



Serious Incident Response Team

Civilian Director's Report
SIRT-NL File Nos. 2021-015;
2021-017; 2021-020; 2021-
021; 2021-022; 2021-034

Michael King
Director
August 5, 2022

Introduction

In summer 2021, reports surfaced in the media that several people had been sexually assaulted by an RNC officer or officers in the St. John's area. On July 20, 2021, the RNC Chief at the time (now retired) advised me he was aware of allegations that at least one of his officers had committed several sexual assaults. The RNC identified a retired officer as the subject of these complaints.

In response, I directed the RNC to provide SIRT-NL all materials in their possession in relation to these allegations. In early September 2021, the RNC provided a large amount of disclosure. The SIRT-NL investigator reviewed these materials and was able to separate them into five potential incidents.

Despite the prevalence of the reports in the media, SIRT-NL did not receive any substantive complaints from members of the public, with one exception: on November 23, 2021, SIRT-NL received notification from a local lawyer who advised they had a client who disclosed to them an allegation of sexual misconduct by an RNC officer. This sixth incident was similar to the previous five outlined in the RNC disclosure.

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. Because the within matters involve allegations of sexual offence, they fall within our mandate. Accordingly, I directed a SIRT-NL investigation. It is important to note SIRT-NL investigates to a criminal standard. We do not conduct professional misconduct investigations.

Investigation

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

- "Affected Person #" or "AP#" for each civilian directly involved in an incident;
- "Subject officer #" or "SO#" for each police officer who is the subject of an allegation;
- "Witness officer #" or "WO#" for each police officer who provided relevant information; and
- "Witness #" or "W#" for each civilian witness who provided relevant information.

The SIRT-NL investigation began on July 20, 2021 and remains ongoing.

As stated above, the RNC provided all relevant files in its possession to SIRT-NL. A summary of each file, in chronological order, is as follows:

SIRT-NL file 2021-034

On November 23, 2021, SIRT-NL received an email from a local law firm. The email explained that a client of the law firm disclosed to them that she had been a victim of sexual misconduct by an RNC officer in July 2010. The email outlined the circumstances of the allegation and advised that the client, “Affected Person 1”, was willing to speak with a SIRT-NL investigator.

On December 6, 2021, the SIRT-NL investigator spoke with AP1. AP1 explained that, in July 2010, her vehicle was stolen. She reported this to the RNC. The vehicle was recovered later the same day. During the investigation, AP1 dealt with at least two different police officers. She clarified that one of the officers was of Asian descent (WO1).

The night AP1’s vehicle was stolen, she was downtown and received a call from a police officer who spoke with her about her vehicle. She could not remember his name. The officer asked what she was doing and she advised she was downtown. AP1 said the same officer (SO1) showed up on George Street in an unmarked vehicle and picked up her and her friend. She said this officer was not the officer she had previously referred to as being of Asian descent. SO1 was giving them a ride home. AP1 said she was in the front seat and her friend was in the back. There was a barricade between the front and rear seats of the vehicle. She could not remember whether SO1 was in uniform but she recalled he had a gun.

SO1 dropped off AP1’s friend first. On the way to AP1’s house, SO1 pulled into a parking lot where he propositioned her. He did not come right out and ask for sex but AP1 believed that is what he was suggesting. SO1 told her she was “hot” and said if they were going to do anything, she should know that he was married. AP1 became angry and demanded SO1 drive her home, which he did. AP1 explained there was not any touching or kissing.

In an attempt to identify SO1, the SIRT-NL investigator made inquiries with the RNC regarding the two files involving the stolen vehicle and its recovery. Given the length of time since the incident, the files were purged, which is a normal course of business for police agencies with routine investigations. The SIRT-NL investigator was able to identify one of the responding officers and noted he matched AP1’s description of the RNC officer of Asian descent. This officer could not remember details of the files but did provide his notes.

Nothing furthering the investigation was learned except the name of another officer was mentioned in WO1’s notes but there were no details regarding that officer’s involvement with the file (note: This officer – SO2 – is mentioned in the files discussed later in this report. As SO1 could not be identified, it is unclear whether SO1 and SO2 are the same person). WO1 could not elaborate given the length of time that had passed. SIRT-NL requested a copy of the mentioned officer’s notes from July 2010 but the RNC advised they did not have any copies.

The RNC also no longer had copies of the Computer Aided Dispatch tapes. Furthermore, their AVL system, which tracks RNC patrol vehicles, was not in existence at that time.

The length of time from the incident occurring and the time it was reported to SIRT-NL hampered the investigation and made it impossible to gather any further evidence. Given the information obtained from AP1, it was determined that no criminal offence had taken place. The SIRT-NL investigator encouraged AP1 to make a public complaint. She was appreciative of the time SIRT-NL put into her complaint. No determination could be made as to the positive identification of the RNC officer that picked AP1 and her friend up from downtown.

SIRT-NL File 2021-017

The RNC materials in relation to this file stated:

On January 30, 2017, WO2 of the RNC was investigating an unrelated complaint and was speaking with "Affected Person 2". AP2 advised WO2 that she had been driven home by a male RNC officer from downtown and now the RNC officer was contacting her. A subsequent internal investigation was undertaken and the identity of the officer who drove AP2 was confirmed (SO2).

On March 7, 2017, WO3 contacted AP2 to ask more questions. AP2 made it very clear she did not wish the matter pursued any further and would not be cooperating with any investigation. The RNC continued with an internal investigation into SO2's inappropriate use of RNC databases and vehicles. The RNC did not conduct a criminal investigation.

On September 21, 2021, the SIRT-NL investigator reviewed the RNC disclosure regarding AP2 to determine whether a criminal act was committed by SO2. The investigator was able to locate AP2 and spoke with her.

AP2 clarified what had occurred the night she was downtown and got picked up. She explained she was with her brother-in-law who was quite intoxicated. An RNC officer saw them and offered to drive them both home. AP2 explained the RNC officer was flirtatious with her but nothing more. She gave him her phone number and he contacted her a few times afterwards but it soon stopped and she never heard from him again.

Based on the information AP2 provided, while what SO2 did was extremely inappropriate, his actions did not constitute a criminal act.

SIRT-NL File 2021-015

The RNC materials in relation to this file stated as follows:

On February 2, 2017, the RNC received a complaint from an upset female – “Affected Person 3”. AP3 complained that she received a ride home from an on-duty RNC officer who she claimed conducted himself inappropriately.

In a subsequent statement to an RNC investigator, AP3 stated that an RNC officer offered her a ride when she was walking on George Street after a night out drinking with her friends. AP3 clarified she was not drunk. During the ride, the RNC officer made comments to her about her looks and his marital status. Once parked in front of her residence, the RNC officer and AP3 kissed. She advised that she pulled away when he tried to put his tongue in her mouth. AP3 advised that the RNC officer also tried to put his hand up her skirt. She put her number in his phone. She admitted that she was unsure who initiated the kissing. The next day, AP3 received a text from the RNC officer who advised it was awesome meeting her and that he was working again if she needed a ride home.

The RNC initiated a public complaint investigation in response to AP3’s complaint. Through this investigation, they were able to identify SO2 as the officer who gave AP3 a ride home. SO2 was questioned and, although he admitted giving AP3 a ride home, he gave an account much different from AP3’s. He stated the interaction was consensual and that AP3 offered to perform oral sex on him.

The RNC ordered an internal investigation parallel to the public complaint. The offences alleged under the RNC Act were:

- conduct unbecoming a police officer by neglecting duty;
- conduct unbecoming a police officer to create personal advantage; and
- conduct unbecoming a police officer liable to bring discredit to the RNC (x 2).

A legal opinion was sought on the matter from RNC counsel. The RNC determined the complaint did not warrant a Criminal Code investigation. An “informal” resolution was reached where SO2 agreed to resign from his employment with the RNC. AP3 was advised of this and agreed to same. The RNC closed their file and no further action was pursued.

As stated, on September 7, 2021, SIRT-NL received a full disclosure package of the RNC investigative materials for the AP3 complaint. A full review was undertaken by the SIRT-NL investigator. SIRT-NL determined the matter required a Criminal Code investigation into the offences of Sexual Assault and Breach of Trust.

Various database searches were conducted and it was determined that AP3 was likely living out of the country and had possibly moved to the United States. SIRT-NL enlisted the assistance of Interpol Operations in Ottawa, requesting they make attempts to locate AP3 so we could canvas her interest in a criminal investigation.

After a 4-month lapse and no forward motion on the investigation, Interpol Operations advised our office they were unable to locate AP3. SIRT-NL then attempted to reach out to AP3 via her social media accounts; AP3 did not respond. The SIRT-NL investigator was later able to verify, through an online investigative tool, where AP3 resided in the United States. The investigator verified AP3’s cell phone number. The investigator attempted to speak with AP3 several times

on her cell phone but she did not answer. The investigator left a very detailed message on one occasion and requested a callback. AP3 did not respond.

Subsequently, the SIRT-NL investigator received a phone call from a local lawyer who represented AP3 (note: this is a different lawyer than the previously mentioned lawyer who contacted SIRT-NL on behalf of AP1). The lawyer advised that AP3 was not interested in pursuing a criminal investigation and would not be providing us any information.

At that point, SIRT-NL determined there were no further investigative avenues to explore in relation to this portion of the investigation.

SIRT-NL File 2021-022

On February 23, 2017, WO4 was speaking with WO5 and thanked him for recently giving WO4's girlfriend a ride home from downtown. WO5 advised WO4 that he had not done so. The initial investigation revealed that it was SO2 that drove WO4's girlfriend home.

It was unclear from the RNC material whether the matter was investigated any further or if there was any criminal wrongdoing on SO2's part. It appeared this incident was rolled into a global internal investigation by RNC management.

On October 16, 2021, the SIRT-NL investigator spoke with WO4 about the alleged incident. WO4 clarified that his girlfriend and her friend were downtown and they approached a police vehicle on George Street and spoke with SO2. SO2 offered the two women a ride home, which they accepted. The women were driven home without incident.

After obtaining this information, SIRT-NL concluded its preliminary investigation into this portion of the complaints as there was no allegation of criminal wrongdoing.

SIRT-NL File 2021-021

On March 18, 2017, a uniformed RNC patrol officer (WO6) was on duty on George Street in the early morning hours. The officer was approached by an unknown female who stated that SO2 was "a predator". The female went on to say that SO2 was picking up females in his truck and asks if they want to have sex with him. WO6 encouraged the female to provide her name and make a complaint. The female declined and walked away. She was never identified.

SIRT-NL reviewed this portion of the RNC disclosure and did not identify any avenues to further the investigation as the female was not identified.

SIRT-NL File 2021-020

On May 22, 2017, WO7 was parked in a fully marked RNC vehicle in Kilbride. An irate male, identified as [W1] approached WO6. W1 banged on the driver's side window of the police vehicle and asked WO6 if he was [SO2] to which WO7 replied he was not. When W1 was

leaving the area, WO7 asked why he wanted to speak with SO2. W1 advised that SO2 was harassing someone but W1 would not provide any other details.

WO7 passed the information up his chain of command and an internal investigation commenced. SO2 was questioned on the matter but offered no clarification. An RNC internal investigator spoke with W1. W1 advised that SO2 was harassing a female he knew but W1 would not provide the female's identity. W1 advised that he was satisfied that SO2 got the message.

On September 21, 2021, the SIRT-NL investigator reviewed the RNC material in relation to this complaint. The investigator was able to locate and speak with W1. The investigator explained what SIRT-NL did and his role in seeking more information. W1 appreciated the phone call but declined to provide any further information. He explained that once he confronted the RNC about the harassment, SO2 stopped harassing the female.

Without further information from W1, the investigator was unable to move the investigation forward. This portion of the investigation was concluded without a charge.

Conclusion

If the above allegations are true, it is clear that SO2 (who may be the same person as the unidentified SO1) has displayed a disturbing pattern of using his position to solicit sexual favour from women in the St. John's area – most commonly in the downtown vicinity. While each file provided to SIRT-NL is extremely concerning, and would properly be the subject of an RNC internal disciplinary process, on the information we have, only one file involves a potential criminal offence – that being the incident involving AP3 (2021-015). As outlined above, SIRT-NL made significant efforts to locate and contact AP3, and we have since been advised she does not wish to pursue a criminal investigation. Simply put, without her participation in the investigation, we were unable to gather enough evidence to substantiate laying a charge in relation to that incident.

In my opinion, the RNC should have investigated this incident more thoroughly when it first came to light years ago. As outlined above – particularly in the case of AP3 – it presents a significant obstacle for an investigative agency when an investigation takes place years after the fact.

Although there are no further investigative avenues left to explore in relation to the above, this file remains open. SIRT-NL continues its efforts to investigate allegations of sexual assault against an RNC officer or officers in St. John's. I am releasing this report for two reasons:

- 1. To update the public on the efforts SIRT-NL has made in relation to investigating the much-publicized sexual assault allegations that arose in summer 2021; and**

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2. To appeal to any member of the public to contact SIRT-NL in the event they have information that might be relevant to this matter. The SIRT-NL contact information is as follows:

Phone: (709) 738-SIRT

Toll free: 1-888-738-SIRT

Email: sirtinfo@sirtnl.ca

Final Report prepared by:

Michael NR King, Director

Serious Incident Response Team - Newfoundland and Labrador

August 5, 2022

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