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2020 CAD 18



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:

Deputy Commissioner Curtis Zablocki

Designated Conduct Authority

and

Corporal Anita Doktor
Regimental Number 54367

Subject Member

Conduct Board Decision

Gerald Annetts

September 23, 2020

Ms. Shahana Khan, Conduct Authority Representative

Ms. Megan Hankewich, Subject Member Representative

SUMMARY

Corporal Doktor faced three allegations of contravening the RCMP Code of Conduct. At issue was her behaviour in operating a police motor vehicle while off-duty and impaired by alcohol.

The evidentiary material before the Conduct Board was fulsome, complete and determinative. No benefit could be gained from hearing oral evidence on the allegations. Therefore, the Conduct Board requested submissions from the parties on whether the allegations were established by the investigative material provided with the *Notice of Conduct Hearing*. The Conduct Board then found all three allegations to be established: discreditable conduct for assaulting a police officer in the course of his duties; discreditable conduct for operating a motor vehicle while her blood alcohol level was over 80 milligrams percent; and unauthorized use of a police motor vehicle.

The parties requested and were granted a hearing for the conduct measures phase of the proceedings. Aided by the expert opinion evidence of two witnesses, the Conduct Board imposed:

1. a reprimand;
2. an indefinite demotion from the rank of corporal to constable (at the highest pay increment of that level);
3. an ineligibility for subsequent promotion for a period of two years;
4. a financial penalty of 80 hours, to be deducted from Corporal Doktor's pay;
5. a forfeiture of annual leave of 80 hours;
6. a direction to continue to attend counselling sessions and therapy with Ms. Norum, or another therapist, until such time as Corporal Doktor, her therapist and the Health Services Officer all agree that they are no longer necessary; and
7. a transfer to another work location at the discretion of the Commanding Officer.

INTRODUCTION

[1] The conduct hearing in this matter was initiated by the Conduct Authority on May 28, 2019. Three allegations of misconduct were made against Corporal Doktor for an off-duty incident that occurred on June 1, 2018. On June 3, 2019, I was appointed as the Conduct Board.

ALLEGATIONS

[2] On November 21, 2019, the *Notice of Conduct Hearing* containing the three allegations of misconduct was served on Corporal Doktor. The allegations read as follows:

Allegation 1

On or about June 1, 2018, at or near High Prairie, Alberta, Corporal Anita Doktor engaged in discreditable conduct, contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars common to Allegations 1 and 2

1. At all material times you were a member of the Royal Canadian Mounted Police (“RCMP”) posted to “K” Division, at High Prairie Detachment, in the province of Alberta.
2. At all material times you were driving an RCMP vehicle, a 2009 Ford Escape, license plate AB ZKW684 (“AB ZKW684”).
3. At [7:42 p.m.], you parked AB ZKW684 in front of a MAC’s Convenience Store (“MAC’s”). When you exited the vehicle from the driver’s side door, you were unsteady on your feet and swaying while walking. At [7:44 p.m.], you entered MAC’s and made a purchase. As you were leaving MAC’s, you stumbled into a store display.
4. At [7:45 p.m.] High Prairie RCMP received a complaint from Ms. [J.B.] of a “drunk driver” at the MAC’s. Ms. [J.B.] described you as almost “falling onto [her] kid”, and that you couldn’t walk properly. While you were outside AB ZKW684, Ms. [J.B.] asked you for your car keys. You did not give your car keys to Ms. [J.B.].
5. Ms. [M.C.], Ms. [J.B.]’s sister-in-law, told you that you should not be drinking and driving, you responded words to the effect, “you shouldn’t be doing that with your kids”. You asked Ms. [M.C.] if Ms. [J.B.] was calling the “cops”, and then you ran away from AB ZKW684 and the MAC’s. Ms. [J.B.] attempted to follow you as you walked around the local businesses.

Particulars specific to Allegation 1

6. RCMP Community Peace Officer Erica Thiessen (“Peace Officer Thiessen”) was directed to your location and located you at the “Burger Baron”. Peace Officer Thiessen recognized you. You asked Peace Officer Thiessen what was going on, she said “it was called in”, and you confirmed that you understood a call to police had been made by saying, “I know”.

7. RCMP constables Vincent Fontaine and Samuel Tremblay arrived at the Burger Baron parking lot. You subsequently engaged in the following obstructive and belligerent conduct:

a. Cst. Tremblay detained you for impaired operation and provided you a Charter caution. You said “No, no, no, ... For what?” Cst. Tremblay asked you if you had anything on you that could be harmful, you did not answer. You refused to speak to Cst. Tremblay, by saying words to the effect, “No I’m not gonna talk to you Sam I don’t know you”.

b. After Cst. Fontaine informed you that you were under arrest for impaired operation of a motor vehicle, he escorted you to his police vehicle and asked you if you had anything in your pockets. You took a cell phone out of your pocket and in response to Cst. Fontaine saying he would take the cell phone for now, you put the cell phone in your bra. After a brief argument you provided Cst. Fontaine your cell phone, along with the keys to AB ZKW684.

c. Cst. Tremblay requested that a female member attend to perform a pat down search, Cst. Erin Bonang was en route. While waiting for Cst. Bonang to arrive, you attempted to get into the police vehicle. Cst Fontaine told you to stop, you refused to cooperate, and he had to forcefully pull your arm to make you stop.

d. You were asked to sit in the police vehicle, you refused to cooperate and stated “Vincent fuck off, can I talk to fucking Barrett first please” or words to the effect.

e. You then spoke with Cst. Barrett Cunningham, and asked him to call your father, a retired RCMP member and lawyer, and to help you talk off the record at the detachment.

f. Once seated in the police vehicle, while Cst. Fontaine read you your Charter rights, you stated, “yeah yeah yeah, arrested me for impaired, bla bla bla bla bla ... ”. You were not listening to Cst. Fontaine, so he re- read you the caution and when asked if you understood, you answered words to the effect, “you betcha, I have no idea of what I’ve done, oh my name is, English please, can you read English, cause I don’t know if you can, can you open the window?” Cst. Tremblay opened the side window so you could hear properly, and you said, “I would like full English please”.

g. After being provided a breath demand, and confirming that you did not have anything in your mouth, you said “oui” multiple times and “fucking

French folks shit”. Cst. Fontaine said to you they were speaking in English and you stated, “you can’t”, and struck the window with your hand.

h. While en route to High Prairie detachment, you demonstrated an offensive hand gesture to Cst. Fontaine, i.e. you showed him your middle finger, while saying “This is for you.”

i. After Cst. Fontaine informed the dispatch centre he was finished with transport, you said, “that’s right, so I’m gonna call my lawyer, its gonna take fucking 3 hours and we’re done” or words to that effect.

j. After arriving at High Prairie detachment, you were let out of the police vehicle. You made a hand gesture towards Cst. Fontaine which he interpreted as you notifying him that you weren’t in handcuffs. He said to you he didn’t feel hand cuffs were necessary because he trusted you, in response you said, “oh can you?” You then put your hand in your pocket and took out two two-dollar coins and threw them at Cst. Fontaine, striking him in the chest. You also retrieved a lighter from your pocket and threw that at Cst. Fontaine, striking him in the chest.

k. While seated in the detachment, you removed your hoodie and threw it on the floor. Cst. Fontaine picked it up and returned it to you so you could wear it and you threw the hoodie at Cst. Tremblay’s face.

l. You took your cell phone from Cst. Fontaine and were let into the phone room and were left alone. While in the phone room you again demonstrated an offensive hand gesture to Cst. Fontaine, i.e. you showed him your middle finger through the phone room window.

m. You were advised that you could resume your call to you lawyer, after which you would have to provide a breath sample, you responded, “you’re not gonna get them”.

n. At [8:39 p.m.] Emergency Medical Services (“EMS”) arrived and attempted to check the head injury you sustained while in the phone room. You said, “no”, tore the arm cuff *off* your arm, went into the hallway next to the cell block and sat on the floor. You were crying and would not cooperate, you were asking to speak to [Staff Sergeant (S/Sgt.)] Wright. When S/Sgt. Wright arrived you asked him if he was a doctor. After EMS checked your injuries, EMS decided you would have to go to the hospital for stitches. EMS expressed that they felt unsafe to transport you because of your aggressive and belligerent behaviour.

o. During transport to High Prairie hospital, you said the following, or words to the same effect:

i. “Trust me I have a lawyer”

ii. “I wasn’t gonna sue the RCMP, but now I might just”

- iii. “Took you 15 minutes to finally detain me, you know what I’ll pwn you”
- iv. “So what is happening now, where are my breath samples? I’ll walk out of here”
- p. While at the hospital, you ran away from members, saying it was a joke, were crying and sobbing at times, punched the wall, and put your fist in the air and said you wanted to punch one of the members.
- q. While at the hospital you said the following, or words to the same effect:
 - i. “Vincent, you know the impaired is fucked, you’ll never get my sample in time, I know that”
 - ii. “So they towed the RCMP vehicle, Fantastic...For what grounds, what are your grounds to tow it Vincent? Oh you think she is impaired, ok so there is no sample, no nothing ... ”
 - iii. “Write your notes, write your notes, you lost you know that”
 - iv. “You guys got ... you have nothing for the impaired”
- r. You later asked Cst. Fontaine for your cellphone so you could call your sister. When Cst. Fontaine refused you said that was a breach of your rights and Cst. Fontaine would be added to your lawsuit.
- s. At [9:51 p.m.] you asked to drink some water, you were told that you could not until after the breath sample, you went over to a sink in the room and attempted to drink the water, and had to be prevented from doing so by Cst. Bonang.
- t. At [10:01 p.m.] you said, “The impaired is gone Vincent, you know better”.
- 8. On June 7, 2018, you were charged with unlawfully assaulting Cst. Vincent Fontaine, a peace officer, engaged in the execution of his duty, contrary to section 270(1)(a) of the Criminal Code¹ of Canada, and unlawfully and wilfully obstructing Cst. Vincent Fontaine, a peace officer, in the execution of his duty, contrary to section 129(a) of the Criminal Code of Canada.
- 9. In respect to the above assault charge, on October 15, 2018, you entered a plea of guilty and on May 1, 2019, you received a conditional discharge and a term of probation. The obstruction charge was withdrawn by the Crown.

Allegation 2

¹ *Criminal Code*, RSC, 1985, c C-46 [*Criminal Code*].

On or about June 1, 2018, at or near High Prairie, Alberta, Corporal Anita Doktor engaged in discreditable conduct, contrary to section 7.1 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars specific to Allegation 2

6. At [11:26 p.m.] you provided your first breath sample, which was 170 milligrams of alcohol in 100 millilitres of blood. At [11:47 p.m.] you provided a second breath sample, which was 160 milligrams of alcohol in 100 millilitres of blood.

7. Your blood alcohol content at [7:45 p.m.] was estimated to be between 200 and 241mg%.

8. On June 7, 2018, you were charged with unlawfully operating a motor vehicle while your ability to operate a motor vehicle was impaired by alcohol or a drug, contrary to section 253(1)(a) of the Criminal Code of Canada, and having consumed alcohol in such a quantity that the concentration thereof in your blood exceeded 80 milligrams of alcohol in 100 millilitres of blood, you did unlawfully operate a motor vehicle, contrary to section 253(1)(b) of the Criminal Code of Canada.

9. In respect to the above driving over .08 charge, on October 15, 2018, you entered a plea of guilty and received a one year driving prohibition order; on May 1, 2019, you received a curative discharge and a term of probation. The impaired operation charge was withdrawn by the Crown.

Allegation 3

On or about June 1, 2018, at or near High Prairie, Alberta, Corporal Anita Doktor used government-issued equipment and property for unauthorized purposes and activities, contrary to section 4.6 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars

1. At all material times you were a member of the Royal Canadian Mounted Police ("RCMP") posted to "K" Division, at High Prairie Detachment, in the province of Alberta.

2. On June 1, 2018, from [8 a.m. to 4 p.m.] you were on duty at McLennan Detachment, and on call for Operational Availability between [4 p.m. and 6 p.m.].

3. At approximately [5:30 p.m.], you arrived at [T.I.]'s residence, for the purpose of having "drinks". [T.I.] is a cell block guard for the High Prairie Detachment.

4. You drove an RCMP vehicle, a 2009 Ford Escape, license plate AB ZKW684, to Mr. [T.I.]'s residence.

5. This was an unauthorized use of an RCMP vehicle.

6. You later drove this RCMP vehicle after consuming alcoholic beverages, which resulted in criminal charges being laid against you.

[*Sic throughout*]

[3] Pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*], Corporal Doktor provided her response to the *Notice of Conduct Hearing*. She stated:

For each of the allegations and particulars, due to the level of intoxication, the Member has no independent recollection of the events. Upon review of the Investigation Report, the Member does not contest any allegation, nor particular.

The Member understands that pursuant to section 20(2) of the CSOs (Conduct), this statement is deemed to have denied the allegations.

[*Sic throughout*]

Decision on the Allegations

[4] Given the nature of the evidence against Corporal Doktor, the criminal convictions in the Provincial Court and Corporal Doktor's response to the *Notice of Conduct Hearing*, I notified the parties that I would be making a determination on the allegations based solely on the Record, pursuant to subsection 23(1) of the *CSO (Conduct)*, and I invited submissions from each party. On May 25, 2020, I issued a decision on the allegations in which I found all three allegations to be established and all particulars of each allegation to be established. For the sake of completeness, that decision is quoted in its entirety:

On May 28, 2019, the Commanding Officer of "K" Division initiated a conduct hearing in this matter alleging three contraventions of the RCMP Code of Conduct by Corporal Doktor. The Notice of Conduct Hearing was served on Corporal Doktor on November 21, 2019 and it provided the particulars in relation to those allegations.

On December 20, 2019, Corporal Doktor submitted her response to the allegations pursuant to section 15(3) of the CSO (Conduct). In that response, Corporal Doktor indicated that due to her level of intoxication at the time, she had no independent recollection of the events leading to the allegations against her. As a result, she did not contest any allegation or particular. Pursuant to section 20(2) of the CSO, this is deemed to be a denial of the allegations.

Pursuant to the direction of the previously constituted Conduct Board, the parties made submissions on whether the allegations against Corporal Doktor as detailed in the Notice of Conduct Hearing have been established on a balance of probabilities based on the investigative material presented by the Conduct Authority. I am required to make findings of fact in relation to the allegations against Corporal Doktor in order to allow the parties to prepare for the conduct measures phase of the hearing. I am greatly assisted in that task by the convictions registered in Provincial Court under section 270 (1)(a) of the Criminal Code in relation to Allegation 1 and under section 253(1)(b) in relation to Allegation 2. I have also reviewed the Notice of Conduct Hearing, the investigative material upon which the Conduct Authority relies and the submissions of the parties.

Corporal Doktor did not provide any reply to the submissions of the Conduct Authority in relation to Allegations 1 or 2 and I find that each of the Particulars is supported by the evidence presented in the material. I therefore find that the acts constituting the alleged behaviours has been established.

The second requirement for a finding of discreditable conduct under section 7.1 of the Criminal Code is that the Conduct Authority establish that Corporal Doktor is the member who is alleged to have committed these acts. That is acknowledged by Corporal Doktor.

The final requirement is that the Corporal Doktor's behaviour is likely to discredit the Force and is sufficiently related to her duties and responsibilities as to provide the Force with a legitimate interest in disciplining her. I find that a reasonable person with knowledge of all the relevant circumstances, including the realities of policing in general and in the RCMP in particular would be of the opinion that the actions of Corporal Doktor, in operating an RCMP vehicle while in an advanced state of impairment and while significantly over the legal blood alcohol limit, are discreditable and likely to discredit the Force. Given the fact that she is a police officer sworn to uphold those very laws, there is little question that the Force has a legitimate interest in disciplining her for that illegal conduct.

I make the same finding in relation to her assaultive behaviour towards the investigating officers involved. However, and in spite of the conviction for assaulting a police officer, I would consider her behaviour as fairly common evidence of advanced intoxication as opposed to any real intention to do harm to the officers involved or to obstruct them in the execution of their duties. That type of behaviour on the part of suspects is not atypical in impaired driving investigations and rarely leads to charges under section 270 or 129 of the Criminal Code.

Allegation 3 falls under section 4.6 of the Code of Conduct and it alleges that Corporal Doktor used an RCMP vehicle to drive to Mr. T.I.'s residence

for the purpose of having “drinks”. Although the Particulars are framed in an unusual manner, alleging this as the unauthorized use of an RCMP vehicle as opposed to the subsequent operation of the vehicle while impaired by alcohol, it is sufficient for the purposes of this alleged contravention. I accept the particulars as alleged and I find that Corporal Doktor’s operation of the RCMP vehicle for that purpose is for an unauthorized purpose.

The Conduct Authority has indicated that Particular 6 of Allegation 3 is narrative as opposed to the gravamen of the allegation and I accept that argument from a technical perspective. However, subject to further submissions counsel may make on the issue in terms of penalty, my preliminary view of the matter is that it makes little difference in terms of determining the appropriate conduct measure(s) whether Corporal Doktor’s use of the RCMP vehicle is the basis of a separate allegation under section 4.6 or is simply an aggravating factor for Allegation 2. It is just one of the circumstances to take into account in making the overall determination.

[*Sic throughout*]

CONDUCT MEASURES

[5] Having found that the allegations are established, I am required, in accordance with subsection 45(4) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*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, that are educative and remedial rather than punitive”.

[6] The parties submitted a joint request to set a date for the conduct measures phase of the hearing in order to allow for *viva voce* expert evidence in relation to Corporal Doktor’s alcohol addiction and the steps she has taken to deal with that addiction. On September 1 and 2, 2020, the conduct measures phase of the hearing was held in Edmonton, Alberta.

[7] Corporal Doktor tendered two expert evidence reports, absent any objection on the part of the Conduct Authority. I accepted that the education and experience of both experts qualified them to provide expert opinion evidence in relation to the diagnosis and treatment of Post-Traumatic Stress Disorder (PTSD), Alcohol Use Disorder and anxiety.

[8] The first report was authored by Marc Roy, Registered Psychologist, on July 29, 2020. Mr. Roy indicated in his report that he has been Corporal Doktor's treating psychologist for the last 22 months. He diagnosed her with PTSD and Alcohol Use Disorder, both of which are now in remission. He indicated that she has gained insight into some of the reasons for her addiction, processed the traumatic events, and set in place plans for better coping reactions to future traumatic events. He further advised that Corporal Doktor has maintained attendance at Alcoholics Anonymous (AA) meetings three to four times weekly and that she has started an AA group for first responders in the Red Deer area. She maintains a health-oriented routine that has assisted her in becoming healthier and more positive. She continues to be motivated towards self-improvement and is hoping to return to work so she can contribute once again as a regular member of the RCMP.

[9] Mr. Roy concluded that Corporal Doktor has made significant changes in her life and has shown a commitment to maintain them. She has been sober for 25 months (at the time of his report) and remains strong in her resolve. She has a better understanding of the factors that led to her addiction and has improved her coping strategies to manage the stress that caused her problems. He opined that she would continue to be an asset to the RCMP. The Conduct Authority accepted the report of Mr. Roy and declined the opportunity to cross-examine him on it.

[10] The second report was authored by Sara Norum, Registered Psychologist. It provided useful information about Alcohol Use Disorder, its etiology, its association with trauma, specifically PTSD and its relevance to Corporal Doktor's past, present and future circumstances.

[11] Ms. Norum clinically assessed Corporal Doktor in January 2020 and diagnosed her with PTSD with dissociative symptoms and Alcohol Use Disorder, in sustained remission. She opined that Corporal Doktor's PTSD arose from her exposure to traumatic events working as a member of the RCMP and that she used alcohol to dissociate from the related disturbing feelings. Her employment with the RCMP was a significant contributor to her development of Alcohol Use Disorder. Therefore, she indicated that Corporal Doktor's experiences while working with the RCMP may be the most likely explanation for her mental health difficulties.

[12] With respect to the likelihood of recidivism, Dr. Norum stated:

[...] [Corporal] Doktor has attended residential treatment and she attends AA weekly and has developed reliable supports through this program. She also has been attending [Eye Movement Desensitization and Reprocessing (EMDR)] therapy weekly to treat her PTSD and [Alcohol Use Disorder] since January 2020, and she has individuals who she remains accountable to, enabling her to remain honest with herself and others. This multifaceted approach has resulted in her ability to maintain her sobriety since entering treatment in 2018 and has reduced the risk of relapse significantly. Corporal Doktor's actions have matched her words – she has demonstrated a determination to reprocess her trauma and learn new strategies to cope with stressors in her life, all of this suggests her prognosis is very positive going forward. [...] [*Sic throughout*]

[13] Ms. Norum was asked to address in her report an earlier impaired driving incident that occurred in 2016 and why Corporal Doktor would not have sought assistance at that time. She opined that it is not uncommon for individuals struggling with addiction to dismiss, minimize or deny that they have a problem. When alcohol has been the only way of coping with internal difficulties, sometimes it will take a significant incident to force the individual to face their pain, be honest with themselves and courageously choose to get help. In 2016, Corporal Doktor appears to have responded defensively to this incident, choosing to believe she could control her alcohol use. In 2018, following this driving under the influence incident, she realized how out of control her alcohol use was and how significantly it impacted her behaviour with her colleagues, and this became her tipping point (hitting bottom): the combination of factors that leads an individual to feel the need to change their drinking behaviour. The 2018 incident provided the combination of factors Corporal Doktor needed to hit bottom and finally get effective treatment for her difficulties.

[14] Ms. Norum summarized her conclusions as follows:

[...] [Corporal] Doktor reported growing up in a family that was close and supportive and continues to be to date. She states she engaged in average alcohol consumption in her adult life that began to change a few years after becoming an RCMP member. [Corporal] Doktor described having little understanding about how to deal with exposure to traumatic events that were part of her job with the RCMP. She reported she had experienced success in her career despite her struggles with trauma and alcohol use.

There is strong evidence that [Corporal] Doktor experienced several risk factors as an RCMP member that contributed to her development of PTSD and [Alcohol Use Disorder].

If [Corporal] Doktor were to return to work with the RCMP, several ongoing supports should be maintained for her to remain healthy and to continue to pursue a successful career in this field. She would need to continue to attend AA meetings weekly and maintain regular connection with a sponsor and others who will support her sobriety. [Corporal] Doktor would need to continue to reprocess difficult and/or traumatic incidents after they happen, so they are cleared as soon as possible so she remains emotionally healthy. There are online EMDR platforms that clinicians can use and have successfully used for this purpose, therefore, if [Corporal] Doktor is in a remote location, reprocessing of trauma can still take place. Lastly [Corporal] Doktor would be expected to continue to practice emotional coping strategies going forward. [...]

[15] Ms. Norum took the stand. She essentially repeated and slightly elaborated on what was contained in her report. She was subjected to cross-examination, but she remained steadfast in her conclusions and her evidence was not weakened in any way.

[16] Corporal Doktor also testified. She spoke of her graduation from Depot on March 12, 2007, and summarized her career since that time. More importantly, she talked about her consumption of alcohol and how it increased as her RCMP career progressed as well as her exposure to more traumatic incidents and stressors. She related the details of the first incident in 2016, which resulted in a conduct meeting with her line officer and a “Record of Decision” dated April 21, 2017, and subsequently a trial in Provincial Court after she was charged criminally with impaired driving. She indicated that she felt the only reason she was charged is because she was a police officer and she responded defensively to that incident, which ended with her acquittal at trial. She indicated that, although she went through the motions with Health Services and a counselor, in hindsight, she was not yet ready to accept help. That changed five days after her acquittal when this incident occurred.

[17] Corporal Doktor related that, at that time, she came to grips with the seriousness of her drinking and accepted that she needed help to deal with it. Although I will not repeat it all, she laid the necessary groundwork for the opinions expressed by Mr. Roy and Ms. Norum. She also indicated that she has now been sober for 27 months and counting.

[18] I've found the expert opinion evidence provided by both Mr. Roy and Ms. Norum to be very persuasive. Based on that evidence, the testimony of Corporal Doktor and the investigative material, I find that Corporal Doktor suffers from PTSD and Alcohol Use Disorder. I also find that much of her PTSD arose as a result of the traumas she faced in her duties as a police officer with the RCMP and that her Alcohol Use Disorder is directly attributable to her PTSD. Furthermore, I find that Corporal Doktor has done everything and anything that can be expected of someone in her situation to rehabilitate herself. Her 27 months of sobriety and counting speaks for itself in terms of the success of her rehabilitation to date.

[19] The Conduct Authority seeks Corporal Doktor's forced resignation from the RCMP. Corporal Doktor's position is that she has taken monumental steps towards her rehabilitation and she believes she deserves another chance to continue her career with the RCMP. She is willing to accept any conduct measures short of dismissal.

[20] There is a close connection between the three contraventions in this case (discreditable conduct involving the operation of a police motor vehicle while impaired by alcohol; discreditable conduct for assaulting and attempting to obstruct the police officers responding to the matter in the course of their duties; and misuse of the police motor vehicle she was operating). All three arose from the same incident. Given that, I am of the view that a global sanction is appropriate.

[21] In making my decision, I am first required to establish the range of conduct measures appropriate for the misconduct involved. While I will enumerate the aggravating factors involved, one of those factors is so serious that it needs to be part of the discussion from the start. This is Constable Doktor's second incident involving operating a motor vehicle while impaired by alcohol. From previous cases and from the *Conduct Measures Guide*, it is clear that in such circumstances dismissal will be the normal result, absent extraordinary mitigating circumstances. Therefore, that must be the starting point.

[22] Once the range has been established, I am required to assess the aggravating and mitigating factors present in the circumstances of the case. In terms of aggravating factors, there are many:

- As previously indicated, in a conduct meeting “Record of Decision” dated April 21, 2017, corrective conduct measures were imposed against Corporal Doktor after she drove to the office in High Prairie and administered a breath test on a suspected impaired driver, while she herself was impaired by alcohol. Corrective conduct measures were imposed by her District Commander, consisting of a reprimand, the forfeiture of 40 hours of pay, and the forfeiture of 40 hours of annual leave. She was subsequently also charged criminally with impaired driving for that incident, but she was acquitted at trial. Her acquittal occurred just five days prior to this incident.
- Corporal Doktor’s actions involved members of the public, who rightly observed that she was too impaired to be allowed to drive away from the convenience store that she drove to. They did the right thing by calling 911 and then following her after she attempted to walk away.
- The incident attracted media attention that serves to tarnish the name of the RCMP and all other police officers, solely due to her actions.
- She was belligerent, obnoxious and assaultive to the other members who, through no fault of their own, were called to respond to this incident.
- Her blood alcohol readings were very high, over 200 mg%, evidence of an extreme level of intoxication that is corroborated by the video footage from the convenience store. She is very fortunate that someone wasn’t injured that evening.
- The Conduct Authority put forward a second incident involving prior discipline, an informal counselling that occurred in 2009. However, given the dated and unrelated nature of that counselling, I decline to accept it as an aggravating factor.

[23] Balanced against that are the following mitigating factors:

- Corporal Doktor took responsibility for her actions. She entered a guilty plea in Provincial Court to operating a motor vehicle with a blood alcohol level over 80 mg% and to assaulting a police officer in the course of his duties. In essence, she also pleaded “no contest” in relation to the contraventions alleged in these conduct proceedings, because she had no recollection of them. The Conduct Authority argues that she is still deflecting blame and uses her statement to the Professional Responsibility Unit after this incident as an example. However, I note that the statement was provided in the fall of 2018, prior to the majority of her rehabilitation efforts and therapy.
- She has done everything that can be expected of someone in her position to rehabilitate herself after hitting her “rock bottom” with this incident. She underwent a 57-day inpatient treatment program, and followed it up with a textbook aftercare program. As a result, she has now been sober for 27 months.
- She committed to a healthy lifestyle and sought the necessary counselling and support mechanisms. She sought out the right professionals to assist her in dealing with her PTSD, the root cause of her alcoholism. She has undergone and continues to undergo EMDR therapy, which is very effective for her in dealing with her past traumas. As a result, she is well equipped to deal with the stressors of everyday life and work.
- In addition, she is using her experiences to help others in the same or similar situations, which also helps to keep her sober. That includes organizing and maintaining an AA group for first responders in the Red Deer area.
- She has started to make amends with those harmed by her misconduct, apologizing for her actions on June 1, 2018, although it is acknowledged that she has more to do in that regard.
- She expressed her remorse on the witness stand and I accept it as genuine.

- She has been a consistently good performer and has the continuing support of many of her colleagues and some senior members of the RCMP.

[24] While not technically a mitigating factor, it is significant that Corporal Doktor was granted a curative discharge under subsection 255(5) of the *Criminal Code* in the criminal proceedings. A curative discharge is a sentencing option where the impaired driver is found to be an alcoholic and their deterrence can best be achieved by requiring treatment for their alcoholism as opposed to penal consequences. In order to grant a conditional discharge, the Court must be satisfied that the offender:

- a. is in need of curative treatment in relation to their consumption of alcohol;
- b. it would not be contrary to the public interest to discharge them and place them on a period of probation including a condition that they receive treatment for their alcoholism.

The Provincial Court Judge in the criminal proceedings obviously determined that both those conditions existed and that it was in the public interest for Corporal Doktor to receive a discharge. More about that later.

[25] The Conduct Authority relies on the *Conduct Measures Guide* and argues that the default result, when dealing with a second incident of impaired driving, is dismissal from the Force and that the primary considerations have to be denunciation and deterrence. He argues that some forms of misconduct are so egregious that they warrant a policy of dismissal no matter the finer details of the case. However, a policy cannot be invoked that fetters the discretion of a conduct board and there have to be exceptions to every general rule. I must consider if this is one of those exceptions when it comes to second-time impaired drivers.

[26] In further support of his position, the Conduct Authority put forward the cases of The Appropriate Officer of “H” Division and Constable Mansley (Commissioner), GXJ 390-17-000045183 (D-136) [Mansley]; Commanding Officer “National Headquarters” Division and Civilian Member Calandrini, 2018 RCAD 10 [Calandrini]; and The Commanding Officer “F” Division and Corporal Toma, 2020 CAD 14 [Toma].

[27] As acknowledged by the Conduct Authority, the tipping point in Mansley for both the conduct board decision and the Commissioner's refusal to interfere was a long "pattern of dishonesty and lack of integrity" on the part of the subject member. Deceit cases involving a police officer are very different than most other conduct cases. I don't see Mansley as applicable to the circumstances of this case.

[28] Calandrini is not a case of impaired driving by an alcoholic. It dealt with incidents of sexual harassment (that, in reality, were sexual assaults) and bullying committed by a senior civilian member against a vulnerable victim. The Conduct Authority cited Calandrini for the proposition of there being some cases serious enough that policy considerations trump all others and the result must be dismissal. I disagree that can ever be the case.

[29] A policy must never fetter the discretion of a conduct board to impose the most appropriate conduct measures it sees fit to impose. While some types of cases may be serious enough that dismissal must be considered, there cannot be any absolute policy of dismissal. The conduct board in Calandrini acknowledged that at paragraph 186, where he stated: "Dismissal is a last resort in sanctioning professional misconduct, and must be reserved for the most egregious of cases." At paragraph 192, the conduct board stated: "The gravity of the misconduct in this case, combined with the aggravating factors, outweighs the set of mitigating factors, as powerful as they may be." The conduct board did not rely on a "policy dismissal" in order to dismiss Mr. Calandrini, he did exactly what I must do in this case: determine the appropriate range of conduct measures applicable to the misconduct at issue and then weigh the aggravating and mitigating factors in order to determine the most appropriate measures to impose.

[30] The Conduct Authority relied on *Toma* for the same purpose: to show that some misconduct is so serious that it should automatically result in dismissal. However, even a cursory reading of that case reveals that the conduct board in that matter did just what I've described in the preceding paragraph. What resulted in Corporal Toma's dismissal was the fact that the aggravating factors in his case outweighed the mitigating factors and tipped the scales. In particular, the conduct board was of the view that Corporal Toma's efforts towards rehabilitation were questionable. That is absolutely not the situation with Corporal Doktor.

[31] Corporal Doktor relied on the case of *The Commanding Officer of "F" Division and Sergeant Wilson*, 2017 RCAD 6 [*Wilson*], to show that even second incidents of impaired driving don't necessarily require the dismissal of the subject member. The *Wilson* case involved a joint submission on sanction that was accepted by the conduct board; therefore, it cannot be considered to have much precedential value. However, it is important to note that even the conduct authority in *Wilson* must have acknowledged that there is no absolute policy of dismissal in cases of this type, because dismissal was not even sought at the end of the day.

[32] In my view, the first goal of discipline is still rehabilitation and even the Conduct Authority has acknowledged that Corporal Doktor's efforts towards rehabilitation have been impressive. Since the misconduct on June 1, 2018, she has gone about her business in a manner rarely seen. She has acknowledged her poor behaviour and taken action to ensure it doesn't happen again. Because we are dealing with alcoholism, it cannot be said that she will never relapse, but she has done as much as one can do to maintain her sobriety, taking it a day at a time. Since it is solely her lack of sobriety that is behind her misconduct, I am confident that the risk of reoffending is low.

[33] That brings me to the letters of reference that were provided, particularly those provided by Superintendent Gelinas and Inspector Respit. Both members outlined a sound knowledge of Corporal Doktor's circumstances and an understanding of her value to the RCMP if allowed to continue her career. Superintending Gelinas concluded his letter by saying:

[...] I understand [Corporal Doktor] faces losing her job given the circumstances and the conduct hearing. I continue to support [Corporal Doktor] as she is a good person and will benefit the RCMP if allowed to prove herself again. [Corporal Doktor]'s efforts to rid herself of her addiction and to help others in the same situation is amazing and speaks to her dedication and integrity. I would work with [Corporal Doktor] at anytime and as noted she would be an asset to the organization. [...] [*Sic throughout*]

[34] After relating his very positive experiences working with Corporal Doktor, Inspector Respit indicated:

[...] I am fully aware of the situation [Corporal Doktor] is currently facing with respect to the RCMP disciplinary process, fully aware because she has,

as always, been completely honest with me. I have observed, participated in, investigated and have been made aware of a multitude of disciplinary processes within the RCMP over the years, and I can honestly say that I have never known any member to attempt to rectify or repair their situation with as much effort and genuine sincerity as I have observed [Corporal] Doktor to do. Knowing who [Corporal Doktor] is at the very core of her soul, not only as a member, but a human being, I would not only welcome the opportunity to work with [Corporal Doktor] again, I would relish it.

I would be happy to provide additional information or clarification in relation to this matter or situation, but suffice it to say, I completely endorse [Corporal] Doktor as a member of the Royal Canadian Mounted Police. [...] [*Sic throughout*]

[35] What all the letters of reference and the performance documents tell me is that Corporal Doktor is a good performer, a hard-working and conscientious employee with 13 years of service. The RCMP has invested substantially in her and I believe she is now in a good position to repay that investment with continued good service.

[36] I agree with the sentiment expressed in the *Conduct Measures Guide* that, in most instances, a second impaired driving contravention will attract dismissal. However, this case is one of the rare exceptions, one which passes the public interest test. I've not been privy to a case where the subject member involved has done as much to rehabilitate herself as Corporal Doktor. I'm rarely as confident that a subject member's future carries such a low risk of recidivism given her efforts and the ongoing supports she has in place.

[37] However, her repeated misconduct is extremely serious and I must fashion conduct measures that send the appropriate message in terms of denunciation and general deterrence. Impaired driving by anyone cannot be tolerated. A second incident of impaired driving by a police officer must be dealt with in a harsh manner. While I am not going to direct her resignation, as requested by the Conduct Authority, the conduct measures I impose are going to be felt by her and serve as a warning to her colleagues.

[38] In this case, I impose as conduct measures:

1. a reprimand;

2. an indefinite demotion from the rank of corporal to constable (at the highest pay increment of that level);
3. an ineligibility for subsequent promotion for a period of two years;
4. a financial penalty of 80 hours of pay;
5. a forfeiture of annual leave of 80 hours;
6. a direction to continue to attend counselling sessions and therapy with Ms. Norum, or another therapist, until such time as you, your therapist and the Health Services Officer all agree that they are no longer necessary; and
7. a transfer to another work location at the discretion of the Commanding Officer.

[39] Any interim measures in place should be resolved in accordance with section 23 of the *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281. Either party may appeal this decision by filing a statement of appeal with the Commissioner within 14 days of the service of this decision on Corporal Doktor, 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.

Gerald Annetts

Conduct Board

September 23, 2020

Edmonton, Alberta