

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2023-051

Referral from

Halifax Regional Police

October 26, 2023

Erin E. Nauss
Director
May 7, 2024

MANDATE OF THE SiRT

The Serious Incident Response Team (“SiRT”) has a mandate under the Nova Scotia *Police Act* and through agreement under the New Brunswick *Police Act* to investigate all matters that involve death, serious injury, sexual assault, and intimate partner violence or other matters of a public interest to be investigated that may have arisen from the actions of any police officer in Nova Scotia and New Brunswick.

At the conclusion of every investigation, the SiRT Director must determine whether criminal charges should result from the actions of the police officer. If no charges are warranted the Director will issue a public summary of the investigation which outlines the reasons for that decision, which must include at a minimum the information set out by regulation. Public summaries are drafted with the goal of adequate information to allow the public to understand the Director’s rationale and conclusions.

In cases where charges are laid, and since the matter is currently before the courts, this report will not discuss the facts of the matter in detail. To do otherwise might compromise the fair trial interests of the accused. The Director may choose to provide a supplemental summary of the investigation at the conclusion of the prosecution.

INCIDENT SUMMARY

On October 26, 2023, the Halifax Regional Police “HRP” referred a matter to the SiRT regarding the conduct of an off-duty HRP officer and an allegation of domestic assault.

As a result of the allegations, the SiRT commenced an investigation. In the course of the investigation, the Affected Party (“AP”), and three civilian witnesses were interviewed, and other evidence was gathered. The Subject Officer declined to provide a statement to the SiRT.

Based on the evidence considered, there are reasonable and probable grounds to believe that between January 1, 2020, and September 1, 2021, the Subject Officer, Constable Robert Baird committed assault against a female known to him.

RELEVANT LEGISLATION

Criminal Code

Assault

265 (1) A person commits an assault when

- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;

(b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or

(c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

Application

(2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

Consent

(3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of

(a) the application of force to the complainant or to a person other than the complainant;

(b) threats or fear of the application of force to the complainant or to a person other than the complainant;

(c) fraud; or

(d) the exercise of authority.

Accused's belief as to consent

(4) Where an accused alleges that he believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.

Assault

266 Every one who commits an assault is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding five years; or

(b) an offence punishable on summary conviction.

LEGAL ISSUES

An assault under Section 266 of the *Criminal Code* takes place when a person commits assault as set out in Section 265. If there is evidence to show that a person applied force intentionally to another person without their consent, or stops another person while wearing a weapon, they have committed assault. In the present case, following our investigation I have reasonable and probable grounds to believe that Constable Baird committed an assault against the complainant.

CONCLUSION

After a review of the evidence, the investigation led to the conclusion that there were reasonable and probable grounds to lay charges. On May 7, 2024, a charge of assault was laid against Robert Baird.