

PROVINCE OF NEW BRUNSWICK
IN THE MATTER OF THE *NEW BRUNSWICK POLICE ACT*
AND IN THE MATTER OF AN ARBITRATION

BETWEEN:

**THE CHIEF OF POLICE, SAINT
JOHN POLICE FORCE**

Complainant

- and -

CONSTABLE DONALD SHANNON

Respondent

Appearances:

- Jamie Eddy, K.C. and Matthew LeBlanc, Esq. for Robert Bruce, Chief of the Saint John Police Force
- Steven Veniot, Esq., Hannah Russell, and Constable Duane Squires for Constable Donald Shannon
- Constable Donald Shannon

Hearing dates: April 8th, May 7th, 8th, 16th, 17th, and 24th, 2024

Introduction

1. This is the final decision made under the *Code of Professional Conduct Regulation*, NB Reg 2007-81 in respect of a Notice of Arbitration Hearing (the “Notice”) issued by Chief Robert M. Bruce (the “Chief”) to Constable Donald Shannon (the “Respondent”) and dated March 11th, 2024. This decision follows the s. 29 decision made in this matter dated May 15th, 2024 (the “s. 29 Decision”). As the parties have been advised, the s. 29 Decision is amended in that the date of the Notice of Arbitration Hearing referenced in paragraph 1.1 is March 11th, 2024 and not September 1st, 2022.
2. The hearing of this matter was conducted over 6 days. I was appointed by the parties and, at

the outset of the hearing, I advised the parties of the fact that I have had, and continue to have, a variety of professional and personal interactions with the parties and their counsel. The parties confirmed that they do not object to my jurisdiction in this matter and that they maintained their request for me to proceed as the arbitrator in this matter. I also repeatedly invited the parties to raise procedural objections that arose from the manner in which the hearing was conducted, if any.

3. During the hearing, the following witnesses were called to testify: Inspector Marie-Eve MacKenzie-Plante, Acting Inspector Neal Fowler, Stephanie Hanlon, Constable Don Shannon, Heather Stevens, Steven Wright, and Inspector Mike Young.
4. Following the testimony of Inspector Marie-Eve MacKenzie-Plante, Acting Inspector Neal Fowler, and Stephanie Hanlon, Chief Robert Bruce (the “Chief”) closed his case for the purpose of determining whether a prima facie case had been made out against Cst. Shannon under s. 29 of the *Code of Professional Conduct Regulation*, NB Reg 2007-81 (the “Code”). The Code operates under the *Police Act*, SNB 1977, c P-9.2 (the “Act”).

The Allegations and the Prima Facie Case Analysis

5. As stated in the s. 29 Decision, the Notice of Arbitration Hearing outlines the alleged misconduct of Cst. Shannon (the “Allegations”). It has been alleged that Cst. Shannon has committed discreditable conduct and neglect of duties under sections 35, 36, and 37 of the Code. Specifically, the Allegations, as advanced in the Notice, are that Cst. Shannon has violated sections 35(a), (b), and (k), 36(1)(a)(i) and (ii), 36(1)(d)(i), 37(a)(i) and (ii), 37(b), and 46(a) and (b) of the Code.
6. Generally, the Allegations assert that, on September 13th, 2023, Cst. Shannon refused to work in the SJPF’s Public Safety Communications Center (“PSCC”) citing health and safety concerns, thereby refusing a lawful order.
7. In the s. 29 Decision, it was determined that the verbal order given by Acting Inspector Neal Fowler (then Staff Sergeant Fowler) to Cst. Shannon on September 13th, 2023, to work in the PSCC as required (the “Verbal Order”) was a lawful order and that Cst. Shannon refused to obey that order.
8. On June 2nd, 2024, I corresponded with the parties by email to advise them that the s. 29 Decision erroneously referenced the Notice of Arbitration Hearing date as September 1st, 2022, when in fact the date of the Notice is March 11th, 2024.
9. Having made the s. 29 Decision, the questions left for determination regarding the Allegations are a) Was Cst. Shannon’s refusal driven by improper motives? b) Did Cst. Shannon have a

lawful excuse for refusing the Verbal Order?; and c) If the answer to question b) is in the negative, what corrective and disciplinary measure is appropriate?

Was Cst. Shannon's refusal a strategic ploy to support striking CUPE workers?

10. The Chief takes the position that Cst. Shannon's refusal of the Verbal Order was motivated by a desire to support CUPE members who were engaged in collective bargaining and not a sincere concern regarding the safety of his work in the PSCC. Conversely, Cst. Shannon asserts that his refusal was generated by a sincerely held belief that his work in the PSCC would pose a safety risk to himself and other employees. The Chief argues that, if Cst. Shannon refused the Verbal Order for the purpose of advancing an organized labour cause, that would eliminate any justification for the refusal and would influence any applicable remedial outcome.
11. For the reasons expressed below, I find that evidence supports Cst. Shannon's position on this point more than it does the Chief's position. I say this with recognition that Cst. Shannon's communication to Staff Sergeant Neal Fowler on September 12th, 2023, does suggest that members of the SJPA had discussed and even planned to exercise their right to refuse PSCC work and to insist on being ordered to do the work. Nevertheless, it is also notable that:
 - a. The evidence confirms that at least two officers, Sergeant Drost and Cst. Shannon, had sincere beliefs that the PSCC work would pose safety risks;
 - b. The PSCC work did have elements that invited safety considerations and risks. In the case of employees who performed the PSCC work, there was some risk to their psychological safety, which risk was referenced in the testimony of both Heather Stevens and Cst. Shannon. Regarding the safety of other employees, including other police officers, the evidence demonstrated that any errors made in the PSCC could put the safety of other employees at risk in a variety of ways;
 - c. The training provided to some SJPA members, including Cst. Shannon, was short in duration and, in Cst. Shannon's case was not even completed. As Heather Stevens testified, there were a number of complicated aspects to the PSCC work and, while Inspector MacKenzie-Plante and others testified that the replacement PSCC workers performed well in the PSCC, it was not suggested that the work was simple.
 - d. Cst. Shannon testified that his refusal of the PSCC work was based in part on his concerns that the work had changed since he last worked there in 2009 and, therefore, he was concerned that he would not be able to safely perform the duties, particularly given that he was on an accommodated work program related to an eye surgery.

- e. It was never expressly stated by Cst. Shannon that his expectation that SJPA members exercising their right to refuse PSCC work on safety grounds was driven by insincerity. Essentially, Cst. Shannon was described as having stated that SJPA members would have to be ordered to work in the PSCC, would then make the *Occupational Health and Safety Act*, SNB 1983, c O-0.2 (the “OHSA”) refusals to work, and would “bottleneck” the processing of calls in the PSCC. While one might infer a negative intent behind Cst. Shannon’s comment, no clear evidence was called to support that inference. In fact, to the contrary, Cst. Shannon testified that his safety concerns about working in the PSCC were sincere.
12. I conclude that, while Cst. Shannon suggested in August 2023 that SJPA members would refuse to perform PSCC work and would require completion of the OHSA right to refuse process before doing the work, the presented evidence does not support a finding that such an exercise of the right to refuse would be disingenuous.

Did Cst. Shannon have a lawful excuse for refusing the Verbal Order?

13. The finding that Cst. Shannon did not refuse the Verbal Order to support striking CUPE workers does not answer the question of whether he was entitled to refuse the Verbal Order at all. In the s. 29 Decision, it was found that a *prima facie* case exists regarding the allegations that Cst. Shannon has violated sections 35(a), (b), and (k), 36(1)(a)(i), 36(1)(d)(i), 37(a)(i) and (ii), 37(b), and 46(a) and (b) of the Code.
14. In response to the s. 29 Decision, Cst. Shannon adduced evidence in support of his argument that he had a lawful excuse for refusing the Verbal Order based on safety concerns about working in the PSCC. This evidence included the testimony of Cst. Shannon himself, who described his experience working in the PSCC prior to becoming a police constable, including the training that he received at that time, his awareness of changes in the PSCC work, and his concerns about trying to do the work safely in the absence of more training.

Summary of Evidence

15. The following summarizes my findings of fact based on the evidence provided by both parties.
16. I accept the evidence given by Inspector MacKenzie-Plante that, prior to September 13th, 2023, Cst. Shannon was made aware that he had been identified as a candidate to work in the PSCC in the event of a strike by the regular PSCC staff and that he would be provided with classroom and hands-on training for that function. Exhibit 7, an email sent to Cst. Shannon and others by Inspector MacKenzie-Plante on August 24th, 2023, confirms those facts.

17. I also accept the evidence summarized in paragraphs 18 – 54 below.
18. Prior to entering the police academy and becoming a constable, Cst. Shannon had worked in the PSCC as an operator. Specifically, he worked as a PSCC operator from January 23rd, 2006 to December 4th, 2009 (see Exhibits 25 and 32).
19. In the course of becoming a PSCC operator, Cst. Shannon applied for and was deemed to be qualified for the position. In July 2007, Cst. Shannon successfully completed a probationary period as a PSCC Operator 4 (see Exhibit 28).
20. The qualifications prescribed for the PSCC operator position were substantially the same when Cst. Shannon was employed in that position as they were in August and September 2023 (see Exhibits 15 and 4).
21. Some of the functions of the PSCC operator position changed between 2006, when Cst. Shannon was hired as a PSCC operator, and August 2023. Heather Stevens, a current PSCC supervisor, testified to that effect (see Exhibit 47). However, the essential aspects of the position had remained the same.
22. In November 2008, Cst. Shannon applied for and was granted a leave of absence from the SJPF to attend the Atlantic Police Academy (see Exhibit 29). It is notable that the leave of absence was sought from and granted by the Chief Administrative Officer of the SJPF.
23. In December 2009, Cst. Shannon resigned from his position of PSCC operator and accepted a position as a Probationary Constable in the SJPF (see Exhibits 32 and 33).
24. Cst. Shannon had a successful career as a PSCC operator. Heather Stevens described him as being “excellent” in the position, or words to that effect. Despite this fact, and despite having been extensively trained as a PSCC operator, Cst. Shannon made at least one error as a PSCC operator that resulted in emergency services equipment being sent to the wrong address.
25. Between December 2009 and August 2023, Cst. Shannon worked successfully as a constable. However, in August 2023, Cst. Shannon was occupying an accommodated position in the SJPF due to disability, which included a disability related to an eye surgery.
26. In August 2023, the staff of the PSCC was contemplating an organized labour strike. On August 11th, 2023, Scott Green, who was a manager of the PSCC, sent an email to Inspector MacKenzie-Plante regarding potential staffing of the PSCC in the event of a strike (see Exhibit 5). Cst. Shannon was one of eight individuals identified in Exhibit 5 as “...in-house people who could likely help and not be starting from total ground zero training.”

27. On August 17th, 2023, Inspector MacKenzie-Plante emailed Scott Green and others to advise that the Minister of Public Safety was not going to mandate the PSCC operators back to work and that, consequently, the “best option” was to train replacement workers (see Exhibit 6). Exhibit 6 listed the eight individuals that appear in Exhibit 5 as well as others.
28. A week later, on August 24th, 2023, Inspector MacKenzie-Plante advised individuals including Cst. Shannon of the possibility of PSCC operators’ strike and the fact that the individuals had been identified as “...the second group (Group 2) to receive PSCC training to prepare for [a strike]” (See Exhibit 7).
29. Exhibit 7 made it clear that training for the PSCC operator replacement work was contemplated and would take two forms: first, classroom training; and second, hands-on training. Additionally, there would be a “refresher course” provided at a later date.
30. Cst. Shannon underwent the classroom training for the PSCC functions on August 29th, 2023. He testified that, during this training, he came to understand that: a) the SJPF had arranged for 911 calls to be handled in Fredericton rather than in the PSCC, which would reduce the work done in the PSCC; b) police officers assigned to work in the PSCC would only handle police-related calls, while fire fighters in the PSCC would handle fire-related calls; and c) further training in a hands-on format would be provided to anyone working in the PSCC.
31. In an email dated September 11th, 2023, Inspector MacKenzie-Plante confirmed to Cst. Shannon and others that the regular PSCC operators would complete their overnight shifts on September 11th-12th before going on strike (see Exhibit 10).
32. By correspondence dated September 12th, 2023, the Chief notified the SJPA of the impending CUPE strike and confirmed that police officers would be ordered to assist with the operations of the PSCC “to ensure that there [was] no significant disruption to public safety.” The Chief also advised the SJPA that the order fell under the scope of the lawful duties of a police officer, pursuant to s. 12(1.1) of the Act, and that non-compliance would attract discipline (see Exhibit 14).
33. On September 12th, 2023, Cst. Shannon visited Staff Sergeant Fowler’s office to advise Staff Sergeant Fowler that he (Cst. Shannon) had concerns with union members working in the PSCC and that, if they were ordered to do so, there would likely be an OHSa refusal to work issued. Sergeant Don Metcalfe conveyed a similar message to Staff Sergeant Fowler.
34. In response to the concerns raised by Cst. Shannon and Sergeant Metcalfe, Staff Sergeant Fowler met with the Chief and Stephanie Hanlon and was advised to avoid using SJPA members in the PSCC until it was required. Staff Sergeant Fowler advised both Cst. Shannon and Sergeant Metcalfe of this directive.

35. The following day, September 13th, 2023, Staff Sergeant Fowler had meetings with Sergeant Craig Ryan, Sergeant Don Metcalfe, Cst. Shannon, and Sergeant Les Drost to advise each of them that they would be scheduled to work in the PSCC sometime after September 24th, 2023, and to ask if they had any safety concerns about the PSCC work, and to order them, if necessary, to do the work.
36. Sergeant Ryan advised Staff Sergeant Fowler that he was prepared to do the PSCC work, that he had no safety concerns, and that he did not have to be ordered. Similarly, Sergeant Metcalfe indicated that he was prepared to do the PSCC work, that he had no safety concerns, and that he did not have to be ordered.
37. Cst. Shannon indicated that he did have safety concerns regarding the PSCC work and that he would require an order to do it. In response to Staff Sergeant Fowler's questions regarding the basis for his safety concerns, Cst. Shannon expressed concerns about inadequate training. His concerns were informed by his recollection of the work that was required in the PSCC based on his work as a former PSCC operator. Staff Sergeant Fowler asked Cst. Shannon about the nature of his concerns and his previous PSCC experience (see, in part, Exhibit 17).
38. Sergeant Drost also expressed safety concerns regarding the PSCC work. His concerns related to the limited PSCC training he had received. He indicated that he would require an order.
39. On September 13th, 2023, Cst. Shannon was aware that the full training for the PSCC work was contemplated to include hands-on training, but he did not know what exactly that additional training would consist of or when it would occur.
40. On September 13th, 2023, Staff Sergeant Fowler issued the Verbal Order to Cst. Shannon to work in the PSCC "as scheduled".
41. Cst. Shannon was never scheduled to work in the PSCC because he refused the Verbal Order.
42. During the early afternoon of September 13th, 2023, Staff Sergeant Fowler received a telephone call from Cst. Shannon, who advised that Cst. Shannon's lawyer had sent an email response to the Verbal Order. The response is the Veniot Letter, Exhibit 11.
43. The Veniot Letter asserted that:
 - a. Cst. Shannon was aware of the Verbal Order;
 - b. Cst. Shannon was refusing to comply with the Verbal Order;
 - c. The reasoning for Cst. Shannon's refusal to comply was that Cst. Shannon did not have the essential qualifications and training for working in the PSCC and that doing

so would endanger his health and safety and the health and safety of other employees;
and

- d. Cst. Shannon's refusal to comply was made pursuant to Art. 23.07 of the Working Agreement made between the Saint John Board of Police Commissioners and the SJPA (see Exhibits 12 and 42).
44. After receiving the Veniot Letter, Staff Sergeant Fowler and Stephani Hanlon met with Cst. Shannon. At that time, Stephanie Hanlon provided Cst. Shannon with a Right to Refuse form, which Cst. Shannon filled out (see Exhibit 20). It should be noted that Cst. Shannon later suggested that he also had concerns about doing the PSCC work due to his medical condition for which, at the relevant time, he required accommodation. On this point, Cst. Shannon acknowledged that Staff Sergeant Fowler agreed to meet his accommodation needs.
 45. On Exhibit 20, Staff Sergeant Fowler noted his disagreement with Cst. Shannon's refusal. He also sent Cst. Shannon a letter (Exhibit 19) that indicated there were no reasonable grounds for the refusal and that he would be found to be insubordinate.
 46. Subsequent to Cst. Shannon's completion of Exhibit 20, the City of Saint John's Joint Health & Safety Committee (the "JHS Committee") became involved in the matter. At approximately 4:03pm, Corey Curnew, Rob Nichol, and Stephen Wright, all members of the JHS Committee, arrived at the SJPF station.
 47. Stephen Wright testified in this matter. He advised that he was, at the relevant time, a co-Chair of the JHS Committee with Rob Nichol. Rob Nichol was the Fire Chief for the City of Saint John.
 48. Stephen Wright testified that, on September 13th, 2023, in the course of his duties as co-Chair of the JHS Committee, the process that he was supposed to follow included investigating the refusal (see Exhibit 43). Stephen Wright testified that, in this case, he did not review the PSCC training processes that were in place for Cst. Shannon, he did not speak to Cst. Shannon's supervisor, and he did not attend at the PSCC to observe it in person. Stephen Wright candidly conceded that the JHS Committee did not follow the normal procedure.
 49. Following a discussion, Stephen Wright and Rob Nichol were unable to reach a consensus regarding Cst. Shannon's refusal. As a result, they recorded on Exhibit 20 that "The JHSC cannot reach a decision because: Different viewpoints of the Job tasks and Training Requirements."
 50. After the JHS Committee had met regarding Cst. Shannon's refusal, Stephanie Hanlon emailed Exhibit 20 to John Gabriel, a WorkSafeNB officer (see Exhibit 36).

51. John Gabriel responded to Exhibit 36 by email on September 14th, 2023, at 8:45am, which led to an exchange of emails with Stephanie Hanlon (see Exhibit 37). Stephanie Hanlon also had several telephone discussions with John Gabriel in respect of which she made handwritten notes (see Exhibits 38 and 39), as well as another discussion in respect of which she did not make notes. From that last discussion, Stephanie Hanlon understood that WorkSafeNB (“WSNB”) was not going to pursue Cst. Shannon’s refusal further. However, on September 28th, 2023, John Gabriel emailed Stephanie Hanlon yet again, this time to indicate that Cst. Shannon had expressed to John Gabriel that there were two reasons for the refusal: inadequate training and complications arising from prescribed medications (see Exhibit 40).
52. Prior to the creation of Exhibit 40, on September 25th, 2023, Inspector MacKenzie-Plante met with Cst. Shannon about the Verbal Order and the PSCC work. Inspector MacKenzie-Plante indicated to Cst. Shannon that she was prepared to sit with him in the PSCC and to “plug in” with him to ensure his ability to perform, and comfort with performing, the PSCC work. Inspector MacKenzie-Plant told Cst. Shannon that she would take over for him if any safety issues arose. She also indicated that, if Cst. Shannon would agree to this training arrangement, the Code of Conduct Complaint made against him would “go away”, or words to that effect. Cst. Shannon did not agree to working in the PSCC.
53. Sometime after September 25th, 2023, Cst. Shannon received an email from John Gabriel to the effect that his refusal had been premature and, therefore, was not valid.
54. This summary of the evidence is not intended to be exhaustive. I have reviewed and considered the evidence and the arguments, including the written submissions, in full.

Lawful Excuse under s. 19 of the OHSA

55. The s. 29 Decision confirms my findings, on a *prima facie* basis, that the Verbal Order constituted a lawful order that was refused by Cst. Shannon. I concluded that ss. 37(a)(i) and 46(b) of the *Code* make it an offence to neglect a lawful order, and that the evidence advanced by the Chief supports a *prima facie* finding of violations of ss. 36(1)(a)(i), 36(1)(d)(i), 37(b) and 46(a) but not a violation of ss. 36(1)(a)(ii).
56. Cst. Shannon argues that, because the Verbal Order to work in the PSCC caused him to be concerned for his safety and the safety other employees, he was entitled to exercise his right to refuse the Verbal Order pursuant to ss. 19 and 20 of the OHSA. The OHSA is referenced in Art. 23 of the Working Agreement (Exhibit 42).
57. Irrespective of whether Cst. Shannon was entitled to invoke the right to refuse provisions of the OHSA, both parties argued that the processes prescribed under s. 20 of the OHSA were not properly followed. For example, it was argued that Staff Sergeant Fowler failed to “investigate the situation in the presence of the employee”, as required under s. 20(1) and that the JHS Committee failed to properly investigate the situation under s. 20(5) of the OHSA.

58. Regarding the JHS Committee's investigation, OHSA ss. 20(5)-20(8) provides direction concerning a potential outcome.
59. After review of Cst. Shannon's refusal, the JHS Committee was not able to provide a definitive finding. Consequently, neither ss. 20(6) or 20(7) were operative. While it is unclear as to exactly how John Gabriel became involved (either pursuant to s. 20(8) or in another way), he was involved with Cst. Shannon's refusal. However, the evidence does not confirm that John Gabriel completed the process contemplated in ss. 20(8)-20(12) of the OHSA.
60. Notwithstanding the imperfect procedures followed by the JHS Committee and John Gabriel, the procedures followed by the SJPF and Cst. Shannon in response to his refusal underscore the intersection of determinations that go to the heart of the work of a police officer; namely, the lawfulness of an order and the lawfulness of a refusal based on health and safety issues.
61. In this case, it was found in the s. 29 Decision that the Verbal Order was lawful. That determination does not mean that Cst. Shannon's refusal could never be lawful. In order to determine the lawfulness of the refusal, an analysis of the OHSA right to refuse is required.

The OHSA

62. The OHSA prescribes the following right to refuse unsafe work procedure:

Employee's right to refuse to do any act

19An employee may refuse to do any act where the employee has reasonable grounds for believing that the act is likely to endanger their health or safety or the health or safety of any other employee.

2001, c.35, s.8; 2022, c.32, s.15

Duty to report and take or recommend remedial action

20(1)Any employee who believes that an act is likely to endanger the employee's or any other employee's health or safety shall immediately report their concern to their supervisor, who shall promptly investigate the situation in the presence of the employee.

20(2)If a supervisor finds that the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the supervisor shall take appropriate remedial action or recommend appropriate remedial action to the employer.

20(3)If a supervisor finds the employee does not have reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the

health or safety of any other employee, the supervisor shall advise the employee to do that act.

20(4) If an employee has made a report under subsection (1) and the matter has not been resolved to the employee's satisfaction, the employee shall refer the matter to a committee or, where there is no committee, to an officer.

20(5) Upon receipt of a referral under subsection (4), the committee shall promptly investigate the situation.

20(6) Where a committee finds that the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the committee shall recommend appropriate remedial action to the employer.

20(7) Where a committee finds that the employee does not have reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the committee shall advise the employee to do that act.

20(8) Where a matter has been referred to a committee under subsection (4) and the matter is not resolved to the satisfaction of the employee, the employee shall refer the matter to an officer.

20(9) Upon receipt of a referral under subsection (4) or (8), the officer shall promptly investigate the situation and make the officer's findings known in writing as soon as is practicable to the employer, the employee and the committee, if any, as to whether the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health and safety of any other employee.

20(10) Where, on a referral to an officer under subsection (4) or (8), the officer finds that an employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the officer shall order appropriate remedial action to be taken by the employer.

20(11) Where, on a referral to an officer under subsection (4) or (8), the officer finds that an employee does not have reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the officer shall advise the employee in writing to do that act.

20(11.1) Subsections **32(2)** and **(3)** apply with the necessary modifications to advice given in writing by an officer under subsection (11).

~~20(12)~~Pending any investigation under this section or, if an appeal is taken by an employee against the advice of an officer given under subsection (11), pending the decision of the Chief Compliance Officer, the employee shall remain available at a safe place near the employee's work station during the employee's normal work hours.

2001, c.35, s.9; 2004, c.4, s.2; 2019, c.38, s.10; 2022, c.32, s.16

63. As referenced by Cst. Shannon in his written submission (para. 53), the OHSA does not expressly exclude the inherently dangerous work of certain professions from the right to refuse. By contrast, the Ontario Occupational Health and Safety Act limits the right of police officers in that province to refuse unsafe work.

Occupational Health and Safety Act, RSO 1990, c O.1, ss. 43 and 44.

64. Cst. Shannon has also cited the New Brunswick Court of Appeal decision in *Coffin v. Martin et al.*, in which a firefighter advanced the right to refuse under OHSA as a ground to appeal a decision made by the Appeals Tribunal under the *Worker's Compensation Act*, RSNB 1973, c. W-13. In *Coffin* Justice Green wrote, in *obiter*:

New Brunswick has seen fit to provide protection to an employee who, on reasonable grounds, refuses to do any work they believe "is likely to endanger his health or safety". (emphasis added)

Coffin v. Martin et al., 2018 NBCA 46 (CanLII) at para. 45.

65. Because the New Brunswick OHSA does not exclude police officers, it must be determined whether Cst. Shannon's refusal was based on reasonable grounds.
66. On this point, Cst. Shannon argues that the determination of the existence of "reasonable grounds" for his refusal should be made by applying this analysis:
- (1) Subjective standard: Employees may initially exercise their right to refuse if they have a subjective belief that the work is likely to be unsafe for themselves or other employees. The refusal can be exercised in anticipation of work they believe may be unsafe and actual or imminent danger is not required to exercise the right to refuse.
 - (2) Investigation in presence of employee: Once an employee exercises their right to refuse, the supervisor must investigate the refusal in the presence of the employee. This requires a dialogue between the employee and the supervisor. The supervisor must advise the employee of the facts, reasons and circumstances that lead to their conclusion in order for the investigation to be statutorily compliant.

(3) Objective standard: After the statutorily compliant investigation is conducted, the standard to determine whether the belief is reasonable is measured objectively. The objective standard is not based on whether there is actual danger, but whether the average employee at the workplace, having regard to his general training and experience, would, after exercising normal and honest judgment, have a reason to believe that the circumstances presented an unacceptable degree of hazard to himself or to another employee.

67. In support of his argument that his refusal was lawful, Cst. Shannon relies on cases including *Lahey v 13910 Newfoundland & Labrador Inc. (operating as Fewer's Ambulance Services)*, 2019 NLLRB 5, *Engleden v Art Shoppe*, 1988 CanLII 3 771 (ON LRB), *Douglas v Canadian Corps of Commissionaires (Hamilton)*, 1995 CanLII 9927 (ONLRB), *Elgaard v Sidbec Dosco Inc.*, 1988 CanLII 3610 (ON LRB), *Beaudoin and Treasury Board*, [1987] CPSSRB No. 331, and *Pharand v Inca Metals Co.*, 1980 CanLII 966 (ON LRB).

68. Cst. Shannon's position is articulated in a manner that reflects the findings of the NL Labour Relations Board in *Lahey*:

128. In *Inco*, though, the Ontario Labour Relations Board was considering whether an ongoing refusal (made after the initial refusal and an employer investigation) was valid. The initial refusal was still assessed on a subjective basis, while the continuing refusal (following an investigation by the employer) was assessed on an objective basis. This was clarified by the Ontario Labour Relations Board in the subsequent case of *Engleden v. Art Shoppe*, [1988] OLRB Rep. August 729, at Paragraph 8:

The Board has commented that initially an employee may refuse work which he or she has reason to believe is unsafe, a test which is subjective in its nature (see, for example, *The Corporation of the City of Ottawa*, [1986] OLRB Rep. June 798). Where there is such a refusal, the employer is required to investigate the matter forthwith in the manner set out in section 23. Following that investigation or steps taken to deal with the circumstances that prompted the work refusal, the worker may continue to refuse if he or she has reasonable grounds to believe that the work is unsafe. The Board has concluded that this subsequent test is an objective one, and has adopted this enunciation of the test set out in *Inco Metals, supra*, with respect to the predecessor legislation (see for example, *Camco Inc.*, [1985] OLRB Rep. Oct. 1431)...

129. In light of this, and for the foregoing reasons, the Board has determined that Mr. Lahey's work refusal was subjectively valid. There was no subsequent refusal by Mr. Lahey that must be addressed on an objective basis, since Fewer's Ambulance did not follow the appropriate process in dealing with Mr. Lahey's refusal to work.

69. Essentially, Cst. Shannon submits that, at first instance, the assessment of his refusal must be based on a subjective standard: “Did he have a subjective belief that the work was likely to be unsafe for him or other employees?” As stated in *Lahey*, a subjective belief must nevertheless be reasonable, “...judged from the perspective and circumstances of the complaint, bearing in mind all of the factors which in fact weigh upon him/her at the time.” (see para. 78 below).
70. I am satisfied that Cst. Shannon had a subjective belief that working in the PSCC might be dangerous as a consequence of his limited training. He also knew that working in the PSCC could result in the occurrence of negative circumstances (mistakes and difficult emotional events, as examples) even after extensive training. In his testimony, he discussed his previous career as a PSCC operator and his assessment of the work as being challenging. He also referenced his assessment of the first component of the training he received from the SJPF in August 2023 as being “fluffy”, or words to the effect. However, at the time of the refusal, Cst. Shannon was aware that the training for work in the PSCC involved more than one component (see Exhibit 7), and he knew that he had not yet attended the hands-on training.
71. It is notable that Cst. Shannon had not closely observed the PSCC work in August and September 2023 and had completed only one of the two training sessions referenced in Exhibit 7.
72. Additionally, it is necessary to consider the context of a police officer’s work. The evidence in this matter and the jurisprudence confirm that the work of a police officer presents inherent danger and safety risks. An individual who accepts employment as a police officer must know that the performance of their work will, by its nature, result in their exposure, and the exposure of their coworkers, to safety hazards.
73. Under the Act, a police officer is required to perform a broad range of duties:

Duties of police officer

12(1)A police officer shall perform the following duties throughout the Province:

- (a) maintain law and order;
- (b) prevent the commission of offences;
- (c) enforce penal provisions;
- (d) escort and convey persons in custody to or from a court or other place;
- (e) serve and execute, or assist in serving and executing, court process in respect of offences;
- (f) maintain order in the courts;

(g) assist in taking children into the protective care of the Minister of Social Development and enforce court orders issued in family proceedings when the safety or security of a child or other person is at risk; and

(h) assist in the enforcement of a court order on the request of the Minister.

12(1.1)A police officer may perform all other duties and services that may lawfully be performed by the police officer.

74. Similarly, the job description for Cst. Shannon's position as a Generalist Constable (Exhibit 16) is broad.
75. The evidence in this case demonstrates that Cst. Shannon and other police officers were ordered to perform some of the duties of PSCC operators who were on strike on or about September 12th, 2023. The PSCC is critical to the maintenance of law and order, and must operate for the purpose of facilitating the safety of police officers and the public. I find that, in the circumstances that existed as of September 13th, 2023, the work typically done by PSCC operators fell within the range of duties that a police officer is mandated to perform under s. 12 of the Act.
76. The breadth of the duties assigned to police officers, including Cst. Shannon, is confirmed in Art. 5.01 of the Working Agreement (Exhibit 42), which is the management rights clause. It allows SJPF management to "...make personnel related decisions, to maintain order and efficiency, and to determine deployment of personnel and resources..." However, Art. 5.01 restricts the rights of management by confirming that they will be exercised "...in a manner consistent with the terms of this agreement", and those terms include Art. 23 and, specifically, Art. 23.06, which states that the OHSA is binding on the parties at all times.
77. Exhibit 42 confirms the intention of the Saint John Board of Police Commissioners and the SJPA to have the OHSA apply to police officers' work. Yet, in my view, an inherent conflict exists between s. 12 of the Act and ss. 19-20 of OHSA. It is difficult to mandate on one hand that police officers must do dangerous work while at the same time affording officers a right to refuse that work.
78. As a further complication, the parties agree that orders from superior officers are necessary to the provision of policing services. The Supreme Court of Canada referenced this reality in *R. v Finta*, 1994 CanLII 129 (SCC):

The peace officer defence, set out above, is similar to the defence of obedience to military orders. The latter defence is recognized by most systems of criminal law. (See, e.g., L. C. Green, "Superior Orders and Command Responsibility" (1989), 27 Can. Y.B. Int'l L. 167.) It is based on the well-recognized principle that in both the armed forces and police forces commands from superior officers must be obeyed. It follows that it is not fair to punish members of the military or police

officers for obeying and carrying out orders unless the orders were manifestly unlawful. (emphasis added)

79. The *Lahey* decision at para. 114 offers assistance in the application of the subjective standard of the right to refuse:

In *Douglas v. Canadian Corps of Commissionaires (Hamilton)*, 1995 O.L.R.B. Rep. 601, 1995 CarswellOnt 1532, the Ontario Labour Relations Board stated the following at paragraph 49 with respect to a refusal to work under Ontario's occupational health and safety legislation, which contains provisions substantially similar to the provisions of the *Act*:

Section 43(4) of the Act contemplates various stages in the processing of a health and safety complaint. These stages are explained in *Elgaard v. Sidbec Dosco Inc.* (1988) 1 COHSC 102 at 103. In the first instance the employee must genuinely believe that s/he will be endangered by continuing to work at the workplace concerned. The test at that stage is a subjective one – not purely subjective in the sense that any feelings of anxiety of the employee, however absurd or capricious, must be given credence, but subjective in the sense that the employee's concern must be firmly and sincerely felt and the reasonableness of the employee's refusal must be judged from the perspective and circumstances of the complaint, bearing in mind all of the factors which in fact weigh upon him/her at the time. (emphasis added)

80. In my view, the right to refuse under OHSAA must be interpreted contextually in light of s. 12 of the Act. Otherwise, police officers could refuse to perform many of their statutorily mandated duties, even when ordered by a superior officer. Those refusals could pose greater safety risks to officers and their coworkers than the work itself. Surely, that is not the intent of the OHSAA. Instead, I find that the work duties of a police officer are broad, necessarily present safety hazards, and require compliance with lawful orders from superior officers. These facts must be taken into account when assessing the exercise of the right to refuse unsafe work under ss. 19-20 of the OHSAA.
81. What work did Cst. Shannon refuse? It was the work at the centre of the Verbal Order, namely, work in the PSCC. Cst. Shannon testified that he had a belief that the work was unsafe, but he also testified that: a) he based his belief on his recollection of the PSCC work from his career as a PSCC operator at least a decade earlier; b) he knew, as of August 29th, 2023, that the PSCC work would be different than it was when he worked in the PSCC and would not involve 911 calls or fire calls; and c) he was aware that he would be provided additional hands-on training.
82. I find that, since Cst. Shannon's refusal was made prior to him actually reviewing the work that he was ordered to do in the PSCC and also prior to him taking the hands-on training that he knew would be provided, the refusal was premature and not subjectively reasonable. As stated in *Douglas v. Canadian Corps of Commissionaires (Hamilton)*, *supra*, analysis of a refusal on the subjective standard must still amount to more than an employee's feelings of

anxiety but "...must be judged from the perspective and circumstances of the complaint, bearing in mind all of the factors which in fact weigh upon him/her at the time." Here, it was not subjectively reasonable for Cst. Shannon to refuse the Verbal Order without even observing the work he was ordered to do in the PSCC and without undertaking the hands-on training.

83. My finding on the application of the subjective standard is consistent with the outcome of John Gabriel's investigation into the matter, as described by Cst. Shannon.
84. As a result of my finding on the application of the subjective standard to the refusal, I find that Cst. Shannon did not have lawful grounds on which to refuse the Verbal Order.
85. Further, and even if my determination regarding the application of the subjective standard is incorrect, I also find that Cst. Shannon's refusal does not meet the objective standard.
86. On this point, Cst. Shannon argues that Staff Sergeant Fowler ought to have conducted an investigation into Cst. Shannon's refusal once it was officially received in the form of Exhibit 11. Respectfully, I disagree. The evidence confirms that shortly before Exhibit 11 was received by the SJPF, Staff Sergeant Fowler asked questions to Cst. Shannon regarding his safety concerns and, additionally, his previous PSCC experience. Staff Sergeant Fowler had already investigated Cst. Shannon's safety concerns in a face-to-face meeting with Cst. Shannon. It would not have been beneficial for Staff Sergeant Fowler to have asked Cst. Shannon the same questions again approximately one hour after their initial discussion. In circumstances of a refusal, the complexity and duration required of an investigation will vary contextually.
87. The objective standard has been articulated by Cst. Shannon as:

"...not based on whether there is actual danger, but whether the average employee at the workplace, having regard to his general training and experience, would, after exercising normal and honest judgment, have a reason to believe that the circumstances presented an unacceptable degree of hazard to himself or to another employee."
88. In this case, the evidence indicates that Sergeants Ryan, Metcalf, and Drost (though he initially raised an objection) all agreed to work in the PSCC in spite of lacking the experience that Cst. Shannon had in the PSCC operator role. The evidence adduced does not support a finding that, on application of the objective standard, an officer could reasonably refuse the PSCC work.
89. On application of the objective standard, Cst. Shannon's refusal is also unreasonable and is not a lawful excuse for refusing the Verbal Order.

Estoppel and Officially Induced Error

90. Cst. Shannon argues that, should it be found that the Chief would have had a right to discipline Cst. Shannon, the defences of estoppel and officially induced error should apply to preclude any such discipline.

91. The test for applying the doctrine of estoppel was explained by the New Brunswick Court of Appeal, in *Irving Tissue Company v. Communications, Energy and Paperworkers Union of Canada, Local 786*, 2010 NBCA 9 (CanLII) as follows:
- (1) a representation must be made by one party to the opposite party; it can be by silence or explicitly conveyed: *Grand and Toy Ltd. v. United Steelworkers of America*, [2002] O.L.A.A. No. 654 (QL); (2) the other party must rely on the representation; and (3) the reliance must be detrimental. In this context, the detriment would be the loss of opportunity to negotiate: *Cold Springs Farm Ltd. v. Cold Springs Farm Employees ' Assn., Local JOO (2000)*, 2000 CanLii 50214 (ON LA), 86 L.A.C. (4111) 385, [2000] O.L.A.A. No. 124 (QL).
92. In respect of his argument, Cst. Shannon references the content of Exhibit 42 and, particularly, Art. 23. Additionally, he relies on the evidence adduced in the hearing of the matter to the effect that Stephanie Hanlon and Staff Sergeant Fowler represented by words and conduct, that Cst. Shannon was entitled to exercise his right to refuse the PSCC work.
93. In addition, the SJPF provided Cst. Shannon with Exhibit 20 and, further, facilitated the process that followed it, including the engagement of WSNB (see Exhibits 36 and 37) and the JHS Committee.
94. At the same time, it must be observed that, on September 12th, 2023, Chief Bruce corresponded with the SJPA to advise that police officers must comply with orders to work in the PSCC, failing which "...they will be found to be insubordinate..." (see Exhibit 14). The Veniot Letter relevant in respect of Exhibit 14, as it (the Veniot Letter) was issued at the direction of the SJPA a day later. Further, Staff Sergeant Fowler issued correspondence to Cst. Shannon on September 13th, 2023 (see Exhibit 19) which made it clear that refusal of the Verbal Order would be considered insubordination.
95. The evidence confirms that, by the time the Veniot Letter was issued on September 13th, 2023, Cst. Shannon was well aware of the Chief's assertion that he was expected to do the PSCC work if ordered.
96. Exhibit 42 references the right to refuse work under the OHSA. However, as determined above, that right is not absolute. It must be exercised on reasonable grounds, and that is a contextual matter. In my view, given the totality of the evidence, on September 13th, 2023, Cst. Shannon was not able to interpret Art. 23 of Exhibit 42 as a clear and unequivocal representation that he was entitled to refuse the Verbal Order. The clarity of the notices that the SJPA and Cst. Shannon received from the SJPF regarding the consequences of refusing the Verbal Order extinguished any operation of the doctrine of estoppel on the basis of Art. 23 of Exhibit 42.
97. Regarding the defence of officially induced error, Cst. Shannon asserts the applicable test is:

- (1) The error was one of law or mixed law and fact.
 - (2) The accused considered the legal consequences of her actions.
 - (3) The advice obtained came from an appropriate official.
 - (4) The advice was reasonable in the circumstances.
 - (5) The advice obtained must be erroneous.
 - (6) The accused must demonstrate reliance on the official advice.
98. In Cst. Shannon's case, this defence cannot apply because of the fact that he was repeatedly advised by the SJPF that a refusal to comply with an order to work in the PSCC would be grounds for discipline. Both the SJPA and Cst. Shannon were aware of the SJPF's position regarding the PSCC work, and the evidence of that awareness does not support the application of the defence of officially induced error.

Does the refusal constitute a violation of any of the following: 36(1)(a)(i), 36(1)(d)(i), 37(a)(i), 37(a)(ii), 37(b), 46(a), and 46(b) of the Code?

99. In the s. 29 Decision, I determined that a *prima facie* case was made out against Cst. Shannon in respect of each of ss. 36(1)(a)(i), 36(1)(d)(i), 37(a)(i), 37(a)(ii), 37(b), 46(a), and 46(b) of the *Code*. In the absence of a lawful excuse, it is found that Cst. Shannon has violated these provisions of the *Code*.

What corrective and disciplinary measure is appropriate?

100. Cst. Shannon refused without lawful excuse to obey the Verbal Order issued to him by Staff Sergeant Fowler on September 13th, 2023. Consequently, corrective and disciplinary measures must be considered under s. 6 of the *Code*:

Corrective and disciplinary measures

2021, c.25, s.2

6The parties to a settlement conference may agree to or an arbitrator may impose one of the following corrective and disciplinary measures or any combination of the following corrective and disciplinary measures:

- (a) a verbal reprimand;
- (b) a written reprimand;
- (c) a direction to undertake professional counselling or a treatment program;

- (d) a direction to undertake special training or retraining;
- (e) a direction to work under close supervision;
- (f) a suspension without pay for a specified period of time;
- (g) a reduction in rank; or
- (h) dismissal.

101. The application of corrective and disciplinary measures in respect of Cst. Shannon's refusal of the Verbal Order is complicated by the context. This is not simply a case of a police officer behaving badly. In spite of the non-applicability of the doctrine of estoppel and the defence of officially induced error, it must still be recognized that Cst. Shannon's refusal of the Verbal Order was made in the context of an understanding that a right to refuse work under the OHSA was available to him in certain circumstances. The problem for Cst. Shannon lies in his decision to attempt to exercise that right at a time and in circumstances that made his refusal premature and unreasonable.

102. The *Code* provides direction regarding the applicable principles of discipline and correction:

Principles of discipline and correction

3The corrective and disciplinary measures agreed to by the parties to a settlement conference or imposed by an arbitrator shall seek to correct and educate the member of a police force who is alleged to have committed a breach of the code under section 35 rather than to blame and punish the member unless

- (a) the corrective and disciplinary measures would bring the administration of police discipline into disrepute,
- (b) the corrective and disciplinary measures would bring the reputation of the police force with which the member is employed into disrepute, or
- (c) the circumstances make it impractical for the parties to a settlement conference to agree to, or the arbitrator to impose, corrective and disciplinary measures that seek to correct and educate the member.

103. Cst. Shannon and the Chief had advanced arguments regarding an appropriate corrective and disciplinary measure. In this regard, reference is made to *Chief of Police and Corporal Randy Reilly, Fredericton Police Force* (Filliter, January 3rd, 2012), in which the following factors are acknowledged:

Both counsel referred me to the case of *Constable Bowes-Aybar*, OCCPS # 03-05 (unreported). This case outlines various aspects of sentencing that should be considered. The non inclusive list is as follows:

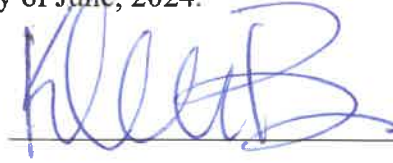
Public Interest; Seriousness of the Misconduct; The Seriousness of the Continuum; Recognition of the Seriousness/Remorse Employment History; Ability to Reform or Rehabilitate the Police Officer; Need for Deterrence; Damage to the reputation of the Police Force; Handicap and Other Relevant Personal Circumstances; Effect on the Police Officer and his Family; Management Approach to Misconduct in Question; Consistency of the Penalty; Effect of Publicity.

104. In Cst. Shannon's case, I accept that he is a 14-year member of the SJPF with a good record and he is a committed officer. He has four children whom he supports. He has also experienced several medical conditions that have impacted his work as an officer.
105. A consideration of damage to the reputation of the SJPF arising from Cst. Shannon's refusal is not warranted in this case, based on the evidence. At the same time, the seriousness of Cst. Shannon's refusal of the Verbal Order is underscored by the fact that refusals of lawful orders rarely occur in the SJPF. Further, the failure of an officer to obey a lawful order could lead to devastating and unnecessary safety risks to the public and members of the SJPF. It is a very serious matter.
106. I also find it necessary to comment on the approach of the SJPF to Cst. Shannon's refusal of the Verbal Order. First, it is acknowledged that the SJPF is required to balance the provisions of the Act with the provisions of the OHSA. This obligation creates the possibility of a lack of clarity, as was the case here, regarding the use of a right to refuse unsafe work. In hindsight, the SJPF likely could have facilitated more complete and fulsome discussions with Cst. Shannon regarding the prematurity of his refusal, and could have more clearly explained the remaining training that Cst. Shannon was to receive in the PSCC. Further, I find it disturbing that the SJPF suggested to Cst. Shannon the possible withdrawal of the complaint against him if he later obeyed the Verbal Order. Clearly, the SJPF's approach to the refusal could have been more clear and constructive.
107. In all of the circumstances, I conclude that the corrective and disciplinary actions taken in *Durham Regional Police Service v. Sowa, et. al.*, 2019 ONSC 1902 (CanLII) and *Constable David Packer and the Metropolitan Toronto Police Service*, 1990 CanLII 10514 (ON CPC), are instructive. While Cst. Shannon and all SJPF officers must obey lawful orders, and while dismissal of an officer who refuses a lawful order will be appropriate in some circumstances, the context of Cst. Shannon's case does not warrant dismissal. Here, Cst. Shannon should have obeyed the Verbal Order, at least until he completed the hands-on training and observed the PSCC work that he was ordered to do. By failing to take those steps, he acted unreasonably. The appropriate corrective and disciplinary action is a demotion to the rank of 2nd Class Constable for a period of 12 months.

Conclusion

108. Cst. Shannon refused the Verbal Order without lawful excuse. He is hereby demoted to the rank of 2nd Class Constable for the period of June 18th, 2024 to June 18th, 2025.

DATED at Saint John, New Brunswick, this 21st day of June, 2024.



Kelly VanBuskirk, K.C., PhD, C. Arb.

Exhibits

Exhibit #	C-1 Tab #	Description	Date
1	NA	Notice of Arbitration Hearing dated March 11, 2024	2024-03-11
2	NA	Notice of Hearing	2024-03-26
3	1	Marie-Eve MacKenzie-Plante CV	Undated
4	15	PSC Operator Permanent Job Description	Undated
5	17	Email from S. Green to M. MacKenzie-Plante	2023-08-11
6	18	Email from M. MacKenzie-Plante to S. Green et al.	2023-08-17
7	19	Email from M. MacKenzie-Plante to R. Bruce et al.	2023-08-24
8	20	PSCC Training Schedule (August and September)	Undated
9	21	Email from S. Green to M. MacKenzie-Plante et al.	2023-08-31
10	22	Email from M. MacKenzie-Plante to numerous people	2023-09-11
11	24	Email from J. Mallory to R. Bruce with attachment	2023-09-13
12	43	Working Agreement, SJPA (excerpt)	2020-01-01
13	35	Email from M. MacKenzie-Plante to numerous people	2023-09-25
14	23	Correspondence from Chief to D. Squires re: order	2023-09-12
15	14	PSC Operator Job Description	Undated
16	16	SJPF Generalist Constable Job Description	06/03/2021
17	42	Notes of Staff Sergeant N. Fowler	2023-09
18	37	SJPF scheduling chart	2023-09/10
19	25	Staff Sergeant N. Fowler to Cst. Shannon	2023-09-13
20	26	Right to Refuse Unsafe Work Report form	2023-09-13
21	27	Correspondence from N. Fowler to L. Drost re: order	2023-09-13
22	34	Conduct Complaint by Chief of Police against Cst. Shannon	2023-09-14
22B	NA	Email from L. Mahaney to R. Bruce et al. with attachments	2023-09-14
23	38	SJPF Tracking Sheet	2023-11-20
24	2	CV of Stephanie Hanlon	undated
25	3	City of Saint John Personnel Action Form, New Hire	2006-01-11
26	4	City of Saint John Personnel Action Form, Salary Adj.	2006-04-28
27	5	City of Saint John Personnel Action Form, Appoint	2007-01-12
28	6	City of Saint John Personnel Action Form, Appoint	2007-07-30
29	7	Memorandum to D. Shannon from B. Todd re: leave	2008-11-05
30	8	City of Saint John Personnel Action Form, Leave	2008-12-04
31	9	City of Saint John Personnel Action Form No.1	2009-09-28
32	10	City of Saint John Personnel Action Form (resignation)	2009-12-04
33	11	Personnel Action Form (new hire, probationary cst.)	2009-12-08
34	12	City of Saint John Personnel Action Form (permanent)	2010-07-21
35	13	Status Change History form	2013-06-07

36	28	Email from S. Hanlon to J. Gabriel re: Right to Refuse	2023-09-13
37	29	Email from J. Gabriel to S. Hanlon	2023-09-14
38	32	Handwritten notes	2023-09-14
39	33	Handwritten notes (2)	2023-09-14
40	36	Email from J. Gabriel to S. Hanlon	2023-09-28
41	NA	City of Saint John JHSC Meeting minutes	2023-09-20
42	NA	Working Agreement: SJ Police Commission and SJPA	2020-01-01
43	NA	City of Saint John JHSC	2023-06
44	NA	Working Agreement, SJPA (full document)	See Ex. 42
45	NA	List of PSCC operator functions (H. Stevens)	undated
46	NA	Training Document	undated
47	NA	List of PSCC operator functions 2006 vs 2023	undated
48	NA	CAD Call Information sheet	2016-05-24