

**Publication ban:** Any information that may identify the Complainant must not be published, broadcast or transmitted in any way.



**ROYAL CANADIAN MOUNTED POLICE**

in the matter of  
a conduct hearing held pursuant to the  
*Royal Canadian Mounted Police Act*, RSC, 1985, c R-10

Between:

**Designated Conduct Authority for "M" Division**

(Conduct Authority)

and

**Constable Cole Williams**  
Regimental Number 66787

(Subject Member)

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**CONDUCT BOARD DECISION**

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Jonathan Hart and Jonathon Soltys

(Conduct Authority Representatives)

Gordon S. Campbell

(Subject Member Representative)

**CONDUCT BOARD:** Sara Novell

**DATE:** November 28, 2025

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## **SYNOPSIS**

On September 21, 2023, the Subject Member was served a *Notice of Conduct Hearing*, dated August 29, 2023, which contained one alleged contravention of section 7.1 of the RCMP Code of Conduct for discreditable conduct. It is alleged that while off duty, Constable Williams engaged in discreditable conduct towards another employee by sexually assaulting her.

The matter proceeded to a Conduct Hearing, which was held the week of July 29, 2024, in Gatineau, Quebec. On August 2, 2024, the Conduct Board found the Allegation established.

On March 26 and 27, 2025, the Conduct Board heard evidence and submissions on conduct measures. On April 11, 2025, the Conduct Board directed for Constable Williams to resign from the Force within 14 days, failing which, he would be dismissed.

## INTRODUCTION

[1] On April 12, 2023, the Conduct Authority signed the *Notice to the Designated Officer*, in which they requested the initiation of a conduct hearing. On April 18, 2023, I was appointed as the Conduct Board for this matter, per subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[2] On September 21, 2023, Constable Cole Williams was served a *Notice of Conduct Hearing*, dated August 29, 2023, along with the investigation package. The *Notice of Conduct Hearing* contained one alleged contravention of section 7.1 of the RCMP Code of Conduct for discreditable conduct.

[3] On December 4, 2023, Constable Williams provided his response to the Allegation, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*], wherein he denied the Allegation, but admitted certain particulars.

[4] On July 17, 2024, I issued a *Determination of Established Facts*.

[5] The Conduct Hearing was held in person, in Gatineau, Quebec, from July 29, 2024, to August 2, 2024. I delivered my oral decision in person on August 2, 2024, finding the Allegation to be established.

[6] The conduct measures phase was originally to begin on August 12, 2024, but was adjourned at the request of the Subject Member Representative for compassionate reasons.

[7] On September 3, 2024, the Subject Member Representative advised that he intended to bring a motion to reopen the allegation phase in order to introduce a report from a digital forensic firm. The conduct measures phase was adjourned until the resolution of this motion. I rendered a decision on February 12, 2025, dismissing the motion.

[8] The conduct measures phase was conducted virtually on March 26 and 27, 2025. On April 11, 2025, I delivered my oral decision on conduct measures, directing Constable Williams to resign from the RCMP within 14 days of my oral decision, failing which he would be dismissed.

[9] This written decision incorporates and expands upon both oral decisions.

### **Publication ban**

[10] At the outset of the Conduct Hearing on July 29, 2024, and at the request of the Conduct Authority Representative, I made an order restricting the publication of the identity of the Complainant, pursuant to paragraph 45.1(7)(a) of the *RCMP Act*.

[11] Consequently, any information that may identify the Complainant must not be published, broadcast or transmitted in any way.

### **Motions**

[12] On September 3, 2024, the Subject Member Representative advised that he intended to bring a motion to reopen the allegation phase in order to introduce a report from a digital forensic firm. He explained that this report would support his position that the Instagram messages submitted at Tab 26 of the Joint Book of Documents prepared for the Conduct Hearing were complete.

[13] On September 11, 2024, the Subject Member Representative provided an update on the expected completion of the expert report and included a preliminary report from the retained digital forensic firm. In response, the Conduct Authority Representative submitted that the Subject Member Representative first required leave to reopen the allegation phase and advised of his intent to oppose such an application.

[14] Following a change in Representatives for both Constable Williams and the Conduct Authority, a pre-hearing conference was held on September 25, 2024. During this pre-hearing conference, the parties disagreed on my ability to review the new evidence that Constable Williams intended to rely on, but had not yet submitted (i.e., the final report from the digital forensic firm), when deciding on whether to reopen the allegation phase of the Conduct Hearing. The parties provided written submissions on this narrow issue.

[15] On December 12, 2024, I allowed the motion permitting me to examine the new evidence to be presented in support of the motion to reopen the allegation phase of the Conduct Hearing.

Subsequently, I reviewed and considered the final report from the digital forensic firm provided by the Subject Member Representative along with both parties' submissions and supporting materials. On February 12, 2025, I dismissed the motion to reopen the allegation phase and subsequently directed that the conduct measures phase proceed on March 26, 2025.

## **ALLEGATION**

[16] The Allegation, as set out in the *Notice of Conduct Hearing*, reads as follows:

### **Allegation 1**

On or around April 30, 2022, at or near the city of Whitehorse, in the Yukon Territory, Constable Cole Williams behaved in a manner that is likely to discredit the [F]orce contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

### **Particulars to Allegation 1**

1. At all material times you were a member of the Royal Canadian Mounted Police ["RCMP"] posted to "M" Division, Whitehorse, Yukon, and held the rank of Constable.
2. [The Complainant] was a relief RCMP Operational Communications Centre ("OCC") dispatcher working temporarily in Whitehorse, Yukon.
3. On April 28, 2022, you made plans with [the Complainant] to go out for a "goodbye drink".
4. You met [the Complainant] at the Gather restaurant at approximately 9:00 p.m. on April 29, 2022. You and [the Complainant] consumed three alcoholic drinks each at the Gather.
5. The Gather closed at around 10:00 p.m. and you left at around 10:30 p.m. that evening. You and [the Complainant] decided to go to the 202 to continue the evening and to further consume alcoholic drinks.
6. You and [the Complainant] continued drinking alcohol at the 202.
7. You and [the Complainant] left the 202 at or around 2:00 a.m., when the establishment closed.
8. You and [the Complainant] walked to the Petro gas station together. After that, you walked to McDonalds together.
9. You called for a taxi outside the McDonalds. However, no taxi arrived. In response, [the Complainant] invited you to wait for your taxi at her apartment.

10. You and [the Complainant] walked to her apartment together. You arrived at [the Complainant's] apartment at or around 2:30 a.m. on April 30, 2022.
11. You and [the Complainant] sat together on her couch to watch television.
12. You leaned over, pushed [the Complainant] down, and got on top of her.
13. [The Complainant] did not consent to you pushing her down and getting on top of her.
14. In an attempt to control [the Complainant's] head, you grabbed [the Complainant's] hair while you were on the couch.
15. [The Complainant] did not consent to you grabbing her hair, as she felt you were trying to force her to look at you.
16. You began to kiss [the Complainant].
17. [The Complainant] was not receptive to any sexual contact with you.
18. You kissed [the Complainant's] neck and skin near her breast area.
19. [The Complainant] did not consent to you kissing her on the neck area or breast area.
20. You stopped kissing [the Complainant] when she froze and displayed no movement. At this point, she stood up and left the room.
21. [The Complainant] contacted Constable Ryan Davies ["Constable Davies"] of the RCMP for assistance. [The Complainant] was scared of you.
22. While [the Complainant] was contacting Constable Davies, you said goodbye to her and left her apartment.
23. You sexually assaulted [the Complainant].
24. Your behaviour breached section 7.1 of the RCMP's *Code of Conduct*.

### **Determination of established facts**

[17] On July 17, 2024, I provided my *Determination of Established Facts* to the Representatives. Following the Conduct Hearing, I made additional findings of fact, which form part of this decision.

[18] The facts outlined in the *Determination of Established Facts* read as follows:

1. At all material times, the Subject Member, Constable Williams was a member of the Royal Canadian Mounted Police posted to "M" Division, Whitehorse, Yukon and held the rank of Constable. (**Particular 1**)

2. [The Complainant] was a relief RCMP Operational Communications Center (“OCC”) dispatcher, working temporarily in Whitehorse, Yukon. **(Particular 2)**
3. On April 28, 2022, [the Complainant] and Constable Williams made plans to go out for a “goodbye drink.” **(Particular 3)**
4. Constable Williams met [the Complainant] at the Gather restaurant at approximately 9:00 p.m. on April 29, 2022. They consumed three alcoholic drinks each. **(Particular 4)**
5. Constable Williams and [the Complainant] left the Gather at around 10:30 [p.m.] and decided to go to the 202 to continue the evening and to further consume alcoholic drinks. **(Particular 5)**
6. Constable Williams and [the Complainant] continued drinking alcohol at the 202 Bar. **(Particular 6)**
7. Constable Williams and [the Complainant] left the 202 at or around 2:00 a.m., when the establishment closed. **(Particular 7)**
8. Constable Williams and [the Complainant] walked to the Petro gas station and to McDonalds together. **(Particular 8)**
9. Constable Williams called for a taxi outside the McDonalds. However, no taxi arrived. [The Complainant] invited Constable Williams to wait for the taxi at her apartment. **(Particular 9)**
10. Constable Williams and [the Complainant] walked to her apartment together. They arrived around 2:30 a.m. on April 30, 2022. **(Particular 10)**
11. Constable Williams and [the Complainant] sat together on her couch to watch television. **(Particular 11)**
12. [The Complainant] contacted [Constable Davies] for help and stated she was scared. **(Particular 21)**
13. Constable Williams left the Complainant’s apartment around 2:50 a.m. **(Particular 22)**

### **Applicable test**

[19] Section 7.1 of the Code of Conduct states: “Members behave in a manner that is not likely to discredit the Force.” This means that members of the RCMP should, whether on or off duty, consider how their actions and behaviours will affect their ability to preserve their credibility and the trust of the public towards the RCMP.

[20] To establish discreditable conduct under section 7.1 of the Code of Conduct, the conduct authority must establish each of the following on a balance of probabilities:

- a) the identity of the subject member;
- b) the particulars of the allegations that constitute the alleged behaviours;
- c) whether a reasonable person, with knowledge of all relevant circumstances, including the realities of policing in general, and the RCMP in particular, would be of the opinion that the conduct of the subject member is likely to discredit the RCMP, having due regard for reasonable expectations of the community regarding police behaviour; and
- d) whether the conduct is sufficiently linked to the duties and functions of the member to give the RCMP a legitimate interest in disciplining the member.

[21] To establish the act or acts constituting the alleged conduct, it must be demonstrated that the particulars that are essential to the allegation have in fact occurred. In other words, it is not necessary to establish each particular. However, those that are established must meet the threshold of discreditable conduct.

[22] Whether or not conduct is discreditable is a matter of law, which must be determined in the specific context and in view of all the circumstances of the case. Furthermore, the term “discreditable”, given its natural and common meaning, must be applied in relation to the special obligations and duties of the profession.

[23] The onus is on the Conduct Authority to demonstrate on a balance of probabilities that the Allegation is established. The Supreme Court of Canada holds that the “evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test”.<sup>1</sup>

## **Evidence**

[24] The Record before me includes, among other things, the December 15, 2022, Code of Conduct Investigation Report and supporting materials; Constable Williams’ December 4, 2023, response to the Allegation; supplemental disclosure provided by the Conduct Authority

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<sup>1</sup> *F.H. v McDougall*, 2008 SCC 53 [*McDougall*], at paragraph 46.

Representative at the request of the Subject Member Representative; the Joint Book of Documents and respective Books of Authorities prepared by the parties for the Conduct Hearing; the exhibits from Constable Williams' Conduct Hearing proceedings.

[25] During the allegation phase of the Conduct Hearing, I heard oral testimony from the Complainant, Constable Davies and Constable Williams, which I will summarize and assess in turn.

[26] In arriving at my findings on the Allegation, I have considered my *Determination of Established Facts* in conjunction with the Record and the oral evidence provided during the Conduct Hearing.

*Instagram messages*

[27] Much has been made by the parties of the Instagram direct messages exchanged between Constable Williams and the Complainant from April 11 to 30, 2022. I will preface my analysis by stating that, in my view, this is a peripheral issue. Although some latitude has been extended to consider this evidence in the course of these proceedings, I find that it has limited relevance when determining whether the Allegation is established.

[28] As submitted by Constable Williams, Tab 26 of the Joint Book of Documents purports to contain the entirety of the direct messages exchanged between himself and the Complainant via Instagram. The Subject Member Representative stated that these had been provided for the purpose of impugning the Complainant's credibility in relation to her repeated assertions of exchanging Instagram messages with Constable Williams about her views on monogamy, being engaged, and generally setting boundaries or expectations in their friendship.

[29] On July 24, 2024, the Complainant was provided with a copy of Tab 26. On July 27, 2024, she sent correspondence to the Conduct Authority Representative, noting that following her review, some messages appeared to be missing. The Conduct Authority Representative advised that this could be addressed during her testimony at the Conduct Hearing, two days later, during which the Complainant stated:

[...] While I was looking through them, I noticed, if you'll go through them, you can see that the end is the beginning in the next one, and there's some noticeable gaps, so I'm not sure that everything was provided, and I don't have, unfortunately, the beginning of the conversation to show if anything is missing or to compare.<sup>2</sup>

[30] During the Code of Conduct Investigation in 2022, the Complainant provided a copy of her Instagram message exchange with Constable Williams. However, only the latter portion of the conversation was available. The Complainant explained that she had deleted the initial message thread from her phone following her belief that Constable Williams and herself would no longer be communicating after she set boundaries and expectations for their friendship.<sup>3</sup> The Complainant was adamant that the messages in which she expressed to Constable Williams that she was happy in a monogamous relationship with her fiancé and was only interested in being friends with Constable Williams were exchanged during that initial time.

[31] In cross-examination, the Complainant further noted:

I have no reason to leave out information about monogamy, trusting my husband, and things that would paint me in a good light. I included everything that doesn't paint me picture perfect, but it wouldn't make sense for me to say – to leave out something saying “I just want to be friends,” or “I believe in monogamy.” Why would I be sitting here just presenting things that may not make me look favourable and leave out things that do?<sup>4</sup>

[32] The Conduct Authority Representative submitted that the messages provided by Constable Williams were submitted at the last minute and could have been provided earlier with his subsection 15(3) response in December 2023. He argued that no expert evidence was provided to confirm that the messages are accurate or complete.

[33] I note that Constable Williams did provide a portion of the messages he had exchanged with the Complainant in an appendix to his written statement during the Code of Conduct Investigation in 2022. Constable Williams explained he only provided what he felt was relevant to the situation at the time, as he did not have any disclosure or sense of what he was being accused

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<sup>2</sup> Transcript of Conduct Hearing, Volume 1, July 29, 2024, at page 27, at lines 17 to 24.

<sup>3</sup> Transcript of Conduct Hearing, Volume 1, July 29, 2024, at page 106, at lines 4 to 6 and page 114, at lines 10 to 15.

<sup>4</sup> Transcript of Conduct Hearing, Volume 1, July 29, 2024, at page 100, at lines 3 to 11.

of, and “[...] basically threw it out blind with no information”<sup>5</sup>. When compared with the messages provided by the Complainant, I note there are no discrepancies.

[34] The Subject Member Representative’s position is that the alleged messages relating to monogamy and only wanting to be friends did not occur, which negatively impacts the Complainant’s credibility. He advanced that the Complainant deleted messages because she did not want her fiancé to see them when she returned home, not because she did not want clutter on her phone, as she testified.<sup>6</sup>

[35] During his testimony, Constable Williams set out the steps he took to obtain and preserve a copy of all the messages he exchanged with the Complainant from Instagram onto his computer, and back onto his phone before he had access to the relevant disclosure from the Conduct Investigation.

[36] He explained that he subsequently took screenshots of the messages he tendered at Tab 26 of the Joint Book of Documents, although the time at which this was done is unclear. Constable Williams also testified that he had not changed any of the messages nor had he left anything out in what he provided.<sup>7</sup>

[37] As noted by the Conduct Authority Representative, this is not a situation where the messages at issue have recently been discovered. Constable Williams possessed the downloaded messages from Instagram since May 2023. Contrary to what is mandated at subsection 15(3) of the *CSO (Conduct)*, screenshots of the messages were provided at Tab 26 of the Joint Book of Documents, on July 19, 2024, which is 10 days before the start of the Conduct Hearing. The contested issue of the completeness of Tab 26 was then raised by the Conduct Authority Representative as he shared the Complainant’s July 27, 2024, correspondence.

[38] I have concerns about the apparent gaps between certain screenshots and, more specifically, the lack of flow of the conversation in the exchange related to going for brunch, day-

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<sup>5</sup> Transcript of Conduct Hearing, Volume 2, July 30, 2024, at page 102, at line 16.

<sup>6</sup> Transcript of Conduct Hearing, Volume 1, July 29, 2024, at page 25, at lines 10 to 15.

<sup>7</sup> Transcript of Conduct Hearing, Volume 2, July 30, 2024, at page 76, at lines 1 to 8.

drinking and one-night stands.<sup>8</sup> I find that neither the explanations provided by Constable Williams, nor the Complainant's lack of recollection regarding the context of these gaps, to be particularly helpful in addressing these concerns. Accordingly, in light of the reliability concerns identified, I have determined that it is appropriate to accord minimal weight to this evidence.

[39] Consequently, I have drawn no negative inferences with respect to the Complainant's credibility in relation to the fact that the conversations about monogamy and her marital status do not appear in the evidence provided to me. Similarly, I have not drawn any inferences, whether positive or negative, with respect to Constable Williams' assertions that what has been presented represents the totality of all the exchanges that occurred between the Complainant and himself on Instagram during the relevant period.

[40] I do not find the evidence presented at Tab 26 to be clear, convincing or cogent. As such, I attribute little weight to it and, as previously stated, find it tangential to the core matters I must decide.

### **Credibility and reliability test**

[41] In assessing a witness's evidence, I must consider whether they are being truthful as well as whether their evidence is reliable. Reliability concerns whether the witness's ability to accurately perceive and recollect what they observed. I may find a witness's evidence to be truthful, but unreliable.

[42] Moreover, I cannot base my assessment of a witness's evidence solely on their demeanour, that is whether they appear to be telling the truth. Rather, I must determine whether their version of events is consistent with the most probable interpretation of the surrounding facts.<sup>9</sup> The determination of whether the witness's account has an air of reality is subjective, but it must be grounded in the totality of the evidence.<sup>10</sup> I must also consider the effect of the inconsistencies in

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<sup>8</sup> Joint Book of Documents, Tab 26, Instagram Direct Messages between [the Complainant] and Williams produced by Williams, at pages 253 and 254.

<sup>9</sup> *Faryna v Chorney*, [1952] 2 DLR 354, at page 357.

<sup>10</sup> *McDougall*, at paragraph 58.

that evidence and whether, when taken as a whole in the context of the totality of the evidence, they impact the witness's credibility.

[43] Finally, the Supreme Court notes that “finding the evidence of one party credible may well be conclusive of the result”, because “believing one party will mean explicitly or implicitly that the other party was not believed on the important issues in the case”.<sup>11</sup> With that in mind, I will begin with my assessment of each witness's overall credibility and reliability. These determinations guide and inform my findings of fact that follow in relation to the allegation.

#### *Complainant*

[44] I find that the passage of time and the Complainant's level of intoxication during the evening in question may have impacted her ability to accurately recall certain peripheral details, such as the time at which she arrived at the restaurant, the number of drinks consumed, if there was a cover charge at either bar, topics of conversation she had that night, whether she attended McDonald's or Petro-Canada first, where she had placed her phone at her Airbnb and whether it had any battery left. While these inconsistencies impact the reliability of some aspects of the Complainant's testimony, I find that they relate to matters of limited significance. Consequently, these inconsistencies attract minimal weight in my overall assessment.

[45] I find the Complainant's testimony on the central elements of the particulars in dispute compelling, with one exception: the Complainant's inability to recall, while testifying, that she originally alleged Constable Williams had grabbed her hair in an effort to control her. I note that the Conduct Authority Representative asked the Complainant if she recalled Constable Williams placing his palm on her head,<sup>12</sup> which did not appear to trigger her memory. Nonetheless, I find that her lack of recollection on this singular point is not sufficient to bring into question her overall credibility and reliability on the core issues, which she otherwise recounted in a consistent and detailed manner.

[46] Throughout her oral evidence before me, I found that the Complainant answered questions directly and was forthright, even when it had the potential to reflect poorly on her. I also note that,

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<sup>11</sup> *McDougall*, at paragraph 86.

<sup>12</sup> Transcript of Conduct Hearing, Volume 1, July 29, 2024, at page 38, at lines 17 to 21.

during cross-examination, the Complainant was often careful to correct or rephrase suggestions being put to her, demonstrating an effort to be accurate and enhancing my assessment of her credibility.

[47] I agree with the Conduct Authority Representatives' submission that it appears that the Complainant did not seek to embellish her testimony, and she acknowledged the gaps in her memory. On the whole, I find her evidence internally consistent and, when viewed with the totality of the evidence before me, I find that it has an "air of reality". Therefore, I find the Complainant to be a credible and reliable witness.

*Constable Davies*

[48] I only briefly mention Constable Davies as the evidence he provided did not directly relate to any of the disputed particulars. He testified that, during his very brief phone call with the Complainant on the night of April 30, 2022, she seemed unsure or shaken and appeared to not be answering questions openly. Constable Davies relayed that once he arrived at her residence, the Complainant explained that Constable Williams had touched her inappropriately or tried to kiss her neck or her breast. He was unable to recall if the Complainant displayed signs of impairment at that time. He stated that he and another member drove her to the detachment to obtain a statement and confirmed the end of his involvement in this matter. During the Code of Conduct Investigation, Constable Davies provided his call logs and screenshots of a portion of the messages exchanged with the Complainant on the night at issue. On July 25, 2024, at the request of the Subject Member Representative, he provided the additional messages exchanged prior to and after the April 30, 2022, incident. Although I find Constable Davies to be a credible and reliable witness, his evidence is of limited probative value to the issues I am required to determine.

*Constable Williams*

[49] I find the majority of Constable Williams' evidence to be credible and reliable. His version of events accords, for the most part, with the Complainant's description of the evening in her statements to Constable Christina Bigrigg and Constable Summer Gardiner on April 30, 2022. Constable Williams provided several additional details, some of which are supported in part by independent evidence, such as call logs and photos. This reflects positively on his credibility.

[50] I have attributed significant weight to the written statement he provided to Sergeant Rob Major Morin on September 23, 2022, as it was prepared by Constable Williams when he was not aware of the particulars of the Allegation he was facing, nor had he received any disclosure pertaining to the Code of Conduct Investigation. His written statement was extremely detailed in relation to the way the evening and night at issue unfolded, prior to returning to the Complainant's Airbnb.

[51] Constable Williams was very well prepared. His testimony during the allegation phase of the Conduct Hearing closely mirrored the level of detail of his written statement. In cross-examination, he stated that he is "typically always perceptive of [his] surroundings,"<sup>13</sup> which he submitted explains how he remembered innocuous details such as the fact that a Harry Potter audiobook was playing in the bathroom of the Gather restaurant, or the amount, down to a cent, of a bill he briefly saw, but did not pay, weeks or even months<sup>14</sup> after what he considered to be a "normal going out."<sup>15</sup> I consider his recollection of trivial details to be unusually specific. I agree with the Conduct Authority Representatives' submission, quoting, that "I do not find it likely that [Constable Williams] would have such a detailed recollection of the night in question if nothing of any significance occurred, as he alleged".<sup>16</sup> This degree of precision raises some concerns about the reliability of his evidence.

[52] I also note that the level of detail during his direct examination fluctuated when Constable Williams began to explain how the Complainant sprayed him with the lavender spray and ended up with her legs intertwined and falling onto him. I find that his testimony was noticeably less detailed and forthcoming than during other parts of his evidence. I agree with the Conduct Authority Representative's submission that this is also apparent in Constable Williams' written statement:

[...] Every second of that night is accounted for in detail in his statement and in his testimony. There's logical progression, detailed observation, extensive layout of how 202 was spatially organized, even two years later now, and then

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<sup>13</sup> Transcript of Conduct Hearing, Volume 2, July 30, 2024, at page 88, at lines 9 to 10.

<sup>14</sup> Joint Book of Documents, Tab 24, Statement of [Constable Williams], at page 174.

<sup>15</sup> Transcript of Conduct Hearing, Volume 2, July 29, 2024, at page 89, at lines 8 and 9.

<sup>16</sup> *McWilliam v Toronto Police Services Board*, 2020 HRTO 574, at paragraph 154.

this blaring, abrupt gap, unexplained, where [the Complainant] suddenly turns on a dime, has a flat affect, and then scurries to her room.<sup>17</sup>

[53] Given the significance of this portion of the evening to the facts in dispute, I am not persuaded that his recollection of those events is reliable.

[54] Finally, Constable Williams explained that he had “returned the favour” of blocking the Complainant on Instagram,<sup>18</sup> once he noticed the Complainant had blocked him the following morning. I have concerns about this explanation, as I find that it lacks an air of reality, particularly given Constable Williams’ account that the night ended uneventfully, when he simply left while the Complainant was on the phone in her bedroom. While this explanation is peripheral, I find that it diminishes the overall reliability of Constable Williams’ evidence.

[55] Although I find Constable Williams to be an overall credible witness, I have reservations about the reliability of his evidence in relation to the contested elements that are central to the Allegation.

## **Analysis**

[56] Since the identity of the subject member is not at issue in the present matter, I will now consider the remaining three elements of the test required to establish an allegation under section 7.1:

- the acts that constitute the alleged behaviour,
- whether the member’s behaviour is likely to discredit the Force, and
- whether the member’s behaviour is sufficiently related to his duties and functions so as to provide the Force with a legitimate interest in disciplining him.

### *Acts constituting alleged behaviour*

[57] The acts that the Conduct Authority advances as constituting the alleged behaviour are set out in several particulars contained in the Allegation, specifically particulars 12 to 19, 23 and 24.

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<sup>17</sup> Transcript of Conduct Hearing, Volume 3, July 31, 2024, at page 22, at lines 15 to 25.

<sup>18</sup> Transcript of Conduct Hearing, Volume 2, July 30, 2024, at page 58, at line 23.

*Particulars 12-22*

[58] Throughout his written statement provided in the context of the Code of Conduct Investigation, his December 4, 2023, response to the Allegation and during his testimony before me, Constable Williams' position has been consistent and unequivocal. His evidence is that at no time did he assault, sexually assault, kiss, attempt to kiss or act inappropriately towards the Complainant.

[59] He testified that, while sitting on the couch as they were wrestling over the lavender spray bottle, the Complainant fell on him, with their legs intertwined. He testified that she then said something to the effect of "are we just going to watch T.V.?" Constable Williams responded something to the effect that he was waiting for his cab for McDonald's and then going home. Constable Williams stated that he noticed a change in the Complainant's demeanour at that point.

[60] Constable Williams testified that the Complainant then headed to her bedroom and did not return to the living room. He explained that, after a few minutes, he walked into the hallway towards the Complainant's bedroom and saw that she was on the phone. They made eye contact, and he asked her if everything was okay. He testified that she did not respond, so he told her "bye" and headed out. In cross-examination, he agreed that her behaviour appeared abnormal in comparison to how she had acted during the rest of the evening.

[61] Except for Particulars 14 and 15, the Complainant's evidence has also been consistent in that upon returning to her apartment, she and Constable Williams both sat on their respective sides of the couch to watch the T.V. show "Mom". In cross-examination, she agreed that she had wrestled with Constable Williams over a lavender spray bottle. In her evidence in direct examination and in her statements prior to the Conduct Hearing, she alleged that Constable Williams either pushed or pinned her down on the couch, mocked her by saying words to the effect of "I thought you went to the gym," as she was unable to get out from under him, and kissed her chest area but stopped when she displayed no movement. The Complainant testified that this contact was unwanted and described turning her head towards where the television was and removing herself mentally from the situation. She was adamant that at no time did she welcome or consent to these actions. She testified that she could not recall how she got out from under

Constable Williams but began feeling scared of him. She immediately reached out for help by texting and calling Constable Davies directly, as she knew he was working that night and did not want to attract attention from her colleagues by calling the OCC center.

[62] I find that the Complainant's account is more credible overall, with respect to the disputed particulars. The Complainant was consistent and confident in her description of the incident and did not exaggerate. Her description of the layout of the room and of the positioning of her and Constable Williams on the couch accords with independent evidence such as the photos of the Airbnb. Despite her lack of recollection relating to previously noted peripheral matters, her overall description is consistent with the evidence including her text messages and phone call to Constable Davies.

[63] I acknowledge that Constable Williams has provided, in his testimony, an extremely detailed account of the night in question. He recalled, among other things, precise details, which were also included in his written statement, such as the number and type of drinks they each had, the way they were dressed and the subjects of their conversations throughout the night. However, Constable Williams had many months to focus on his preparation for the Conduct Hearing, in contrast to the Complainant who did not have access to most of the evidence and testified that she reviewed her statements just prior to the Conduct Hearing. Furthermore, Constable Williams' evidence was considerably less exhaustive in comparison when recounting his interactions with the Complainant on the couch in her Airbnb.

[64] Having found the Complainant's account of these key issues credible and reliable, it follows that I do not accept Constable Williams' evidence on these points. As such, I find Particulars 12, 13, and 16 to 22 established on a balance of probabilities.

***Particulars 14 and 15***

[65] Particulars 14 and 15 reference Constable Williams allegedly grabbing the Complainant's hair and placing his palm behind her head, while they were on the couch, in an alleged effort to control the Complainant or have her look at him. Constable Williams denies that this occurred. Although the Complainant provided this information in her statement to the investigator in the hours following the incident, she did not recall any of this during her testimony, even after it was

suggested to her by the Conduct Authority Representative. Furthermore, but for the passage of time, I have received no evidence to explain her lack of recollection of these particulars. Consequently, I find that I have not been presented with sufficiently clear, cogent and convincing evidence to establish Particulars 14 and 15.

***Particulars 23 and 24***

[66] Particulars 23 and 24, respectively, provide that Constable Williams sexually assaulted the Complainant, and that his behaviour breached section 7.1 of the Code of Conduct.

[67] While administrative tribunals may not make findings of criminal liability, they may rely on well-established criminal law frameworks, using the civil standard of proof, to assess conduct potentially equivalent to criminal behaviour. As submitted by the Conduct Authority Representative, the leading case with respect to the test for sexual assault is the Supreme Court of Canada's decision in *Ewanchuk*,<sup>19</sup> which underscores the importance of clear, affirmative consent in sexual encounters. It also sets out the three elements that must be proven as a part of the actual act (*actus reus*): "(i) touching, (ii) sexual nature of the contact, and (iii) absence of consent".<sup>20</sup>

[68] For the purposes of this proceeding, these elements must be satisfied on a balance of probabilities and any reference to sexual assault within this decision should be understood to be within the civil context, not the criminal one.

[69] My findings of fact in relation to the under one-minute interaction on the Complainant's couch are that Constable Williams leaned over, pushed the Complainant down on the couch, got on top of her, placed his knee between her legs, kissed her neck and skin near her breast area without removing her clothing and stopped when the Complainant displayed no movement, as she did not consent to these actions.

[70] I find that kissing the Complainant's neck and skin near her breast area constitutes touching for the purpose of the test. This contact is inherently sexual. Both the neck and region adjacent to the breast are intimate parts of the body and kissing them carries an objectively sexual connotation.

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<sup>19</sup> *R. v Ewanchuk*, [1999] 1 SCR 330 [*Ewanchuk*].

<sup>20</sup> *Ewanchuk*, at paragraph 25.

Accordingly, I find that those elements of Constable Williams' conduct constitute touching of a sexual nature and find that the first two elements of the *Ewanchuk* test are met. Additionally, while consent was not raised as a contested issue in these proceedings, I have also found that the Complainant did not consent to any of these actions. Consequently, the last element of the *Ewanchuk* test is also satisfied. Thus, I find on a balance of probabilities that Constable Williams sexually assaulted the Complainant. As such, I find that Particular 23 is established on a balance of probabilities.

[71] In making this finding, I also find that the Conduct Authority has demonstrated the particulars that are essential to the Allegation and has discharged its burden of proof with respect to the second element of the test for discreditable conduct.

*Behaviour likely to discredit the Force and legitimate interest in discipline*

[72] In this situation, I am able to examine the final two parts of the discreditable conduct test together.

[73] Sexual assault, by its very nature, is discreditable. It violates the bodily integrity of another person, constitutes a serious abuse of personal boundaries and is wholly incompatible with the authority and responsibility vested in a police officer. It reflects conduct that is morally reprehensible and fundamentally inconsistent with the ethical standards expected of any member of the public, and even more so of a police officer held to the highest standards of lawful and ethical conduct. I find that a reasonable person, with knowledge of all of the relevant circumstances, including the realities of policing in general and the RCMP in particular, would be of the opinion that a sexual assault constitutes discreditable conduct.

[74] I also find that Constable Williams' behaviour is sufficiently related to his duties and functions so as to provide the Force with a legitimate interest in disciplining him. Although the incident occurred while Constable Williams was off duty, the Code of Conduct applies to RCMP members' conduct both on and off duty. Police officers are entrusted with significant authority, including the power to enforce the law, use force and intervene in situations where the public's safety is at risk, such as when responding to reports of sexual assault. The actions of Constable Williams are not only a grave violation of that trust but also a direct contradiction of his sworn

duty to protect the public. Misconduct of this nature undermines public confidence in the police officer's trustworthiness and integrity as well as in the RCMP as a whole. Consequently, it warrants the Force's involvement in assessing and addressing Constable Williams' suitability to continue in his role.

[75] As such, I find that the final two elements of the discreditable conduct test have been satisfied and Particular 24 is established.

### **Conclusion on Allegation**

[76] It is vital that members' interactions with the public, colleagues and others are respectful, professional and contribute to the public's confidence in credible and trustworthy policing. Though the standard is not perfection, the public expects that a member, whether on or off duty, conducts themselves with the highest level of professionalism and integrity when interacting with the public and each other. I find that Allegation 1 is established on a balance of probabilities.

### **CONDUCT MEASURES**

[77] Having found the Allegation established, subsection 45(4) of the *RCMP Act* requires that I impose conduct measures that are, "fair, balanced and consistent"<sup>21</sup>. Pursuant to paragraph 36.2(e) of the *RCMP Act*, conduct measures must be proportionate to the nature and circumstances of the contravention, and where appropriate, educative and remedial rather than punitive.

[78] My role is to find the appropriate and proportionate conduct measures for the circumstances of the matter, taking into consideration the material before me and the evidence and submissions of the parties in both phases of the Conduct Hearing.

[79] In preparation for the conduct measures phase, I reviewed 37 reference letters, Constable Williams' 2021-2022 performance evaluation, as well as various court decisions and prior RCMP conduct board decisions submitted by the Representatives.

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<sup>21</sup> 2024 *Conduct Measures Guide*, at page 19

[80] On March 26, 2025, I heard oral testimony from Ms. Jane Parks, Corporal Tim Anderson, Corporal Jeremy Newburry and Sergeant Judith Bertrand, who all spoke positively of Constable Williams' character and employment history. On March 27, 2025, the Representatives provided their submissions with respect to the appropriate conduct measures to be imposed in this case.

[81] The Conduct Authority Representatives proposed that the starting principle is that presumptive dismissal applies to sexual assault, and that the most appropriate conduct measure would be either a direction to resign or dismissal.

[82] The conduct measures proposed by the Subject Member Representative are less severe, submitting that while the higher range of measures is appropriate in this circumstance, anything more than 45 days' pay is not supported by the case law.

### **Applicability of the 2024 *Conduct Measures Guide***

[83] The parties disagreed on the applicability of the 2024 *Conduct Measures Guide* to these proceedings. Although not explicitly addressed in their submissions, the latest version of the *Conduct Measures Guide* departs from the 2014 version in that it now contains section 7.1.4.8.6, which sets out presumptive dismissal as being in the appropriate spectrum of conduct measures for findings of sexual assault. I will address the implications of presumptive dismissal later in this decision.

[84] I note that the 2024 *Conduct Measures Guide* emphasizes that there are five principles that serve as a foundation for the crafting of a fit conduct measure. While the 2024 *Conduct Measures Guide* came into effect in November 2024 and, as such, was not in effect at the time of the *Notice to the Designated Officer* or the service of the *Notice of Conduct Hearing* in this matter, the principles set out within it have been used by conduct boards in their analysis since the release of the *Phase 1 Final Report*<sup>22</sup> over three years ago.

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<sup>22</sup> Paul Ceyskens and W. Scott Childs, "Phase 1" *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*, Report to the Royal Canadian Mounted Police (February 24, 2022) (*Phase 1 Final Report*); Paul Ceyskens and W. Scott Childs, "Phase 2" *Final Report Concerning Conduct Measures and Related Issues under Part IV of the Royal Canadian Mounted Police Act*, Report to the Royal Canadian Mounted Police (January 31, 2023) (*Phase 2 Final Report*).

[85] The 2024 *Conduct Measures Guide* essentially incorporates relevant content from the previous 2014 *Conduct Measures Guide* and its supplements, and combines the recommendations formulated in the *Phase 1 Final Report* and the *Phase 2 Final Report*, including the application of five foundational principles in crafting a fit conduct measure. The 2024 *Conduct Measures Guide* also provides guidance and direction to assist conduct authorities and conduct boards to arrive at appropriate and consistent conduct measures.

[86] With respect to my ability to rely on the 2024 *Conduct Measures Guide*, the Conduct Authority Representatives' position, although somewhat ambiguous, was essentially that this issue is not a concern. They noted that the *Conduct Measures Guide* is just a guide and is a living document that does not require legislative amendments to come into force. In support of their position that dismissal is the appropriate conduct measure in the current matter, they mostly relied on case law and the recommendations found in the *Phase 1 Final Report* and the *Phase 2 Final Report*, which either predate or are in the time frame of the Allegation before me, highlighting that Constable Williams would have been aware of his jeopardy at the time.

[87] The Subject Member Representative provided limited submissions on this issue. He stated that it would be an error of law to rely on the 2024 *Conduct Measures Guide* and submitted a 2016 Supreme Court of Canada decision<sup>23</sup> addressing the retrospective application of an amendment to the *Criminal Code*, RSC, 1985, c C-46, in support of his position.

[88] The Subject Member Representative emphasized that, although there are several categories of behaviour set out in the 2014 *Conduct Measures Guide* with respect to section 7.1 of the Code of Conduct, including sexual misconduct, a separate category is not explicitly provided for sexual assault. Therefore, he relied extensively on previous RCMP decisions, which I will examine further when addressing parity as a proportionality factor, to support the proposed financial penalty of 45 days as the appropriate conduct measure in this matter.

[89] I note that the rationale provided at the top of page 58 of the 2014 *Conduct Measures Guide* suggests that “an aggravated range of dismissal” is proposed in situations where there is an abuse

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<sup>23</sup> *R. v K.R.J.*, 2016 SCC 31.

of position, significant damage to the Force's reputation, risk of significant civil liability or **conduct bordering on sexual assault**, which is similar to the present matter.

[90] Returning to the applicability of the 2024 *Conduct Measures Guide* in the current proceedings, I will begin by firstly highlighting the role of the *Conduct Measures Guide*. As noted by the Conduct Authority Representatives, whether the 2014 version or the 2024 version, either one is just that, a guide. It is a useful, non-prescriptive reference when determining the appropriate range of sanctions for a particular category of behaviour and assists when examining parity of sanction. However, at no juncture is a conduct authority or a conduct board fettered by the recommendations contained therein when deciding on conduct measures.

[91] Secondly, the intent of the *Conduct Measures Guide* was for it to be a living document that would be amended to reflect societal norms and expectations and to take into account the evolution of the jurisprudence. The *Phase 1 Final Report* and the *Phase 2 Final Report* made a number of specific recommendations to revise the Guide and incorporate relevant principles from superior court judgments and appeal tribunal decisions from across Canada. As such, the 2024 *Conduct Measures Guide* incorporates principles reflective of the evolution in the approach to employee misconduct since 2014.

[92] Thirdly, I note that the Supreme Court decision referred to by the Subject Member Representative was in relation to the retroactive application of legislative amendments, which is not the situation here. The *Conduct Measures Guide* is not a legislated instrument.

[93] Finally, I do find that determining the appropriate conduct measures in the present matter without any reflection on previous practices or decisions would result in an unfair outcome. Consequently, while I am led by the 2024 *Conduct Measures Guide* and the shift in societal expectations, I am also mindful of past decisions.

[94] For these reasons, my decision will be based on the five foundational principles presented in the *Phase 1 Final Report*, which have been used by conduct boards over the past several years, well before the release of the 2024 *Conduct Measures Guide*.

## **Presumptive dismissal**

[95] The next issue that requires clarification is the issue of presumptive dismissal. As noted by the Subject Member Representative, presumptive dismissal does not amount to mandatory dismissal. He submitted that there is no shift in the burden of proof onto the subject member and that a conduct board must be satisfied that dismissal is the appropriate measure after conducting its analysis.

[96] I agree. At pages 50 and 51, the 2024 *Conduct Measures Guide* provides the following:

[...]

For the RCMP, presumptive dismissal does not equate with automatic dismissal or a mandatory minimum. Dismissal represents the **starting point** of the conduct board's analysis. The law is clear that the conduct authority still has the legal burden to prove the allegation of professional misconduct. If the misconduct is established on a balance of probabilities, in light of the inherent seriousness of the misconduct, the subject member has to demonstrate exceptional mitigating circumstances with respect to the proportionality analysis in order to support conduct measures other than dismissal. A conduct board must be satisfied, after an analysis of all five foundational principles governing the determination of a fit conduct measure, that dismissal is the appropriate conduct measure.

[...]

[97] Therefore, the burden of proof continues to rest with the conduct authority and, as in any conduct measures phase of a conduct hearing, the subject member has the onus to present all applicable mitigating circumstances to support their position on the appropriate measures to be imposed.

[98] As such, I will now proceed with my analysis of the five foundational principles in order to arrive at the appropriate conduct measure in this matter, beginning with the principle of proportionality.

## **Proportionality**

[99] Under the principle of proportionality, I am required to make three determinations:

- 1) identify the relevant proportionality factors;

- 2) assess the identified proportionality factors as mitigating, aggravating or neutral;
- 3) appropriately balance the proportionality factors in light of the factual background of the matter and of the four purposes of the police complaint and discipline process to arrive at the appropriate conduct measures.

[100] The 2024 *Conduct Measures Guide* provides a non-exhaustive list of 13 proportionality factors to consider. The Subject Member Representative also presented some mitigating factors from the 2014 *Conduct Measures Guide*. In the present decision, I will only examine the proportionality factors that I find relevant to the case at hand and provide my findings as to whether I consider them mitigating, aggravating or neutral.

#### *Public interest*

[101] This important factor stems from one of the four purposes of the police complaint and discipline process: protecting the public interest. Superior courts regularly emphasize that police officers have considerable authority and discretion and can affect the fundamental rights of individuals. Therefore, police work requires police officers to exercise a high degree of judgment and integrity in order to foster public trust. The nature of the employment requires the highest standard of moral character, and these requirements relate to both on- and off-duty conduct.

[102] The Conduct Authority Representatives submitted that the confidence of the public in the RCMP would be severely impacted if Constable Williams was retained as a police officer after having been found to have committed sexual assault. The Conduct Authority Representatives referred to *Darren Williams*<sup>24</sup> in support of their argument that where the seriousness of the misconduct threatens the maintenance of public confidence and respect in the police, personal mitigating circumstances cannot carry the same weight as in a different context. They highlighted that public interest must be the overriding consideration in determining the appropriate disciplinary outcome.

[103] The Subject Member Representative submitted that although the public interest is important, it does not mean that Constable Williams' interests can be discounted altogether.

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<sup>24</sup> *Darren Williams v Police Appeals Tribunal Commissioner of Police of the Metropolis*, [2016] EWHC 2708 (Admin), 2016 WL 06397468 [*Darren Williams*].

I agree. The determination of fit conduct measures requires a balancing of Constable Williams' interests with the overarching consideration of public interest and other relevant factors.

[104] In considering the public interest, I note that public confidence is shaken when an allegation of sexual misconduct is established, particularly by a person in a profession tasked with responding to and investigating reports of sexual violence. The public has a vested interest in ensuring that police officers against whom a finding of discreditable conduct involving a sexual assault was made, do not remain in positions of authority, as this undermines the very principles of trust, integrity and accountability that are essential to effective law enforcement and the protection of vulnerable individuals in society.

[105] Constable Williams has failed to live up to the standard the public expects from a member of the RCMP. As such I find the public interest to be an important aggravating proportionality factor.

*Seriousness of the misconduct*

[106] This proportionality consideration incorporates all four purposes of the police complaint and discipline process.

[107] During their submissions, the Conduct Authority Representatives asked me to find that the Complainant was a vulnerable person due to her intoxication level. They suggested that a breach of trust occurred as the Complainant relied on Constable Williams' status as a police officer and member of the RCMP to feel comfortable enough to go out drinking with him. They further stated that Constable Williams took advantage of the Complainant's intoxicated state, and of the derived power imbalance this created for his own sexual gratification or personal gain. The Conduct Authority Representatives referenced *Reid*,<sup>25</sup> which recognized that vulnerable persons in the community must be protected. They submitted that the Complainant's vulnerable state further increases the seriousness of the misconduct.

[108] The Subject Member Representative argued that the mere fact that a person is a police officer does not mean that they are in a position of authority and committing a breach of trust every

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<sup>25</sup> *Commanding Officer for National Division and Reid*, 2023 CAD 13 [*Reid*].

time they engage in off-duty conduct. He also suggested that just because someone is intoxicated does not mean that they are vulnerable. He disagreed that the *Reid* case is similar as it had to do with multiple incidents of ongoing sexual harassment, over a period of a year and a half.

[109] I disagree with the Conduct Authority Representatives. The submission that the Complainant is a vulnerable person has no foundation as no evidence was introduced during the allegation phase of the Conduct Hearing that would lead me to arrive at such a conclusion. As such, I do not accept the Conduct Authority Representatives' submissions on this point.

[110] The Conduct Authority Representatives also referenced *Deagle*,<sup>26</sup> where the conduct board adopted and accepted the foundational principles from the *Phase 1 Final Report* and the *Phase 2 Final Report* and stated that sexual misconduct will result in serious consequences. This decision also recognizes the public interest, and that where there are findings of sexual misconduct, little weight should be given to the fact that it was a singular incident.

[111] The Subject Member Representative disagrees that *Deagle* is relevant, as the sexual assault was much more serious in that matter than in the present case. He noted that the seriousness of the sexual assault should be mitigated by a number of factors, namely that this constituted the "lowest level" of sexual assault, that the non-consensual touching occurred over the clothing, that it was very brief, that Constable Williams stopped as soon as he realized that he was mistaken that there was consent, and that no criminal charges were laid. He submitted that this is a situation of honest but mistaken belief in consent.

[112] I find that any assertion of an honest but mistaken belief in consent was an issue that properly belonged to the allegation phase of the Conduct Hearing given its potential impact on the credibility assessment of the witnesses. But as highlighted by the Conduct Authority Representatives, Constable Williams' unequivocal position from the onset has been that the sexual assault did not occur. Because this defence was never put forward when the Allegation was being determined, it cannot now be introduced as a mitigating factor in its own right. Nevertheless, I will

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<sup>26</sup> *Commanding Officer of "H" Division and Deagle*, 2023 CAD 04 [*Deagle*].

consider Constable Williams' actions in my assessment of the inherent seriousness of a sexual assault.

[113] The Conduct Authority Representatives relied on the 2021 decision in *Dupont*,<sup>27</sup> citing the 2019 Alberta Court of Appeal decision in *CUPE*<sup>28</sup> for the proposition that sexual assault, by its very definition, is serious misconduct. I agree with the Conduct Authority Representatives that any form of sexual violence is very serious. Notwithstanding, I find that Constable Williams stopping the assault once he came to the realization that he was acting without consent and voluntarily departing the Complainant's residence, somewhat tempers the overall gravity, placing his misconduct short of the highest level of seriousness. That said, any mitigation arising from these subsequent actions must be considered within the broader context of how sexual misconduct is assessed.

[114] With respect to the hierarchy of behaviours within the spectrum of sexual assault, I do not agree that one can simply look at the mechanics of non-consensual sexual touching, compare it with previous cases, place it along a scale, and assign an appropriate conduct measure. There is absolutely no place, on or off duty, over or under the clothing, for any touching, rubbing, forced kissing, or any other physical contact of a sexual nature, however brief, where one party does not consent. While I have considered the mitigating effect of Constable Williams' actions once he realized the Complainant did not consent, I find its weight is insufficient to offset the inherent gravity of the sexual assault. As such, I find that the nature of the allegation augments the overall seriousness of the misconduct.

[115] The Subject Member Representative also submitted that the absence of criminal charges ought to be considered as mitigating the seriousness of the misconduct. I disagree. While a criminal conviction would be aggravating, the absence of charges does not lessen the gravity of the misconduct. Sexual assault is inherently serious, and its seriousness is determined by the act itself, not by whether criminal proceedings were initiated.

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<sup>27</sup> *AG Growth International Inc. v Dupont*, 2021 ABQB 663 [*Dupont*].

<sup>28</sup> *Calgary (City) v Canadian Union of Public Employees Local 37*, 2019 ABCA 388 [*CUPE*], at paragraph 11.

[116] Another factor to consider is the impact on the affected person. The evidence shows that the misconduct has had an adverse psychological and emotional impact on the Complainant. I heard from the Complainant during the allegations phase in that regard, and I have reviewed the written statement she provided during the Code of Conduct Investigation, which speaks more in depth to her mental health decline. She explained that, as a result of this incident, her perception of men, and members of the RCMP in particular, has been negatively impacted, as was her relationship with her husband for some time. She noted feeling disgusted, used, and isolated and has since sought help and begun cognitive behavioural therapy. Both representatives have agreed that the impact of Constable Williams' actions on the Complainant augments the seriousness of the misconduct, and I concur.

[117] I have outlined the factors that elevate the seriousness of the misconduct. Accordingly, I find this to be a significantly aggravating proportionality factor.

*Recognition of the seriousness of the misconduct (remorse)*

[118] The Subject Member Representative, in his submissions, advanced that Constable Williams was "remorseful of the overall situation".<sup>29</sup> However, I have not been provided with any evidence to support this assertion, nor does such a broad statement provide any insights on what Constable Williams may feel remorseful for. Constable Williams has not provided testimony following the delivery of my oral decision on the Allegation, where my findings were contrary to the position he put forward (a denial that the sexual assault occurred). I have not drawn any negative inferences from his lack of admission, nor from the manner in which Constable Williams has presented his evidence.

[119] It is fundamental to the justice system and to this process that subject members be permitted to defend themselves when facing any alleged contravention of the Code of Conduct. Constable Williams has a right to defend himself, and he has exercised this right. As such, his lack of recognition of the seriousness of the misconduct or any stated remorse cannot be considered as an aggravating factor during the proportionality analysis; at most, it amounts to the absence of a

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<sup>29</sup> Transcript of Conduct Hearing, Volume 2, March 27, 2025, at page 44, at lines 11 and 12.

mitigating factor. Therefore, I find that Constable Williams' lack of remorse is a neutral proportionality factor.

*Procedural fairness considerations*

[120] This proportionality factor relates to the subject member's interest in being treated fairly in the conduct process. Although not raised by the current Subject Member Representative during the conduct measures phase, at least one of the references who provided a support letter for Constable Williams, as well as his previous representative in his closing submissions during the allegation phase, have alluded to a number of issues relating to the quality of the investigation in this matter. If founded, these alleged issues may be considered as mitigating under the procedural fairness proportionality factor.

[121] The Conduct Authority Representatives submitted that Constable Williams was treated with an abundance of procedural fairness throughout this process.

[122] I will note that some of the deficiencies raised by the first Subject Member Representative were remedied through additional disclosure provided to Constable Williams. Subsequently, I have not found any shortcomings that impacted Constable Williams' right to a fair hearing. Subject members are not entitled to a perfect investigation. The procedural protections provided by the *RCMP Act* and the *CSO (Conduct)*, such as the right to request further investigation, the ability to call and cross-examine witnesses during the conduct hearing and the right to make submissions are examples of the safeguards in place to ensure that Constable Williams' procedural fairness rights are upheld. I find that Constable Williams was afforded each one of these opportunities to ensure he knows the case to be met and to be heard. As such, I find this factor to be neutral.

*Employment history*

[123] Constable Williams has provided 37 letters of reference from family members, friends, neighbours, members of the community, former and current coworkers and supervisors. The letters are very positive and consistently refer to Constable Williams as a diligent, reliable, well-liked and respected team player who goes above and beyond. I read and heard compelling evidence from his supervisor, Corporal Anderson, that despite his junior service, Constable Williams is an extremely

competent and promising police officer who has much to offer the RCMP. This is further supported by his 2021-2022 performance evaluation, which echoes Corporal Anderson's testimony and reference letter, setting out that Constable Williams is a hardworking member performing at a level above his years of service.

[124] Although a portion of the support letters for Constable Williams do not specifically speak to his employment history, I will also consider them under this proportionality factor as most of the qualities used to describe Constable Williams as a person, friend, hockey coach and member of the community are key attributes to being a police officer and member of the RCMP. Respectful, courteous, kind, compassionate, polite, helpful and trustworthy are just some of the words repeatedly used to characterize Constable Williams throughout the reference letters submitted and the testimonies that I heard. On more than one occasion, Constable Williams was said to embody the RCMP core values, and his involvement in the community, particularly through hockey, is commendable. All but one of the references confirmed their awareness of the Allegation and finding in this matter, although knowledge of the surrounding circumstances appeared to vary amongst them.

[125] The Subject Member Representative also highlighted that Constable Williams has no prior record of discipline. However, I find the weight of this to be slightly tempered by the fact that, at the time of the incident, he was still a probationary member as he had less than two years of active service.

[126] Nonetheless, I find that Constable Williams' employment history and supporting character references are a mitigating factor to which I ascribe significant weight.

*Potential to reform or rehabilitate*

[127] As stated in the 2024 *Conduct Measures Guide*, this factor involves an assessment of the likelihood of recurrence and is closely related to the remorse and employment history considerations.

[128] As already mentioned, I have been presented with a significant number of extremely positive reference letters for Constable Williams. In that regard, I do not accept the Conduct

Authority Representatives' submission that the support letters speak to Constable Williams' reputation, which may be different from his character. To the contrary, I find that the testimonies and reference letters strongly support his good character, which is an important factor when assessing the member's potential to rehabilitate.

[129] However, I have been provided no evidence to indicate that Constable Williams acknowledges, takes responsibility for and is remorseful for his misconduct. As previously stated, it is well within a subject member's right to defend their interests and doing so cannot be held against them. As such, I do not draw a negative inference from Constable Williams' absence of remorse and accountability.

[130] Nonetheless, remorse allows individuals to recognize the impact of their actions on others. Accountability ensures that individuals accept responsibility for their actions, leading to a desire for genuine change in order to avoid repeating harmful behaviours. Therefore, accountability and remorse are an essential part of the analysis when examining a member's potential to reform or rehabilitate.

[131] In light of this, I find that although Constable Williams has demonstrated evidence of good character, and although this may contribute to the potential for rehabilitation, this must be balanced with the lack of evidence that he has taken any responsibility for his actions or feels remorse. As such, the weighing of these two considerations leads me to find Constable Williams' potential to reform or rehabilitate to be a neutral factor.

#### *Parity*

[132] Parity of sanction addresses consistency of outcome.

[133] The Representatives have provided a number of cases in support of their positions. I find that they are of limited value in the present circumstances for the following reasons.

[134] The current RCMP conduct process came into effect in November 2014. The 2014 *Conduct Measures Guide*, which relied heavily on discipline cases presented under the old conduct regime, accompanied the implementation of the new process.

[135] As noted by the Subject Member Representative, the range of measures available to adjudication boards under the former discipline system was limited in comparison with the conduct boards' authority under the current process. As such, I find that cases from the old regime provide little guidance to conduct boards under the current conduct regime when assessing parity of sanction.

[136] The Subject Member Representative submitted that RCMP jurisprudence “consistently, unanimously says that dismissal is not within the range of sanctions on these particular facts”, and that 45 days and up constitutes the applicable range for this situation.<sup>30</sup> The cases presented by the Subject Member Representative range in date from 2017 to early 2022. During this time frame, conduct boards were still being presented with adjudication board decisions from the old regime, as there was not yet a significant body of conduct board decisions under the current process. In fact, the *Caram*<sup>31</sup> case was the first decision in the new conduct process to assess and impose conduct measures for allegations of what was then referred to as “unwanted sexual touching” but amounts to sexual assault on a civil standard.

[137] The Subject Member Representative relied heavily upon the *Caram* and *Pulsifer*<sup>32</sup> decisions to support his proposed range of appropriate conduct measures, starting with a financial penalty of 45 days. He submitted that *Caram* involved multiple sexual assaults, another member had to intervene, and criminal charges were filed, but the subject member only received a deduction of 45 days' pay, which was increased to 60 days' pay on appeal. The *Pulsifer* case also included multiple sexual assaults, no mistaken consent, and the measures were a deduction of 35 days' pay.

[138] I find that both cases can be distinguished from the case at hand as a number of mitigating factors that were ascribed significant weight by the conduct board in those decisions, and which were ultimately upheld by the Commissioner on appeal, are absent in the present matter. For example, in *Pulsifer*, the mitigating circumstances included:

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<sup>30</sup> Transcript of Conduct Hearing, Volume 2, March 27, 2025, at pages 39 and 40.

<sup>31</sup> *Commanding Officer for “E” Division and Caram*, 2017 RCAD 08, and confirmed in appeal 2021 CAD 05 [*Caram*].

<sup>32</sup> *Commanding Officer for “H” Division and Pulsifer*, 2019 RCAD 09, and confirmed in appeal 2022 CAD 06 [*Pulsifer*].

- a) The subject member accepted responsibility and did not dispute the particulars of the allegations (save for one);
- b) The subject member provided apologies to the complainants and showed genuine remorse;
- c) The subject member immediately sought and participated in counselling;
- d) The subject member abstained from alcohol since the incident and was deeply committed to remaining abstinent;
- e) The subject member was willing to accept any further assessment and treatment as necessary, and had a strong potential for rehabilitation.

[139] In *Caram*, the mitigating circumstances were:

- a) The subject member took full responsibility and recognized that his actions were not appropriate, demonstrated by his formal admission of all allegations, willingness to participate in an alternative measures program concerning the criminal charge, and his admissions in the conduct process.
- b) The subject member expressed genuine apology and remorse;
- c) The subject member's medical status, being untreated social anxiety disorder, alcoholism and PTSD;
- d) The subject member's willingness to participate in mental health treatment, demonstrated by his actions in beginning regular, voluntary psychotherapy and cognitive behavioural therapy, participation in Alcoholics Anonymous meetings; and
- e) Formal clinical assessment indicating an extremely low or very unlikely risk of repetitive behaviour.

[140] In addition, in recent years, the RCMP has gone to great lengths to examine the application of conduct measures under the new regime by contracting for two comprehensive reviews of the process, which culminated in the *Phase 1 Final Report*, the *Phase 2 Final Report* and the release of the 2024 *Conduct Measures Guide*.

[141] As noted by the Conduct Authority Representatives, the focus in those reports in terms of conduct measures is the public interest. Although the conduct boards in the cases provided to me considered the public interest, this consideration was not given the primacy it has today.

Furthermore, the Representatives agreed that societal norms and values have changed and evolved, especially in the context of sexual misconduct.

[142] Given the foregoing, I find that parity in this situation is a neutral proportionality factor.

*Specific and general deterrence*

[143] As the parties have not addressed the need for specific deterrence, I will comment on general deterrence as a proportionality factor.

[144] The *Bastarache Report*,<sup>33</sup> the *Phase 1 Final Report* and the *Phase 2 Final Report* were critical of the RCMP's approach when addressing sexual harassment and sexual misconduct. The RCMP has, through repeated messaging, emphasized that these behaviours are unacceptable and will not be tolerated. Accordingly, I find that general deterrence is of particular importance in a case where a sexual assault has been established so that other members of the RCMP may give serious consideration to their actions, both on and off duty. Therefore, I find this to be an aggravating factor.

*Public confidence in the RCMP*

[145] As there is some overlap with the public interest proportionality factor when assessing public confidence in the RCMP, I will limit my comments to the following. The RCMP has a legal and ethical obligation to protect the rights of all individuals, including the victims of sexual assault. An established allegation of sexual assault committed by a police officer who holds a position of power and authority can severely damage the public's trust in the organization and, more importantly, discourage victims of sexual assaults from coming forward and reporting. I find public confidence in the RCMP to be an aggravating factor.

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<sup>33</sup>Michel Bastarache, C.C., Q.C., *Final Report on the Implementation of the Merlo Davidson Settlement Agreement*, dated November 11, 2020 (*Bastarache Report*).

*Other proportionality considerations*

[146] The Subject Member Representative listed eight proportionality factors that he considers mitigating. I have considered most of them within my previous analysis of the factors set out in the 2024 *Conduct Measures Guide*. I will now address the two remaining ones.

[147] First, the Subject Member Representative submitted that the sexual assault is an isolated and out-of-character incident. However, as noted by the Conduct Authority Representatives, sexual assault is a **never** event, it should simply never occur. As such, I do not accept this as a mitigating factor.

[148] Second, the Subject Member Representative noted that Constable Williams cooperated fully with the investigation. The only evidence before me with respect to his cooperation with the investigation is that he provided a written statement during the Code of Conduct Investigation. I view this as a neutral proportionality factor.

*Conclusion on proportionality factors*

[149] To summarize, I have found several aggravating factors, including, the public interest, the seriousness of the misconduct, the need for general deterrence and public confidence in the RCMP. These are aggravating to varying degrees, with the seriousness of the misconduct and the public interest carrying the most weight.

[150] I have also found one mitigating factor to which I have ascribed significant weight, namely Constable Williams' employment history and good character.

[151] The neutral proportionality factors include recognition of the seriousness of the misconduct or remorse, procedural fairness considerations, potential to rehabilitate, parity and cooperation with the investigation.

[152] In balancing them all, I find that the aggravating factors significantly outweigh the mitigating factors in this case.

## Balancing of the interests

[153] This foundational principle is that a determination of an appropriate sanction involves, at its core, a balancing of four interests, that of 1) the public; 2) the RCMP as an employer; 3) the subject member to be treated fairly; and 4) those affected by the misconduct at issue. I will consider each of these interests below.

### *Public's interest*

[154] I have already addressed the public interest to a certain degree but will note that the powers granted to police officers are considerable. Thus, the public justifiably expects members of the RCMP to observe the highest ethical and professional standards.

[155] The Supreme Court of Canada has placed emphasis on the public interest by stating that “The purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve public confidence in the profession [...]”.<sup>34</sup>

[156] This is also captured in paragraphs 36.2(b) and (c) of the *RCMP Act*, which state:

**36.2** The purposes of this Part are

[...]

**(b)** 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;

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

[157] In my view, the public has an expectation that members of the RCMP, who have been granted exceptional powers to enforce the laws in our society, will abide by those same laws they are sworn to uphold, not only in their professional lives but also in their personal lives. Constable Williams' actions have not lived up to this expectation. The public has a vested interest in ensuring that RCMP members embody the highest level of integrity both on and off duty, and that they are held accountable when they do not.

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<sup>34</sup> *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

*RCMP's interest*

[158] The RCMP has a dual role as both an employer and as a public institution. In the past few years, a number of reports about the RCMP have been released, garnering significant media attention and creating a loss of trust in the communities it serves and within its own ranks. Through repeated messages and initiatives, such as the review of the *Conduct Measures Guide*, the RCMP has stressed the need for change in its culture, with a specific emphasis on eliminating harassment and sexual misconduct.

[159] To rebuild this trust, the RCMP must show that it is holding members who contravene the Code of Conduct responsible for their actions, in addition to adhering to its obligation to maintain a safe environment for those in the workplace. As such, the RCMP has a significant interest in holding Constable Williams accountable for his actions.

*Constable Williams' interest*

[160] Constable Williams' interest in this proceeding is in being treated fairly throughout the process. As submitted by the Conduct Authority Representatives, I find that he has been treated with an abundance of procedural fairness at each of the steps leading up to this final decision. He has been represented by two legal counsels in this matter, has had the ability to respond to the Allegation against him, his submissions and evidence have been heard and considered, and he continues to have the ability to appeal my findings on the allegation or conduct measures following the service of this written decision.

[161] The Subject Member Representative submitted that Constable Williams has an interest in the outcome of the Conduct Hearing, as any finding of misconduct is very serious and can hamper a member's future career. He submitted that *McNeil* records follow a member throughout their whole career and must always be disclosed, which affects Constable Williams future career path. The Subject Member Representative argued that Constable Williams has already been off duty for two years, that he deserves a second chance, and that he should be returned to duty.

[162] In coming to my decision, I have been mindful of Constable Williams' interests, coupled with the educational and remedial objectives of an administrative process such as this one. I have considered the impact it can have on Constable Williams' career as well as his personal life.

*Affected persons' interest*

[163] The affected person's interest, in this case, the Complainant, must also be considered. In addition to the written statement the Complainant provided during the Code of Conduct Investigation, she has provided oral testimony before me in which she shared the significant adverse psychological and emotional impact that Constable Williams' misconduct has had on her, notably her struggle in letting people become close to her and her lack of desire to work with or be around RCMP members.

[164] While the Conduct Authority Representatives submitted that, in addition to the Complainant, the Conduct Board should consider the safety concerns of other female employees within the RCMP who may have to work with a member who has a finding of sexual assault against him established, no evidence was provided identifying or describing specific risks in support of this submission. Nonetheless, the impact on the complainant demonstrates that Constable Williams actions have had serious and personal consequences that must be considered.

**Predominance of educative and remedial conduct measures**

[165] Remedial and educative measures should prevail, where possible and appropriate.

[166] The Subject Member Representative submitted that dismissal is not supported in the jurisprudence, and that 45 days' pay would be an appropriate sanction for this situation.

[167] The Conduct Authority Representatives submitted that Constable Williams had received specialized training with respect to sexual assault prior to the incident and should have known that proactive consent is always necessary, implying that further training would be an inadequate conduct measure. I agree.

[168] Considering the foregoing, and due to the seriousness of the misconduct and the public interest., I find that educative and remedial conduct measures are not appropriate in this situation.

### **Presumption of least onerous conduct measure**

[169] There is a presumption that one should impose the least onerous disposition. However, this presumption will be displaced if public confidence in the administration of the RCMP conduct process or organizational effectiveness of the RCMP is undermined.

[170] The Conduct Authority Representatives again relied on presumptive dismissal for sexual assault and submitted that Constable Williams had also not presented any medical or other evidence that would justify a less severe measure. They submitted that demotion is not an option due to Constable Williams' junior service and explained that, given the training he had already received on sexual assault, it would be inappropriate to impose further training as a measure. The Conduct Authority Representatives stated that a financial penalty would be inappropriate as well as it would in essence be placing a monetary value on sexual assault.

[171] The Subject Member Representative indicated that the Conduct Authority Representatives were arguing for mandatory dismissal, which is not supported by the case law or either version of the *Conduct Measures Guide*.

[172] In this case, although I agree with the Subject Member Representative that the law does not support **mandatory** dismissal, this is different than **presumptive** dismissal. I find that in light of the seriousness of the misconduct and my assessment of the proportionality considerations, the presumption of imposing the least onerous measure is displaced as public confidence in the administration of the RCMP conduct process would otherwise be undermined.

### **Expectation of higher conduct standard on police officers**

[173] Finally, a higher standard of conduct applies to police officers primarily due to the fact that they hold a position of trust in society and are, consequently, held to a higher moral standard.<sup>35</sup>

[174] The Subject Member Representative emphasized that Constable Williams was not criminally charged and underlined the importance of proportionality. I will simply note that

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<sup>35</sup> *Montréal (City) v Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2008 SCC 48, at paragraph 86.

Constable Williams' conduct fell beneath that which is required of a police officer regardless of whether criminal charges were pursued.

### **Conclusion on conduct measures**

[175] Constable Williams engaged in conduct that violated another person's physical and sexual integrity. Sexual misconduct is a pervasive issue in our society and the RCMP is taking significant steps to remove it from within its ranks, as it is wholly incompatible with the conduct expected of police officers.

[176] The nature of the allegation itself, a sexual assault, coupled with the impact of Constable Williams' actions on the Complainant significantly increases the seriousness of the misconduct. Moreover, the absence of mitigating factors such as remorse or potential to reform cannot be understated and weigh heavily in my finding that it would be inappropriate to impose conduct measures that are educative and remedial.

[177] Public interest considerations focus on protecting the public, the affected person and employees, ensuring fairness while holding members accountable and fostering a culture of integrity within the RCMP, where sexual misconduct is not tolerated. The considerations also require preserving public confidence in the RCMP, which is fundamentally undermined when a member has engaged in conduct that is wholly incompatible with the duties, responsibilities and ethical standards expected of police officers, as is the case in the present matter. Constable Williams' actions run contrary to this higher standard and to the RCMP's core values.

[178] As such, I find that the public interest considerations as set out displace the presumption of imposing the least onerous disposition in this matter and do not support conduct measures short of loss of employment.

[179] Accordingly, pursuant to subsection 45(4) of the *RCMP Act*, I direct Constable Williams to resign within 14 days, failing which he will be dismissed from the Force.

### **DECISION**

[180] The Allegation is established and the aforementioned conduct measure is imposed.

[181] This constitutes my written decision, as required by subsection 45(3) of the *RCMP Act*. 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 Williams, as set out in section 45.11 of the *RCMP Act* and section 22 of the *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-289.

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Sara Novell  
Conduct Board

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November 28, 2025  
Date