SiRT | SERIOUS INCIDENT RESPONSE TEAM

Summary of Investigation

SiRT File # 2026-0009

Referral from

RCMP "J" Division

January 18, 2026

Erin E. Nauss
Director
November 25, 2026

Content advisory: This report describes a fatal police shooting, including the use of force, emergency medical response and the results of the autopsy. It also refers to domestic violence and the presence of children. Some readers may find this information distressing. Support resources can be found here: External Resources | Serious Incident Response Team

SiRT MANDATE

The Serious Incident Response Team ("SiRT") has a mandate to investigate 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 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 24.6 of the New Brunswick *Police Act* as a matter to be investigated due to the death of the Affected Party.

Timeline & delays: The SiRT investigation started on January 18, 2026, and concluded on September 21, 2026. There was a typical delay awaiting the Final Postmortem 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 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 officer who is a witness to, was present at or has material information related to a serious incident.

"Subject Officer/SO": means the 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 Agency Files
2. 911 Recordings
3. Police Radio Communication Recordings
4. Body-worn Camera Footage
5. Police GPS Data
6. Subject Officer Notes
7. Witness Officer Notes, Reports and Statements (2)
8. Civilian Witness Statements (3)
9. Final Postmortem Report
10. Forensic Identification Report
11. RCMP Policies
12. CPIC and Criminal Record Queries
13. CEW & Firearms Analysis
14. Expert Opinion on Objects
15. Information on Kinap Neqotkuk Security

CONTEXT & PERSPECTIVE

SiRT's mandate is to assess the evidence and apply the law to determine whether criminal charges are warranted in each investigation. In carrying out that responsibility, I remain mindful not only of SiRT's mandate, but also of the profound impact this incident has had on the Neqotkuk (Tobique First Nation) community, Wolastoqiyik and other Indigenous communities, as well as on those directly involved and the Affected Party's family and friends. This incident raises broader and deeply important concerns about the relationship between law enforcement and Indigenous communities, systemic racism, the delivery of policing and other support services, and the effects of historical and ongoing injustices. SiRT acknowledges that these issues deserve meaningful attention, continued dialogue, and consideration with the appropriate organizations and institutions; however, recommendations concerning them fall outside the scope of SiRT's mandate, this investigation and this summary report.

SiRT remains committed to promoting police accountability through professional, thorough and independent investigations. During this investigation, SiRT engaged community liaisons to help keep the Affected Party's family and community informed and to provide cultural, historical and community context. Their assistance supported SiRT in engaging respectfully with the family and community throughout the investigation.

SiRT hired an Indigenous Liaison Officer after this investigation began. We recognize that building trust and confidence requires sustained effort, and we remain committed to listening, learning and strengthening our relationships with Indigenous communities. We appreciate the

importance of reflecting on what we hear, we will identify the opportunities for growth and examine how processes of communication and engagement can be improved to better support Indigenous families and their communities.

This was a profoundly tragic incident, and SiRT extends its condolences to the AP's family, the Neqotkuk First Nation, and all those affected.

INVESTIGATION SUMMARY

The investigation focused on the circumstances leading to the SO's use of force, including the officers' communications with the AP, the AP's actions, the attempted use of a CEW/Taser, the pointed objects held by the AP, and the timing and proximity of the threat. The evidence is summarized below before being assessed under the applicable provisions of the *Criminal Code*.

Overview

On January 18, 2026, at 5:06 p.m., a youth called 911 to report a domestic disturbance between an adult male and female in a home on Neqotkuk (Tobique First Nation). The adult male was reportedly intoxicated. The caller was locked in a room with a child at the residence and stated that the adult female asked them to call 911 for her. Police attended the residence and learned that an adult male (the Affected Party/AP) was in the bathroom and would not come out. An adult female (Civilian Witness #1/CW1) told police that the AP had held her down in a back room for about an hour and had not allowed her to leave.

When police first got to the residence the AP emerged from the bathroom covered with blankets or towels. When he saw the police, he returned to the bathroom. The officers attempted to communicate with the AP, offered him clothes, and repeatedly asked him to come out. CW1 told the officers that they needed to ensure he left and did not return that night. At one point, a loud cracking sound was heard from inside the bathroom.

The AP then kicked open the bathroom door while carrying two pointed wooden objects, which were later determined to have come from a wooden toilet plunger that had been broken in half. He held the longer piece in his left hand and a shorter piece in his right hand. One of the officers yelled, "Knife!" The AP exited the bathroom quickly, swinging a pointed object in each hand toward Witness Officer #1 (WO1). He yelled, "Kill me," while swinging the objects. WO1 deployed his CEW/Taser, but it was ineffective.

The AP then charged forcefully toward WO1, swinging both arms violently. WO1 backed into a dark bedroom to avoid being struck. The AP then turned and charged toward the Subject Officer

(SO), with the pointed objects in each hand. The SO discharged his service pistol six times in quick succession, striking the AP five times in the chest area. Emergency medical care was provided, but the AP later died from the injuries caused by the gunshots.

911 Call and Police Radio

SiRT obtained the 911 recordings and police radio communications related to this incident.

At 5:06 p.m., a 911 call was made by a youth requesting police assistance. The caller stated an adult female in the house had run into their room crying and asked them to call police. The dispatcher asked what kind of emergency response they require: police, ambulance, or fire. The youth stated they needed police. The youth did not know whether the dispute was physical or verbal, or whether anyone was injured. The caller stated they were with a younger child at that time. A woman (CW1) could be heard crying and whimpering in the background. The call was transferred to RCMP dispatch, and an ambulance was dispatched to stage in the area. The caller identified the adults in the home to the RCMP dispatcher, and stated they thought they were physically fighting, but they were unsure because they were locked in a room with a younger child. The caller did not believe there were weapons in the home and said CW1 stated the AP was drunk. The caller stated they thought CW1 was trying to get away from the AP.

At 5:12:48 p.m., RCMP Dispatch advised members of a "domestic in progress", provided the address, and an overview of the 911 call. Officers responded with their locations and plans to respond. At 5:14:02 p.m., RCMP Dispatch asked whether the members were familiar with the AP and the SO advised that he was. Dispatch then advised that the AP had previous charges for "Assault on PO [police officer], resist [arrest], obstruct peace officer and keep the peace towards CW1." The SO radioed to tell WO1 to wait for the other members unless something changed, adding that the AP "is a fighter." WO1 confirmed that he would wait for them to arrive.

The members then exchanged information to confirm the location of the residence. Various communications were made about location and arrival at the residence. At 5:33:38 p.m., WO1 radioed that there had been an "officer involved shooting" and requested EMS and a supervisor.

Subject Officer

Subject officers are not required by law to provide statements, notes, or reports to SiRT. In this case, the SO consented to provide his notes.

The SO's notes state that he attended the AP and CW1's residence for a domestic disturbance to back up members. He noted that he knew the AP and that he had a history of being violent. Upon

arrival, he went into the house and observed a female who he noted was quite upset. He learned the AP was locked in the bathroom and could hear him yelling. The SO asked CW1 if members could kick the door, and she gave permission. The SO's notes say that WO1 kicked down the bathroom door. *[Director's note: Body-worn camera footage shows that the AP kicked open the bathroom door.]*

The SO's notes state that he observed the AP had something in his hand which he observed to be a knife. He wrote: "I called out and identified the knife. Drew my gun." He noted that WO1 attempted to "tase" the AP, but it didn't work. He could see the AP with the weapon. The AP was yelling and ran towards the SO. The SO wrote that the AP ran at him with the same weapon and cocked his arm back.

The SO's notes state "As [the AP] got closer he swung at me, fearing for my life I shot him." CPR was necessary and members began attempting to administer it. He asked WO1 to help with CPR, noting he is an advanced care paramedic. The notes state that once an ambulance arrived on scene, he removed himself from the home and awaited further instruction.

Witness Officers

Witness Officer #1

SiRT obtained WO1's notes and reports and took a statement from him on January 22, 2026. WO1 stated that he was dispatched to a 911 call of a domestic dispute involving the AP and CW1. Other officers were about 20 minutes away, so he initially waited for backup in a parking lot. He conducted a CPIC check and learned the AP was currently on a release order with a condition of Keep the Peace and be of Good Behaviour toward CW1 and was also accused of assault of police officer and resisting/obstructing a peace officer. Witness Officer #2 (WO2) then radioed that he was close, and WO1 and WO2 arrived at the home at approximately 5:25 p.m. and entered after CW1 met them at the door. WO1 noted that two children were also present. WO1 noted that CW1 appeared "at her wits end". She reported that the AP was intoxicated, had been yelling and calling her derogatory names, and had displayed assaulting behaviour by holding her down and preventing her from leaving. She declined to provide a formal statement at that time and said the AP was in the bathroom.

WO1 stated he intended to have the AP leave the bathroom, verbally arrest him, and take him to the police vehicle before arresting him for a breach. When WO1 called his name, the AP emerged from the bathroom wearing two towels. He saw the officers and returned to the bathroom. Since he was aware of the AP's history of escalation, WO1 directed CW1 to the back

room. He positioned himself to the right of the bathroom doorway, knocked, and asked the AP to come with them. At WO1's request, CW1 retrieved clothing and placed it on a nearby chair.

WO1 stated that he continued trying to engage the AP to resolve the situation. The AP repeatedly told CW1 that he loved her and asked, "Why did you do this?" According to WO1, the situation was initially calm, but the AP became increasingly agitated. WO1 asked whether he could enter the bathroom and opened the door slightly. The AP replied, "No," and slammed the door shut.

WO1 stated he heard the AP grunting and growling, followed by the sound of an unidentified object breaking. The AP then yelled and kicked the bathroom door, sending it across the hallway into the opposite wall before it fell to the floor. WO1 stated that he retreated towards a nearby bedroom to create distance. He described the AP lunging from the bathroom with what appeared to be a brown, reflective edged weapon in his right hand. *[Director's note: The object was later identified as a piece of wood.]* WO1 deployed his Taser and saw the AP pulling at the prongs with his left hand. He stated that the AP lunged at him again, swinging his right hand. He heard the SO shout, "he has a knife". WO1 stated he continued backing into the bedroom until a wall or other obstruction prevented him from retreating farther.

The AP then turned towards the hallway and ran toward where the other officers were located. WO1 transitioned from his CEW to his pistol. WO1 stated that the SO yelled commands and the AP moved out of WO1's sight. WO1 heard approximately three gunshots.

He observed WO2 holstering his firearm. Officers radioed for EMS and a supervisor, reporting an officer-involved shooting. They attempted to handcuff the AP but were unable to secure the handcuffs. [*Director's note: The body-worn camera footage shows that a handcuff was secured to the AP's right hand, but officers could not secure the other hand. Handcuffing is a safety measure intended to ensure that a person cannot access a weapon or otherwise pose a threat while officers secure the scene and provide or arrange medical assistance.]*

They then began CPR and he assisted with resuscitation efforts. EMS arrived and WO1 assisted with their work. WO1 stated he was previously an advanced care paramedic.

WO1's Subject Behaviour/Officer Response Report records that his risk assessment was "high" as the incident developed. WO1 reported that he believed the AP had an edged weapon and presented a risk of grievous bodily harm or death. *[Director's Note: The RCMP Subject Behaviour Officer Response (SB/OR) Report is a report that documents a person's behaviour during an incident and the officer's corresponding response, including any use of force.]*

Witness Officer #2

SiRT obtained WO2's notes and reports and took a statement from him on January 22, 2026. He was covering a shift in the Perth/Tobique area on January 18, 2026, and he was on his way to Perth from Woodstock. WO2 stated that he heard a call about a domestic dispute on Tobique First Nation over police radio. He offered to assist, met with WO1, and they travelled together. CW1 let them into the home. WO2 stated that she was visibly upset and crying, saying she just wanted him out, and that she felt unsafe. WO2 observed a child in the home. WO2 heard WO1 ask CW1 what was going on, and she said the AP held her head against the floor and wouldn't let her out of the room. She did not want to give a statement.

The AP came out of the bathroom wearing only a blanket. When he saw the police, he returned to the bathroom and closed the door. WO1 approached the bathroom door and spoke with the AP and asked if he could come into the bathroom. CW1 brought clothing to the officers for the AP. WO2 heard WO1 speak to the AP through the bathroom door and tried to persuade him to come out. WO1 told him he could go sleep it off. He heard the AP asking for CW1. By that time, the SO had joined the officers inside the residence. WO2 stated that WO1 was the officer who tried to talk and reason with the AP. The AP didn't engage in conversation.

WO2 heard a loud bang from inside the bathroom but was unsure what had caused it. WO2 stated that, shortly afterwards, the bathroom door flew open, came off the hinges and hit the hallway wall. One of the officers announced that the AP had a knife. WO2 stated that the AP had a knife in his left hand. Although he could not see the handle, he described it as a shiny blade and approximately three to four inches long. *[Director's note: No knife or blade was recovered; see Forensic Identification Services.]* WO2 saw that the SO had his firearm, so he withdrew his firearm for lethal overwatch. *[Director's note: "'Lethal overwatch' refers to an officer being positioned and prepared to respond with lethal force if the threat presented makes that level of force necessary to protect life.]*

WO2 stated that the AP charged out of the bathroom towards WO1, who attempted to use his Taser, but it did not slow the AP down. The AP returned to the bathroom and, a very short time later, ran directly towards the SO. In WO2's account, the AP was upon the SO within 2-4 seconds. WO2 described the AP being bent over, sprinting towards the SO and it being a very close distance.

After shots were fired, officers attempted to handcuff the AP but were unable to do so. They performed CPR until the ambulance arrived. WO2 then went outside, and other people and family members arrived. He accompanied the AP in the ambulance and continued CPR during the trip to the hospital.

Civilian Witnesses

Civilian Witness #1

SiRT interviewed CW1 on January 19, 2026. She stated that on January 18, 2026, she had fallen asleep in the afternoon. When she woke up around 5:00 p.m., the AP was there. She stated that she could tell the AP was drunk. He had a bottle of whiskey and "was a little aggravated". When he went to take a shower, she decided to have her child call 911, just to be safe, to have him taken to the drunk tank. When police arrived, she barricaded her children in a back room so they wouldn't have to see anything. The AP was still in the shower, and one of the officers called out to him, "Come on [AP], we'll sleep it off", but he didn't want to come out. She stated that the next thing she remembered was police asking her permission to kick down the bathroom door. The door was then kicked open. CW1 believed the AP had kicked it because the door was out in the hallway.

CW1 stated that police tasered the AP, who was wrapped in a blanket. He pulled back into the bathroom, and she heard one of the officers say that the AP had a knife. CW1 stated that there was no knife and that the AP did not have one. When asked whether she could see the AP's hands when he exited the bathroom, she replied that she could not. *[Director's note: The AP was holding two pieces of wood; see Body-Worn Camera Footage and Forensic Identification Services.]* She stated that the AP came out of the bathroom and walked down towards the kitchen. She recalled that he turned around and took a step towards her and the officer beside her. CW1 stated that the officer pulled out his gun and just started shooting him. She estimated that three, four, or five shots were fired, but she wasn't certain.

CW1 described the scene and events after the shots were fired and stated that CPR was provided until the ambulance arrived. She felt that the situation should have been handled differently. She noted that the AP had been tased several times in the past, and that she had previously called police to take him to the drunk tank. Her goal was to have him leave the house peacefully. She stated that, although this would be a challenge, he had always gone before.

CW1 stated that the AP was unclothed and unarmed, and that nobody talked to him. She added that he hadn't slept in a couple of days, "could've been in a psychosis", and that nobody was there to handle him. She wished that "tribal" had been there, as he would have seen someone he knew. [*Director's note: It is not clear what was meant, it could possibly be a reference to community security]*.

Other Civilian Witnesses

SiRT conducted a community canvass. SiRT interviewed a person who supplied background information and noted that she heard a pounding noise before hearing shots. SiRT also interviewed an EMS paramedic who attended the scene. Neither provided other direct relevant evidence about the incident.

Affected Party

At the time of the incident, the AP was subject to a release order arising from charges of assaulting a police officer and resisting arrest. He was on conditions to keep the peace and be of good behaviour toward CW1. The AP had a history of police interactions, including violence, domestic disputes involving CW1, and allegations that he had harmed her and others.

Postmortem Report

An autopsy was completed on January 20, 2026. The Final Postmortem Report found that all the gunshot wounds were to the AP's chest. It determined that the cause of death was "multiple penetrating and perforating gunshot injuries to the chest", and the manner of death was deemed "homicide". Across Canada, coroners and medical examiners must record two things on a death certificate: the cause of death and the manner of death. The manner of death describes how the death occurred and is classified as natural, homicide, suicide, accident, or undetermined. In this context, "homicide" is a medical classification only. It is not a finding of criminality and does not have the same meaning as criminal or culpable homicide.

The Report referred to the Toxicological Examination and noted: "Presence of alcohol, methamphetamine, clonazepam, cocaine and its metabolites in the decedent's blood. Ethanol is detected in concentration frequently associated with an excited state characterized by emotional instability, decreased inhibitions and loss of critical judgement (Kurt Dubowski's stages of alcohol influence) Cocaine and its metabolites are detected in concentrations which can potentially cause fatal toxicity."

Body-worn Camera Footage

All three responding officers wore body-worn cameras that recorded the incident. SiRT obtained footage from each camera.

The footage shows CW1 let WO1 and WO2 into the residence at 5:27:28 p.m. CW1 stands beside a young child, and tells the officers the AP was drinking, and that children were present and were scared of him. She said she had just woken up. WO1 asked where the other child was,

and CW1 stated she would take the young child to the back room where the other child was located. WO1 asked where the AP was, and CW1 stated he was in another room and was "[expletive] dangerous." WO1 asked whether anything had become physical that day. CW1 replied, "Just like holding me down and stuff." When asked whether the AP had hit her, CW1 stated he had not hit her, but had held her to the floor. She stated he is "very scary when he's drunk" and "very violent."

CW1 stated the AP had come home with half of a 40-ounce bottle of whiskey gone and indicated he had consumed more than that. She told one of the children to go into another room and stated again that the children were scared. She told WO1 the AP had been yelling at her in the back room, would not let her leave, and that this had continued for approximately an hour. When asked whether she wanted to provide a statement, CW1 stated she did not want to do so at that time and said, "I just need to be safe here… and make my family safe." She advised the AP was alone in the bathroom.

The footage shows that at 5:29:15 p.m., the AP exited the bathroom wearing what appears to be two blankets or towels and stood at the hallway entrance to the living/dining room. WO1 called the AP "brother" and "buddy" throughout the interaction and spoke in a calm voice. He asked what was going on and whether he had been drinking. The AP responded by grunting. WO1 stated that they were police officers, that anything he said could be used against him as evidence, and asked whether he understood. The AP grunted, turned around and walked back into the bathroom.

CW1 advised that the AP was on probation and was supposed to keep the peace and be of good behaviour. She then said that she wanted him out of the residence and did not want him to return and began to cry. After confirming the AP was nude, CW1 offered to get him clothes and WO1 asked her to do so. CW1 again stated that she did not want the AP to come back to the residence.

WO1 approached the closed bathroom door and asked the AP if he wanted to put some clothes on, calling him "buddy". CW1 can be heard crying in the background. The AP responded that he was putting clothes on and then called for CW1.

At approximately 5:30:07 p.m., a sound like something breaking or falling could be heard from inside the bathroom. The AP continued calling for CW1, and WO1 told him that she was in the back room and could not hear him. The AP stated that he loved her. At 5:30:32 p.m., WO1 asked the AP if he minded if he entered the bathroom. The AP stated "Nope." WO1 clarified whether he did not mind, and the AP responded "No." WO1 pushed the bathroom door open while asking

the AP what he was doing. The AP responded, “I said no.” WO1 apologized and the AP closed the door.

CW1 returned carrying pants and a shirt. She appeared off balance and said, “what’s gonna happen, he’s gonna put up a fight.” WO1 stated that he was trying to avoid that. The AP again told CW1 that he loved her, and she replied, “Go get some help babe,” before returning to the back room.

WO1 told the AP that he had clothes for him. At 5:31:13 p.m., WO1 stated that he was “just gonna go sleep it off.” Shortly afterward, a loud crack could be heard from the bathroom. CW1 returned and said the AP was “real crafty and good at getting out” and asked the officers to make sure he stayed overnight and did not get out.

At 5:31:43 p.m., WO1 asked the AP to come out. The AP then told WO1 to “Come on in.” WO1 approached and asked him to repeat himself, and the AP said, “Come in.” At the bathroom door, WO1 stated, “I don’t want to fight buddy.” The AP stated, “I didn’t do nothing.” WO1 asked him to open the door so that he could hand him some clothes.

The AP asked CW1 why she had done that to him. WO1 stated “Right now it’s to sleep it off.” The AP said “No.” WO1 stated he did not want the situation to go any further and again asked whether he could give him some clothes. WO1 also asked CW1, who was standing close to the bathroom door, to back up.

At 5:32:29 p.m., the SO entered the residence and asked if the AP was in the bathroom. WO1 confirmed that he was. He asked what the AP was doing; WO1 breathed out and replied, “I don’t know.” The AP and CW1 yelled that they loved each other. The AP can be heard stating “Why?”. CW1 then yelled “You have to go now.” WO1 approached the bathroom and again and asked the AP to open the door. The SO asked CW1 whether she gave the officers permission to kick in the door, and she replied, “Yeah.”

At 5:33:01 p.m., the AP can be seen smashing open the bathroom door, causing it to fly toward the opposite wall. He charged into the hallway holding a pointed object in his left hand making a swinging motion with it, and then quickly backed into the bathroom. His jaw appears to be clenched and his brow furrowed. The SO’s body-worn camera footage showed a longer pointed object in the AP’s left hand and a shorter pointed object in his right hand. The AP stated, “Come on,” and the SO stated, “He’s got a knife.” CW1 stated “He has a knife?” and then repeats his name. WO1 withdrew his Conducted Energy Weapon/Taser, and the SO drew his service pistol.

At 5:33:07 p.m., the AP exited the bathroom quickly, forcefully swinging a pointed object in each hand toward WO1. While standing in the doorway, he said, “Kill me”. WO1 deployed his Taser, after which the AP went back into the bathroom. CW1 yelled the AP’s name. WO1 yelled, “Taser, taser, taser,” and approached the open bathroom door. The AP was inside swinging both arms while holding a pointed object in each hand. The SO told WO2 to get his gun out.

At 5:33:12 p.m., approximately 5 seconds after first smashing open the door, the AP charged out of the bathroom, swinging the pointed objects in both hands, using an overhand swinging motion toward WO1. WO1 backed into a dark bedroom and was almost struck. The AP then turned toward the SO while swinging the objects and charged in his direction.

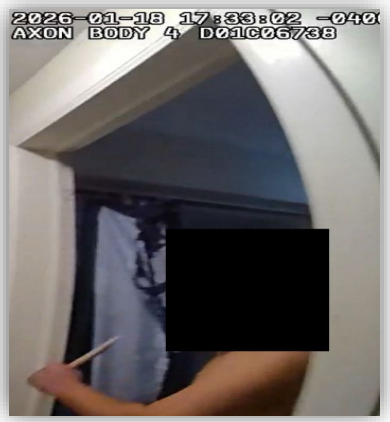


Figure 1: Screenshot from WO1’s body worn camera recording



Figure 3: Screenshot from WO1’s body worn camera recording



Figure 2: Screenshot from WO1's body worn camera recording



Figure 4: Screenshot from SO's body worn camera recording



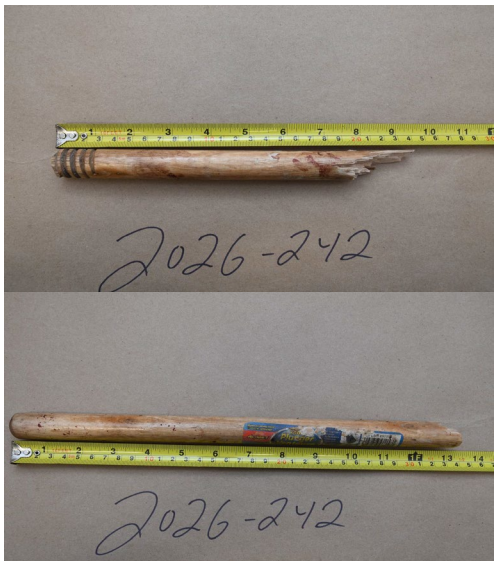
Figure 5: Screenshot from SO's body worn camera recording

The footage captures the SO discharge his service pistol in quick succession six times, and the AP falling to the floor. The situation escalated quickly. CW1 can be heard yelling the AP's name three times before the shots were fired. The footage then captures CW1 approach the AP, and the emergency medical interventions that took place. WO1 asks WO2 if they can move the "knife".

While lifesaving measures are taking place, WO1 takes a break from assisting while others continue, and speaks to CW1 and asks her to come to the back with him and take the children in back. She is very distraught and WO1 states "he came at us with something". CW1 stated, "I know he did but he was just…(sobbing)….I knew it…[unintelligible]…". A small child exits a bedroom and WO1 asks CW1 to go into the room with the kids. She and the child go into the room.

Forensic Identification Services (FIS)

SiRT has a policy to use specialized services, such as forensic identification services, from an agency whose officers are not the subject of the SiRT investigation. At SiRT's request, forensic identification officers from another police agency processed the scene. They seized six spent 9mm shell casings, three bullets, multiple CEW components, two pieces of a broken wooden plunger, and items with cocaine and sodium bicarbonate residue. Fifty-eight exhibits were seized in total.



Forensic Identification Photos of Objects

A 3D scan was taken of the scene. It found that the distance from the centre of the bathroom door to the back bedroom door where WO1 was located was 1.373 metres. The distance from the centre of the bathroom door to where the AP was shot was approximately 4.240 metres.

CEW & Firearms Analysis

The Canadian Firearms Program's National Weapons Enforcement Support Team examined the SO's service pistol and magazine and confirmed that the firearm functioned properly.

The manufacturer of the CEW reviewed WO1's CEW log and concluded that one or both probes likely failed to penetrate the skin or became dislodged immediately.

Expert Report on Objects

SiRT engaged the Chief Medical Examiner of the Nova Scotia Medical Examiner Service to provide an expert opinion on the objects held in the AP's hands. The opinion explained that a motivated person of moderate strength can cause serious harm or death with their bare hands; no weapon is necessary. In their opinion, the pieces of wood shown in the photographs provided, each with a broken, sharp end, could cause scrapes, bruises, torn skin and penetrating injuries. The extent of the injuries would depend on how many times the person was struck and where on the body. The opinion was clear that a motivated person of moderate strength could cause serious harm or death with such an object, including through a penetrating injury to the eye, neck or head.

The Final Postmortem Report found that the AP weighed approximately 282 lbs and was 5.67 feet tall. Video evidence shows he was a heavyset adult male. Taken together with the expert

opinion, this means the AP could cause serious harm or death to the officers with the two pieces of wood each with a broken sharp edge that he was holding.

COMMUNITY POLICING CONTEXT

For context, SiRT reviewed whether any arrangement was in place for a community response to emergency calls, as this was raised in the course of the investigation. The investigation found that there is no agreement or MOU between the RCMP and Kinap Neqotkuk Security or other organization. During this incident a call was placed to 911 for police to respond.

RELEVANT LEGISLATION

***Criminal Code*:**

Definitions
2 In this Act,
weapon means any thing used, designed to be used or intended for use
(a) in causing death or injury to any person, or
(b) for the purpose of threatening or intimidating any person
and, without restricting the generality of the foregoing, includes a firearm and, for the purposes of sections 88, 267 and 272, any thing used, designed to be used or intended for use in binding or tying up a person against their will;

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

The legal issue I must determine is whether the evidence provides reasonable grounds to believe that the SO's use of force was criminal, having regard to the officer's lawful duties, the perceived threat, and the circumstances as they existed when the firearm was discharged. I must determine whether the evidence establishes reasonable and probable grounds to believe that a criminal offence was committed. This standard is higher than reasonable suspicion but lower than both the balance of probabilities and proof beyond a reasonable doubt.

Section 25 of the *Criminal Code* authorizes a peace officer acting on reasonable grounds to use only the force necessary to administer or enforce the law.

Police use of force must be proportionate, necessary, and reasonable. Proportionality requires the force used to correspond to the conduct or threat it addresses. Under section 25(3), force intended or likely to cause death or grievous bodily harm is justified only if the officer reasonably believes it is necessary to protect themself or another person from such harm. Because discharging a firearm is intended or likely to cause death or grievous bodily harm, the SO must have reasonably believed that it was necessary to protect themself or another person.

Necessity asks whether a reasonable alternative could have achieved the same objective. The evaluation must account for the rapidly evolving and stressful circumstances officers may face rather than assessing their real-time choices with hindsight. Reasonableness is evaluated objectively by considering the force used and the circumstances as a whole. The standard is reasonableness, not perfection. In *R. v. Nasogaluak*, 2010 SCC 6, [2010] 1 S.C.R. 206, at paragraph 35, the Supreme Court of Canada 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 SO and the other officers were lawfully performing their duties when they responded to the 911 call of a domestic disturbance. Police were aware of the AP's history and prior interactions with police, and he was on conditions to keep the peace and be of good behaviour toward CW1. CW1 reported that the AP had held her against her will, that the AP can be violent when intoxicated, and that she and the children were scared. She stated she wanted him gone. The situation escalated extremely quickly when he emerged from the bathroom holding two pointed objects. The accounts of the officers, combined with the body-worn camera footage, make it clear that there was a real risk to the safety of the SO, the witness officers, and civilian bystanders.

The *Criminal Code* definition of a weapon is not limited to conventional weapons such as knives or firearms. An ordinary object can be a weapon depending on how it was designed, intended to be used, or actually used. Accordingly, broken pieces of wood with sharp ends can be considered weapons where the circumstances establish that they were intended or used to cause injury or to threaten or intimidate someone. In the present case, the evidence shows that they were swung towards officers while running in their direction.

The body-worn camera footage shows that multiple attempts were made to communicate calmly with the AP through the bathroom door, but he did not communicate clearly with them and ultimately kicked open the door, charging forcefully toward police with the pointed objects in his hands, which the officers perceived was a knife. When the AP saw the officers, he immediately displayed aggressive behaviour. The less lethal option of the CEW/Taser was attempted, but it was ineffective. After the CEW was discharged, the AP retreated to the bathroom and then quickly advanced toward WO1 and then charged at the SO with weapons raised. The SO had to make a split-second decision how to respond. There was minimal distance between the SO and the AP, and he was a heavyset adult male with pointed objects in his hands. They were in a residence where civilians, including children, were present. The officers were aware of prior police contact with the AP, and that he had previously been charged with violent offences, including assaulting police.

The law does not require an officer to wait until a threat is realized before acting. Holding pointed objects in a forceful manner and moving quickly toward someone with force presents a

real and imminent risk of grievous bodily harm or death. The SO fired six shots in rapid succession. The shots were fired without pause, leaving no intervening moment in which the SO could reassess the threat. The SO's notes state that he feared for his life. In these circumstances, the SO fired at the AP to stop the imminent threat of grievous bodily harm or death. The fact that both the SO and WO1 both readied their pistols illustrates their independent assessment of the risk and the perceived need by the SO to use lethal force. Taken together with the expert opinion, it is clear the AP was capable of causing serious harm or death to the officers or others with the two sharp-ended pieces of wood he was holding. The Toxicological Examination found that substances were detected in "...concentration frequently associated with an excited state characterized by emotional instability, decreased inhibitions and loss of critical judgement…".

As noted above, police conduct is not measured against a standard of perfection, because officers must make immediate decisions in dangerous situations. The law is clear that an officer's actions should not be judged with the benefit of hindsight. Instead, the objective reasonableness of the SO's actions must be assessed from the perspective of a reasonable person in the SO's position at the time.

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 used when 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 if 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. I have applied each of the factors to the facts in this matter:

(a) the nature of the force or threat – At the time of the incident, the AP held a weapon in each hand and swung them toward the officers. Although the officers believed the weapons were knives, they were later identified as two pieces of wood with sharp, broken ends. The Nova Scotia Chief Medical Examiner's expert report concluded that a motivated person of moderate strength (like the AP) could use these objects to cause serious harm or death. The threat was therefore real and potentially lethal.

(b) the extent to which the use of force was imminent and whether other means were available to respond – When the SO fired, the AP was lunging toward him with a

weapon, making the threat imminent. WO1 had already attempted to use a Taser, but it was ineffective. The AP advanced so quickly that the SO had neither the time nor space to retreat or use another intervention option. An immediate response was necessary to protect his life and others. The entire interaction after the AP kicked down the bathroom door lasted under 15 seconds.

(c) the person's role in the incident – WO1 spoke calmly and attempted to reason with the AP. The AP kicked open the bathroom door and advanced toward the officers while holding weapons. He charged and ran toward them, swinging his arms violently. His actions required the SO to respond in defence of himself and others.

(d) whether any party to the incident used or threatened to use a weapon – the AP held a weapon in each hand and swung them toward officers. The weapons were later identified as two pieces of wood with sharp, broken ends. The SO discharged his service pistol in response to the AP's advance toward him after WO1 had already attempted to subdue him with a CEW.

(e) the size, age, gender and physical capabilities of the parties to the incident – The AP was an adult male who was physically capable of inflicting bodily harm or death with the weapons. The evidence indicates that he was intoxicated. The responding officers were adult males, with RCMP equipment and training.

(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 records show the AP and CW1 had been involved in multiple previous police interactions, including domestic disputes and allegations of other violence. At the time of the incident, the AP was also subject to conditions to keep the peace and be of good behaviour toward CW1 and had been charged with assaulting a police officer.

(f.1) any history of interaction or communication between the parties to the incident – the AP was known to police through previous interactions. Before officers attended the residence, dispatch provided information about prior offences and conditions, and the SO advised WO1 to wait for additional officers unless circumstances changed.

(g) the nature and proportionality of the person's response to the use or threat of force – the AP wielded weapons and charged toward police. WO1 attempted to tase the AP but was not successful. Due to the fast nature of the AP's lunge at the SO, he did not have the opportunity to use another intervention option.

(h) whether the act committed was in response to a use or threat of force that the person knew was lawful - This factor applies where a person responds to force or a threat that they know is lawful. Here, the SO was responding to the AP's threat of force, which was not lawful.

The evidence supports the perception of the SO that there were reasonable grounds to believe there was an imminent threat to his life and others. The SO's force was proportionate, necessary and reasonable in the circumstances.

CONCLUSION

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