

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT File # 2021-018

RCMP

April 26, 2021

Felix Cacchione  
Director  
November 29, 2021

This matter was referred to SiRT on April 26, 2021 by the RCMP's "H" Division Chief Superintendent of Criminal Operations. On this date, SiRT assumed carriage of an investigation commenced by the RCMP Southwest Nova Major Crime Unit and the Charlottetown Police Service in August 2020. The investigation stemmed from a complaint made by the Affected Party ("AP") to the RCMP on May 7, 2020. The AP complained that they had been drugged and sexually assaulted by the Subject Officer ("SO") in Nova Scotia in 2002-2003 and again in Charlottetown Prince Edward Island on February 2, 2020. The SiRT investigation concluded on September 30, 2021.

The following evidence was obtained, reviewed, and considered in the preparation of this report: interviews of the AP including an interview in preparation of the AP acting as a police agent, photos, Facebook and text messages, Facebook screenshots, credit card statement provided by the AP, the SO's cautioned audio/video statement, Instagram screenshot provided by the SO, audio statements of four Civilian Witnesses (CW), text messages provided by three CWs, emails between the AP and the RCMP Major Crime Unit investigator, audio and transcript of an intercepted, authorized one-party consent, telephone conversation between the AP and the SO.

**Facts:**

The AP was 20 years old when they first met the SO on August 9, 2002 after being stopped by the SO and issued a warning ticket for speeding. In the year that followed, the SO would occasionally, while on duty, see and chat with the AP in a small community where the SO worked.

While on duty late one evening, the SO saw the AP standing outside a drinking establishment with a beer in hand. The AP, who had an interest in the SO, dropped the beer they were holding which drew the SO's attention. Once the AP had the SO's attention, the AP then put a piece of paper containing their telephone number in the SO's pocket.

The AP went to the SO's residence on several occasions after this. On the last visit by the AP, there was some consensual kissing and touching that took place but no sexual intercourse. The SO stopped communicating with the AP after this visit. The SO was transferred to another province in 2003 and had only occasional telephone, Facebook or text message contact with the AP in the years that followed. In the intervening years, the AP and the SO both married and had families.

In 2009 the AP asked the SO via text message why they had never slept together during the time that the SO was in Nova Scotia. The SO's response, that they "did not want really just a quick lay," confirmed the fact that the two had never slept together. There was no further contact between the two from 2010 until late 2018 when they began sexting.

In May 2019 the AP and SO met in person in Halifax and had consensual sexual intercourse. After this meeting the AP and SO continued communicating intermittently via text messages, many of which were sexually explicit. The AP and SO met again in person on February 1, 2020 in Charlottetown, Prince Edward Island. The AP made the hotel reservation and paid for the one night they stayed at the hotel. They had consensual sex at the hotel before going out for dinner and again when they returned from dinner.

After their Charlottetown encounter, the AP and SO continued communicating via text messages and Instagram. Not all the communications they exchanged were saved by the AP and the SO. The context of many communications reviewed in the preparation of this report could not be determined as many of the communications surrounding those reviewed were not saved.

The SO stopped communicating with the AP after coming to grips with their infidelity to their spouse.

On April 27, 2020 the AP sent an Instagram to the SO which read "Sext Me, I love you ". The AP did not refer to this Instagram in their statement nor was it saved by the AP. This Instagram was saved by the SO. The AP then sent the SO a text accusing them of raping the AP when they were 21 years old and asked if they now had the SO's attention. The SO replied with a final and inappropriate message. Shortly after receiving this message the AP went to the police to make their complaint.

The AP, acting as a police agent, contacted the SO by telephone on August 18, 2021 and confronted them with the allegation of drugging them when they were together in Charlottetown. The SO denied the allegation.

The SO was interviewed under caution on August 31, 2021. The SO was unaware of the reason for the interview until told of the allegation made by the AP. The SO, although under no obligation to do so, provided a statement after being given the opportunity of contacting legal counsel or a union representative. The SO denied the allegation of drugging the AP and stated that all sexual activity between them was consensual. The SO asked, of their own volition, if they could take a polygraph examination on this issue.

**Relevant legal issues:**

Whether reasonable and probable grounds exist to believe that the offences of administering a noxious thing and sexual assault have been committed.

Reasonable and probable grounds is the point where credibly based probability replaces suspicion. It is the reasonable belief that an event not unlikely to occur for reasons that rise above mere suspicion. Reasonableness concerns the legitimate expectations in the existence of certain facts. It can then be said that the belief in certain facts can be reasonable without being probable.

Credibly based probability involves a practical, non-technical, and common-sense assessment of the totality of the circumstances. The totality of the circumstances requires a consideration of all incriminating and exonerating information. The evidence cannot be considered in a piecemeal fashion.

A sexual assault is committed whenever a person intentionally applies force against another without their consent, in circumstances of a sexual nature where the sexual integrity of the victim is compromised.

The offence of administering a noxious thing is committed whenever someone intentionally gives a thing to another person including what might be an innocuous substance with intent to aggrieve or cause annoyance to that person.

**Conclusion:**

This matter involves two contrasting versions of an incident. Both versions must be examined and from that it must be determined whether there are reasonable and probable grounds to believe that the offences of sexual assault and administering a noxious thing has been committed.

The AP did the vast majority of the talking during their three-and-a-half-hour long interview of May 7, 2020. That interview and Facebook messages sent to the SO contain inconsistencies which are significant. Those inconsistencies significantly impact the useful reliability of the statement and the allegations made therein.

In a text exchange of April 1, 2009 with the SO, the AP wrote "I always wondered why we never slept together even though we slept together". The AP told the investigator on May 7, 2020 that they thought the SO was great because the SO did not sleep with them, "did not sleep with a

drunk person". The AP was referring to sexual intercourse when they used the words slept and sleep.

On April 28, 2020 the AP sent an Instagram message to the SO which read "Sext me, I love you". The SO did not respond to this message. Shortly after sending this message, the AP sent the SO another message accusing them of raping the AP in 2003 when the AP was 21 years old. After receiving this message and responding inappropriately, the SO blocked the AP from all social media.

The AP, acting in the capacity of a police agent under the authority of a one-party consent, contacted the SO by telephone on August 18, 2021 and confronted them with the allegation of sexual assault and administering a noxious thing. The SO denied the allegation and said this was "definitely not" something they would do.

The inconsistencies contained in the AP's statement to the police and the various electronic messages sent to the SO significantly impact the useful reliability of the statement and the allegations made therein. In these circumstances, the reliability of the AP's statement does not allow the statement to constitute reasonable and probable grounds to believe the offences alleged were committed.

Based on the totality of the evidence obtained in this investigation, there are no reasonable and probable grounds to believe the SO administered a noxious thing and sexually assaulted the AP. Therefore, no charges are warranted against the SO.