

Protected A

2022 CAD 05



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 Michel Legault
Designated Level III Conduct Authority, "E" Division

(Conduct Authority)

and

Constable Blaise Picketts
Regimental Number 54959

(Subject Member)

Conduct Board Decision

Christine Sakiris

April 8, 2022

Mr. Denys Morel, Conduct Authority Representative

Ms. Cait Fleck, Subject Member Representative

TABLE OF CONTENTS

SUMMARY	3
INTRODUCTION.....	4
ALLEGATIONS	5
AGREED STATEMENT OF FACTS.....	8
DECISION ON THE ALLEGATIONS	11
Allegation 1	11
Allegation 2.....	13
Allegation 3.....	13
CONDUCT MEASURES	14
Range of possible conduct measures	16
Aggravating factors.....	17
Mitigating factors	18
Decision on conduct measures	19
CONCLUSION	21

SUMMARY

The original *Notice of Conduct Hearing*, dated June 28, 2021, contained two alleged contraventions of section 7.1 of the RCMP Code of Conduct and one alleged contravention of section 4.6 of the RCMP Code of Conduct. Constable Picketts was alleged to have driven his RCMP-issued vehicle, while under the influence of alcohol, causing damage to the vehicle. He was found asleep, behind the wheel, at a fast food drive through. His police service dog, police dog drug kit, mobile workstation, carbine and ammunition were also in the vehicle. He refused to provide a breath sample and resisted arrest before being taken into custody.

Prior to the conduct hearing, the parties submitted an *Agreed Statement of Facts* and a *Joint Proposal on Conduct Measures*. These were accepted by the Conduct Board. All three allegations were found to be established.

The following conduct measures were imposed: (1) a financial penalty of 30 days' pay, to be deducted from Constable Picketts' pay; (2) a forfeiture of 15 days of annual leave; (3) an ineligibility

for promotion for a period of three years from the date of this decision; (4) a transfer out of Police Dog Services; (5) a direction to undergo medical treatment as specified by the “E” Division Health Services Officer; (6) a direction to abide by the conditions set out in the *Aftercare Treatment Agreement* signed on April 29, 2020; and (7) a direction to make an apology, in person, to the arresting officers.

INTRODUCTION

[1] On or between April 9 and 10, 2020, Constable Picketts is alleged to have driven his RCMP-issued vehicle, while under the influence of alcohol, causing damage to the vehicle. He was found asleep, behind the wheel, at a fast food drive-through window. His police service dog, police dog drug kit, mobile workstation, carbine and ammunition were also in the vehicle. He refused to provide a breath sample and resisted arrest before being taken into custody.

[2] On March 26, 2021, the Designated Conduct Authority signed a *Notice to the Designated Officer* to request the initiation of a conduct hearing in relation to this matter. On March 29, 2021, I was appointed as the Conduct Board pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[3] The original *Notice of Conduct Hearing*, dated June 28, 2021, contains two alleged contraventions of section 7.1 of the RCMP Code of Conduct, and one alleged contravention of section 4.6 of the RCMP Code of Conduct.

[4] On September 27, 2021, Constable Picketts provided his response to the allegations, pursuant to subsection 15(3) of the *Commissioner’s Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*]. Constable Picketts admitted to all three allegations and their particulars. He provided additional explanations with respect to several particulars.

[5] The conduct hearing in this matter was scheduled to begin on February 22, 2022. On December 24, 2021, the Conduct Authority Representative and the Subject Member Representative provided the Conduct Board with an *Agreed Statement of Facts*. Between January 19 and 26, 2022, the Subject Member Representative submitted expert medical reports. On February 7, 2022, the

parties advised the Conduct Board of their intent to submit a *Joint Proposal on Conduct Measures* (the Joint Proposal).

[6] On February 22, 2022, the parties provided their written submissions in support of the Joint Proposal as well as accompanying documentary evidence. The parties requested, and the Conduct Board agreed, to proceed by way of a written decision based on the record. Therefore, the conduct hearing in this matter was cancelled.

[7] The following conduct measures were jointly proposed: (1) a financial penalty of 30 days' pay, to be deducted from Constable Picketts' pay; (2) a forfeiture of 15 days of annual leave; (3) an ineligibility for promotion for a period of three years from the date of this decision; (4) a transfer out of Police Dog Services; (5) a direction to undergo medical treatment as specified by the "E" Division Health Services Officer; (6) a direction to abide by the conditions set out in the *Aftercare Treatment Agreement* signed on April 29, 2020; and (7) a direction to make an apology, in person, to the arresting officers.

[8] For the reasons that follow, I accept the parties' Joint Proposal. Allegations 1, 2 and 3 are established. The conduct measures as proposed, with slight amendments to align with the wording of sections 3, 4 and 5 of the *CSO (Conduct)*, are imposed.

ALLEGATIONS

[9] The allegations are as follows:

Allegation 1

On or about April 10, 2020, at or near Maple Ridge, in the Province of British Columbia, Constable Blaise Picketts engaged in conduct 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, you were a member of the Royal Canadian Mounted Police ("RCMP") posted to "E" Division with the Lower Mainland Integrated Police Dog Service.
2. You were off duty and driving your issued RCMP vehicle, an unmarked 2014 Chevrolet Tahoe, bearing B.C. license plate [redacted] ("police vehicle").

3. Your police service dog was with you in [your police vehicle]; your mobile workstation, carbine, carbine magazines, and police dog drug kit were also stored inside [your police vehicle].
4. On April 9, 2020, you attended the residences of two different colleagues in Langley and Surrey where you consumed several alcoholic beverages over the course of the afternoon and evening.
5. On April 10, 2020, at approximately 2:30 am, you were found asleep behind the wheel of [your police vehicle] at the Burger King drive thru located at [address redacted].
6. Police attended the scene and observed that you were showing various signs of impairment. Police also found an open alcoholic beverage inside your vehicle.
7. You were given the Approved Screening Device demand but you failed to provide a proper breath sample.
8. You were arrested for refusal to provide a breath sample and impaired operation of a motor vehicle.
9. You drove a police vehicle while impaired.
10. Your actions were discreditable and placed the safety of the public and your police service dog at risk.

Allegation 2

On or about April 10, 2020, at or near Maple Ridge, in the Province of British Columbia, Constable Blaise Picketts engaged in conduct contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars of Allegation 2:

1. At all material times, you were a member of the Royal Canadian Mounted Police ("RCMP") posted to "E" Division with the Lower Mainland Integrated Police Dog Service.
2. You were off duty and driving your issued RCMP vehicle, an unmarked 2014 Chevrolet Tahoe, bearing B.C. license plate [redacted] ("police vehicle").
3. Your police service dog was with you in [your police vehicle]; your mobile workstation, carbine, carbine magazines, and police dog drug kit were also stored inside [your police vehicle].
4. On April 10, 2020, at approximately 2:30 am, you were found asleep behind the wheel of [your police vehicle] at the Burger King drive thru located at [address redacted].
5. Police attended the scene and you were given the Approved Screening Device demand but you failed to provide a proper breath sample.

6. You were arrested for refusal to provide a breath sample and impaired operation of a motor vehicle.
7. During the police intervention, you were verbally abusive and failed to comply with the officers' directions.
8. You physically resisted your arrest and were assaultive towards the officers.
9. Your actions caused injuries to [Constable] Trevor Vandelft and [Constable] Michael Sorge and placed the safety of all the arresting officers at risk.
10. Once at the detachment, you continued to be uncooperative and belligerent.
11. On June 18, 2021, you plead guilty to the charge of resist arrest and were sentenced to three months of probation and a \$1,000 fine.
12. Your actions were discreditable.

Allegation 3

On or between April 9, 2020 and April 10, 2020, at or near Maple Ridge or other places in the Province of British Columbia, Constable Blaise Picketts engaged in conduct contrary to section 4.6 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars of Allegation 3:

1. At all material times, you were a member of the Royal Canadian Mounted Police ("RCMP") posted to "E" Division with the Lower Mainland Integrated Police Dog Service.
2. You were off duty and driving your issued RCMP vehicle, an unmarked 2014 Chevrolet Tahoe, bearing B.C. license plate [redacted] ("police vehicle")
3. Your police service dog was with you in [your police vehicle]; your mobile workstation, carbine, carbine magazines, and police dog drug kit were also stored inside [your police vehicle].
4. On April 9, 2020, in the afternoon, you used [your police vehicle] to drive to a liquor store and purchase alcohol. You then attended the residences of two different colleagues in Langley and Surrey where you consumed several alcoholic beverages over the course of the afternoon and evening.
5. On April 10, 2020, at approximately 2:30 am, you were found asleep behind the wheel of [your police vehicle] at the Burger King drive thru located at [address redacted].
6. Police attended and arrested you for refusal to provide a breath sample and impaired operation of a motor vehicle. While on scene the officers noticed damage to the passenger side and rear bumper of [your police vehicle].

7. You used [your police vehicle] for personal reasons and while doing so damaged the vehicle and placed the safety of the public and your police service dog at risk.

8. You used [your police vehicle] for unauthorized purposes.

[Sic throughout]

AGREED STATEMENT OF FACTS

[10] Particulars 1, 2 and 3 are identical in each allegation and are not contested. The parties are also in agreement for the following facts.

[11] On April 9, 2020, Constable Picketts had the day off. In the morning, he drove his RCMP-issued vehicle (“police vehicle”) to Surrey and met up with Constable Dave Dolan and other dog handlers to train with their dogs. Afterwards, the group decided to go to another member’s home in Langley to socialize. Constable Picketts picked up Constable Dolan and drove to a liquor store where he purchased alcohol and then drove to the member’s home in Langley. They arrived between 1 p.m. and 2 p.m. While at this member’s house in Langley, Constable Picketts consumed alcohol.

[12] That same day, between approximately 3 p.m. and 4 p.m., Constable Picketts drove his police vehicle back to Constable Dolan’s residence and continued to consume alcohol with Constable Dolan and other RCMP members. About an hour later, Constable Picketts left in his police vehicle to pick up more alcohol, returned to Constable Dolan’s residence and resumed drinking.

[13] On April 10, 2020, at approximately 2 a.m., Constable Picketts left Constable Dolan’s residence and drove to Maple Ridge, approximately 25 kilometres away. While crossing the Golden Ears Bridge, Constable Picketts scraped his police vehicle on the concrete barrier on the side of the bridge, causing approximately \$7,000 in damage to the rear and passenger side of the vehicle. It is acknowledged that Constable Picketts has reimbursed the RCMP for the full cost of the repairs.

[14] Once in Maple Ridge, Constable Picketts drove his police vehicle into the Burger King drive through, and fell asleep behind the wheel. One of the Burger King employees tried to wake Constable Picketts up, but was unable to do so. After trying for about 20 minutes, the employee got scared and called 911.

[15] At 2:58 a.m., Constable Matthew Wagner of Maple Ridge RCMP arrived at the Burger King. Constable Wagner located Constable Picketts asleep in the driver's seat of his police vehicle, with the engine running and a credit card in his right hand. Constable Wagner observed the police equipment inside the vehicle, including the carbine. His risk assessment was high as he was unsure if he was dealing with a police officer who may be armed or someone who had stolen a police vehicle.

[16] After several attempts, Constable Wagner was able to wake Constable Picketts. Constable Picketts displayed the following signs of alcohol impairment:

- a. his eyes were red and glossy;
- b. his speech was slurred and there was an odour of liquor on his breath;
- c. he was slow in his actions;
- d. he was unsure on his feet; and
- e. he had trouble walking straight.

[17] Constable Michael Sorge and Constable Trevor Vendelft arrived on scene after Constable Picketts exited the vehicle.

[18] Constable Wagner read the Approved Screening Device demand to Constable Picketts, who indicated that he understood the demand. However, Constable Picketts purposefully failed to provide an adequate breath sample. He was given several opportunities to provide a breath sample, but used various tactics to refuse, including:

- a. biting the straw;
- b. turning his head away from the Approved Screening Device; and
- c. not blowing hard enough.

[19] Constable Picketts was eventually placed under arrest for failing to provide a breath sample and impaired driving. Upon arrest, Constable Picketts refused to comply with police demands and

became uncooperative. He yelled words to the effect of “fuck off” and “I’m not under arrest” at the officers.

[20] Constable Picketts physically resisted arrest and became combative with the arresting officers, despite their requests that he stop resisting. His actions included:

- a. tensing his arms and body;
- b. securing his arms under his body and refusing to release them;
- c. acting in an assaultive manner in that, at one point, he lifted his knee quickly in the direction of Constable Wagner’s groin;
- d. grabbing the handcuffs that the officers were trying to put on him and injuring Constable Vandelft’s thumb in the process.

[21] Officers utilized the 10-33 code to call for back-up to assist in arresting Constable Picketts. This code is only used by police when back-up is needed on an urgent basis due to officer safety concerns. Additional officers, including Corporal Peter Westra, arrived on scene.

[22] Constable Picketts continued to resist after being put in handcuffs. It took several officers to get him inside the back of a police vehicle. He used his feet to try to prevent them from doing so.

[23] Constable Picketts’ actions, from the time he exited his police vehicle, are captured on police video.

[24] Constable Sorge secured Constable Picketts’ police vehicle and located an open can of alcohol on the driver’s side floor. It is admitted that the alcohol located inside the vehicle was the same brand as the one Constable Picketts was drinking earlier in the day.

[25] Constable Sorge noticed the police dog when he checked the back seat, so immediately closed the door. A Police Dog Services officer was called out to take care of the dog, as only these officers are trained to do so.

[26] Constable Picketts was taken to the Maple Ridge police station where he continued to be uncooperative. Booking video shows that when Constable Picketts was being photographed in cells, he put his head down and put up his middle finger to the camera.

[27] Because of his level of intoxication, Constable Picketts was placed in cells to sober up before being released. Cell video shows Constable Picketts physically resisting when being placed in a cell. Officers had to handcuff him and physically force him into the cell.

[28] Constable Picketts does not have a complete recollection of the incident due to his high level of intoxication.

[29] On June 18, 2021, Constable Picketts attended court in relation to the criminal charges that resulted from the incident. He pled guilty to one charge of resisting arrest. He was sentenced to probation for a period of 3 months and was issued a \$1,000 fine. A stay of proceedings was entered on the charge of refusing to provide a breath sample.

DECISION ON THE ALLEGATIONS

Allegation 1

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

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

- a. the acts that constitute the alleged behaviour;
- 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.

[32] By virtue of Constable Picketts' admissions in the *Agreed Statement of Facts*, I find that the first two elements of the test are satisfied. Therefore, I can turn my attention to determining whether the third and fourth elements of the test are established.

[33] Constable Picketts admits to driving his police vehicle under the influence of alcohol. Restaurant staff found him asleep at the wheel in front of a fast food drive-through window, with the engine running. His police service dog, police dog drug kit, mobile workstation, carbine and ammunition were in the vehicle. Concerned for his wellbeing, restaurant staff called 911.

[34] After being woken by police and exiting the vehicle, Constable Picketts failed to provide a valid breath sample. Police also found open alcohol in Constable Picketts' police vehicle.

[35] It is well established that police officers are held to a higher standard than the general public. Members of the RCMP must adhere to the Code of Conduct both on- and off-duty. While Constable Picketts' actions took place off-duty, I find that his actions demonstrate a serious lack of judgment and are incompatible with the duties and responsibilities of a member of the RCMP, as set out in section 37 of the *RCMP Act*. Constable Picketts' actions relate to matters that fall within the behaviour that members respond to in their enforcement activities on a daily basis. Members cannot flout, in their private lives, the very laws they are called upon to enforce.

[36] Constable Picketts recognizes that his actions negatively affected the reputation of the RCMP, particularly as members of the general public witnessed the incident. He further acknowledges that his actions were discreditable and placed the safety of the public, his fellow police officers and his police service dog at risk.¹

[37] 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 Constable Picketts' actions as likely to bring discredit to the Force. I further find that his actions may impair his ability or the public's confidence in his ability to impartially perform the duties of a member of the

¹ *Agreed Statement of Facts*, at paragraphs 25 and 26.

RCMP. As such, I find that Constable Picketts' actions are sufficiently related to his duties and functions as to provide the Force with a legitimate interest in disciplining him.

[38] Accordingly, Allegation 1 is established on a balance of probabilities.

Allegation 2

[39] Allegation 2 is also of a contravention of section 7.1 of the Code of Conduct. Once again, by virtue of Constable Picketts' admissions in the *Agreed Statement of Facts*, I find that the first two elements of the test are satisfied.

[40] As noted, Constable Picketts was given the Approved Screening Device demand, but failed to provide a proper breath sample. Once advised he was under arrest, Constable Picketts resisted and was verbally abusive. He became combative, causing minor injury to two members and resulting in the issuance of a code 10-33 call due to concerns for officer safety.

[41] Once at the police station, Constable Picketts continued to be uncooperative and belligerent. He frustrated attempts to take his photo on intake, and physically resisted being placed in cells. He ultimately pled guilty to one charge of resisting arrest. He was sentenced to probation for a period of 3 months and was issued a \$1,000 fine.

[42] For the same reasons as those expressed in paragraphs 35 to 37 of the present decision, I find that Allegation 2 is established on a balance of probabilities.

Allegation 3

[43] Section 4.6 of the Code of Conduct provides that members "use government-issued equipment and property only for authorized purposes and activities". Members are not permitted to use RCMP equipment and property for personal purposes.

[44] Constable Picketts drove his Force-issued vehicle while off-duty and solely for personal purposes. He used his police vehicle to drive to and from social engagements, and to purchase

alcohol. Moreover, he did so while under the influence of alcohol. He not only caused damage to the vehicle, but also placed the safety of the public and of his police service dog at risk.

[45] Constable Picketts' use of his police vehicle was unauthorized and for an improper purpose. Consequently, Allegation 3 is established on a balance of probabilities.

CONDUCT MEASURES

[46] Having found Allegations 1, 2 and 3 to be established and in accordance with subsection 45(4) of the *RCMP Act* as well as with the *RCMP Conduct Measures Guide*, I am required 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".

[47] The Conduct Authority Representative and the Subject Member Representative provided separate submissions with respect to the Joint Proposal, with supporting documentation and jurisprudence. They proposed the following global conduct measures:

- a. a financial penalty of 30 days (240 hours) to be deducted from Constable Picketts' pay;
- b. a forfeiture of 15 days of annual leave (120 hours);
- c. an ineligibility for promotion for a period of three years from the date of this written decision;
- d. a transfer out of Police Dog Services;
- e. a direction to undergo medical treatment as specified by a Health Services Officer;
- f. a direction to abide by the conditions set out in the *Aftercare Treatment Agreement* signed April 29, 2020; and

- g. a direction to issue an apology, in person, to arresting officers: Constable Wagner, Constable Sorge, Constable Vendelft and Corporal Westra.

[48] When presented with a joint submission on conduct measures, there are very narrow circumstances in which a conduct board may refuse to accept the proposed conduct measures.

[49] 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.² Generally speaking, courts or administrative tribunals will not override a settlement reached by the parties unless it is against the public interest.

[50] Therefore, I must determine whether accepting the Joint Proposal would be against the public interest. This is not a question of whether the conduct measures proposed are the same as those I would have imposed. Rather, the public interest test sets a much higher threshold.

[51] In *Cook*, the Supreme Court of Canada provides 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.³

[52] In order to determine whether the proposed conduct measures are against the public interest, it is helpful to have some sense of what the possible measures may be. The *Conduct Measures Guide* is a useful reference in this regard. However, it is important to note that the *Conduct Measures Guide* is just that, a guide. It is not meant to be prescriptive.

[53] In addition, I note that the *Conduct Measures Guide* provides a range of financial penalties that may be considered. When considering the totality of the circumstances, a conduct board may

² 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*].

³ *Cook*, *supra* note 2, at paragraph 34.

impose financial penalties alone or in conjunction with other conduct measures, as provided in sections 3, 4 and 5 of the *CSO (Conduct)*.

Range of possible conduct measures

[54] The parties have proposed a global sanction. Given that all three allegations arise out of the events of April 9 and 10, 2020, I agree that this is appropriate. As noted by the parties, the *Conduct Measures Guide*, at pages 43 to 45, describes a financial penalty in the range of 10 days of pay, at the mitigated range, to 25 to 45 days, at the aggravated range, for impaired driving. The Subject Member Representative submits that, on the totality of the circumstances, Constable Picketts' actions fall within the aggravated range. Therefore, the low end of the appropriate range is a financial penalty of 25 days of pay, alone or in combination with additional conduct measures.

[55] The Conduct Authority Representative notes that the overall circumstances of this case would extend the range to dismissal. For the following reasons, I agree. Constable Picketts drove his RCMP-issued vehicle for personal and improper purposes, causing damage to the vehicle. Without factoring in his impaired state, the *Conduct Measures Guide*, at pages 28 to 30, indicates that these facts alone could give rise to a further financial penalty of 1 to 10 days. Similarly, his assaultive behaviour must be considered. The *Conduct Measures Guide*, at pages 46 to 48, identifies the range of conduct measures to be imposed for assault. Measures fall within the mitigated range of 1 to 2 days, for minor incidents; a normal range of 3 to 10 days; and 15 days to dismissal in the aggravated range. I recognize that the injuries to Constable Vandelft and Constable Sorge, who suffered some abrasions to his hand, were minor. However, in light of the fact that multiple officers were required to subdue Constable Picketts, necessitating a code 10-33 call due to concerns for officer safety, the mitigated range would not be appropriate. The normal range is more applicable; therefore, a further financial penalty of 3 to 10 days could be imposed. When these factors are considered, a range in excess of 45 days is possible. The *Conduct Measures Guide*, at pages 3 to 7, provides that where a financial penalty exceeds 45 days, dismissal is the more appropriate sanction. Consequently, I find that a range of 25 days, alone or in conjunction with other conduct measures, to dismissal is appropriate.

[56] I must now consider the aggravating and mitigating factors.

Aggravating factors

[57] Of the numerous aggravating factors proposed by the parties, I have retained the following.

[58] First, Constable Picketts placed the public and other members at risk. There was potential for serious harm to himself, his police service dog, other officers and the public. The damage to the police vehicle and his state while having care and control of the vehicle are indicative of the serious risk he presented.

[59] Second, members of the public were involved. The employees at the Burger King tried to wake him, to no avail, and then called police because they were scared. They also observed Constable Picketts' actions with the attending members. While it is not known whether the witnesses knew that Constable Picketts is a police officer, there is a potential impact to public trust.

[60] Third, there was alcohol involved. Over the course of the afternoon and evening of April 9, 2020, and during the early morning of April 10, 2020, Constable Picketts twice went to a liquor store to purchase alcohol. He consumed alcohol and drove after consuming alcohol. In addition, an open can of alcohol was found in the driver's side door of his police vehicle.

[61] Fourth, Constable Picketts' actions were deliberate. When he made the decision to consume alcohol, he did so knowing that he was driving his police vehicle, which contained his police service dog and his carbine. He had the option of staying at the house where he was drinking, but chose to drive home.

[62] Fifth, Constable Picketts abused his special position as a dog handler. As a dog handler, he was permitted to take his police vehicle home. He not only used it for unauthorized purposes, but drove it while impaired and caused damage to it.

[63] Sixth, Constable Picketts is a senior member with 13 years of service at the time of this incident and, according to his performance assessments, was in a leadership role, supervising quarries and serving as Acting Non-Commissioned Officer in Charge of the unit from time to time. His

behaviour was disrespectful, uncooperative and combative while resisting arrest. His actions caused minor injury to two arresting officers. A member with his tenure should have known better.

[64] Seventh, Constable Picketts' actions had a direct impact on the conduct of police operations. The attending officers had to issue a code 10-33 to call for back-up due to his behaviour. This code is used on an urgent basis due to officer safety concerns.

[65] Eighth, Constable Picketts was charged criminally and pled guilty to one charge of resisting arrest, and received a period of probation. The charge of refusing to provide a breath sample was stayed.

[66] Finally, Constable Picketts has two findings of prior, though unrelated discipline, both of which were imposed in 2015.

Mitigating factors

[67] Of the numerous mitigating factors proposed by the parties, I have retained the following.

[68] First, Constable Picketts has accepted full responsibility for his actions and has made every effort to resolve this matter as quickly as possible. He admitted to the allegations and acknowledged his misconduct at the earliest opportunity. In addition, he immediately sought treatment, and pled guilty to a criminal charge arising out of this incident.

[69] Second, Constable Picketts has demonstrated genuine remorse for his actions. This is reflected in the numerous letters of reference, which describe his reaction to this incident. Constable Picketts expressed a long-standing desire to apologize to the members involved in his arrest. It is acknowledged that it would not have been appropriate for him to do so until the criminal and conduct processes were resolved. He remains prepared to do so now. It is also noted that Constable Picketts has paid reparations to the RCMP for the damage caused to the police vehicle in the amount of \$7,000.

[70] Third, Constable Picketts' performance evaluations demonstrate that, early in his service, he developed a reputation as a reliable, proactive member. He is well regarded and, in the last ten years,

consistently exceeded expectations. He is recognized for his superior interpersonal and leadership skills, and proficiency as a police service dog handler. Constable Picketts has also provided numerous letters of support that speak, in detail, to his character and dedication as a member of the RCMP, including his engagement with the community and support of the Police Dog Services program. Of particular note are those from his most recent supervisor and colleagues who, with full knowledge of his misconduct, would welcome him back.

[71] Fourth, the medical evidence indicates that Constable Picketts' conduct was related to underlying and previously undiagnosed medical conditions, namely post-traumatic stress disorder and alcohol use disorder. I acknowledge that Constable Picketts was also experiencing personal stressors in his life at the time of this incident.

[72] Fifth, the Subject Member Representative submits that, while they were the result of extremely poor judgment, Constable Picketts' actions were not malicious. While I acknowledge that Constable Picketts did not set out, on the morning of April 9, 2020, to cause harm, his decision to drive while under the influence of alcohol that afternoon, and in the early hours of April 10, 2020, was deliberate and carried with it a reasonable likelihood of causing harm. Consequently, I give very little, if any weight to this factor.

[73] Finally, and most significantly, Constable Picketts immediately sought treatment. He has taken concrete and extensive steps to address his medical conditions and to maintain his sobriety. These are set out, in detail, in the supporting documentation. His dedication to this treatment and to his ongoing health is impressive. His treating practitioners highlight several factors that support a favourable prognosis for his sustained recovery, thus reducing his risk of recidivism.

Decision on conduct measures

[74] Constable Picketts engaged in very serious misconduct. His actions were reckless, and put his and other people's safety at risk, as well as that of his police service dog. The Conduct Authority Representative submits that, but for Constable Picketts' significant efforts to rehabilitate himself, dismissal would be an appropriate outcome. I agree.

[75] I find that the proposed measures recognize the accepted legal principle that when a member's misconduct is caused at least in part by a disability, it is appropriate for a conduct board to consider that disability in determining the appropriate conduct measures. Consequently, I am required to consider the RCMP duty to accommodate in determining the appropriate conduct measures.

[76] The medical evidence establishes that Constable Picketts' extensive efforts to seek treatment and commitment to his ongoing health support a positive prognosis for a sustained recovery. A return to work is medically supported. That said, Constable Picketts' rehabilitative potential is not the only factor I must consider in determining whether the proposed conduct measures are not against the public interest.

[77] The proposed financial penalty of 45 days is at the highest end of the range, short of dismissal. Its impact, while somewhat mitigated by being split between a forfeiture of pay and leave, is substantial.

[78] Additionally, Constable Picketts was preparing to take on a greater leadership role, and had applied on at least one promotional opportunity. By virtue of his ineligibility for promotion, he will have to wait three years in order to pursue these goals.

[79] The parties draw particular attention to the impact of Constable Picketts' proposed transfer. Constable Picketts has dedicated close to a decade of hard work and extra training to achieving his goal of becoming a police service dog handler, all of which was done above and beyond the performance of his regular duties. His performance assessments and letters of support make it abundantly clear that he is passionate about, and extremely dedicated to this work. His transfer out of Police Dog Services is a substantial conduct measure, and one which, as submitted, will be profoundly felt by Constable Picketts.

[80] Collectively, the proposed measures are significant and are commensurate to the severity of the misconduct. They are comprised of remedial and serious measures, and reflect the mitigating and aggravating factors of this case. They will serve as a deterrent to Constable Picketts as well as a warning to other members. In addition, they facilitate Constable Picketts' continued health, which

will be important to ensure that his misconduct is not repeated. Additionally, I have considered the cases cited by the parties. While two of the three decisions cited by the parties reflect joint submissions, and are therefore of limited assistance, I am satisfied that the proposed measures demonstrate parity of sanctions and strike the appropriate balance with the objectives of section 36.2 of the *RCMP Act*.

[81] On a balance of these factors, I cannot conclude that the proposed conduct measures are against the public interest. To the contrary, I find that the public interest is served by the proposed measures. It is well accepted that the public interest is served by the good governance of the operations of the RCMP. The proper administration of the conduct process is one way in which the public is assured of this governance.

[82] The proper administration of the conduct process in turn requires a conduct board to consider the impact of a member's disability on their misconduct as well as the ability of the RCMP to accommodate that disability when assessing the appropriate conduct measures. This is consistent with the guiding principles of the conduct process, as set out in section 36.2 of the *RCMP Act*. The failure to do so is contrary to the public interest as it may deprive the public of members who may safely return to make meaningful contributions to the RCMP and the communities it serves. It may also serve to drive members who are facing mental health challenges to hide their conditions and not secure the supports they need to maintain their health.

[83] Therefore, I accept the proposed conduct measures.

CONCLUSION

[84] Having found Allegations 1, 2 and 3 to be established, and in accordance with the Joint Proposal presented by the Conduct Authority Representative and the Subject Member Representative, the following conduct measures are imposed:

- a. pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*, a financial penalty of 30 days (240 hours) of pay to be deducted from Constable Picketts' pay;

- b. pursuant to paragraph 5(1)(i) of the *CSO (Conduct)*, the forfeiture of 15 days (120 hours) of annual leave;
- c. pursuant to paragraph 5(1)(b) of the *CSO (Conduct)*, an ineligibility for promotion for a period of three years from the date of this written decision;
- d. pursuant to paragraph 5(1)(g) of the *CSO (Conduct)*, a transfer to another work location. By virtue of the Joint Proposal, the Commanding Officer has indicated her intent that Constable Picketts will be transferred out of Police Dog Services in “E” Division;
- e. pursuant to paragraph 3(1)(d) of the *CSO (Conduct)*, a direction to undergo medical treatment as specified by a Health Services Officer;
- f. pursuant to subsection 3(2) of the *CSO (Conduct)*, a direction to abide by the conditions set out in the *Aftercare Treatment Agreement* signed on April 29, 2020;
- g. pursuant to subsection 3(2) of the *CSO (Conduct)*, a direction to issue an apology, in person, to arresting officers: Constable Wagner, Constable Sorge, Constable Vendelft and Corporal Westra. Constable Picketts is to do so within six months from the date of this written decision, and must advise the Conduct Authority when the direction is complete.

[85] Constable Picketts is being permitted to continue his career with the RCMP. It is expected that he will uphold the standards set by the Code of Conduct and the RCMP core values. Any future contravention of the Code of Conduct will be seriously reviewed by the appropriate conduct authority and could lead to his dismissal from the Force.

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

[87] Either party may appeal this decision by filing a statement of appeal with the Commissioner in accordance with subsection 45.11 of the *RCMP Act*.

April 8, 2022

Christine Sakiris

Date

Conduct Board