



Serious Incident Response Team

Civilian Director's Report
SIRT-NL File No. 2021-016

Michael NR King
Director
April 19, 2023

Introduction

On August 12, 2021, the Royal Newfoundland Constabulary (RNC) notified the Serious Incident Response Team (SIRT-NL) of an allegation of a sexual offence involving one of its officers. In response, I directed a SIRT-NL investigation into the matter.

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 an allegation of a sexual offence, it fell within SIRT-NL mandate.

Terminology

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

- “Affected person” or “AP” for the individual who alleges the sexual offence;
- “Subject officer” or “SO” for the police officer who is the subject of the allegations and this investigation; and
- “Witness #” or “W#” for any other individual who provided relevant information.

Investigation

The SIRT-NL investigation began on September 23, 2021 and concluded on April 6, 2023.

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

- SIRT-NL collected and reviewed all preliminary investigative material from the RNC, including a statement provided by the affected person.
- Investigators interviewed the affected person and three civilian witnesses.
- The investigator invited the subject officer to provide a statement; however, SO declined, as is his right.

Overview

On June 22, 2021, a private investigator was interviewing an individual regarding an unrelated investigation. During the interview, the individual alleged her daughter, the affected person, had a sexual relationship with the subject officer.

On July 28, 2021, the RNC interviewed the affected person about this allegation. AP confirmed the allegation and provided details of the encounters she had with SO while she was a youth.

The RNC then notified SIRT-NL of the information and turned the file over for investigation.

The Affected Person (AP)

RNC Interview

As stated above, the RNC interviewed AP on July 28, 2021. At that time, AP provided the following information:

AP was 15 years old at the time she first had sexual contact with SO. At the time, her 30-year-old boyfriend was abusing her. SO came and arrested AP's boyfriend a couple of times. SO would tell AP to get in his (SO's) car. There, they would talk and they "ended up having sex a couple of times". SO did not force himself on AP. AP stated again she was 15 years old when she first had sex with SO and that SO was an RNC officer at the time.

AP stated she was 23 or 24 years old the last time she had a sexual encounter with SO. She said it happened a few times over the years. They had sex once in a police car and a couple of times in AP's apartment. There were two occasions when SO came to the apartment in relation to a call about her boyfriend.

Later in the statement, AP again confirmed the first time she had sex with SO was when SO came to deal with her boyfriend but it was in response to the boyfriend fighting another male. AP said SO told her to sit in his car. SO and AP talked and had sex.

SIRT-NL Interview

On August 2, 2022, SIRT-NL obtained a second statement from AP. She stated as follows:

In this interview, AP stated her sexual encounters with SO started in 2005/2006. They had between 25 to 30 sexual encounters until 2010.

AP advised she and her boyfriend often had domestic disputes, which would involve the RNC coming to their apartment. SO often showed up to those calls. The first time she met SO was when SO came to her apartment because of a call regarding her boyfriend. AP was 15 years old at the time.

AP alleged the first time she and SO had sex was after SO pulled over a vehicle in which AP was a passenger. SO arrested and charged several people in the car in relation to drugs but told AP to leave the scene and walk up the road. SO then drove to her and picked her up in his police vehicle. They parked behind a restaurant. AP said they were in the back seat and they had sexual intercourse. She then got out of the car and walked home. She did not know the date when this happened.

AP advised that SO also had a relationship with another female (W1) and others who lived in the area. SO was also doing the same things with AP's sister. AP advised there was one time when AP was at W2's house and SO came by and picked AP up.

AP stated she and SO met and had sex while SO was on duty and off duty. The relationship began in 2005 or 2006. They last had sex during the Squid Festival in CBS in 2009/2010. They were both drunk.

AP stated that, at one point around 2010, someone reported to Child Youth and Family Services (CYFS) that she was having a relationship with SO. CYFS contacted her about it and she denied it.

Investigative Strategy

Following the interviews with AP, the SIRT-NL investigation focused on gathering evidence to corroborate or refute her allegations. This included interviewing individuals AP mentioned in her statements. As well, because AP claimed she first met SO when he responded to a complaint involving her boyfriend, I directed the RNC to provide all related internal files, which we reviewed to determine the accuracy of AP's information.

Because AP stated her first sexual encounters with SO occurred while she was a youth, she was not capable of consenting to the sexual activity. It was therefore important to establish a time line for the alleged occurrences. I will discuss this further below.

Civilian Witnesses

Witness 1

The SIRT-NL investigator interviewed W1 on February 1, 2023. In her interview, W1 stated the following:

W1 knows AP and described AP as a troublemaker. She stated you could not believe anything that came out of AP's mouth. W1 provided examples of when AP lied to her in the past. W1 knows SO because he used to come to her house a lot looking for her son, who was often in trouble. SO was always polite and nice. W1 is not aware of any relationships SO had with any other females. AP has never had any conversations with W1 regarding a police officer taking advantage of her (AP).

Witness 2

The SIRT-NL investigator interviewed W2 on February 16, 2023. In her interview, W2 stated the following:

W2 was friends with AP since childhood but they have not had a relationship in years. She described AP as a "big liar". W2 was never aware of AP having a relationship with any police officer. Contrary to AP's claim, no police officer has ever picked up AP at W2's residence. Other than SO pulling W2 over years ago, W2 has never been involved with him.

Children, Seniors and Social Development (CSSD)

On February 20, 2023, the SIRT-NL investigator spoke with W3, an individual at CSSD (formerly CYFS), regarding AP's claim someone had reported her relationship with SO to CYFS, who then contacted AP about it.

The investigator requested that W3 advise whether they had a file involving someone calling their office to report AP having a relationship with a police officer. The investigator narrowed the search to 2009–2010, as indicated by AP in her interview.

W3 advised there was nothing of the sort in their records. W3 further stated AP was 20 or 21 years old in 2009–2010. This is significant because CSSD only deals with parental abuse of a child. What AP is alleging is CSSD investigated a non-parent sexually abusing a 20–21 year old adult. This would be outside CSSD's mandate. W3 further advised that AP's oldest child was born in 2007, which would have made AP 17 or 18

years old at that time. This is still outside CSSD mandate and something they would not look into.

To summarize, because AP was an adult (as per CSSD's definition) when she had all of her children, AP would not be the subject of a CSSD investigation or inquiries as AP claimed in her interviews.

The Subject Officer (SO)

The SIRT-NL investigator invited SO to provide a non-custodial cautioned interview. On April 6, 2023, SO advised the investigator he (SO) would not be providing a statement.

Issue and Conclusion

The issue for my consideration is whether there are grounds to believe SO committed a sexual offence against AP.

The only evidence of a sexual offence comes from AP herself. There were no witnesses to the alleged encounters. Consequently, grounds to lay a charge must be based on the credibility and reliability of AP's statements. In assessing her credibility and reliability, it is necessary to examine all corroborating or refuting evidence. Minor inconsistencies or discrepancies are natural. We cannot expect an individual to have a perfect memory of every detail. Significant inconsistencies or discrepancies, however, on key points, may be more problematic.

In assessing all the evidence, I have several points of concern in relation to AP's credibility and reliability. They are as follows:

The First Encounter between AP and SO

AP gave differing accounts of the first time she had sex with SO. In all accounts, she advised she first met SO when she was 15 years old. AP stated she knew she was 15 because she ran away from home when she was 14 and met her boyfriend as she was turning 15. She first stated, she first met SO while SO was responding to a call regarding AP's boyfriend abusing her. At another point, AP stated SO was responding to a call regarding her boyfriend fighting another person. In her first interview, AP stated she had sex with SO in the back of his police car the first time she met him (when he was responding to the above-mentioned call). In her second interview, AP stated

nothing happened the first time she met SO. They first had sex on a subsequent occasion when SO stopped a vehicle in which SO was a passenger.

Even if one could explain these inconsistencies, SIRT-NL has confirmed SO was actually not a police officer at the alleged times and would not join the RNC for another two years. When SIRT-NL reviewed the RNC file material and documentation, we confirmed SO did not become a police officer until 2006. AP would have been 17 years old at this time. This means AP could not have been correct in her allegation she was 15 years old when she met and had sex with SO.

Furthermore, a search of RNC databanks regarding past calls/investigations between AP and her boyfriend indicated the RNC did not respond to any calls for service regarding AP and her boyfriend until 2009, when AP was 20 years old. Moreover, SO was not the responding officer on any of these calls.

The Last Encounter between AP and SO

AP gave contradictory information in relation to the last time she had a sexual encounter with SO. In her first interview, she stated it was 2012 or 2013, when she was 23 or 24 years old. In her second interview, she advised they were last together in 2009, when she was 20 years old.

Relationship and Number of Encounters between AP and SO

When asked in both interviews how many times she and SO engaged in sexual activity, AP again gave contradictory answers. In her first interview, she advised it was just a few times - once in a police car and a couple of times at her apartment. She and SO never went out privately together and it was not a relationship. In her second interview, AP stated they had sex "once every week or two weeks when [SO] was on duty". She advised they were together 25 to 30 times. She said they went out together a lot. They had sex while SO was on duty and off duty. She stated "there was a full like six-month span of me and him being in this relationship at the time that I thought it was a relationship, obviously it wasn't".

SO in the Community

In AP's second interview, she references W1, stating W1 also had a relationship with SO. AP said SO also had a relationship with several females in the area. Contradictory

to this, W1 advised W1 never had any sexual dealings with SO and described SO as nice and polite. W1 only knew SO because he would come to her house looking for her son, who was frequently in trouble with police. W1 further stated that, as far as she was aware, SO did not have a relationship with any females in the area and she believes she would have heard about it if he did.

In AP's second interview, she advised SO picked her up one time at W2's house. In W2's interview, she advised SO never picked AP up at W2's residence. In addition, W2 supports W1's denial of AP's allegation W1 had a relationship with SO. W2 lived with W1 at the time when W1's purported relationship with SO was taking place. W2 advised she was not aware of any such relationship.

CSSD

AP stated someone had reported her relationship with SO to CSSD, who then contacted her about the report. Contradictory to this, a CSSD worker advised the SIRT-NL investigator there were no such records of this report and, furthermore, the situation did not fall within CSSD mandate.

Decision

In summary, there are several inconsistencies between AP's statements as well as inconsistencies between her statements and other evidence (other witness statements, CSSD records and RNC records). While, as stated above, minor inconsistencies are to be expected, there are major inconsistencies in AP's evidence on several important points. Accordingly, I am not able to attribute sufficient credibility or reliability to her allegations and I have not formed reasonable grounds to believe the subject officer committed a sexual offence. No charge will be laid.

This file is now concluded.

Final Report prepared by:

Michael NR King, Director
Serious Incident Response Team - Newfoundland and Labrador
April 19, 2023
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