

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2026-0008

Referral from

Halifax Regional Police

January 17, 2026

Erin E. Nauss

Director

May 12, 2026

**SiRT MANDATE**

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.

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 17, 2026. The investigation concluded on March 27, 2026.

**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 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. Police Reports
2. 911 Call Recording
3. Police Radio Transmissions
4. Witness Officer Statements (7)
5. Witness Officer Notes & Reports (28)
6. Civilian Witness Statements (6)
7. Civilian Video Footage
8. CCTV Footage from Local Businesses
9. Interview, Notes and Reports of the Subject Officer
10. Forensic Identification Services (FIS) Reports
11. Affected Party's Medical Records
12. CEW and Firearm Analysis

## **INVESTIGATION SUMMARY**

### **Introduction**

On January 17, 2026, at approximately 4:03pm, Halifax Regional Police (HRP) responded to a report of a robbery at a downtown Nova Scotia Liquor Corporation (NSLC) location. The suspect had sprayed a chemical irritant before leaving the store. Based on the information provided, the suspect was believed to be an adult male who was known to police, and is the Affected Party (AP) in the SiRT investigation. At approximately 4:50pm, a second robbery was reported at the NSLC on Quinpool Road. Officers made their way to the scene. The Subject Officer (SO) and Witness Officer #1 (WO1) located the AP near the corner of Quinpool Road and Quingate Place. This is a busy downtown area, and there were many pedestrians and vehicles in the vicinity.

Officers informed the AP he was under arrest and he did not respond to commands. The AP had a large black re-usable bag and displayed a knife that was tucked in his waist band while lunging toward police. WO1 discharged his CEW, striking the AP, but it was not effective. The AP then jogged onto Quinpool Road in the direction of the entrance to the Superstore. This area had heavy foot and vehicle traffic. Officers continued to give commands to the AP, but he did not comply. Additional officers arrived in police vehicles with lights and sirens activated and tried to cut off the AP's path in front of the Superstore. The AP advanced towards the SO with the knife held in his direction. The SO discharged three shots from his service pistol, striking the AP in the chest, abdomen, and left arm. The AP was transported to hospital where he underwent surgery and recovered.

## **Robberies**

Police reports and dispatch recordings provided by HRP outline the calls for service that preceded the interaction with police resulting in the discharge of the SO's firearm.

At 4:03pm HRP responded to an initial robbery call at a downtown NSLC. Based on the information provided, they believed the suspect (the AP), who was known to police. Approximately \$ 200.00 worth of product was stolen. Staff confronted the AP, and he sprayed a sensory irritant towards the floor in the lobby area and left the store.

At 4:48pm, a NSLC Loss Prevention Officer (Civilian Witness #1/CW1) reported a robbery in progress, this time at the NSLC on Quinpool Road. CW1 observed a male enter the store and recognized him from a previous theft. He observed the AP take items from the shelves, go to the cash area, and place the items on the counter. CW1 stated that staff scanned the items, but the AP partially covered his face, put the items into a brown paper NSLC bag and began to leave with no attempt to pay. He pulled a white can from his waistband. CW1 heard the AP mutter that staff would have to take his life in order to get the product back. He sprayed liquid from the can into the store's vestibule area before leaving.

After this took place, video evidence shows the AP went into the Atlantic Superstore on Quinpool Road with the NSLC bag. He was inside for about 5 minutes and then asked customer service for a re-usable bag, which they provided. He put the NSLC bag and an umbrella from the store into the reusable bag and exited into the rear parking lot.

## **Witness Officers**

Over twenty-seven HRP officers were involved in this matter in some capacity, including the investigation of the NSLC robberies and providing scene security after the AP was shot by police. SiRT gathered and reviewed their notes and/or reports, but for the purpose of the investigation into the interaction between the AP and the SO, six witness officers were interviewed. Witness officers who attended the incident remarked on how busy the area was with pedestrians, vehicles, and the risks to public safety.

Witness Officer #1 (WO1) was working a day shift with the SO. They heard about the first NSLC robbery on police dispatch/radio, and the AP's name was mentioned. WO1 was not familiar with the AP, but the SO stated he had dealt with him previously and he was usually in possession of a knife. They assisted in looking for the AP but were unsuccessful and resumed regular duties. The second NSLC robbery call came in. WO1 and the SO drove to Quingate Apartments. WO1 stated that as they approached a dead end, they observed a male struggling to open an umbrella, carrying a large reusable bag. WO1 stated the SO recognized the male as the AP, which WO1 confirmed by consulting the AP's photo on the police computer.

There were three pedestrians nearby, one of whom was holding a toddler. The officers rolled down their window to tell the group to stay back. WO1 stated they knew the AP had pepper spray from dispatch communications about the robberies, and had believed he may have a knife from the SO's past experience.

WO1 and the SO exited their vehicle and approached the AP. WO1 stated he drew his pistol due to the risk of pepper spray and the fact that a knife can cause grievous bodily harm or death. He explained that generally, when people have a gun pointed at them, they put their hands up and surrender. He told the AP in a loud voice that he was under arrest, to put his hands in the air and get on the ground. WO1 stated that most people cause harm with items in their hands, and he likes to be able to see the hands, so he knows if they have a weapon. WO1 stated that the AP did not respond as most people do in this type of situation. The AP did not comply and swore at the officers. WO1 stated that the AP had a hand in his pocket, and they did not know what was in the pocket or the bag he was carrying.

A female was approaching and the officers had to tell her to stay back. The AP moved towards Quinpool Road, which was very busy with pedestrians. WO1 noted that the AP continued not to listen to commands. WO1 stated he had no place to take cover so he maintained some distance from the AP, as he is aware how quickly a person with a knife can close in and cause serious harm. WO1 stated that he knew the SO had his gun out, so he made the decision to switch to his CEW (Conducted Energy Weapon/Taser). He let the SO know and pointed the CEW at the AP. WO1 noted that in his experience, displaying a Taser often results in cooperation. He told the AP he would be tased if he did not comply, and recalled the AP said something like "you guys will have to put me in a body bag."

WO1 displayed the CEW and gave commands, but the AP did not comply. WO1 discharged the CEW. He explained that two probes are discharged, but he could see right away that they did not make sufficient contact to be effective. The AP stated things like "is that all you got" and "bring it on", as he continued south toward Quinpool Road, and moved behind a large sign. WO1 stated they continued to give him commands to show his hands and get on the ground. He did not comply.

WO1 stated that he holstered his CEW and drew his pistol. He considered other options such as pepper spray or a baton, but stated those options require proximity and he wanted to maintain some distance. The AP lifted his shirt and WO1 heard the SO yell "knife, knife, knife" loudly and over police radio. WO1 stated he observed the AP with a knife with a large blade with a black handle. WO1 was worried about the people around them, himself and the SO. He stated this was one of the scarier situations he has been in as a police officer. WO1 stated that at this point they were begging and pleading with the AP to put the knife down and to stop, but he did not listen.

The AP turned the corner onto Quinpool Road, and both WO1 and the SO had their pistols pointed at him. WO1 was in the roadway, trying to keep some distance. He stated he knew if he tried to run in front of the AP and stop, the AP would be coming directly towards him with a knife, with his partner (the SO) behind the AP. If they needed to discharge a pistol, they could be shooting towards each other. The AP continued to yell at them while holding the knife. He heard police cars arriving, and they came to his left and jumped the curb. WO1 stated that one blocked the sidewalk, and a second vehicle arrived. He stated he observed the AP almost bending over as if it had bumped him. At that point the AP turned towards the SO. WO1 stated he could not see what happened as he was taking an angle around a police car. He heard gunshots. WO1 assisted in getting the AP into handcuffs, and confirmed he no longer had access to the knife. Police began first aid until EHS arrived.

Witness Officers #2 and #3 (WO2 and WO3) were patrolling together in a marked police vehicle when the robbery calls came in. As details were aired on police radio they headed toward the Quinpool area. WO2 stated that as they came around a corner, he observed the SO and WO1, and could see the AP with a knife in his hand. The officers were telling him to drop the knife, a CEW was discharged and was not effective. The AP began walking toward the Superstore doors on Quinpool Road. WO2 stated that he was thinking they needed to contain the threat—the AP had just committed two robberies, the area was very busy, the Taser was not effective, and there was the potential for him to stab or harm others. WO2 was driving, and he stated that his thought process was to knock the AP with his vehicle to knock the knife from his hand.

WO2 stated that as he positioned, another marked police vehicle came and sort of cut him off, and the cars contained the AP. WO2 stated that he did not strike the AP with his car, but his car acted like a type of containment of the AP. WO2's car was perpendicular to the road. As he was getting out of his vehicle to draw his firearm, WO2 stated he saw the AP going towards the officers on foot with a knife, and he heard three shots. He assisted with handcuffing the AP and providing first aid.

WO3 was the passenger in the vehicle with WO2. As the officers were pulling up, he observed the AP running with his hands down in front of him, concealing them by the front of his sweater. He stated that WO2 pulled up onto the curb to block or knock over the AP. WO3 got out of the vehicle and took out his Taser. He stated six or seven officers were there. He heard shots fired and assisted with handcuffs and life saving measures. WO3 stated he did not see the knife until after the AP dropped it, but he heard other officers giving commands for the AP to drop the knife. He saw a second, smaller knife that was found after the AP was shot.

Witness Officers #4 and #5 (WO4 and WO5) were on patrol in the same vehicle and heard information about the robberies over police radio. Due to the information provided they understood the AP likely had a knife and OC spray (pepper spray). WO4 explained that OC spray can be debilitating, and he knows from training not to get close to someone with it as they could use it and access police duty belts. They patrolled Quingate Place and then exited toward Quinpool Road. WO4 stated he saw WO1 and the SO at the corner of Quingate and Quinpool, facing the AP. He heard WO1 over the radio say “taser, taser, taser”, and observed that it did not work. WO4 stated he was going to drive and cut the AP off, but due to the fact that the officers had firearms out and there was a risk of crossfire, decided to block the AP from crossing the road. Other patrol cars came and blocked the AP in.

WO5’s notes and reports show that as she and WO4 arrived on scene, she turned her attention to CW2, to ensure she was not a threat to the officers dealing with the AP. CW2 was upset but was compliant with WO5’s commands to stay back. WO5 was dealing with CW2 when she heard shots.

Witness Officers #6 and #7 (WO6 and WO7) were partners traveling in the same police vehicle, and also heard the robbery calls come in. They heard the SO say over police radio that they had located the AP, so they traveled towards Quinpool Road and observed other police vehicles traveling in that direction. WO7 stated they had heard on police radio that the AP had a knife, and a Taser was ineffective.

WO7 decided they would try to cut the AP off, as there were a lot of people in front of the Quinpool Centre at that time and they believed he was armed. WO7 drove around WO4’s vehicle, over the curb, and bumped the AP with the front grille and headlight. Another police vehicle came in perpendicular to the building, which had the effect of boxing the AP in between the two vehicles (*Director’s note: WO2’s vehicle was the other police vehicle*).

WO6 and WO7 both stated they saw the AP reach into his sweater or belt and pull out a large chef style knife. WO6 stated the AP had a desperate look on his face. WO6 reached for the door handle, but paused, and then heard three shots. WO7 observed the AP move with the knife out on front of him before hearing the shots.

**Affected Party**

SiRT visited the hospital and attempted to obtain a statement from the AP, but he did not wish to provide one. He consented to the release of his medical records, which confirmed that he sustained three gunshot wounds: two to his left chest/abdomen, and one to his left arm. His alcohol levels were extremely high.

At the time of the incident the AP was on a release order and was prohibited from being within 5 metres of an NSLC and from carrying knives. (*Director's note: records indicate the officers were not aware of this until after the incident*).

### **Subject Officer (SO)**

Subject officers are not required by law to provide their notes and reports to SiRT or to submit to an interview. In this case, the SO consented to SiRT reviewing his notes and reports and attended an interview with SiRT on March 5, 2026.

When the first robbery call came in and someone noted it may be the AP, the SO aired to all police units that in his experience the AP often has a knife concealed on his person. This is confirmed by review of HRP radio transmission. The SO stated he has had many interactions with the AP over the past six and a half years, and each time he has had a knife or edged weapon in his waistband. The SiRT investigator asked the SO to recount past interactions, and he outlined details of past violent interactions with police. SiRT confirmed through police records that there have been several violent interactions between the AP and police.

When details from the second robbery call came in, the SO made note of the fact the AP had told a security guard he would have to kill him to get the product back. The SO stated this heightened his risk assessment. The SO and WO1 drove around the Quingate parking lot, and the SO spotted the AP, who matched the description of the person in the robbery calls. He was carrying a reusable black bag. The SO stated that once the AP was aware of police presence, he tried walking away to evade them. They drove behind him, and the SO stated the AP was yelling at them before they exited the police vehicle. As soon as they exited the vehicle, the SO told a family with a child to get back.

The SO had his firearm out and was giving the AP commands to get on the ground and show his hands. His notes state the AP said something like "you don't scare me/I'm not scared of you" followed by expletives. The SO stated the AP was reaching and playing with his waistband. The SO thought he was trying to access the pepper spray used in the robberies, but the AP lifted his sweater up and the SO saw a knife in his waistband. The SO aired this over police radio.

WO1 deployed his CEW, which was ineffective. The SO stated the AP said, "is that all you got?" ripped out the taser prongs and started to run westbound on Quinpool Road. He aired this on police radio. The SO jogged after him. He stated that his backdrop at the time was "terrible" as there were families and people walking around. He had his firearm raised but stated due to the situation he was not going to use his firearm at that time. The SO is a use of force instructor and noted the

importance of being aware of your surroundings and the duty of care police have for the public. The SO stated that public safety was his main concern, and he was also concerned the AP would harm a bystander or take them as a hostage. The SO heard sirens and saw one vehicle come over a curb, and then another. One of the vehicles bumped the AP. The SO noted that at this time, his backdrop was the brick wall of the Quinpool Centre.

The SO's report notes that the AP was 10 to 15 feet away and made eye contact with him. The AP said, "you're going to have to put me in a body bag" and started to walk toward him with the knife in his hands. The SO noted he feared for his life and safety. The SO was aware of things the AP had done in the past and of what he was capable. The SO felt the AP was approaching him exhibiting grievous bodily harm behavior. He stated that he made the conscious decision to fire three shots. The AP dropped the knife and went to the ground. The SO aired that shots were fired and EHS was required. Other members moved in to perform first aid.

### **Civilian Witnesses**

SiRT took statements from six civilian witnesses who witnessed the events or had relevant information.

Civilian Witness #2 (CW2) had a relationship with the AP and met up with him the day in question. She can be seen in CCTV video footage at the corner of Quinpool Road and Quingate Place when the AP was first interacting with police. SiRT obtained a statement from CW2 not long after the incident on January 17, 2026.

CW2 stated that she was waiting for the AP while he was in the Superstore. The AP had been drinking when she met up with him that day. She heard police yelling "get down, get down" and she looked and saw the AP. CW2 stated that she saw police tase him, but that it didn't work, and the AP was drunk and arguing with police. She stated he was being combative with the police. She heard police say "knife", so she assumed the AP pulled out a knife, but she did not see it.

CW2 stated that it was all a blur, and then suddenly, she heard gunshots. She stated she did not observe the AP being shot, but she heard the shots and saw him go down.

Civilian Witness #3 (CW3) stated he was at the gym in his apartment building when he observed two males with guns. He went outside as he was interested in what was happening. He heard police screaming "stop" and heard 3-4 shots. CW3 stated he did not see the shots being fired as the officer was close to a wall. After the shots, he observed a male laying on the grass, and police trying to help him.

Civilian Witness #4 (CW4) was working at a retail store across from the Superstore. She stated that her and other employees heard yelling outside, which is not uncommon for the area. They went to the door to see what was happening. CW4 stated that she saw two officers with their guns drawn, and a man with a grocery bag kind of leading them down Quinpool Road. She stated that everything happened very quickly. From her viewpoint, it appeared the AP was almost taunting the police and laughing. CW4 stated that she did not see a knife. She observed a number of police cars arrive and surround the AP, and she stated that she was surprised when police shot the AP. She heard three gunshots.

Civilian Witness #5 (CW5) observed the incident from her condominium that overlooks Quinpool Road. When she saw police lights, she went to her balcony and saw three police vehicles with lights on pull onto the sidewalk directly across from her balcony. CW5 stated that officers quickly exited their vehicles, and within a matter of seconds she heard them yell to get on the ground. Her view of the person they were speaking to (the AP) was blocked due to the police vehicles in front of him, so she could only see him from the chest up. CW5 estimated that within seconds, she heard three to four shots. She provided video to SiRT that was taken after the shots had been fired.

Civilian Witness #6 (CW6) observed the police attempt to tase the AP and the subsequent discharge of the firearm. She was walking to the grocery store with friends, and when they were in front of Freeman's Pizza, they heard yelling. CW6 stated that on the other side of the road she saw two officers who were yelling at a man, who was also yelling. The officers had their firearms drawn. CW6 stated police were saying "Put it down, put it down", but she could not see what the AP was holding, other than a bag. She heard a buzz, and it appeared that police had tased the AP. He stumbled around but did not have much of a reaction to the taser. He appeared to be impaired and was stumbling and yelling at the police.

CW6 stated that she and her friends turned their back as they recognized the situation was becoming serious, but when they turned back to look, they saw the AP in front of the Superstore. Two officers had their firearms drawn and were yelling at the AP to "put it down", and she stated she could hear them say something like a warning, something like "if you don't listen, we'll...". She heard three gunshots and saw the AP fall to the ground. Police ran over to help him. CW6 and her friends then left the area.

### **Video Footage**

Two civilians provided videos they had taken of the incident to SiRT: CW5 provided footage capturing the scene after shots were fired, and Civilian Witness #7 (CW7) provided two cell phone videos of the interaction. CCTV video footage was obtained from local businesses in the area. The

videos show busy foot and vehicle traffic on Quinpool Road and the surrounding areas at the time of the incident, and footage of police and EHS providing first aid after the incident.

CW7 was walking on the south sidewalk of Quinpool Road with his infant child when he heard the police interaction and started recording. The first video captures the incident with the CEW that took place on the corner of Quinpool Road and Quingate Place. You can hear an officer state: "...tase you" and can then hear the taser being deployed. WO1 is heard yelling "taser, taser, taser". (*Director's note: officers are taught this official taser warning in training.*) You can see in the video that the CEW was ineffective, as the AP immediately starts running.

Th second video taken by CW7 shows the AP lunging at officers near the Quinpool Center sign. He is saying something, but it is unintelligible. CW2 can be seen in the video by a fire hydrant. Officers can be heard yelling "On the ground" and the AP lunges towards the officers. The second time officers are heard commanding him to get on the ground, you can hear sirens in the background. The AP again motions in the direction of officers. An officer yells: "Knife, knife, knife". The AP's left arm was reaching toward the front of his body. An officer yells again for him to get on the ground. Two police cars arrive, followed by a third, and they box the AP in next to the Superstore building. The AP can be observed making his way toward the SO, and three shots are fired.

CCTV footage was obtained which shows Quinpool Road from both the west and east vantage points. This footage aligns with the civilian footage above, and you can clearly hear police yelling commands for the AP to get on the ground and to show his hands.

### **Forensic Identification Services (FIS)**

Forensic Identification Services (FIS) from another police agency attended the scene of the incident and conducted an examination, including photographs and a 3D scan of the scene and surrounding area. The 3D scan, combined with the available videos determined that there was approximately 6 meters between the SO and AP.

A black butcher knife was located on the hood of one of the HRP vehicles (reports confirm it was placed there by an HRP officer). The blade was 20.5 cm by 4.5 cm. A smaller knife (6.5 cm by 2.25 cm), black reusable bag, stolen items including alcohol and groceries were also located, as well as three spent shell casings from the officer's service weapon.



***Knife held by AP***

**CEW & Firearms Analysis**

The SO's firearm was tested by the National Weapons Enforcement Support Team and was determined to be in proper working order. The amount of spent shell casings and remaining rounds in the magazine are consistent with three shots being fired. SiRT also examined WO1's CEW which showed a 2-second activation followed by it being turned off.

**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;
- (g) (f.1) any history of interaction or communication between the parties to the incident;
- (h) the nature and proportionality of the person's response to the use or threat of force; and
- (i) 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. It also requires that the grounds be justifiable from an objective point of view. In other words, a reasonable person must be able to find that grounds exist. In determining whether there are reasonable and probable grounds to lay a charge, all the evidence gathered must be considered.

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.

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. HRP follows the National Use of Force Framework (“Framework”). The Framework is not law, but was developed to help officers apply the law. The Framework takes into consideration (1) the situation; (2) the behaviour of the subject; and (3) perception of the officers and tactical considerations in the application of force. HRP Policy was also reviewed in the course of the investigation, which sets out when a firearm may be used in accordance with the *Criminal Code*. As set out in s. 25 of the *Criminal Code*, lethal force is only permissible when an officer reasonably believes it is necessary for the protection of themselves or others from death or grievous bodily harm.

The SO and the other officers were lawfully in the execution of their duties as police officers when they responded to the call. They had grounds to arrest the AP for the robberies at two NSLC locations, and for possession of a weapon. They were aware he was in possession of a sensory irritant (believed to be pepper spray), and was known to carry a knife. As witness officers noted, OC/pepper spray can be debilitating, and a knife can cause serious bodily harm or death. The AP was repeatedly directed to show his hands and get on the ground. He continually disregarded these commands and was verbally aggressive with officers, while lunging at them, even when confronted with a CEW and firearm. The discharge of a CEW was unsuccessful, and the AP continued to resist, while holding a knife. He fled police, and when boxed in by vehicles, lunged at the SO while brandishing a knife. All of this occurred in an extremely busy downtown area where civilians were at risk. Based on these circumstances, it was reasonable for the SO to determine there was an actual threat, and to discharge his firearm to protect himself, other officers, and innocent bystanders from death or grievous bodily harm. The alternative option of a CEW was attempted but was unsuccessful. Other officers attempted to stop the AP with their vehicles, but this was also ineffective. I am convinced that the discharge of the firearm constituted reasonable force in the circumstances, and the SO did not act with excess.

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 considering all the relevant circumstances.

An examination of each of the factors in subsection 34(2) of the *Criminal Code* is required 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 – a knife can cause significant physical injury or death. The AP had pointed a knife and ran toward the SO immediately before the SO fired. It was clear the AP was willing and prepared to use the knife. The AP had also used a sensory irritant twice leading up to the interaction with police, which can be debilitating and allow someone to access an officer's duty belt and equipment. The threat was real and potentially deadly.

(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 – when the SO fired at the AP, it was reasonable

for him to presume the threat was imminent. The AP did not respond to repeated officer commands, and he made the comment “you're going to have to put me in a body bag” while walking toward the SO with a knife in his hands. WO1 had attempted to respond to the threat with a CEW, but this did not deter the AP. The AP was boxed in and approaching the SO, and there was no further opportunity for the SO to use communication, alternative means or less-lethal options to respond, as to do so could put his life and the lives of others at risk.

(c) the person’s role in the incident – the AP committed multiple criminal offences leading up to the encounter with the SO. He made the decision to engage in this behaviour and brandished a knife while running away and then moving in the direction of officers. The AP did not respond to multiple requests to surrender. His actions played a role in the way that police and ultimately the SO responded.

(d) whether any party to the incident used or threatened to use a weapon - the AP had threatened the officers on multiple occasions and was clearly in possession of a knife. He had also used a sensory irritant before interaction with police.

(e) the size, age, gender and physical capabilities of the parties to the incident - the AP was an adult male armed with a knife and was clearly willing and able to use it. He could inflict serious injury or death. The SO was aware he had been violent with police in the past.

(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 – the AP threatened police when they tried to reason with him and issued commands. As mentioned, there had been previous violent interactions with police, which the SO was aware of.

(f.1) any history of interaction or communication between the parties to the incident – N/A

(g) the nature and proportionality of the person’s response to the use or threat of force – the AP pointed a knife, and due to his actions, it was not possible to employ a less-lethal response to the threat he posed. WO1 had attempted to use a CEW without success. Due to the risks associated with a knife and a sensory irritant, it was not possible for the SO to use other less-lethal intervention options in the moment.

(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 firearm by the AP was not lawful.

Based on a review of the facts and the law, I am satisfied that the SO acted reasonably to stop a major threat. The circumstantial evidence supports the perception of the SO that there were reasonable grounds to believe the threat to his own life and the lives of other officers and civilians was at risk.

**CONCLUSION**

After a careful review of the evidence and the law, I have determined that there are no reasonable grounds to believe the SO committed a criminal offence.