



Serious Incident Response Team

Decision of the Civilian Director
SIRT-NL File No. 2023-0024

Death – RNC Officer-involved
Shooting in St. John's, NL
June 12, 2023

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Director
December 11, 2023

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Introduction

On the morning of June 12, 2023, the Royal Newfoundland Constabulary (RNC) notified the Serious Incident Response Team (SIRT-NL) of an officer-involved shooting that had occurred moments earlier in St. John's, Newfoundland and Labrador. In response, I immediately directed a SIRT-NL investigation into the incident.

Mandate

SIRT-NL is a civilian led oversight agency that conducts its own investigations into serious incidents. Serious incidents within this context are those involving serious injury, death, sexual offence, domestic violence or any matter of significant public interest arising from the actions of a police officer in Newfoundland and Labrador. As this matter involved a fatal officer-involved shooting, it fell within SIRT-NL mandate. Upon notification of the incident, SIRT-NL responded to the scene immediately and commenced the investigation.

Terminology

I have made the following substitutions to protect the privacy of those involved:

- “Affected person” or “AP” for the individual who was fatally shot by police;
- “Subject officer” or “SO” for the police officer who fatally shot the affected person;
- “Witness Officer #” or “WO#” for any police officer who provided relevant information; and
- “Witness #” or “W#” for any civilian who provided relevant information.

Investigation

Within minutes of the incident, the RNC reported the shooting to SIRT-NL. In response, I directed that all involved officers be immediately separated and instructed not to discuss the incident with each other. The subject officer's use of force equipment, including his Taser and firearm, were to be immediately seized. The scene was to be secured until SIRT-NL investigators arrived and took over. SIRT-NL investigators then responded to and took over the scene of the incident, directing scene security and forensic processing.

I seconded the RCMP Mobile Crisis Unit to attend to the mental well-being of the employees and other witnesses at the scene.

The investigation began on June 12, 2023 and concluded on November 8, 2023. SIRT-NL utilized the principles of Major Case Management for this investigation. SIRT-NL investigators made up the command triangle, consisting of a Team Commander, Primary Investigator and File Coordinator.

During the investigation, SIRT-NL took the following steps:

- Collected and reviewed all preliminary investigative material from the RNC, including:
 - The relevant RNC file;
 - Police notes and reports authored by all witness officers; and
 - RNC Communication Centre and radio transmission recordings in relation to the incident.
- Obtained, by consent, the notes and reports authored by the subject officer in relation to the incident.
- Obtained all paramedic primary care reports.
- Interviewed the subject officer.
- Interviewed 26 civilians. These included:
 - a. A friend of the affected person; and
 - b. Twenty-five employees working at the Regatta Plaza at the time of the incident.
- Interviewed the five paramedics who treated the affected person.
- Interviewed 11 witness officers, including the RNC cadet who was assisting the subject officer and was involved in the incident.
- Collected and reviewed over 500 clips of CCTV footage.

- Collected and reviewed all forensic identification reports, scene photos and video.
- Obtained and reviewed the autopsy results and Certificate of Death in relation to the affected person.
- Obtained and reviewed the training records of the subject officer.
- Obtained and reviewed the medical records of the subject officer.
- Obtained and reviewed photographs of the subject officer's injury.
- Obtained and reviewed the RNC Use of Force policy.
- Obtained and reviewed the CEW (Taser) download report in relation to the Taser used during the incident.
- Seized numerous exhibits at the scene and the autopsy.
- Retained an independent, out of province, Use of Force expert to provide a report on the reasonableness of the subject officer's actions.
- Retained an independent, out of province, lab to conduct a DNA analysis on a knife seized at the scene.
- Retained an independent, out of province, lab to test and analyze the subject officer's firearm.
- Conducted a background check on the subject officer.
- Conducted a background check on the affected person.
- Utilized the Canada Border Services Agency and engaged Interpol Services Support to assist with notifying next of kin.
- Obtained judicial authorization to retain exhibits.

Overview

On the morning of June 12, 2023, the affected person visited the Employment Centre at Regatta Plaza on Elizabeth Avenue in St. John's. Knowing there was an outstanding warrant for AP's arrest, the Employment Centre staff contacted the RNC. Two RNC officers responded to this call. When the officers arrived at the Employment Centre, they attempted to arrest AP on the outstanding warrant. An altercation then ensued, resulting in one of the officers fatally shooting AP.

Civilian Witnesses

Witness 1 (W1)

Witness 1 provided an audio-recorded statement to SIRT-NL on June 21, 2023. He stated:

AP was from Darfur in West Sudan, where there is a war ongoing. W1 thought AP's family had been killed in the war but was not certain about this. There were no communications with anybody in Darfur at this time due to the war. W1 stated he was AP's only friend in NL.

W1 met AP through the Association of New Canadians, when AP arrived in Canada in 2014. Within the first year, they became good friends. W1 helped AP find a place to live and they became roommates. Eventually, AP began renting at other locations. Within the last month, AP was evicted from his rental space and had no place to live. AP refused to stay at a shelter.

Since June 1, 2023, AP had been staying with W1. As AP needed money for rent, W1 suggested he call Income Support. On the morning of June 12, AP told W1 he had to pick up his rental cheque.

Witness 2 (W2)

Witness 2 provided an audio-recorded statement to SIRT-NL on June 13, 2023. She provided the following information:

W2 works at Income Support at Regatta Plaza. W2 knew there was a warrant out for AP's arrest and she was familiar with his history. For the past month, AP had been attempting to get income support. On June 8, W2 told AP she would not approve any income support for him until he dealt with the outstanding arrest warrant. When she recommended to AP that he turn himself in, he called her racist and said he would return to her workplace the following day. He did not show up; however, staff at W2's workplace were told not to let AP in if he did.

On June 12, 2023, W2 arrived at work at 8:30am. As she walked in, AP walked in behind her. As W2 entered the secure area and went to her desk, one of the administrative staff told her she, W5, had mistakenly let AP into the Employment Centre. W2 called the RNC to report AP at 9:50am. As it was taking the RNC a long time to arrive, W2's co-worker at the Centre began removing employees from the area.

The RNC officers arrived at 10:50am. At this time, AP was in the entry area. The officers entered the staff entrance and things happened very quickly. After W2 observed the officers enter, she walked to her office and, within 20 seconds, she heard a shot.

Witness 3 (W3)

Witness 3 provided an audio-recorded statement to SIRT-NL on June 14, 2023. She stated:

W3 is a social worker and works on the second floor of Regatta Plaza.

On June 1, all Income Support staff received an email stating there was a warrant outstanding for AP. If they dealt with him, they were to call the police.

On June 12, 2023 at 9:25am, W3 arrived at work and entered Regatta Plaza with W2. When at the front entrance, they encountered AP, who W3 described as having a different appearance. He was dressed in a suit and long coat. W3 was aware AP was not wanted in the building. W3 and W2 took the elevator to the second floor while AP took the stairs. They met him on the second floor. W3 asked AP to remain in the hallway.

After W3 left AP in the hallway, she saw him buzz to get in the Employment Centre. Before she entered her office, AP was in the Centre. W3 then met with W2 to make her aware AP had gained entry. W2 went to check on AP, who was sitting in the waiting area.

W3 met with W2, W4 and W7, at which time, they decided to remove the employees in the Centre for safety reasons. W2 met with AP in an attempt to distract him until the police arrived. A number of calls were made to the RNC and it took them quite a while to respond. W3 felt that something was going to happen when the police arrived. An email was sent to all staff, making them aware there was a lockdown in place for the work area.

After the police arrived, W3 heard a pop and then W2 screaming, "They shot him, they shot him!" W3 looked through a window into the Employment Centre and saw AP on the ground and an officer stood over him.

Witness 4 (W4)

Witness 4 provided an audio-recorded statement to SIRT-NL on June 13, 2023. He stated:

W4 works on the second floor of Regatta Plaza. On June 12, he arrived at work at 8:30am. One of the administrative staff, W5, told W4 she had allowed a client into the Centre who has an arrest warrant out for him. W4 confirmed the RNC had been called. After some deliberation, W4 went to his office and sent an email to all staff making them aware there was a lockdown. Staff were then removed from the area where AP was seated.

When the RNC officers arrived, W4 met with them and escorted them to the Centre. The officers walked toward AP but W4 could not hear their conversation. W4 saw AP raise his arm and lunge at one of the officers. The officer moved away to create distance. The officers and AP then went out of W4's line of sight. W4 heard a shot. He could not tell if AP had anything in his hand.

W4 checked on staff to ensure they were okay. He then met with additional police officers and ambulance attendants to let them in the Centre. There were three ambulance attendants and six to eight officers.

W4 noted that AP could have left the Centre at any time. The public entrance AP came in through was not locked from the inside.

When asked to describe the officers involved, W4 stated both RNC officers were in uniform. One of the officers was male and the other was female. They seemed relaxed and "level headed". There were approximately 35-40 staff members in the building at the time of the incident.

Witness 5 (W5)

Witness 5 provided an audio-recorded statement to SIRT-NL on June 14, 2023. She provided the following:

W5 works on the second floor of Regatta Plaza. On June 12, AP came to the office, where W5 is employed. As she did not recognize him initially, she buzzed him into the Centre. W5 had been previously instructed not to allow AP in as there was a warrant for his arrest.

AP was dressed differently than usual as he was wearing a gray suit, dark sunglasses, and a blue facemask and had a “Dollarama” bag with him. He usually wears a T-shirt, jeans and a green army jacket.

W5 and her co-worker were responsible for buzzing clients into the Centre. They monitor a camera which reveals who is at the door. After W5 allowed AP in, he sat at one of the chairs in the Centre. W5 then notified W2 AP was inside. W2 and W5 met with W4 and W7. W5 was asked to notify the employees not to go into the area where AP was seated.

W5 was in the kitchen when she heard a struggle, followed by a gunshot. She then observed more police officers and an ambulance arrive.

When asked to describe AP, W5 responded that he was not pleasant and was dismissive to female employees. A couple of days prior to the incident, W5 spoke with AP on the phone. He was upset and screaming. W5 had dealt with AP several times in the past, both in person and on the phone.

Witness 6 (W6)

Witness 6 provided an audio-recorded statement to SIRT-NL on June 14, 2023. W6 provided the following information:

W6 works on the second floor of Regatta Plaza. On June 12, AP attended the office and was buzzed in. Subsequently, the police were called. When the police arrived, W6 looked through one of the windows in the secure area into the Employment Centre. From the interview room, she observed two police officers behind AP, speaking to him. She could not hear what they were saying.

The officers and AP were walking towards the exit. About three to four feet from the exit, AP turned around with a green bag over his head and went after the police officer. The officers were two to three feet from AP when AP first raised his arm over his head. AP made two to three swings at the police officer, who ran to the corner of the room to get away from AP. W6 saw AP hit the police officer. She then heard a gunshot.

W6 then left the interview room and went to the secure area. It was clear to her that AP led the police to believe he was leaving. After the incident was over, W6 saw a hammer on the floor. She could not see AP or the police when she heard the gunshot. W6 felt the police were justified in shooting AP as AP could have killed either of them.

W6 had dealt with AP five or six times. She described him as a wild card. She never knew what she was going to get when she dealt with him. He would at times put his hand in her face. It always felt like he could escalate at any time.

Witness 7 (W7)

Witness 7 provided an audio-recorded statement to SIRT-NL on June 13, 2023. She stated:

W7 is an employee at Regatta Plaza. She works on the second floor. On the morning of the incident, one of her administrative staff advised W7 she had mistakenly allowed a client, AP, into the Centre. The RNC were called.

W7, along with some of the other employees, began removing staff from the Centre where AP was located. They took this measure for safety reasons, as AP was known to have a violent history. W7 called the RNC again as they had not responded to the earlier call. Staff remained in the secure area and waited for the RNC to arrive.

W7 could see AP through a window across from her office. AP was sitting in the Centre when the RNC officers arrived. The officers approached him. They were walking calmly. AP stood up and began walking towards the exit, but then turned around with a hammer in his hand and attacked the officers. After seeing this, W7 ran from the area.

When AP got up to walk towards the public entrance, he could have walked out. Instead, he quickly pivoted left with a hammer in his hand and ran at the police officer, hitting the officer with the hammer. Seconds after W7 left from viewing the incident, she heard a gunshot. It happened very quickly and all staff were scrambling across the floor. As they were unaware who made the shot, they did not know what to expect next.

Witness 8 (W8)

Witness 8 provided an audio-recorded statement to SIRT-NL on June 29, 2023.

W8 works on the second floor of Regatta Plaza. Her workstation is inside the Employment Centre at one of the cubicles. On June 12, W8 was at her cubicle when AP entered the Centre. He came in and sat in a chair in the waiting area. W8 was working on her laptop when her supervisor whispered in her ear not to react and to follow her. Within five minutes, all staff members from the Centre were in a separate

area. Someone called the police and the staff were asked to stay where they were and not to enter the Centre.

After about an hour, two police officers arrived. One officer was male and the other was female. They entered the Employment Centre. W8 heard some talking like a conversation, then an argument, then shouting, then a bang. She did not see what happened inside the Centre. After the incident, W8 looked through a window in one of the doors leading into the Centre and saw blood, clothing and a knife on the floor in the corner.

Witness 9 (W9)

Witness 9 provided an audio-recorded statement to SIRT-NL on June 13, 2023.

W9 works on the second floor of Regatta Plaza. On June 12, at 9:50am, she and one of the administrative staff sent an email, advising all staff to stop going through the Employment Centre. AP was in the waiting area by himself. Within a few minutes of the police officers entering the Centre, W9 observed AP come forward towards the officers with his arm up. She was able to see this while looking through a window in one of the doors. W9 could not see what, if anything was in AP's hand. After seeing this, W9 stopped looking into the Centre. After turning away, she heard a commotion, somebody yelling and then a loud bang or crash. It sounded like a firecracker.

W9 has never had any dealings with AP; however, she has heard him being loud in the past with the administrative staff.

Paramedics

SIRT-NL investigators interviewed five paramedics who responded to the scene of the shooting. The interviews took place from June 14-16, 2023. I will summarize their evidence.

The paramedics arrived at Regatta Plaza at 11:00am on June 12. Upon arrival, there was an RNC officer doing CPR on AP. The paramedics took over. AP was wearing multiple layers of clothing and had a belt clipped knife holder on his right hip with no knife in it. There was a wire across the top of his pants. There was a knife on a table

next to AP. When the paramedics removed AP's clothing, a second knife fell out onto the floor.

The paramedics noted a single gunshot wound to AP's side. There was no other trauma. The paramedics continued lifesaving efforts until they realized they had done everything they could at the scene, at which point, they placed AP on a stretcher and left for the hospital. One of the paramedics attended to SO's injury and recommended he go to the hospital for treatment.

One paramedic noted the scene was very calm and professional. It felt like there was nobody else in the building.

Witness Officers

Witness Officer 1 (WO1)

WO1 provided an audio-recorded statement to SIRT-NL on June 12, 2023. She provided the following information:

WO1 is a police cadet and, at the time of the incident, was on on-the-job training with the RNC. June 12, 2023 was her first shift. SO was her coach officer. That morning, she and SO received a call regarding a male (AP) with a warrant outstanding for his arrest. The male was at the Employment Centre at Regatta Plaza. While on their way to Regatta Plaza, another officer advised them, over the police radio, to use caution as that officer had dealt with AP in the past, at which time, AP had a knife.

At 10:49am, WO1 and SO arrived at Regatta Plaza. As they went inside, they were met by W4, who advised the officers the Centre was on lockdown and that, although AP was advised he could leave, he refused to do so. AP was in a large room by himself. He had a blue cloth recyclable bag, which was on the chair next to him, and a large backpack. SO asked him if his name was [AP], to which he responded "No".

As the officers approached AP, AP placed his hand on a large wooden handle that was in the blue bag. SO asked him what the item was. SO then called for backup as AP had a weapon. SO requested that AP drop the bag and put it to the side. AP then stood up with his blue bag and backpack in his hand. SO again asked AP what he had in his hand. Upon seeing the item, SO then called out "hammer!" and took out his Taser. WO1 had her hand on her firearm.

SO then asked AP to drop the weapon, but AP refused. AP then threw the hammer at SO. SO discharged his Taser but it did not hit AP. WO1 withdrew her firearm. She estimated they were approximately 10 feet or less from AP at that time. AP then went for something on his waist. SO asked what he was searching for and demanded that AP let the officers see his hands.

WO1 could not recall what AP was saying but he was not attempting to leave the area. WO1 felt as though AP was looking for a fight. He was not disengaging and was coming directly at SO. SO then dropped his Taser to the ground and drew his firearm. Everything happened very quickly and SO discharged his firearm.

WO1 was unsure exactly when AP pulled out the knife as at times SO was ahead of her, obstructing her view. SO said "Drop the knife" right before or after the shot. WO1 described the knife as approximately 12 inches long with a black handle. The knife was like a fishing knife as it was slim with a pointy edge.

After the shot, AP dropped to his knees with the knife still in his hand. WO1 again asked him to drop the knife but AP would not comply. After a few seconds, AP fell backwards, slumped over and the knife fell out of his hands. SO took the knife and laid it on a table. SO checked to see if AP was breathing and then started chest compressions.

After the backup officers and the ambulance arrived, WO1 and SO went outside. When they were outside, SO was holding his arm and told her he had been hit with the hammer. They had no further discussion about the incident.

WO1 felt SO had no choice but to do what he did. She described AP as a "big threat". It seemed like he was waiting for the officers to arrive. He had a hammer and a knife.

WO1 explained that pepper spray was not an option, as it would have caused cross-contamination (pepper spray landing on unintended recipients when in close proximity). The Taser was ineffective. WO1 felt that, if SO had not acted as quickly as he did, AP would have stabbed him.

Witness Officer 2 (WO2)

Witness Officer 2 provided an audio-recorded statement to SIRT-NL on June 14, 2023. He stated:

W2 confirmed to SIRT-NL he was the officer who, when he heard police units were dispatched to a wanted person, AP, W2 went to his radio and warned the officers

responding that he had dealt with AP in the past, at which time, AP pulled a knife on WO2 and was very dangerous.

Witness Officer 3 (WO3)

Witness Officer 3 provided an audio-recorded statement to SIRT-NL on June 13, 2023.

W3 responded to Regatta Plaza after the incident. He saw Taser prongs attached to AP's suit pocket. He could see a knife on a table in the room. He also saw a knife sheath on AP's belt. W3 assisted SO with conducting CPR on AP. WO3 removed the Taser wires, none of which were attached to AP's skin.

Witness Officer 4 (WO4)

Witness Officer 4 provided an audio-recorded statement to SIRT-NL on June 16, 2023.

W4 also responded to Regatta Plaza after the incident. He observed a large knife on a table in the room. WO4 advised everyone at the scene not to touch anything. He noted a gunshot wound on AP's left side. He also saw a discharged Taser and a hammer on the floor. He, along with other members of the RNC, secured the scene until SIRT-NL arrived. WO4 left the scene at 12:30pm.

Witness Officer 5 (WO5)

Witness Officer 5 provided an audio-recorded statement to SIRT-NL on June 14, 2023.

W5 heard over RNC radio that a firearm had been discharged and an officer was requesting an ambulance. When WO5 responded to the scene, he saw a long kitchen knife on a table next to where AP was located. W5 also saw a second knife, a discharged Taser and a hammer on the floor. W5 observed that SO had an injury to his arm.

Witness Officer 6 (WO6)

Witness Officer 6 provided an audio-recorded statement to SIRT-NL on June 13, 2023.

Just before 11:00am on June 12, 2023, W6 heard an RNC radio transmission relating to a shooting. He immediately headed to the location of the incident. Upon his arrival, SO, WO1, WO3, WO4 and WO5 were working on AP. WO6 removed the involved officers, SO and WO1, from the direct area of the shooting and separated them from each other.

WO6 removed SO's firearm and ammunition, placed the exhibits in an exhibit bag and later passed them over to SIRT-NL. He provided SIRT-NL investigators with an update on the events and relieved the RNC officers of their duties with the exception of two officers, whom WO6 tasked to transport SO to hospital.

While at the scene, WO6 observed SO's injury, which WO6 described as a "big welt" on SO's forearm, red in colour and five inches long. WO6 also observed a discharged Taser, a hammer and a knife on the floor. He saw a larger knife on a table in the room.

Subject Officer (SO)

SO voluntarily provided to SIRT-NL his notes and reports in relation to the incident. On June 15, 2023, SO also provided a voluntary audio / video-recorded statement to SIRT-NL investigators. He stated:

SO is a police officer with the RNC. On June 12, 2023, he was assigned recruit WO1 as a partner. At 10:39am, SO was dispatched to Regatta Plaza as AP was there and there was a warrant outstanding for his arrest. SO first confirmed the arrest warrant was still outstanding. SO recalled that on the way to the location, another officer transmitted over the police radio that he had prior dealings with AP and that, at the time, AP had a knife.

At 10:48am, SO and WO1 arrived at Regatta Plaza, where they were met by a male staff member who provided them access to the room where AP was located. Upon entry, SO observed AP on the east side of the room, seated in a chair. When SO was approximately eight to 10 feet away from AP, SO advised him he was under arrest. AP stated he was not [AP]. AP had a reusable bag by his side and had his hand on a wooden handle within the bag. As SO felt AP was in possession of a weapon, he drew his Taser.

AP then stood up and walked towards the exit with his hand still on the wooden handle. SO radioed the RNC Communication Centre and advised he had located the subject who was un-cooperative and in possession of a weapon. AP then squared off, removed a hammer from the bag and placed his arm over his shoulder with the hammer in his hand. AP then threw the hammer at SO, striking him in the right forearm. SO experienced a sharp pain and his hand became tingly. AP then began walking directly towards SO. SO discharged his Taser, striking AP's torso area; however, the Taser was ineffective. AP began pushing the wires from the Taser out of the way.

AP then ran at SO, closing the distance very quickly. SO backed up and ran sideways, to the west corner of the room, in an attempt to create distance from AP. SO thought he dropped the Taser after he discharged it, as there was no time to put it back in its holster. SO then observed what he believed was a knife on AP's side. AP was reaching for it as he was "right on top of" SO, closing the gap between them.

SO explained he was in fear that AP was going to seriously injure him or cause him grievous bodily harm. SO drew his firearm and discharged one bullet, striking AP. AP then fell into the corner. SO removed the knife from AP's hip and placed it on a table. SO notified the Communications Centre that he required assistance. He tore open AP's shirt and began providing medical attention. AP was semi-conscious when SO began CPR. Backup officers arrived shortly thereafter and took over providing medical attention.

SO stated that, before he discharged his firearm, he would have been unable to defend himself against AP as SO was backed into a corner. AP was a larger man. SO was injured and he therefore felt he had no other option but to discharge his firearm. SO confirmed he only discharged his Taser once and his firearm once.

After the shooting, other RNC officers took SO to another room, where they seized his firearm and ammunition. Paramedics on scene attended to SO and thought he might have a fracture. They recommended he seek further medical attention. Two officers then took SO to Health Sciences Centre, where he was treated, x-rayed and released.

Before concluding his statement, SO reiterated that it all happened quickly and he only had a few seconds to react. The Taser was not effective and SO did not feel pepper spray would have been effective. AP was closing the gap between them quickly and SO felt AP would have killed him or caused serious injury if SO did not react as he did.

Closed Circuit TV Footage

Green Depot

SIRT-NL secured Closed Circuit TV (CCTV) footage from the Green Depot Recycling Centre, which is on Elizabeth Avenue, adjacent to the Regatta Plaza. Upon review of the footage, on June 12, at 9:36am, AP is seen entering the Green Depot, carrying recycling. He is wearing the same clothing as when he subsequently enters Regatta Plaza. He is also carrying a blue recyclable bag, which he later has at Regatta Plaza. AP departs the Green Depot at 9:42am.

Regatta Plaza

Regatta Plaza has extensive coverage of its property with CCTV cameras. SIRT-NL investigators obtained footage from several cameras for the date of June 12, 2023. The videos from these cameras were fragmented into 502 video clips.

The camera angles show the front entrance of the building as well as several hallways including the hallway outside the area where the shooting incident took place. As the area itself does not have CCTV coverage, the majority of the incident was not captured.

SIRT-NL reviewed all 502 video clips. Of particular interest was camera CH 05, which is located in the second floor hallway, adjacent to both entrances to the secure area. Camera CH 05 shows AP entering the secure area of the Employment Centre. He sits in this area for approximately one hour.

The footage shows SO and WO1 engage AP. Both officers are off camera. In view, AP gets out of his seat, turns towards the door as if he intends to walk out, but simultaneously reaches into his blue recycling bag and removes a hammer. AP then suddenly turns back towards the officers and runs at them out of camera view, while raising the hammer over his head.

Although the next events are out of view, the camera captures the audio. Loud footsteps are heard, yelling, a loud bang (presumably a gunshot), and then, a crash to the floor (presumably AP falling).

Radio Communications

SIRT-NL obtained all radio transmissions from the RNC portable and vehicle radios from June 12, 2023. These communications contained audio timestamps. SIRT-NL also obtained the phone calls flowing in and out of the RNC Communications Centre.

Our investigators reviewed all recordings to corroborate or refute the information we gathered from the civilian witness and officer interviews. The times on the radio recordings were consistent with those given by the witnesses. As well, the recording times were consistent with the CCTV footage from Regatta Plaza.

Of particular note, on one of the recordings, SO can be heard advising dispatch that AP was in possession of an object in his hand. SO is then heard asking dispatch to send help. SO subsequently advises that AP had thrown a hammer, approached SO with a knife, and was shot.

Forensics

Processing of the scene of the incident on June 12 included the following:

- Interior and exterior photographs;
- Interior video;
- Scene measurements; and
- Identification and marking of 30 pieces of evidence, including, but not limited to:
 - Conducted Energy Weapon (CEW or “Taser”);
 - Hammer;
 - Black backpack;
 - Red knife;
 - Black fillet knife;
 - Expended shell casing; and
 - Red stains on floor.

On June 13, 2023, the Office of the Chief Medical Examiner (OCME) conducted the post-mortem examination of AP. During the autopsy, investigators photographed and documented the injury caused by the bullet, seized the bullet from the body and collected nail clippings (for DNA testing).

SIRT-NL noted several interviews, which indicated AP was in possession of two knives when he visited Regatta Plaza on June 12, 2023. AP had allegedly concealed one of

the knives on his waistband. The subject officer advised in his interview that AP reached for the knife during the incident, spurring SO to discharge his firearm. WO1 described that AP had pulled the knife out prior to the shot. SIRT-NL requested to have this knife analyzed for DNA to determine whether AP had handled the knife at any point. It was not necessary to test the hammer as the CCTV footage obtained clearly showed AP with the hammer in his hand.

SIRT-NL employed an independent, out-of-province lab to complete an analysis on the knife exhibit. We directed the lab to compare the known DNA sample, collected from AP during the autopsy, to any DNA swabbed from the knife handle. The lab completed the analysis and determined the known DNA profile analyzed from the autopsy matched the DNA collected from the knife. In other words, this analysis confirmed AP had handled the black knife at some point.

Autopsy Report

The OCME conducted the autopsy of AP on June 13, 2023. The preliminary autopsy report stated the cause of AP's death was a penetrating gunshot wound to the chest. The body showed no other signs of trauma.

Affected Person Background Check

SIRT-NL completed a background check on AP, which included the Canadian Police Information Centre (CPIC), the RNC (ICAN) and RCMP (PROS) databases and Provincial Court records. We learned the following from these searches:

- AP had a history of police involvement dating back to 2015 (ICAN).
- The RCMP records did not have any investigations involving AP.
- March 3, 2017 – The RNC detained AP under the **Mental Health Care and Treatment Act**. During the detention, AP attempted to disarm a police officer. AP was later convicted and sentenced for “Assault Causing Bodily Harm”.
- March 27, 2017 – While in custody at Her Majesty's Penitentiary, AP refused to comply with demands of correctional officers, resulting in a violent altercation. It took six correctional officers to gain control of AP. During the incident, AP bit one of the officers.
- July 5, 2018 – RNC officers attempted to arrest AP for failure to attend court. AP became violent and struck one officer with a closed fist. When AP then picked up two large rocks, one of the officers discharged a Taser.

- August 17, 2018 – While housed at the Waterford Mental Health Hospital, AP was involved in an altercation with the hospital security staff and nurses. Before being subdued, he bit one of the staff members on the arm.
- July 14, 2020 – The RNC attempted an arrest of AP in a St. John’s residence. During the arrest, AP brandished a large kitchen knife. Officers took him into custody and searched him, during which a second knife was located in his waistband. Convictions were registered as a result of this incident for:
 1. “Assaulting a Peace Officer with a Weapon” x 2.
 2. “Possessing a Weapon for a Dangerous Purpose”.AP was sentenced to 60 days’ time served in Her Majesty’s Penitentiary.
- April 4, 2022 – AP appeared in Provincial Court and was sentenced for a sexual assault. He was sentenced to 640 days custody along with ancillary orders. He received credit for time he had already served.

CPIC/Court Convictions

AP has the following previous convictions on the CPIC and Provincial Court databases:

- “Assaulting a Peace Officer with a Weapon” x 2;
- “Assaulting a Peace Officer”;
- “Resisting a Peace Officer”;
- “Assault Causing Bodily Harm” x 3;
- “Possessing a Weapon for a Dangerous Purpose”;
- “Sexual Assault”;
- “Uttering Threats” x 2;
- “Failure to Comply with a Recognizance” x 10; and
- “Failure to Attend Court” x 2.

The Warrant for AP’s Arrest

August 18, 2022 – A Provincial Court Judge issued a warrant of arrest for AP in relation to non-compliance with the National Sex Offender Registry (NSOR). This is the warrant SO was executing on June 12, 2023. This warrant ordered any/all peace officers of the Province to arrest AP and bring him before a Provincial Court Judge.

Subject Officer Background Check

SIRT-NL examined the background of the subject officer and found he did not have a criminal history on any database. An inquiry with the RNC executive management revealed that, as of June 12, 2023, SO had never been subject to any disciplinary measures regarding excessive use of force.

Subject Officer Training

SIRT-NL obtained SO's training logs, the purpose of which was to verify whether his training was current in relation to his use of force equipment and techniques. Upon review, SIRT-NL learned that, as of the date of the incident, SO was certified on his CEW, firearm and "control techniques" training.

Subject Officer Medical Records

SO consented to SIRT-NL obtaining his medical records for treatment he received on June 12, 2023. The purpose of this was to confirm SO sustained injury for which he was treated on June 12, 2023. We were able to confirm this through the records.

Firearm Examination

SIRT-NL employed an independent, out-of-province lab to conduct an examination and testing of the subject officer's service firearm. The results of the examination and testing were as follows:

- The firearm functioned properly;
- The seized ammunition magazines were suitable for use with the firearm and functioned as they should;
- The expended cartridge casing was identified as having been shot from SO's firearm;
- The projectile extracted at the autopsy was identified as having been shot from SO's firearm;
- The hole in AP's clothing was consistent with a bullet hole; and
- The best range estimate that could be given after the examination of the clothing was the muzzle of the firearm was five feet (152.4 cm) or more away from the bullet hole in the clothing at the time of shooting.

CEW (Taser) Examination

SIRT-NL investigators obtained the Taser SO used during the incident. The download and examination of the Taser indicated the Taser was deployed at 10:51:13 NST. This is consistent with the time on the CCTV cameras from Regatta Plaza and with when SO and AP interacted.

Use of Force Report

SIRT-NL employed an independent, out-of-province, Use of Force expert to conduct an analysis of the incident and to provide an opinion on the subject officer's use of force against the affected person – specifically whether the force was reasonable and justified. I will refer to the most salient portions of the report.

The author states:

[A]ny chosen force intervention must meet the criteria of being 'necessary, 'proportionate' and 'reasonable'. With respect to the incident in question, I am of the opinion that [SO's] force interventions were necessary and proportionate in order to stop [AP's] violent action. [AP's] decision to arm himself with a weapon, a hammer, which is certainly capable of causing serious bodily harm to the officer, left [SO] with no alternative other than to quickly use some force intervention to stop him. There was no time for a logical analysis of the situation. The rapidly unfolding nature of the assault demanded an immediate response

He continues:

With respect to the risk of harm that [AP] presented to [SO], in this case, I offer the following points:

1. [AP] was in very close proximity to two police officers and being in possession of edged weapons, he had the **ability** to immediately cause serious bodily harm or death. ... In this particular case, the weapons were edged weapons; both of which were capable of quickly inflicting significant, if not fatal, injury.

Recent tragic Canadian experience has underscored the dangerous nature of edged weapons attacks. On March 27th, 2023, [a police officer] of the Quebec Provincial Police was stabbed and killed during

an attempted arrest. On October 18, 2022, [an RCMP officer] was stabbed and killed by a suspect during a welfare check complaint.

2. [AP] had clearly indicated his **intent** to attack [SO] and perhaps inflict serious injury to others. [AP] had already initiated a potentially lethal attack against [SO] by throwing the hammer at him and striking him with it. Had the hammer impacted [SO's] head, face or neck region it is to be accepted that grievous bodily harm could easily have resulted. It needs to be restated that [AP] was always able to leave the office by exiting the door which was immediately beside him. He did not do that. Instead, he intentionally removed the hammer from the bag, held it in a deliberate striking manner and began running at full speed towards the officer. There can be no other conclusion for an officer to draw at this point other than the fact that [AP] had made his intention to cause the officer significant harm, clear.

Following the throw of the hammer, [AP] continued running directly towards [SO] while reaching with his hand towards the knife that was affixed to his belt. It would be entirely consistent, given the totality of circumstances to this point, that [AP's] intent was to remove the knife from the sheath so that he could use it to stab or slash the officer.
[Emphasis included in original]

Regarding the distance between AP and the officers, the author states:

Given the constrained environment in the office and the short distances involved between [AP] and [SO] the threat of serious harm to the officer was immediate.

...

In the case in question, [AP] was approximately 5-7 feet away from [SO] prior to the Taser deployment attempt. At this distance, [AP] was well inside the action/reaction time response time of the officers and was therefore already presenting an imminent threat of grievous bodily harm to [SO]. I am of the opinion that even prior to the attempted Taser deployment, the use of lethal force would have been necessary and proportionate under the circumstances.

After the unsuccessful Taser attempt, [AP] continued charging forward towards [SO] while simultaneously reaching with his hand towards the knife that was located on his belt. At this point the risk to [SO's] life was high.

The author concludes:

In this case, when [AP] was rapidly running towards [SO] and the officer was rapidly moving backwards to try to maintain distance, his ability to continue to disengage was quickly precluded by virtue of the fact that the officer had literally 'hit the wall' and had nowhere else to go. In addition, there were numerous other civilians who were sheltering in place in the office and therefore [SO] had a positive duty to ensure that [AP] could not pose a threat to any of those civilians.

In the final analysis, I am of the opinion [SO's] use of lethal force was measured and appropriate given their independent and objectively held evaluation of the immediate harm that [AP] presented at the time [SO] discharged his firearm.

Timeline

From the statements, CCTV footage and radio transmissions collected, SIRT-NL was able to generate a timeline of the relevant events of June 12, 2023:

- **09:42 hrs.** – AP departs the Green Depot on Elizabeth Avenue.
- **09:45 hrs.** – AP enters the Regatta Plaza building.
- **09:47 hrs.** – AP enters the secure area of the Employment Centre.
- **09:49 hrs.** – An employee telephones the RNC to request police attend. AP sits in the secure waiting area and does not leave.
- **10:48 hrs.** – SO and WO1 arrive at the Regatta Plaza.
- **10:50 hrs.** – SO and WO1 are brought to the secure area by employee, W4.
- **10:51 - 10:52 hrs.** – AP swings/throws his hammer at the officers. SO deploys his Taser, which was ineffective. SO transitions to his firearm and discharges one round, striking AP in the left chest. At approximately the same time, WO3 arrives at Regatta Plaza, followed by other backup officers shortly thereafter.
- **11:01 hrs.** – Paramedics arrive and life saving measures begin.
- **11:19 hrs.** – Paramedics depart the scene with AP to transport him to the HSC.
- **11:27 hrs.** – Paramedics arrive at the HSC with AP and hand over care to the trauma team.
- **11:55 hrs.** – AP is pronounced deceased.

Issue and Conclusion

This was a homicide investigation. The issue for my consideration is whether there are grounds to believe the subject officer committed culpable homicide when he fatally shot the affected person on June 12, 2023.

The **Criminal Code** affords protections to those who use force while acting under authority.

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

(b) as a peace officer or public officer,

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.

(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.

(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.

Courts have defined the phrase “grievous bodily harm” in the above section as “serious hurt or pain”.

Determining whether SO was justified in his actions requires applying the above to the facts of this case. This investigation yielded a massive amount of information. As stated, SIRT-NL was able to gather evidence from over 40 individuals, the vast majority of which were civilians (non-police officers). In addition, we collected a significant amount of CCTV footage. From reviewing this information, together with forensic evidence, the facts of this matter are not in dispute as the statement, CCTV and forensic evidence gathered throughout the investigation was consistent and thorough.

The affected person was having issues with Income Support. For this reason, on June 12, 2023, he attended the Employment Centre at Regatta Plaza, on Elizabeth Avenue in St. John's. He was wearing a suit, which was different from his usual dress. At approximately 9:45am, AP encountered two Centre employees, W2 and W3, as they entered Regatta Plaza for their day's work. Inside the building, AP walked up the stairs to the second floor while the two employees took the elevator. W2 and W3 then entered the secure area of the Centre. Because AP had a warrant outstanding for his arrest, Centre staff had previously been instructed not to allow AP in the Centre. Not recognizing AP on June 12, due to his unusual dress, a worker mistakenly buzzed AP into the waiting area of the Centre.

Knowing there was an outstanding warrant for AP's arrest, another staff member then called the RNC. For security reasons, the Centre was placed on lockdown and all employees were instructed to remain away from the waiting area, where AP was located. Although AP was free to leave, he sat in the waiting area for approximately one hour until two RNC officers, SO and WO1, arrived.

When SO and WO1 were on their way to Regatta Plaza, they were advised by another officer, over the radio, that AP had previously pulled a knife on that officer and was very dangerous. Upon their arrival, W4 brought the officers to the area in which AP was situated. The officers approached AP, who was sitting with a backpack and a reusable bag next to him. There was a wooden handle sticking out of the reusable bag.

When the officers were approximately eight to 10 feet away from AP, SO told him he was under arrest. AP denied who he was. Noticing the handle sticking out the bag, SO requested backup over his radio and withdrew his Taser. AP stood up and began walking to the exit with his hand on the wooden handle. He then abruptly turned toward the officers, took a hammer out of the bag, raised it above his head and threw it at SO, striking SO in the right arm.

AP then began walking toward SO, at which point SO discharged his Taser. While the wires struck AP, they were ineffective due to the multiple layers of clothing AP was

wearing. AP then ran toward SO while SO was backing away sideways, across the room, into a corner. As there was no time to holster his Taser, SO threw it on the floor.

SO saw a knife on AP's side, which AP was reaching for as he was running at SO. SO then withdrew his firearm and shot, striking AP in the chest. AP fell to the floor. SO removed the knife from AP's hip and placed it on the table. SO began CPR on AP until other officers arrived and relieved SO.

In applying the law to the above facts, I must judge SO's use of force on a subjective-objective basis. This means I must consider SO's subjective perception in the circumstances as they existed at the time the force was used. The force used must also be objectively reasonable, given those circumstances. The law states police officers must not be held to a standard of perfection. In other words, there is recognition that officers in these rapidly evolving situations cannot be expected to measure the force necessary with exact precision.

SO was co-operative and forthcoming with SIRT-NL investigators. He provided his notes and reports in relation to the incident, which he was not obligated to do. In addition, he provided a detailed statement to SIRT-NL, which he was not obligated to do. In his statement, SO was able to clearly recount the incident, articulate his fears at the time and explain his actions.

It bears repeating that SO's account of the incident is consistent with the CCTV footage and several civilian witness statements, which indicate that AP raised a hammer above his head and ran at the officers. In addition, numerous witnesses, including civilians, paramedics and officers, saw the discharged Taser, the hammer and two knives in the room immediately after the incident. The DNA testing confirmed AP had handled the knife in his waistband. In summary, I have no reason to doubt SO's credibility.

Here, SO was attempting to arrest AP pursuant to a valid and outstanding arrest warrant. There is no question SO had authority to effect the arrest and to use as much force as was necessary for that purpose.

By all accounts, the incident then unfolded very quickly. AP had in his possession three weapons (a hammer and two knives). AP used or attempted to use two of the three weapons during the incident. By throwing a hammer at SO, AP demonstrated his clear intention to cause harm to SO. When the hammer struck SO, rather than flee, AP ran at SO while reaching for a knife, an edged weapon capable of inflicting serious harm or death to SO. AP was a larger man than SO and SO was injured. At that point, AP was literally backing SO into a corner. In fact, SO backed up until he could go no further,

before discharging his firearm. The threat was imminent and SO had only seconds to react.

SO explained in his statement to SIRT-NL, which I believe, that he had fear AP was going to cause him death or grievous bodily harm. In my view, this fear was reasonable, given that AP had displayed the intention and capability to do so. Furthermore, SO's reaction in discharging his firearm at AP was proportionate to the threat SO faced. SO's use of force was necessary and justified, given the circumstances, as they existed at the time. SO was protecting himself, his fellow officer and the employees working at Regatta Plaza.

For these reasons, I have not formed grounds to believe SO committed culpable homicide when he fatally shot AP on June 12, 2023. I will not lay a charge in this matter.

SIRT-NL recognizes the tragic nature of these cases and is available to provide assistance by explaining our role, process and findings to the subject officer and those close to the affected person.

SIRT-NL will now close this file.

Final Report prepared by:

Michael NR King, Director
Serious Incident Response Team - Newfoundland and Labrador
December 11, 2023
File No. 2023-0024

