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2020 CAD 03



ROYAL CANADIAN MOUNTED POLICE

in the matter of

a conduct hearing pursuant to the

Royal Canadian Mounted Police Act, RSC, 1985, c R-10

Between:

Chief Superintendent Marlene Bzdel

Designated Conduct Authority

and

Civilian Member Scott Bamford, Regimental Number C9977

Subject Member

Conduct Board Decision

Christine Sakiris

February 25, 2020

Mr. Jordan Levis-Leduc, Conduct Authority Representative

Ms. Sabine Georges and Mr. Dan Pinsky, Subject Member Representatives

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SUMMARY

Civilian Member Bamford faced two Allegations under section 7.1 of the RCMP Code of Conduct. At issue was Civilian Member Bamford's actions on June 10 and 11, 2018, notably his interactions with co-workers, members of the public, employees of a public establishment and ultimately with police.

The hearing of this matter was scheduled for the week of January 13, 2020. Prior to the hearing, the parties reached a resolution. Civilian Member Bamford admitted to the Allegations and a joint submission on measures was presented to the Conduct Board.

An oral hearing was held on January 14, 2020, by video conference, at which the Conduct Board delivered its decision on the Allegations and conduct measures. Both Allegations were found to be established on a balance of probabilities. The Conduct Board accepted the parties' joint submission on conduct measures and imposed: (1) a financial penalty of 20 days, to be deducted from Civilian Member Bamford's pay; and (2) a forfeiture of 10 days of annual leave.

INTRODUCTION

[1] The alleged incidents in this matter took place between June 10 and 11, 2018, while Civilian Member Scott Bamford was working at the G-7 Summit, in the province of Quebec. The incidents involved several civilian members of the RCMP. An investigation into Civilian Member Bamford's actions pursuant to subsection 40(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*] was initiated on December 4, 2018.

[2] On May 24, 2019, the Designated Conduct Authority signed a *Notice to the Designated Officer* requesting the initiation of a conduct hearing in relation to this matter. On June 4, 2019, I was appointed as the Conduct Board pursuant to subsection 43(1) of the *RCMP Act*.

[3] On July 18, 2019, the original *Notice of Conduct Hearing* (the Original Notice), which contained two Allegations of contravention of section 7.1 of the RCMP Code of Conduct, was served on Civilian Member Bamford, together with the investigation package. The Allegations arose out of Civilian Member Bamford's aggressive interactions with his co-workers, employees of a public establishment, and ultimately with police on June 10 and 11, 2018. He is also alleged to have attempted to facilitate an attempted bribe of one of the employees of the public establishment by Civilian Member Bamford's co-worker.

[4] I was appointed as the Conduct Board in this matter, as well as that of another member involved in the same incidents. I provided both parties the option to have the matters heard jointly. In the alternative, I would recuse myself from the second matter, as I had not yet become engaged in the file. The parties did not wish to have the matters heard jointly. Therefore, a new conduct board was assigned for the second matter in September 2019.

[5] On October 1, 2019, Civilian Member Bamford provided his response to the Original Notice, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*]. He admitted to certain particulars, but he denied both Allegations.

[6] The hearing of this matter was set for the week of January 13, 2020. At a pre-hearing conference on December 4, 2019, the Conduct Authority Representative and the Member Representatives advised that the parties were close to reaching a resolution. I received the amended *Notice of Conduct Hearing* (the Amended Notice) on December 9, 2019. The Amended Notice contains two Allegations, both under section 7.1 of the RCMP Code of Conduct. Service of the Amended Notice was accepted by the Member Representatives, on behalf of Civilian Member Bamford, on December 9, 2019.

[7] On December 13, 2019, Civilian Member Bamford provided his response to the Amended Notice, pursuant to subsection 15(3) of the *CSO (Conduct)*, in which he admitted to both Allegations.

[8] A joint submission on measures was provided to me on January 6, 2020.

[9] As is required in this process, I reviewed and considered the Original Notice, the Investigation Package, the Amended Notice, Civilian Member Bamford's responses pursuant to subsection 15(3) of the *CSO (Conduct)*, and the parties' joint submission on measures. The latter includes the jurisprudence and supporting documentation submitted in support of the proposed measures. These materials shall be referred to collectively as the Record.

ALLEGATIONS

[10] As previously noted, there are two Allegations before the Conduct Board. The Amended Notice reads as follows:

Allegation 1

On or about June 10, 2018, at or near Sainte-Foy, in the Province of Québec, Civilian Member Scott Bamford behaved in a manner that is likely to discredit the Force, contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars of Allegation 1

1. At all material times, Civilian Member Scott Bamford was a member of the Royal Canadian Mounted Police posted to "O" Division.

2. On the evening of June 9, 2018, while deployed to the G7 Summit in Quebec City, [Civilian Member (CM)] Bamford attended [the establishment]. A number of RCMP members were present, including [CM] Gerald Patrick Rumsey, [CM] Martin Labelle, [CM] Marc André Régimbald, [CM] Luc Carrière and [A.L.], a representative of a private corporation. It is acknowledged that CM Bamford, CM Rumsey and CM Carrière arrived at the establishment together.

3. CM Bamford consumed alcoholic beverages during the evening and became intoxicated.

4. On June 10, 2018, at approximately [1 a.m.], CM Bamford began engaging in behaviour that disturbed patrons within the establishment. A member of the establishment security personnel, [S.P.], intervened and told CM Bamford: “fait attention au monde, fait attention aux autres, autour”. As CM Bamford did not appear to understand, [S.P.] asked CM Labelle to convey his message to CM Bamford in English. It is noted that CM Labelle was known to [S.P.] as CM Labelle had frequently attended the establishment in the past.

5. CM Rumsey and CM Carrière became involved in the discussion. Both individuals became frustrated with CM Labelle as they were under the impression that CM Labelle was attempting to have them thrown out of the establishment. CM Rumsey and CM Carrière became aggressive and hostile towards CM Labelle. [S.P.] asked CM Bamford and CM Rumsey to leave the establishment, which they did with CM Carrière.

6. At approximately [2:15 a.m.], CM Labelle exited the establishment with “A.L.” and CM Régimbald. They were met by CM Rumsey and CM Carrière. Both individuals blamed CM Labelle of being the reason why they were asked to leave the establishment. CM Rumsey then pushed CM Labelle. CM Régimbald intervened. A physical altercation ensued between CM Rumsey and CM Régimbald, which caused the establishment’s security personnel to become involved.

7. As the security personnel were gaining control of CM Rumsey, CM Bamford began vocalizing his frustrations with the security personnel’s actions and stated words to the effect of: “*you can’t [...] grab my buddy from behind*”, to the security personnel.

8. The security personnel were eventually able to gain control of the situation and physically subdue both CM Bamford and CM Rumsey. CM Bamford was eventually released. CM Bamford began walking towards CM Labelle and CM Régimbald. CM Régimbald placed himself between CM Bamford and CM Labelle and stated: “*don’t come any closer*”, to CM Bamford, to which CM Bamford replied words to the effect of: “*I just wanna talk to [CM Labelle]*”. CM Régimbald refused to let CM Bamford approach CM Labelle.

9. CM Bamford then repeated words to the effect of: “*I wanna talk to [CM Labelle]*” in a louder and more aggressive manner and assaulted CM Régimbald in the chest area. CM Régimbald continued to block CM Bamford’s path. CM Bamford then assaulted CM Régimbald by pushing him two more times in the chest area. The latter caused CM Régimbald to take two or three steps back as more physical force had been used by CM Bamford.

10. CM Carrière intervened to stop CM Bamford. CM Bamford, CM Rumsey and CM Carrière left the area.

11. At approximately [2:42 a.m.], after having been asked to leave the establishment and after having been involved in a physical altercation, CM Bamford and CM Rumsey returned to the establishment and attempted to gain entry to the bar section. The establishment’s security personnel, including [E.T.], denied their request.

12. CM Bamford and CM Rumsey began uttering insulting and disrespectful words towards the security personnel and refused to leave. Physical force was required to remove both individuals from the establishment.

13. As they were being removed, CM Bamford assaulted the security personnel by pushing them in an effort to remain inside the establishment.

14. CM Bamford and CM Rumsey were eventually forced into the establishment’s parking lot.

15. The Service de Police de la Ville de Quebec (“the SPVQ”) was called due to the incident. SPVQ Officers, Constable Sebastien Lefebvre and Constable Samuel Morissette arrived at the scene at approximately [2:51 a.m.] and placed both CM Bamford and CM Rumsey under arrest for assault.

16. CM Bamford identified himself to the SPVQ Officers as a member of the RCMP.

17. At approximately [2:56 a.m.], [Constable] Morissette attempted to explain to CM Bamford that he was no longer being charged with assault. CM Bamford responded by uttering inappropriate and insulting words towards Constable Morissette and Constable Lefebvre. The SPVQ police report indicates that CM Bamford yelled “*you’re fucking bastards, you’re fucking idiots, we’re doing the same job, you’re retards, are you crazy guys*” to the SPVQ Officers.

18. The SPVQ police report further indicates that CM Bamford stated at least ten times that Constable Morissette and Constable Lefebvre were “*idiots*” and/or “*retardés*” and that CM Bamford’s behaviour was observed by patrons that were exiting the establishment.

19. At approximately [3:05 a.m.], CM Bamford was placed under arrest by Constable Morissette for disorderly conduct.
20. Upon being transported back to the police station by Constable Morissette and Constable Lefebvre to be placed in cells overnight, CM Bamford began yelling: “*I need to pee*”. Constable Morissette informed CM Bamford that he would be able to do so upon arrival at the police station. CM Bamford responded by once again uttering inappropriate and insulting words towards the SPVQ Officers.
21. The SPVQ police report indicates that CM Bamford used the same insulting language as he had previously, which included: “*you’re fucking bastards*”, “*you’re fucking idiots*” and “are you crazy guys”.
22. CM Bamford was not charged with assault, but was detained overnight and released later that morning after being issued two tickets for disorder and insulting behaviour towards police.
23. CM Bamford’s use of direct physical force upon individuals and without their consent, CM Bamford’s disrespectful and disorderly conduct towards the establishment’s security personnel, and CM Bamford’s conduct while being place[d] under arrest and detained by members of the SPVQ amount to CM Bamford engaging in conduct that is likely to discredit the Force, contrary to section 7.1 of the Code of Conduct of the Royal Canadian Mounted Police.

Allegation 2

On or about June 10, 2018, at or near Sainte-Foy, in the Province of Québec, [CM] Scott Bamford behaved in a manner that is likely to discredit the Force, contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars

1. At all material times, [CM] Scott Bamford was a member of the Royal Canadian Mounted Police posted to “O” Division.
2. On the evening of June 9, 2018, while deployed to the G7 Summit in Quebec City, CM Bamford attended [the establishment]. A number of RCMP members were present, including [CM] Gerald Rumsey and [CM] Martin Labelle.
3. Both CM Bamford and CM Rumsey consumed alcoholic beverages during the evening and became intoxicated.
4. The Service de Police de la Ville de Quebec was called due to the fact that CM Bamford and CM Rumsey became involved in a physical confrontation with the establishment’s security personnel, including [E.T.].

5. SPVQ Officers arrived at the scene at approximately [2:51 a.m.] and placed both CM Bamford and CM Rumsey under arrest for assault. CM Rumsey was charged for assaulting [E.T.] and was released by the SPVQ on a Promise to Appear at approximately [4:40 a.m.]. CM Bamford was not charged with assault, but was detained overnight and released later in the morning after being issued two tickets for disorder and insulting behaviour towards police.

6. On June 11, 2018, CM Labelle was on duty working at the G7 Command Centre in Quebec City. CM Bamford approached CM Labelle and asked if they could speak privately. Approximately 30 minutes later, CM Bamford and CM Labelle met in private.

7. CM Bamford informed CM Labelle that CM Rumsey was panicking and was trying to communicate with CM Labelle. CM Bamford further informed CM Labelle that [CM] Rumsey wanted CM Labelle to communicate with [E.T.] in order to advise him that CM Rumsey was prepared to pay him in exchange for dropping the criminal charge of assault. It is acknowledged that CM Labelle was acquainted with the members of the establishment's security personnel.

8. CM Labelle indicated that he did not understand and/or did not want to get involved and walked away from CM Bamford.

9. CM Rumsey's message contained an attempt to bribe [E.T.] by offering him a monetary payment in exchange for the withdrawal of his criminal complaint against CM Rumsey. In acting as an intermediary by conveying CM Rumsey's inappropriate message, CM Bamford engaged in conduct that is likely to discredit the Force, contrary to section 7.1 of the Code of Conduct of the Royal Canadian Mounted Police.

[Sic throughout]

Applicable tests to make a determination on the Allegations

[11] The burden is on the Conduct Authority to establish the Allegations on a balance of probabilities. Practically speaking, this means that I must find that the Conduct Authority has established, for each Allegation, that it is more likely than not that Civilian Member Bamford has contravened section 7.1 of the RCMP Code of Conduct.

[12] Section 7.1 of the RCMP Code of Conduct states: "Members behave in a manner that is not likely to discredit the Force."

[13] The test for “discreditable conduct” under section 7.1 of the Code of Conduct requires that the Conduct Authority establish the following on a balance of probabilities:

- a. the acts that constitute the alleged behaviours;
- b. the identity of the member who is alleged to have committed these acts;
- c. that the member’s behaviour is likely to discredit the Force; and
- d. that the member’s actions are sufficiently related to their duties and functions as to provide the Force with a legitimate interest in disciplining them.

Decision on the Allegations

[14] By virtue of Civilian Member Bamford’s admission to the Allegations and the particulars, I find that the first two elements of the test are met for Allegations 1 and 2.

[15] I must now determine whether the third and fourth elements of the test are established, namely whether Civilian Member Bamford’s behaviour is likely to discredit the Force and that his actions are sufficiently related to his duties and functions as to provide the Force with a legitimate interest in disciplining him.

[16] With respect to Allegation 1, Civilian Member Bamford’s actions, as set out in the particulars, are problematic on several fronts. First, his verbal and physically aggressive behaviour towards Civilian Member Régimbald and Civilian Member Labelle could be found to constitute workplace violence. Second, his verbal and physically aggressive behaviour towards the security personnel at the establishment, who were simply doing their job, was wholly inappropriate. Third, his vulgar and offensive language to SPVQ officers, who were acting in the course of their duties, is unacceptable. To make matters worse, almost all of his behaviour was in full public view.

[17] With respect to Allegation 2, Civilian Member Bamford compounded his offensive behaviour by engaging in a physical confrontation with E.T., a member of the security personnel at the establishment, which resulted in his arrest. While not criminally charged, he was issued

two tickets for disorder and offensive behaviour towards police. He then sought to facilitate Civilian Member Rumsey's efforts to offer E.T. a financial incentive to withdraw the criminal charge of assault.

[18] Members of the RCMP must adhere to the Code of Conduct both on- and off-duty. Civilian Member Bamford's actions demonstrate a lack of respect, professionalism and integrity. I find that a reasonable person in society, with knowledge of all the relevant circumstances, including the realities of policing in general and the RCMP in particular, would view his actions as likely to bring discredit to the Force.

[19] Civilian Member Bamford was sent to Sainte-Foy as a representative of the RCMP at an international event. His actions were offensive to his co-workers, who were there in the same capacity. He explicitly identified himself as a member of the RCMP to SPVQ officers, and then proceeded to berate them. Therefore, I find that his actions are sufficiently related to his duties and functions as to provide the Force with a legitimate interest in disciplining him.

[20] Allegations 1 and 2, as amended, are accordingly established on a balance of probabilities.

CONDUCT MEASURES

[21] Having found that the Allegations are established, I am required, in accordance with subsection 45(4) of the *RCMP Act* and the *Conduct Measures Guide*, to impose "a fair and just measure that is commensurate to the gravity of the contravention, the degree of blameworthiness of the member, and the presence of mitigating and aggravating factors". Pursuant to paragraph 36.2(e) of the *RCMP Act*, conduct measures must be "proportionate to the nature and circumstances of the contravention of the Code of Conduct, and where appropriate, [...] are educative and remedial rather than punitive".

[22] I have reviewed the parties' joint submission on measures and supporting documentation. They jointly propose a global sanction consisting of a forfeiture of pay of 20 days and a forfeiture of annual leave of 10 days.

[23] When presented with a joint submission on conduct measures, there are very narrow circumstances in which I as the Conduct Board may refuse to accept the proposed conduct measures.

[24] The Supreme Court of Canada has recognized the value of settlement discussions, as well as the strong policy reasons that favour the promotion of certainty to the parties, when a settlement is reached.¹

[25] Generally speaking, courts or administrative tribunals will not override a settlement reached by the parties unless doing so would be against the public interest.

[26] Therefore, I must determine whether accepting the proposed conduct measures would be against the public interest. This is not a question of whether the conduct measures proposed are the same as what I would impose. Rather, the public interest test sets a much higher threshold.

[27] In its 2016 decision in *Cook*, the Supreme Court of Canada provided the following guidance, which is applicable to administrative tribunals:

[...] a joint submission should not be rejected lightly [...] Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of [in this case, the conduct process] had broken down.² [...]

[28] In order to determine whether the proposed measures are against the public interest, it is helpful to have some sense of what the possible measures may be.

[29] The parties have provided a thoughtful analysis of the appropriate range for the various elements of Civilian Member Bamford's behaviour. On my review, I find that the range of sanction in this case is reasonably between 29 days' financial penalty alone or in combination

¹ See for example *Rault v Law Society of Saskatchewan*, 2009 SKCA 81 (CanLII), at paragraph 19; and *R. v Anthony-Cook*, 2016 SCC 43 [*Cook*].

² *Cook*, supra note 1, at paragraph 34.

with other measures, and dismissal. The mitigating and aggravating factors must then be considered.

[30] The parties have outlined several mitigating and aggravating factors in this case. I have retained the following mitigating factors:

- a. Civilian Member Bamford's admission to the amended Allegations and the particulars has avoided a contested hearing. In light of the timing of the resolution, I do not ascribe much weight to this factor.
- b. The Conduct Authority is no longer seeking Civilian Member Bamford's dismissal.
- c. Civilian Member Bamford has no record of formal discipline.
- d. Civilian Member Bamford has 11 years of service, with a positive work record.
- e. Civilian Member Bamford has the support of his immediate supervisor, who has provided a positive reference letter.
- f. Civilian Member Bamford's admissions to the allegations demonstrate his desire to resolve the matter and that he is taking responsibility for his actions.

[31] I do not accept as a separate mitigating factor that Civilian Member Bamford's admission also demonstrates remorse. An admission is not, in and of itself, an indication of remorse. While I am sure Civilian Member Bamford regrets being held to account, there is nothing in the material before me to demonstrate a direct, or indirect, expression of remorse. Civilian Member Bamford's behaviour in the course of the hearing, for which I verbally admonished him, demonstrated a cavalier and disrespectful attitude.

[32] The parties have indicated that Civilian Member Bamford's specialized skills and training make him an asset to the Force; thus, it should constitute a mitigating factor. I disagree. To accept this would effectively mean that those with "specialized skills or training" are entitled to more latitude than other members of the Force. Such an approach is untenable and inconsistent with the principles of the conduct process as set out in section 36.2 of the *RCMP Act*. Civilian

Member Bamford's skills or training should not offer him any protection from the consequences of his misconduct.

[33] With respect to the aggravating factors, I have retained the following:

- a. The misconduct occurred while Civilian Member Bamford was deployed at the G7 in Quebec City. The G7 is an international event that involves world leaders from around the globe.
- b. The misconduct includes workplace violence and involves multiple RCMP employees.
- c. The deliberate nature of Civilian Member Bamford's misconduct. In particular, after being arrested, spending several hours in jail and being issued two tickets, Civilian Member Bamford willfully chose to continue his misconduct by attempting to convey a message for Civilian Member Rumsey that amounted to a bribe. Civilian Member Bamford was no longer impaired when he chose to act in this manner.
- d. Civilian Member Bamford's actions and arrest were in full public view. Together with the fact that members of the security personnel at the establishment were aware Civilian Member Bamford worked for the RCMP, the reputation of the RCMP was negatively affected.
- e. Civilian Member Bamford's actions led to the involvement of the SPVQ, a fellow police force, to whom Civilian Member Bamford identified himself as a member of the RCMP. This further negatively impacted the reputation of the RCMP.

[34] While the proposed measures are not what I would have imposed, that is not the test. On the totality of the circumstances, I cannot find that the proposed measures are against the public interest. The parties have considered the relevant mitigating and aggravating factors. The proposed measures are within the possible range of financial penalties. They are classified as serious measures, and, as such, they will serve as a deterrent to Civilian Member Bamford as well as serve as a warning to other members.

[35] Therefore, I accept the parties' joint submission on conduct measures.

[36] In accordance with the joint submission presented by the Conduct Authority Representative and the Member Representatives, the following conduct measures are imposed:

- a. Pursuant to paragraph 5(1)(i) of the *CSO (Conduct)*: a forfeiture of 10 days of annual leave; AND
- b. Pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*: a financial penalty of 20 days, to be deducted from Civilian Member Bamford's pay.

[37] Civilian Member Bamford is being permitted to continue his career with the RCMP. I hope that, in the future, he will conduct himself with the respect, integrity and professionalism expected of him as a civilian member of the RCMP. Any future contravention of the Code of Conduct will be seriously reviewed by the appropriate conduct authority and could lead to dismissal from the Force.

[38] Any interim measures in place should be resolved in accordance with section 23 of the *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281.

[39] Either party may appeal this decision by filing a statement of appeal with the Commissioner within the 14 days of the service of this decision on the Subject Member, as set out in section 45.11 of the *RCMP Act* and section 22 of the *Commissioner's Standing Order (Grievances and Appeals)*, SOR/2014-289.

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Christine Sakiris	February 25, 2020 Ottawa, Ontario

Conduct Board