

Nova Scotia's Independent Police Investigation Agency

TRUST
CONFIDENCE
INTEGRITY
INDEPENDENCE

Annual Report 2015-2016

Honourable Diana Whalen Minister of Justice 1690 Hollis Street PO Box 7 Halifax, NS B3J 2L6

Dear Minister Whalen:

I have the honour and pleasure of delivering to you the fourth 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, 2015 to March 31, 2016.

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, observations about our work and some of the challenges we have faced over this time frame. In addition, the report includes our proposed 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,

Ronald J. MacDonald, QC

Director

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### **Message from the Director**



Ronald J. MacDonald, QC

This is the Serious Incident Response Team's fourth annual report. This report gives me the opportunity to review another year in which the Team has worked to protect the public's interest in the independent and objective investigation of serious incidents involving the police of Nova Scotia. All members of SiRT continue to enjoy the challenge of this work, and are thankful for the opportunity to serve the public of Nova Scotia in this fashion.

It appears SiRT has become a recognized and accepted aspect of Nova Scotia's justice system. Members of the public, media, bar, and police services have come to expect SiRT's

involvement when serious incidents involving police occur. In a sense, it would appear that SiRT is no longer a "new thing", but rather an acknowledged part of a properly functioning system.

The biggest challenge of the past year was recovering from a very busy 2014-15, which saw SiRT's workload increase significantly. This led to a strain on our resources, which impacted the timeliness of the completion of certain investigations. Given the inherent limits on SiRT's resources due to its relatively small size, even a minor increase in file load can significantly impact our work product. However, the hard work of the team allowed SiRT to effectively "catch up" after the first several months of the past year.

This year saw SiRT have an impact outside of the jurisdiction of Nova Scotia. SiRT has now conducted or overseen several investigations in New Brunswick, Prince Edward Island, Newfoundland and Labrador. The benefits of independent investigative oversight of police have been recognized by these jurisdictions as well. I believe that fostering this form of interprovincial cooperation is mutually beneficial to all four Atlantic Provinces.

During the year SiRT opened 26 new investigations, a number more similar to the first two years of operations. That number, together with the nature of the investigations and the ongoing impact of the previous year's caseload ensured SiRT investigators were kept engaged. A complete breakdown of those files by agency, types of investigation conducted, and investigations where charges were laid is included later in the report. During the year, SiRT concluded work on 28 files, some of which were opened prior to the present year. It should be noted that SiRT laid charges in five matters this past year (this included one charge against a civilian who provided SiRT with false evidence in an investigation.) As a percentage of files, this remains higher than other Canadian jurisdictions.

In addition to that work, SiRT opened 11 "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*. These files can often require significant time expenditure. On top of those matters, 57 other referrals were received which did not meet SiRT's mandate, 29 from police, and 28 from members of the public. A referral involves a request or inquiry about whether a matter meets SiRT's mandate. These referrals can usually be 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.

As noted in previous reports, SiRT is required to make use of seconded resources from police agencies to assist in our investigations. While this is always done with a sufficient degree of our independent oversight, the issue of how seconded resources are utilized is one which may require some re-evaluation. Discussions with police agencies around these issues will ensure that SiRT can continue to have access to all necessary forensic resources for our investigations while at the same time ensuring they are delivered with an effective and accepted level of independence.

SiRT's primary goal throughout the year is to objectively and comprehensively investigate all matters that meet our legislative mandate. While this focus allows us to deliver on our primary responsibilities, the accomplishment of secondary organizational goals has been limited. In particular, further work needs to be done to help SiRT meet its goal of community involvement and education. Working together with the Community Liaison Committee, it is hoped steps can be taken to further this work in this fiscal year. However, our primary responsibilities must always take precedence. This year our workload meant that some secondary goals remained incomplete at the end of the year.

On the question of workload, it is useful to compare SiRT's resources with other jurisdictions with similar investigative teams. As noted, SiRT investigated 26 files this past year. SiRT is staffed by one Director, four full time investigators and one administrative staff person. By comparison, for the three other independent criminal investigative units with available statistics, the investigative file to investigator ratio ranges from two to one to four to one. SiRT typically averages a ratio of approximately seven files to each investigator. In addition, other units have larger administrative complements. Of course it must be recognized that the type of investigation impacts investigative resources, thus making direct comparison imperfect. For example, other provinces have more cases of police involved shootings. However, these numbers certainly suggest that SiRT meets it investigative mandate very efficiently.

During this past year I joined my colleagues from across the country in national meetings of bodies responsible for the independent oversight of policing. These meetings allow for the critical sharing of ideas and experience, and benefit all participants. As of the writing of this report, I am serving as the Vice-President of the national body: the Canadian Association of Civilian Oversight of Law Enforcement. My goal in this capacity is to encourage the development of national standards relevant to our respective roles, and to encourage the sharing of policies and procedures across the country.

SiRT has become a regular and important part of Nova Scotia's Justice System. Looking forward, we will continue our efforts to improve our work with education, training, and consultation with stakeholders. Our ongoing success is attributable solely to the excellent investigators and support person at SiRT who work hard every day to carry out SiRT's mission: to ensure the public of Nova Scotia are able to have the utmost trust and confidence in the investigation of serious incidents involving police. They take their role very seriously, and understand its significance to Nova Scotians. I am fortunate to have the pleasure to be the Director of this excellent group.

All of us at SiRT are honoured and challenged by the role we play in Nova Scotia's justice system. We are thankful for this opportunity to serve.

### The Team

The Serious Incident Response Team includes:

- Director (Civilian). The first and current Director of SiRT is Ronald J. MacDonald, Q.C.
- Two former police, now civilian investigators, each with over 36 years of criminal investigative experience. These are Terry Balleine and Keith Stothart.



The SiRT Team from left to right: Terry Balleine, Civilian Investigator, Gord Vail, Seconded Investigator, Ron MacDonald, Director, Keith Stothart, Civilian Investigator, Kevin Smith, Seconded Investigator. Missing from photo: Joanne Field

- Two full-time seconded police officers who answer only to the Director while seconded, one from the Halifax Regional Police, S/Sgt. Kevin Smith and one from the Royal Canadian Mounted Police (RCMP), S/Sgt. Gord Vail.
- Other police resources as required.
- Administrative support provided by 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 about \$850,000 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 police officer in Nova Scotia.

SiRT defines a serious injury as including:

- 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 deciding whether a charge should be laid. This ensures a more transparent and independent way to investigate serious incidents involving police.

#### **Investigative Process**

<u>How do we decide if we should be involved?</u> 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.

<u>How do we respond?</u> If the matter does not fit SiRT's mandate, no investigation is conducted. The police service or the member of the public, who made the referral, is 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 as necessary.

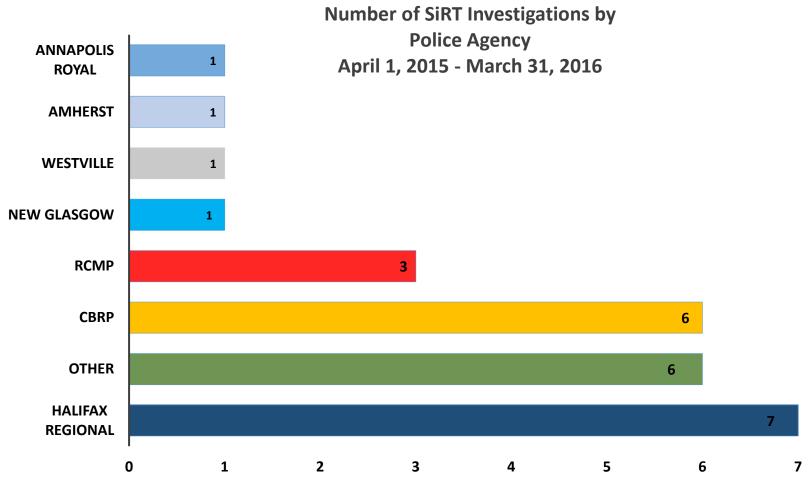
After SiRT becomes involved, police may need to continue their criminal investigation into the initial incident. For example, police may have been responding to a robbery when they became involved in the serious incident. SiRT works with the police agency to ensure that the interests of justice are met.

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.

<u>What information is made available?</u> 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.

<u>What about those involved?</u> 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.

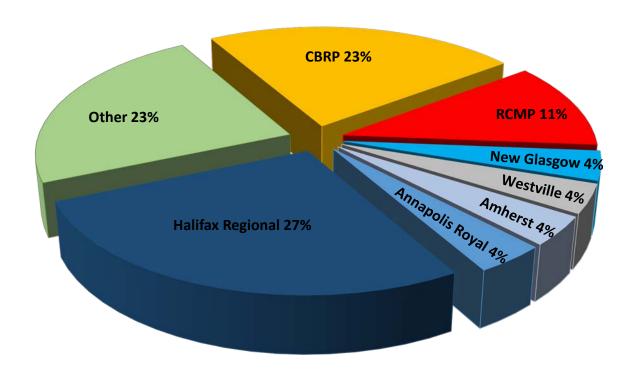
# Number of Investigations by Police Agency



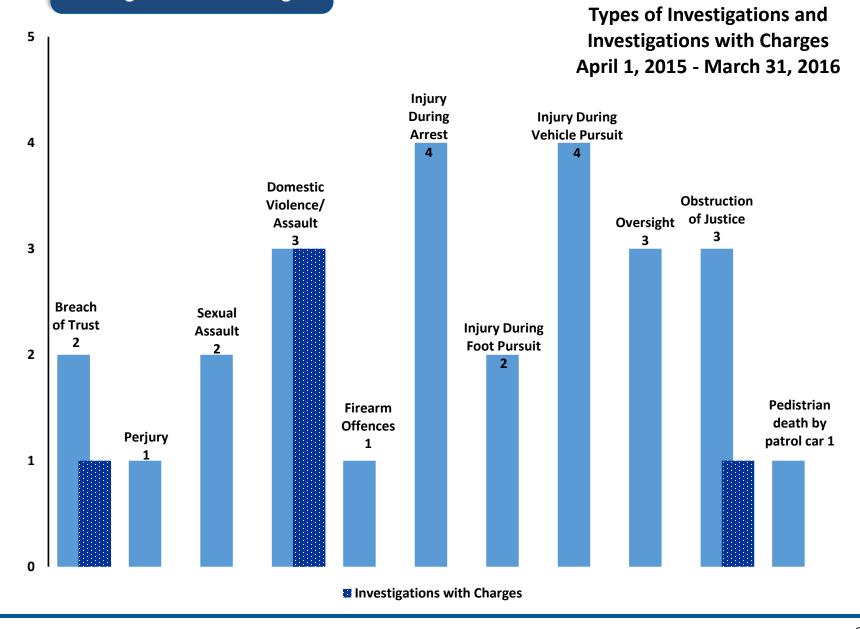
<sup>\*</sup>SiRT did not have any investigations during this reporting period for the following police agencies: Truro **Other** includes SiRT investigations conducted in other provinces.

## Percentage of Total Investigations by Police Agency

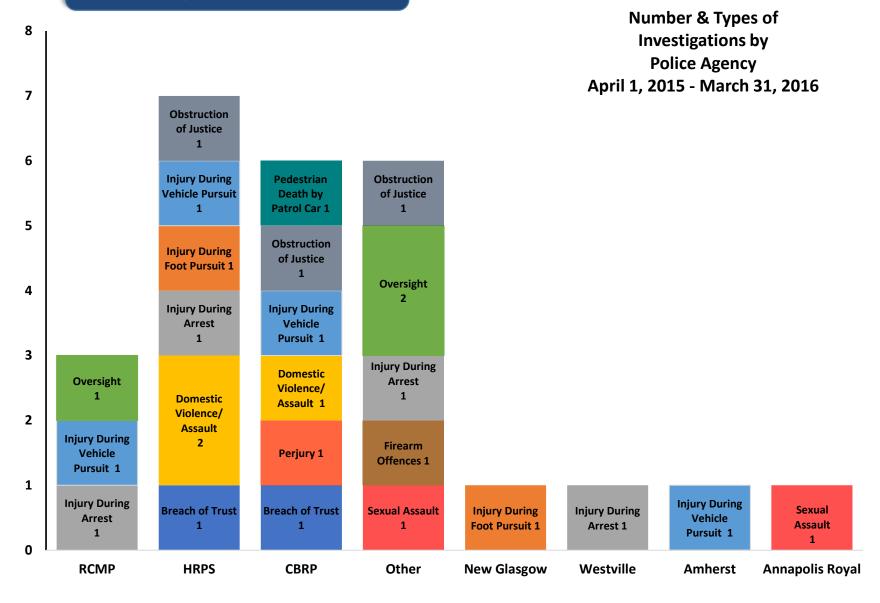
### Percentage of Total Investigations by Police Agency April 1, 2015 - March 31, 2016



## Types of Investigations & Investigations with Charges



### **Number & Types of Investigations** by Police Agency



### SiRT Team Goals 2015-2016

Issue	Desired Outcome	How to get there	Timeline to Completion of Goals	Outcomes/ Updates
Police Supervisors and Front Line Personnel need SiRT resource materials	<ol> <li>Police Supervisors will understand when and how to contact SiRT in a timely manner regarding cases involving a possible Serious Incident.</li> <li>Front Line police will be able to identify situations that may involve a Serious Incident and require notification of their supervisor</li> </ol>	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, 2017	Although some material was developed, SiRT's workload prevented completion of this goal in 2016.
Enhancement of Public's understanding of SiRT, its mandate, and processes	<ol> <li>Public will understand the mandate of SiRT and how it carries out its role.</li> <li>Public will understand the distinction between SiRT and the Office of the Police Complaints Commissioner.</li> </ol>	<ol> <li>Develop overall communications strategy.</li> <li>Implement communication enhancements on website.</li> <li>Develop and distribute hardcopy SiRT flyer for public education.</li> </ol>	March 31, 2017	Some aspects of the required work is complete.
Develop a more comprehensive policy regarding secondment of police resources	<ol> <li>Seconded resources will remain available to SiRT in an effective and timely manner.</li> <li>These resources will be delivered in a way that ensures actual and apparent independence.</li> </ol>	<ol> <li>Meet with Police agencies to review how seconded resources are provided.</li> <li>Develop amendments to MOUs to enhance actual and apparent independence where deemed necessary.</li> </ol>	March 31, 2017	
SiRT Policy Manual	SiRT will have a complete policy manual outlining policy and practices on all issues relevant to the operation and administration of SiRT		March 31, 2017	Work is on-going and evolving. Further work required.
SiRT investigators need ongoing training	SiRT investigators will receive regular training opportunities.	<ol> <li>Work to identify appropriate training for SiRT investigators.</li> <li>Training will be provided on regular basis.</li> </ol>	On-going	Investigators attended the annual CACOLE meeting in Saskatoon, taking part in the agencies education conference



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