



## Serious Incident Response Team

Civilian Director's Report  
SIRT-NL File No. 2023-0007

Michael NR King  
Director  
June 8, 2023



## Introduction

On February 23, 2023, the Royal Newfoundland Constabulary (RNC) notified the Serious Incident Response Team (SIRT-NL) of an allegation that one of its officers had obstructed justice by interfering with an ongoing RNC investigation. 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 obstructing justice by a police officer, it fell within the “significant public interest” component of the 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 alleged the criminal conduct;
- “Subject officer” or “SO” for the police officer who is the subject of the allegations and this investigation; and
- “Witness #” or “W#” for any civilian who provided relevant information.

## Investigation

The SIRT-NL investigation began on March 6, 2023 and concluded on April 26, 2023.

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

- Collected and reviewed all preliminary investigative material from the RNC, including a statement provided by the affected person.
- Interviewed AP.
- Invited the subject officer to provide a statement; however, SO declined.

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## Overview

On February 6, 2023 the RNC received a complaint of a person distributing intimate images without consent. The allegation revolved around three youths who were attending a sleepover approximately two weeks prior. One of the youths exposed their genitalia in a reportedly humorous manner. One of the other youths present recorded the act on their smartphone.

Days later, a still photo, apparently taken from the video, was distributed through a chat group of the youths' peers. The photo was then shared multiple times across numerous social media platforms. The youth who recorded the footage (W1) was identified as being the child of an RNC officer (SO). The same youth was named as a suspect in the RNC investigation into sharing of the intimate image. Other suspects were also identified as having distributed the image.

During the preliminary stages of the RNC investigation, a separate complaint was made by AP, who alleged that SO had wiped the evidence from SO's child's smartphone. This was the foundation for the complaint to SIRT-NL regarding obstructing justice by destroying evidence, thereby interfering with an ongoing police investigation.

This file involved parallel investigations by SIRT-NL and the RNC. The RNC continued with their own investigation into the youths and the distribution of the intimate image(s) as this was outside of SIRT-NL's mandate. The RNC provided SIRT-NL with their own investigative material to date and the name of the complainant who came forward with the obstruction allegation.

## The Affected Person (AP)

On March 22, 2023, the SIRT-NL investigator obtained an audio recorded statement from AP. AP stated the following:

AP found out about the intimate image on February 4, 2023 from AP's son, W2, who is a youth. The image had been recorded two weeks prior, during a sleepover with W2's friends, W1 and W3. At the sleepover, W2 exposed himself, in a humorous manner, to cheer up W3. W1 recorded the incident on his phone.

W2 told AP his girlfriend told him a photo of the video had been shared in a message group consisting of 35 people. Someone had created a screen shot, indicating W1 had shared the photo. The following Monday, AP filed a complaint, with the RNC, regarding the intimate image being shared.

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AP learned that another youth, W4, overheard a conversation that W1 was having with someone else, in which W1 stated his parent, SO, had wiped his phone, set it back to factory settings and started a new iCloud account.

## The Subject Officer (SO)

The SIRT-NL investigator invited SO to provide a non-custodial cautioned interview. On April 17, 2023, SO advised the investigator they (SO) would not be providing a statement. SO indicated, however, SO had no idea how to reset a smart phone and denied the allegations.

The SIRT-NL investigator subsequently requested permission to speak with SO's son, W1. This request was denied.

## Issue and Conclusion

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

The allegation is that SO obstructed justice when SO wiped W1's phone, thereby destroying evidence and interfering with the RNC investigation into W1 allegedly sharing an intimate image. The only evidence of this comes from AP's statement in which AP stated AP had heard that a youth, W4, overheard a conversation in which W1 told someone else his parent, SO, wiped his phone.

First, this evidence is based on fourth-hand information and is simply not strong enough to provide reasonable grounds to believe SO wiped W1's phone. The SIRT-NL investigator attempted to obtain first-hand information by speaking directly with W1, but as stated above, the investigator was denied permission to do so.

The smartphone in question is not available for forensic examination to determine whether and when it had been wiped. In order to seize the phone, SIRT-NL would have to obtain judicial authorization. There are simply no grounds to support such an authorization.

Second, even if we were able to gather sufficient evidence to establish SO wiped W1's phone, this would only be an offence if it could be shown SO did this, knowing there was an RNC investigation into W1's sharing of the image, and SO wiped the phone with the intent to interfere with that investigation. There is simply no evidence to suggest SO had this knowledge or intention. Furthermore, one might argue that, upon learning SO's

son was in possession of an intimate image, SO did what any parent might do – that is, wipe the phone to prevent any further dissemination of the image.

In summary, I have not formed reasonable grounds to believe the subject officer committed an offence. No charge will be laid.

This file is now concluded.

**Final Report prepared by:**

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