

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2017-038

Referral from

Halifax Regional Police

December 21, 2017

Felix Cacchione  
Director  
June 29, 2018

This matter was referred to SiRT on December 21, 2017 by the Halifax Regional Police (HRP) and concluded on June 4, 2018.

HRP was initially contacted by the Affected Party's ("AP") husband. The AP's husband advised HRP that he wished to provide information concerning the Subject Officer's ("SO") involvement in a sexual assault on his wife. He, however, wanted to barter this information in exchange for the withdrawal of Summary Offense Tickets issued under the *Motor Vehicle Act*.

**Facts:**

An audio-video recorded statement provided by the AP was taken by HRP on December 21, 2017. The following is a summary of the information contained in the AP's statement.

The AP described being involved in a near collision with a motorcyclist in 2012. Prior to this incident she had consumed some alcohol. The AP stated that the SO was nearby in a marked police vehicle at the time of the near collision. The SO was the only officer she could remember dealing with at the scene. She stated that the SO told her he could issue a ticket to her for what had occurred. The SO then suggested the AP follow him to his residence if she did not want to get a ticket. The AP stated that she went there willingly and engaged in consensual sexual intercourse. The AP then left the SO's residence and drove to her house, which was at the time, in New Brunswick.

The AP stated she had no further direct contact with the SO until almost three years later when in February 2015, the SO appeared at the door of her residence in Halifax. The AP then blocked the SO from all social media.

The AP contacted the SO in late 2016 after receiving a ticket for a motor vehicle infraction. She wanted the SO to help her rectify, what to her appeared to be, a mix up at the Department of Motor Vehicles regarding her driver's licence. The AP contacted the SO and he came to her residence. She deleted the text messages she had sent to the SO.

The AP related how initially they sat at a table to discuss the ticket she had received. Then, the SO got up, walked toward the bathroom, took his penis out and asked the AP to perform fellatio. The AP refused and told the SO her son was in the residence. The AP also said the SO asked her to provide him with photos of herself which she did. She could not recall if the photos were sent before or after the SO attended her residence and indicated it might have been a photo of herself in lingerie and that she did this in order to get rid of the ticket she had received.

A second audio-video statement of the AP was taken on February 15, 2018 by a SiRT investigator. In this interview the AP could not recall an officer other than the SO speaking with her at the scene of the near collision in 2012. She stated she was nervous and attempting to conceal an open bottle of alcohol which she had in her vehicle. She indicated that she was the one who brought up the subject of a ticket.

In her statement, the AP said that at the SO's residence she asked him for an alcoholic drink and the SO gave her one. Once the sexual liaison was finished, the AP left and drove to Moncton, her residence at the time.

The AP's third contact with the SO was in 2016. The AP sent the SO a text asking for his help regarding a ticket she had been given. The AP indicated that she flirted with the SO via text messages in order to get rid of the ticket she received. She recalled the SO sending her a photo of himself, which she may have asked for, but could not recall what kind of photo it was. The AP also recalled the SO asking her for a nude photo and believed she may have sent him one. She could not recall the type of photo she may have sent but believed it might have been a sexy one.

The SO provided a cautioned statement to the SiRT investigator on March 9, 2018. In his statement the SO confirmed his attendance at the scene of a near collision involving the AP in 2012. He spoke to the AP for a few minutes and the Witness Officer ("WO") gathered all the documents required for the preparation of his report. The SO said that the AP was flirting with him. The SO invited the AP to his residence.

The AP followed the SO to his residence and they engaged in consensual sexual intercourse. The SO denied having any conversation with the AP about a motor vehicle infraction ticket or providing her with an alcoholic drink. The SO also stated he did not notice any signs of impairment at any time during his contact with the AP that day.

The SO related that in 2016 the AP sent him a text message asking him if he wanted to hook up and provided her address. The SO assumed that by using the words "hook up" the AP was inviting the SO to have sex. The AP also sent him a suggestive photo of herself in a bathing suit. At the residence, the AP began speaking about motor vehicle tickets and was advised by the SO that he could not assist her but told her to contact the Department of Motor Vehicles about what the AP described as a misunderstanding.

The AP exposed herself to him. The SO asked AP if he could take a photograph and the AP agreed. The SO took several photos of the AP and exposed his penis which he said was fondled by the AP. The presence of the AP's son interrupted them and the SO left the residence.

Four photographs taken that day by the SO were provided to the SiRT investigator. All are explicit, and one shows the AP's smiling face.

On March 15, 2018 the AP was provided with an investigational update and informed that the SO had been interviewed. The AP was told that photos had been provided by the SO. The AP denied that the SO took photos of her in December 2016 or she did not recall the SO taking photos of her. The AP then advised the investigator that she had sent pictures of herself to the SO. The AP asked to see the photos provided by the SO, but this was denied. The nature of the photos was however, described to her. The AP then said, "Maybe I did let him take pictures to get him out the door, you understand? It's funny that I didn't remember that." The AP also stated, "I was flirting with him to fix my ticket the second time, I guess I was leading him on."

**Legal Issues:**

1. Sexual Assault

A sexual assault is committed whenever a person intentionally applies force to another person without their consent, in circumstances of a sexual nature, where the sexual integrity of the complainant is compromised. Consent is only obtained where the complainant voluntarily agrees to engage in the sexual activity in question.

**Conclusion:**

The AP in her initial interview with HRP on December 21, 2017 indicated several times that she consented to having sex with the SO in 2012 and was not forced to do so. The AP also set out her thought process and mindset in consenting being that she was only doing so to avoid getting a ticket. If this was the case, then her consent would not have been given voluntarily.

The SO was not in a position to issue a ticket to the AP as he was not the lead investigator and only assisted the initial officer on the scene by directing traffic.

The WO, who was that lead investigator, confirmed both through his Initial Officer's report and his statement that no ticket was issued. The WO being the first on scene, was the one with sole discretion to issue a ticket or make a determination of fault. The WO's contemporaneous report and his statement set out his interaction and observations of the AP in 2012. Nothing in either his Initial Officer's report or his statement references any observations regarding the presence of alcoholic beverages in the AP's vehicle or any signs of impairment coming from the AP. Nothing out of the ordinary was observed or noted by this officer.

The SO's statement provides a diametric view of the contact between the SO and the AP. The SO stated unequivocally that the sexual encounter was completely consensual and at no time did he, in any way, state or imply that the AP's attendance at his residence was a means of avoiding getting a ticket.

Numerous inconsistencies exist between the AP's and the SO's version of the 2012 events. The AP also withheld from both HRP and the SiRT investigator the existence of photos taken by the SO in December 2016. The AP had ample opportunities to address the subject of photos either sent by her or taken by the SO and the circumstances under which they were sent or taken. It was only after being advised of the existence and nature of the photos in SiRT's possession that the AP commented on them.

The inconsistencies between the AP's and the SO's version of events, and the omissions by the AP of relevant and important information, are significant.

The reliability of the AP's statements and recollection are questionable and do not allow the foundation of a basis constituting reasonable and probable grounds to believe that the SO committed a sexual assault.

Accordingly, there are no grounds to consider any charge against the SO.