

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation

SiRT File # 2023-008

Referral from

Cape Breton Regional Police Service

February 21, 2023

Erin E. Naus
Interim Director
January 30, 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 determined to be 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.

INCIDENT SUMMARY

On February 21, 2023, the Cape Breton Regional Police Service (“CBRPS”) contacted the SiRT regarding a complaint it had received regarding the conduct of off-duty members of the CBRPS at a children’s hockey tournament on February 11, 2023. It was alleged that an off-duty officer had caused a disturbance by yelling profanities and failing to leave an arena when directed to do so. Upon review of the initial information, the former SiRT Director determined that this was a matter of public interest to be investigated. The SiRT commenced its investigation on March 2, 2023. The investigation concluded on November 27, 2023.

The decision summarized in this report is based on evidence collected and analyzed during the investigation, including, but not limited to, the following:

1. Witness Officer Statements (3)
2. Civilian Witness Statements (13)
3. Emails and complaints
4. Referee report
5. Cell Phone Video Recordings
6. Arena Video Recordings
7. Photographs of Arena
8. Crown Review

RELEVANT LEGISLATION

Criminal Code:

Causing disturbance, indecent exhibition, loitering, etc.

175 (1) Every one who

(a) not being in a dwelling-house, causes a disturbance in or near a public place,

(i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,

(ii) by being drunk, or

(iii) by impeding or molesting other persons,

(b) openly exposes or exhibits an indecent exhibition in a public place,

(c) loiters in a public place and in any way obstructs persons who are in that place, or

(d) disturbs the peace and quiet of the occupants of a dwelling-house by discharging firearms or by other disorderly conduct in a public place or who, not being an occupant of a dwelling-house comprised in a particular building or structure, disturbs the peace and quiet of the occupants of a dwelling-house comprised in the building or structure by discharging firearms or by other disorderly conduct in any part of a building or structure to which, at the time of such conduct, the occupants of two or more dwelling-houses comprised in the building or structure have access as of right or by invitation, express or implied,

is guilty of an offence punishable on summary conviction.

LEGAL ISSUES & ANALYSIS

The Nova Scotia Restorative Justice Program (“NSRJP”) is an integrated program for adults and young persons in conflict with the law. NSRJP is authorized as a program of alternative measures to be used by police for adults under section 717 of the *Criminal Code*. The program focuses on a restorative approach to justice, rather than proceeding through the traditional court system.

In considering whether to refer this matter to the NSRJP, the following eligibility criteria have been met:

- the SO fully and freely consents to participate;
- the SO is represented by counsel;
- the SO accepts responsibility for the act that is the subject of this summary;
- there is, in the opinion of the Attorney General or the Attorney General’s agent, sufficient evidence to proceed with the prosecution of the offence; and
- the prosecution of the offence is not in any way barred at law.

In assessing whether to make a referral to the NSRJP, consideration must be given to several factors. In the present situation the following elements position the NSRJP as the appropriate mechanism: potential for victim participation; enhanced opportunity for access to justice for the affected community; an opportunity to understand and consider root causes or systemic issues connected to the parties and the offence; and access to better supports and wrap around responses to the parties' needs. In the circumstances, based on a review of the evidence and the above considerations, I have decided to refer this matter to the NSRJP.

CONCLUSION

My review of the evidence indicates that the appropriate avenue to address this matter is through the NSRJP.