

NOVA SCOTIA POLICE REVIEW BOARD

**IN THE MATTER OF:** The *Police Act*, S.N.S. 2004, C. 31 and the Regulations made pursuant thereto

- and -

**IN THE MATTER OF:** An appeal filed by **John Parr**, Complainant, against the **Cape Breton Regional Police Service**, requesting a review of a decision made by Chief Peter McIsaac dated February 28, 2019.

**BEFORE:** Jean McKenna, Chair  
Stephanie A. Myles, Board Member  
Nadine Bernard, Board Member

**COUNSEL:** Laura McCarthy, Solicitor on behalf of the Complainant  
Demetri Kachafanas QC, Solicitor on behalf of the Cape Breton Regional Police Service  
David Roberts, Solicitor on behalf of NSGEU (Intervenor)

**HEARING DATES:** September 14 - 17, 22, 2020

**DECISION DATE:** April 6, 2021

**DECISION:** Appeal Dismissed

## OVERVIEW

[1] On the evening of June 9, 2018, into the morning of June 10, 2018, the owners of a large rural property on Leitches Creek Road hosted a high school graduation party for their daughter. The site included music, lights, and a large tent structure. Many of those attending brought tents with them, planning to spend the night.

[2] Many individuals who had not been invited attended, and although estimates varied, hundreds were on site, and many became intoxicated.

[3] The homeowner had informed Cape Breton Regional Police Service (CBRPS) of the party in advance and the North Division shift was instructed to keep an eye on the event. In addition to regular drive-bys, officers were called to the site on three occasions, first in response to an anonymous noise complaint, later by the owner, and finally, in response to the report an injured person. A vehicle operated by Hayden Laffin was stopped on the highway immediately adjacent to the injured person. That person was Joneil Hanna, 17 years old, who had left the party a few minutes earlier. It initially appeared that Joneil had been stabbed, but some officers were suspicious, due to the presence of debris and damage to the Laffin vehicle.

[4] Despite extensive efforts to revive Joneil at the scene, he died as a result of his injuries. It was eventually learned that Joneil Hanna had been struck by a vehicle, operated by Hayden Laffin.

[5] This complaint has been filed by Mr. John Parr, father of Joneil Hanna. He alleges that CBRPS failed to conduct their duties as required. The complaint was investigated by senior officers from Halifax Regional Police Service, who concluded that the accident investigation by CBRPS was reasonable, and that the complaint had not been proven. Mr. Parr appeals that conclusion to the civilian Nova Scotia Police Review Board.

[6] Initially, Mr. Parr presented seven allegations of misconduct. However, counsel

representing Mr. Parr, has narrowed those allegations in argument, as follows:

1. Police officers patrolling at the Wilkie residence that night, failed to shut the grad party down, knowing that there was underage drinking.
2. Hayden Laffin should not have been allowed to leave the scene of the accident without a formal statement being taken.
3. Witnesses with vital information were not considered in the laying of charges.

[7] We emphasize that it is not for this Board to determine the cause of this tragic accident, nor to assign criminal or civil culpability. Rather, our mandate is to consider whether the CBRPS acted reasonably in initially responding to the party, in their subsequent actions at the accident scene, and finally, in their follow up investigations.

## **THE EVIDENCE**

[8] All of the witnesses called on behalf of the complainant were members of the Cape Breton Regional Police Service. No civilian witnesses were called to testify, by CBRPS or Mr. Parr. However, by agreement, transcribed statements of a number of civilians were tendered. Those cannot be admitted as proof of the truth of their contents, as those witnesses did not give evidence at the hearing. The Board can make little use of these statements, other than to establish that they were taken by CBRPS, and the dates on which they were taken. A review of the statements show conflicting versions of events.

[9] Prior to the party, the property owners had notified police of the upcoming party and had requested extra patrols through the area. At the beginning of North Division shift on June 9, 2018 officers were advised of the party and were instructed to "keep an eye on it". As well, Sergeant Erin Donovan asked the canine officer, Cst. Dale MacLean (usually in Central Division) to assist in patrol as an extra officer.

[10] Patrols were made through the area periodically, to “fly the colours” as Cst. Steve Sibley put it. Initial observations were that there were a large number of people present, but there were no apparent problems that would call for intervention.

### **First Dispatch**

[11] Dispatch received three calls that evening specific to the party. The first, around 1:00 a.m., was from an anonymous caller complaining about the large crowd. Sgt. Donovan, Cst. Steve Sibley, Cst. Paul Ratchford, Cst. MacLean, and Cst. John Ratchford attended in response. Cst. Sibley was a 28-year member of CBRPS, and its predecessor departments, and had worked as a breathalyzer technician. He was also a level III traffic analyst. Cst. MacLean spoke to the homeowner, who at that time, was not expressing any concern.

### **Second Dispatch**

[12] The next call was from the homeowner, sometime later. At that point he was asking for assistance to shut the party down. There were many more people at the party than had been anticipated. All officers on the shift attended, including Sgt. Donovan. She requested that all units return to the party scene. Sgt. Donovan spoke to the homeowner, and told him to turn off the music, and a “disco ball” that was operating. She told people that the party was over. At that point, there were vehicles on both sides of the road, people running and walking on the road, bottles being thrown from the property, intoxicated people, etc. There were also vehicles arriving to pick up partygoers who were leaving. Police efforts at that point were to keep people safe, have people leave the area with a ride, if available, and to keep people off the road. Individuals leaving with open liquor were told to pour it out. Initially, the officers did not go onto the property, for a number of reasons. Given the number of participants, it would have been futile to attempt to identify and ticket possible underage drinkers. As well, it could potentially cause panic, with a risk that some young people would flee the scene into unknown territory. Officers were trying to keep people safe, and have them leave, and if necessary, arrange transportation for them, with others who had “rides” to pick them up.

[13] Cst. Sibley arrested one individual for intoxication, and property damage to a vehicle. He took him to the lockup on Grand Lake Road, about 25 minutes away. Calls came in regarding

a fight on the property, and Cst. Colin White arrested one of the individuals involved, Devon Edwards. Edwards was highly intoxicated.

[14] In the midst of all this, officers also had to clear the road of pedestrians and vehicle traffic, as an EHS ambulance was trying to get further up the road, to another party scene as an individual there had experienced alcohol poisoning.

[15] Around this time, Hayden Laffin arrived in his vehicle and parked in the immediate vicinity of the driveway to the property. He spoke to Cst. Paul Ratchford and advised that he was not coming from the party, but rather bringing his girlfriend Amber King back, as she had left her cell phone behind. Cst. Paul Ratchford saw that Cst. White had Devon Edwards in custody. If Cst. White had to take Edwards to the lockup in Sydney, this would mean one less officer at the scene. Cst. Ratchford asked Hayden if he would be willing to take Devon and his girlfriend Kelsey Gerrow along, and drop them off at home in North Sydney. Hayden agreed, as he knew Devon. Cst. White agreed to this option.

[16] Cst. Ratchford testified that Hayden appeared sober. He did not see any bottles in the car and did not smell alcohol on Hayden's breath. He spoke to him through the passenger window, while Amber was out of the vehicle, speaking to the homeowner about her phone. (She had been told by Cst. Ratchford that she was not permitted to go back on the property.) Cst. Ratchford also testified that if Hayden Laffin was intoxicated, it was unlikely that he would park in the immediate presence of several police officers.

[17] Hayden Laffin left with his passengers but stopped again at the side of the road a short distance away. Cst. White observed that two individuals got out of the car and ran onto the property. Shortly thereafter, a group of individuals was noted around the Laffin vehicle which then continued down the road.

[18] The officers at the scene did not encounter Joneil Hanna at the party scene, however, it is undisputed that he did attend the party, and left, probably shortly before Hayden Laffin drove away from the scene. Likewise, Nathan Arsenault left the party around the same time. After the accident, he told police that he began to walk down the road toward North Sydney and that he

had caught up to Joneil, who was also walking in the same direction.

### **Final Dispatch**

[19] While all officers on the shift were attempting to shut the party down, they received a dispatch that someone had been injured at the location. There was also information that there had been bear spray used, and that there was a fight (possibly the fight involving Devon Edwards). Cst. Sibley was at the lockup at that time, but immediately returned to the party scene, "lights flashing".

[20] In response to that dispatch, Cst. John Ratchford testified that he got his Naloxone kit, and went onto the property, with Cst. Wintermans but found no injured individual, nor did he detect the odour of bear spray.

[21] Dispatch then clarified that the injured party was on the road, a short distance away from the property. He was in cardiac arrest. Cst. John Ratchford then proceeded to that location, with Cst. Wintermans. A short distance up the road, he met a group of four young people, who were very distraught, sobbing and screaming, "I think he's dead". It was learned that these individuals were Nathan Arsenault, Gabriel Arsenault, Devon Edwards and Devon's girlfriend, Kelsey Gerrow. Devon and Kelsey had shortly before, been provided a lift by Hayden Laffin, at the suggestion of Cst. Paul Ratchford and likely would have been in the Laffin vehicle at the time of the accident. They did not mention this to Cst. Ratchford at the time. Cst. John Ratchford asked what was going on. Nathan responded that he had just seen his friend Joneil Hanna struck by a vehicle, and that he believed that he was dead. He said that he and Joneil had just broken up a fight that his younger brother Gabriel had been involved in, and that they then left the party. Cst. Ratchford asked Nathan if Joneil had been hurt before the accident, and Nathan said that he had not. Cst. Ratchford took Nathan in his vehicle to the accident scene; the other three stayed with Cst. Wintermans.

[22] Sgt. Donovan was at the party scene when she became aware that the injured person was some distance up the road. Constables Paul Ratchford, Dale McLean, and Nicole Muise went up the road, and Sgt. Donovan drove. When she arrived, EHS was already there (they had just come from the scene of the other party and had been transporting an individual who



was suffering the effects of ETOH poisoning). The Laffin vehicle, an SUV, was parked on the road, just ahead of the victim. There were several weeping, hysterical young people at the scene, including Hayden Laffin. Sgt. Donovan immediately assisted with attempts to resuscitate the victim, Joneil Hanna. The position of the Laffin vehicle interfered with the work, and so she instructed Cst. Nicole Muise to move it to the side of the road. EHS observed a laceration on Joneil's back, which left the impression that he had been stabbed, prior to collapsing on the roadway.

[23] Sgt. Donovan instructed other officers at the scene to control the young people at the accident scene and to obtain names and addresses. She also instructed the officers back at the scene of the party, to try to keep people on the site, as she viewed the situation at that point as a possible stabbing. She later allowed people to leave the scene, as parents and others were arriving to pick up individuals, but she instructed the officers there, and at the accident scene, to obtain contact information. She contacted the Watch Commander, Staff Sgt. Bill Turner as she needed him to arrange support from the Major Crime unit, in response to the possible stabbing. In accordance with protocol, Staff Sgt. Turner then contacted Sgt. Mike Somerton of Major Crimes.

[24] Later, Cst. Paul Ratchford advised Sgt. Donovan that he had seen blood in the back of the Laffin SUV; this led her to consider the possibility of a motor vehicle cause, and so she contacted traffic safety.

[25] Cst. Sibley is a Level III traffic analyst, and so is experienced in accident analysis. When he arrived at the accident scene, he noticed a sneaker on the road, and then another, matching, in the ditch. He noticed that Joneil Hanna was not wearing shoes. He noticed a piece of fender in the vicinity that was not wet from dew, and so it appeared to be recently deposited. He didn't see any significant exterior damage to the Laffin vehicle, but on close examination, noticed damage to both front fenders.

[26] Cst. Paul Ratchford pointed out Hayden Laffin to Cst. Sibley as the SUV driver. Hayden was on the side of the road with two females. Cst. Sibley spoke to him for about five minutes. Hayden was co-operative, but very upset; Joneil Hanna was a friend. Hayden acknowledged

that he was the driver of the SUV at the scene but denied having struck Joneil. He said that Joneil had suddenly walked onto the road and collapsed. Cst. Sibley did not mention the fender evidence, etc. to Hayden. He testified that he does not discuss evidence with people at the scene.

[27] Cst. Sibley then noticed that Cst. John Ratchford had a person in his vehicle (Nathan Arsenault). Cst. Sibley spoke to Cst. John Ratchford, who reported to him what Nathan had said (that he had seen Joneil hit by Hayden's vehicle). Cst. Sibley then spoke to Sgt. Donovan by phone, to share his suspicions. He later spoke to Staff Sgt. Turner. At this point, the matter was considered a possible stabbing and/or a motor vehicle accident.

[28] Cst. Sibley spoke closely with Hayden Laffin twice at the scene. He said that at no time did he notice the odour of alcohol, or any signs of impairment. (He was specifically checking for that in his discussion.) He is a trained breathalyzer technician. He testified that he had no grounds to make a breathalyzer or roadside analysis demand. The *Criminal Code of Canada*, at that time, specified that reasonable grounds were required for a breathalyzer demand, and a reasonable suspicion of alcohol consumption was required to support a roadside "alert". Neither the "alert" nor breathalyzer could be used as an investigative tool, absent the statutory requirements.

[29] Hayden Laffin was distraught, upset, and quite cold. He said he could not drive. (The SUV was not going to be released until after investigation, in any event.) Hayden was then allowed to leave the scene as a passenger in a vehicle, with a parent who had come to pick up their own child.

[30] After Hayden left, Cst. John Ratchford advised Sgt. Donovan that he had Nathan Arsenault in his vehicle, and that Nathan had said that he had seen Joneil struck by the Laffin vehicle. She contacted Major Crimes, Sgt. Mike Somerton with the information; he advised that Cst. Ratchford should take Nathan to Central, where he would later be asked to give a formal statement. She arranged for Cst. Ratchford to speak to Sgt. Somerton.

[31] Sgt. Donovan testified that even if she had been aware of Nathan's information before



Hayden left, she would not have taken a formal statement at the scene. She said that if Hayden had still been on the scene when she was told about Nathan Arsenault's information, she may have had an officer take him to Central, but she testified that he was still too distraught to give a statement when he came voluntarily to headquarters later that morning.

[32] She said that she would never take formal statements at the scene. Sgt. Donovan was questioned on whether she complied with the CBRPS Sudden Death/Response and Investigation operational policy. She agreed that it could apply in the circumstances, and that she had complied. She had requested the attendance of members of Operations Support (in this case, Major Crimes and Traffic Safety). She had protected the scene. She had prevented entry until Forensic Services had completed their tasks. (A scene investigation and analysis were completed; by Cst. Sean MacLennan; he testified that he had been called out at 6:00 a.m. although the report was not in evidence before the Board, technical photographs taken as part of that investigation were introduced.)

[33] Sgt. Donovan testified that although Hayden Laffin was not taken from the scene by police officers, he was not a suspect at that time, his contact information was available, and, as noted above, he was not in any condition to provide a formal statement, even later that morning.

[34] Sgt. Donovan testified that there were some 21 officers on shift that night, and it would have been impractical to ask them all to attend the scene of the party, leaving the rest of this large district without police services. Likewise, it would have been impractical to call on the services of the RCMP to assist. The nearest detachment was in Eskasoni, and there would only have been two officers on duty there.

[35] Sgt. Mike Somerton was Staff Sergeant in Major Crimes at the time. He was called by S/Sgt. Turner to what was a possible stabbing. It was his initial role to call out all members of the unit and attend the hospital with the sergeant of the Forensic unit, Sgt. Geoff MacLeod. He was advised by the emergency physician that Joneil Hanna had died.

[36] He testified that Cst. John Ratchford spoke to him, and advised that he had Nathan Arsenault in his car, and that Nathan said that Joneil had been hit by a car. He instructed Cst. Ratchford to bring Nathan to Central, where he would be interviewed later.

[37] When it appeared that Joneil may have been struck by the Laffin vehicle, Staff Sgt. Turner contacted Traffic Services. The matter was then approached and investigated as both a possible stabbing, and a motor vehicle incident. Sgt. Somerton and Janet Evans of the Medical Examiner's office met with Joneil's mother, and other family members at the hospital, and then again, later in the day. At some point, Joneil's mother showed him Facebook comments regarding the accident.

[38] Throughout the morning, and into the day, Sgt. Somerton was in continuous communication with Sgt. Donovan, S/Sgt. Turner, and Traffic Services. It was not until later in the evening that he learned that the autopsy ruled out the possible stabbing.

[39] Sgt. Somerton's role was that of file manager. His tasks included keeping the family updated, delegating tasks, such as assigning members to conduct interviews, and to reviewing and approving all material as it came in. He would review statements, which might lead to the need for other statements. He would consider whether a statement was relevant, or possibly third hand, and called for further investigation. Much of what he saw included information from social media, often third, fourth, or fifth hand. He testified that in this case, and in others, social media ties up resources. He described social media as "not a friend". He said that Hayden Laffin's mother was very concerned and frightened about social media comments about Hayden.

[40] Sgt. Somerton observed some interviews, including the interview of Hayden Laffin by Sgt. Burke. He said that the first attempt to interview him was unsuccessful, as he was too distraught, and so an interview was completed the next day. He testified that the lead investigator and the file manager work hand in hand, throughout the process, and that they did so in this case. They also work in consultation with the Chief Crown Prosecutor, Kathy Pentz.

[41] Sgt. Somerton testified that the investigation complied with standards. His only concern was that sometimes notes or reports did not come in quickly enough, and that now, as sergeant in Patrols, at the "top of his list" is that notes are completed and scanned into the system at the end of shift.

[42] He said that rather than have statements taken at a scene, it is preferable to have them done later, with both audio and video. As well, investigators may want to gather more information before they "jump in".

[43] He said that the Laffin vehicle was not released until Traffic Safety and Forensics were through with it, and that he had to approve the release.

[44] He said that the investigation was lengthy and detailed, including 175-200 reports, and some 100 tasks.

[45] Sgt. Jack Burke was the second of two sergeants in Major Crimes. He was called in by Sgt. Somerton. He said that the structure to an investigation in Major Crimes was triangular, which, in this case include S/Sgt. Turner, with Sgt. Somerton as coordinators, and himself as lead investigator.

[46] In this case, everyone from Major Crimes was called in that morning (six senior officers and four constables). Even with the news from the autopsy that this was not a stab wound, they kept an open mind. By Monday, June 11, although it appeared clear that this was a vehicle related death, S/Sgt. Turner asked him to stay on as lead investigator. He interviewed Amber King and Emily Nicoll, both of whom had been passengers in the Laffin vehicle. He attempted to interview Hayden that day; he testified that Hayden wished to proceed, but proved to be too distraught, and so was interviewed the following day. At that point, they knew that Hayden had been driving; the purpose was to determine how Joneil had ended up on the road. Hayden told them that he first saw Joneil partially or fully on the road, that he swerved to avoid him, and Amber, in the passenger seat had grabbed his arm.

[47] Some individuals refused to be interviewed, and some were interviewed a second time. Some witnesses (Devon Edwards for example) provided "mainstream media" with a different version of what they had provided to police, and so were re-interviewed.

[48] They also interviewed individuals who had been passengers in the vehicle that drove Hayden and others home, and one young woman who had been driven to the party by Hayden

– which led to a review of a NSLC outlet video, which proved her evidence to be false. They interviewed the homeowner of the property adjacent to the accident scene (she had attempted to be of assistance to the distraught young people at the accident scene).

[49] Sgt. Burke testified that as the investigation proceeds, tasks are performed, and officers meet as a group to discuss findings, and to identify further tasks. He said that he did not agree with the characterization of this incident as a “suspicious death”, rather he treated it as a homicide.

[50] He said that the investigation continued into late July, partly because of difficulty in locating some witnesses, and he didn’t think anything would have been gained by interviewing them at the roadside at 4:00 a.m.

[51] At the conclusion of the investigation, on August 2, 2018 Hayden Laffin was charged with obstruction of justice; the basis for the charge was the initial discussion that Hayden had with Cst. Sibley at the accident scene, denying that he struck Joneil. That information was not provided until June 11<sup>th</sup>, when he gave his statement. That matter proceeded through preliminary inquiry, where Hayden was committed to stand trial. However, the decision was made by the Crown not to proceed.

## ANALYSIS

### **A) Police officers patrolling at the Wilkie residence that night failed to shut the grad party down knowing that there was underage drinking.**

[52] On the evidence before this Board, we are satisfied that the actions of the CBRPS were a reasonable exercise of discretion by CBRPS. The officers, and in particular Sgt. Donovan, articulated those reasons. On the first dispatch, there were no particular issues, other than crowd size, and the property owner had no concerns. Had the officers proceeded (uninvited) onto the property at that time, and as well, in response to the second dispatch, to ticket underage drinkers, that would have depleted the number of officers otherwise available to respond to other incidents elsewhere. Partygoers greatly outnumbered officers, and as Sgt. Donovan testified, the object was to keep people safe, off the road, and ultimately attempt to



assist them in leaving the area. They were also concerned with causing panic, with individuals fleeing the site into unknown terrain in the dark. The only exit that the officers could control was the driveway. Sgt. Donovan's decision to shut the music down, try to keep people off the road, tell attendees that the party was over, and assisting in securing drives for those leaving, was a reasonable exercise of discretion, and a wise choice.

**B) Mr. Laffin, the operator of the vehicle that struck Mr. Hanna, was allowed to leave the scene without providing a formal statement.**

[53] The scene was chaotic, with young people arriving on foot, a lot of screaming and crying, and a critically injured boy on the road. It was not until after Hayden Laffin had left the scene did Sgt. Donovan become aware of Nathan Arsenault's report that the Laffin vehicle had struck Joneil Hanna. She did know that he was the driver of the vehicle at the scene, and that he claimed to have seen him "collapse on the road". She had his contact information. She may or may not have known who his passengers were. Her focus, and that of the officers at the accident scene, was to assist in the resuscitation of Joneil Hanna, to keep other young people from interfering with those efforts, and to obtain contact information for those people at the accident scene and back at the party. At that point, it appeared that Joneil may have been the victim of a stabbing, and the party scene had to be secured, as best it could, with so many individuals present. Had she had the information that there may have been a motor vehicle strike, she testified that she could have had him transported to Central Division, where he would have later been questioned by officers with Major Crimes and/or traffic safety. As it was, Hayden was too distraught to provide a statement when he voluntarily came to the office the next morning. A statement was ultimately provided, in a controlled environment, with both audio and video recorded.

[54] We conclude that Sgt. Donovan, Cst. Ratchford and Cst. Sibley acted reasonably in allowing Hayden to leave the scene.

**C) Witnesses with vital information were not considered in the laying of charges against Mr. Laffin.**

[55] This argument seems to be the underlying implication in the background of this entire complaint, that Hayden Laffin was intoxicated at the time of this accident. It is not for this Board to decide that question but there is no doubt that that possibility was carefully scrutinized by CBRPS in their investigation. Experienced officers who had contact with Hayden Laffin, both before and immediately after the accident, were very much attuned to that possibility, and concluded that he was sober, and did not detect alcohol on his breath. The Board finds these officers to be credible, and the sort of officers who would in no circumstances ignore driver intoxication.

[56] Contrary to this allegation, it appears that all witnesses with vital information were interviewed. None were called to testify at the Review Board hearing, but some of the transcribed statements were put before the Board, including the statement of Nathan Arsenault, all of the occupants of the Laffin vehicle, the woman who drove Hayden and others away from the scene, and the woman who owned the property immediately adjacent to the accident.

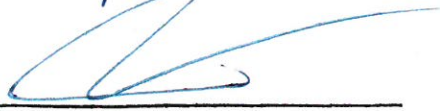
[57] Sgt. Burke testified that some witnesses refused to be interviewed, and some (Devon Edwards for example) had to be interviewed more than once. Sgt. Burke's evidence highlighted the damage that can be, and was done, by social media, with witnesses adopting as their own, information they may have seen posted by others. Reports that later proved to be false, required investigation. Such false and speculative material no doubt magnified the pain and distress of Joneil's family and friends, left in frustration and confusion as to what had really happened.

[58] This was a long and detailed investigation by the CBRPS, which attempted to "leave no stone unturned". Sgt. Burke testified that a fatality investigation is always difficult, and particularly so when a young person is involved.

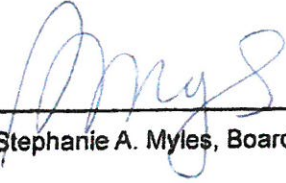
[59] The complaint is therefore dismissed; however, the Board hopes that this public review of the matter will help provide some clarity to the family and to members of the public.



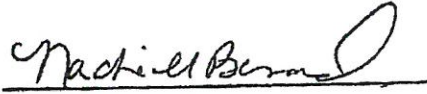
Dated at Halifax, Nova Scotia this 6<sup>th</sup> day of April, 2021.



Jean McKenna, Chair



Stephanie A. Myles, Board Member



Nadine Bernard, Board Member

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