



## Summary of Investigation

SiRT File # 2025-0009

Referral from

RCMP “H” Division regarding

Halifax Regional Police

January 24, 2025

Erin E. Nauss

Director

June 13, 2025

## **MANDATE OF THE SiRT**

The Serious Incident Response Team (“SiRT”) has a mandate 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 and New Brunswick. This mandate encompasses incidents that occur on or off-duty, to avoid the real or perceived bias of police investigating police.

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 will issue a public summary of the investigation which outlines the reasons for that decision, which must include 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.

**Mandate invoked:** This investigation was authorized under Section 26I of *Police Act* due to the serious injuries of the Affected Party.

**Timeline:** SiRT commenced its investigation on January 24, 2025. The investigation concluded on June 5, 2025. There was some delay awaiting the collision analyst report.

**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 died or was seriously injured, may have been sexually assaulted or involved in an incident of intimate partner violence, or was affected by a serious incident that is determined under the Act to be in the public interest to be investigated;
- “**Civilian Witness/CW**” means any non-police individual who is a witness to or has material information relating to a serious incident.
- “**Witness Officer/WO**” means any police officer who is a witness to or has material information relating to a serious incident.
- “**Subject Officer/SO**” means a police officer who is the subject of an investigation, 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. Affected Party Statement                   | 6. RCMP Body Worn Camera Footage   |
| 2. Medical Records of the Affected Party      | 7. Photographs and Video           |
| 3. Witness Officer Reports and Statements (4) | 8. Police Reports                  |
| 4. Civilian Statements (4)                    | 9. Collision Analyst Report        |
| 5. 911 Calls and Police Radio Transmissions   | 10. Motor Vehicle Collision Report |

## **INVESTIGATION SUMMARY**

### **Introduction**

On January 24, 2025, the Halifax District RCMP received a 911 call reporting a collision in Porter's Lake. A member of the RCMP, Witness Officer #1 ("WO1") attended the scene. He observed an adult male (the "Affected Party"/"AP") on the ground near the front of a Dodge Truck and a second male, who was identified as an off-duty member of the Halifax Regional Police ("HRP") (the "Subject Officer") as the driver of a Nissan Frontier which had struck the AP. The AP sustained serious injuries to his leg, pelvis, and head, and was transported to hospital by Life Flight. WO1 was equipped with a body-worn camera ("BWC") which captured the interactions at the scene. The SO completed a roadside alcohol screening test and had 0% blood alcohol concentration in his system

### **911 calls**

Three separate 911 calls were made between 12:52 and 12:53 pm reporting the collision. RCMP and EHS attended the scene. Police radio communications indicated that the AP was outside of his vehicle checking on his daughter in the back seat when he was struck.

### **Affected Party**

The AP provided an audio statement to SiRT from hospital. Due to his injuries, he was under the influence of medication at the time of the statement and his legal counsel was on the call. He stated he recalled being on the way to the hospital and they were picking something up on the way. He stated there was no traffic at all, that he pulled over properly to a driveway, and activated his

blinker. The baby, who was seated in the back, started vomiting, so he got out of the vehicle to attend to her. His next memory is waking up in the hospital.

### **Civilian Witnesses**

Since airbags were not deployed in either of the involved vehicles, data related to speed, activation of brakes, signal lights, etc. are not retrievable and therefore one must rely on eyewitnesses to the collision.

Civilian Witness #1 (“CW1”) was the passenger in the AP’s vehicle. She was interviewed by SiRT on January 24th, 2025 while at the QEII hospital. She stated that her baby had been sick, and they were on the way to have her assessed. She stated they left at 12:00 pm to pick something up on the way, and coming back, she vomited. The AP got out and stood by the rear driver’s door cleaning the vomit and “this car smoked him.” She stated they were parked on the side of the road and he came out of nowhere.

CW1 stated she got out and screamed in shock, “what did you do, what did you do?” She stated the SO said “I’m sorry.” She stated that she does not understand how he didn’t see the truck, that it’s a big truck and they were off to the side of the road. She stated that he took the car door off and dragged the AP. She said “I was in the passenger’s seat, and I looked back, and he was gone. My daughter was still in her car seat.”

CW1 stated that “I don’t know if my instincts just kicked in, I thought I smelled alcohol on his breath, I could have sworn I smelled alcohol or it could have been the man standing beside me, I am just looking for answer. I just want to know why.” (*Director’s note: the SO completed a roadside alcohol screening test and had 0% blood alcohol concentration in his system*).

The SiRT Investigator spoke to CW1 again on January 26th, 2025, regarding the keys to the vehicle. She indicated she believed she removed the keys from the vehicle, and they may be in her purse in the vehicle, or she also has a spare set. She stated she remembers removing the keys from the ignition and turning the blinker off.

Civilian Witness #2 (“CW2”) provided a statement to SiRT on January 24th, 2025. CW2 was travelling south behind the SO’s vehicle. In his statement, he indicated he was travelling South on Myra Rd at approximately 12:45 pm. He thinks it was a 70 km/hr zone, but it may have been a 50 km/hr zone. He stated he remembered looking up and seeing an orange Dodge Ram pickup on the side of the road on an outside corner. He remembers the moving vehicle, which he guessed was a Nissan.

CW2 stated he thinks he saw someone standing beside the parked vehicle, and then saw the SO's vehicle approach, and the parked vehicle shake. CW2 pulled over and walked back. He spoke to people on scene. Since he has some first aid training, he went to the victim. The driver of the vehicle that hit him (the SO) was there already. CW2 stated that the SO kept repeating "oh my god, oh my god". They all tried to assist the AP as much as they could until first responders arrived.

CW2 suggested that the sun could have been a factor, as the sun was coming down the driveway, and the victim's truck was parked just passed that driveway, in the shadow. He estimated that the SO's truck was approximately 200-300 metres ahead of him, and CW2 felt that he was closing in on the SO. He did not recall a dramatic difference in their speed, didn't see brake lights, and stated he didn't think the SO was speeding. CW2 stated he was surprised when he saw the accident. He didn't feel like an accident was imminent.

CW2 stated that prior to the accident the body of the AP's truck was on the outside of the road, and the rear door was opened and obstructing the road. He did not recall any oncoming traffic immediately before the collision. He recalled the SO was just driving along, if there was no truck there it would have been just a normal path a vehicle would have taken, maybe a little bit wide. When asked when he first saw the orange truck (AP's truck), CW2 stated that the vehicles were in frame at the same time, and that it is a brief short stretch on a corner. When questioned, he stated that he did not have any concerns about how the SO's truck was driving, and he was very surprised when the collision occurred.

Civilian Witness #3 ("CW3") was interviewed by SiRT on February 18, 2025. CW3 and his brother, Civilian Witness #4 ("CW4"), were travelling north (oncoming traffic) and witnessed the collision. CW3 stated they came around a corner and saw a red truck parked. As they approached, he saw the vehicle shake. He stated they were roughly 100 feet away when this occurred. He stated when they got closer, he saw a woman come around the back, she was kind of hysterical and then he saw a man on the ground. CW3 then called 911. When asked if there would have been enough room for the Nissan to get into their lane, or whether the parked truck had its blinker on, he stated that his brother was driving so he wasn't 100% paying attention to the road. He stated he remembers the SO say that he didn't see him.

CW4 provided a statement to SiRT on February 19th, 2025. He stated that he did not see the collision. The SO parked and ran out to help. He remembered the wife yelling at the SO, and he said: "I didn't see him." CW4 did not notice the parked vehicle prior to the collision, and said he didn't see it until his brother pointed out the accident. He did not see any signal lights. In terms of

alignment with the road, he stated the AP's vehicle had its driver's side tires on the road a tiny bit, and the driver's side door was on the roadway quite a bit. When asked if there was anything in their lane of travel that would have impeded the other truck from moving over across lanes/swerving into his lane, CW4 stated no. He is not sure how the SO's truck was being driven as he did not see the truck until after the collision.

**Subject Officer**

The SO is not required by law to provide a statement to SiRT, and did not do so in this investigation.

**Witness Officers/Body Worn Camera**

Witness Officer #1 ("WO1") was wearing a BWC for the duration of his time at the scene, which provides a recoding of all interactions he had at the scene. WO1 also provided his police officer's notes and report. Three other Witness Officers arrived and assisted with traffic control. I have reviewed their notes and reports and they are not relevant for the purpose of this summary.

WO1 arrived at the scene at 1:04 pm. The SO was on his knees by the AP and a voice can be heard saying "'I'm sorry, I'm so sorry". The AP's vehicle has its headlights on, the rear driver's door is open, and there are no signal lights activated. CW1 is seated in the passenger's seat.

At 1:09 pm, WO1 speaks to the SO, and he is recorded as saying: "I was the driver...just driving along and I saw the truck here. I saw another car coming. And so, I said well, I gotta get over. I didn't get over far enough." WO1 asks: "You were going 50?" and the SO responded: "Yes, just taking my time going home. Just driving. I saw a truck parked on the side of the road, saw a vehicle coming the other way, I had to go over a little bit, I didn't go over far enough. And so I don't know if he opened the door or was standing there. I didn't see him." The SO identified himself as an HRP officer. WO1 decided to administer a roadside Approved Screening Device (ASD) test (determines if there are levels of alcohol in the system) and the results were 0 % (no alcohol in the SO's system).

At 1:27 pm, EHS arrived at the scene. CW1 can be heard saying: "We were just pulled over on the side of the road. He was helping her. She just power puked. All over the backseat. All over herself. He got out to clean her up. And within seconds. He opened the door, he was wiping her off and this man smoked him. I undid that car seat. I don't know how he made it from there to there."

At 1:35 pm, as a second ambulance arrived there were discussions about Life Flight zones. The SO can be heard saying: "Is he going to make it? Why was he standing in the middle of the road? Why was he in the road?...Sun..."

## **Collision Analyst Report and Collision Report:**

An independent collision analyst (“Witness Officer #2”/ “WO2”) from another police agency (in this case the RCMP) attended the scene.

WO2 prepared an extensive report regarding the collision, including a sun calculation. Sun calculation software and SiRT investigator video taken the following day show that the sun was to the Southwest (right) of the roadway and was likely not a factor. WO2 came to the following conclusions (*Director’s Note: Vehicle One/V1 is the AP’s vehicle; Vehicle Two/V2 is the SO’s vehicle*):

1. It is my opinion there were no defects or outstanding recalls on Vehicle One or Vehicle Two that caused or contributed to this collision.
2. It is my opinion Vehicle One was stopped on the southbound side of Myra Road facing southbound at the time of the collision. It is also my opinion Vehicle Two was traveling southbound on Myra Road at the time of the collision.
3. It is my opinion the area of impact between Vehicle One and Vehicle Two / Pedestrian was at the left rear door of Vehicle One in the southbound lane of Myra Road.
4. It is my opinion Vehicle One was stationary at the time of the collision. It is also my opinion there was insufficient evidence to determine the speed of Vehicle Two.
5. It is my opinion there was insufficient evidence to determine the seatbelt status of the occupants of Vehicle One or Vehicle Two.
6. It is my opinion the cause of this collision was the failure of the driver of Vehicle Two to detect and avoid colliding with Vehicle One and the pedestrian. There was insufficient evidence to determine why the driver of Vehicle Two failed to detect and avoid Vehicle One.

The Nova Scotia Motor Vehicle Collision Report that was prepared by WO1 stated the following:

V1 had been traveling South on Myra Road when one of the occupants vomited in the rear of the vehicle. The driver of V1 pulled over on the right of the road.... The shoulder of the road was narrow at this section of the road. V1 was blocking half of the South bound lane. The driver of V1 got out of the vehicle to assist the passenger in the rear driver’s side seat. V2 was traveling South on Myra Road when the driver of V1 was at the rear driver’s side door of V1. The driver of V2 reported that when he crested the hill before the location of V1 the view was obstructed by the sun and the driver of V2 did not see the driver of V1 until the last second, and there was another vehicle approaching from the opposite direction (traveling North) on Myra road. The driver of V2 report there was no way to avoid the Driver of V1 that was standing in the road way.

## **RELEVANT LEGISLATION**

### ***Criminal Code:***

#### *Criminal Negligence*

219 (1) Every one is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

#### *Definition of duty*

(2) For the purposes of this section, *duty* means a duty imposed by law.

#### *Dangerous Operation*

320.13 (1) Everyone commits an offence who operates a conveyance in a manner that, having regard to all of the circumstance, is dangerous to the public;

(2) Everyone commits an offence who operates a conveyance in a manner that, having regard to all of the circumstances, is dangerous to the public and, as a result, causes bodily harm to another person.

### ***Motor Vehicle Act (Nova Scotia):***

#### *Duty to Drive Carefully*

100 (1) Every person driving or operating a motor vehicle on a highway or any place ordinarily accessible to the public shall drive or operate the same in a careful and prudent manner having regard to all the circumstances.

(2) Any person who fails to comply with this Section shall be guilty of an offence.

## **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.

When assessing criminal negligence, there must be a marked and substantial departure from what a reasonably prudent person would do in the circumstances. Criminal negligence requires proof of a wanton or reckless disregard for the life of another person. A person would need to be aware of the risks but persist in their actions anyway. In the present situation, there is no evidence to indicate that the SO was speeding, driving erratically, or operating his vehicle in a manner that can be



described as having a wanton or reckless disregard for the life of another person. I cannot find there was a substantial and marked departure from what a reasonable person would do in the circumstances.

Turning to dangerous driving, the Supreme Court of Canada in *R v Beatty*, [2008] 1 S.C.R. 49 (S.C.C.) and *R v. Roy*, [2012] 2 S.C.R. 60 (S.C.C) have articulated the law on dangerous driving. First, there must be consideration whether the driving was done “in a manner that was dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might be reasonably be expected at that place.” An accident does not necessarily mean there was dangerous driving. There must be a meaningful inquiry into the manner of driving, not the consequences of driving, such as an accident.

Second, there must be consideration as to whether “the dangerous manner of driving was the result of a marked departure from the standard of care which a reasonable person would exercise in the same circumstances.” (*R v. Beatty*, supra, para 48).

In this case I cannot conclude that the SO was operating his vehicle in a dangerous manner. Upon review of the evidence, I am satisfied that the SO was not speeding, was driving in the correct lane of traffic and operating his vehicle properly. Although an unfortunate accident ensued, there is no indication from the evidence that the vehicle was being operated in a manner that was a marked departure of what should be expected. When reviewing the entirety of the evidence, I cannot conclude the SO’s actions rises to a criminal standard for dangerous driving.

I must also assess whether the SO was in violation of any provincial offence. Subsection 100(1) of the Nova Scotia *Motor Vehicle Act* requires that everyone operating a motor vehicle drive in a careful and prudent manner having regard to all the circumstances. Courts have held that perfection is not the standard. However, drivers must proceed with care that is reasonable, having regard to circumstances affecting the safety of others. It has been noted that the offence of careless driving is something which goes beyond mere error in judgement--it indicates a measure of indifference, a want of care and an indifferent regard for the rights of others.

The fact that there has been a collision does not necessarily mean that the offence of careless driving has been committed, and circumstances of each situation must be considered. Imprudent and careless driving looks at all the circumstances but particularly looks at whether the defendant has assumed intentionally a particular risk.

Based on photographs and measurements of the scene, it is clear that the AP's vehicle was partially on the roadway, pulled over to the shoulder. The left wheels were partially on the roadway and the opened rear driver's side door was exposed to the roadway. The SO was travelling in the same direction and did not see the opened door nor the AP standing by the doorway. BWC footage recorded utterances of the SO where he stated he did see the truck but did not see the AP, inquired why the AP stopped on the roadway, that there was a car coming in the other direction and made a comment about the sun. The investigation shows that the AP's vehicle was parked at the crest of a small hill with a turn; however, it does not appear that visibility was obstructed.

Witnesses describe the SO's driving as normal for the circumstances, and as noted above, there is no evidence to indicate he was speeding, driving erratically, or operating his vehicle out of the ordinary. Although an unfortunate accident took place, I cannot find that he intentionally put anyone at risk or engaged in dangerous behaviour.

### **CONCLUSION**

After a careful review of the evidence and the law, I have determined that no charges are warranted against the SO.