



Summary of Investigation

SiRT File # 2025-0063

Referral from

RCMP “J” Division

June 19, 2025

Erin E. Nauss

Director

December 12, 2025

SiRT MANDATE

The Serious Incident Response Team (“SiRT”) has a mandate under the Nova Scotia *Police Act*, and through agreement, under the New Brunswick *Police Act*, to investigate or take other steps related to all matters that involve death, serious injury, sexual assault, 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, on or off-duty, in Nova Scotia or New Brunswick.

At the conclusion of every investigation, the SiRT Director must determine if criminal charges should result from the actions of the police officer. If no charges are warranted the Director issues a public summary of the investigation which outlines the reasons for that decision. The summary must include specific information set out by regulation. Public summaries are drafted with the goal of including adequate information to allow the public to understand the Director’s rationale and conclusions.

Mandate invoked: This investigation was authorized under Section 24.6 of the New Brunswick *Police Act* in the public interest.

Timeline & delays: The SiRT investigation started on June 19, 2025, and concluded on October 9, 2025.

Terminology: This summary uses the following language in accordance with regulations made under the *Police Act* and to protect the privacy of those involved:

“Affected Party/AP”: means the person who died or was seriously injured in relation to a serious incident.

“Civilian Witness/CW”: means any non-police individual who is a witness to, was present at or has material information related to a serious incident.

“Witness Officer/WO”: means any officer who is a witness to, was present at or has material information related to a serious incident.

“Subject Officer/SO”: means the officer who is the subject of an investigation or whose actions may have resulted in a serious incident.

This report also references **“JPS Officer/JPSO”**, who are peace officers with the Province of New Brunswick’s Department of Justice and Public Safety (JPS).

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

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|------------------------------------|--|
| 1. Witness Officer Statements (5) | 5. Written Statement of Subject Officer #2 |
| 2. JPS Officer Statements (6) | |
| 3. Civilian Witness Statement (1) | 6. RCMP Agency File |
| 4. Statement of Subject Officer #1 | 7. Documentary Evidence |

INCIDENT SUMMARY

Overview

On February 11, 2025, an RCMP officer, Subject Officer #1 (SO1) was made aware that his son had been in a motor vehicle accident and was being investigated at roadside for impaired driving.

A Department of Justice and Public Safety (JPS) Conservation Officer (JPS Officer #1/JPSO1) was attending to the scene. SO1 was on duty in his police vehicle and attended the scene of the accident but did not intervene in the investigation.

Based on the investigation at the scene, JPSO1 made the decision to process the matter through the provincial Immediate Roadside Suspension (IRS) legislation. As a result, SO1's son received a driving suspension. Following the incident and suspension, SO1 became aware of some potential errors and issues with the investigation, and the appeal process was started. While this process was ongoing SO1 communicated with a JPS employee and JPS officers trying to resolve and address issues with his son's file. Throughout this communication, SO1 stated he was an RCMP officer, and referenced his rank and experience, despite being directed by supervisors not to act in his capacity as an officer when assisting his son with this matter.

SO1 also provided an RCMP case analysis of the incident, which highlighted errors in the investigation and concluded the driving suspension was improper. This report was prepared on RCMP letterhead and was written by another RCMP officer known to SO1, Subject Officer #2 (SO2). SO2 did not have authority or permission from the RCMP to write a report for this file.

On June 19, 2025, the RCMP was contacted by JPS concerning the communications with SO1 and the document prepared by SO2. The RCMP contacted SiRT and an investigation in the public interest started that day.

Impaired Driving Investigation – February 11, 2025

JPSO1 is a JPS Conservation Officer who dealt with SO1's son at the scene of a single-car motor vehicle accident on the afternoon of February 11, 2025. JPSO1 provided a statement to SiRT and provided a copy of his report from February 11, 2025. According to JPSO1's report, he pulled over to assist a vehicle that was in a ditch. During his interaction with the driver, he had suspicion he was impaired by alcohol and read the driver a demand for a breath test by an approved screening device (ASD), which is a device administered at the roadside. The result was "fail". Rather than continue through the Criminal Code process, JPSO1 made the decision to suspend the driver's license under provincial IRS legislation. (*Director's note: Police and JPS officers can use discretion which process to use*). In his statement and report, JPSO1 indicated that SO1 arrived on scene in his marked police vehicle. SO1 did not get involved with the investigation and made no contact with his son. SO1 removed some personal belongings from his son's vehicle, with the permission of the officers on scene and returned to his patrol car. Once the officers processed his son, SO1 was permitted to drive him home. JPSO1 stated SO1 was on duty when he showed up, but he stayed away and did not attempt to influence JPSO1 in any decisions made on scene. JPS Officer #2 (JPSO2), JPSO1's supervisor, and JPS Officer #3 (JPSO3), another conservation officer, also attended the scene. They both confirmed SO1 did not interfere with the investigation at the scene.

Actions of Sos Following Impaired Driving Investigation

Following the incident, the SO's son commenced an appeal of his license suspension with the NB Motor Vehicle Branch. This appeal was denied.

On February 22, 2025, JPS Officer #4 (JPSO4), a JPS officer, attended the RCMP detachment where SO1 works, on a separate file. JPSO4 and SO1 knew each other through work. SO1 was at the detachment that day, and they spoke about the incident involving his son. JPSO4 was critical of the IRS process and how the incident was handled.

During their statement to SiRT, JPSO4 stated he ran into SO1 at a later date, after he had learned his son's appeal was denied. JPSO4 encouraged him to seek judicial review. JPSO4 stated SO1 did not ask him for any information or favours during these discussions.

On March 11, 2025, SO1 approached JPSO3 at his office. SO1 was in his personal vehicle and was wearing his civilian clothes. They had a brief conversation about SO1's son, who wasn't present. SO1 shared with JPSO3 what he believed went wrong with his son's investigation and stated he wanted the license suspension dropped down to a 7-day suspension. SO1 informed JPSO3 that the appeal had been denied and he was not happy about it. He also informed JPSO3 that he

did not want to involve lawyers but would if necessary. SO1 asked JPSO3 to have his Sergeant (JPSO2) call him. JPSO3 provided SO1's contact information to JPSO2.

On March 19, 2025, JPSO1 was attending the RCMP detachment where SO1 works on an unrelated matter. While he was outside of the detachment, SO1 pulled up in front of JPSO1 in a marked police car and stated he wanted to talk to JPSO1 off the record. SO1 talked about the incident involving his son and pointed out mistakes JPSO1 made in the investigation, implying the conservation officers did not have enough experience in these types of files. SO1 also stated he may have to engage legal counsel. JPSO1 interpreted the SO was threatening legal action against him because of the mistakes he made. JPSO1 also stated it wasn't clear what SO1's purpose was in engaging him in conversation. He did not know if he was trying to get information, wanted JPSO1 to admit he made mistakes, or have JPSO1 reduce the suspension penalty. In his statement with SiRT, JPSO1 stated he did not feel this conversation was appropriate, especially with SO1 asking it to be "off the record". He also indicated that SO1's son was an adult, and it was not appropriate to be discussing the case without him present. JPSO1 stated that at the time of the conversation with SO1 he had about 18 months of service as a JPS officer. He also stated that after receiving a full day of training on the IRS process, he realized there was a potential error in the roadside screening process.

Civilian Witness #1 (CW1) is the Appeal Manager with the New Brunswick Motor Vehicle Branch. She reviewed the appeal and sent the formal letter denying the appeal. After SO1 received the decision, he called CW1. SO1 was respectful during the phone call but indicated he did not like how the investigation was handled and was critical of the officers. He said he had everything outlined in a letter and he asked for CW1's email address so he could send it to her. On March 19, 2025, CW1 received an email from SO1. In the letter SO1 introduced himself as a member of the RCMP and by his rank. He identified issues he had with the incident, indicating that he was "...an experienced officer with specialized training, including as an Approved Screening Device (ASD) Instructor for user and calibrator, Senior Field Breath Tech Instructor, SFST trained and a Drug Recognition Expert (DRE) for the Province of New Brunswick...". The letter was signed:

*"Sincerely,
[RANK SO's NAME],
Royal Canadian Mounted Police – [Detachment Name]
Cell: (XXX) XXX-XXXX
Email: [name]@rcmp-grc.gc.ca"*

CW1 stated it is not uncommon for parents to contact her office regarding their adult children. However, she was not sure why SO1 signed using his RCMP rank and employment, rather than

just his name. She felt that SO1 was trying to get an exception made for his child because of his position with the RCMP. As part of the SiRT interview, CW1 explained the process of an appeal. Once a denial is issued, an application for judicial review can be filed with the court. In this case, the CW1 discussed the file with her supervisors, and it was determined that the initial denial stood.

The JPS Sargeant, JPSO2, was informed that SO1 wanted to speak with him and on March 21, 2025, he reached out to SO1. SO1 requested they meet in person, he attended JPSO2's office in his civilian clothes. During the conversation, SO1 pointed out mistakes that were made by the JPS officers and informed him that his appeal had been denied. SO1 advised JPSO2 that he had spoken with other officers who said there were issues with his son's file. SO1 implied the file was wrongly handled and it should be discarded. JPSO2 stated the meeting felt awkward and he thought SO1's goal of the meeting was for him to make the file go away. JPSO2 noted in his statement to SiRT that the JPS officers who dealt with SO1's son were junior and he thought it would have been intimidating to have SO1 on scene on the date of the incident.

On June 30, 2025, the SiRT investigator interviewed JPS Officer #5 ("JPSO5"), a member of JPS leadership. He indicated that SO1 filed a complaint with the Department and it was forwarded to him for review. Throughout the SO1's correspondence with JPS, he referred to himself as an RCMP officer, along with his rank. SO1 provided documents to JPS, including an RCMP case analysis of the incident, that was written by SO2. This analysis had the RCMP emblem on the cover page and was signed by SO2 in his capacity as a police officer. The report outlined SO2's training and experience for providing the analysis. SO2 had reviewed JPSO1's report of the impaired driving incident, identifying issues in how it was handled. SO2 concluded the driving suspension issued to SO1's son was not valid.

JPSO5 stated that while he thought the case analysis was well done, it was unusual for the RCMP to have completed a case analysis for a member's son. He felt SO1 sent the analysis so JPS would withdraw their file and have the suspension overturned. In his statement to SiRT, JPSO5 indicated he was concerned how SO1's actions would impact the relationship with the RCMP, since the two agencies (JPS and RCMP) work closely together. He also thought SO1 was using his rank as his way of expressing he had more expertise than the JPS officers. As a result of the correspondence received from SO1, JPSO5 contacted the RCMP to make them aware that a report was filed with the RCMP emblem and to ensure their leadership was aware.

Witness Officer # 1 (WO1), a Staff Sargeant with the RCMP, received a call from JPSO5 on June 18, 2025, notifying him that JPS received a complaint from SO1 and that there was an RCMP report included as part of this correspondence. WO1 asked JPSO5 to send him all correspondence received from SO1. WO1 noted that SO1 used his RCMP position and rank in his communications.

He also noted he felt these communications were unprofessional. WO1 contacted Witness Officer #2 (WO2), SO1's supervisor, to advise SO1 to stop using his RCMP rank and the RCMP name in his communication on this matter. WO2 advised SO1 of this on June 18, 2025. SiRT was contacted the following day.

WO2 also stated he was made aware of SO1's son's incident in February 2025, a few days after it occurred. He inquired with WO1 whether the RCMP could assist since the IRS legislation was new. WO1 advised that SO1 could proceed through the appeal process but could not use his RCMP name or position. WO2 told SO1 that the RCMP could not assist him and that he should consider the appeal process and reach out to a lawyer. WO1 confirmed he had this conversation with WO2 and directed him to tell SO1 to not use his RCMP position in the process.

Subject Officer Statements

Subject Officers are under no legal obligation to provide their reports or a statement as part of a SiRT investigation. In this case, SO1 consented to providing a statement and SO2 provided a written summary of his involvement to the SiRT investigator.

SO1 provided a statement to SiRT on September 19, 2025. He stated that on February 11, 2025, he was leaving the Saint John Courthouse in his police vehicle, heading towards his detachment. He received a call from his wife and learned his son was under arrest. He turned off on the road he suspected his son had been travelling on and saw a conservation truck and JPS officers who were dealing with his son. He asked if his son was okay and where his car was. The JPS officers told him he shouldn't get involved, and SO1 agreed. SO1 returned to his police vehicle. He got out of his car one time and JPSO1, the lead investigator, identified himself. They had a brief discussion but did not talk about anything related to SO1's son or the investigation. SO1 waited until the JPS officers were finished and they asked if he wanted to drive his son home or have the officers drive him home. SO1's son decided to have his father drive him home. JPSO1 gave SO1 his card and personal number when they finished on scene. SO1 learned of some issues and potential mistakes the officers made during the incident after speaking with his son. He stated on February 22, 2025, a JPS Officer (JPSO4) attended the RCMP detachment on an unrelated matter and JPSO4 brought up the incident. He stated that JPSO4 told him there was training for JPS officers where they talked about the issues in his son's case and how his suspension should have been dropped or at least reduced. SO1 stated after hearing this information, he accepted that the information his son gave him about the incident was accurate. He was upset that the case was being discussed and brought up at his place of employment. SO1 stated his son appealed the suspension and he received a letter by registered mail that it was denied. The denial letter also had some problems, as it referenced the wrong law enforcement agency that dealt with his son. SO1 stated he spoke to his direct supervisor (WO2) about the matter, and he provided him a lawyer's name

so he could address the manner through the judicial review process. A couple days after being denied the appeal, SO1 was off duty and driving near the Conservation/JPS office. He stated his emotions were high and that he stopped and asked if JPSO2 was working and asked an officer if they could pass his contact information along. The officer confirmed that JPS conducted IRS training after his son's incident.

SO1 stated on a separate day he had a conversation with JPSO1 at his detachment. WO2 had called him to let him know that JPSO1 was at the detachment. SO1 stated his emotions were high at the time and he probably wasn't in the right mindset to speak to JPSO1. He told JPSO1 that he wanted his supervisor to call him. JPSO2 eventually reached out to him, and they met to discuss the incident. SO1 indicated that the purpose of the meeting was for him to voice his concerns about how the incident was handled. SO1 stated he believed the IRS process has value, but the system was broken with no proper appeal process in place. He advised JPSO2 that the matter was now before the court, and his lawyer said it would become public. SO1 did not want this matter to become public. SO1 stated his interaction with JPSO2 ended amicably. He had voiced his concerns and wanted to ensure there was a fair process. SO1 stated during the meeting he never said "I'm [Rank SO] with the RCMP and I want the charges dropped..." SO1 also confirmed he sent letters to CW1, as part of the appeal process.

SO1 stated that during this process, SO2 was working overtime in his area. They were talking about the incident and SO1 expressed frustration about the file. SO2 offered to review the JPS file and do an analysis. SO2 insisted he wanted to help SO1, as they were friends, and SO1 accepted. SO1 admitted that no supervisors were consulted in the preparation of the case analysis. SO1 stated he then sent an email to JPS requesting information on how to file a complaint. He corresponded with JPSO5 and documents, including the analysis prepared by SO2, were sent to his attention. When asked about his communication with the JPS officers, SO1 indicated that he was trying to follow the chain of command to have his concerns addressed. When asked why he used his RCMP rank and employment in his correspondence, he stated that is who he is and he didn't realize the perception it was creating. He also stated that as a police officer, he had concerns about the file and had a duty to report those concerns. He did not want to file a formal complaint but rather address these issues in an informal manner.

SO2 provided two written statements to SiRT (an initial statement and a response to follow up questions), outlining his involvement in the matter. He stated that SO1 informed him of the incident with his son and asked for his opinion on the report. SO2 stated on his own time and in a personal capacity, he reviewed the report and prepared informal notes for SO1 (*Director's note: This report was review by SiRT. It was prepared with the RCMP logo, was dated, and had SO2's name and regiment number. It also stated SO2's training and experience. It contained a detailed*

analysis of the incident, outlining issues and conclusions.) SO2 stated that his intent was to help SO1 understand the report and to only share it privately with SO1. SO2 stated the report was not prepared for court or for public disclosure and that it was forwarded to JPS without his knowledge. SO2 stated he did not receive any personal, financial, or professional benefit for preparing the report. SO2 did not have any involvement in the appeal or judicial review process of the file.

Witness Officer #3 (WO3) is a Corporal who works in the same detachment as SO2. He overheard SO2 talking about the incident involving SO1's son. WO3 started listening to the conversation and WO3 stated there were possible issues with the file and these issues shouldn't be "flying with the Province". SO2 asked WO3 to write something to help the member because the Province was giving SO1 a difficult time with the file. WO3 said he would not write anything unless he was approached by RCMP leadership. WO3 warned SO2 to stay away from this and not get involved. He had no knowledge of SO2's actions following this conversation.

RELEVANT LEGISLATION

Criminal Code:

s. 122 - Breach of Trust by Public Officer

Every official, who, in connection with the duties of their office, commits fraud or a breach of trust, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person, is guilty of

- (a) an indictable offence and liable to imprisonment for a term or not more than five years;
- or
- (b) an offence punishable on summary conviction.

s. 139 – Obstructing Justice

...

(2) Every person who intentionally attempts in any manner other than a manner described in subsection (1) to obstruct, pervert or defeat the course of justice is guilty of

- (a) an indictable offence and liable to imprisonment for a term or not more than 10 years;
- or
- (b) an offence punishable on summary conviction.

LEGAL ISSUES & ANALYSIS

I must now assess the evidence to determine whether there are reasonable and probable grounds to believe a criminal offence has been committed. Reasonable and probable grounds is a standard

lower than a balance of probabilities or beyond a reasonable doubt, and more than reasonable suspicion.

BREACH OF TRUST

In the Supreme Court of Canada (SCC) case of *R v. Boulanger*, [2006] 2 SCC 49 the court set out the legal test for breach of trust:

[58] I conclude that the offence of breach of trust by a public officer will be established where the Crown proves beyond a reasonable doubt the following elements:

1. The accused is an official;
2. The accused was acting in connection with the duties of his or her office;
3. The accused breached the standard of responsibility and conduct demanded of him or her by the nature of the office;
4. The conduct of the accused represented a serious and marked departure from the standards expected of an individual in the accused's position of public trust; and
5. The accused acted with the intention to use his or her public office for a purpose other than the public good, for example, for a dishonest, partial, corrupt, or oppressive purpose.

Each of the above elements for the offence of breach of trust must be considered to determine whether there are reasonable and probable grounds to lay a criminal charge.

Are the SOs officials?

The SOs are police officers, and it is clear that police officers are officials for the purposes of s. 122 of the *Criminal Code*.

Were the SOs acting in connection with the duties of their office?

SO1 was using his rank and employment status when corresponding with JPS officers and employees. He had conversations with JPS officers while on duty and in uniform. SO1 stated that he felt as an officer, he had a duty to report his concerns to JPS. I have determined that SO1's actions, where he was using his RCMP details, was in connection with the duties of his office.

SO2 created a report using the RCMP letterhead, using his RCMP employment details and experience in the report. I have determined SO2 was acting in connection with the duties of his office.

Did the SOs breach the standard of conduct and responsibility demanded of them by the nature of the offence and was the conduct of the SOs a serious and marked departure from the standards expected of an individual in the SOs' position of public trust?

In *Boulanger*, at para 52, the SCC stated "...The conduct at issue, in addition to being carried out with the requisite *mens rea*, must be sufficiently serious to move it from the realm of administrative fault to that of criminal behaviour. ...What is required is "conduct so far below acceptable standards as to amount to an abuse of the public's trust in the officer holder."

There must also be consideration as to whether the conduct of the officer amounted to a serious and marked departure expected of the standards of a police officer. In the 2021 Nova Scotia Court of Appeal decision of *R v. Farmer*, 2021 NSCA 7 at para 120, the Court held:

This requirement, along with the requisite *mens rea*, ensures that mistakes or errors in judgement are not criminalized. It is important to emphasize that police officers like other public officials can be guilty of breach of trust for conduct that would not amount to a crime by an ordinary citizen...

The facts in the SCC *Boulanger* case are also instructive when assessing this matter. In that case, a director of public security directed a police officer to produce a supplementary report for an accident involving his daughter. The Court held that "...it is not misconduct to make a decision knowing it furthers one's personal interests, if the decision is made honestly and in the belief that it is a proper exercise of the public power the official enjoys." In this case the accused did not direct the officer to add particular details to the report, the officer never felt pressured to write the report, and the report was not falsified or misleading. The Court held that his private interest/purpose did not undermine the public good and that his actions were not a serious and marked departure from the standards expected of him.

In this case, SO1 used his RCMP rank, employment and experience in communicating with JPS officials about his son's file. He filed correspondence with the Motor Vehicle Branch as part of the appeal process and communicated with JPS officers about the process and situation. When his appeal was denied, he communicated more formally with JPSO5, by sending him documents, including the case analysis prepared by SO2. SO1's son proceeded through the appeal and judicial review process, as is required of any other citizen facing an IRS suspension. SO1 also identified legitimate concerns with his son's file: he learned that relevant training was provided to JPS officers after the incident with his son and officers recognized there were errors in the way his son's file was handled. SO1 also expressed frustration with an administrative error in the appeal denial letter, which identified the wrong law enforcement agency. SO1 stated that his intentions in his communications with the JPS officers was to voice his concerns about the

process. He felt, as a police officer, he had a duty to report his concerns and wanted to address them in an informal manner, rather than filing a formal complaint.

In reviewing all the documents and statements collected, outside of the documents and correspondence as part of the appeal process, SO1 never explicitly asked for the decision to be reversed. It is reasonable to infer and for the JPS officers to conclude he was seeking an exception for his son, considering the manner in which SO1 communicated with them. Despite using his RCMP status in these communications, I cannot conclude his actions were a serious and marked departure from the standards expected of him.

SO2 stated he drafted the case analysis as a favour to SO1. While SO2 made a poor decision in doing this using the RCMP template and providing a formal document without the permission of the RCMP, I cannot conclude this is a serious and marked departure from the standards expected of him. SO2 did an analysis of the file and turned it over to SO1 for review. The report was not falsified or misleading. There is no evidence that SO2 drafted this report for use in a judicial proceeding or that he received a benefit for it.

The SOs acted with the intention to use their public officer for a purpose other than the public good, for example, for a dishonest, partial, corrupt, or oppressive purpose

Paragraph 56-57 of the SCC *Boulangier* sets out what should be considered in assessing this element of the legal test for breach of trust:

[56] ...In principle, the *mens rea* of the offence lies in the intention to use one's public office for purposes other than the benefit of the public. In practice, this has been associated historically with using one's public office for a dishonest, partial, corrupt or oppressive purpose, each of which embodies the non-public purpose with which the offence is concerned.

[57] As with any offence, the *mens rea* is inferred from the circumstances. An attempt by the accused to conceal his or her actions may often provide evidence of an improper intent...Similarly, the receipt of a significant personal benefit may provide evidence that the accused acted in his or her own interest rather than that of the public. However, the fact that a public office obtains a benefit is not conclusive of a culpable *mens rea*...

There is no evidence to conclude the SOs acted for a purpose other than the public good. While SO1 had a personal interest in the matter, I cannot conclude his actions were dishonest, corrupt, or oppressive. Some could view his actions as partial, but a review of the evidence indicates that although it may have been poor judgment the behaviour did not rise to this level. Further, for the reasons stated above, I cannot conclude the actions of SO2 were for a purpose other than the public good.

It is not within the SiRT mandate to determine whether the actions of the SOs amount to internal disciplinary action. However, the SCC has affirmed that a criminal breach of trust is a higher standard, and breaches of policy or conduct do not always equate to criminal acts. In this case, I have concluded that there are no reasonable grounds to believe the SOs committed a criminal breach of trust.

OBSTRUCTION OF JUSTICE

s. 139 of the *Criminal Code* deals with individuals who attempt to obstruct, pervert or defeat the course of justice, which can include the court and investigation processes. While the SOs used their RCMP positions to express their frustration and concerns with the process, there is no evidence to suggest that SO1 or SO2 acted in a manner to obstruct, pervert or defeat the course of justice. SO1 took the appropriate steps to bring his son's matter through the appropriate appeal and judicial review process. There is no evidence to suggest that SO1 acted in a way to obstruct the investigation or court process. SO2 prepared a case analysis for SO1. While he did not have permission from the RCMP to do so, his analysis was factual and not intended to mislead or obstruct the course of justice.

CONCLUSION

My review of the evidence indicates there are no reasonable grounds to believe either of the Subject Officers committed a criminal offence.