



Serious Incident Response Team

Decision of the Civilian Director
SIRT-NL File No. 2021-018

Michael NR King
Director
March 3, 2022

Introduction

On October 12, 2021, the Royal Newfoundland Constabulary (RNC) notified the Serious Incident Response Team (SIRT-NL) of a serious incident involving one of its retired officers. The RNC had received a complaint from the subject officer's stepson, who alleged the subject officer (or SO) sexually assaulted him when he was between the ages of 5 and 12.

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 matter involves allegations of sexual offence, it falls under SIRT-NL mandate. Consequently, I directed a SIRT-NL investigation into the incident.

Investigative Timeline

The SIRT-NL investigation began on October 14, 2021 and concluded on February 24, 2022.

Facts and Investigation

I have substituted "AP" (or "affected person") for the name of the individual involved in the alleged incidents. In addition, I have substituted "W#" (or "witness #") for the names of the civilian witnesses involved.

The strategy for the investigation was a traditional one, focusing on interviews of civilian witnesses, a witness officer and the subject officer, and corroborating evidence. During the course of the investigation, the following steps were taken:

- The SIRT-NL investigator obtained and reviewed the audio/video statements provided to the RNC by the affected person and his girlfriend.
- The SIRT-NL investigator obtained a second statement from the affected person.
- Statements were taken from an additional seven civilians.
- A statement was taken from one witness officer.
- The SIRT-NL Investigator interviewed and obtained a statement from the subject officer.

The Affected Person

The affected person was interviewed and provided an audio statement to the RNC, which was handed over to SIRT-NL. Much of the statement discusses the affected person's upbringing and verbal abuse by his stepfather, the subject officer.

Particular to the sexual assault, the affected person alleges the subject officer would make a motion with his hand as reaching out to grab AP's penis. SO would be less than four inches away from AP's penis and, on two or three occasions, SO grabbed the tip of AP's penis. AP was not sure if SO meant to touch him. AP does not remember the first time this happened but remembers being at a young age and thinking it was weird behaviour. AP was asked about the most memorable time this occurred. He referred to one time when he was playing minor hockey. He was in the dressing room, which was full of parents and his friends. AP recalled taking off his jock and SO making a grabbing motion at SO's penis but did not make contact. AP could not remember the last time SO made contact with his penis. AP was not sure if there were any witnesses to any of these incidents but stated his mother may have witnessed something.

The affected person also alleges, when he would have a hard time getting up in the mornings, SO would get in bed with him and pull the blankets up over both their heads. SO would be wearing only his underwear. If AP did not get up, SO would spoon him or do something uncomfortable to make AP get out of bed. AP said SO would not hump or grind him, but would move around to make AP uncomfortable.

After reviewing the file and interviewing others involved, the SIRT-NL investigator learned the affected person had recently denied telling the RNC he was touched on the penis, therefore recanting a crucial part of his initial allegations. As a result, a second interview with the affected person became necessary to clarify the matter.

On February 23, 2022, the SIRT-NL investigator conducted an audio/video interview with the affected person. At the beginning of the interview, the investigator invited the affected person to retell his entire version. In this part of the statement, AP spoke of the same incidents as initially covered in his statement to the RNC. He stated:

- The subject officer made motions with his fingers as if he was going to pinch the affected person's penis, moving as close as 8 inches away.
- The subject officer actually touched the affected person's penis once or twice, but the affected person does not know if it was by accident or because he himself may have moved toward the subject officer's fingers.
- The affected person does not know for what purpose he was touched.

- The affected person could not remember when and where this happened but remembered being touched and that it was quick and sudden.
- The affected person stated he was here [speaking with the SIRT-NL investigator] because of the whole situation with the subject officer (belittling, name-calling, abuse and disrespect).
- The affected person also said he wanted to have access to his mother without interference from the subject officer.

Witnesses

As stated, interviews were conducted with several other individuals. These were AP's girlfriend, his mother (SO's wife), his two aunts, his brother, his stepsister (SO's daughter), his maternal grandfather and his parents' neighbour.

None of the individuals offered any evidence of assaults, sexual or otherwise. They described serious arguments, harsh language, emotional and verbal abuse, but nothing of a criminal nature. Some focused on the affected person's behaviour. Others focused on the subject officer's behaviour.

The Subject Officer

The SIRT-NL investigator obtained a voluntary statement from the subject officer. SO adamantly denied the allegations. He believes AP is trying to split up SO and his wife/AP's mother. He described AP as volatile and unpredictable.

Issues and Conclusion

The issue for my consideration is whether there are grounds to believe the subject officer committed a sexual assault on the affected person. As there were no witnesses to the alleged incidents and no corroborating evidence, this determination depends on the credibility of those who provided statements, particularly the affected person and the subject officer.

For the following reasons, I have not formed the requisite grounds to believe an offence occurred:

- The allegation arose the day after a serious argument occurred between the affected person and the subject officer. There is clear animosity between the two.

- More importantly, AP's allegations are vague and contain some significant internal discrepancies. Investigators were unable to establish a timeline or the circumstances surrounding any particular incident. The only incident for which the affected person could provide even moderate detail did not involve any physical contact.

In conclusion, as the civilian director of SIRT-NL, I do not consider there are reasonable grounds to believe the subject officer committed a sexual offence. Accordingly, no charge will be laid.

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

Final Report prepared by:

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