

# SiRT

SERIOUS INCIDENT  
RESPONSE TEAM

## Summary of Investigation

SiRT file #: 2013-013

Stellarton Police Service

May 27, 2013

Ronald J. MacDonald, QC

Director

August 1, 2013

**Facts:**

On Monday, May, 27<sup>th</sup>, 2013, at 8:40 a.m., SiRT received a call from the Deputy Chief of the New Glasgow Police Service (NGPS). They had responded to a request for assistance from the wife of a member (Officer 1) of the Stellarton Police Service (SPS). The family lived in New Glasgow. As a result of information received, the matter was referred to SiRT as a possible case of domestic violence. The wife is considered the Affected Person in this matter. (AP)

Two SiRT investigators responded that day. The investigation was concluded on July 17, 2013. It included a review of the NGPS file and the taking of a statement from AP. Advice was sought from the Public Prosecution Service in relation to the case as well.

Given the investigative issues involved with this matter, no media release was issued by SiRT at the outset of the investigation. It is SiRT policy to issue a media release at the outset of all investigations unless to do so might compromise investigative integrity. It was determined that could be the case in this matter.

The investigation disclosed that on May 25, 2013, Officer 1 and AP were involved in a heated discussion at home. A separation of the couple was imminent. In the context of that argument, Officer 1 was reported to say to AP: "I could punch you right now" or "I could punch you in the throat" or words to that effect. Officer 1 then hit a door frame and may have kicked a toy as he left the room where the argument occurred.

Officer 1 did not use any physical force against AP, and never used such force during their relationship. AP did not believe he would strike her, and was not afraid of him. She felt the comment was made in a fit of anger and out of frustration. Officer 1 never said he was actually going to strike her.

**Relevant Legal Issues:**

The central issue is whether the comments by Officer 1 constitute the offence of uttering threats under Section 264.1 of the *Criminal Code*. To be an offence the words spoken must be meant to intimidate or to be taken seriously. The test requires that a reasonable person would consider that the words conveyed a threat of bodily harm, after considering the words that were spoken, the context in which the words were spoken, and the person who received the threat. The person who is the object of the comment does not have to feel threatened for there to be an offence. However, how that person perceives those words may be relevant when determining the context of the words spoken.

## **Conclusions:**

AP is unable to specify the exact words Officer 1 used. She does state he said: "I could..." This qualifies the words spoken. It eliminates a current threat to punch, conveying only that he felt like punching. In addition, the words spoken were not accompanied by any violent gestures toward AP that would infer an intent to intimidate. Instead, Officer 1 walked away from AP after making the comment. Indeed, AP herself characterized the comment as one that might be made to express frustration, not to say the person was actually going to commit the act. As well, AP did not feel threatened nor did she think Officer 1 would act on the comment.

Issues related to domestic violence in Nova Scotia must always be considered carefully. An investigation must fully consider the background of a matter, and, in addition to the evidence of a complainant, look for all other available evidence. In this case, the statement of AP is the only real evidence of the incident. She presented as a capable, credible, and self-confident witness. She appears to have related the circumstances of the incident as completely as possible.

There is little question that the words spoken by Officer 1 can be considered inappropriate, and should not be used during any discussions with a person's spouse, or anyone for that matter. However, inappropriate words do not necessarily constitute a criminal offence. In this case, SiRT considered all of the facts, in particular the actual words spoken, the context in which they were spoken, and how they were perceived by AP. SiRT also sought advice from the Public Prosecution Service. This is a situation where words were spoken as an expression of frustration, but cannot be said to have been meant to intimidate or be taken seriously as a threat to cause bodily harm. It has been determined there are no reasonable grounds to charge Officer 1 for the offence of uttering threats.

It should be noted that during the course of this investigation SiRT Investigators became aware of and followed up on other information in relation to Officer 1. Those matters did not involve AP. They also occurred prior to April 20, 2012, when SiRT became operational. SiRT does not investigate matters that wholly arose prior to that date. As a result, the information was referred to the Chief of the Stellarton Police. This led to a subsequent investigation by the RCMP which resulted in two counts of uttering threats being laid against Officer 1.