



Serious Incident Response Team

Civilian Director's Report
SIRT-NL File No. 2022-0034

Michael NR King
Director
August 21, 2023

Introduction

On June 27, 2022, a member of the public notified the Serious Incident Response Team (SIRT-NL) of a complaint that, on June 5, 2022, two RCMP officers entered her residence without lawful excuse.

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. This matter fell within the “significant public interest” component of the SIRT-NL mandate. Accordingly, I directed a SIRT-NL investigation.

SIRT-NL investigates incidents such as this one to a criminal standard. The focus of this report is solely whether the two subject officers committed a criminal offence when they entered the subject residence.

This matter gained significant media attention, which largely focused on how the RCMP, as an organization, dealt with the matter after the fact. Whether the RCMP sufficiently apologized to the affected persons or whether subsequent RCMP media releases in relation to this matter were appropriate and accurate, is not for me to decide. Again, my sole focus here is to determine whether there was criminal behaviour on the part of the involved RCMP officers.

Terminology

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

- “Affected person #” or “AP#” for the individuals who lived in the subject residence;
- “Subject officer #” or “SO#” for the police officers who are the subject of the allegations and this investigation;
- “Witness Officer #” or “WO#” for any police officer who provided relevant information; and
- “Witness #” or “W#” for any civilian who provided relevant information.

Investigation

The SIRT-NL investigation began on August 12, 2022 and concluded on June 27, 2023.

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

- Collected and reviewed all preliminary investigative material from the RCMP, including:
 - The relevant RCMP file.
 - Recordings from both the RCMP and the RNC dispatch centres.
 - The RCMP Professional Responsibility Unit (PRU) investigative file.
 - Police notes and reports authored by WO1.
 - Police notes authored by WO2.
 - RNC documents and communication center recordings in relation to the relevant RNC File.
- Obtained, by consent, the notes and reports authored by the two subject officers in relation to the incident. In addition, SO1 consented to providing SIRT-NL a statement he gave during the PRU investigation.
- Interviewed SO2.
- Interviewed AP1.
- Invited AP2 to provide a statement, but he declined.
- Interviewed two civilians.
- Interviewed two witness officers.
- Observed the exterior of the subject residence to determine how its appearance compared with descriptions provided to and relied upon by the subject officers.

Overview

Shortly after 4:00am, on June 5, 2022, W1, a youth-care worker at a group home in the Corner Brook area, called the RNC to report she had been unable to reach a 17-year-old resident (hereinafter referred to as “the youth) at the group home. The youth was subject to a curfew and intermittent check-ins. W1 told the dispatcher that she believed the youth was in Mount Moriah. Because Mount Moriah is in RCMP jurisdiction, the RNC dispatcher suggested W1 contact the RCMP regarding the matter. W1 then called the RCMP and reported the youth had missed several check-ins. W1’s last communication with the youth was via text, at midnight, when the youth said she was not feeling well and wanted to come home.

W1 had gone to Mount Moriah to pick the youth up earlier in the evening, but left when someone approached her car, making her feel uncomfortable. At that time, W1 was in front of a residence on a street in Mount Moriah, which was where she believed the youth was. When W1 spoke with the RCMP, shortly after 4:00am, she described the house and its location.

In response to this report, two RCMP officers (SO1 and SO2) attended and eventually entered the subject residence. The officers' entry of the residence is the subject of the SIRT-NL investigation.

Affected Person 1 (AP1)

Statement to SIRT-NL – November 17, 2022 (audio-recorded)

On June 4, 2022, AP1's friends had gone to a cabin for the night. Her friends' two boys were staying at AP1's house for the night and the friends' vehicle was in the driveway. That evening, AP1 was home with her boyfriend, AP2, her daughter and their friends' boys. They had a fire in the yard. The kids went to bed around 11:30pm. AP1 and AP2 went to bed around 12:30am and watched television in bed until they fell asleep.

As it was approaching daylight, AP1 woke up and heard a knocking. She thought she heard a voice. She said to AP2 "I think there's someone in the house". AP2 told her to go back to sleep. AP1 laid back down but, again, she could hear something. When she opened her eyes, she heard "Hello" in a man's voice. AP2 got out of bed. When he opened the bedroom door, two officers were coming toward the bedroom. AP1's dog started barking. The officers were standing in the hallway, with their hands on their holsters, telling AP2 to contain the dog. AP1 was still in bed at that point.

As AP2 walked down the hallway, the officers asked "Where is [the youth]?" AP2 replied he did not know who [the youth] was. The officers stated, "[The youth] is missing" and asked AP2 who was in the bedroom. AP2 replied it was his girlfriend. AP1 then got up and wrapped herself in a blanket. The officers asked AP1 the same question regarding the youth. AP1 stated she was familiar with the youth only from seeing a Facebook post earlier, but otherwise AP1 did not know the youth.

AP2 asked the officers what they were doing in the house. The officers responded that the youth was reported to be in the home. When AP2 asked the officers if they had a warrant, the officers replied, "No". AP2 asked "Well why are you in my home?" to which the officers explained they were concerned for the youth's safety. AP2 again said he had no idea who the youth was. The officers then left.

After SO1 and SO2 left, AP1's daughter came upstairs and said the officers had gone in her room. They entered through the basement door, went into the rec room and opened up the daughter's bedroom door. They questioned the daughter where the youth was. The daughter had no idea. The officers then asked where everyone else in the house was.

AP1 stated her daughter no longer feels safe in her own home because of this incident. AP1 felt that someone made up a false report and suspects it was made by a particular individual with whom she has had trouble in the past. AP1 does not believe the police knocked before entering the house. Generally, AP1 found the incident "fishy" and "hard to believe".

AP1 spoke about the RCMP's subsequent response to the situation and stated she was not happy with the RCMP press conference. She felt the RCMP gave the impression AP1 and AP2 were drug dealers. AP1 stated she did not receive an apology from any RCMP supervisors. She and AP2 are exploring their options regarding a potential lawsuit.

Affected Person 2 (AP2)

AP2 is the owner of the subject residence and is a direct witness to this incident. SIRT-NL investigators attempted repeatedly to contact AP2, but he did not respond to our phone messages or emails. As he travels for work, he was not in Mount Moriah when SIRT-NL investigators travelled there to investigate. His partner, AP1, advised SIRT-NL investigators, on several occasions, that AP2 does not wish to provide a statement.

Subject Officer 1 (SO1)

SO1 declined an interview with SIRT-NL but voluntarily provided his police reports in relation to the incident as well as his statement to the RCMP Professional Responsibility Unit (PRU).

Statement to PRU – June 28, 2022

SO1 and SO2 were working a night shift on June 4-5, 2022. A call came in at approximately 4:00am from a worker (W1) at a local group home, reporting a missing youth. The youth had missed several phone check-ins. The last contact with the youth was at 7:45pm on June 4. W1 believed the youth was at a house on a street in Mount Moriah. W1 had gone to the street earlier to check if the youth was there. W1 saw a person she believed was the youth, though a basement window, at a home on the

street. W1 parked her car and tried to contact the youth on the phone. A male then exited the house and walked toward W1, which made her uneasy. W1 then drove away.

SO1 had been to the house a couple of months earlier. At that time, there were three young males living at the residence. SO1 thought one of the males could have been the youth's friend, which reinforced his belief they were at the right house and the youth could be inside.

The last contact the youth had with the group home was concerning. The youth texted workers at approximately 7:45pm, stating she did not feel well and wanted to come home. The group home did not have any contact with the youth after that. The workers were not sure what the youth meant by the comment. SO1 thought, if this was a house with several young males, it could be a party house.

The officers arrived at the subject residence at approximately 4:38am and were there for about an hour. The officers knocked on all the doors and all the windows, very loudly. They were yelling "police", "RCMP" and yelling the youth's name. They were using their flashlights to make "rapping" noises on the glass. SO1 stated they were outside the residence for about 45 minutes before checking the basement door. SO1 twisted the doorknob and it was unlocked. He then pushed it open but did not go inside.

SO1 "rapped" on a big green oil furnace, which was inside the door. This made a loud hollow echoing noise. SO1 thought anyone inside would have heard this. When the officers did not get any response, SO1 contacted the RCMP on-call risk manager. When SO1 made this phone call, he drove down the street. He estimated he was on the phone for 10 to 15 minutes. He passed along the information they had at the time to the risk manager. Based on that conversation, the officers determined they would go inside the subject residence to ensure the youth was not in any danger.

When the officers returned to the house, SO1 again knocked on the oil furnace inside the basement door in an attempt to rouse the occupants. There was no response. Then, at approximately 5:35am, SO1 and SO2 entered the residence with the risk manager's approval. The officers entered through the unlocked basement door and continued yelling "Police", "RCMP" and the youth's name. SO1 stated he also yelled "Nobody's in trouble", thinking there could be several teenagers in the house.

When the officers entered the basement, they went through an unfinished area that led to another door. They knocked on that door a few times, calling out "Police". As there was still no response, they opened the door, which led to a sitting area. They continued and came to a closed, sliding door. They knocked on the door, again saying "Police" and "RCMP".

Regarding the officers' interaction with AP1's daughter, I quote directly from SO1's statement:

I shined my flashlight in and saw someone in the bed so I slid the door open a little bit and I was saying RCMP ahm, like, I think I said what's your name or who are you, thinking cause it was a little girl in bed so I was like oh, maybe this is [the youth]. But then the girl responded, ah, I think [****] she said her name was. And I said, is [the youth] here and the girl said that she didn't know who that was and I said where is it, like I said where, where is everybody else and she said probably upstairs.

SO1 and SO2 continued upstairs, yelling "Police", "RCMP" and the youth's name every few seconds. When they reached the first landing, SO1 heard a dog barking. They took cover behind a door in case the dog came charging at them. SO1 then heard a faint male voice upstairs. SO1 yelled out, "RCMP", "we're the police, we're looking for [the youth]".

The male (AP2) came to the top of the stairs and walked down to the first landing. He looked like he just woke up. SO1 told AP2 they were the RCMP and they were looking for [the youth], who was missing. AP2 said he did not know who [the youth] was. The officers then walked up to the main floor with AP2. AP2 said again [the youth] was not there and invited the officers to come up and look.

AP2 went to the bedroom. SO1 could hear him speaking with a female. AP2 returned with the female (AP1) and the dog by the collar. The female stated her name and that [the youth] was not in the residence. She had seen a post on social media the day before when [the youth] was reported missing.

It then became clear to SO1 they had the wrong residence. There was a young family in the house and the officers saw no reason to continue the search. SO1 was confident the youth was not there. The officers apologized. AP1 and AP2 appeared pleasant and understanding. They seemed tired and perhaps confused, but were not upset. SO1 was shocked when he learned of the subsequent complaint because, again, he thought they were understanding.

In summary, when questioned on his reason for entering the residence, SO1 stated, based on the information the officers had from the group home, the text sent from the youth saying she was not feeling well and SO1's discussion with the risk manager, he believed there were exigent circumstances. SO1 did not feel they had time to obtain a warrant and believed that would not make sense because, at that point, there was no criminal investigation. The reason for entering was to confirm there was not a young person in the house in distress. They tried to rouse the occupants for almost an hour before entering. The lack of response increased their concern. They observed many shoes inside the basement door and there were several cars in the driveway, which contributed to SO1's belief the youth could be inside the residence.

At the time, SO1 believed the information from the group home worker was accurate. He did not believe the worker was trying to deceive police because, to SO1's knowledge, she had no reason to do so. The worker was trying to ensure the youth was safe, which is partially the worker's responsibility. SO1 was basing his belief, on the totality of the information he had at the time, that this was the right house.

Subject Officer 2 (SO2)

SO2 provided to SIRT-NL his reports in relation to the incident. On June 21, 2023, SO2 also provided a voluntary audio / video-recorded statement to the SIRT-NL investigator.

Statement to SIRT-NL – June 21, 2023 (audio and video-recorded)

On the morning of June 5, 2022, while SO2 was on duty, SO1 called him and stated they had to go to Mount Moriah in response to a report that a 17-year-old group home resident (the youth) had missed her check-ins. The last message from the youth had been hours ago, in which she stated she was not feeling well. The group home worker provided the street and a description of the residence she believed the youth was frequenting.

SO1 and SO2 travelled to Mount Moriah and located a residence on the street that matched the description. They approached the residence and SO1 knocked on the basement door, calling out "RCMP, police". He knocked for several minutes and continued to announce the officers' presence.

After several minutes of knocking, SO2 went to the front of the house and knocked on the basement windows. He knocked with his hand and metal flashlight. He was calling out "Police" and the youth's name. After several minutes, SO2 rejoined SO1. As they had not received any response from inside the residence, SO1 called the on-call risk manager to discuss possible next steps.

The RCMP had attempted a "cell phone ping" to determine the whereabouts of the youth's phone, but ultimately, could not determine a precise location. The officers approached the residence again, knocking on the doors and windows, announcing "Police" and calling out the youth's name. Still, they did not get an answer. SO1 and SO2 had a further discussion. SO1 also had further discussions with WO1 and with the group home worker who made the report (W1).

As the information relayed to them was that the youth had messaged that she was not feeling well, the officers discussed potential interpretations. To them, this could have

meant she was not feeling well because (i) she had a cold or flu, (ii) because of alcohol intoxication; or (iii) she was in an uncomfortable situation.

The officers eventually determined, given the youth's missed check-ins, the group home workers' inability to get in touch with her, her last comment that she was not feeling well and then not responding, they had to make every effort to locate her. WO1 instructed SO1 to enter the residence, announce themselves clearly as police, attempt to make contact with an individual inside the home and determine if the youth was there. If she was, the officers were to determine her well-being.

SO1 opened the unlocked door and knocked on an oil tank with his flashlight, announcing "Police, RCMP" and calling out the youth's name. There was no response. SO2 followed SO1 through the unlocked door. They entered an unfinished area. There were boots on the floor that appeared smaller as if they belonged to a youth or a female. They continued inside and into a finished area toward the back left corner of the residence.

When SO1 slid open a barn style door on the left hand side, they found a young female inside the room, in bed. SO2 stayed behind SO1, in the doorway and did not enter the room. SO1 asked the young girl her name and if she knew [the youth]. The young girl said "no". SO1 asked her where the other occupants of the residence were. She said her mom was upstairs.

SO1 went up the stairs, calling out "Police, RCMP, hello, police". Initially, there was no answer until SO2 heard what sounded like footsteps above them from upstairs. SO2 backed down off the stairway, while SO1 remained partway up the stairs.

SO1 spoke with a male (AP2), who came down two or three steps. SO1 told him why the officers were there. SO1 asked AP2 if he knew [the youth], to which AP2 replied he did not. AP1 then went to the bedroom and returned with AP1 and a dog.

The officers then told AP1 why they were there and asked if she knew [the youth], to which AP1 replied she did not, but had seen something online about [the youth] being reported missing earlier in the day.

After speaking with AP1 and AP2, the officers determined it was clear the two individuals had no idea who [the youth] was. The officers explained to AP1 and AP2 the residence description they had received and that they had to follow up on the best information they had at the time, which brought them to the subject residence. The officers then apologized for waking up the family in this manner. AP1 and AP2 appeared shocked the officers were there but they understood the officers were looking for a missing youth. The officers then left the residence in the same manner they entered.

Witness Officer 1 (WO1)

WO1 provided an audio-recorded statement to SIRT-NL on February 2, 2023. On June 4-5, 2022, WO1 was the on-call risk manager for the RCMP in NL. His role was to assist officers in the field for direction on investigations.

It is not necessary to discuss WO1's interview in detail other than to say his statement is consistent with the statements of the subject officers in relation to the report of the missing youth, the information given to the RCMP, that WO1 instructed the subject officers to enter the subject residence and the reasons for that decision.

WO1 also stated he spoke with AP2 after the incident, explained the RCMP's actions and apologized to him for entering the residence.

Civilian Witness (W1)

Witness 1 provided an audio-recorded statement to one of the SIRT-NL investigators on August 11, 2022. W1 works at a local group home and is the complainant whose call prompted the police response at the subject residence on June 5, 2022.

One of the youth staying at the group home was missing. W1 believed the youth was in the Mount Moriah area since another worker had recently dropped off the youth at the bottom of a street in Mount Moriah. W1 drove to the area in an attempt to find the youth. W1 was messaging her and was driving up and down the street (where the subject residence was situated) on which the other group home worker dropped the youth off. W1 texted the youth and asked her if she was nearby so W1 could do a visual check. W1 was worried about the youth. While W1 was driving on the street, she thought she saw the youth inside a residence on the street.

W1 parked outside the residence and texted the youth, stating she was outside the house. W1 asked the youth to come outside for a visual check. A male came out of the residence and walked toward W1's car. As this made W1 uncomfortable, she drove away. She messaged the youth and asked if she was at that house.

When W1 was almost back in Corner Brook, the youth texted and said she was not feeling well and would like W1 to pick her up. W1 messaged her back and asked her where she was. The youth did not respond. When W1 returned to the group home, she spoke with another staff member, who went out to see if she could find the youth.

When the staff member returned, and had not located the youth, they called the RNC to report the youth missing. They were told that Mount Moriah was in RCMP jurisdiction. W1 then called the RCMP to make the report. W1 told the officer (WO1) she was not sure what house the youth was in but that there was a party going on at that house.

There appeared to be young adults, in the basement, going in and out of the house. WO1 said that officers would go to the residence and check it out.

WO1 later called W1 back and said the officers knocked on all the doors and windows and nobody answered. It appeared that everyone in the residence was asleep. W1 told the WO1 she was not sure that this was the right house. WO1 asked her what caused her concern. W1 told him the youth had texted that she was not feeling well and wanted to be picked up. As the youth had a new boyfriend, with whom W1 was not familiar, W1 did not know whether the youth had been drinking or could be passed out. To W1, it was odd the youth did not answer as this was unusual for the youth. WO1 responded that the officers would attempt to enter the house to determine if the youth was there. They would also ping the youth's cell phone. Subsequently, WO1 called W1 back again and told her it was not the correct house.

W1 stated she had a couple of conversations with the police officer and described the house. The officer called her back to make sure it was the right house.

Issue and Conclusion

The issue for my consideration is whether there are grounds to believe either of the subject officers committed a criminal offence by entering the subject residence in the early morning hours of June 5, 2022.

The Criminal Code of Canada authorizes a police officer to enter a dwelling-house, for certain purposes, under exigent circumstances. The Code states that exigent circumstances exist when the officer has reasonable grounds to suspect that entry into the dwelling-house is necessary to prevent imminent bodily harm or death to any person.

Additionally, the police have a common law duty to protect life, which can be engaged even when the police are unable to determine the exact nature of the emergency. Although residents have a privacy interest in their own home, threats to life, which more directly engage the values of dignity, integrity and autonomy, take priority and justify the minimal state intrusion of police entering a home to investigate a potential emergency.

To determine whether the subject officers were acting under this authority, we must examine the information they had at the time and the purpose for which they entered the home. Here, the officers had information that a youth was missing and had sent a concerning text that she was not feeling well. The officers had received, from the group home worker who made the report, a description of the house in which the youth was suspected of being.

The police officers' reasons for entering the subject residence were clear. Their explanation – that they were trying to determine the whereabouts of a missing youth who may be in distress – was consistent and corroborated by the statement of the group home worker who reported the youth missing. There is no evidence to suggest the officers acted with any other purpose. The evidence suggests the officers did not flagrantly enter the home; instead, they put much thought into the decision, discussing the possible interpretations of the youth's text message and even contacting the on-call risk manager to seek guidance.

It is unfortunate the information provided to the officers was inaccurate, leading them to enter the wrong house. I can understand the dismay this caused to the residents, especially AP1's daughter. Having said that, the officers were clearly acting with the best intentions based upon the best information they had at the time. Again, unfortunately, the information they had was incorrect. This is not to be taken as criticism of W1, who was also acting with good intentions – to locate a missing youth who may be in distress.

Given the above, I have not formed reasonable grounds to believe either of the subject officers committed an offence in this matter and I will not lay a charge.

It bears repeating that my sole focus is whether the officers committed a criminal offence. In her statement, AP1 focused, in large part, on the inaccuracy and inappropriateness of the RCMP's subsequent treatment of the situation in its correspondence with AP1 and in its media releases. As stated, this is not for me to decide. I do recognize, however, the impact this case has had on the affected persons and I am available to provide assistance by explaining SIRT-NL's role, process and findings to them.

This file is now concluded.

Final Report prepared by:

Michael NR King, Director
Serious Incident Response Team - Newfoundland and Labrador
August 21, 2023
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