



ROYAL CANADIAN MOUNTED POLICE

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

Between:

Commanding Officer, "V" Division

(Conduct Authority)

and

Corporal Ian Crowe
Regimental Number 58013

(Subject Member)

Conduct Board Decision

Louise Morel

October 23, 2024

Ms. Janice Calzavara and Mr. Eric Blenkarn, Conduct Authority Representatives

Mr. Robb Beeman, Subject Member Representative

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SUMMARY

The *Notice of Conduct Hearing*, dated September 16, 2022, contained 8 alleged contraventions of the RCMP Code of Conduct: 1 allegation under section 2.1 (failing to treat every person with respect); 2 allegations under section 3.3 (disobeying a lawful order); 1 allegation under section 4.2 (neglect of duty); 2 allegations under section 7.1 (discreditable conduct); and 2 allegations under section 8.1 (inaccurate account).

On January 16, 2024, prior to hearing submissions on the allegations, the Conduct Authority Representatives advised that the Conduct Authority was withdrawing six of the eight allegations. Only Allegation 3 and Allegation 7 remained.

On January 22, 2024, the Conduct Board heard submissions from the parties. On February 2, 2024, the Conduct Board found Allegation 7 to be established on a balance of probabilities while Allegation 3 was not established.

On February 6, 2024, after hearing submissions from the parties on appropriate conduct measures, the Conduct Board imposed an admonishment as the conduct measure.

INTRODUCTION

[1] On March 2, 2021, Corporal Ian Crowe attended Sanirajak Detachment. In front of two other members, he allegedly made an offensive and sexist comment about the “V” Division Commanding Officer, who had just rendered a conduct decision against him with respect to another unrelated matter.

[2] On that same day, Constable Rodney MacDonald,¹ as Acting Detachment Commander, contacted Inspector Adam MacIntosh and Staff Sergeant Denis Lambe,² to report Corporal Crowe’s comment as well as other concerns he had about Corporal Crowe.

[3] On March 5, 2021, Staff Sergeant Lambe and Corporal Travis Collins travelled to Sanirajak Detachment to remove Corporal Crowe from the community and send him to Ottawa for a psychological assessment due to the concerns raised by Constable MacDonald.

[4] The interaction between Staff Sergeant Lambe and Corporal Crowe on March 5, 2021, gave rise to five more alleged contraventions of the Code of Conduct. At this point, Corporal Crowe faced allegations due to the comment from March 2, 2021, from the interaction of March 5, 2021, as well as from events dating back to December 2020 and July 2021.

[5] On March 2, 2022, the Conduct Authority signed a *Notice to the Designated Officer* to request the initiation of a conduct hearing in relation to this matter.

[6] On March 8, 2022, Gerry Annetts was appointed as the Conduct Board, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[7] On June 6, 2022, I was appointed as the new Conduct Board in this matter. In accordance with subsection 45(1) of the *RCMP Act*, I must decide whether the allegations are established on a balance of probabilities. In other words, I must determine whether it is more likely than not that

¹ Constable Rodney MacDonald retired from the RCMP prior to the November 2023 Conduct Hearing. That said, he will be referred to by his rank at the time of the incidents throughout this decision.

² Staff Sergeant Denis Lambe was promoted to the rank of inspector prior to the November 2023 Conduct Hearing. That said, he will be referred to by his rank at the time of the incidents throughout this decision.

Corporal Crowe has contravened the RCMP Code of Conduct. If I find one or more of the allegations to be established, then I must impose conduct measures.

[8] The June 16, 2022, *Notice of Conduct Hearing* contained eight allegations. It was served on Corporal Crowe by mail on October 25, 2022, along with the investigation package. Corporal Crowe confirmed receipt on October 31, 2022.

[9] On January 27, 2023, Corporal Crowe provided his response to the *Notice of Conduct Hearing*, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291. He denied all allegations and requested further disclosure. Specifically, he requested the production of all notes and reports prepared by various participants in the events of March 2 to 31, 2021.

[10] From April 3, 2023, to July 27, 2023, three pre-hearing conferences were held with the Conduct Authority Representatives and the Subject Member Representative (collectively referred to as "the Representatives"). The primary purpose of these conferences was to review the Subject Member Representative's requests for further disclosure. The Subject Member Representative asserted that the information requested was essential to Corporal Crowe's ability to make full answer and defence to the allegations. I concurred with the Subject Member Representative's position. Accordingly, I provided the Conduct Authority Representatives with various directions to request the disclosure from the Professional Responsibility Unit and the Conduct Authority.

[11] On July 28, 2023, during the fourth pre-hearing conference, the Conduct Authority Representatives assured me that the Subject Member Representative had been provided with the entire Professional Responsibility Unit file and all available disclosure.

[12] On August 14, 2023, during the fifth pre-hearing conference, the Subject Member Representative advised that he had the opportunity to review the disclosure provided on or before July 28, 2023. He noted that various witnesses had yet to provide text messages, notes and reports. Specifically, Constable MacDonald and Staff Sergeant Lambe's emails, text messages and notes were missing from the disclosure.

[13] In response, the Conduct Authority Representatives assured me that they had repeatedly asked for the material and that everything in the possession of the witnesses had been provided. They emphasized that they had no reason to doubt that the witnesses had not provided everything in their possession.

[14] On September 26, 2023, the sixth and final pre-hearing conference in this matter was held. The parties confirmed that they were prepared to proceed to the Conduct Hearing on November 27, 2023.

[15] As is required in this process, I reviewed a copy of the *Notice of Conduct Hearing*, the investigation package, Corporal Crowe's response to the allegations, as well as additional documentation admitted in this matter. This material shall be referred to collectively as the Record.

[16] The Conduct Hearing for this matter was held in Calgary, Alberta, from November 27, 2023, to December 1, 2023. I heard oral testimony from six witnesses, including Corporal Crowe.

[17] On December 1, 2023, the Conduct Hearing was adjourned to allow two witnesses, Staff Sergeant Lambe and Constable MacDonald, to produce their notebook entries for the period of March 1 to 31, 2021.

[18] On December 7, 2023, Staff Sergeant Lambe advised that he could not locate his notebook for the relevant period.

[19] On December 8, 2023, I was provided with Constable MacDonald's notebook entries. I reviewed and redacted same before forwarding them to the Representatives.

[20] The Representatives confirmed the Conduct Hearing could proceed without re-examining the witnesses.

[21] On January 16, 2024, the Conduct Authority Representatives advised, in writing, that the Conduct Authority was requesting to withdraw Allegations 1, 2, 4, 5, 6 and 8. I granted the request on that date.

[22] On January 22, 2024, I heard oral submissions on Allegations 3 and 7 from the Representatives.

[23] On February 2, 2024, I delivered the oral decision on the Allegations: Allegation 7 is established on a balance of probabilities; Allegation 3 is not established.

[24] On February 6, 2024, I heard oral submissions from both the Representatives on the appropriate conduct measures to be imposed in this case.

[25] That same day, I delivered my oral decision on measures in which I imposed an admonishment.

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

ALLEGATIONS

[27] The allegations as set out in the *Notice of Conduct Hearing* read as follows:

[Allegation 1 was withdrawn on January 16, 2024.]

[Allegation 2 was withdrawn on January 16, 2024.]

Allegation 3

On or about March 5, 2021, at or near Sanirajak, Nunavut, Corporal Ian Crowe failed to carry out lawful orders and direction, contrary to section 3.3 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars of Allegations 3:

21. On March 5, 2021, [Staff Sergeant] Lambe and [Corporal] Collins arrived at the Sanirajak detachment.
22. [Staff Sergeant] Lambe entered your office and made a direct order that you to take off your duty belt. You did not comply with this order.
23. [Staff Sergeant] Lambe also made a direct order for you not to touch your intervention options.
24. You reached and put your hand on your pistol. [Staff Sergeant] Lambe reached over and put his hand on your hand and then removed the pistol and provided it to [Corporal] Collins.
25. Therefore, you did not comply with this order.
26. You did not comply with the order from [Staff Sergeant] Lambe to remove your duty belt.

27. You did not comply with the order from [Staff Sergeant] Lambe to not touch your intervention options.

28. You therefore breached section 3.3 of the RCMP *Code of Conduct*.

[Allegation 4 was withdrawn on January 16, 2024.]

[Allegation 5 was withdrawn on January 16, 2024.]

[Allegation 6 was withdrawn on January 16, 2024.]

Allegation 7

On or about March 2, 2021, Corporal Ian Crowe failed to treat every person with respect and courtesy contrary to section 2.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars of Allegation 7

44. On March 2, 2021, at the Sanirajak Detachment, you were present with [Constable] MacDonald and Reserve Constable MacKay.

45. You used obscene and offensive language in front of [Constable] MacDonald and Reserve Constable MacKay. Specifically, you called your Commanding Officer at that time, [Chief Superintendent] Amanda Jones, a “C-U-N-T” (spelled out).

46. You admit to using this foul language.

47. Therefore, you breached section 2.1 of the RCMP *Code of Conduct*.

[Allegation 8 was withdrawn on January 16, 2024.]

[*Sic throughout*]

SUMMARY OF ESTABLISHED FACTS BY CONDUCT BOARD

[28] On November 24, 2023, after considering various amendments requested by the Representative, I issued an *Amended Determination of Established Facts*. The *Amended Determination of Established Facts*³ sets out the following undisputed facts to which the Representatives agree:

- a) In March 2020, Corporal Crowe was promoted to the rank of corporal and transferred to Sanirajak, Nunavut, as a Detachment Commander.
- b) On or around July 2020, as a result of a separate matter, Corporal Crowe was temporarily reassigned to administrative duties in Iqaluit.

³ As 6 of the 8 allegations were withdrawn after the *Amended Determination of Established Facts* was drafted and provided to the Representatives, I will only set out the facts pertaining to Allegations 3 and 7.

- c) On or around September 25, 2020, Constable Rodney McDonald was named the Acting Detachment Commander of Sanirajak Detachment in Corporal Crowe's absence.
- d) On or around November 2020, Corporal Crowe returned to Sanirajak, but he remained on administrative duties at his residence until March 2, 2021, when the "V" Division Commanding Officer, Chief Superintendent Jones, advised him that he could immediately return to work.
- e) At all material times, Corporal Crowe was a regular member of the RCMP posted to "V" Division, at Sanirajak Detachment, in the territory of Nunavut.
- f) At all material times, Staff Sergeant Denis Lambe was Corporal Crowe's direct supervisor.
- g) On March 2, 2021, Corporal Crowe attended Sanirajak Detachment and Constable MacDonald and Reserve Constable MacKay were present.
- h) In front of both members, Corporal Crowe called the "V" Division Commanding Officer, Chief Superintendent Jones, a "C-U-N-T" (spelled out).
- i) On March 5, 2021, Staff Sergeant Lambe and Corporal Travis Collins arrived at Sanirajak Detachment.
- j) Staff Sergeant Lambe asked Corporal Crowe to take off his duty belt before they started having a conversation. Corporal Crowe went to remove his pistol from his duty belt.
- k) Staff Sergeant Lambe reached over and put his hand on Corporal Crowe's hand and then removed the pistol and provided it to Corporal Collins. Once Corporal Crowe's pistol was out, he did remove his duty belt and provided it to Staff Sergeant Lambe.

EVIDENCE

[29] The Record before me includes transcribed statements from 7 interviewed witnesses; the June 3, 2021, Code of Conduct Investigation Report with its 28 appendices; the February 28, 2022, Supplemental Code of Conduct Investigation Report, including 3 further witness statements; as well as 9 appendices and copies of various text message exchanges between Corporal Crowe and Constable MacDonald.

[30] At the Conduct Hearing, I heard oral evidence from six witnesses, including Corporal Crowe.

[31] In arriving at my finding on Allegations 3 and 7, I have also considered my November 24, 2023, *Amended Determination of Established Facts*, in conjunction with the oral evidence received at the Conduct Hearing.

Applicable legal principles to determine credibility and reliability of evidence

[32] The Supreme Court of Canada states that “[...] evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test. But again, there is no objective standard to measure sufficiency.”⁴

[33] In assessing the credibility of the six witnesses, I must consider whether they are being truthful and whether their evidence is reliable (i.e., whether the witness is in a position to accurately perceive and recollect what they observed). I may find a witness’s evidence to be truthful, but unreliable. It is also open to me to accept some, none or all of a witness’s evidence on a given point.⁵

[34] I must consider the impact of inconsistencies in that evidence and whether they impact the witness’s credibility when taken as a whole in the context of the totality of the evidence.⁶

[35] The British Columbia Court of Appeal notes that a witness’s evidence cannot be assessed solely on their demeanour, that is that they appear to be telling the truth.⁷ Rather, a trier of fact must determine whether the witness’s story is consistent with the most probable interpretation of the surrounding facts.

[36] 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.⁸

⁴ *F.H. v McDougall*, 2008 SCC 53 [*McDougall*], at paragraph 46.

⁵ *R. v R.E.M.*, 2008 SCC 51, at paragraph 65.

⁶ *McDougall*, at paragraph 75.

⁷ *Faryna v Chorny*, [1952] 2 DLR 354, at page 357.

⁸ *McDougall*, at paragraph 58.

[37] At this time, I will only assess the credibility and reliability of each witness whose testimony was relevant to Allegations 3 and 7, and include specific references in support of my assessment. The testimony material to each allegation will be canvassed in the context of my analysis of the allegations themselves.

Staff Sergeant Denis Lambe

[38] Staff Sergeant Lambe was the Division Advisory Non-Commissioned Officer (DANCO) for the “V” Division Eastern District. In that role, he oversaw the operations of the detachments and, consequently, detachment commanders in the eastern district, including Corporal Crowe, who reported directly to him.

[39] Staff Sergeant Lambe testified to his involvement in the events of March 5, 2021, when he attended Sanirajak Detachment to escort Corporal Crowe to Iqaluit to board a plane in order to undergo a psychological assessment in Ottawa.

[40] As of when I delivered my oral decision on the allegations on February 2, 2024, Staff Sergeant Lambe had misplaced the notebook that deals with the events of March 2021. However, he did testify that he had taken contemporaneous notes used to draft an “Investigation Report”, dated March 7, 2021, and that this report would reflect his notes.

[41] Staff Sergeant Lambe’s evidence was consistent with his Code of Conduct statements taken on March 31, 2021, and August 3, 2021. I found him to be credible.

[42] However, the reliability of his evidence was questionable as his testimony differed substantially on key points from that of Constable MacDonald’s recollections, as well as from the content of the “Investigation Report” he authored on March 7, 2021, based on his notes.

[43] In that report, Staff Sergeant Lambe states that he was notified by Constable MacDonald, at 11:45 a.m. on March 3, 2021, that Corporal Crowe referred to the Commanding Officer as a “Cee U Next Tuesday”.⁹

⁹ Conduct Authority Representative Exhibit 3 – Investigation Report, dated March 7, 2021.

[44] However, in his testimony before me, he stated:

Ian didn't spell the word. He said the word. So, I think that's not accurate when you say he spelled it. He said it after the conduct meeting. And Rodney was quite clear on that that he used the word "cunt", you know, three or four times, just said "that cunt" and he kept referring to that.

[45] I note that Constable MacDonald testified that Corporal Crowe never used the word "cunt" but, rather, spelled same referring to her as a "C-U-N-T".

[46] Another example of an inconsistency between Staff Sergeant Lambe's testimony and that of Constable MacDonald's is with respect to the timing of Staff Sergeant Lambe's knowledge of this incident. Staff Sergeant Lambe testified that it was not until the afternoon of March 3, 2021, that Constable MacDonald contacted him to report Corporal Crowe's inappropriate comment. The timing of his knowledge was relevant because at approximately 10 a.m. on March 3, 2021, Staff Sergeant Lambe sent an email to Corporal Crowe welcoming him back as Detachment Commander and advising him that he would be attending Sanirajak Detachment to update and assist him.

[47] Constable MacDonald, on the other hand, testified that he contacted Staff Sergeant Lambe before 10 a.m. on March 3, 2021, and advised him that Corporal Crowe referred to the Commanding Officer as a "C-U-N-T" on exactly two occasions.

[48] Therefore, Staff Sergeant Lambe was a credible, yet unreliable witness as it relates to the events of March 3 and 5, 2021.

Corporal Travis Collins

[49] At the relevant time, Corporal Travis Collins was posted to Iqaluit Detachment as the Operations Supervisor in Federal Serious Organized Crime.

[50] Staff Sergeant Lambe asked Corporal Collins to accompany him to Sanirajak Detachment in order to remove Corporal Crowe from the community. His understanding was that Corporal Crowe had made disparaging comments about the Commanding Officer, installed spyware on

RCMP computers, and “historical things going on” that made Staff Sergeant Lambe concerned about Corporal Crowe’s mental health.¹⁰

[51] Corporal Collins had detailed notebook entries for the relevant period, which he provided to the Professional Responsibility Unit Investigator on or around March 31, 2021, with an oral statement.

[52] I find Corporal Collins’s evidence to be highly credible and reliable. His oral evidence was also consistent with his statement. He answered questions clearly and in a forthright manner.

Constable Rodney MacDonald

[53] In September 2020, Constable Rodney McDonald was named the Acting Detachment Commander of Sanirajak Detachment in Corporal Crowe’s absence.

[54] On or around October 26, 2020, Corporal Crowe returned to Sanirajak, but he remained on administrative duties.

[55] Despite repeatedly being asked to provide all texts, emails and notebook entries between himself and Corporal Crowe, Staff Sergeant Lambe and Inspector Macintosh, in anticipation of Corporal Crowe’s Conduct Hearing, none were provided by Constable McDonald. He maintained that he had provided everything in his possession.

[56] However, while testifying at the Conduct Hearing on November 28, 2023, Constable McDonald conceded that he had notes in his police notebook which was “packed away”.

[57] During Constable MacDonald’s cross-examination, the Subject Member Representative canvassed extensively why Constable MacDonald failed to provide six months of text messages between himself and Corporal Crowe and his notebook entries or, in the alternative, to explain why he no longer had these in his possession.

¹⁰ Transcript of Conduct Hearing, Volume 2, November 28, 2023, Corporal Collins’ testimony, at page 55, at lines 17 to 24.

[58] Constable MacDonald responded that he must have misunderstood the request. He stated that he thought he was being asked whether he had any text messages at the time he was being asked (July 6, 2023). At that time, he had no text messages. He went on to state:

[...] I have never been involved with a Code of Conduct. I had no idea what to expect. Didn't put a whole lot of thought into it. The only things that I felt would be relevant to this – to what was exchanged – the emails that had been exchanged – the emails that had been sent to Inspector MacIntosh and the statements that I'd given to Corporal Mesdor (phonetic) and Corporal Abbott, and that's what I thought would be used.¹¹

[59] The Subject Member Representative noted that a police officer with over 20 years of service knows, or should know, that it is up to the prosecutor to determine relevance.

[60] Upon learning the existence of notebook entries, I ordered Constable MacDonald to provide his unredacted notebook entries from March 1 to 31, 2021, by December 8, 2023.

[61] On or around December 8, 2023, I received a copy of Constable MacDonald's notebook entries for the relevant period. I note that Constable MacDonald inexplicably had no entries, whatsoever, for the events of March 2, 3 and 4, 2021, at Sanirajak Detachment.

[62] Furthermore, he testified that he was not in possession of any text messages between himself and Corporal Crowe. However, the Subject Member Representative produced 36 pages of text messages between Constable MacDonald and Corporal Crowe, spanning from June 12, 2020, to March 5, 2021.

[63] It was evident from these text messages that Constable MacDonald and Corporal Crowe were initially colleagues and that their relationship, to any outsiders looking in, appeared to have evolved into a friendship.

[64] Constable MacDonald was the individual who reported Corporal Crowe's inappropriate comment to Inspector MacIntosh and Staff Sergeant Lambe. I note that he was also the individual who alleged that Corporal Crowe had mental health issues; that he was concerned for his safety

¹¹ Transcript of Conduct Hearing, Volume 3, November 29, 2023, Constable MacDonald's testimony, at page 54, at line 24, to page 55, at line 6.

and that of others; that Corporal Crowe had installed spyware on RCMP computers at the Detachment; and that Corporal Crowe had threatened to cause bodily harm to Constable Tyson Richards.

[65] These allegations, none of which were found to be true, are what led to Staff Sergeant Lambe's attendance at Sanirajak Detachment on March 5, 2021, to remove Corporal Crowe from the community and send him to Ottawa for a mental health assessment.

[66] A review of Constable MacDonald's notebook entries for the month of March 2021 revealed that the only notes he took with respect to his reported concerns about Corporal Crowe and the incidents of March 2021 were limited to March 5, 2021: from 11 a.m., when he picked up Staff Sergeant Lambe and Corporal Collins at the airport, to 12:40 a.m., when Corporal Crowe called him from his residence to apologize for any words he used that were offensive.

[67] Constable MacDonald did not have any notes, emails, correspondence or documentation that would support or corroborate any of the allegations he made against Corporal Crowe except for a typed statement prepared and forwarded to Staff Sergeant Lambe with respect to the inappropriate comment made on March 2, 2021.

[68] In cross-examination, Constable MacDonald conceded that he and Corporal Crowe had a relationship during which he would often attend his residence for holiday dinners and shared frustrations over private texts talking about RCMP bureaucracy, at times using offensive language, that was not intended to be shared.¹²

[69] The Subject Member Representative canvassed the reasons Constable MacDonald voiced concerns about Corporal Crowe's mental health and why, upon being advised by Staff Sergeant Lambe of his impending return as Detachment Commander, commented that he could not work with Corporal Crowe in light of the fact that, up to March 3, 2021, he had never worked with him as a police officer.

[70] In response, Constable MacDonald stated:

¹² Transcript of Conduct Hearing, Volume 3, November 29, 2023, at pages 11 to 13.

It's not a matter of work, it was a matter of the conversations that had happened at the first part of 2021 where I was becoming more and more concerned about some of his rationale for decisions when he had questioned about buying hockey – or getting hockey gear for the kids and about getting candy for the kids, that response didn't make sense to me, and I thought this is just going to be a long year and a half.¹³

[71] The Subject Member Representative suggested that Constable MacDonald thought these two initiatives were good for the community. However, Corporal Crowe's position was to consider the broader implication to the RCMP and that Constable MacDonald did not accept his position.

[72] Constable MacDonald responded with the following:

I believe it was a position that he didn't like the fact that there was something good happening that he didn't have his fingers on. That's my thought. I don't think that – I don't think it's a – that anybody could consider that getting hockey gear for kids or for donating gifts to kids can be bad.

So that's again what I felt that there was something going on that just it wasn't a rational response. It wasn't a response that I felt was from a reasonable person. And it was backed up with previous conversations from him that were odd.

So it was a totality of everything that had led me to the statement that I had made to Staff Sergeant Lambe that hey I'm concerned about his mental health, I think that when staffing comes around I'd really like to get out of here because I don't think I can work for this guy for very long.¹⁴

[73] I found Constable MacDonald's testimony to be disingenuous and self-serving. Overall, I did not find him to be credible. However, despite this, I will nonetheless consider his evidence where it is otherwise corroborated by other testimony or documentation.

Corporal Ian Crowe

[74] Corporal Crowe testified before me on November 29 and 30, 2023. He was an articulate and forthright witness.

¹³ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 20, at lines 16 to 25.

¹⁴ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 21, at line 21, to page 22, at line 13.

[75] He answered questions directly and clearly during both his examination in chief and cross-examination. I note that Corporal Crowe was not shaken during cross-examination and his evidence did not waiver.

[76] I found Corporal Crowe's evidence to be highly credible and reliable.

ALLEGATION 3 – DISOBEY A LAWFUL ORDER

[77] Allegation 3 states that, on or around March 5, 2021, at or near Sanirajak, Nunavut, Corporal Crowe failed to carry out lawful orders and direction contrary to section 3.3 of the RCMP Code of Conduct.

Evidence on Allegation 3

Staff Sergeant Denis Lambe's evidence

[78] Staff Sergeant Lambe testified in chief on November 27, 2023.

[79] He stated that, when he entered Corporal Crowe's office, he "asked him to remove his duty belt and he immediately said 'No, I'm not doing that'".¹⁵

[80] He indicated telling Corporal Crowe to "please remove your duty belt before we start our conversation" and "do not touch your intervention options"¹⁶ at "least three times".¹⁷

[81] When asked if regular members are taught how to remove their duty belt, Staff Sergeant Lambe responded that there is no set way of doing it. He explained that some members, like himself, first remove their pistol, clear it, put it away, and then remove the duty belt. He explained that, in Nunavut, members usually do not have the option of leaving their pistol at the office since they get dressed in uniform at their residence and wear same to work.¹⁸

¹⁵ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 32, at lines 5 to 7.

¹⁶ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 33, at line 25, to page 34, at line 3.

¹⁷ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 40, at lines 4 to 5.

¹⁸ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 33, at lines 1 to 11.

[82] After a few times of Corporal Crowe responding that he was not taking off his duty belt and that this was “bullshit”, Staff Sergeant Lambe testified that he stated “I’m ordering you to take off your duty belt and do not touch your intervention options”.¹⁹

[83] At that point, Corporal Crowe “took a pregnant pause” and then:

[...] he placed his hand on his pistol – he’s a right-handed shooter – placed his hand on his pistol and he was going to take – what I believe was take the pistol out of his holster. Again, it could be muscle memory. [...] But to avoid any misunderstandings, any miscommunications, I did reach over with my right hand and placed it on top of Ian’s – Corporal Crowe – sorry – hand that was on his pistol and I said “I will take that. Do not remove that. I will take that.” [...] But I reached over, he took his hand off almost immediately, and I unclicked his holster, I removed his pistol, and I took the pistol to change it to my left hand and I passed it to – laid it near – there was a bookshelf [...] laid it on there, and Corporal Collins cleared the pistol and secured it.²⁰

[84] Staff Sergeant Lambe testified that Corporal Crowe did not place his hand on his pistol in a threatening manner, it was muscle memory. To avoid any misunderstanding, Staff Sergeant Lambe explained that he stopped Corporal Crowe. According to Staff Sergeant Lambe, he believed that Corporal Crowe had now made the decision to remove his duty belt.²¹

[85] Staff Sergeant Lambe had taken his pistol, Corporal Crowe removed his duty belt and handed it over.

[86] Once the duty belt was given to Corporal Collins, Staff Sergeant Lambe testified that he ordered Corporal Crowe to sit down to have a discussion. It was at this point that Staff Sergeant Lambe informed Corporal Crowe as to why he was there, starting with the inappropriate comment about the Commanding Officer and that he was being removed from Sanirajak to undergo a psychological assessment.

¹⁹ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 34, at lines 12 to 17.

²⁰ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 35, at lines 1 to 19.

²¹ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 37, at lines 5 to 15.

[87] Staff Sergeant Lambe testified that Corporal Crowe agreed to go to his residence, pack a few things and change out of his uniform. He asked Corporal Collins to escort Corporal Crowe to his residence since he was in uniform but unarmed.

[88] Staff Sergeant Lambe testified that a reason he did not inform Corporal Crowe of the true reason he was coming to Sanirajak when he reached out to him earlier in the day was because of the conversations he had with Constable MacDonald about being fearful of Corporal Crowe since he had returned to the community in October 2020 and that he had threatened to beat up Constable Richards.²²

[89] During his cross-examination, Staff Sergeant Lambe confirmed that he took handwritten notes, in his notebook, with respect to the events of March 2 to 5, 2021, and provided these to the Professional Responsibility Unit Investigator, Corporal Abbott. However, he testified that he had not brought his notebook with him to the Conduct Hearing, since it was not required by the subpoena he received. When questioned by the Conduct Board, he conceded that when he attends court for any operation matter he did not need to be told to bring his notebook.²³

[90] When he was made aware of Corporal Crowe's inappropriate comment about Chief Superintendent Jones, Staff Sergeant Lambe testified that he discussed the matter with her. There was then an immediate discussion about Corporal Crowe's mental health and a need to send him for a psychological assessment.²⁴

[91] Staff Sergeant Lambe further conceded that he intentionally misrepresented the purpose of his attendance at Sanirajak to Corporal Crowe. Conversely, he confirmed that he provided updates of his attendance to Constable MacDonald and advised him that he was coming up to remove Corporal Crowe from the community.²⁵

[92] With respect to how he communicated with Constable MacDonald, Staff Sergeant Lambe testified that it was by text or telephone. The Subject Member Representative asked Staff Sergeant

²² Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 80, at lines 1 to 11.

²³ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 184, at lines 22 to 25.

²⁴ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at pages 177 and 178.

²⁵ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 205.

Lambe the reason he did not preserve any of the text exchanges with Constable MacDonald despite being aware that a Code of Conduct Investigation was being mandated as early as March 5, 2021. His response was as follows: “I have no answer for that.”²⁶

[93] During his cross-examination, Staff Sergeant Lambe confirmed that he went to the restroom when he arrived at Sanirajak Detachment. Upon exiting the restroom and proceeding to Corporal Crowe’s office, he could hear Corporals Collins and Crowe having a social conversation. He also conceded that Corporal Crowe had been misled in believing that he was about to have a positive meeting with him and that he was there to support him.²⁷

[94] Since Corporal Crowe had not been given any indication that there were any issues, Staff Sergeant Lambe agreed that the fact that he entered his office and immediately told him to take off his duty belt and not touch his intervention options would have been confusing. In other words, he acknowledged that Corporal Crowe would have been taken aback.

[95] Furthermore, Staff Sergeant Lambe acknowledged that Corporal Crowe was questioning why it was necessary to remove his duty belt since he did not have a clue why Staff Sergeant Lambe was actually there.

[96] Staff Sergeant Lambe recalled that Corporal Crowe stated words to the effect of “Denis, we can have a conversation without me removing my intervention options”.²⁸ At that point, he testified that he turned to Corporal Collins and said words to the effect that Corporal Crowe was disobeying a direct order.

[97] Staff Sergeant Lambe confirmed that Corporal Crowe complied once he used the word “order”.

[98] During the redirect by the Conduct Authority Representatives, Staff Sergeant Lambe stated that he recalled stating that it was an “order” twice. He testified:

²⁶ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 205, at lines 16 to 23.

²⁷ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 228, at lines 4 to 19.

²⁸ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 234, at lines 21 to 25.

Because after the first time, and he was still saying no, then I turned to Corporal Collins and said, “He’s disobeying an order. You’re witness to it. [...]

However, once I said it, I don’t even know if it had it out of my mouth the second time fully, he complied.²⁹

Corporal Travis Collins’s evidence

[99] Corporal Collins testified on November 28, 2023. In March 2021, Corporal Collins was posted to Iqaluit Detachment in the Federal Serious Organized Crime Section.

[100] Corporal Collins advised that, on March 5, 2021, he was asked to attend Sanirajak Detachment by Staff Sergeant Lambe. He was told about Corporal Crowe making disparaging remarks about the Commanding Officer; there being concerns about his mental health as a result of “some historical things going on”;³⁰ and how Corporal Crowe would be returning to Iqaluit with him and Staff Sergeant Lambe.

[101] Corporal Collins recalled that Constable MacDonald picked them up at the airport and drove them to Sanirajak Detachment. Upon arrival at the Detachment, Staff Sergeant Lambe went to the restroom while he went to Corporal Crowe’s office and stood in the doorway speaking with Corporal Crowe.

[102] He went on to state that Staff Sergeant Lambe then arrived at Corporal Crowe’s office and:

[...] walked around me to the side of the desk. [Staff Sergeant] Lambe said, like “Hi,” and “How are you doing?” or some short introduction, and then said that we were here to – he was there to discuss something very serious and the first thing he wanted was for Corporal Crowe to take off his duty belt and not touch any of his intervention options. And Corporal Crowe said that he wasn’t going to do that.³¹

²⁹ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 36, at lines 19 to 22; and page 37, at lines 3 to 5.

³⁰ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 55, at line 19.

³¹ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 57, at lines 4 to 12.

[103] Corporal Collins recalled that Corporal Crowe stood up and stated that he was going to leave and Staff Sergeant Lambe responded “No, you’re not leaving. I want you – you have to remove your duty belt. And don’t touch any of your intervention options.”³²

[104] When Corporal Crowe declined again, Corporal Collins testified that Staff Sergeant Lambe looked at Corporal Collins and said “Do you note that he’s not obeying an order?” to which he responded “Yes, I note that.”³³

[105] Corporal Collins recalled that, at that point, Corporal Crowe put his hand on the grip of his pistol. Staff Sergeant Lambe then put his hand on the holster and took Corporal Crowe’s firearm out of his holster and placed it on a filing cabinet behind him. Corporal Collins retrieved the pistol, rendered it safe, and turned it over to Constable MacDonald, who was in the doorway of the office.³⁴

[106] Staff Sergeant Lambe then handed him Corporal Crowe’s duty belt which he, in turn, gave Constable MacDonald. Corporal Collins testified that he did not see how the duty belt came off.

[107] During his cross-examination, Corporal Collins testified that he was not aware that Corporal Crowe had been misled into believing that Staff Sergeant Lambe was attending Sanirajak Detachment on a prisoner transport and would drop in, and that this was going to be a positive meeting.³⁵

[108] Corporal Collins conceded that it is not normal for a supervisor to ask that one remove one’s duty belt or intervention options before having a discussion.³⁶

[109] Corporal Collins could not recall if Staff Sergeant Lambe voiced any kind of reasoning to Corporal Crowe prior to asking him to remove his duty belt. Furthermore, he confirmed that his

³² Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 60, at lines 10 to 13.

³³ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 60, at lines 16 to 17.

³⁴ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 62, at lines 1 to 24.

³⁵ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 106, at lines 1 to 5.

³⁶ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 106, at lines 15 to 19.

contemporaneous notes did not reflect that there was any discussion about a Code of Conduct or any type of investigation prior to asking Corporal Crowe to remove his duty belt.³⁷

Constable Rodney MacDonald's evidence

[110] Constable MacDonald testified before me on November 28 and 29, 2023.

[111] In September 2020, Constable McDonald was named the Acting Detachment Commander of Sanirajak Detachment, in Corporal Crowe's absence.

[112] Constable MacDonald testified that, on March 2, 2021, he received a phone call from Staff Sergeant Lambe advising him that Corporal Crowe was returning to work as his temporary reassignment order was being revoked by the Chief Superintendent Jones. Shortly thereafter, Corporal Crowe attended Sanirajak Detachment to retrieve his pistol and advise that he was resuming his role as Detachment Commander effective the next morning.

[113] Constable MacDonald stated that he and Reserve Constable Jeff MacKay were present in the bullpen of the Detachment when Corporal Crowe entered the Detachment and made the "C-U-N-T" comment about the "V" Division Commanding Officer.

[114] Constable MacDonald recalled that, the next morning, on March 3, 2021, before 10 a.m., he called Staff Sergeant Lambe to report what had occurred the previous day. According to Constable MacDonald, Staff Sergeant Lambe advised of his making plans to attend Sanirajak and take care of the situation.³⁸

[115] Constable MacDonald explained that, on March 3, 2021, he did not have any other interaction with Staff Sergeant Lambe. However, he had numerous email exchanges with Inspector MacIntosh, about his fear of Corporal Crowe and his concerns about his mental health.

³⁷ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 114, at lines 4 to 11.

³⁸ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 180, at line 15, to page 181, at line 1.

[116] With respect to the events of March 5, 2021, Constable MacDonald testified that, at 11 a.m. he went to the airport to pick up Staff Sergeant Lambe and Corporal Collins and bring them to the Detachment. He testified that, per his notes, they arrived at the Detachment at 11:07 a.m.

[117] Upon entering the Detachment, Corporal Collins went to Corporal Crowe's office while Staff Sergeant Lambe went to the restroom. Constable MacDonald testified that Staff Sergeant Lambe told him to sit where he normally did while they met with Corporal Crowe. He noted that his desk was in the bullpen, next to the corporal's office and that he could hear most of what was being said in the office.

[118] Constable MacDonald testified that he heard Staff Sergeant Lambe say:

“We're here to discuss some serious matters” or along that line, “And I would ask, for your safety and mine, that you remove your gun belt without touching your firearm or your other intervention options.”

And within – I don't want to – I don't know whether it was seconds or a half a second, but it was in very close proximity, I heard an elevated voice from Staff Sergeant Lambe saying, “Don't touch your gun” or, “Leave your gun.”³⁹

[119] Constable MacDonald testified that, as he was making his way to Corporal Crowe's office, he heard Staff Sergeant Lambe say “Let go of your gun” or “Don't touch your gun”. When he made it to the door, he heard Corporal Crowe state “Oh my God, Denis”.⁴⁰

[120] When he got to the entrance of the corporal's office, he saw Corporal Crowe standing up in front of his chair, back to the door and arms in the air and he looked back over his right shoulder to Constable MacDonald and said “Are you witnessing this?”.⁴¹

[121] Constable MacDonald recalled Staff Sergeant Lambe saying to Corporal Collins something to the effect of “failure to follow a direct order”.

[122] At that point, Corporal Collins handed Constable MacDonald an unloaded pistol and duty belt, which he secured in the exhibit locker.

³⁹ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 195, at lines 8 to 17.

⁴⁰ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 200, at line 23, to page 201, at line 7.

⁴¹ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 201, at lines 7 to 12.

[123] Constable MacDonald testified that, throughout the encounter in Corporal Crowe's office, he heard Staff Sergeant Lambe ask for Corporal Crowe's duty belt once and that Corporal Crowe's initial response was "Oh my god, Denis".⁴²

[124] Constable MacDonald went on to state that, subsequently, he heard Staff Sergeant Lambe telling Corporal Crowe the reason he was there was because there had been a complaint made about his mental health and that he had called the Commanding Officer a C-U-N-T.

[125] Approximately 10 minutes later, at 11:19, Constable MacDonald saw Corporal Collins escort Corporal Crowe out of the Detachment back to his house. Corporal Collins then returned and started seizing the Detachment computers and replacing same.

[126] In view of the mental health concerns surrounding Corporal Crowe, Constable MacDonald observed that he was surprised that Corporal Crowe was left alone at his residence, where he had numerous firearms, and that he, Corporal Collins and Staff Sergeant Lambe were simply waiting for him at the Detachment.

[127] As of the date of the Conduct Hearing, Constable MacDonald had not provided his notebook entries. However, he had provided an undated typed statement, which is in the Record.

[128] During cross-examination, Constable MacDonald stated that the undated typed statement was a transcript of his notebook entries taken on March 5, 2021, within minutes of the interaction in Corporal Crowe's office. He conceded that these were the most accurate reflection of what he recalled. In those notes, he did not state that Staff Sergeant Lambe advised Corporal Crowe that they had "serious" matters to discuss, but rather that he was there to discuss "some things" and asked Corporal Crowe to remove his duty belt.⁴³

[129] Constable MacDonald also confirmed during cross-examination that Staff Sergeant Lambe advised Corporal Crowe of the reasons for his presence at the Detachment only after Corporal Crowe's pistol and duty belt had been removed and secured in the exhibit room.

⁴² Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 200, at lines 11 to 21.

⁴³ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 72, at line 24, to page 73, at line 15.

[130] Constable MacDonald conceded that it was not typical for a supervisor to ask one to remove one's duty belt. He had never heard of that in 23 years of service. Furthermore, he indicates that Corporal Crowe was unfortunately the only person in the Detachment who did not know what was going on.⁴⁴

Corporal Ian Crowe's evidence

[131] Corporal Crowe testified before me on November 29 and 30, 2023.

[132] He testified that, at 4:30 p.m. on March 3, 2021, he received an email from Staff Sergeant Lambe stating that he was taking advantage of a possible prisoner escort to Sanirajak to stop in and have a chat now that he was back at work.

[133] Corporal Crowe testified that he was surprised and relieved that Staff Sergeant Lambe was flying up as he had a ton of questions about his role and had never had a DANCO visit in all his time in Sanirajak. Corporal Crowe testified that he was greatly looking forward to the opportunity of a face-to-face meeting with Staff Sergeant Lambe.

[134] Corporal Crowe recalled that on the morning of March 5, 2021, he attended the Detachment at 9 a.m. to start his shift. He had a pot of coffee ready with the expectation that Staff Sergeant Lambe would attend.

[135] Corporal Crowe recalled that, before lunchtime, he heard the pilot over the radio advising that they were on approach to the airport, which gave him some time to get to the airport. He testified that he got on the radio to announce his meeting them at the airport and asked how many vehicles were required as he was under the impression that there was a prisoner as well. Constable MacDonald got on the radio and advised that he was already at the airport and if an additional vehicle was required, he would advise.⁴⁵

[136] Corporal Crowe testified that, within less than ten minutes, he heard the back door open. He was sitting at his desk sipping a cup of coffee and looking forward to having a conversation

⁴⁴ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 74, lines 1 to 10.

⁴⁵ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 191, at line 12, to page 192, at line 15.

with Staff Sergeant Lambe. When he saw that Corporal Collins was present, he was taken aback until he remembered that they were on a prisoner escort, which required two members.

[137] Shortly after exchanging a few words with Corporal Collins, Staff Sergeant Lambe entered the corporal's office. Corporal Crowe testified:

Staff Sergeant Lambe came walking behind my L-shaped desk, stood directly to my left, felt like he was hovering over top of me because I was sitting and he was standing. He leans down to me and he says "Ian, before we have a conversation I need you to give me your gun and duty belt." I had never heard those words – I'd heard those words before in a different context. I hadn't heard those words from Staff Sergeant Lambe and I hadn't heard we need to have a conversation but before we do so.⁴⁶

[138] Corporal Crowe recalled saying something to the effect of:

This is really uncomfortable again. Denis, I don't understand. You and I have tonnes of history. We've known each other for years. Why can we not have a conversation with me retaining my duty belt and intervention options.⁴⁷

[139] He recalled that Staff Sergeant Lambe responded by stating that they needed to discuss something serious and that before the discussion he would like him to provide his duty belt and firearm.

[140] Corporal Crowe stated that he again voiced his confusion and that the situation did not feel right. It was at that point, according to Corporal Crowe, that Staff Sergeant Lambe turned to Corporal Collins and stated:

Corporal Collins, take notes, Corporal Crowe is disobeying a lawful order from his [Non-Commissioned Officer] and he's refusing to turn over his firearm and duty belt.⁴⁸

⁴⁶ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 194, at lines 2 to 11.

⁴⁷ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 195, at lines 3 to 7.

⁴⁸ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 195, at lines 18 to 22.

[141] Corporal Crowe testified that Staff Sergeant Lambe's words "sunk in", he paused for a moment, and understood that he was being given an order and reached for his duty belt with his left hand and, with his right hand, started to remove his pistol from his duty belt.

[142] He then heard someone say "stop" and Staff Sergeant Lambe placed his hand onto his right hand, moved it away, at which point Corporal Crowe recalled putting his hands in the air to make it "very obvious that I wasn't going to touch anything, and I wasn't going to do anything, and I froze in that moment".⁴⁹

[143] Staff Sergeant Lambe removed his pistol from the holster and handed it to Corporal Collins to make it safe and clear. Corporal Crowe testified that he then proceeded to remove his duty belt and handed it over to Staff Sergeant Lambe.

[144] Consistent with Constable MacDonald's testimony, Corporal Crowe recalled seeing Constable MacDonald outside the corporal's office and asking him to witness what was happening.

[145] Corporal Crowe stated it was at that point, based on the look on Constable MacDonald's face, he realized that everyone in the room was aware of what was happening except for him.

[146] He recalled that his duty belt was handed over to Constable MacDonald, who left the corporal's office, and Staff Sergeant Lambe ordered him to sit down and have a discussion.

Findings on Allegation 3

[147] In order to establish a contravention of section 3.3 of the Code of Conduct, the Conduct Authority must establish on a balance of probabilities:

- a) the identity of the member;
- b) that a lawful order or direction was provided in a clear and precise manner by a person superior in rank or with the authority to do so;
- c) That the subject member failed to carry out that order or direction without lawful excuse.

⁴⁹ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 197, at lines 6 to 8.

Identity of the member

[148] The identity of the member is not in dispute.

Order provided in a clear and precise manner

[149] I heard evidence from the four members who were present at Sanirajak on March 5, 2021. According to Constable MacDonald's brief and incomplete notes leading to March 5, 2021, and Corporal Collins's notes of the event, the interaction lasted 12 minutes, from 11:07 a.m. to 11:19 a.m.

[150] When it comes to what was said to Corporal Crowe that morning, Staff Sergeant Lambe's March 7, 2021, "Investigation Report", which was allegedly drafted from his March 5, 2021, contemporaneous notes, stated the following:

[...] On March 5th, 2021, Staff Sergeant Lambe arrived at [Sanirajak] Detachment accompanied by Corporal Travis Collins. Corporal Crowe was in his office. Staff Sergeant Lambe and Corporal Collins entered Corporal Crowe's office and [Staff Sergeant] Lambe advised [Corporal] Crowe that prior to any discussions taking place he was to remove his duty belt. Corporal Crowe refused, and Staff Sergeant Lambe once again told him to remove his duty belt, and to not touch any of his intervention options while doing so. Corporal Crowe was visibly upset. Corporal Crowe told Staff Sergeant Lambe that he was leaving the detachment and would not listen to him. Staff Sergeant Lambe again told Corporal Crowe to remove his duty belt and to not touch his intervention options. [Corporal] Crowe then went to remove his pistol from his holster and Staff Sergeant Lambe stepped in to him and grabbed his hand. Corporal Crowe did not resist and thought it was not necessary ... it may have just been instinctual to remove his pistol prior to taking his belt off. [...]⁵⁰

[151] In his testimony before me, Staff Sergeant Lambe conceded that Corporal Crowe had no idea why he was there as he had intentionally misled him about the purpose of his visit.

[152] Staff Sergeant Lambe stated "Yeah, so I asked him to remove his duty belt and he immediately said "No, I'm not doing that". He went on to state "I asked him to remove his duty

⁵⁰ Conduct Authority Representative Exhibit 3 – Investigation Report, dated March 7, 2021.

belt and not touch any of his intervention options ... I said that at least two or three times. He refused.”⁵¹

[153] Staff Sergeant Lambe further testified “... to the point where I said ‘I’m ordering you to take off your duty belt and do not touch your intervention options’”.

[154] At no point in his March 7, 2021, “Investigation Report”, did Staff Sergeant Lambe mention uttering the words “I’m ordering you”.

[155] Constable MacDonald’s contemporaneous notes of March 5, 2021, stated the following:

[...] Arrive with [Staff Sergeant] Lambe & Corporal Travis ... entered Det @ 11:07 [a.m.] – heard Staff Sergeant Lambe ask Ian to remove his gun belt but not touch his gun. I then heard Staff Sergeant Lambe say “Don’t touch your gun” Ian replied “Oh my God Denis.” Lambe: “That’s a direct order” [...]⁵²

[156] The reason I highlight these few discrepancies, among the plethora of others, is to make the point that the reliability of both of these Conduct Authority Representatives’ witnesses is questionable.

[157] Corporal Travis Collins was direct, forthright and had provided his notes to the Professional Responsibility Unit Investigator and are part of the Record:

He recalled that Staff Sergeant Lambe came into the office and stated something to the effect of “Hi” and “How are you doing?” or some short introduction, and then said that we were here to – he was there to discuss something very serious and the first thing he wanted was for Corporal Crowe to take off his duty belt and not touch any of his intervention options.⁵³

[158] He recalled that, at one point, Staff Sergeant Lambe stated “No, like, this is serious. I’m not joking around. You need to take off your duty belt.”⁵⁴

⁵¹ Transcript of Conduct Hearing, Volume 1, November 27, 2023, at page 32, at lines 5 to 17.

⁵² Constable R. MacDonald’s Notebook, entry for March 5, 2021.

⁵³ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 57, at lines 2 to 11.

⁵⁴ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 57, at lines 14 to 15.

[159] Furthermore, Corporal Collins testified before me that, on March 5, 2021, Staff Sergeant Lambe had looked at him and said “Take note that he’s disobeying an order”⁵⁵, at which point “Ian stepped back, and he put his hand on the grip of his firearm”⁵⁶. Corporal Collins continued to state that, at that point, Staff Sergeant Lambe grabbed Corporal Crowe’s hand, removed the pistol from the holster and passed it to Corporal Collins.⁵⁷

[160] This version of the events is also reflected in Corporal Crowe’s recollection. It was when Staff Sergeant Lambe turned to Corporal Collins and stated “Corporal Collins take note that Corporal Crowe is disobeying an order”⁵⁸ that Corporal Crowe understood that he was being given an order, and he complied.

[161] Based on the evidence before me, I find that Staff Sergeant Lambe’s initial interaction with Corporal Crowe was not a clear and precise order. I agree with the Representatives that an “order” does not require one to state “this is an order”. However, it must be clear and unequivocal.

[162] Corporal Crowe was baffled, he could not understand why his supervisor, who was attending Sanirajak to welcome him back to work and offer his support and assistance, would walk in and demand for him to remove his duty belt without further explanation. It was only when it became apparent by Staff Sergeant Lambe’s own words “I’m not joking”, then turning to Corporal Collins to state that Corporal Crowe was disobeying, that the direction became clear and unequivocal.

[163] I further agree with the Subject Member Representative’s submission that context is important. The entire unfortunate incident, in my view, was a result of how the situation was handled.

[164] As a result, the Conduct Authority has failed to establish on a balance of probabilities that the direction provided was clear and unequivocal so as to constitute an order.

⁵⁵ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 60, at lines 16 to 17.

⁵⁶ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 60, at lines 19 to 20.

⁵⁷ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 62, at lines 8 to 11.

⁵⁸ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 195, at lines 18 to 22.

Failure to comply with order

[165] It is noteworthy that the entire interaction, from the time that Staff Sergeant Lambe entered the Detachment, attended the restroom, requested for Corporal Crowe to remove his duty belt, secured the pistol and duty belt and then had the “serious conversation”, occurred in 12 minutes.

[166] I find that, within this short time period, once Corporal Crowe understood that he was being given an order, he did comply.

[167] Therefore, I find that Allegation 3 is not established on a balance of probabilities.

ALLEGATION 7 – LACK OF COURTESY

[168] Allegation 7 states that, on or around March 2, 2021, Corporal Crowe failed to treat every person with respect and courtesy contrary to section 2.1 of the RCMP Code of Conduct.

[169] The RCMP *Conduct Measures Guide*, as highlighted in the Conduct Authority Representatives’ submission, provides: “Members treat every person with respect and courtesy.”⁵⁹ This includes remaining respectful and courteous towards other employees as well as members of the public.

[170] Disrespectful or discourteous behaviour encompasses conduct that ranges from obscene or rude language to insulting or inappropriate behaviour.

[171] In RCMP conduct matters, in order to establish “disrespect or discourtesy” under section 2.1 of the Code of Conduct, the Conduct Authority must establish each of the following elements on a balance of probabilities:

- a) the identity of the subject member;
- b) the action(s), comment(s) or conduct that the subject member is alleged to have made or engaged in;
- c) that a reasonable person would view this behaviour as being disrespectful or discourteous.

⁵⁹ *Conduct Measures Guide*, November 2014, at page 11.

Evidence on Allegation 7

Constable MacDonald's evidence

[172] The first time Constable MacDonald interacted with Corporal Crowe in his police officer capacity was on March 2, 2021, when Corporal Crowe attended the Detachment to retrieve his intervention tools.

[173] Constable MacDonald recalled that he was in the bullpen area of the Detachment with Reserve Constable MacKay. He heard the back door of the Detachment shut and then saw Corporal Crowe coming down the hallway and went into the exhibit locker where he retrieved his firearm and duty belt that were stored there.

[174] Corporal Crowe then walked to the bullpen. Constable MacDonald testified that Corporal Crowe stated:

“I’ve been ordered back to work.” Sorry, “I’ve been ordered back to work effective immediately by the C-U-N-T.” And he spelt [*sic*] it. And I said, “What did you say?” Because I didn’t know what – I didn’t – it didn’t make sense to me that that’s what he would say. And so he repeated. He said, “Yeah, the C-U-N-T ordered me back to work.” He spelled it. “The C-U-N-T ordered me back to work effective immediately.”⁶⁰

[175] Constable MacDonald’s recollection was corroborated by a written statement, dated March 2, 2021, authored by Reserve Constable MacKay, which is contained in the Record.

[176] On cross-examination, Constable MacDonald testified that he reported Corporal Crowe’s comment to Staff Sergeant Lambe by phone, at approximately 9:30 a.m. on March 3, 2021.⁶¹ At 12:26 p.m. that same day, Constable MacDonald forwarded his version of the March 2, 2021, incident via text to Staff Sergeant Lambe.⁶²

⁶⁰ Transcript of Conduct Hearing, Volume 2, November 28, 2023, at page 167, lines 7 to 15.

⁶¹ Transcript of conduct Hearing, Volume 3, November 29, 2023, at page 35, lines 6 to 13.

⁶² Subject Member Representative Exhibit 1 - Subject Member’s Book of Documents, at Tab 2.

[177] However, on redirect, Constable MacDonald, agreed with the Conduct Authority Representatives that it was “possible” he contacted Staff Sergeant Lambe after 10 a.m. on March 3, 2021.⁶³

[178] To clarify the issue, I then questioned Constable MacDonald directly about the timeline of the morning of March 3, 2021. Constable MacDonald provided answers to my direct questions as to the amount of time it took to drive to the Distant Early Warning Line [“DEW line”] with Reserve Constable MacKay; call a colleague in Iqaluit; and then call Staff Sergeant Lambe. The testimony established that, in a worst-case scenario, he would have placed the call to Staff Sergeant Lambe at 9:45 a.m. on March 3, 2021.

Corporal Ian Crowe’s evidence

[179] Corporal Crowe provided his subsection 15(3) response to the allegations on January 27, 2023. He admitted particulars 44, 45 and 46 contained in the *Notice of Conduct Hearing*.

[180] Corporal Crowe’s response advised the Conduct Board that, subsequent to the inappropriate utterances and after being made aware on March 5, 2021, that Chief Superintendent Jones had been advised of his offensive language, he called her and left an apology on her voice mail. Chief Superintendent Jones called back acknowledging that apology.

[181] During his testimony before me, Corporal Crowe related that, sometime in July 2020, a Code of Conduct Investigation was initiated against him based on allegations brought forward by a subordinate, Constable Richards.

[182] As a result of these allegations, he was temporarily reassigned to Iqaluit Detachment on administrative duties until October 2020, when he was allowed to return to Sanirajak Detachment on administrative duties while awaiting the results of the Code of Conduct Investigation.

[183] At some point in time, he was notified that there would be a conduct meeting, to be held March 2, 2021, between himself and the “V” Division Commanding Officer.

⁶³ Transcript of Conduct Hearing, Volume 3, November 29, 2023, at page 99, at line 7, to page 100, at line 9.

[184] Corporal Crowe testified as follows at the Conduct Hearing:

I was, funny enough, very much looking forward to having my opportunity to sit down with Chief Superintendent Amanda Jones and tell her my version of what had occurred during the dates of those allegations. It has been the only time since I was informed of the Code of Conduct initiation that anybody had really asked me what had happened that day other than my legal counsel and union. So I was overly excited to have that opportunity. I had been off work and eager, because I was aware that when it was resolved I'd be retuning to work promptly after that pending any sanctions.⁶⁴

[185] The conduct meeting took place virtually with Chief Superintendent Jones in Iqaluit and Corporal Crowe, sitting in his kitchen in Sanirajak. Corporal Crowe recalled that Chief Superintendent Jones read the allegations and he was then allowed to speak. At the Conduct Hearing, Corporal Crowe testified:

I had a script in my mind already what I wanted to say and what occurred that day. I said everything I needed to say to the Conduct Authority. I believe my speech lasted about seven minutes I believe – seven to ten minutes. It was what I needed to say. I was thanked by the Conduct Authority, and she said “If you give me about an hour I will have a decision for you and get back to you”.⁶⁵

[186] Corporal Crowe stated that, based on the evidence collected during the investigation, he felt very confident that Chief Superintendent Jones would not find any of the allegations against him to be established on a balance of probabilities.

[187] After approximately one hour, the virtual session resumed, and Chief superintendent Jones found that all of the allegations were established. She advised that, although she took Corporal Crowe's perspective of what happened into consideration, she believed Constable Richards and his wife.

[188] Chief Superintendent Jones immediately imposed a forfeiture of two days of pay and ordered Corporal Crowe to write an essay about the RCMP involvement in the killing of Inuit sled dogs 70 years ago.

⁶⁴ Transcript of the Conduct Hearing, Volume 3, November 29, 2023, at page 169, at line 19, to page 170, at line 5.

⁶⁵ Transcript of the Conduct Hearing, Volume 3, November 29, 2023, at page 170, at line 20, to page 171, at line 2.

[189] Corporal Crowe testified that the sanction made him feel “absolutely belittled by – put me back into elementary school and feeling like a child again”.⁶⁶

[190] Chief Superintendent Jones also informed Corporal Crowe that he was to return back into the role of the Detachment Commander at Sanirajak Detachment immediately. He promptly went to the Detachment to obtain his firearm and notify Constable MacDonald that he would be returning to work.

[191] Corporal Crowe admitted to using the inappropriate utterance once he entered the Detachment and explained:

... to me like I was sharing with a friend my utter disappointment and frustration with the process and the –what I felt was slightly disrespect from [Chief Superintendent Jones] in her sanctions and how I didn’t feel that it was positive and professional that I’d be treated like a child.⁶⁷

Findings on Allegation 7

[192] Corporal Crowe admitted to referring to Chief Superintendent Jones as a “C-U-N-T”. Shortly thereafter, he called Chief Superintendent Jones to apologize for using the term.

[193] The Subject Member Representative agreed with the Conduct Authority Representatives that the word is offensive and misogynistic. However, the Subject Member Representative submitted that section 2.1 of the Code of Conduct is not intended to capture this situation. He argued that I should assess this comment in light of the surrounding circumstances—Corporal Crowe made the comment in the heat of the moment, when he was deeply disappointed that Chief Superintendent Jones had established two Code of Conduct allegations against him. He was communicating his frustration in the privacy of the Detachment to a trusted friend, Constable MacDonald. Corporal Crowe did not intend the comment to go beyond the four walls of the Detachment nor did he intend for the comment to be relayed or communicated to Chief Superintendent Jones.

⁶⁶ Transcript of the Conduct Hearing, Volume 3, November 29, 2023, at page 172, at lines 7 to 15.

⁶⁷ Transcript of the Conduct Hearing, Volume 3, November 29, 2023, at page 174, at lines 13 to 18.

[194] In rebuttal, the Conduct Authority Representatives pointed out that Corporal Crowe's intention not to have the comment relayed to Chief Superintendent Jones is not relevant. They submitted that he made the comment in front of both Constable MacDonald and Reserve Constable MacKay, who was not a friend but a stranger.

[195] I agree with the Conduct Authority Representatives that Corporal Crowe's intention is irrelevant to the issue before me and that he uttered the comment in front of more than what he believed at the time was a "trusted friend".

[196] Corporal Crowe's admission to using the offensive term in referring to Chief Superintendent Jones is consistent with the material before me, the oral evidence of Constable MacDonald, and the statement of Reserve Constable MacKay.

[197] It is well established that police officers are held to a higher standard than the general public. Members of the RCMP must adhere to the Code of Conduct both on and off duty. In this instance, the comment in question took place in the workplace, in front of two colleagues, and was uttered by the Detachment Commander.

[198] The first two elements of the test under section 2.1 of the Code of Conduct, namely the identity of the member and the comment that Corporal Crowe is alleged to have made, are not in dispute.

[199] The third part of the test, to establish "disrespect or discourtesy" under section 2.1 of the Code of Conduct, requires an answer to the following question: "Would an objective, reasonable person in the community view this comment as disrespectful or discourteous?"

[200] I find that a reasonable person, with knowledge of the comment, and knowledge not only of policing in general but policing in the RCMP in particular, would view this objectionable comment as disrespectful and discourteous.

[201] Therefore, I find that Corporal Crowe's comment was unquestionably rude, sexist and discourteous. Consequently, I find that Allegation 7 is established on a balance of probabilities.

CONDUCT MEASURES

[202] Having found Allegation 7 established and in accordance with subsection 45(4) of the *RCMP Act*, I am required to impose “a fair and just measure that is commensurate to the gravity of the contravention, the degree of blameworthiness of the member, and the presence of mitigating and aggravating factors.”⁶⁸

Applicable legal principles

[203] The *Ceyssens and Childs Report*⁶⁹ identifies five principles that serve as a foundation for the process of creating a fit conduct measure.

[204] The first principle articulated is “a conduct measure must fully accord with the purposes of the police complaint and discipline process”.⁷⁰ Furthermore, in the context of determining an appropriate sanction, these purposes are “the public interest, the RCMP’s interest as an employer; the subject-member’s interest to be treated fairly and, finally, the interests of those affected by the misconduct at issue”⁷¹.

[205] I note that the powers granted to a police officer are considerable; the public justifiably expects members of the RCMP to observe the highest ethical and professional standards.

[206] Second, remedial and corrective measures should prevail, where appropriate.⁷²

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

⁶⁸ *Conduct Measures Guide*, November 2014, at page 3.

⁶⁹ Ceyssens, Paul and Childs, Scott, *Phase 1 – Final Report Concerning Conduct Measures and the Application of Conduct Measures to Sex-Related Misconduct under Part IV of the RCMP*, dated February 24, 2022 [*Ceyssens and Childs Report*].

⁷⁰ *Ceyssens and Childs Report*, at page 17, at paragraph 4.1.

⁷¹ *Commanding Officer of “K” Division and Constable Ryan Deroche*, 2022 CAD 13, at paragraph 82.

⁷² *RCMP Act*, at paragraph 36.2(e).

[208] The fourth principle, as articulated by the Supreme Court of Canada and courts of appeal, is that a higher standard of conduct applies to police officers.⁷³

[209] Finally, the fifth principle is proportionality or parity of sanction.⁷⁴ This requires a conduct board to identify the “relevant proportionality considerations”; then assess whether the identified proportionality factors are mitigating, aggravating or neutral; and, finally, appropriately balance or weigh the identified relevant proportionality considerations.

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

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

Analysis on conduct measures

[212] I will begin by setting out the appropriate range of measures, then go through the mitigating and aggravating factors. Finally, I will briefly set out my conclusion.

[213] With respect to the appropriate range, I have considered the Representatives’ submissions as well as the cases presented. I find that Corporal Crowe’s misconduct falls on the lower end of the spectrum and that the appropriate range for a conduct measure in this case is from an admonishment to a forfeiture of pay of 1 to 3 days.

Aggravating factors

[214] *Black’s Law Dictionary* defines “aggravation” as follows:

⁷³ *Montréal (City) v Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2008 SCC 48, at paragraphs 33 and 86.

⁷⁴ *Ceyssens and Childs Report*, at page 21, at paragraph 7.1.

Any circumstance attending the commission of a crime or tort which increases its guilt or enormity or adds to its injurious consequences, but which is above and beyond the essential constituents of the crime or tort itself. [...]⁷⁵

[215] I concur with only two of the four aggravating circumstances articulated by the Conduct Authority Representatives:

- a) First, the nature of the comment itself. Namely the use of an unprofessional, offensive and misogynistic term about the “V” Division Commanding Officer.
- b) Second, Corporal Crowe, the Detachment Commander, uttered the comment in the Detachment in front of two subordinates.

Neutral factor

[216] I do not agree with the Conduct Authority Representatives’ submission that Chief Superintendent Jones’s March 2, 2021, finding of two established contraventions of the Code of Conduct constitutes an aggravating factor.

[217] I note that these findings and the imposed conduct measures are under appeal. Consequently, I look at this prior misconduct as being a neutral factor.

Mitigating circumstances

[218] I note that these do not constitute a justification or an excuse for the offence, but in fairness to the subject member, these may be taken in consideration to reduce the severity of the sanction imposed, in order to appropriately deal with the misconduct.

[219] First and foremost, Corporal Crowe admitted the misconduct at the first opportunity in the conduct process. Furthermore, he proactively contacted the Chief Superintendent Jones to apologize for his inappropriate comments in the days immediately following the misconduct.

[220] Second, Corporal Crowe has an above-average work record as evidenced by his yearly assessments and an exceptional work ethic.

⁷⁵ The Law Dictionary, *Black’s Law Dictionary*, 2nd Edition, “Aggravation”, 4 November 2011, online at: <https://thelawdictionary.org/aggravation/>.

[221] Third, from all accounts, this was a momentary loss of composure or outburst that appears to be out of character. I accept the Subject Member Representative's submission that the outburst was a result of Corporal Crowe being profoundly disappointed after just being told that two allegations of misconduct were established. It does not excuse the behaviour but, as submitted by the Subject Member Representative, context is important.

[222] Fourth, I am confident that there is a minimal likelihood of recidivism.

Decision on conduct measures

[223] When I weigh the aggravating factors against the mitigating circumstances, consider the impact that the conduct process has had on Corporal Crowe, and the fact that, in my opinion, this matter should never have been brought before a conduct board, I conclude that the appropriate conduct measure is an admonishment, which this decision constitutes.

[224] Furthermore, if I had the authority to do so, I would strongly recommend for Corporal Crowe to be transferred out of "V" Division as this has not been an environment that has been supportive nor that has allowed him to flourish or be appreciated for his dedication and commitment to the RCMP.

[225] In closing, I feel compelled to comment on the manner in which these proceedings were conducted. On the eve of submissions with respect to the allegations, the Conduct Authority Representatives asked that I withdraw six of the eight allegations.

[226] I note that, from the time I was appointed as Conduct Board in June 2022, six pre-hearing conferences were held. Throughout, I questioned the Conduct Authority Representatives with respect to the sufficiency of evidence contained within the Record. Despite this, they insisted on proceeding with the eight allegations.

[227] When engaged as a representative of the conduct authority, counsel's role is not primarily to seek to obtain a finding of a contravention of the Code of Conduct, but to see that justice is done.

[228] I adopt the words of Chair Annetts:

[62] In the context of RCMP conduct hearings, that means that the Conduct Authority must continually assess the evidence to ensure there is a reasonable likelihood of a finding of a contravention of the Code of Conduct. If there is not, then the prosecution must be discontinued. It is inappropriate for the conduct authority to avoid that responsibility and instead leave it to the Conduct Board to make the inevitable finding.⁷⁶

[229] Withdrawing six allegations out of eight, after the allegation phase, due to lack of evidence is an indication that such an assessment was not done and is, frankly, inappropriate.

CONCLUSION

[230] I hereby impose:

- An admonishment pursuant to paragraph 3(1)(a) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291.

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

[232] Either party may appeal this decision by filing a statement of appeal with the Commissioner within 14 days of the service of this decision on Corporal Crowe as set out in section 45.11 of the *RCMP Act* and section 22 of the *Commissioner's Standing Order (Grievances and Appeals)*, SOR/2014-289.

Louise Morel
Conduct Board

October 23, 2024
Ottawa, Ontario

⁷⁶ *Commanding Officer of "E" Division and Inspector S. Manj*, 2019 RCAD 20, at paragraph 62.