

Publication ban: Any information that could identify the complainants in the present decision shall not be published, broadcast or transmitted in any way.



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:

Commanding Officer, "D" Division

(Conduct Authority)

and

Constable Stephan Shewchuk
Regimental Number 61781

(Subject Member)

Conduct Board Decision

Louise Morel

May 31, 2023

Mr. Barry Benkendorf, Conduct Authority Representative

Mr. Josh Weinstein, Subject Member Representative

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SUMMARY

The *Notice of Conduct Hearing* contains one allegation under section 3.2 and two allegations under section 7.1 of the RCMP Code of Conduct. The first allegation involves Constable Shewchuk inappropriately using information obtained while conducting traffic stops to initiate conversations, on social media, with two civilians, Ms. E.F. and Ms. B.B. The second allegation pertains to Constable Shewchuk making an inappropriate sexually suggestive comment to Ms. B.B., knowing she was a minor. Finally, the third allegation is with respect to the fact that Constable Shewchuk's username and picture on social media made him identifiable as a member of the RCMP, which is in contravention of the RCMP social media policy.

At the outset of the hearing, Constable Shewchuk admitted all three allegations and the parties provided the Conduct Board with an amended *Agreed Statement of Facts*. The minor differences did not affect the Conduct Board's *Determination of Established Facts* provided to the parties on November 15, 2022.

The Conduct Board found the three allegations to be established on a balance of probabilities. The following conduct measures were imposed: (a) a financial penalty of 45 days' pay, to be deducted from Constable Shewchuk's pay; and (b) a transfer to another location at the discretion of the "D" Division Commanding Officer.

INTRODUCTION

[1] The *Notice of Conduct Hearing* contains two allegations of discreditable conduct in contravention of section 7.1 of the RCMP Code of Conduct and one of abuse of authority in contravention of section 3.2 of the RCMP Code of Conduct. It was signed by the Conduct Authority on January 24, 2022, and served on Constable Stephan Shewchuk on March 11, 2022, along with the investigation package.

[2] The allegations arose following Constable Shewchuk's interactions on social media with two female civilians after having obtained their information through traffic stops, while on-duty, in Portage la Prairie, Manitoba.

[3] On October 20, 2020, at approximately 12:27 p.m., while on-duty, Constable Shewchuk conducted a traffic stop on Ms. E.F. for speeding. He issued her a warning notice. Then, on October 22, 2020, at 4:53 p.m., while off-duty, Constable Shewchuk sent Ms. E.F. a message on Instagram. Ms. E.F. did not respond to Constable Shewchuk.

[4] On October 31, 2020, at approximately 9:30 p.m., Constable Shewchuk conducted a traffic stop on a vehicle in which Ms. B.B. was the front-seat passenger. During the traffic stop, Ms. B.B. provided her name to Constable Shewchuk. Later that night, while off-duty, Constable Shewchuk sent an Instagram follow request to Ms. B.B., who accepted. During the exchange that followed, Ms. B.B. advised Constable Shewchuk that she was 17 years old, to which he responded that she was "jailbait". Ms. B.B. then blocked Constable Shewchuk.

[5] During both interactions on social media, Ms. E.F. and Ms. B.B. were able to determine that Constable Shewchuk was the RCMP officer that had pulled them over. Constable Shewchuk's Instagram username and profile, at the time of these exchanges, was "Steven: lights_and_sirens_61761" and contained a picture of him with a child.

[6] On October 22, 2021, Mr. Gerry Annetts was appointed as the Conduct Board in this matter, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[7] On May 10, 2022, Constable Shewchuk provided his response to the *Notice of Conduct Hearing*, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*]. He denied the allegations, but he admitted the bulk of the particulars.

[8] On May 26, 2022, I was appointed as the new Conduct Board in this matter. In accordance with section 45 of the *RCMP Act*, I must decide whether the allegations are established on a balance of probabilities. In other words, I must determine whether it is more likely than not that Constable Shewchuk has contravened the RCMP Code of Conduct. If I find one or more of the allegations to be established, then I must impose conduct measures.

[9] The Conduct Hearing in this matter was held in Winnipeg, Manitoba, from November 29, 2022, to December 2, 2022. On November 29, 2022, following a motion to stay portions of Allegation 3, I accepted modifications to the *Agreed Statement of Facts*, dated October 14, 2022, and the *Supplemental Agreed Statement of Facts*, dated October 21, 2022. Constable Shewchuk admitted the three allegations based upon these modifications.

[10] The oral decision on the allegations was delivered on November 30, 2022, in which I found all three allegations established on a balance of probabilities.

[11] The parties presented submissions on conduct measures on December 1, 2022, and my oral decision on conduct measures was delivered on December 2, 2022. This written decision incorporates and expands upon those oral decisions.

Publication ban

[12] In accordance with paragraph 45.1(7)(a) of the *RCMP Act*, at the request of both the Conduct Authority Representative and the Subject Member Representative, I order that any information that could identify the complainants shall not be published, broadcast or transmitted in any way.

[13] Consequently, the Allegations have been amended to reflect this publication ban in the present decision.

PRELIMINARY MOTION

[14] At the outset of the Conduct Hearing, after Constable Shewchuk admitted the three allegations but not the particulars, the Subject Member Representative brought a preliminary motion to strike duplicitous particulars, specifically particulars 17 to 27, contained in Allegation 3. He relied on the RCMP Conduct Board decision in *Cormier*,¹ which reads:

[29] In my view, intervention by a conduct board to amend or strike allegations and particulars can only be justified where an element of the allegations or particulars asserted in a notice served under section 43(3) of the *RCMP Act* denies the Subject Member a reasonable level of procedural fairness, as may be the case where there are redundant or duplicitous elements.

[15] The Subject Member Representative argues that particulars 17 to 27 of Allegation 3 are redundant or duplicitous and raise a procedural fairness issue in that Constable Shewchuk faces two allegations based upon the same facts. In the alternative, if I am not prepared to strike the particulars based upon the procedural fairness rationale found in *Cormier*, the Subject Member Representative argues that under the principle articulated in *Kienapple*,² the contentious particulars should be provisionally stayed. He notes that the Conduct Authority Representative agrees to stay particulars 17 to 27 under *Kienapple*.

[16] The Conduct Authority Representative opposes the motion to strike the particulars based on the *Cormier* decision. He notes that the application to strike in that decision was denied and, consequently, the paragraph cited by the Subject Member Representative is obiter (passing remark). Furthermore, he disagrees that redundant particulars, or an overlap in allegations, constitutes an issue of procedural fairness.

[17] He argues that to grant an application to strike would prejudice the Conduct Authority in that if there is a successful appeal of Allegation 2 and it is set aside, with the particulars of Allegation 3 struck, as proposed by the Subject Member Representative, this would result in the Constable Shewchuk escaping the consequences of an allegation which he admits, since

¹ *Commanding Officer, "J" Division and Constable Jonathan Cormier*, 2016 RCAD 2 [*Cormier*], at paragraph 29.

² *Kienapple v R.*, [1975] 1 SCR 729 [*Kienapple*].

Allegation 2 would be struck and the contentious particulars of Allegation 3 would also be gone, having been struck by the Conduct Board.

[18] The Conduct Authority Representative cites RCMP Conduct Board decision in *Rasmussen*,³ where the conduct board applied the *Kienapple* principles as well as *Prince*,⁴ which is the leading authority with respect to the *Kienapple* principle. He notes that despite the fact that it is arguable that the *Kienapple* principle applies in the case at hand, for the purpose of achieving a resolution in terms of the admissions to the three allegations, he is prepared to consent to a portion of Allegation 3 being provisionally stayed, as it was done in *Rasmussen*. He notes that he is prepared to take the position that events contained in particulars 17 to 27 constitute aggravating circumstances during the conduct measures phase of the Conduct Hearing.

Decision on the Motion

[19] I agree with the Conduct Authority Representative that the comment in paragraph 29 of the *Cormier* decision is obiter (passing remark). Furthermore, even if it is not, I disagree with the position that duplicitous or redundant particulars raise an issue of procedural fairness.

[20] In my opinion, procedural fairness is comprised of the right to be heard; the right to know the case to be met; the right to an unbiased decision maker; and the right to a decision with reasons. None of these four components is triggered by duplicitous or duplicative particulars. Consequently, the motion to strike particulars 17 to 27 of Allegation 3 is denied.

[21] I am of the view that the *Kienapple* principle does not apply to particulars 17 to 27 of Allegation 3. I also disagree that these particulars are duplicitous. Allegation 2 alleges discreditable conduct for having made an inappropriate sexually suggestive comment to Ms. B.B., knowing that she was a minor. Allegation 3 is one of discreditable conduct for contravening the RCMP Social Media policy by being identifiable as a member of the RCMP through the username and picture on an Instagram account. These are two distinct acts not repeated in the particulars for any other allegation.

³ *Commanding Officer, "E" Division and Constable Curtis Rasmussen*, 2018 RCAD 14 [*Rasmussen*].

⁴ *R. v Prince*, [1986] 2 SCR 480 [*Prince*].

[22] I do not find that Allegations 2 and 3 allege contraventions of the Code of Conduct for the same act or sequence of events. Rather, the repetition of the particulars in Allegation 3 serve to describe the timeline of events spanning from October 20, 2020, to November 1, 2020.

[23] However, in view of the fact that the Conduct Authority Representative consents to provisionally stay particulars 17 to 27 of Allegation 3, I am prepared to do so. I emphasize that the particulars are not being stayed pursuant to *Kienapple*, but rather pursuant to the agreement reached between the parties.

ALLEGATIONS

[24] The Allegations, as set out in the *Notice of Conduct Hearing*, are as follows:

Allegation 1

On or between October 20, 2020, and November 1, 2020, at or near Portage la Prairie, Manitoba, Constable Stephan Shewchuk engaged in conduct contrary to Section 3.2 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 “D” Division, Portage La Prairie Traffic Services in Manitoba.
2. On or about October 20, 2020, you conducted a traffic stop of Ms. [E.F.] who provided you with her driver’s licence and registration.
3. Subsequently, on or about October 22, 2020, you sent Ms. [E.F.] a message on Instagram stating “Hey [Ms. E.F.] you seem very familiar to me lol where do I know you from”.
4. Ms. [E.F.] had an Instagram user name and/or display name that included her full name and the numbers [redacted]. She did not have shared friends on Instagram with you.
5. You were able to locate Ms. [E.F.’s] Instagram account by searching for her name, and you did so.
6. On or about October 31, 2020, you conducted a traffic stop on a vehicle in which Ms. [B.B.] was riding as a passenger.
7. During the traffic stop, you asked Ms. [B.B.] for her name, which she provided.

8. Subsequently, on or about October 31, 2020, you sent a follow request on Instagram to Ms. [B.B.].
9. The display name on the Instagram account that you used was “Steven” and the profile picture was of you and a young boy. The username on your account had, or had something akin to, the words “lights_and_sirens_61781” or was otherwise identifiable as related to policing. 61781 is your regimental number.
10. Ms. [B.B.] accepted your follow request on Instagram.
11. Ms. [B.B.] had an Instagram user name and/or display name that included her full name. She did not have shared friends on Instagram with you.
12. You initiated communication with Ms. [E.F.] and Ms. [B.B.] after learning their identities while in the course of your duties while conducting proactive traffic stops.
13. Your actions amounted to an abuse of authority, power and/or position. Your abuse of authority involved the inappropriate utilization of information gained during the course of your duties to initiate a conversation with a civilian for non-work related purpose using social media.

Allegation 2

On or between October 20, 2020, and November 1, 2020, at or near Portage la Prairie, Manitoba, Constable Stephan Shewchuk engaged in conduct contrary to Section 7.1 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 “D” Division, Portage La Prairie Traffic Services in Manitoba.
2. On or about October 31, 2020, you conducted a traffic stop on a vehicle in which Ms. [B.B.] was riding as a passenger.
3. During the traffic stop, you asked Ms. [B.B.] for her name, which she provided.
4. On or about October 31, 2020, you sent a follow request on Instagram to Ms. [B.B.].
5. The display name on the Instagram account that you used was “steven” and the profile picture was of you and a young boy. The username on your account had, or had something akin to, the words “lights_and_sirens_61781” or was otherwise identifiable as related to policing. 61781 is your regimental number.
6. Ms. [B.B.] accepted your follow request on Instagram.

7. You engaged in a conversation with Ms. [B.B.] over Instagram as follows:

You: You look familiar lol.
Ms. [B.B.]: I think you pulled me over last night (laughing emoji)
You: That's why the last named looked familiar, 3 of you in the vehicle. You were passenger?
Ms. [B.B.]: Yes lol
You: Front lol
Ms. [B.B.]: Yes
You: Driver was only 18. So how old are you? Lol
Ms. [B.B.]: im 17 lol
You: Hahah oh jailbate lol
Ms. [B.B.]: Lol ya

8. During that conversation, you made an inappropriate sexually suggestive comment to Ms. [B.B.], knowing she was a minor.
9. "Jailbate" is a sexual term. It means something to the effect of a young woman considered in sexual terms but under the age of consent or someone who is sexually attractive but too young to have sex with legally. You were aware at the time that you made the comment to Ms. [B.B.] that it is a sexual term. You used the term in a sexual manner. You used it in initiating communications with Ms. [B.B.] of a sexual nature.
10. Ms. [B.B.] looked up the term "Jailbate" after you used it and learned its meaning was that you were intending to hit on her but because she was a minor it was wrong.
11. When you messaged Ms. [B.B.], she was able to determine your identity and that you were a member of the RCMP.
12. Ms. [B.B.] blocked you after you made the "jailbate" comment. Subsequently, you changed your Instagram account's username and profile picture.
13. You also deleted your messages to her, including a message where you asked her, to the effect of, whether she was turning 18 that year or the next year.
14. Your conduct was discreditable. By entering into an inappropriate conversation and making a sexually suggestive comment to Ms. [B.B.], during which you referred to her as "jailbait" after she told you she was 17 years old, you conducted yourself in a manner that discredited the Force.

Allegation 3

On or between October 20, 2020, and November 1, 2020, at or near Portage la Prairie, Manitoba, Constable Stephan Shewchuk engaged in conduct contrary to Section 7.1 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 “D” Division, Portage La Prairie Traffic Services in Manitoba.
2. On or about October 20, 2020, you conducted a traffic stop on Ms. [E.F.] who provided you with her driver’s licence and registration. This took place across from a high school.
3. You had parked across from the high school.
4. Subsequently, on October 22 you sent Ms. [E.F.] a message on Instagram stating “Hey [Ms. E.F.] you seem very familiar to me lol where do I know you from”.
5. The display name on the Instagram account that you used was “steven” and the profile picture was of you and a young boy. The username on your account had, or had something akin to, the words “lights_and_sirens_61781” or was otherwise identifiable as related to policing. 61781 is your regimental number.
6. You changed your username to “unityindiversity333” at some point after your messaged Ms. [E.F.].
7. You changed your profile picture after you messaged Ms. [E.F.] from a photograph where you were identifiable to a different photo.
8. When you messaged Ms. [E.F.], she was able to determine your identity and that you were the member of the RCMP that had pulled her over.
9. Ms. [E.F.]’s Instagram account’s display name was her name and the numbers [redacted].
10. You were able to locate Ms. [E.F.]’s Instagram account by searching for her name, and you did so.
11. Ms. [E.F.] felt you sought her out because you had her name due to the traffic stop.
12. Ms. [E.F.] was unsettled by your action of contacting her over social media after the traffic stop. She was very concerned that you had her personal information including her name and address.
13. Ms. [E.F.] felt it was unprofessional and she was uncomfortable with it. She was worried that it could happen again in the future and if you conducted a traffic stop on her in the future she would feel uncomfortable and scared.

14. Ms. [E.F.] states that she spoke with other “girls” in the community and has been advised that others have had similar encounters with you.
15. Mr. [E.F.] felt you had attempted to target younger people by parking across from the high school.
16. Your interactions with Ms. [E.F.] were reported to a fellow RCMP officer, Corporal [C.S.], on November 2, 2020, by his daughter, [S.S.], who had heard of the incident from a friend. [S.S.] advised Corporal [C.S.] that you are well known to target female drivers then attempt to contact them on social media platforms.
17. On or about October 31, 2020, you conducted a traffic stop of a vehicle in which Ms. [B.B.] was riding as a passenger.
18. During the traffic stop, you asked Ms. [B.B.] for her name, which she provided.
19. On or about October 31, 2020, you sent a follow request on Instagram to Ms. [B.B.].
20. The display name on the Instagram account that you used was “steven” and the profile picture was of you and a young boy. The username on your account had, or had something akin to, the words “lights_and_sirens_61781” or was otherwise identifiable as related to policing. 61781 is your regimental number.
21. Ms. [B.B.] accepted your follow request on Instagram.
22. You engaged in a conversation with Ms. [B.B.] over Instagram as follows:

You: You look familiar lol.

Ms. [B.B.]: I thing you pulled me over last night (laughing emoji)

You: That’s why the last named looked familiar, 3 of you in the vehicle. You were passenger?

Ms. [B.B.]: Yes lol

You: Front lol

Ms. [B.B.]: Yes

You: Driver was only 18. So how old are you? Lol

Ms. [B.B.]: im 17 lol

You: Hahah oh jailbate lol

Ms. [B.B.]: Lol ya
23. When you messaged Ms. [B.B.], she was able to determine your identity and that you were a member of the RCMP.

24. Ms. [B.B.] blocked you after you made the “jailbate” comment. Subsequently, you changed your Instagram account’s username and profile.
25. You also deleted your messages to her, including a message where you asked her, to the effect of, whether she was turning 18 that year or the next year.
26. “Jailbate” is a sexual term. It means something to the effect of a young woman considered in sexual terms but under the age of consent or someone who is sexually attractive but too young to have sex with legally. You were aware at the time that you made the comment to Ms. [B.B.] that it is a sexual term. You used the term in a sexual manner. You used it in initiating communications with Ms. [B.B.] of a sexual nature.
27. Ms. [B.B.] looked up the term “Jailbate” after you used it and learned its meaning was that you were intending to hit on her but because she was a minor it was wrong.
28. Your conversation with Ms. [B.B.] made her feel uncomfortable and “kind of scared”. She was concerned that you may have “tried to do something”.
29. Screenshots of the Instagram conversation set out above between you and Ms. [B.B.] were subsequently posted on Facebook and available for others to view.
30. A Facebook post from the account with the profile name “Mariz PQ” containing screenshots of the Instagram conversation, on which you are identifiable, is accompanied with the following warning to the public: “Watch out for this skinner cop messaging underage girls keep in mind he already got suspen...[sic]”.
31. “Skinner” is a term that means, to the effect of, an individual who commits, or has committed, sexual assaults. That is the way the term was used in the Facebook post by “Mariz PQ” in reference to you.
32. It became known in the small community in which you worked that you had engaged in a conversation with Ms. [B.B.] in which you used sexualized language with a minor.
33. Your actions of contacting young women on social media in a small community after you interacted with them in the course of your duties, became known to the small community you serve as a result of social media posts and/or discussions between members of the community.
34. The community you police, or members of that community, reacted negatively to your conversations with Ms. [B.B.] and/or Ms. [E.F.]. The community you police, or members of that community, formed the view that you may commit, have committed, or be intending to commit, sexual assault against minor females.

35. By contravening the RCMP Social Media policy by identifying yourself and/or being identifiable as a member of the RCMP an entering into conversations that would bring discredit to the RCMP your conduct was discreditable.

[*Sic throughout*]

Summary of Established Facts by the Conduct Board

[25] On October 14, 2022, the parties provided me with an *Agreed Statement of Facts*, followed by a *Supplemental Agreed Statement of Facts* on October 21, 2022.

[26] On the first day of the Conduct Hearing, the parties submitted minor modifications to their *Agreed Statements of Facts*. These do not affect my *Determination of Established Facts* provided to the parties on November 15, 2022, setting out the following undisputed facts.

[27] Constable Stephan Shewchuk has been a regular member of the RCMP since July 6, 2015. At all material times, he was posted to “D” Division, Portage La Prairie Traffic Services, in Manitoba.

Facts related to Allegation 1

[28] On October 20, 2020, while on-duty, Constable Shewchuk conducted a traffic stop on Ms. E.F., who had been speeding. She provided her driver’s licence and registration.

[29] Constable Shewchuk issued a warning notice to Ms. E.F., which contained her name, address and birthdate.

[30] On October 22, 2020, at 4:53 p.m., Constable Shewchuk sent Ms. E.F. a message on Instagram stating: “Hey [Ms. E.F.] you seem very familiar to me lol where do I know you from.” Ms. E.F. did not respond to Constable Shewchuk’s message.

[31] On October 31, 2020, at 9:30 p.m., Constable Shewchuk, while on-duty, conducted a traffic stop on Ms. K.B. Ms. B.B. was a passenger in Ms. K.B.’s vehicle. Constable Shewchuk informed the three female occupants of Ms. K.B.’s vehicle that the reason for the vehicle stop was a random sobriety check.

[32] During the stop, Constable Shewchuk mentioned that Ms. K.B. was not from Portage la Prairie. Ms. B.B. told Constable Shewchuk that Ms. K.B. was in town visiting with her. Constable Shewchuk then asked Ms. B.B. her name, which she provided to him.

[33] On October 31, 2020, Constable Shewchuk sent an Instagram follow request to Ms. B.B.

[34] Ms. B.B. accepted the request, but she did not follow Constable Shewchuk back.

[35] Constable Shewchuk then sent Ms. B.B. a message on Instagram.

Facts related to Allegation 2

[36] Constable Shewchuk engaged in a conversation with Ms. B.B. over Instagram as follows:

Constable Shewchuk:	You look familiar lol.
Ms. B.B.:	I think you pulled me over last night (laughing emoji)
Constable Shewchuk:	That's why the last name looked familiar, 3 of you in the vehicle. You were passenger?
Ms. B.B.:	Yes lol
Constable Shewchuk:	Front lol
Ms. B.B.:	Yes
Constable Shewchuk:	Driver was only 18. So how old are you? Lol
Ms. B.B.:	im 17 lol
Constable Shewchuk:	Hahah oh jailbate [sic] lol
Ms. B.B.:	Lol ya

[37] Constable Shewchuk's Instagram profile at the time of the exchange was "Steven: lights_and_sirens_61781" and contained a picture of him with a child.

[38] When Constable Shewchuk messaged Ms. B.B., she was able to determine his identity and that he was a member of the RCMP.

[39] Constable Shewchuk forwarded an additional message to Ms. B.B. asking her whether she was turning 18 that year or the following year.

[40] After receiving these messages, Ms. B.B. blocked Constable Shewchuk on Instagram.

[41] Constable Shewchuk also blocked Ms. B.B. and changed his username and picture.

[42] Ms. B.B. was 17 years old on October 31, 2020.

Facts related to Allegation 3

[43] On October 20, 2020, Constable Shewchuk conducted a traffic stop on Ms. E.F. and, subsequently, on October 22, 2020, he sent a message to her on Instagram.

[44] The display name on the Instagram account that Constable Shewchuk used was “Steven” and the profile picture was of himself and a child. The username on his account had the words “lights_and_sirens_61781”. 61781 is Constable Shewchuk’s regimental number.

[45] Screenshots of the Instagram conversation between Constable Shewchuk and Ms. B.B. were posted on Facebook and available for others to view.

[46] The Instagram conversation between Constable Shewchuk and Ms. B.B. was posted on the Instagram page of Ms. K.B. and seen there by Ms. S.S.

[47] Constable Shewchuk changed his username to “unityindiversity333” at some point after he messaged Ms. E.F. and Ms. B.B.

[48] Constable Shewchuk changed his profile picture after he messaged Ms. E.F. and Ms. B.B. from a photograph where he was identifiable to a different photo.

Decision on the Allegations

[49] In his May 10, 2022, response, Constable Shewchuk denies all three allegations. However, at the outset of the Conduct Hearing, he admits to each allegation and the bulk of the modified particulars, as reflected in my findings of fact in the *Determination of Established Facts*. Constable Shewchuk’s admissions are consistent with the materials before me.

[50] There was no oral evidence presented during the allegation phase of the Conduct Hearing. In arriving at my decision on the Allegations, I considered the documentary evidence before me, Constable Shewchuk's admissions and the submissions of counsels.

Allegation 1

[51] Section 3.2 of the Code of Conduct provides that "[m]embers act with integrity, fairness and impartiality, and do not compromise or abuse their authority, power or position."

[52] I found as established the facts that, on October 20, 2020, while on-duty, Constable Shewchuk conducted a traffic stop on Ms. E.F., who had been speeding. She provided her driver's licence and registration and he issued her a warning notice.

[53] Subsequently, on October 22, 2020, while off-duty, Constable Shewchuk sent Ms. E.F. an Instagram message. Ms. E.F. did not respond to Constable Shewchuk's message.

[54] Then, on October 31, 2020, at 9:30 p.m., while on-duty, Constable Shewchuk conducted a traffic stop on a vehicle in which Ms. B.B. was a passenger. During the stop, Ms. B.B. provided her name to Constable Shewchuk.

[55] Later that same evening, while off-duty, Constable Shewchuk sent an Instagram follow request to Ms. B.B., which she accepted. Constable Shewchuk then sent Ms. B.B. a message on Instagram and they had a brief exchange.

[56] Constable Shewchuk admits all of the particulars contained in Allegation 1. He admits that he first encountered both Ms. E.F. and Ms. B.B. by effecting traffic stops, while on-duty, and that he subsequently, while off-duty, reached out to them on social media to initiate a conversation for a non-duty-related purpose.

[57] I accept his admission that he abused his authority by inappropriately using information gained during the course of his duties to initiate conversations, on social media, for a non-work-related purpose.

[58] Based on the foregoing, Allegation 1 is established on a balance of probabilities.

Allegation 2

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

[60] 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.

[61] In order to establish the act or acts constituting the alleged conduct, the conduct authority must demonstrate that the essential particulars to an allegation have in fact occurred. It is not necessary to establish each particular, only that those established meet the threshold of discreditable conduct.

[62] If a conduct authority discharges its onus in steps a) and b), then a conduct board must then determine whether the subject member’s conduct **likely** brings the RCMP into disrepute. This involves determining whether a reasonable person in society who is aware of all the relevant circumstances, including the realities of police work in general and the RCMP in particular, would consider the conduct to be discreditable.

[63] Finally, in step d), the conduct board must determine whether the conduct is sufficiently related to the subject member’s duties and functions as to provide the Force with a legitimate interest in disciplining them.

[64] Constable Shewchuk admitted that he initiated the communication with Ms. B.B. after conducting a traffic stop on a vehicle, in which she was riding as a passenger and during which she provided her name. In addition, Constable Shewchuk admitted the content of the conversation he had with Ms. B.B., including referring to her as “jail bait” after she advised him that she was

only 17. Lastly, Constable Shewchuk admitted to sending Ms. B.B. a final message, asking her if she had a later birthday, or if it was still a year away.

[65] By virtue of Constable Shewchuk's admissions, I find that the first two elements of the test are satisfied on a balance of probabilities. Therefore, I can turn my attention to determining whether the third and fourth elements of the test are established.

[66] Police officers are held to a higher standard of conduct and have extraordinary powers given to them in order to serve and protect members of the public and uphold our laws.

[67] The core of Allegation 2 is that Constable Shewchuk, after obtaining the name of Ms. B.B. during a traffic stop, reached out to her on social media to initiate communication. His Instagram account used a profile picture of him and a child and the words "light_and_sirens_61781". During his exchange, he asked Ms. B.B. her age and then referred to her as "jail bait". This was an inappropriate sexually suggestive comment made to a minor.

[68] Ms. B.B. stated that after the above noted exchange with Constable Shewchuk she felt uncomfortable and vulnerable. She also noted that she felt unsafe as Constable Shewchuk had access to her personal information.⁵

[69] I find that a reasonable person in society, with knowledge of all the relevant circumstances, including the realities of police work in general and the RCMP in particular would be of the view that Constable Shewchuk's actions are likely to discredit the Force.

[70] Police officers have a duty to protect youth and make them feel safe at all times. Constable Shewchuk failed to do that.

[71] Constable Shewchuk's first interaction with Ms. B.B. was while conducting an on-duty traffic stop. He then used the personal information obtained while on-duty, for a non-duty related purpose. Consequently, I find that Constable Shewchuk's actions are sufficiently related to his duties and functions as to provide the Force with a legitimate interest in disciplining him.

⁵ *Victim Impact Statement of Ms. B.B.*, dated November 9, 2022.

[72] Accordingly, Allegation 2 is established on a balance of probabilities.

Allegation 3

[73] Allegation 3 is also one of discreditable conduct contrary to section 7.1 of the Code of Conduct.

[74] The crux of Allegation 3 is that Constable Shewchuk contravened the RCMP Social Media policy by being identifiable as a member of the RCMP and then entered into non-duty-related conversations with Ms. B.B., a female minor. This conversation became public knowledge to some members of the community he polices. In addition, when he reached out to Ms. E.F. on social media, while off-duty, he was also identifiable as a member of the RCMP.

[75] Constable Shewchuk admitted to contravening the RCMP Social Media policy by identifying himself and/or being identifiable as a member of the RCMP and that this conduct was discreditable.

[76] I find that a reasonable person in society, with knowledge of all the relevant circumstances, including the realities of police work in general and the RCMP in particular would be of the view that Constable Shewchuk's actions are likely to discredit the Force.

[77] The fact that Constable Shewchuk was able to contact these young women, after traffic stops, leads me to find that Constable Shewchuk's actions are sufficiently related to his duties and functions as to provide the Force with a legitimate interest in disciplining him.

[78] Based on the foregoing, I find Allegation 3 also established on a balance of probabilities.

CONDUCT MEASURES

[79] Having found all three allegations 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.”⁶

[80] Additionally, subsection 24(2) of the *CSO (Conduct)* states: “A Conduct Board must impose conduct measures that are proportionate to the nature and circumstances of the contravention of the Code of Conduct.”

[81] I have carefully considered the evidence before me, Constable Shewchuk’s statement, as well as counsels’ thorough submissions in arriving at my decision on conduct measures.

Constable Shewchuk’s prepared statement

[82] At the outset of the conduct measures phase, Constable Shewchuk was sworn in and read a prepared statement.

[83] Constable Shewchuk began by apologizing to the young women involved for having offended them despite the fact that he did not intend to do so. He noted that he regretted his conduct and language.

[84] Constable Shewchuk then gave an overview of personal turmoil he experienced beginning in May 2019. He experienced a marriage breakdown; assumed all of the mutual debts of the couple in exchange for an agreement from his former spouse to relinquish any entitlement to his pension; and, became a single parent with joint custody of their two-year-old son.

[85] Constable Shewchuk explained that in July 2019, he was one of several members who responded to a complaint at a residence involving unknown circumstances and unknown weapons. He pursued a suspect leaving the residence on a bicycle for a short distance and struck him with his police motor vehicle causing the individual to fall down. These actions resulted in the initiation of a Code of Conduct investigation by the Independent Investigation Unit of Manitoba and his reassignment to administrative duties. In July 2020, the Conduct Authority found three allegations

⁶ *Conduct Measures Guide*, November 2014, at page 3.

of misconduct established for which conduct measures were imposed. Constable Shewchuk returned to patrol duties.

[86] Constable Shewchuk explained that his mental health began to deteriorate during that period because of the stress he experienced and the fact that he had no one to turn to for support. He felt isolated and alone and these feelings were amplified in 2020 with the COVID-19 lockdowns and restrictions. Having been reassigned to administrative duties in July 2019, he was required to work from home resulting in no social interactions with friends or family. He was limited to interactions with his two-year-old son half the time and being completely alone the other half.

[87] Constable Shewchuk explained that despite the above and not having dealt with the mental health issues he was experiencing, as soon as he was able to return to full duties, he began taking on overtime shifts in order to address the considerable debts he assumed upon his separation in May 2019.

[88] Over the next three months, from July 2020 to September 2020, he worked between 10 to 12 overtime days per month. It is noteworthy that regular time off in a one-month period represents 12 to 16 days. Briefly, he was essentially working almost every day for a three-month period.

[89] Two weeks prior to the incidents that resulted in the allegations before me, Constable Shewchuk was involved in three high-risk calls for service that had a traumatic impact on him.

[90] On October 11, 2020, he and a dog handler were trying to affect the arrest of an armed suspect and found themselves in a standoff situation, in a confined crawlspace, wondering if the suspect was going to shoot them. The Emergency Response Team responded to the situation and eventually the suspect was arrested without incident.

[91] After this call for service, Constable Shewchuk worked another ten hours past his ten-hour regular shift and returned home in the early morning hours of October 12, 2020.

[92] His next shift began in the evening of October 12, 2020. Within hours, Constable Shewchuk was responding to an active shooter call for service. He recalled that it was night; he

was extremely scared and had thoughts of dying. Constable Shewchuk testified that this was the most fear he experienced since becoming a member.

[93] Constable Shewchuk was the first officer to make contact with the suspect armed with a rifle. Thankfully, rather than point the firearm at Constable Shewchuk, the suspect ran and hid in a bush. The Emergency Response Team later arrested him.

[94] Then, on October 21, 2020, he was part of the recovery of two males who froze and drowned in the swamplands north of Portage La Prairie. They were 17 and 18 years old. Once recovered, Constable Shewchuk physically searched the frozen bodies for identification.

[95] Constable Shewchuk never underwent any debrief counselling after the above noted critical incidents despite having agreed to undergo it.

[96] Constable Shewchuk explained that to address his feelings of loneliness, depression and isolation, he used social media to reach out to random people for some form of human connection or friendly and positive communication. He noted that many of these conversations lasted a day or two and either resulted in casual discussions from time to time or no more contact. Constable Shewchuk explained that this was his escape to get out of the single dad role and the police bubble he was living in 95 percent of the time.

[97] Constable Shewchuk reflected that the above was not a healthy or appropriate manner to deal with his mental health issues.

[98] Constable Shewchuk acknowledged that he is a police officer on and off duty and any information he obtained while on duty is privileged. He admitted that he misused Ms. E.F. and B.B.'s personal information.

[99] Because of his actions that prompted the initiation of a Code of Conduct investigation, Constable Shewchuk was placed on administrative duties. Over the next few months, he started having vivid nightmares of shootings, death and being shot or having to shoot someone. He explained that he was consumed with anxiety, depression and panic attacks and some suicidal ideations.

[100] Constable Shewchuk reached out to the Employee Assistance Program, admitted he was struggling and began attending counselling sessions monthly to address his issues of post-traumatic stress symptoms and how to work through it in a healthy manner. He continues to attend these sessions monthly.

[101] Constable Shewchuk testified that he has learned from this experience not to push himself to the point that he works excessive overtime hours and burns out again. In addition, he learned to be very mindful of his words and his communication.

[102] In closing, Constable Shewchuk admitted that he still has work to do on himself but that his career in the RCMP is everything to him, that he loves being a police officer and is proud to wear the uniform.

Applicable legal principles

[103] In their submissions for the conduct measures, the parties have referenced the *Ceyssens and Childs Report*,⁷ which identifies five principles that serve as a foundation for the process of creating a fit conduct measure.

[104] The first of those principles is that “a conduct measure must fully accord with the purposes of the police complaint and discipline process”.⁸

[105] Furthermore, “[t]he determination of an appropriate sanction involves, at its core, a balancing of four purposes or interests: the public interest, the RCMP’s interest as an employer; the subject-member’s interest to be treated fairly and, finally, the interests of those affected by the misconduct at issue”⁹ (in this case, the complainants). The Supreme Court of Canada has placed emphasis on the public interest by stating that “[t]he purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve public confidence in the profession.”¹⁰

⁷ Ceyssens, Paul and Childs, Scott, *Phase 1 – Final Report Concerning Conduct Measures and the Application of Conduct Measures to Sex-Related Misconduct under Part IV of the RCMP*, dated February 24, 2022 [*Ceyssens and Childs Report*].

⁸ *Ceyssens and Childs Report*, at page 17, paragraph 4.1.

⁹ *Commanding Officer, “K” Division and Constable Ryan Deroche*, 2022 CAD 13, at paragraph 82.

¹⁰ *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

[106] Paragraph 36.1(e) of the *RCMP Act* refers to the second foundational principle articulated in the *Ceyssens and Childs Report*: corrective and remedial dispositions should prevail, where appropriate.

[107] The third foundational principle is the presumption that one should impose the least onerous disposition; however, this presumption is displaced if the public interest or other specified considerations prevail.

[108] The fourth foundational principle, as articulated by the Supreme Court of Canada and courts of appeal, is that a higher conduct expectation applies to police officers.¹¹

[109] The *Ceyssens and Childs Report* articulates that the fifth conduct measure foundational principle is proportionality.¹² This requires a conduct board to identify the “relevant proportionality considerations”; determine whether these proportionality considerations are mitigating, aggravating or neutral; and, finally, appropriately balance or weigh the identified relevant proportionality considerations.

[110] The *Conduct Measures Guide*, while not prescriptive, is intended to promote parity of sanction. However, it is a “guide” and it must be read in the context of evolving societal standards, as established by jurisprudence or applicable policies and legislation.

[111] Similarly, while I am not bound by prior conduct decisions, they can provide some guidance with respect to the appropriate range of sanctions for a particular category of behaviour.

Decision on conduct measures

[112] I will begin by setting out the appropriate range of measures, then review the proportionality factors specific to this case. Finally, I will briefly set out how I have weighed those factors and balanced the interests of the public, the RCMP, the subject member and the complainants, in arriving at my decision.

¹¹ *Montreal (City) v Québec (Commission des droits de la personne et des droits de la jeunesse)*, 2008 SCC 48, at paragraph 80.

¹² *Ceyssens Report*, at page 21, paragraph 7.1.

Range of conduct measures

[113] With respect to the appropriate range, I have considered the submissions as well as the case law presented by both counsels.¹³ I find that the appropriate range for a global sanction in this case is a forfeiture of pay of 45 days or more, in combination with other conduct measures, up to and including dismissal.

Aggravating factors

[114] The *Black's Law Dictionary*¹⁴ defines “aggravation” as “Any circumstance attending the commission of a crime or tort which increases its guilt or enormity or adds to its injurious consequences, but which is above and beyond the essential constituents of the crime or tort itself”.

[115] From the outset, I find the seriousness of the misconduct to be an aggravating factor. Constable Shewchuk used information obtained in the course of his duties to initiate conversations, with two civilians, over social media, for a non-work-related purpose.

[116] During the text message exchange with Ms. B.B., he used the sexually suggestive term, “jail bait”. Ms. B.B. was 17 years old at the time. I accept her statement that she had to look up the meaning of the word and learned that it meant that Constable Shewchuk should not hit on her because she was still a minor. The interaction with Constable Shewchuk made her feel uncomfortable, scared and unsafe.¹⁵

[117] Constable Shewchuk was in a position of authority on multiple levels. He is a police officer responsible for upholding the law and he interacted with both Ms. E.F. and Ms. B.B. during the course of his duties. When he reached out to them, via social media, he was readily identifiable as the RCMP officer who had conducted the traffic stops earlier. He abused his authority by

¹³ A complete list of the authorities provided by both counsels is attached as Appendix A.

¹⁴ *Black's Law Dictionary*, “Aggravation Definition & Meaning – Black's Law Dictionary,” *The Law Dictionary*, 4 November 2011, online at: <https://thelawdictionary.org/aggravation/#:~:text=AGGRAVATION%20Definition%20%26%20Legal%20Meaning&text=Any%20circumstance%20attending%20the%20commission,the%20crime%20or%20tort%20itself>.

¹⁵ *Victim Impact Statement of Ms. B.B.*, dated November 9, 2022.

inappropriately using information gained during the course of his duties to initiate conversations with two civilians, for a non-work-related purpose.

[118] Deterrence is of importance in this case, not only as a warning to other members, but also as insurance that this inappropriate behaviour is not repeated. The need for specific deterrence becomes even more acute when the perpetrator of the contravention is someone in a position of trust and authority.

[119] The Conduct Authority Representative maintains throughout his submission that Constable Shewchuk's intent was to enter into a sexual relationship with both Ms. B.B. and Ms. E.F. I do not agree. There was no evidence presented that would support such a finding. The evidence establishes that in the context of two interactions with the young women, he used an inappropriate sexual term on one occasion. There was no communication at all between Constable Shewchuk and Ms. E.F., as she did not accept his Instagram follow request.

[120] Next, the Conduct Authority Representative notes that an aggravating factor was the fact that Constable Shewchuk has prior misconduct. In July 2019, he was involved in an incident that resulted in a finding of an excessive use of force. The Record of Decision issued in July 2020 resulted in a forfeiture of 15 days' annual leave and an ineligibility for promotion for a period of two years. The Conduct Authority Representative submits that Constable Shewchuk did not learn from his prior discipline in that the misconduct at issue in this Conduct Hearing occurred three months after the imposition of the conduct measures in the first incident.

[121] I find this to be an aggravating factor; however, I did not attribute significant weight to it, as the misconduct is not similar or analogous to the allegations before me.

[122] I also find that the fact that members of the community became aware of the inappropriate text message exchange between Constable Shewchuk and Ms. B.B. is an aggravating factor.

[123] The Conduct Authority Representative emphasizes that the misconduct was a deliberate action, that it was planned and premeditated. He notes that Constable Shewchuk approached two young women, over the course of an 11-day period and that this was an extended period of time and repetitive.

[124] I do not agree with the Conduct Authority Representative's characterization of the misconduct. All of the case law brought forward by the Conduct Authority Representative dealt with cases where the misconduct took place over months,¹⁶ involved in excess of 200 sexually explicit texts,¹⁷ or involved in excess of 70 unauthorized uses of police databanks over a period of 5 years.¹⁸ These constitute "extended periods of time" and "repetitive" incidents.

[125] There is no evidence before me, as stated by the Subject Member Representative, of long planning and deliberation to find the complainants on social media in an effort to pursue them. The evidence establishes a traffic stop on October 20, 2020, with Ms. E.F. and Constable Shewchuk sending one Instagram follow request on October 22, 2020, which Ms. E.F. did not accept. That interaction ends there.

[126] On October 31, 2020, Constable Shewchuk effects a traffic stop of a vehicle in which Ms. B.B. is a front-seat passenger and provides her name during an exchange with Constable Shewchuk. Later that evening, while off-duty, Constable Shewchuk sends a follow request on Instagram, which is accepted, and a conversation ensued. After two short conversations, Ms. B.B. blocked him.

[127] I do not find this to constitute repetitive behaviour, conducted over an extended period of time. I note that misconduct can be repetitive without occurring over an extended period of time, but this is not the case on the established facts in this matter.

[128] The Conduct Authority Representative notes that Constable Shewchuk's actions undermined the credibility and reputation of the RCMP in light of the media attention that this matter has had. However, I note that there was no evidence submitted in support of this assertion.

[129] Despite the lack of evidence regarding media attention, I do note that, during the Conduct Hearing, a journalist from the CBC attended the first two days of the hearing. Consequently, I find

¹⁶ *Commanding Officer, "K" Division and Constable Daniel Martin*, 2021 CAD 23.

¹⁷ *Commanding Officer, "E" Division and Constable Brian Eden*, 2021 CAD 19 (C-045).

¹⁸ *Fraternité des policiers et policières de Saint-Jean-sur-Richelieu Inc. c St-Jean-sur-Richelieu (Ville de)*, 2016 QCCA 1086.

that the negative media attention, which no doubt impacts the reputation of the Force adversely, does constitute an aggravating circumstance.

[130] The Conduct Authority Representative argues that another aggravating factor is that Constable Shewchuk's misconduct undermines his investigations. The Conduct Authority Representative alleges that the public will draw the inference that Constable Shewchuk gave Ms. E.F. a warning notice instead of a speeding ticket because he intended to reach out to her; as a result, Constable Shewchuk let his own interest compromise his investigation. I note, once again, that there is no evidence before me to support this inference.

Mitigating circumstances

[131] I note that mitigating circumstances do not constitute a justification or an excuse for the offence, but in fairness to Constable Shewchuk, these may be taken into consideration to reduce the severity of the sanction imposed and to appropriately deal with the misconduct.

[132] To start, Constable Shewchuk did accept responsibility and admitted the misconduct.

[133] The Conduct Authority Representative submits that there was little to admit in view of the existing documentary evidence. But, as submitted by the Subject Member Representative, I note that this was to be a four-day contested hearing requiring the testimony of Ms. E.F. and Ms. B.B.. Constable Shewchuk's admissions dispensed with the necessity of having the young women testify and be cross-examined during the Conduct Hearing.

[134] Ms. E.F. stated that she felt uncomfortable and frightened at the thought of having to attend the Conduct Hearing and seeing Constable Shewchuk.¹⁹

[135] Based on the above, I attribute some weight to the fact that the young women were spared from having to appear before me and be cross-examined during the Conduct Hearing.

¹⁹ *Victim Impact Statement of Ms. E.F.*, dated November 9, 2022.

[136] Next, Constable Shewchuk, in his testimony during the Conduct Measures Phase, sincerely apologized to the two complainants, acknowledging that he had offended them and admitting that his conduct was inappropriate. His apology was sincere and evidence of remorse.

[137] I also accept the Subject Member Representative's submission that the letters of support²⁰ from colleagues, friends and family members speak to the personal stresses and mental health challenges Constable Shewchuk was experiencing at the time of the misconduct. The current and previous supervisors of Constable Shewchuk both speak of him as motivated, hardworking, a team player and effective member. He is described as professional, courteous and compassionate.

[138] Constable Shewchuk admitted that he inappropriately overused social media platforms to distract himself from anxiety, depression and the feeling of isolation he was experiencing at the time, which were compounded by the COVID-19 restrictions.

[139] Constable Shewchuk's current supervisor, a personal friend and his parents, in letters of support submitted to the Conduct Board, all attested to watching him struggle with anxiety and depression and are aware that he sought the help of a counsellor and continues to see the counsellor. This, to me, demonstrates his potential for rehabilitation.

[140] I note that Constable Shewchuk testified that he started counselling shortly after being investigated for this misconduct as he was experiencing mental health issues and personal stressors. As noted by the Conduct Authority Representative, the Conduct Board was not provided with any "report" to that effect. Consequently, I can only attribute minimal weight to this factor, but I do concede that people close to him attested to witnessing Constable Shewchuk's emotional struggles.

[141] I find that Constable Shewchuk's misconduct, despite taking place over an 11-day period, does constitute a single or isolated occurrence. When considering the personal stressors and mental health challenges Constable Shewchuk was experiencing during that period and the number of

²⁰ The Conduct Board was provided with six letters of support from: (1) RCMP Constable R.A., dated November 24, 2022; (2) RCMP Constable U.L., dated November 26, 2022; (3) RCMP Sergeant D.T., dated November 28, 2022; (4) RCMP Constable Z.M.T., dated November 13, 2022; (5) Ms. M.M., undated; and (6) D. and S.S., dated November 14, 2022.

critical incidents he was involved in without the benefit of debrief counselling, I find that his misconduct was a momentary lapse of judgment.

Conclusion on conduct measures

[142] As emphasized by the Conduct Authority Representative, there is a strong public interest component in this case. The extensive powers granted to police officers necessarily make their misconduct a matter of public interest. That said, I do believe that members of the public understand that police officers are human and, at times, will make mistakes.

[143] As noted by one arbitrator:²¹

[...] the public and employers of police rightfully expect a very high standard of police officers. However, the corollary is that this in itself makes police work a stressful occupation. This does not excuse aberrant conduct, but it justifies a measure of humanity when determining whether one instance of human failing justifies ending a career. [...]

[144] Having considered the Record before me, the nature of the misconduct, the proportionality factors and the case law referenced by the parties, I conclude that dismissal is not warranted in this matter. The mitigating factors, particularly the sincerity of Constable Shewchuk's remorse, his efforts to gain insight into the misconduct, his work to address his anxiety and depression through ongoing counselling and his acceptance of responsibility for his actions establish that it is appropriate to impose a penalty that is educative and remedial, and that satisfies the goal of individual and general deterrence.

[145] Based on the foregoing, I impose the following global conduct measures in accordance with subsection 5(1) of the *CSO (Conduct)*:

- a) A financial penalty consisting of a forfeiture of 45 days' pay, to be deducted from Constable Shewchuk's pay, pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*;
- b) Ineligibility for promotion for a period of 3 years, pursuant to paragraph 5(1)(b) of the *CSO (Conduct)*;

²¹ *Canadian National Railway Company and Canadian National Railways Police Association*, 2012 CanLII 97614 (CA LA).

- c) A transfer to another work location at the discretion of the Commanding Officer of “D” Division, pursuant to paragraph 5(1)(g) of the *CSO (Conduct)*.

[146] Any interim measures in place should be resolved, in a timely fashion, in accordance with paragraph 23(1)(b) of the *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281.

[147] 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 Constable Shewchuk 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.

Louise Morel
Conduct Board

May 31, 2023
Ottawa, Ontario

APPENDIX “A” – JURISPRUDENCE SUBMITTED BY THE PARTIES

Conduct Authority Representative’s Authorities

Armstrong v Peel Regional Police, 2003 CanLII 37924.

Brotherhood of Policemen of Saint-Jean-sur-le-Richelieu v St. Jean-sur-le-Richelieu (City), 2016 QCCA 1086.

Calgary (City) v Canadian Union of Public Employees Local 37, 2019 ABCA 388.

Commanding Officer, “E” Division and Constable Andrew Scott Henderson, 2018 RCAD 19.

Commanding Officer, “K” Division and Constable Daniel Martin, 2021 CAD 23.

Constable Brian Eden and Commanding Officer, “E” Division, 2021 CAD 19 (Conduct Appeal Decision).

Edmonton (Police Service) v Furlong, 2013 ABCA 121.

PIPSC and CEP, Local 3011 (Haniff) Re, 2013 ONSC 2725, 2013 CarswellOnt 6341.

The Conduct Authority of “D” Division v Constable Jason Kitzul, Volume 5 (Transcript).

R v Prince, [1986] 2 CanLII 40 (SCC).

Commanding Officer, “E” Division and Constable Curtis Rasmussen, 2018 RCAD 14.

Subject Member Representative’s Authorities

Commanding Officer, “K” Division and Constable D. Greenlaw, 2019 RCAD 22.

College of Physicians & Surgeons of Ontario v Lambert, 1992 CanLII 7679 (ONSC).

Dr. Bryan Dicken Discipline Report, 2016 CanLII 98638.

R v Kienapple, 1974 CanLII 14 (SCC).

Commanding Officer, “J” Division and Constable Jonathan Cormier, 2016 RCAD 2.

Commanding Officer, “C” Division and Constable Kane von Kramer Ore, 2020 CAN 4.