

Annual Report 2013-2014

SiART

Nova Scotia's Independent
Police Investigative Agency

TRUST - CONFIDENCE
INTEGRITY - INDEPENDENCE

September 22, 2014

Honourable Lena Metlege Diab
Minister of Justice
7th Floor
1690 Hollis Street
PO Box 7
Halifax, NS B3J 2L6

Dear Minister Metlege Diab:

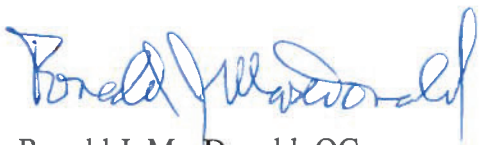
I have the honour and pleasure of delivering to you the second annual report of the Nova Scotia Serious Incident Response Team. This report is mandated by Section 26N of the *Police Act*.

This report covers SiRT operations from April 1, 2013 to March 31, 2014.

The report provides the statistics required by Section 26N of the *Police Act*, and Section 10 of the Serious Incident Response Team Regulations made under the *Police Act*. I also provide general information about the Team, and include comments about the Team's operations and some trends we have observed in relation to the serious incidents that SiRT investigates. In addition, I have included a report on what we did to accomplish the goals we established last year and an outline of our goals for the upcoming year.

The Serious Incident Response Team continues to be proud of the work we do and the role we are able to play in Nova Scotia's justice system. We thank you for the opportunity to work on behalf of the public of Nova Scotia in this capacity.

Yours very truly,

A handwritten signature in blue ink that reads "Ronald J. MacDonald". The signature is fluid and cursive, with the first name being the most prominent.

Ronald J. MacDonald, QC
Director

Contents

Message from the Director	1
The Team.....	4
Mission and Mandate	5
Independence	5
Investigative Process.....	6
Files By Police Agency	8
Types of Investigations & Investigations with Charges	9
Number & Types of Investigations By Police Agency.....	10
SiRT Team Goals 2013 - 2014	11
Looking Ahead – SiRT Team Goals 2014 - 2015.....	12

Message from the Director



Ronald J. MacDonald, QC

I am pleased to report on the second year of operation of the Serious Incident Response Team. The Team became operational on April 20, 2012. After a first year that included many tasks associated with the start-up process, our second year has seen the Team develop an organizational comfort with its role in the oversight of police in Nova Scotia.

As Director I have continued my outreach to police and the community to provide education about SiRT. The ongoing need for that work has been reduced as Nova Scotians become more familiar with SiRT through our investigations and public reports.

However, the need for some ongoing training of police has been identified and will be addressed in the coming year. Additionally, active community engagement is always important and is a goal for the next year as well. Our other goals are included within this report to let Nova Scotians know SiRT is conscious of the ongoing need to improve in the effort to provide the best independent investigative service possible.

In our second year SiRT opened 25 investigations, three more than the previous year. During those investigations, SiRT conducted interviews with 186 civilian witnesses, and 39 police witnesses. A breakdown of the number of files by agency, types of investigations conducted, and investigations where charges were laid are included later in the report.

In addition, SiRT opened 15 “Review Files”. These are files where investigative work is carried out to determine whether a matter meets SiRT’s mandate under subsection 26I(3) of the *Police Act*. This can often require significant time expenditure. On top of those matters, 47 other referrals were received which did not meet SiRT’s mandate, 22 from police, and 25 from members of the public. A referral involves a request or inquiry about whether a matter meets SiRT’s mandate. Typically police referrals are dealt with in a relatively short period of time. Some public referrals may involve additional resources, generally expended to ensure the member of the public has had an opportunity to fully explain the nature of their matter, and for SiRT to fully explain why a matter did not meet our mandate.

While the number of investigations sometimes challenges SiRT resources, we have been able to properly respond to each matter thanks to our ability to recognize certain investigative efficiencies. In particular, our growing experience with the types of investigation that require our intervention allows SiRT investigators to handle more work in less time and with fewer staff resources. Of course, this is only possible because of the significant experience and work ethic each of the investigators brings to the job. It is because of these excellent investigators SiRT is able to handle what has been a higher than expected caseload.

SiRT laid charges in five cases this past year. Four of the five were for off duty conduct. Our experience shows that most charges are not related to on duty conduct. The one case that did involve on duty conduct was laid under the *Motor Vehicle Act*. In all other cases I determined that no charges were justified by the facts and their application to the law. Often, my findings

determine the officers' conduct was fully justified at law. While SiRT's charge rate seems to exceed other jurisdictions, this appears due to the fact that, unlike other jurisdictions, SiRT assumes responsibility for all cases of domestic violence allegations against a police officer.

As required by provisions of the *Police Act* that relate to SiRT, I published public "summaries of investigation" at the conclusion of each matter. Sixteen reports were issued this year. The transparent nature of these reports helps to ensure the public understands the decisions made by our independent team. All reports and media releases are posted on the SiRT website: sirt.novascotia.ca

After the experience of two years, I have noticed certain tendencies in our cases. At the same time, our numbers are small, and the identification of definite trends is somewhat premature.

We have seen a decrease in the rate of domestic violence allegations over the past year. The number of such cases that have led to charges are either consistent with or lower than the general public.

SiRT investigated two death in custody cases in the past year. Given the size of our province this is a significant number. One investigation was concluded this year, while the other is outstanding. Those two investigations, and one in custody case last year which led to serious injury, may suggest the need for further study regarding the detention of individuals who may be at risk of health complications.

Perhaps the most significant issue disclosed by the first two years of SiRT's work is that the majority of people seriously injured or killed in serious incidents involving police are people living with mental illness. It is important to note that thus far, in these completed investigations involving death or serious injury, I have found the police did not commit any offence. Generally, their actions are justified at law, and often the cause of the injury or death is due to the actions of the affected party. While it is difficult to identify the cause of why so many persons living with mental illness come into contact with the police, the bottom line is they do. As a result, police are left with the difficult task of dealing with those who are often acutely ill. These cases raise the question: what steps, if any, can be taken to reduce the occasions when the mentally ill are placed into these situations?

Just prior to the preparation of this report, the Provincial Legislature enacted legislative changes to the *Police Act* designed to assist in the effective operation of SiRT. Importantly, our mandate has been clarified to ensure that the Director is able to independently assume an investigation into all serious incidents, including those which are of significant public interest. This was consistent with a change in SiRT policy developed after consultation with police and the Department of Justice. SiRT policy now allows for the assumption of injury cases, which do not involve serious injury, in cases where other factors raise significant public interest issues that are best dealt with by a SiRT investigation.

In closing, I must again acknowledge the staff of SiRT who work diligently every day to ensure that the public can have the utmost trust and confidence in the investigation of serious incidents arising from the actions of police in the province. The four SiRT investigators, and administrative assistant, are certainly among the best in the business.

We are all honoured and challenged by our unique role in Nova Scotia's justice system, and are grateful for the opportunity to do this work.

The Team

The Serious Incident Response Team includes:

- Director (Civilian). The first and current Director of SiRT is Ron MacDonald, Q.C.
- Two civilian investigators, each with over 34 years of criminal investigative experience. These are Terry Balleine and Keith Stothart.
- Two full-time seconded police officers who answer only to the Director while seconded, one from the Halifax Regional Police, S/Sgt. Don Moser and one from the Royal Canadian Mounted Police (RCMP), S/Sgt. John Langille.
- Other police resources as required.
- Administrative support provided by Joanne Fisk.



The SiRT Team from left to right: Don Moser, Seconded Investigator, Keith Stothart, Civilian Investigator, Ron MacDonald, Director, John Langille, Seconded Investigator, Terry Balleine, Civilian Investigator. Missing from photo: Joanne Fisk

The team operates independently of law enforcement agencies, with decision-making authority residing with the civilian team Director.

The combination of civilian investigators and seconded police officers is required to achieve a balance between independence and operational effectiveness.

Under the sections of the *Police Act* which created SiRT, a current or former police officer cannot be the Director.

The budget of the Team is approximately \$800,000 annually. The Province covers all administrative and overhead costs associated with the Director, provincial investigators, administrative support, and operational expenses. Seconded police resources are provided by the relevant police agency.

Mission and Mandate

The mission of the Nova Scotia Serious Incident Response Team is:

“To ensure Nova Scotians have the utmost trust and confidence in the investigation of serious incidents involving police.”

SiRT’s mandate is to investigate all matters that involve death, serious injury, sexual assault and domestic violence or other matters of significant public interest that may have arisen from the actions of any RCMP or municipal police officer in Nova Scotia.

SiRT has determined that a serious injury includes:

- fractures to limbs, ribs, head or spine;
- burns, cuts, or lacerations which are serious or affect a major portion of the body;
- loss of any portion of the body;
- serious internal injuries;
- any injury caused by gunshot;
- admission to hospital as a result of the injury (not including outpatient care followed by release).

At the conclusion of every investigation, the Director of SiRT will determine whether or not criminal charges should result from the actions of the police officer. The Director will issue a public summary of the investigation that will outline the reasons for that decision.

Independence

SiRT is independent of government and police. The Director of SiRT is a civilian, and is responsible for the general direction of all investigations and whether a charge should be laid. This ensures a more transparent and independent way to investigate serious incidents involving police.

Investigative Process

How do we decide if we should be involved? The Director receives a referral, or assumes a case on the Director's own initiative and after considering the nature of the incident determines whether the matter fits our mandate.

Cases will often meet the mandate even though there is no allegation of wrongdoing on behalf of the police.

How do we respond? If the matter does not fit SiRT's mandate, no investigation is conducted. The police service and member of the public, who made the referral, if relevant, are notified.

If the matter fits SiRT's mandate, a primary SiRT investigator and as many additional investigators as necessary are assigned to the case. The Team attends the incident scene as quickly as possible and an investigation begins.

What happens when SiRT conducts an investigation? SiRT engages in a thorough and balanced investigative process, which generally includes (but is not limited to), the following:

- examining the scene and securing all physical evidence;
- monitoring the medical condition of anyone who has been injured and consulting with medical personnel about the nature and cause of injuries;
- locating and securing the cooperation of all witnesses, including police witnesses. This will likely involve the canvassing of the area where the incident occurred for additional witnesses;
- seizing police equipment for forensic examination;
- having all forensic examination conducted as necessary in the case;
- consulting with the medical examiner if there has been a death;
- notifying next of kin and liaising with the family of the deceased or injured parties to keep them informed;
- appointing a community liaison to work with the affected party and the Team where appropriate.

During the course of the investigation, the SiRT investigative team prepares various internal reports and attends investigative team meetings designed to keep the Director informed of their progress. Upon completion of the investigation, the primary investigator is required to submit an investigative report, which is reviewed by the Director.

SiRT will usually issue a media release at the outset of a case to assure the public that an independent investigation of the serious incident has begun. Other releases may occur during investigations that are necessary.

After SiRT becomes involved, police may need to continue their criminal investigation into the initial incident. For example, police may have been responding to a robbery when they became involved in the serious incident. SiRT works with the police agency to ensure that the interests of justice are met.

Who decides what happens after the investigation? The Director determines whether a charge should be laid in relation to the actions of the police who were the subject of the investigation. Throughout the investigative process SiRT liaises, as necessary, with the NS Public Prosecution Service (Crown). If a charge is laid, SiRT turns the case over to the Crown for prosecution and the SiRT investigator(s) may provide support to the Crown in its prosecution.

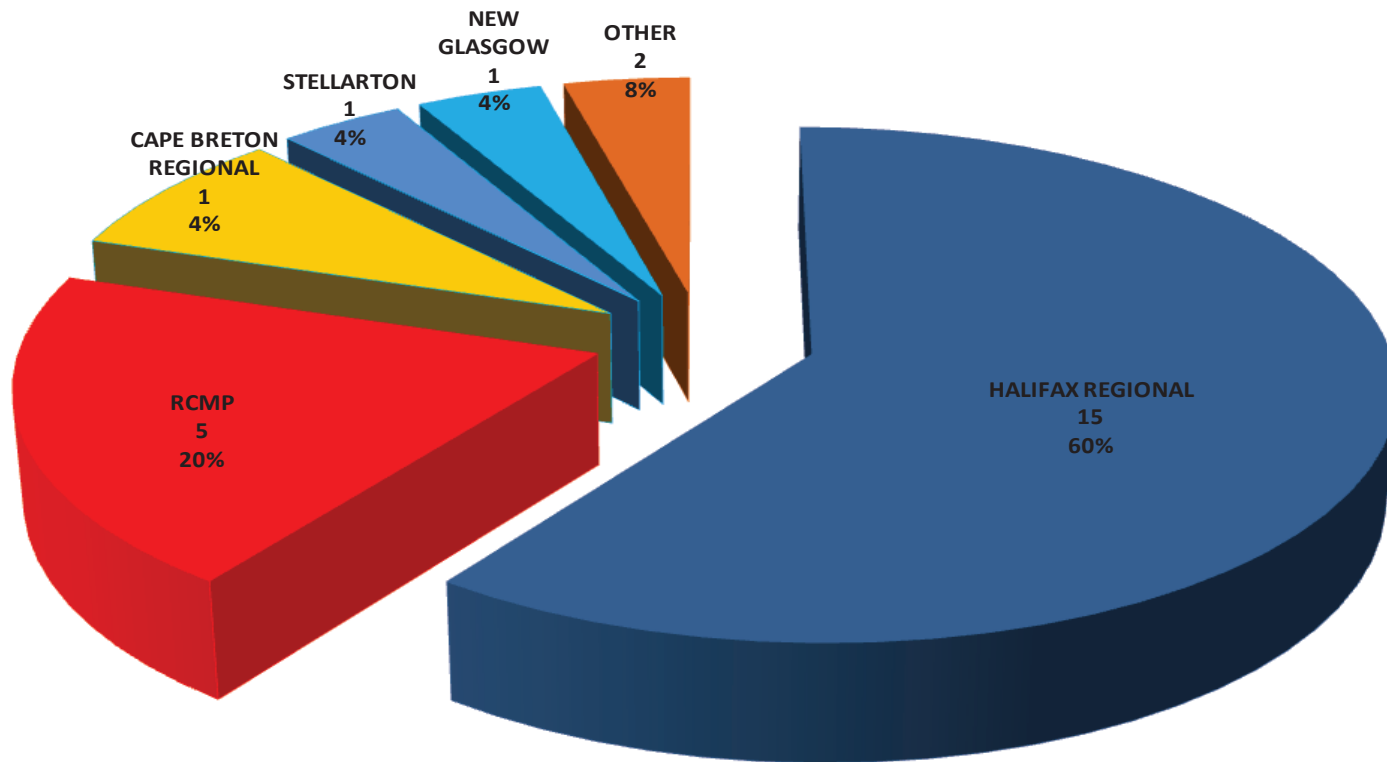
What information is made available? At the end of an investigation the Director of SiRT is required to make a summary of the investigation available to the public. That summary, subject to the *Freedom of Information and Protection of Privacy Act* and the needs of the investigation, will provide the information necessary to explain the reasons behind the Director's decision.

What about those involved? Particular attention is paid to the need for the affected person or next of kin to have a full understanding of the investigative results. This is generally accomplished through direct personal contact by the lead investigator and the Director. Similar contact is made with the police officer(s) who is (are) the subject of the investigation.

Files By Police Agency

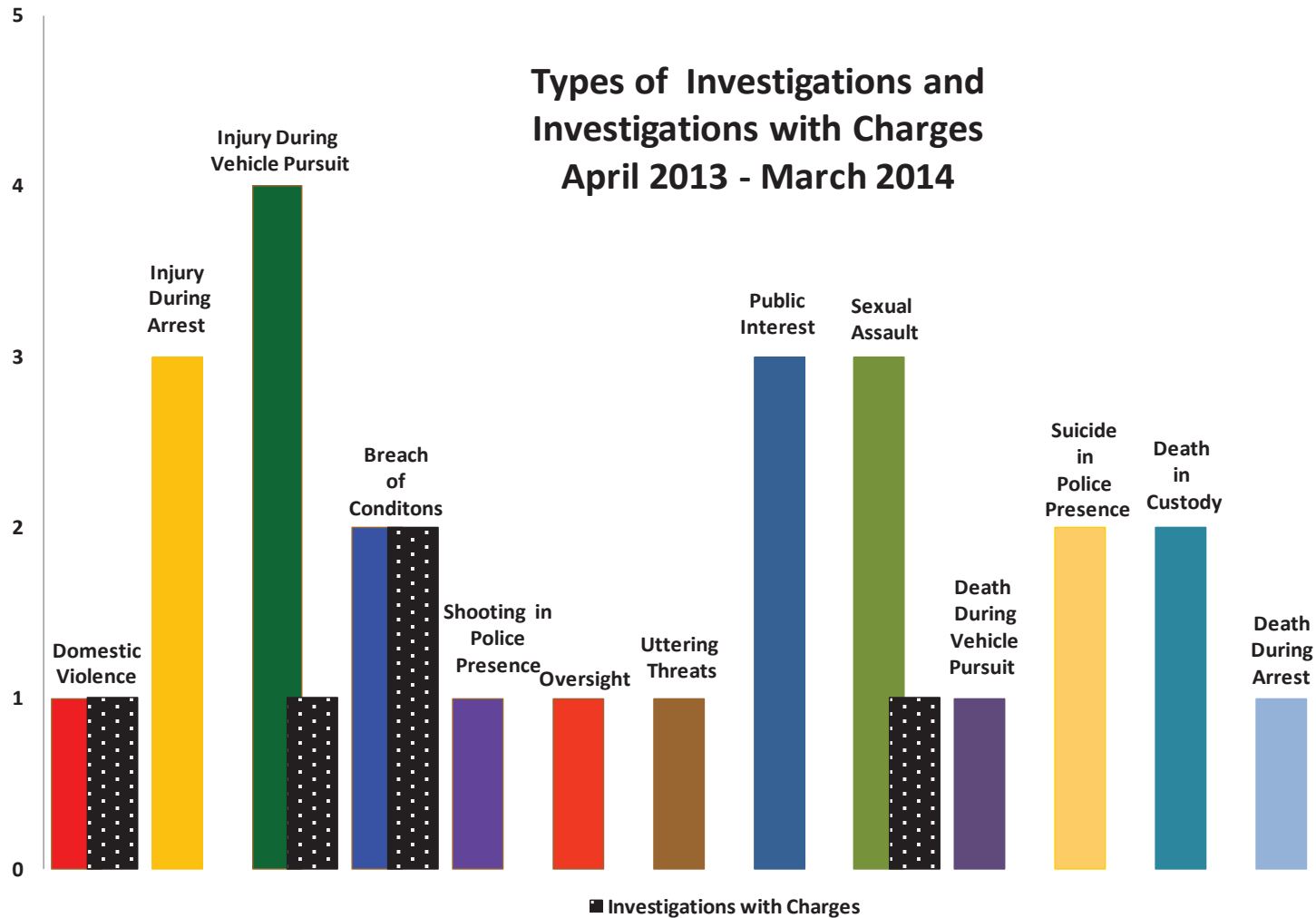
In the second year of operation, SiRT conducted 25 investigations.

SiRT Investigations By Police Agency April 2013 - March 2014

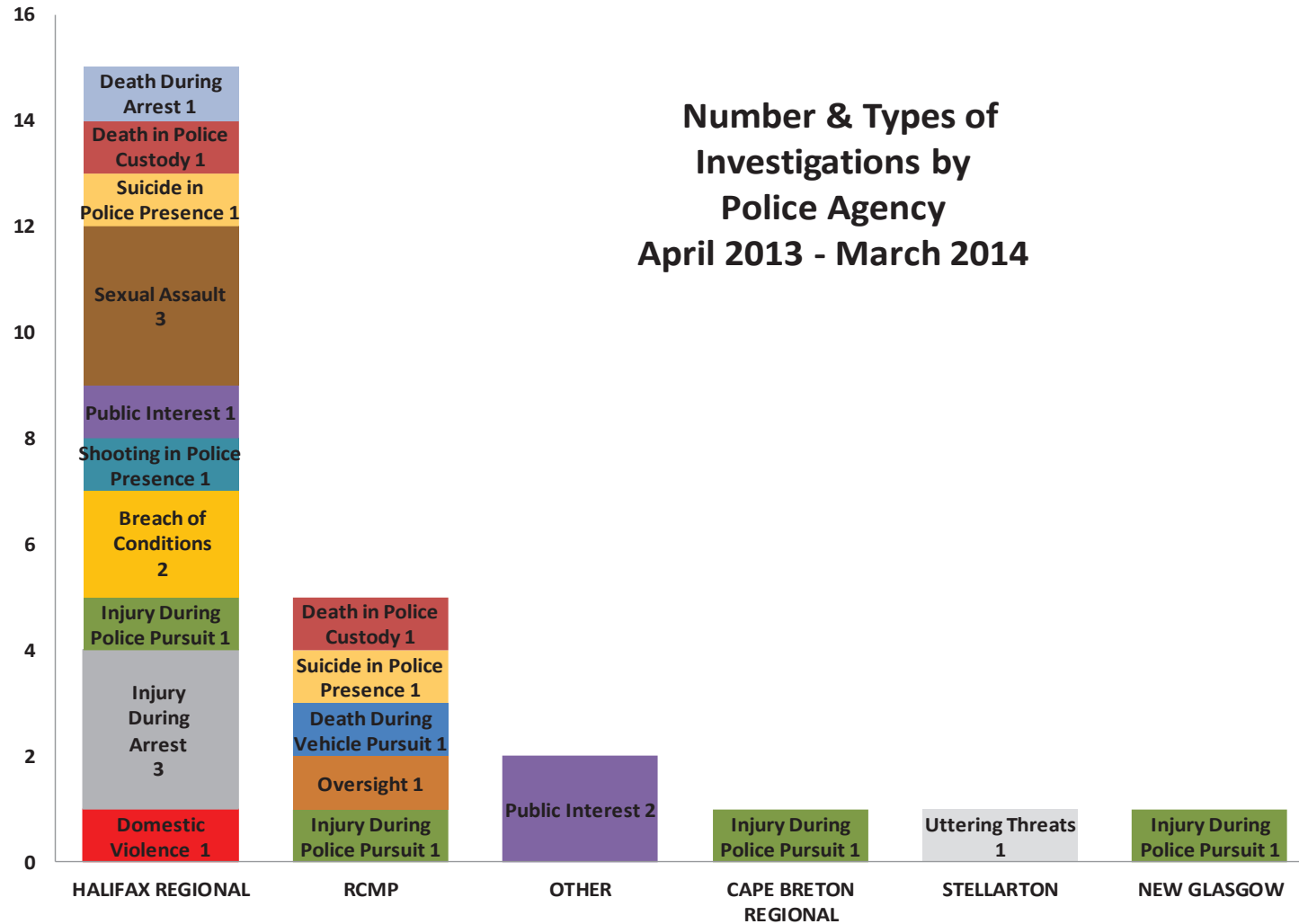


Types of Investigations & Investigations with Charges

The types of incidents SiRT investigated included: Domestic Violence, Sexual Assault, Injury during Arrest, Death in Custody, and Shooting in Police Presence. SiRT laid a total of five charges.



Number & Types of Investigations By Police Agency



SiRT Team Goals 2013 - 2014 Outcomes

Issue	Desired Outcome	How to get there	Timeline to Completion of Goals	Outcomes
Timeliness and Transparency	Defined process to assure timeliness and transparency about length of time investigation takes to be completed	<ol style="list-style-type: none"> 1. Regular team meetings 2. System of updates to AP 3. Report will contain section which identifies issues and reasons 	October 1, 2013	<ol style="list-style-type: none"> 1. Team meetings held weekly and tracking form for updates and goals developed. 2. Policy requires regular updates to AP 3. Policy developed that public reports contain explanation for delays.
Community Involvement	Enhance the visibility of SiRT in all communities, and focus on education in relation to cultural competence training to allow for more effective investigations within identifiable communities.	<ol style="list-style-type: none"> 1. Continue outreach 2. Obtain team training 	March 30, 2014	<ol style="list-style-type: none"> 1. Director presented at meeting of Assembly of Nova Scotia Mi'kmaq Chiefs. 2. SiRT co-sponsored a session on "Cultural Competence" for SiRT and other justice participants.
Consider Scope of Mandate	Consider issues surrounding statutory mandate and give recommendations to Department of Justice for consideration of Statutory or Regulatory amendments.	<ol style="list-style-type: none"> 1. Consider recommendations regarding regulatory or legislative changes 2. Assist with Justice process 3. Make recommendations to Dept. of Justice 	October 1, 2013	<ol style="list-style-type: none"> 1. Discussions with Dept. of Justice and Police led to amendment of SiRT policy regarding statutory mandate. 2. Policy changes made in lieu of legislative changes.
General Legislative Amendments	Work to ensure <i>Police Act</i> provisions are consistent with experiences from first year.	<ol style="list-style-type: none"> 1. Consider recommendations regarding regulatory or legislative changes 2. Assist with Justice process 3. Make recommendations to Dept. of Justice 	March 30, 2014	<ol style="list-style-type: none"> 1. Working with Dept. of Justice, legislative changes recommended. 2. Changes enacted in May, 2014.
Track personnel resources	Develop a system that identifies personnel hours expended on a per file or other task basis	<ol style="list-style-type: none"> 1. Develop time capturing tool 2. Develop policy regarding utilization of tool. 	October 1, 2013	<ol style="list-style-type: none"> 1. Completed. 2. Formal written policy to be developed.

Looking Ahead – SiRT Team Goals 2014 - 2015

Issue	Desired Outcome	How to Get There	Timeline to Completion of Goals
Police Supervisors and Front Line Personnel need SiRT resource materials	<ol style="list-style-type: none"> 1. Police Supervisors will understand when and how to contact SiRT in a timely manner regarding cases involving a possible Serious Incident. 2. Front Line police will be able to identify situations that may involve a Serious Incident and require notification of their supervisor 	<ol style="list-style-type: none"> 1. Develop training material for Police management and Front Line personnel that explains SiRT's mandate, the definition of Serious Incident, and gives practical advice about the steps to take whenever a serious incident may have occurred. 	March 31, 2015
Enhancement of Public's understanding of SiRT, its mandate, and processes	<ol style="list-style-type: none"> 1. Public will understand the mandate of SiRT and how it carries out its role. 2. Public will understand the distinction between SiRT and the Office of the Police Complaints Commissioner. 	<ol style="list-style-type: none"> 1. Develop overall communications strategy. 2. Implement communication enhancements on website. 3. Develop and distribute hardcopy SiRT flyer for public education. 	March 31, 2015
SiRT's investigations have identified issues that impact on the number of serious incidents occurring in Nova Scotia	<ol style="list-style-type: none"> 1. SiRT will identify particular issues that may require the development of alternate policies and approaches to social issues and policing practices that may reduce the number of serious incidents. 	<ol style="list-style-type: none"> 1. Identify two relevant issues for 2014-2015 2. Present the issues to relevant parties and government agencies. 3. Assist with discussions designed to consider alternate approaches. 	March 31, 2015
Community Involvement	<ol style="list-style-type: none"> 1. Continue to enhance the visibility and understanding SiRT in all communities. 	<ol style="list-style-type: none"> 1. Deliver presentations directly to community groups. 	March 31, 2015
Need for persons able to administer an oath	<ol style="list-style-type: none"> 1. SiRT would always have in house access to a person capable of administering an oath. 	<ol style="list-style-type: none"> 1. Work to have select personnel qualified as Commissioner of Oaths. 	October 31, 2014
SiRT investigators need ongoing training	<ol style="list-style-type: none"> 1. SiRT investigators will receive regular training opportunities. 	<ol style="list-style-type: none"> 1. Work to identify appropriate training for SiRT investigators. 2. Training will be provided on regular basis. 	March 31, 2015
SiRT Policy Manual	<ol style="list-style-type: none"> 1. SiRT will have a complete policy manual outlining policy and practices on all issues relevant to the operation and administration of SiRT 		December 31, 2014



1256 Barrington Street
Suite 203
Halifax, Nova Scotia B3J 1Y6
902.424.2010
sirt.novascotia.ca