



## Serious Incident Response Team

Civilian Director's Report  
SIRT-NL File No. 2023-0028

Michael NR King  
Director  
October 1, 2024



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## Introduction

On May 11, 2023, the Nova Scotia Serious Incident Response Team (SiRT or NS SiRT) contacted the Serious Incident Response Team of Newfoundland and Labrador (SIRT-NL) to request that SIRT-NL investigate allegations made against an RCMP officer in Nova Scotia. NS SiRT was making this request because, due to a conflict of interest, it was not able to investigate 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. This matter involved an allegation of sexual offence. SIRT-NL initiated its investigation pursuant to a Memorandum of Understanding established between SIRT-NL and the Department of Justice in Nova Scotia.

## Terminology

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

- “Affected person” or “AP” for the individual who alleged she was sexually assaulted and criminally harassed.
- “Subject officer” or “SO” for the police officer who is the subject of the allegations and this investigation.
- “Witness officer #” or “WO#” for any police officer who provided relevant information.
- “Witness #” or “W#” for any civilian who provided relevant information.

## Investigation

The SIRT-NL investigation began on July 25, 2023, and concluded on May 31, 2024.

During the investigation, SIRT-NL collected the following:

- Documents received from NS SiRT.

- Copy of the Cape Breton Regional Police Service (CBRPS) investigative File 2023-029384.
- Video and Audio statement obtained from the affected person.
- Phone records, other audio recordings and documents received from the affected person.
- Correspondence from the subject officer responding to the allegations.
- Phone records received from the subject officer.
- Medical records obtained from the subject officer.

In addition, SIRT-NL interviewed:

- The affected person.
- The subject officer.
- One witness officer.
- Seven civilian witnesses.

## Overview

The affected person was in a relationship with the subject officer. They have a child together. The affected person alleged that, while the subject officer was visiting the affected person and their child, the subject officer sexually assaulted her by initiating sexual intercourse with her, without her consent, while she was asleep. This occurred on September 11, 2021. AP further alleged the subject officer criminally harassed her while the two were attending the subject officer's relative's wedding later that month. The harassment consisted of the subject officer intimating to AP that, if she wanted to keep the family together, she would have sex with SO that weekend.

## Affected Person (AP)

On October 26, 2023, SIRT-NL investigators obtained an audio-recorded statement from AP. For the sake of brevity, I will refer only to most salient portions of her statement.

### Background

AP and SO met through friends in 2018. They started a relationship at that time but broke up within a few months. In early 2019, AP started a job in Yarmouth, after which, she and SO resumed their relationship. They did not live together.

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Subsequently, AP returned to her regular job in Cape Breton, at which point, she and SO decided to proceed with a long-distance relationship. They later decided they wanted to start a family. In May 2021, their child was born. At the end of August 2021, AP left the relationship.

SO and AP have been going through a family court dispute since January 2022.

### Sexual Assault

In September 2021, SO came to visit AP and their child. AP allowed SO to stay at her home. On the first night, SO slept in the spare bedroom downstairs. On the second night, AP and SO agreed that, if SO would be getting up with the child overnight, it would be more convenient for him to sleep in AP's room, where the child's crib was located.

AP stated it was clear nothing [sexual] was happening; the relationship was done. However, when they went to bed, SO started caressing her. He wanted to have sex, to which AP responded "No, that's not happening". AP was exhausted and moved away from SO in the bed. She rolled over on her side with her back to SO and went to sleep.

AP later woke up to SO pushing himself against her from behind. Her shorts were in her vagina. As SO was thrusting, AP "just let it happen", explaining to investigators she did not have the fight in her. SO was not wearing protection. AP did not want to anger him. She felt violated and vulnerable at the time because she was tired and had allowed SO in her home.

AP's shorts were removed during the incident but AP could not recall how. AP stated it was difficult for her to label this as a "rape" because it was not what she pictured a rape to be.

The following day, AP did not say or do anything. SO left to go home. AP has never said anything to SO and she believed he did not even think he did anything wrong.

When questioned further about the timeline, AP stated the assault occurred on September 11. SO arrived on September 9 and left on September 12. He slept in the spare room on September 9, AP and SO snuggled in AP's bed on September 10 and the incident happened on September 11.

AP stated she began documenting everything in July 2021, most of which was regarding the parenting of the child. She later provided SIRT-NL investigators with her day planners and indicated they included reference to the incident.

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### Criminal Harassment / Coercion:

AP had previously agreed that she and the child would attend SO's relative's wedding later that month. AP, SO and the child stayed in the same hotel room; however, AP made sure there were two beds in the room. She and SO slept in separate beds.

At some point, while they were in an elevator at the hotel, SO told AP she looked good in the outfit she was wearing, and he wanted to have intercourse that night. AP replied "no, that's not happening", to which SO stated "you better, if you want this family to work." No one else was present at the time.

AP has disclosed the incidents to the following people:

- Her father, [W1] via a legal document he was helping her prepare in relation to family court. AP explained she did not have the courage to tell him in person.
- Her friend [W2], within the first few months after the incidents occurred.
- Her mother [W3], within the first few months after the incidents occurred.
- Her lawyer [W4], in January 2022.
- Her friend [W5], within the first few months after the incidents occurred.
- Her friend [W6], in the last six months.
- Her therapist [W7], in the last six months.

Following the interview, AP provided SIRT-NL investigators with phone records, phone recordings, text messages and email correspondences between AP and SO.

### **Subject Officer (SO)**

On March 15, 2024, the subject officer's legal counsel provided SIRT-NL investigators with a written response to the allegations. The correspondence also included text messages exchanged between the subject officer and the affected person. On April 24, 2024, SIRT-NL investigators obtained an audio/video recorded statement from the subject officer. The following is an amalgam of the evidence he provided. Again, I will refer only to the most relevant portions.

The subject officer met the affected person in the summer of 2018, following which, they had an "on again and off again relationship" until September 26, 2021. They had a child together in May 2021.

In early September 2021, AP expressed an interest in attending SO's relative's wedding. SO arranged for them to stay in the same hotel room together.

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The subject officer visited and stayed with the affected person from September 9 to September 12. During that weekend, they discussed their relationship and enjoyed their family time together. They engaged in consensual sex. The subject officer provided investigators with a description of what transpired.

After SO and AP went to bed, they spooned, with AP in front and SO behind. AP began pressing her buttocks into SO's penis and then reached behind and "physically manipulated" SO's penis. SO and AP began touching and kissing. AP removed her pants and SO removed his shorts. They then engaged in consensual sex, after which, they went to separate washrooms, returned to bed, and continued spooning. While talking, AP stated "I needed that". SO reiterated to the investigator the intercourse was consensual and initiated by AP.

SO stated to investigators that, unknown to AP, he suffered from erectile dysfunction and had previously been prescribed Tadalafil (Cialis). SO stated that, due to this condition, SO could not become erect without physical stimulation.

Between September 24 and September 26, AP and their child attended Halifax for SO's relative's wedding. On September 26, 2021, SO advised AP he was no longer prepared to continue their relationship. Subsequently, AP texted SO in relation to finding a counsellor to help them communicate.

In October 2021, SO and AP agreed SO would see their child every weekend in Cape Breton. In April 2022, SO purchased a house in Cape Breton. On June 22, 2022, SO filed an application in family court. On December 8, 2022, the court issued an Interim Order with respect to parenting. SO believed AP's allegations are an attempt to interfere with the family court proceedings regarding custody of the child.

Subsequent to the interview, in response to the SIRT-NL investigator's request, SO provided the following:

- Medical records corroborating the diagnosis of erectile dysfunction.
- Text messages between SO and AP for the period of September 9 to 16, 2021.
- Text messages between SO and AP pertaining to AP recommending counselling and mediation after September 26, 2021.

## Civilian Witnesses

SIRT-NL investigators interviewed seven civilian witnesses, including AP's parents, friends, lawyer, and therapist. The purpose of the interviews was largely to corroborate/refute AP's evidence that she disclosed the sexual assault and harassment to these individuals and the details and timing of the disclosures. While the witnesses largely corroborated AP's evidence regarding the disclosures, there were some inconsistencies:

- W4 indicated to SIRT-NL that AP disclosed to him the sexual assault occurred in "early 2021".
- W6 told investigators AP described the sexual assault to her by stating AP fell asleep and woke up with SO on top of her.

## Recordings, Text Messages and Daily Planner

### Recordings

The affected person provided SIRT-NL investigators with several recordings she had made. Some of these were audio-recordings of conversations between AP and SO. Others were audio-recordings of AP verbally documenting facts in relation to her relationship with SO and the parenting of their child. Upon review of all the recordings, the following have been identified as most relevant to this investigation.

- **2021-09-19** (52 minutes and 51 seconds in duration): This is a telephone call from AP to SO, wherein they discuss travel plans for SO's relative's wedding. SO agrees to stay together at one hotel as opposed to separately at two hotels. AP and SO also discuss the parenting of their child, and the difficulties in their relationship.
  - At 13:55 of the recording, AP states she has tried to make things work while SO continues to say the relationship was over.
  - At 19:40, AP states she and SO had a great time over the past weekend and got along well. SO suggests they start counselling and set up a schedule for him to see their child. AP agrees.
- **2021-09-26** (21 minutes and 6 seconds in duration): SO is not present. AP discusses SO not understanding how difficult it is to travel and how SO talks about being a family but has said on three occasions that he was done. He sometimes did not visit them when he was in Cape Breton. AP conveys her belief



that SO only wants a relationship to have access to their child. AP states she is in love with SO but does not love him for some of the mean things he has said to her. She references sleeping in separate beds over the past weekend and that she is not interested in cuddling or having intercourse with SO. There is no reference to the alleged sexual assault or the alleged incident at SO's relative's wedding.

- **2021-09-26** (11 minutes and 11 seconds in duration): SO is not present. AP speaks about SO restricting her access to his personal vehicles and about her expected financial obligations when she is in Yarmouth. AP states she is not comfortable being in Yarmouth and would prefer raising the child in Cape Breton where she is comfortable. AP makes no reference to the alleged sexual assault or the alleged incident at SO's relative's wedding.

### Text Messages

On September 16, 2021, at 2:23:01, the affected person texted the following to the subject officer:

Why are we in two different hotels again? Availability or cost? The more I think about it, it would make more sense to be in one place. It will be enough in a hotel for a couple of nights let alone switching hotels. Packing and unpacking etc. If we can stay in the same room that would be better. I will have a long day on Friday driving there with her alone, get settled and go to bed. Saturday will be a super bust day with the wedding and family time and Sunday drive back. Those 3 days will be a lot for her. Hotels are challenging on a good day with having a clean place to bath her, clean bottles and pump and not having a comfy chair to nurse and feed. Plus her sleeping in a playpen, not having her swing or place to walk outside etc. ...

### Daily Planner

The affected person's planner included the following entries around the time of the alleged incidents:

- July 13, 2021: "Fight. Done - legal threat".
- August 27: "Fight. Done - legal advice Monday".
- September 9: "[SO] arrived CB".
- September 11: "sex".
- September 12: "[SO] left for Yarmouth".

- September 24: “Drove to Halifax alone w [child]”.
- September 25: “Attended wedding”.
- September 26: Had disagreement / discussion. He wants to see her weekly. I won’t travel every 2-3 weeks with [child]. [SO] invited us to cottage for Thanksgiving”.
- September 26: “Travelled home to CB Alone w [child]”. [emphasis in original]
- September 29 “text fight / comments”.
- September 30: “text fight / comments”.
- October 22: “I text [SO] @1:25pm to tell him if he wants to come next weekend – that’s fine. No reply. [SO] did not facetime. 0 contact today”.
- November 28: [SO] 830am – Stayed in spare room overnight”.

## Issue and Conclusion

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

The affected person alleges the subject officer sexually assaulted her by having sexual intercourse with her without her consent, and that the subject officer criminally harassed her by making veiled threats to pressure her into having sex with him. The subject officer acknowledges having sex with the affected person on September 11, 2021, but states the sex was consensual and was initiated by AP. He denies any criminal harassment occurred. He believes AP’s allegations are an attempt to interfere with family court proceedings in relation to the parenting of AP’s and SO’s child.

During the investigation, SIRT-NL investigators interviewed the affected person and the subject officer. Both also provided documentation. Most notably, the affected person provided text messages, her daily planner, audio-recordings, and notes she had prepared in advance of her interview with SIRT-NL investigators. The subject officer provided a written statement, text messages and medical records.

As the alleged incidents occurred in private, details must come, for the post part, from the affected person and/or the subject officer. The credibility and reliability of their statements is therefore central to the investigation. In assessing an individual’s credibility, it is necessary to examine all internal and external corroborating and refuting evidence. Minor inconsistencies or discrepancies are natural. We cannot expect an individual to have a perfect memory of every detail. Significant inconsistencies or discrepancies, however, on key points, may be more problematic.

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In assessing the statements given by the affected person and subject officer in isolation, I found both individuals to appear credible. Both appeared to be up front and cooperative with investigators. While I am mindful of taking a trauma-informed approach in assessing AP's evidence, a review of some of the independent evidence gathered raises several points of concern, which I will now discuss.

From a review of the materials AP provided to SIRT-NL, including her day planner and audio recordings, it is evident she was careful to document everything pertaining to the relationship and the parenting of the child. As stated above, AP even at times made audio recordings of herself speaking with nobody else present. I would describe these recordings as an audio diary. These were made by AP privately. She controlled who had access to them.

Despite this careful and private documentation, AP makes no mention of any sexual assault or sexual harassment by SO. In AP's day planner, she only noted "sex" on September 11, the day of the alleged assault (as stated, SO acknowledges they had sex that day). AP also made several lengthy voice recordings in late September, only weeks after the alleged assault, but makes no reference to the incidents. Moreover, in one of the phone recordings, AP states she and SO had a great time [during the weekend of the alleged assault] co-parenting and got along.

As mentioned, SIRT-NL investigators received numerous text messages depicting communications between AP and SO in the weeks following the alleged incidents. Of relevance is a conversation regarding the accommodations at SO's relative's wedding. The discussion occurred five days after AP was allegedly assaulted by SO while the two were sharing a bed. Yet AP suggests changing their plans to stay together in the same hotel room:

AP: Why are we in two different hotels again? Availability or cost? The more I think about it, it would make more sense to be in one place. It will be enough in a hotel for a couple of nights let alone switching hotels. Packing and unpacking etc. If we can stay in the same room that would be better.

Here, AP is asking to stay in the same hotel room with a person she alleges sexually assaulted her just five days earlier. While I recognize the reality that victims of sexual assault sometimes make decisions or behave in ways that may not necessarily make sense to an uninvolved third party, the above text message is evidence that must be considered. It tends to support SO's version of events more so than it does AP's.

There are also inconsistencies between AP's evidence and the statements of two civilian witnesses.

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When SIRT-NL investigators interviewed W4, W4 stated AP told him she was sexually assaulted by SO in “early 2021”. This is inconsistent with AP’s allegation the assault occurred on September 11, 2021.

Secondly, according to W6, AP described the incident to her as AP falling asleep and later waking up to SO being on top of her. Again, this is inconsistent with AP’s statement to investigators that she fell asleep and woke up to SO pushing himself behind her.

Finally, I must consider the fact that AP’s allegations arose during a family court proceeding in relation to the parenting of AP’s and SO’s child. While this is far from determinative by any means, it is a relevant consideration. There is at the very least some level of animosity between the parties and a motivation for AP to make a false allegation against SO.

Again, in isolation, I found both individuals to be credible; however, the independent evidence includes contradictions to AP’s version of events and undermines her credibility. For these reasons, the evidence gathered does not establish reasonable grounds to believe the subject officer committed a criminal offence. I will not lay a charge in this matter.

This file is now concluded.

**Final Report prepared by:**

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Serious Incident Response Team - Newfoundland and Labrador  
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