

Publication ban: Any information that could identify the witnesses in the present decision shall not be published, broadcast or transmitted in any way.



**ROYAL CANADIAN MOUNTED POLICE**

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

Between:

**Designated Conduct Authority for “K” Division**

Conduct Authority

and

**Staff Sergeant X**  
Regimental Number XXXXX

Subject Member

---

**Conduct Board Decision**

Colin Miller, Conduct Board

March 21, 2025

---

Pierre-Olivier Lemieux and Eric Blenkarn, Conduct Authority Representatives

John Benkendorf, Subject Member Representative

Table of contents

SUMMARY .....	3
INTRODUCTION .....	4
Publication ban .....	6
ALLEGATION AND ESTABLISHED FACTS .....	6
Decision on Allegation .....	9
CONDUCT MEASURES .....	10
Applicability of <i>Conduct Measures Guide</i> .....	11
Analysis .....	13
Balancing of interests .....	13
Proportionality considerations .....	14
<b>Potential to reform or rehabilitate</b> .....	16
<b>Effect on Subject Member and their family</b> .....	16
<b>Parity (consistency of disposition)</b> .....	16
<b>Specific and general deterrence</b> .....	17
Conclusion .....	17
Joint proposal .....	17
Decision on conduct measures .....	19
CONCLUSION .....	20

## SUMMARY

The *Notice of Conduct Hearing* contained two alleged contraventions of the RCMP Code of Conduct: the first under section 4.6 and the second under section 7.1. The Subject Member is alleged to have accessed an RCMP database for an unauthorized purpose and to have used the information obtained from the database to contact witnesses for personal reasons.

Prior to the start of the conduct hearing, the Conduct Authority withdrew the second allegation. The parties then jointly produced an *Agreed Statement of Facts*, in which the Subject Member admitted remaining Allegation

On March 10, 2025, the Conduct Board delivered his oral decision, in which the Allegation was found to be established. The matter proceeded to a contested hearing on conduct measures.

On March 11, 2025, the Conduct Board provided his oral decision on measures, imposing the following conduct measures:

- a) the forfeiture of 10 days' pay, to be administered through the forfeiture of 7 days' pay and 3 days of annual leave;
- b) a demotion to the rank of sergeant for a period of 9 months, to begin upon the date the Subject Member is reinstated to active duty; and,
- c) the ineligibility for the Subject Member to act in any position at a higher level during the period of demotion.

## INTRODUCTION

[1] On September 12, 2022, Ms. S.S. complained that her daughter, J.S., had been sexually assaulted by the Subject Member's son. Ms. S.S. was apprehensive to make a report, knowing that the accused was the son of an RCMP member; however, she still proceeded with the complaint. Consequently, a criminal investigation was initiated, and a Police Reporting and Occurrence System (PROS) file was created without inputting the identities of the complainants, in the event that the file was accessed inappropriately.

[2] On September 13, 2022, a flag was added to the PROS file to capture the identity of anyone who accessed it. Statements were subsequently obtained from Ms. S.S. and J.S., and their personal information was added to the PROS file.

[3] On September 14, 2022, it was discovered that the Subject Member had accessed the PROS file multiple times without any operational purpose.

[4] On October 5, 2022, an RCMP Code of Conduct investigation was mandated into the Subject Member's actions, pursuant to subsection 40(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[5] In the process of the criminal investigation, it was learned that the Subject Member had contacted several of the witnesses. Consequently, this information was brought to the attention of a Conduct Authority, who directed for the Subject Member's actions in relation to the witnesses be investigated as well.

[6] On March 30, 2023, the Subject Member was served with an *Amended Mandate Letter*, which included a second allegation to that effect.

[7] On September 11, 2023, the Conduct Authority submitted a *Request for the Extension of Time Limitations, Pursuant to Subsection 47.4(1) of the RCMP Act* to the Delegated Officer, seeking an extension to the prescribed limitation period for the initiation of a conduct hearing. On October 5, 2023, the Delegated Officer granted the Conduct Authority an extension to January 15, 2024.

[8] On December 21, 2023, the Conduct Authority signed a *Notice to the Designated Officer*, requesting the initiation of a conduct hearing. On December 22, 2023, a conduct board was appointed pursuant to subsection 43(1) of the *RCMP Act*.

[9] The *Notice of Conduct Hearing* was signed by the Conduct Authority on April 10, 2024, and served on the Subject Member on April 29, 2024, along with the investigation package.

[10] On June 14, 2024, the Subject Member provided their response to the *Notice of Conduct Hearing*, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291. They admitted to both allegations, including to their particulars; however, they provided contextual explanations with respect to particulars 17 and 18.

[11] On August 29, 2024, following administrative changes, I was appointed as the Conduct Board.

[12] On February 27, 2025, a Pre-Hearing Conference was held in which the parties advised that they were engaging in resolution discussions. Specifically, the Subject Member Representative advised me that as a result of the supplemental conduct investigation, the Subject Member was no longer admitting the second allegation.

[13] On March 5, 2025, the Conduct Authority withdrew the second allegation. The parties subsequently agreed that this matter would proceed via videoconference, as the Subject Member was the only witness being called at the conduct measures phase of the Conduct Hearing.

[14] On March 7, 2025, I received a proposed *Agreed Statement of Facts* from the parties. However, a contested hearing with respect to conduct measures was still required.

[15] On March 10, 2025, the Conduct Hearing began virtually.

[16] At the outset of the Conduct Hearing, the parties confirmed that they wished to have the *Agreed Statement of Facts* replace the Particulars of the Allegation found in the *Notice of Conduct Hearing*. Accordingly, with the parties' agreement, I have incorporated the *Agreed Statement of Facts* into my *Determination of Established Facts*, as set out in this decision.

[17] The parties also advised that they had reached an agreement with respect to the forfeiture of pay that would be included as part of the proposed conduct measures; however, they were unable to agree on the length of the proposed demotion.

[18] On March 10 and 11, 2025, I delivered my oral decision on the Allegation and on the conduct measures, respectively. This written decision incorporates and expands upon those oral decisions.

### **Publication ban**

[19] In accordance with paragraph 45.1(7)(a) of the *RCMP Act*, I order that any information that could identify the witnesses shall not be published, broadcast or transmitted in any document or in any other way.

[20] To protect the identity of the Subject Member's son, who was a minor at the time of the incident, the Subject Member's identity is also prohibited from publication.

### **ALLEGATION AND ESTABLISHED FACTS**

[21] The *Determination of Established Facts* reads as follows:

**Allegation 1:** On or between September 13, 2022, and September 15, 2022, at or near [redacted], Alberta, during the course of their duties, [the Subject Member] failed to use government-issued equipment and property only for authorized purposes and activities contrary to section 4.6 of the Code of Conduct of the Royal Canadian Mounted Police.

#### **Facts:**

1. The relevant evidence outlines [the Subject Member] engaging in the misuse of government-issued equipment and property, namely, accessing the RCMP's [PROS] database in relation to the sexual assault investigation involving [their] son, for personal reasons.
2. [The Subject Member] was not an involved officer in the investigation regarding [their] son. They had no authorized purpose or duty related reasons for accessing the RCMP's PROS database regarding [their] son's sexual assault investigation.
3. [The Subject Member] has been a member of the RCMP since December 2000, and has been with the [redacted] since December 2012.

4. On September 12, 2022, Ms. S.S. lodged a complaint alleging that her daughter had been sexually assaulted by [the Subject Member]'s son. PROS file 2022-[XXXXXXX] was created and Constable [J.S.] was assigned as the lead investigator. On September 13, 2022, [Ms. S.S.] provided a statement to police.
5. The alleged sexual assault incident involving [the Subject Member's] son and his girlfriend at the time, would have occurred during a party where he was intoxicated. [The Subject Member] was concerned that something might have happened given [their] son's intoxication, and directed him to call a number of his friends that were not intoxicated at the time.
6. The potential witnesses contacted were L.H., I.S. and J.B. L.H. and I.S. were not advised that [the Subject Member] was listening to the calls; however, during the conversation with J.B., [the Subject Member] did ask what J.B. remembered from that night.
7. On September 13 and September 14, 2022, using [their] RCMP issued laptop, [the Subject Member] accessed PROS file 2022-[XXXXXXX]. Among other things, they accessed the following information:
  - a) the Person Tab which took [the Subject Member] to the victim report screen;
  - b) the Occurrence Tab which took [the Subject Member] to the involvement screen;
  - c) the General Occurrence Report which took [the Subject Member] to Constable [J.S.]'s General Report;
  - d) the Supplementary Report for the Zebra Child Protection Report;
  - e) the Contact Log;
  - f) the Persons entries; and
  - g) the Involvement tab and Contact tab.
8. On September 13, 2022, [the Subject Member] emailed Constable [J.S.] advising that [they] had noted a PROS file had been created and [their] son would be available to discuss this false allegation of sexual assault. According to Constable [J.S.], she did not respond to [the Subject Member]'s email and forwarded it to Inspector [K.M].
9. On September 14, 2022, [the Subject Member] called Constable [J.S.] on her cellphone at 8:36 a.m. and 10:08 a.m.; however, she did not answer [their] calls.
10. That same day, [the Subject Member] contacted Sergeant [K.K.] to report that they had looked at PROS file 2022-[XXXXXXX] and advised [they were] going to tell [their] supervisor.
11. On September 15, 2022, Superintendent [D.W.] received a text message from [the Subject Member] advising [they] had an urgent matter that

[they] needed to address. [The Subject Member] advised him that [they] had accessed PROS 2022-[XXXXXXX]. Superintendent [D.W.] advised [the Subject Member] not to access the PROS file or to contact the investigator.

12. That same day, [the Subject Member] met with Inspector [K.M.] to advise him about [their] son's involvement in a potential sexual assault. [The Subject Member] wanted [their] son to provide a statement before any final decision was made as to whether to proceed with criminal charges. [The Subject Member] provided a thumb drive of a recording between [their] son and [their] son's ex-girlfriend.
13. Inspector [K.M.] raised his concerns about [the Subject Member] accessing the PROS file. [The Subject Member] confirmed [they] had gone into the file to check the status of the investigation and advised that [they] could not help going into the investigation file.
14. On November 23, 2022, [the Subject Member] and Constable [J.S.] had a phone conversation in relation to [their] son providing a statement and whether the file would be going for Crown review. Following their conversation, [the Subject Member] sent an email to Constable [J.S.] to apologize for being abrupt on the phone and explained that [they were] not dealing well with this whole situation. [They] had previously been diagnosed with PTSD.
15. On November 26, 2022, the RCMP had completed the interviews of potential witnesses in relation to the sexual assault investigation.
16. On December 1, 2022, [the Subject Member's] son's lawyer, [Mr. D.E.], contacted a number of witnesses as a result of the victim filing a restraining order application against [the Subject Member's] son.
17. On or around June 2023, the Crown Prosecutor's office decided to withdraw the criminal charges against the [Subject Member's] son.
18. The Crown prosecutor assigned to the file expressed that "there was a flavour of interference by the [parent] of the accused who is an RCMP officer and who talked to most of the witnesses before the investigator got to them. I have considered that issue, and although it may be appropriate for [the Subject Member] to be investigation *sic* for [their] interference, I cannot say that [they] counseled anyone to protect [their] son. On the contrary [they are] noted to have told each of the persons to meet with the police and to tell the truth of what they saw."
19. Ultimately, [the Subject Member] did, on other occasions tell various potential witnesses to cooperate with the police, tell the truth and not to defend [their] son. These contacts were done prior to the victim filing her complaint with the RCMP.



[22] Upon having the Allegation and the *Determination of Established Facts* read to them, the Subject Member admitted the Allegation. The parties elected not to make any further submissions on the Allegation.

### **Decision on Allegation**

[23] The burden of proof is on the Conduct Authority to establish the Allegation on a balance of probabilities. Practically speaking, this means that I must find that the Conduct Authority has established that it is more likely than not that the Subject Member has contravened section 4.6 of the Code of Conduct.

[24] Section 4.6 of the Code of Conduct of the RCMP states that “Members use government-issued equipment and property only for authorized purposes and activities.”

[25] Furthermore, the *Conduct Measures Guide* (November 14, 2024, version), at page 225, provides the following commentary:

[...]

RCMP members are entrusted with many types of personal, confidential and classified information and are bound by the RCMP Oath of Secrecy at all times. It is crucial to the integrity of the RCMP and policing partners and essential to upholding the law, that privileged information be protected from improper use or disclosure.

[...]

[26] To establish an allegation under section 4.6 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) that the subject member used government-issued equipment or property; and,
- c) that the subject member used the equipment or property for an activity or purpose that was not authorized or operational.

[27] In light of the Subject Member’s admission, their identity is not in question.

[28] Furthermore, the second element of the test is satisfied. The Subject Member admitted the Allegation. Additionally, the evidence in the record, which includes a PROS audit, clearly demonstrates that the Subject Member used their RCMP-issued laptop to access the PROS file.

[29] Finally, the Subject Member was not an investigator on the criminal file against their son, nor were they a member of the investigating unit. With the lack of any operational reason to access the file, as well as with their admission, I find that they used RCMP equipment for an unauthorized purpose.

[30] As a result, I find the Allegation to be established on a balance of probabilities.

## CONDUCT MEASURES

[31] In accordance with paragraph 36.2(e) of the *RCMP Act*, I am required to impose “conduct measures that are proportionate to the nature and circumstances of the contravention and, where appropriate, that are educative and remedial rather than punitive.”

[32] In determining the appropriate conduct measures to be imposed, I will examine whether the partial joint proposal should be accepted, including what duration of demotion is required. To do so, I will begin by applying the five foundational principles that guide the assessment of a fit conduct measure, as set out in the *Conduct Measures Guide*, at page 20.

[33] The first foundational principle states that conduct measures must “fully accord with the four purposes of the police complaint and discipline process”, which requires the balancing of four interests: 1) the public; 2) the RCMP as an employer; 3) the subject member in being treated fairly; and 4) those affected by the misconduct at issue, where applicable (*Conduct Measures Guide*, at page 20).

[34] Paragraphs 36.2(b) and (c) of the *RCMP Act* highlight this principle:

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;

[35] The Supreme Court of Canada has also highlighted the importance of the public interest by stating that “[t]he purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve public confidence in the profession”.<sup>1</sup>

[36] The second and third principles provide that remedial and corrective measures should prevail, where appropriate, and that the presumption of the least onerous disposition should be imposed. However, both of these principles will be displaced if public confidence or organizational effectiveness is undermined (*Conduct Measures Guide*, at pages 24 and 25).

[37] The fourth principle is that the conduct measures imposed must be proportionate to the nature and circumstances of the contravention. This requires the conduct board to identify the relevant proportionality considerations, and assess whether they may be mitigating, aggravating or neutral. The conduct board must appropriately balance and weigh these factors in consideration of the circumstances of the case and of the four purposes of the police complaint and discipline process (*Conduct Measures Guide*, at page 25).

[38] The fifth principle is that police officers are expected to adhere to a higher standard of conduct (*Conduct Measures Guide*, at page 29).

### **Applicability of *Conduct Measures Guide***

[39] In their submissions, the parties have noted that changes were made to the *Conduct Measures Guide* in November 2024. Furthermore, they have argued as to which version of the Guide applies to the Subject Member’s misconduct considering it occurred in 2022 when the previous 2014 version was in effect.

[40] The 2024 version of the *Conduct Measures Guide* departs from the 2014 version in that it changes the section of the Code of Conduct under which misuse of RCMP databases falls. Moreover, it takes a more serious stance on this type of misconduct, equating it to a breach of trust.

---

<sup>1</sup> *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

[41] As noted by the Subject Member Representative, within the 2014 version of the *Conduct Measures Guide*, the misuse of RCMP databases was included under section 4.6 of the Code of Conduct, whilst in the 2024 version, it falls under section 9.1. With that change, more serious consequences for contraventions of that section are envisioned.

[42] The Conduct Authority Representative argued that the Subject Member's misconduct should be viewed through the current lens as there are various reports that have been released over the last several years that speak to the need for increased accountability for members of the police.

[43] Additionally, the Conduct Authority Representative referenced a 2016 Court of Appeal of Quebec decision,<sup>2</sup> in which a very strong stance was taken with respect to the unauthorized use of police databases. He argued that the Subject Member ought to have been aware of the changing landscape in relation to police discipline, specifically as it relates to the misuse of police records.

[44] Conversely, the Subject Member Representative argued that the misconduct must be viewed in its historical context. He added that there is no mention of the practice of retrospectivity in the 2024 version of the *Conduct Measures Guide*. He suggested that a clear demarcation was made with its introduction. Therefore, in relying on decisions from various forums, including in the RCMP conduct board decision in *Murchie*,<sup>3</sup> it would be unfair for the Subject Member to have conduct measures imposed upon him that were not even contemplated when they committed the misconduct.

[45] Firstly, I would like to emphasize the role of the *Conduct Measures Guide*. Whether the 2014 version or the 2024 version, either one is just that, a guide. The *Conduct Measures Guide* is a useful reference when determining the appropriate range of sanctions for a particular category of behaviour, along with ensuring parity of sanction. However, at no juncture was a conduct authority or more specifically, a conduct board, fettered by the recommendations contained therein in making a determination on conduct measures.

---

<sup>2</sup> *Fraternité des policiers et policières de Saint-Jean-sur-Richelieu inc. v St-Jean-sur-Richelieu (Ville de)*, 2016 QCCA 1086.

<sup>3</sup> *Designated Conduct Authority for "E" Division and Murchie*, 2024 CAD 08 [*Murchie*], at paragraph 223.

[46] Secondly, I note that the changes to sanctioning guidelines in some of the cases referred to by the Subject Member Representative were the result of legislative amendments, which is not the situation here. Furthermore, there is reference to when the decision maker is not an expert in the respective area of discipline, which again, is not the situation at hand.

[47] Thirdly, the intent of the *Conduct Measures Guide* was for it to be a living document that would change to reflect societal norms and expectations. Unfortunately, the process for it to be updated took longer than would have been preferred.

[48] Finally, I do find that taking a stance with respect to conduct measures that is completely devoid of any reflection on previous practices or decisions would result in an unfair outcome. Consequently, I will be using the 2024 version of the *Conduct Measures Guide* as a reference in determining the appropriate conduct measures while being mindful of the shift in societal expectations since the Subject Member's misconduct.

## **Analysis**

### *Balancing of interests*

[49] The public has an expectation that members of the RCMP, who have been granted exceptional powers to enforce the laws in our society, will uphold and abide by the law in not only their professional life but also their personal life. Accordingly, the public has a vested interest in ensuring that information that the police obtain in the course of their official duties is used only for the purpose for which it was collected.

[50] The very nature of police work necessitates that members will come into possession of information that is very sensitive or personal to their clients. As such, it must be treated with the utmost care and confidentiality.

[51] Similarly, the RCMP as an employer has a responsibility to maintain the public's trust in the organization.

[52] Over the past several years, various reports about the RCMP have been released that have garnered significant media attention, created a lack of trust in our communities and tarnished the

reputation of the organization. To rebuild this trust, the RCMP must demonstrate that it is holding members who contravene the Code of Conduct accountable.

[53] The Subject Member's interests must also be considered. They must be afforded the rights dictated by procedural fairness, including the right to be heard. Additionally, given that the result of an administrative process, such as the RCMP Code of Conduct process, will likely have ramifications on the Subject Member's career as well as their personal life, I must be mindful of the corrective and rehabilitative objectives of this process.

[54] In this case, there is not a specific affected person, as there is no indication that Ms. S.S. or her daughter are aware that this contravention occurred. Nevertheless, it is worth mentioning that misconduct of this nature could have a chilling effect on those who have been victims of crime.

#### *Proportionality considerations*

[55] The *Conduct Measures Guide* provides a non-exhaustive list of factors to be considered in determining proportionality. I have found the following factors to be relevant to the circumstances of this case and have provided my findings as to whether they should be considered mitigating, aggravating or neutral.

#### *Public interest*

[56] As I noted previously, the public has a profound interest in ensuring that those in positions of authority can be trusted not to abuse that authority. Accordingly, I find the Subject Member's use of their position as a member of the RCMP to access a protected records database to be an aggravating factor.

#### *Seriousness of misconduct*

[57] Much has been made by the Representatives with respect to how the seriousness of the Subject Member's misconduct should be viewed. As I have already addressed this within this decision, I will simply note that I find this to be a serious contravention, which is an aggravating factor.

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

[58] During their testimony, the Subject Member testified that, at the time that they accessed PROS, they did not view it as particularly serious, noting that many people have viewed the file. However, they have since educated themselves and developed an appreciation for the seriousness of their actions and the resulting impact it can have on the RCMP. Furthermore, they are ashamed that they acted in a manner that could do a disservice to the Force.

[59] However, in his closing submissions, the Subject Member Representative noted that, at the time that the Subject Member accessed the file, there was not a lot of information in it and that they did not disclose that information, other than to confirm that a complaint had been made. Regardless of whether there was a lot of information in the file or that the Subject Member did not disclose that information, they still acted on it.

[60] Furthermore, the mere fact that some of the witnesses were made aware by the Subject Member's son that the Subject Member had accessed the file has a detrimental impact. Given Ms. S.S.'s and her daughters initial reluctance to come forward in reporting the criminal matter, due to their concern about the Subject Member's position in the RCMP, I find this to be an aggravating factor.

***Disability and other relevant considerations***

[61] During their testimony, the Subject Member spoke of their PTSD and the symptoms that they suffer as a result. However, no medical evidence was put before me to demonstrate that their condition had contributed to their misconduct. I can appreciate that criminal allegations of this nature being made about one's child would cause any person a tremendous amount of stress or concern. However, in the absence of any causal link between their misconduct and their condition, I find this to be a neutral factor.

***Employment history***

[62] On the one hand, the extremely positive letters of support that the Subject Member provided from their co-workers suggest that they are well liked and respected, are a team player, go above and beyond, as well as are an extremely competent member. Furthermore, the

performance assessment that they submitted also indicates that they are a high performer and an asset to their team.

[63] On the other hand, I note that they have two instances of prior discipline, including a contravention of section 3.2 of the Code of Conduct for abusing their position of authority. Where their present misconduct also results from them abusing their position, I find that even the glowing references from their co-workers and community members cannot mitigate their behaviour. Consequently, I find this to be a neutral factor.

#### **Potential to reform or rehabilitate**

[64] Given the Subject Member's experience with the conduct process and their expression of regret, both Representatives indicated that the Subject Member is unlikely to reoffend. I agree. Therefore, I find this to be a mitigating factor.

#### **Effect on Subject Member and their family**

[65] The Subject Member spoke about the impact that the accusation against their son had on their life. However, they did not specifically indicate what effect their misconduct had on their life, or what impact the imposition of various measures could have on them and their family. As such, I find this to be a neutral factor.

#### **Parity (consistency of disposition)**

[66] The *Murchie* decision was referenced repeatedly by the parties in relation to the principle of parity. However, there are differentiating facts in that case when compared to the present matter. I find the volume of misuse by Constable Murchie to be worse than that of the Subject Member. That said, I find that the Subject Member's role as a senior non-commissioned officer and a team leader in a specialized unit to be problematic. Not only should they have known the seriousness of their actions, they would have been expected in their position to ensure that the members under their command also fulfilled their obligations. Hence, I find this to be an aggravating factor.



### **Specific and general deterrence**

[67] Given their experience with the conduct process and the regret that they have expressed for their actions, I find that the need for specific deterrence is limited in this instance. However, as noted by the Subject Member themselves during their testimony, RCMP members still appear not to “get it”. The use of police databases for unauthorized purposes is far too prevalent, which has promoted the RCMP to take a stern stance with respect to this type of misconduct. Accordingly, I find that general deterrence is still required. Therefore, it is an aggravating factor.

### ***Public confidence in police service***

[68] As I put to the Subject Member during their testimony, and to which they agreed, misconduct of this nature has the potential effect of dissuading affected persons from coming forward to report any offences, especially, those of an extremely sensitive nature. Notably, the complainants in the related criminal matter were reluctant to proceed with their complaint knowing that the Subject Member was a high-ranking member of the RCMP. Those who have been impacted by other members of our society must trust that the offences that they report will be held in confidence. In other words, they must feel safe. In my view, there is nothing more critical in a community–police relationship than our citizens not just thinking that they are safe, but actually feeling safe. Hence, I find this to be an aggravating factor.

### ***Conclusion***

[69] In balancing the various considerations in light of the factual background of this matter and of the four purposes of the police complaint and discipline process, the proportionality leans to that of aggravation.

[70] As I noted at the onset, the public expects police officers to be held to a higher standard of behaviour, particularly those in more senior positions.

### ***Joint proposal***

[71] The parties jointly propose the forfeiture of 10 days’ pay. The Conduct Authority Representative is also seeking a demotion for a period of 1 year while the Subject Member

Representative suggests only 3 months. Additionally, the parties have agreed that the Subject Member would be ineligible to act at a higher level for the duration of the demotion. Due to this lack of agreement on the duration, I will consider this a partial joint submission.

[72] With respect to the demotion, the Conduct Authority Representative asks that if I find that it should be a period of one year or more, then the Subject Member should also be transferred.

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

[74] Generally speaking, courts or administrative tribunals, such as this one, will not override a settlement reached by the parties unless doing so would be against the public interest. The public interest test has a very high threshold. The Supreme Court of Canada has recognized the value of settlement discussions and provides that a joint submission should not be rejected lightly.<sup>4</sup>

[75] Moreover, the public interest test has also been applied in the context of professional discipline<sup>5</sup> and by the Commissioner of the RCMP.<sup>6</sup>

[76] The *Conduct Measures Guide*, at page 34, explains the public interest test as follows:

[...]

Joint submissions are governed by the **public interest test**, which requires conduct boards to accept a joint submission **except** where the joint submission would bring the administration of justice into disrepute or be contrary to the public interest.

To reject a joint submission, the proposed conduct measures must be so unhinged from the circumstances of the misconduct and the member that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the discipline process has broken down.

[...]

---

<sup>4</sup> *R. v Anthony-Cook*, 2016 SCC 43, at paragraph 34.

<sup>5</sup> *Rault v Law Society of Saskatchewan*, 2009 SKCA 81 (CanLII).

<sup>6</sup> *Constable Coleman and Appropriate Officer, "F" Division*, (2018) 18 A.D. (4th) 270 [Coleman].

[77] To determine whether the proposed conduct measures submitted by the parties are against the public interest, I must determine what the appropriate range of measures may be.

[78] The *Conduct Measures Guide*, at page 229, recommends that the misuse of police databases should result in conduct measures ranging from the forfeiture of 5 to 10 days' pay at the lower end, to dismissal at the higher end.

[79] Accordingly, I find that the conduct measures proposed by the parties—the forfeiture of 10 days' pay and a temporary demotion—fall into the range of acceptable outcomes and do not offend the public interest.

[80] In consideration of my findings with respect to the five foundational principles, I find that the Subject Member's misconduct moves from the lower end of the proposed measures to the middle of the spectrum. The *Conduct Measures Guide*, at page 229, suggests that measures include the forfeiture of 10 to 15 days' pay and/or ineligibility for promotion for an unspecified period of time. Accordingly, I accept the proposed forfeiture of 10 days' pay.

[81] With respect to the period of demotion, I have considered the positions of the parties and arrived at the following conclusions: a demotion for a period of 3 months is hardly noticeable and may be considered more of an inconvenience; while a demotion for 1 year is excessive and may result in human resourcing challenges for the Force.

[82] Consequently, I find that the demotion should be more than a transitory period. It must be sufficient to allow the message regarding the Subject Member's misconduct to resonate with them and others, while not resulting in unnecessary disruption to their career. Therefore, I find that a demotion to the rank of sergeant for a period of 9 months, in addition to the forfeiture of pay, sufficiently addresses the Subject Member's misconduct.

### **Decision on conduct measures**

[83] I have considered the preference for the imposition of remedial and corrective measures, where appropriate, and that the presumption of the least onerous disposition should be imposed. However, when I consider the totality of the circumstances, I have concluded that these principles should be displaced.

[84] As a senior non-commissioned officer in a specialized unit, with over 20 years of service in the RCMP, in which they have previously been disciplined for contraventions of the RCMP Code of Conduct, I find that the measures imposed must be elevated to be commensurate with the seriousness of the misconduct.

[85] Consequently, I direct for the following conduct measures to be imposed on the Subject Member:

- a) the forfeiture of 10 days' pay, to be administered through the forfeiture of 7 days' pay and 3 days of annual leave;
- b) a demotion to the rank of sergeant for a period of 9 months, to begin upon the Subject Member being reinstated to active duty; and,
- c) the ineligibility for the Subject Member to act in any position at a higher level during the period of demotion.

[86] Despite my finding with respect to the neutrality of the Subject Member's employment history, I do note that they appear to have tremendous expertise in their specialized area and have demonstrated significant commitment to their colleagues and the Force in general. Had I not considered these factors, the measures imposed would have been more severe.

## **CONCLUSION**

[87] The Allegation is established and the aforementioned conduct measures are imposed.

[88] I caution the Subject Member that any future contravention of the Code of Conduct will be seriously reviewed by the appropriate conduct authority and could lead to their dismissal from the Force.

[89] I trust that the Subject Member will learn from this experience and will not repeat the same mistakes in the future.

[90] 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 the Subject Member, 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.

---

Colin Miller  
Conduct Board

---

March 21, 2025  
Ottawa, Ontario