

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2023-050

Referral from

RCMP

October 10, 2023

Erin E. Nauss
Interim Director
January 4, 2024

MANDATE OF THE SiRT

The Serious Incident Response Team (“SiRT”) has a mandate under the Nova Scotia *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.

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 25, 2023, the RCMP referred a matter to the SiRT regarding conduct of an off-duty Halifax Regional Police “HRP” officer. The HRP had contacted the RCMP about the incident earlier that day about an alleged domestic assault.

As a result of the allegations, the SiRT commenced an investigation. The investigation that led to the charges outlined below was completed on January 4, 2024. In the course of the investigation, the Affected Party (“AP”) was interviewed, and other evidence was gathered.

On April 29, 2023, the Subject Officer, Constable Jacob Farr committed assault against his partner, the AP.

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, they have committed assault. In the present case, there is evidence to show that Constable Farr committed assault against the AP.

CONCLUSION

After a review of the evidence, the investigation led to the conclusion that there were sufficient grounds to lay charges. On January 4, 2024, a charge of assault was laid against Jacob Farr.