on the ground by the bathroom in his room in handcuffs. She stated the police tried to get her to leave the room, but she felt as next of kin she should be there. She stated it was only right for her to stay in the room with him, so they would not shoot or taser him again. CW8 was upset, and stated she asked why they shot him. She stated that WO1 said “he threw an axe” and “he threw an axe at us, it almost hit me in the leg, we had to do what was needed to protect ourselves”.

CW8 stated that when she arrived police were not compressing his wounds, and they did not begin first aid until a fourth officer arrived with a kit. The ambulance arrived and transported the AP to the hospital. CW8 stated that the RCMP is supposed to use Indige-Watch for calls like these, but they did not call them until after the shooting.

CW8 had seen and spoken to the AP earlier that day. She stated that when he drinks, most of the time it was him having fun, but he struggled with addiction and depression. CW8 stated police actions were excessive and unnecessary and that if they had let CW1 and CW4 go into the room it would probably have been a different outcome.

Civilian Witnesses - EMS Paramedics

Civilian Witness #9

Civilian Witness #9 (“CW9”) was one of the paramedics who responded to the incident. She was on duty on the night of September 8th, 2024, working 7:00 pm to 7:00 am. and was on standby in Ford Mills, NB (*Director’s Note: this is approximately 20 kms from Elsipogtog First Nation*). She stated that just after 11:00 pm, there was a call involving a person with a knife who was reported to be violent with suicidal thoughts. They had limited information prior to arriving on scene. CW9 stated they knew the patient was suicidal with weapon, violent, and to stage for police (*Director’s Note: this means to be prepared to respond on stand-by while police secure a potentially dangerous scene*). On the way, they were asked for an estimated time of arrival by police. They were authorized to proceed to the scene. As they arrived, CW9 noticed lots of people and officers waving. She learned from a police officer that an officer had shot a male.

CW9 stated that paramedics entered the residence and found the AP in the bedroom. He had a pulse and was breathing but was unresponsive. An RCMP officer was applying pressure on the AP’s chest wounds. They loaded the AP onto a stretcher and took him to the ambulance very quickly. A police officer went with them. CW9 observed three entrance wounds from gun shots, and taser wires. She snipped the taser wires.

CW9 stated they were on scene for approximately five to ten minutes assessing the patient. An Advanced Care Paramedic was called and medical interventions were performed on the way to hospital. CW9 described the scene as chaotic, lots of people outside, inside. She had to ask people to get out of the way to bring the stretcher to ambulance.

The Advanced Care Paramedic was intercepted on side of the road in Rexton, NB. There were lots of headlights behind them, and the AP’s sister was there.

Civilian Witness #10

Civilian Witness #10 (“CW10”) was also working the 7:00 pm to 7:00 am shift and was on standby driving around Kent County. She recalled the suicidal call noting the patient had a knife, so they were going to stage for police. When they were authorized to proceed to the scene and entered the house, she noticed blood on the floor, and the male was unconscious. CW10 stated her focus was to get the AP to hospital as quickly as possible as the scene was agitated and unstable. She has been a paramedic for less than a year and this was the most stressful scene she has ever been to. CW10 drove the ambulance to the hospital. She did not notice any weapons at the scene but saw a knife on the AP at hospital, which was removed by an officer.

Civilian Witness #11

Civilian Witness #11 (“CW11”) was the Advanced Care Paramedic on duty, and he intercepted the ambulance near Rexton, NB. Advanced Care Paramedics have additional training and are called for serious matters. CW11 was not in attendance at the scene of the incident.

CEW/Taser Report and Firearm Analysis

SiRT obtained a download report for the Conducted Energy Weapon (“CEW/Taser”) used by WO1. The report confirms that WO1 discharged his taser twice and that two cartridges were discharged with electricity. SiRT also received a firearms analysis which was consistent with three shots being discharged.

Forensic Identification Report

SiRT engaged specialized forensic services from an independent police agency to assist with the investigation. They seized a number of items from the scene, including the following:

- Taser probes and wires
- Three Luger 9mm shell casings
- Six steel throwing axes
- Three throwing knives
- Two Gerber knives
- Jack Ripper Knife
- MTech knife in sheath
- Folding Saw
- Wireless camera with SD card
- DVR unit

The Forensic Identification Report noted that five identical Trailblazer throwing axes were seized from the scene. They were made of aluminum and stainless steel and were silver in colour. A Buck knife in its sheath was seized from the AP at the hospital.



Some of axes seized

Video

The AP had a video camera in the room where the incident took place. SiRT was able to secure the footage without sound from a DVR and have specialized digital forensic services from an independent police agency extract video for the purpose of the investigation. Video shows the AP before, during and after interaction with police. The video is consistent with the accounts of both civilian and police witnesses.

Before police arrived, video shows the AP gesturing and he appears to be screaming into the phone, upset and angry. On four occasions he put a knife to his wrist, and CW1 intervened. At times it appears that he is screaming at CW1 and at one point he pushes her aside.

At the time police arrived, video shows the AP appearing upset and agitated and putting something in his waistband. It shows the AP fiddling with three axes to remove them from their sheath. The video shows the AP wind up with force over his head and throw an axe. A shadow in the video also appears to show him wind up to throw another axe and then fall to the ground. Video also captured police interaction with the AP until the paramedics took him away.

Video from CW2's phone was obtained as part of the investigation. It recorded some of the AP's conversation with CW3 and you can hear the AP is intoxicated, angry, and swearing.

3D Scanner

A 3D scanner was used to capture images and measurements of the scene. The distance from a dresser in the bedroom (where the AP was standing) to the doorframe was approximately 4.55 meters. Based on the information and video footage reviewed, it is estimated the distance between the officers (who were standing just outside the door) and the AP at the time he threw the axes was approximately 5-7 meters.

Autopsy & Toxicology Report

Through an arrangement between Nova Scotia and New Brunswick the autopsy was conducted by the Nova Scotia Medical Examiner Service, which found that the cause of death was gunshot wounds to the chest and abdomen. There were three gunshot wounds. The manner of death was determined to be homicide. Across Canada, coroners and medical examiners are required to categorize deaths according to what is called the cause of death and the manner of death, both of which are reflected on the death certificate. The "manner of death" means the mode or method of death and can be deemed: natural, homicide, suicide, accident or undetermined. This is not a determination of criminality and does not have the same meaning as criminal or culpable homicide. The certification of the cause of and manner of death is the responsibility of the New Brunswick

Coroner, who agreed with and certified the cause and manner outlined in the Nova Scotia Medical Examiner Service autopsy report.

The toxicology report indicated that the AP had a high level of alcohol in his system, along with prescribed drugs.

Indige-Watch

Indige-Watch was referenced by multiple witnesses in the course of SiRT's investigation. Although members of Indige-Watch were not in attendance when the interaction between the AP and police took place, to gain an understanding and important context SiRT spoke with the current and former Directors of Indige-Watch and obtained a copy of the Indige-Watch 2024 Operational Manual. SiRT learned that Indige-Watch is a community led safety and well-being program that provides cultural wellness support for the community of Elsipogtog and surrounding Mi'kmaq territory.

The Indige-Watch Operational Manual sets out the directives and protocols to be followed. Some relevant sections note:

- During an emergency that is higher than any team members ability or expertise, they will make the correct course of action which may be to contact RCMP, Ambulance, Fire Fighters, etc.
- Mitigate high stress situations between community member and enforcement/first responder.

Conversations with the current and former Directors indicate that Indige-Watch would not respond to a call like the situation in question when a person has a weapon. WO1 noted that he asked another member to call Indige-Watch after the incident occurred, but he is unsure who made the call. He stated that one of the Indige-Watch members came to him and asked him questions about what happened.

RELEVANT LEGISLATION

Criminal Code:

Protection of persons acting under authority

25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person,
- (b) as a peace officer or public officer,
- (c) in aid of a peace officer or public officer, or

(d) by virtue of his office,
is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

When not protected

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

When protected

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;

(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;

(c) the person to be arrested takes flight to avoid arrest;

(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and

(e) the flight cannot be prevented by reasonable means in a less violent manner.

Excessive force

26 Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

Defence — use or threat of force

34 (1) A person is not guilty of an offence if

(a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;

(b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and

(c) the act committed is reasonable in the circumstances.

Factors

(2) In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the person's role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon;
- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
- (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to the use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.

No defence

(3) Subsection (1) does not apply if the force is used or threatened by another person for the purpose of doing something that they are required or authorized by law to do in the administration or enforcement of the law, unless the person who commits the act that constitutes the offence believes on reasonable grounds that the other person is acting unlawfully.

LEGAL ISSUES & ANALYSIS

I must now assess the evidence to determine whether there are reasonable and probable grounds to believe a criminal offence has been committed. Reasonable and probable grounds is a standard lower than a balance of probabilities or beyond a reasonable doubt, and more than reasonable suspicion.

Section 25 of the *Criminal Code* permits a peace officer, acting on reasonable grounds, to use as much force as is necessary to enforce or administer the law, provided that the force used is not excessive based on all the circumstances. A peace officer is justified in using force that is intended or is likely to cause death or grievous bodily harm if they believe on reasonable grounds that the force is necessary for the purpose of protecting the peace officer or another person from imminent or future death or grievous bodily harm. The Supreme Court of Canada in *R v Nasogaluak* [2010] 1 S.C.R. 206, at paragraph 35 stated:

Police actions should not be judged against a standard of perfection. It must be remembered that the police engage in dangerous and demanding work and often have to react quickly to emergencies. Their actions should be judged in light of these exigent circumstances. As Anderson J.A. explained in *R. v. Bottrell* (1981), 60 C.C.C. (2d) 211 (B.C.C.A.):

In determining whether the amount of force used by the officer was necessary the jury must have regard to the circumstances as they existed at the time the force was used. They should have been directed that the appellant could not be expected to measure the force used with exactitude.

The law respecting self-defence or the defence of others is also applicable to police officers. Section 34 of the *Criminal Code* sets out how the defence applies to the use of force utilized in defending yourself or another person. It provides that conduct that would otherwise constitute an offence is legally justified if it was intended to deter a reasonably apprehended application of force, either actual or threatened to yourself or another person, and the conduct itself was reasonable. The reasonableness of the conduct must be assessed in light of all the relevant circumstances, including with respect to the following considerations: the nature of the force or threat; the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force; whether any party to the incident used or threatened to use a weapon; the person's role in the incident; the size, age, gender and physical capabilities of the parties to the incident; the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat; and, the nature and proportionality of the person's response to the use or threat of force.

Both the SO and WO1 were lawfully in the execution of their duties as police officers when they arrived at the AP's residence, and throughout the events related to this incident. The AP had throwing axes in his hands and a knife in his waistband. An axe is a weapon that can cause significant physical injury or death. As such, in this situation there was an actual threat of force being made to the police officers and others in the home.

When police officers use force in the administration or enforcement of the law, their legal constraints are articulated in the *Criminal Code*. Police forces have developed tools to assist officers in assessing risks and determining what type of intervention is consistent with the law. The RCMP follow the Incident Management Intervention Model ("IMIM"). The IMIM is not law, but developed to help officers properly apply the law. The IMIM states that police officers should assess the behaviour of the subject, situational factors, use of their own perception, and

tactical considerations when determining what type of force to use. Pursuant to s. 25 of the *Criminal Code*, the use of lethal force (force that is intended or is likely to cause death or grievous bodily harm) is permissible only when an officer reasonably believes it is necessary for the protection of themselves or others from death or grievous bodily harm (see also *R v. Nasogaluak, supra*, at para 34).

A timeline of events is below from video, 911 calls, radio transmissions, and other evidence:

#	Time	Description
1	23:11:00	AP on the phone in his room (on video)
2	23:13:37	CW1 enters the room (as per her statement)
3	23:14:09	CW1 leaves the room (on video)
4	23:15:12	CW2 calls 911
5	23:14:55	CW1 makes a phone call (on video) (assuming to 911)
6	23:15:51	CW1 calls 911 (from 911)
7	23:17:24	Codiac 911 centre called RCMP Dispatch regarding 911 call about AP (radio transmission)
8	23:19:02	RCMP dispatched RCMP members to location re: suicidal male with a knife. (Radio transmission)
9	23:19:18	RCMP members acknowledge/take the call (Radio transmission)
10	23:20	Video from CW2's cell phone of AP and CW3's conversation
11	23:23:41	SO and WO1 arrival time (CAD event on RCMP computer system)
12	23:25:50	"Shots fired shots fired" (Radio transmission)
13	23:28; 23:31	Additional officers arrive
14	23:50:44	Ambulance arrived (from ANB)

Although there is a short period of time from when the police arrive at the residence to when shots are fired, it is important to consider the circumstances and actions of the AP during that time.

When police were initially dispatched, they had only received information about a suicidal male with a knife. They had not received any information of the AP's behaviour that could be overheard on the 911 call. Based on the information received, two officers responded to the call. When they arrived, they were brought to a bedroom where the AP was holding a weapon. Verbal commands made directing the AP to drop his weapons had not been successful, despite requests being made repeatedly by the officers and others nearby. The AP responded with utterances that indicated a lack of compliance and possibility of harm, and he otherwise gave no response. The SO stated that the AP said he would use the weapons against the officers. The AP appeared angry and agitated. He was warned that he would be tased, but still did not respond. CW4 stated he spoke to the AP in his language, but he still did not respond. There were civilians standing behind the officers. The use of force against officers and the potential death or serious injury of officers or civilians appeared imminent, as the AP wound up as if to throw the axe, described as similar to as if he was throwing a ball, directly toward the officers and the civilians behind them. Video of the incident shows the AP wind up and throw the axe with force. The video also appears to show him move to throw a second axe.

WO1 attempted to use a less-lethal intermediate response by drawing and ultimately discharging his taser. The SO drew his firearm, providing lethal overwatch. The officers determined that the fact that the AP had a weapon that could be used imminently resulted in the need for a timely response. WO1 stated the AP's actions and responses were not typical for someone they deal with in mental distress calls, and he felt his life and his partner's life were in danger.

The fact that both the SO and WO1 reached the same conclusion and acted one after the other illustrates their independent assessment of the risk and the perceived need to use lethal force. The WO1's CEW was not successful, and due to the physical space, there was no ability to reposition themselves or leave. They were the only officers on scene. Civilians were trying to get into the room and were behind and beside the officers. They were aware others were in the house, but did not know where and how many. Unbeknownst to the officers, a child was in the house. The primary duty of a peace officer is to preserve and protect life, and in this situation, it was not an option to leave civilians with a person who was in possession of multiple edged weapons. CW4 stated that he ducked, and that it scared him when the AP threw the axe/hatchet overhand and hard. CW1 stated that she could hear the velocity of the axe when it was thrown. In the course of the investigation, civilian witnesses have stated that the axes were thin, wobbly and dull. The Forensic Identification Report prepared after the incident noted that the axes were throwing axes made of aluminum and steel. At the time of the incident, the officers observed multiple blades in the AP's hands and made a motion to throw them in the direction of the officers. It is reasonable for the officers to believe this action and these weapons would cause grievous bodily harm.

An examination of each of the factors in subsection 34(2) of the *Criminal Code* must be completed to determine whether the discharge of a firearm by the SO is reasonable in the circumstances, to consider the relevant circumstances of the person, the other parties and the act in question. I have applied each of the factors to the facts in this matter:

- (a) the nature of the force or threat - An axe is an edged weapon that can cause significant physical injury or death. The AP also had a knife in his waistband, which can also cause significant physical injury or death. The AP wound up and threw the axe with force as he was lunging towards the officers/civilians.
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force - The AP was agitated and was not responding to commands from officers to put down the axes. He wound up and threw an axe in the direction of the officers and people behind them. The use of force by the AP was immediate. WO1 attempted to use his taser to stop the threat, but it was not effective. There were no other means at the time to respond to the axe, and the officers did not have the option to leave the room as people were behind them who they were obliged to protect.
- (c) the person's role in the incident - The AP did not respond to commands to drop the axes. This played a role in the actions of others, including the SO.
- (d) whether any party to the incident used or threatened to use a weapon - The AP had threatened to use a weapon against himself and the officers. The 911 calls indicated that he was violent and not himself.
- (e) the size, age, gender and physical capabilities of the parties to the incident - The AP was armed with weapons and was a large adult male. He wound up his arm to throw the axe. Witnesses described the wind up as preparing to throw a baseball.
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat - Police had been called to similar incidents where the AP had been threatening to harm himself, but they had been resolved.
- (f.1) any history of interaction or communication between the parties to the incident - The friends and partner of the AP were at his residence at the time of the incident. The officers arrived on scene to quickly respond to 911 calls and had limited information.

(g) the nature and proportionality of the person's response to the use or threat of force - WO1 attempted to use the less-lethal option of his CEW/Taser, but it was unsuccessful. The AP wound up to forcefully throw an axe, which is capable of causing death or grievous bodily harm. WO1 expected the CEW to cause the AP to freeze and stop the threat. When this was not effective, and as the AP continued the threat, lethal force was the option available to the SO.

(h) whether the act committed was in response to a use or threat of force that the person knew was lawful - this clause is not applicable to the assessment in this case as the use of the axe was not lawful.

Based on a review of the facts and the law, I am satisfied that the SO acted to deter a reasonably apprehended threat of the throwing of an axe or axes at the officers and in the direction of the civilians behind them. The circumstantial evidence supports the perception of the SO that there were reasonable grounds to believe the threat to his own life, WO1's life, and the lives of civilians was imminent.

I am further convinced the discharge of a firearm by the SO constituted reasonable force in the circumstances. The AP had three axes in his hands, which were capable of inflicting grievous bodily harm or death. He had a knife in his waistband. He threw an axe with force directly at officers while lunging at them, with civilians behind them. WO1's CEW/Taser was not effective in stopping the threat. The AP was in the process of throwing a second axe when the SO discharged his firearm. The SO stated he thought WO1 had been struck with an axe. At the moment in question, it was reasonable to believe immediate action was required. As a result, I find the SO did not act with excess when he discharged his firearm to address a deadly threat by using lethal force. I am satisfied that the self defence provisions of the *Criminal Code* are applicable, in addition to the safeguards afforded in Section 25 of the *Criminal Code*.

CONCLUSION

My review of the evidence indicates there are no reasonable grounds to believe the Subject Officer committed a criminal offence. I recognize that this was a tragic situation, and the events outlined in this report have been exceptionally challenging for all involved. The SiRT team and I offer our sincere condolences to the AP's loved ones and those who cared about him.