

Publication ban: Any information that could identify the complainant in the present decision may not be published, broadcast or transmitted in any way.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

**Designated Conduct Authority, "E" Division**

Conduct Authority

and

**Constable Siggy Pietrzak**  
Regimental Number 63317

Subject Member

---

**Conduct Board Decision**

Kevin Harrison

October 25, 2023

---

Staff Sergeant Jonathan Hart, Conduct Authority Representative

Mr. David Butcher and Ms. Cait Fleck, Subject Member Representatives

## TABLE OF CONTENTS

SUMMARY .....	3
INTRODUCTION .....	4
Publication ban .....	6
ALLEGATIONS .....	6
DECISION ON THE ALLEGATIONS .....	8
Findings on Allegation 2 .....	8
Findings on Allegation 3 .....	10
CONDUCT MEASURES .....	11
Joint proposal on conduct measures .....	11
The common law on joint proposals .....	12
Analysis .....	13
Accordance with the purposes of Part IV of the RCMP Act .....	14
Corrective and remedial conduct measures should prevail .....	16
Presumption of least onerous disposition .....	16
Proportionality .....	16
Public interest .....	17
Seriousness of the conduct .....	17
Recognition of the seriousness of the misconduct .....	18
Employment history .....	18
Potential to reform or rehabilitate .....	18
Effect on the member and the member's family .....	19
Parity of sanction .....	19
Specific and general deterrence .....	20
Damage to the reputation of the RCMP .....	20
Balancing of the proportionality factors .....	21
Higher standards apply to police officers .....	21
Decision on conduct measures .....	22
CONCLUSION .....	23

## SUMMARY

The original *Notice of Conduct Hearing* contained three allegations against Constable Siggy Pietrzak. Allegation 1 is under section 5.1 of the Code of Conduct (use only as much force as is reasonably necessary) and Allegations 2 and 3 are under section 7.1 of the Code of Conduct (discreditable conduct).

Prior to the conduct hearing, the Conduct Board withdrew Allegation 1 at the Conduct Authority's request, following Constable Pietrzak's acquittal on a criminal charge of assault. Allegations 2 and 3 remained in the amended *Notice of Conduct Hearing*.

A conduct hearing commenced on April 3, 2023; however, immediately prior to the Conduct Board reading the allegations to Constable Pietrzak, the parties presented the Conduct Board with an *Agreed Statement of Facts* in the form of a further amended *Notice of Conduct Hearing*. The purported further amended *Notice of Conduct Hearing* substantially changed Allegation 2 from a contravention of the Code of Conduct under section 7.1 (discreditable conduct) to a contravention under section 2.1 of the Code of Conduct (disrespectful or discourteous conduct). It also purported to change the particulars of the two remaining allegations. The Conduct Board accepted the *Agreed Statement of Facts* and the further amended *Notice of Conduct Hearing* once it was signed by the Designated Conduct Authority.

Constable Pietrzak admitted both remaining allegations, including all particulars, in the further amended *Notice of Conduct Hearing*. Based on his findings on the evidence and Constable Pietrzak's admissions, the Conduct Board found Allegations 2 and 3, as amended, established.

The parties subsequently presented to the Conduct Board a joint proposal on conduct measures, which included a forfeiture of 20 days of pay and a transfer, pursuant respectively to paragraphs 5(1)(j) and 5(1)(g) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291. The Conduct Board accepted the parties' joint proposal and ordered the requested conduct measures. The Conduct Board further specified that the ordered transfer was to be at the discretion of the Chief Human Resource Officer for "E" Division.

## INTRODUCTION

[1] On October 12, 2021, the Designated Conduct Authority signed a *Notice to the Designated Officer*, in which he requested the initiation of a conduct hearing in relation to this matter. On October 15, 2021, the Designated Officer appointed me as the Conduct Board, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[2] The Designated Conduct Authority signed the original *Notice of Conduct Hearing* on December 13, 2021. The original *Notice of Conduct Hearing* contained three allegations. Allegation 1 was under section 5.1 of the Code of Conduct (use only as much force as is reasonably necessary) and Allegations 2 and 3 were under section 7.1 of the Code of Conduct (discreditable conduct).

[3] The “E” Division Designated Conduct Authority subsequently signed an amended *Notice of Conduct Hearing* on March 21, 2022. The purpose of this amendment was to remove particulars that the Conduct Board determined were not properly included in the *Notice of Conduct Hearing*.

[4] Allegation 1 in the original and amended *Notice of Conduct Hearing* remained under section 5.1 of the Code of Conduct. This allegation pertained to a duty-related incident that occurred on May 30, 2020, in Kelowna, British Columbia. Constable Pietrzak responded to a call for assistance from a fellow officer who was investigating an impaired driving complaint. When Constable Pietrzak arrived at the scene, two officers were struggling with the suspected impaired driver. Constable Pietrzak ran across a parking lot and struck the suspected impaired driver several times in the head with a closed fist. The Conduct Authority alleged that the force Constable Pietrzak used was more than what was reasonably necessary. A Crown Prosecutor approved a criminal charge of assault. The matter proceeded to a criminal trial in provincial court in Kelowna, held intermittently between May 24, 2022, and October 7, 2022. The Honourable Judge M.R. Armstrong acquitted Constable Pietrzak on December 1, 2022. I withdrew Allegation 1 on December 20, 2022, at the Conduct Authority’s request.

[5] Allegation 2 in the original and amended *Notice of Conduct Hearing* related to an off-duty incident in which the Conduct Authority alleged that Constable Pietrzak assaulted Ms. C.S., his intimate partner at the time, while removing her from his residence after she spilled wine on his

bed while he slept. Constable Pietrzak subsequently left Ms. C.S. outside his residence in the rain for an extended period of time while she waited for a taxi cab to take her home.

[6] Allegation 3 in the original and amended *Notice of Conduct Hearing* alleged that Constable Pietrzak inappropriately engaged in consensual sexual relations with Ms. C.S., on several occasions, while he was on-duty.

[7] A conduct hearing commenced on April 3, 2023; however, immediately prior to the reading of the allegations to Constable Pietrzak, as required by subsection 20(1) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*], the parties presented me with an *Agreed Statement of Facts* in the form of a further amended *Notice of Conduct Hearing*. The purported further amended *Notice of Conduct Hearing* substantially changed Allegation 2 from a contravention under section 7.1 of the Code of Conduct (discreditable conduct) to a contravention of section 2.1 of the Code of Conduct (disrespectful or discourteous conduct). It also purported to change the particulars of the two remaining allegations. The document was signed by the Conduct Authority Representative and Constable Pietrzak. In light of the substantial changes to this further amended *Notice of Conduct Hearing*, I accepted the document presented by the parties as an *Agreed Statement of Facts*, but declined to accept it as a further amended *Notice of Conduct Hearing* because the "E" Division Designated Conduct Authority had not signed the document. Indeed, the *RCMP Act* provides no authority for the delegation of the signing of a *Notice of Conduct Hearing* from the conduct authority who initiated the conduct hearing. Ultimately, the "E" Division Designated Conduct Authority signed the further amended *Notice of Conduct Hearing*, which I then accepted.

[8] Constable Pietrzak admitted both allegations, including all particulars, contained in the further amended *Notice of Conduct Hearing*. I found the particulars articulated or described in the further amended *Notice of Conduct Hearing* better accorded with the evidence before me in the Record than the particulars in the original or amended *Notice of Conduct Hearing*. Based on my findings on the evidence and Constable Pietrzak's admissions, I found Allegations 2 and 3, as amended, established.

[9] The parties subsequently presented me with a joint proposal on conduct measures, which included a forfeiture of 20 days of pay, pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*, and a transfer to a new work location, pursuant to paragraph 5(1)(g) of the *CSO (Conduct)*. I accepted the parties' joint proposal and ordered the requested conduct measures. I further specified that the ordered transfer of Constable Pietrzak was to be at the discretion of the "E" Division Chief Human Resource Officer.

[10] The following is my final written decision on both the allegations and the resulting conduct measures.

### **Publication ban**

[11] The Conduct Authority Representative requested that I make an order directing a publication ban pursuant to paragraph 45.1(7)(a) of the *RCMP Act*. This provision allows a conduct board to prohibit the publication of information that could identify a complainant, a witness or a person under the age of 18. Constable Pietrzak consented to this request. In accordance with the request, I ordered that any information that could identify the complainant, Ms. C.S., shall not be recorded, transmitted or broadcast in any way.

### **ALLEGATIONS**

[12] The further amended *Notice of Conduct Hearing* read to Constable Pietrzak during the conduct hearing contained the following two allegations and corresponding particulars:

#### **Allegation 1**

On or about May 30, 2020, at or near Kelowna, in the Province of British Columbia, while on duty, Constable Siggy Pietrzak used more force than was reasonably necessary in the circumstances, contrary to section 5.1 of the Code of Conduct of the Royal Canadian Mounted Police.

Allegation 1 was withdrawn by the Conduct Authority, with approval of the Conduct Board, on December 20, 2022.

#### **Allegation 2**

On or between April 1, 2017, and December 23, 2017, at or near Kelowna, in the Province of British Columbia, Constable Siggy Pietrzak did act in a rude and discourteous manner towards a member of the public, contrary to section 2.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

**Particulars specific to Allegation 2:**

1. You commenced a dating relationship with Ms. [C.S.] in April 2017 after meeting her at a children's play centre. You were involved sexually with Ms. [C.S.] in the spring and fall of 2017.
2. Ms. [C.S.] had moved to Kelowna with her son to escape a domestic violence relationship. Ms. [C.S.] informed you that she had recently gotten out of an abusive relationship with her long-term boyfriend.
3. On one occasion late at night, you insisted Ms. [C.S.] go to sleep after sexual relations, however, she ignored your directions and instead stayed up watching YouTube videos and drinking wine in bed. You woke up more than once and demanded she turn off the television and go to sleep. At some point, Ms. [C.S.] accidentally spilt some of the wine that she was drinking on your bed spread and/or carpet while you were sleeping beside her. Upon being awoken again, at approximately midnight, you became upset with Ms. [C.S.] and reacted by demanding she leave your residence and go home. Ms. [C.S.] had consumed a bottle of wine and was unsteady on her feet. She struggled to stand up; you took hold of her physically by the hand and forearm so that she was standing up. You walked closely behind her down the staircase and to the front entrance. You grabbed hold of her shoulder/upper arms at various points. You demanded that Ms. [C.S.] leave your residence and you locked the door behind her. She had to wait outside for a taxi. It was the middle of the night and it was raining.
4. You were in an intimate relationship with Ms. [C.S.]. You demonstrated disregard for Ms. [C.S.]'s personal safety by forcing her out of your house late at night and making her wait outside for a cab for an extended period. Ms. [C.S.] was intoxicated and in a vulnerable position. As a sober RCMP officer, you owed a duty of care to her as a person you were in an intimate relationship with. Your conduct was unprofessional, rude, discourteous, and neglectful.
5. You were criminally charged for assaulting Ms. [C.S.].

**Allegation 3**

On or between September 1, 2017, and December 23, 2017, at or near Kelowna, in the Province of British Columbia, Constable Siggy Pietrzak behaved in a manner that is likely to discredit the Force, contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

**Particulars specific to Allegation 3:**

1. You commenced a dating relationship with Ms. [C.S.] in April 2017 after meeting her at a children's play centre. You were involved sexually with Ms. [C.S.].

2. One night, you inappropriately engaged in sexual relations with Ms. [C.S.] while on-duty. Specifically, Ms. [C.S.] performed fellatio on you. You informed her that it was too cumbersome to remove your RCMP uniform and duty belt when you may have to return quickly to work.
3. Ms. [C.S.] acknowledges that her performing fellatio on you while on duty was consensual. Nevertheless, Ms. [C.S.] describes how she felt particularly vulnerable with the close proximity of your gun near her head while engaged in fellatio. Ms. [C.S.] states that the proximity of your gun to her head was “really freaking me out” and “scary”, however, she chose to ignore her own feelings because she wanted to be with you.
4. Your engaging in sexual relations with Ms. [C.S.] while on duty is discreditable.

[13] The Conduct Authority has the onus of establishing the allegations on a balance of probabilities. This means that I must find that it is more likely than not that Constable Pietrzak contravened a provision of the Code of Conduct. This burden is met with sufficiently clear, convincing and cogent evidence.

## **DECISION ON THE ALLEGATIONS**

[14] The *Agreed Statement of Facts* presented by the parties during the conduct hearing mirrors the further amended *Notice of Conduct Hearing*. These facts accord with the facts contained in the Record, which includes the investigation report and additional material provided to me by the parties prior to the conduct hearing.

### **Findings on Allegation 2**

[15] Allegation 2 in the further amended *Notice of Conduct Hearing* is an allegation of disrespectful or discourteous conduct under section 2.1 of the Code of Conduct. I am not aware of any previously established test for discourteous or disrespectful conduct. I suggest that a test similar to the one for discreditable conduct, which requires the Conduct Authority to prove each element of the test on a balance of probabilities, is appropriate and would include:

- a) the acts that constitute the alleged discourteous or disrespectful conduct;
- b) the identity of the member;
- c) whether the member’s behaviour is discourteous or disrespectful; and



- d) whether the member's behaviour is sufficiently related to their duties and functions so as to provide the RCMP with a legitimate interest in disciplining the member.

[16] Particular 3 sets out the acts that constitute Constable Pietrzak's discourteous and disrespectful conduct. The crux of the particular is that, after sexual relations, Constable Pietrzak repeatedly asked Ms. C.S. to go to sleep. She ignored these requests and instead watched YouTube videos while drinking wine. She woke Constable Pietrzak several times and ultimately spilled wine on his bed. Constable Pietrzak became upset and demanded for Ms. C.S. to leave his residence. He escorted her out of the house, taking hold of her physically on occasion. Constable Pietrzak locked the door behind Ms. C.S., which forced her to wait outside for an extended period of time for a taxi cab to take her home. She was intoxicated. It was the middle of the night and it was raining. Constable Pietrzak admitted to this particular. Based on my review of the Record and Constable Pietrzak's admissions, I find that the Conduct Authority has demonstrated the acts that constitute the alleged discourteous or disrespectful conduct on a balance of probabilities.

[17] Constable Pietrzak's identity is not at issue in this allegation. He has admitted to his involvement in the matter.

[18] Constable Pietrzak admitted that his behaviour was unprofessional, rude, disrespectful and neglectful, as stipulated in Particular 4. I agree that it was. Although I understand that he was upset by Ms. C.S.'s actions, he had other reasonable options to deal with the situation; the least of which was to allow Ms. C.S. to remain in his residence while she awaited the taxi cab. Given this, I find that the Conduct Authority has demonstrated that Constable Pietrzak's behaviour was discourteous and disrespectful.

[19] With respect to Constable Pietrzak's behaviour being sufficiently related to his duties, I note that this incident occurred while Constable Pietrzak was off-duty. The *2014 Annotated Version of the RCMP Code of Conduct*, at page 7, provides insight as to how off-duty conduct can be sufficiently related to a member's duties and reads as follows:

[...]

As a member of the RCMP, you have chosen to enter a unique profession that has expectations of a higher standard of behaviour, a responsibility that is not

intermittent, but constant. The relationship between a member and the Force is not the same as between a citizen and the government. Your conduct, whether on or off duty, will be scrutinized based on your status as a police officer.

Any conduct which places in doubt your integrity, honesty or moral character may weaken your effectiveness to perform your duties and cause the public to lose confidence in the Force. The responsibilities contained within the Code of Conduct are meant to promote sound ethical decision making that goes beyond the boundary of the work environment. By fulfilling these responsibilities, you will meet the professional expectations of the Force and Canadians.

[...]

[20] The Conduct Authority's position is that Constable Pietrzak demonstrated disregard for Ms. C.S.'s personal safety by forcing her out of his house late at night and making her wait outside for a cab for an extended period. Furthermore, as a sober RCMP officer, Constable Pietrzak owed a duty of care to Ms. C.S. as a person with whom he was in an intimate relationship. Although I find the link to his duties so as to provide the RCMP with a legitimate interest in disciplining him to be marginal in the circumstances of this allegation, I accept the Conduct Authority's position that, as a member of the RCMP held to a higher standard of behaviour than an ordinary citizen, Constable Pietrzak was obliged to ensure Ms. C.S.'s safety while she was in an intoxicated and vulnerable state. Given this, I find that the Conduct Authority has demonstrated this element of the test on a balance of probabilities.

[21] I find the Conduct Authority demonstrated all four elements of the test for discourteous or disrespectful conduct on a balance of probabilities; therefore, I find Allegation 2 to be established.

### **Findings on Allegation 3**

[22] Allegation 3 in the further amended *Notice of Conduct Hearing* is an allegation of discreditable conduct under section 7.1 of the Code of Conduct. To establish an allegation under this section, the conduct authority must establish each of the following on a balance of probabilities:

- a) the acts that constitute the alleged behaviour;
- b) the identity of the member;

- c) whether the member's behaviour is likely to discredit the Force; and
- d) whether the member's behaviour is sufficiently related to their duties and functions so as to provide the RCMP with a legitimate interest in disciplining the member.

[23] Constable Pietrzak admitted to attending Ms. C.S.'s residence on one occasion while on-duty. On this occasion, he had Ms. C.S. consensually perform fellatio on him while he was still in full uniform. Based on my review of the Record and Constable Pietrzak's admission, I find that the Conduct Authority has demonstrated the acts that constitute the alleged behaviour on a balance of probabilities.

[24] Constable Pietrzak's identity is not at issue in this case. He has admitted to his involvement in the matter.

[25] Engaging in a sexual act while on-duty is undeniably discreditable conduct. Constable Pietrzak's actions are also sufficiently related to his duties as to provide the RCMP with a legitimate interest in disciplining him. He was on-duty at the time the admitted incident occurred. He engaged in a discreditable act that took him away from his assigned duties. The proximity of Constable Pietrzak's duty pistol to Ms. C.S.'s head while she performed fellatio on Constable Pietrzak made her feel particularly vulnerable.

[26] I find that the Conduct Authority has demonstrated all four elements of the test for discreditable conduct on a balance of probabilities; therefore, I find Allegation 3 to be established.

## **CONDUCT MEASURES**

[27] Having found Allegations 2 and 3 established, per subsection 45(4) of the *RCMP Act*, I am obliged to impose at least one conduct measure. These conduct measures include dismissal, a direction to resign and "one or more of the conduct measures provided for in the rules". The conduct measures "provided for in the rules" are found in sections 3, 4 and 5 of the *CSO (Conduct)*.

### **Joint proposal on conduct measures**

[28] The joint proposal on conduct measures provided by the parties include the following conduct measures:

- a) A financial penalty of 20 days, as a global conduct measure, to be deducted from Constable Pietrzak's pay; and
- b) A transfer to a new work location.

[29] Although the proposed forfeiture of pay was presented initially as a global measure, in their submissions, the parties divided this financial penalty between the two allegations with a 5-day forfeiture of pay being assigned to Allegation 2 and a 15-day forfeiture of pay being assigned in relation to Allegation 3. I will address this distribution further in my analysis.

### **The common law on joint proposals**

[30] The Supreme Court of Canada, in *R. v Anthony-Cook*, 2016 SCC 43 [*Anthony-Cook*], at paragraph 25, recognizes that joint submissions on criminal sanctions are not only an accepted and desirable practice, but they are “vitally important to the well-being of our criminal justice system, as well as our justice system at large”. The Court further notes that the majority of such agreements are “unexceptional” and readily approved by judges. However, judges are not obliged to follow these joint proposals for various reasons. These notions are equally applicable to conduct adjudicators in the RCMP conduct regime.<sup>1</sup>

[31] In *Anthony-Cook*, the Supreme Court declares the test a judge must apply when considering a joint submission in a particular case is the “public interest” test. The question is whether the proposed sentence would bring the administration of justice into disrepute, or would otherwise be contrary to the public interest.

[32] In determining whether a joint submission will bring the administration of justice into disrepute or is contrary to the public interest, the Supreme Court notes that the following statements made by the Newfoundland and Labrador Court of Appeal, in two separate cases, capture the essence of the “public interest” test. The statements are as follows:

[...] despite the public interest considerations that support imposing it, it is so ‘markedly out of line with the expectations of reasonable persons aware of

---

<sup>1</sup> *Rault v Law Society of Saskatchewan*, 2009 SKCA 81, at paragraph 17; *Constable Coleman v Appropriate Officer, “F” Division*, (2018) 18 AD (4th) 270.

the circumstances of the case that they would view it as a [breakdown] in the proper functioning of the criminal justice system'. [...]<sup>2</sup>

And:

[...] trial judges should **'avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts'**. [...]<sup>3</sup> [Emphasis added]

[33] In applying the direction from the Supreme Court to this decision, I must consider whether the joint proposal on conduct measures will bring the administration of justice into disrepute or whether it is contrary to the public interest. In doing so, I must consider whether the proposal is so markedly out of line with the expectations of a reasonable person aware of the circumstances of the case that they would view it as a breakdown in the proper functioning of the RCMP conduct system.

### Analysis

[34] I heard submissions from the parties during the conduct hearing regarding the rationale behind the proposed conduct measures. Generally, I find that the parties appropriately applied the five foundational principles set out in the *Phase 1 Final Report* delivered to the RCMP in February 2022.<sup>4</sup> These five foundational principles are accepted and employed elsewhere in the Canadian policing community and, generally, in other relevant labour relation fields. RCMP Senior Management adopted the recommendations included in the *Report*. RCMP and conduct boards have been applying these principles to craft fit conduct measures since that time.

[35] The authors of the *Phase 1 Final Report* summarized the five foundational principles, at page 22, as follows:

---

<sup>2</sup> *Anthony-Cook*, at paragraph 33, citing *R. v Druken*, 2006 NLCA 67, at paragraph 29.

<sup>3</sup> *Anthony-Cook*, at paragraph 33, citing *R v B.O.2*, 2010 NLCA 19 (CanLII), at paragraph 56.

<sup>4</sup> Ceyssens, Paul and Childs, W. Scott, *Phase I Final Report Concerning Conduct Measures, and the Application of Conduct Measures to Sex-Related Misconduct under Part IV of the Royal Canadian Mounted Police Act*, February 24, 2022 (*Phase I Final Report*).

[...]

- a. A conduct measure must fully accord with the four purposes of the police complaint and conduct process:
  - i. the public interest: ensuring a high standard of conduct in the RCMP, and public confidence in the RCMP;
  - ii. the RCMP's interests in its 'dual capacity' as an employer seeking to maintain integrity and discipline in the workplace, and as 'a public body responsible for the security of the public';
  - iii. the interests of the Subject Member in being treated fairly; and
  - iv. in cases where others are affected, to ensure that the interests of those individuals (such as public complainants or other RCMP employees) are addressed.
- b. Corrective and remedial dispositions should prevail, where appropriate.
- c. A presumption that the least onerous disposition applies, which presumption would be displaced if the public interest or other specified considerations should prevail.
- d. Proportionality.
- e. A higher standard applies to police officers' conduct, compared to employees generally, principally because police hold a position of trust.

[...]

[36] I will endeavour to apply these principles in my consideration of the circumstances of this case and the parties' submissions.

*Accordance with the purposes of Part IV of the RCMP Act*

[37] The first foundational principle states that conduct measures must be in accordance with the purposes of Part IV of the *RCMP Act*. This Part deals with the complaint and conduct processes of the RCMP. Section 36.2 of the *RCMP Act* sets out the purposes of Part IV. Generally speaking, Part IV seeks to address four specific interests:

- a) the public interest;
- b) the RCMP's interests as both an employer and a public institution;
- c) the member's interest in being treated fairly; and
- d) the interests of affected individuals.

[38] My role is to balance these competing interests to arrive at the appropriate conduct measures.

[39] Paragraphs 36.2(b) and (c) of the *RCMP Act* provide the purposes of Part IV as they relate to the public interest:

[...]

(b) to provide for the establishment of a Code of Conduct that emphasizes the importance of maintaining public trust and reinforces the high standard of conduct expected of [RCMP] members;

(c) to ensure that members are responsible and accountable for the promotion and maintenance of good conduct in the Force.

[...]

[40] The RCMP's interest as an employer and a public institution is to ensure that RCMP members who contravene the Code of Conduct are dealt with appropriately in order to maintain the public confidence.

[41] The public and the RCMP have a strong interest in ensuring that Constable Pietrzak is held to account for his actions, both on- and off-duty, to ensure the integrity of the RCMP conduct process and to protect the public.

[42] The Conduct Authority has held Constable Pietrzak accountable for his actions. The proposed conduct measure of a 20-day forfeiture of pay is sufficiently significant to address his misconduct from a public interest perspective.

[43] Constable Pietrzak's interest is essentially to be treated fairly. Constable Pietrzak has been afforded all of the opportunities of procedural fairness provided for in the RCMP conduct process. He acknowledged that his personal circumstances were considered in the joint proposal and trusts they will be considered when the Chief Human Resource Officer identifies the location to which he will be transferred.

[44] With respect to the interests of Ms. C.S., as an affected person, she was present during the conduct hearing. The Conduct Authority Representative assured me that she was consulted with respect to the possible resolution of this matter, which was agreeable to her. However, I was not

advised that she was consulted with respect to the proposed conduct measures. Nevertheless, I am satisfied that her interests were considered.

[45] As a result, I find that the proposed conduct measures adequately address all four interests.

*Corrective and remedial conduct measures should prevail*

[46] Paragraph 36.2(e) of the *RCMP Act* requires that conduct measures be proportionate to the nature and circumstances of the individual case and, where possible, should be educative and remedial rather than punitive.

[47] Both of the proposed conduct measures are found in section 5 of the *CSO (Conduct)*, which is entitled “Serious conduct measures”. I find that the proposed conduct measures are proportionate to the seriousness of the two allegations. Constable Pietrzak’s actions are serious breaches of the Code of Conduct. The seriousness of Constable Pietrzak’s actions overrides the ordinary prevalence of corrective and remedial conduct measures in this case.

*Presumption of least onerous disposition*

[48] The third principle is that there is a presumption that the least onerous disposition should apply; however, the presumption can be displaced if the public interest or other considerations prevail. I find nothing in the circumstances of this case to displace the presumption. The parties agreed that dismissal is not warranted. I agree. The proposed conduct measures are appropriate to address Constable Pietrzak’s misconduct.

*Proportionality*

[49] Both paragraph 36.2(e) of the *RCMP Act* and subsection 24(2) of the *CSO (Conduct)* state that conduct measures are to be proportionate to the nature and circumstances of the contravention of the Code of Conduct.

[50] The application of this fourth principle is similar to the framework established by the RCMP External Review Committee under the former RCMP discipline system. Under this framework, conduct boards were required to ascertain the appropriate range of conduct measures



and then examine the mitigating and aggravating factors in order to determine the appropriate conduct measures for the specific case. Until recently, conduct boards applied this test to arrive at appropriate conduct measures.

[51] Under the modernized approach set out in the *Phase I Final Report*, conduct boards must first identify the relevant proportionality factors, then assess whether each identified factor is mitigating, aggravating or neutral. Finally, the conduct board must balance or weigh these considerations to arrive at appropriate conduct measures.

***Public interest***

[52] I already addressed the public interest component to a degree, but I will add that, given the nature of Constable Pietrzak's conduct and the direct relationship between his actions and his law enforcement duties, the public interest militates in favour of significant conduct measures.

***Seriousness of the conduct***

[53] The seriousness of the conduct is a fundamental consideration in almost every conduct proceeding.

[54] The parties agree that the seriousness of Allegation 2 stems from the fact that it involved conflict in the context of an intimate partner relationship. The parties also agreed that the conflict did not rise to the level of physical violence in the intimate partner relationship, a factor that conduct boards have consistently deemed to be aggravating. Regardless of his off-duty status, he failed to maintain the high standard of behaviour expected of an RCMP member. He failed in his duty of care to Ms. C.S., who was intoxicated and in a vulnerable state.

[55] Constable Pietrzak's actions in relation to Allegation 3 are serious. He left his assigned duties to engage in a sexual encounter. Ms. C.S. felt vulnerable under the circumstances.

[56] This proportionality factor falls within the aggravated range.

***Recognition of the seriousness of the misconduct***

[57] Constable Pietrzak accepted responsibility for his actions in admitting the allegations. In his statement to me, he acknowledged the seriousness of his actions including their impact on Ms. C.S. I believe he was sincere in his statements. Consequently, this proportionality factor is mitigating.

***Employment history***

[58] Constable Pietrzak presented two letters of reference and performance evaluations. These submissions demonstrate that Constable Pietrzak is a valued member of the Force with the exception of his Code of Conduct contraventions. This portion of this proportionality factor is mitigating.

[59] When I rendered my oral decision, Constable Pietrzak had six years of service, several of which were spent on suspension with pay related to this proceeding. Despite his relatively short tenure in the RCMP, he had one prior contravention of the Code of Conduct, which was for the impaired operation and control of a motor vehicle. Although not related directly to the current allegations, the prior breach of the Code of Conduct was also serious. I note that most RCMP members complete an entire career in the RCMP without breaching the Code of Conduct. With three established serious contraventions of the Code of Conduct, Constable Pietrzak's career has not gotten off to a good start. This is an aggravating factor.

***Potential to reform or rehabilitate***

[60] The potential for reform or rehabilitation is closely connected to remorse and employment history; it should be considered as a dispositional factor in all conduct proceedings.<sup>5</sup>

[61] As identified by the Subject Member Representatives, both of the allegations date back to 2017. Constable Pietrzak was junior in service at the time. He has not engaged in similar behaviour since then.

---

<sup>5</sup> Phase I Final Report, at page 38.

[62] Constable Pietrzak admitted the allegations, thereby accepting responsibility for his actions. He made a public apology to both the RCMP and Ms. C.S. I accept that his apology was sincere. He expressed remorse for his actions in his apology.

[63] Given the foregoing, I have no reason to believe that his future conduct will not be in keeping with the high expectations of his position as a member of the RCMP. This is a mitigating proportionality factor.

*Effect on the member and the member's family*

[64] The *Phase I Final Report*, at page 42, states that "Some uncertainty surrounds the effect of the conduct measure on the respondent police officer (and, perhaps, the respondent's family)."

[65] The Subject Member Representatives addressed this proportionality factor by noting that both Constable Pietrzak and his current spouse were previously married. They both have a child from their respective previous relationship. They both share custody of their respective child with their former spouse. The financial penalty will impact Constable Pietrzak and his family as he is the sole income earner in the household. A transfer could also impact on the family's future income as Constable Pietrzak's current spouse may have to sell her emerging business because it is tied to the Kelowna area.

[66] Both Constable Pietrzak's and his current spouse's former spouses with whom they share custody of their children reside in the Kelowna area. The conduct measure of a transfer may impact the current child custody arrangements of both Constable Pietrzak and his current spouse.

[67] Despite the uncertain application of this proportionality factor, I will declare this proportionality factor to be mitigating in this instance.

*Parity of sanction*

[68] In terms of parity of sanction, the parties presented me with two cases related to RCMP members having sexual relations while on-duty.<sup>6</sup> Both decisions were rendered under the previous

---

<sup>6</sup> *Appropriate Officer "E" Division v Constable Masi*, 6 AD (4th) 96, and *Appropriate Officer "E" Division v Staff Sergeant Pearson*, 11 AD (4th) 327.

RCMP discipline regime. Although principles established in decisions rendered under the previous discipline process may have application and continued relevance to the current RCMP conduct process, decisions relating to the sanctions imposed under the previous RCMP discipline regime have limited to no application to the current RCMP conduct process for several reasons. Since I have been provided no current conduct board decisions, I consider this a neutral factor.

*Specific and general deterrence*

[69] Specific and general deterrence are both legitimate objectives of the RCMP conduct process. I find the proposed conduct measures are sufficient to act as a specific deterrent to Constable Pietrzak and are sufficient to provide a general deterrent for other RCMP members.

*Damage to the reputation of the RCMP*

[70] The last identified proportionality factor is damage to the reputation of the RCMP. Constable Pietrzak stated that, although his intention was not to damage the reputation of the RCMP or “to cast a shadow or dark cloud over the profession as a whole”, he acknowledged that his actions have the potential to damage the reputation of the RCMP. I agree that Constable Pietrzak’s conduct has the potential to damage the RCMP’s reputation; therefore, I find this to be an aggravating factor.

[71] A component of this proportionality factor is the effect of media attention given to the member’s actions. As noted by the Conduct Authority Representative, the irony of many RCMP conduct cases is that they do not attract the public’s or the media’s attention until they proceed to a conduct hearing. In this case, the incident related to Allegation 1 received significant media attention. In light of his acquittal in the criminal court and the subsequent withdrawal of the allegation in this proceeding, this media attention is no longer relevant to this proceeding. The Subject Member Representative asked me to consider the negative impact the media coverage had on Constable Pietrzak and his family; however, they presented me with no evidence upon which to make a finding.

[72] The remaining two allegations were not subject to media attention prior to the conduct hearing, my oral decision on the allegations and conduct measures; however, several media outlets were present in the hearing room. Consequently, I anticipated media attention following my oral

decision, which did indeed occur. In my oral decision, I categorized this proportionality factor as neutral due to the absence of media attention on the two remaining allegations up to that point. I am obliged to hold to that categorization in this decision.

***Balancing of the proportionality factors***

[73] I have found the proportionality factors of public interest, the seriousness of the misconduct, Constable Pietrzak's employment history, specific and general deterrence as well as damage to the reputation of the RCMP to be aggravating proportionality factors. I have found Constable Pietrzak's recognition of the seriousness of his misconduct, his potential for rehabilitation and the effect on Constable Pietrzak and his family to be mitigating factors. I categorized parity as a neutral factor. The remaining 5 proportionality factors contained in the list of 15 proportionality factors, at pages 23 and 24 of the *Phase I Final Report*, are not relevant to this proceeding. On balance, I find that Constable Pietrzak's conduct in relation to both allegations falls within the high end of the mitigated range to the low end of the aggravated range.<sup>7</sup>

***Higher standards apply to police officers***

[74] Paragraph 36.2(b) of the *RCMP Act* states that one of the purposes of the RCMP conduct regime is to provide for the establishment of a code of conduct that emphasizes the importance of maintaining the public trust and reinforces the high standard of conduct expected of members.

[75] The courts and RCMP conduct boards<sup>8</sup> have long recognized that police officers are held to a higher standard of conduct than the general public. The public has a right to expect that RCMP members, whom they trust to uphold and enforce the law, will demonstrate courtesy and respect for others at all times and to remain on-duty to perform their assigned responsibilities during their scheduled shift, unless properly authorized otherwise. Constable Pietrzak's behaviour breached that trust in significant ways.

---

<sup>7</sup> Note that the *Phase I Final Report* does not employ the category of "normal range" found in the *Conduct Measures Guidebook* (2014).

<sup>8</sup> *Commanding Officer, "H" Division v Constable Whalen*, 2021 CAD 17, at paragraph 189.

## **Decision on conduct measures**

[76] Having applied the five foundational principles to the circumstances of this case, I do not find that the joint proposal on conduct measures would bring the administration of justice into disrepute or that it is contrary to the public interest. A financial penalty of the forfeiture of 20 days of pay is at the high end of the range of acceptable outcomes I have identified.

[77] As already mentioned, the parties allotted the proposed 20-day forfeiture of pay between the two established allegations in their submissions with 5 days of pay being assigned to Allegation 2, and 15 days of pay to Allegation 3.

[78] The Subject Member Representatives addressed the range of conduct measures set out in the RCMP *Conduct Measures Guide* for both allegations in their submissions. As noted in paragraph 48 of the present decision, the determination of the appropriate range for conduct measures formed part of the framework established by the RCMP External Review Committee under the former RCMP discipline system. Although RCMP conduct boards have abandoned this test in favour of the five foundational principles, I find that the determination of the appropriate range of conduct measures is relevant to a conduct board's review of proposed conduct measures in a joint proposal because it establishes the parameters for an acceptable outcome. As with the application of the RCMP External Review Committee framework, the RCMP *Conduct Measures Guide* provides a good starting point for establishing the appropriate range of conduct measures.

[79] As identified by the Subject Member Representatives, the *Conduct Measures Guide* does not specifically address the circumstances of Allegation 2; however, it does address discourteous or disrespectful conduct under section 2.1 of the Code of Conduct generally. The *Conduct Measures Guide* recommends remedial conduct measures in the mitigated range. The recommendation in the normal range is a financial penalty of one day of pay. Finally, the recommendation in the aggravated range is a financial penalty of 5 days of pay.

[80] Sexual misconduct while on-duty, as set out in Allegation 3, is covered directly by the *Conduct Measures Guide*. The recommendation in the mitigated range is a financial penalty of between 7 and 10 days. The recommendation in the normal range is a financial penalty of between

11 and 15 days. Finally, the recommendation in the aggravated range is a financial penalty between 16 and 30 days.

[81] I placed Constable Pietrzak's conduct in the high mitigated to low aggravated range, so the proposed 5-day forfeiture of pay for Allegation 2 and the proposed 15-day forfeiture of pay for Allegation 3 fall within an acceptable outcome for conduct measures considering the circumstances of both allegations. Therefore, I find the proposed combined 20-day forfeiture of pay to fall within the range of an acceptable outcome as a global conduct measure.

[82] The parties proposed the additional conduct measure of a transfer. Recommendation 7 of the *Phase I Final Report* addressed the issue of a transfer as a conduct measure, at page 6, as follows:

In any decision that involves "transfer" as a conduct measure, RCMP decision-makers should ensure that they employ appropriate analysis and emphasis on workplace safety, and fully assess the risk to employees in the new location. In particular, decision-makers should consider the current principles from superior court judgments that examine enhanced workplace safety legislation across Canada.

[83] Transfer as a conduct measure should not be used indiscriminately. When the parties present a transfer as a proposed conduct measure in a joint proposal, I trust the Conduct Authority has given due consideration to the full impact of the transfer on everyone concerned. I am not in a position to make this assessment and I cannot easily refuse to accept the proposal. I see no apparent concerns in this case, particularly as it relates to workplace safety, given the nature of the allegations against Constable Pietrzak.

## CONCLUSION

[84] Having found Allegations 2 and 3 established and in accordance with the joint proposal presented by the parties, I impose the following conduct measures:

- a) A financial penalty of 20 days to be deducted from Constable Pietrzak's pay, pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*; and
- b) A transfer to a new work location, pursuant to paragraph 5(1)(g) of the *CSO (Conduct)*.

[85] Although a conduct board has the authority to order a transfer as a conduct measure, the “E” Division Chief Human Resource Officer has the discretion to determine the location to which Constable Pietrzak will be transferred. Constable Pietrzak’s personal circumstances are reflected in the Record of this conduct proceeding. I expect that these will inform the Chief Human Resource Officer’s decision.

[86] My acceptance of the joint proposal on conduct measures provides Constable Pietrzak with an opportunity to continue his career with the RCMP. His supervisors and any appropriate conduct authority will seriously review any future contravention of the Code of Conduct, which could lead to his dismissal from the Force.

[87] This decision constitutes my written decision required by subsection 45(3) of the *RCMP Act*. Subsection 25(3) of the *CSO (Conduct)* requires that it be served on the parties. The decision may be appealed to the Commissioner by filing a statement of appeal within 14 days of the service of the decision (section 45.11 of the *RCMP Act*; section 22 of the *Commissioner’s Standing Orders (Grievances and Appeals)*, SOR/2014-289).

---

Kevin Harrison  
Conduct Board

---

October 25, 2023