

Publication ban: Any information that could identify the Complainant in the present decision shall not be published, broadcast or transmitted in any way.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

**Corporal Nathan James**  
Regimental Number 56546

(Subject Member)

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### CONDUCT BOARD DECISION

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Jonathan Hart and Eric Blenkarn

(Conduct Authority Representatives)

Marco Baldasaro

(Subject Member Representative)

**CONDUCT BOARD:** Louise Morel  
**DATE:** June 18, 2025

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## SYNOPSIS

The *Notice of Conduct Hearing* contains two allegations of discreditable conduct contrary to section 7.1 of the RCMP Code of Conduct. It is alleged that Subject Member, while transporting the Complainant, a minor, to the hospital for a mental health assessment, engaged in inappropriate sexual conversations with her. It is further alleged that, during the drive and prior to escorting the Complainant into the hospital, he sexually assaulted her by putting his hand on her leg, on several occasions, while discussing consent and sexual touching.

On November 15, 2024, having heard from six witnesses, including the Complainant and the Subject Member, the Conduct Board found both Allegations 1 and 2 to be established. On that same date, following a joint submission on conduct measures, the Subject Member was ordered to resign within 14 days, failing which he would be dismissed.

## INTRODUCTION

[1] The Subject Member is facing two alleged contraventions under section 7.1 of the RCMP Code of Conduct: one allegation for having engaged in inappropriate sexual conversations with the Complainant, a minor, whom he was transporting to the hospital for a mental health assessment; and one allegation for having sexually assaulted the Complainant while in his care.

[2] On December 8, 2022, the Conduct Authority signed a *Notice to the Designated Officer* to request the initiation of a conduct hearing in relation to this matter. On December 15, 2022, I was appointed as the Conduct Board for this matter, per subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[3] The original *Notice of Conduct Hearing*, dated March 30, 2023, contained two alleged contraventions of section 7.1 of the Code of Conduct. It was served on the Subject Member on May 24, 2023. The *Notice of Conduct Hearing* was amended with the parties' agreement and resubmitted on November 11, 2024, prior to the start of the Conduct Hearing.

[4] On June 23, 2023, Corporal Nathan James provided his response to the allegations, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 (the Response). While Corporal James admitted many particulars, he denied both allegations. He also provided additional explanations with respect to several particulars.

[5] The Conduct Hearing was held in Edmonton, Alberta, from November 11 to 15, 2024.

[6] On November 15, 2024, I delivered my oral decision on the Allegations, both of which I found to be established. Immediately after delivering my oral decision on the Allegations, the Representatives asked for a short recess to have a discussion.

[7] Upon their return, the Conduct Authority Representative advised that the parties had reached an agreement and were submitting a *Joint Proposal on Conduct Measures* (the Joint Proposal), which consisted of a direction to resign within 14 days, failing which Corporal James would be dismissed. I accepted the Joint Proposal.

## **Publication ban**

[8] On November 11, 2024, on my own motion, I ordered that any information that could identify the Complainant, a person under the age of 18 at the time of the alleged incidents, shall not be published, broadcast or transmitted in any way, pursuant to subsection 45.1(7) of the *RCMP Act*.

[9] As a result, the Allegations have been amended in this decision to reflect this publication ban.

## **ALLEGATIONS**

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

### **Particulars common to Allegations 1 and 2:**

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted to “K” Division, at [location redacted] Detachment in the Province of Alberta.
2. On December 14, 2021, you and Constable Benoit Barrette were dispatched to a complaint that [Ms. S.M.] was threatening suicide. At the time [Ms. S.M.] was 15 years of age and resided on the [location redacted]. [Ms. S.M.] was upset with her boyfriend [Mr. J.M.]
3. You transported [Ms. S.M.] to the [location redacted] in your police vehicle.

### **Allegation 1**

On or about December 14, 2021, at or near [location redacted], in the Province of Alberta, Corporal Nathan James behaved in a manner that is likely to discredit the force contrary to Section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

### **Particulars of Allegation 1:**

4. You engaged in inappropriate sexual conversation with [Ms. S.M.] by asking her the following:
  - If she was intimate with her boyfriend.
  - How would you feel if your boyfriend did stuff with other girls?
  - If she would try fellatio play, role-play or handcuffs.
5. [Ms. S.M.] disclosed to you that she was a victim of previous sexual trauma. That her mom’s previous boyfriends had expressed a sexual interest in her when her mom was passed out.

6. After being notified of [Ms. S.M.] having previous sexual trauma you continued to have inappropriate sexual conversations by asking her the following:

Since we are having this conversation, and we are very comfortable here, and we are already kind of friends I can see, it would be okay if I touch you like this.

He had been with his wife for many years and that when he was younger he didn't get to experiment with girls.

If she would show him her boobs?

That she should sexually experiment with other girls.

You thought [Ms. S.M.] would have an attractive body.

How the boobs always match the butt.

What her cup size was.

If she wears a push up bra.

Do you ever feel the need to show off your body to guys?

If she was intimate with her boyfriend.

If she does anal and blow jobs and if there is certain things she would not do.

You asked a second time if she would show you her boobs.

If your boyfriend is cheating on you then you should try things with other people.

How do you feel about doing things with older people?

I bet your good because the boobs always match the butt.

If I were to ask to see your boobs right now would you?

You discussed that your wife had a breast reduction.

You advised [Ms. S.M.] that her boyfriend put his hand on her leg and slid it up that she should let someone know.

You told [Ms. S.M.] that you were a virgin when you got married.

You discussed your sexual history about wanting to have sex with partners but them not wanting to have sex.

You discussed changes to your wife's body during pregnancy where her breasts, butt and hips get bigger.

You said that a C cup is not flat.

You told [Ms. S.M.] that if she wanted to shock someone or show your interested in them, you would just flash them.

7. You arrived at the [location redacted] and parked your police vehicle in the back parking lot. When [Mr. A.L., the Complainant's stepfather] arrived at [location redacted], you told him you were having a conversation with [Ms. S.M.] and [Mr. A.L.] said he would wait in his vehicle until you were ready to go.

## **Allegation 2:**

On or about December 14, 2021, at or near [location redacted], in the Province of Alberta, Corporal Nathan James behaved in a manner that is

likely to discredit the force contrary to Section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

**Particulars of Allegation 2:**

8. On the drive to [location redacted], you sexually assaulted [Ms. S.M.] You touched her leg while engaging in conversation about consent for sexual touching. You then moved your hand up [Ms. S.M.]’s legs towards her private parts.
9. At [location redacted], you parked your police vehicle in the back of the hospital. You sexually assaulted [Ms. S.M.]. You put your hand on her leg and your hand behind her back. You put your hands on and/or under [Ms. S.M.]’s leg, without her consent, while discussing consent and sexual touching. You put your hand on [Ms. S.M.]’s leg without permission, squeezed and massaged her leg. You put your hand under [Ms. S.M.]’s bum without permission and squeezed. You reached over to [Ms. S.M.] with your right hand and placed it on her left leg or just above the knee.
10. You warned [Ms. S.M.] that if [Mr. A.L.] touches her leg she should tell someone. You placed the tips of your fingers on the seat next to [Ms. S.M.]’s leg demonstrating to her where it would be inappropriate for [Mr. A.L.] to touch her. [Ms. S.M.] did not consent to you touching her leg. You sexually assaulted [Ms. S.M.].
11. You gave [Ms. S.M.] a close, tight hug at the [location redacted].

[*Sic throughout*]

**Established facts**

[11] On July 22, 2024, I provided my *Determination of Established Facts* to the Representatives. Thus, here are the facts agreed to by the parties and relevant to this case:

- a) At all material times, Corporal Nathan James was a member of the RCMP and posted to “K” Division, at [location redacted] Detachment in the Province of Alberta.
- b) On December 14, 2021, Corporal James and Constable Benoit Barrette were dispatched to a complaint that Ms. S.M. was threatening suicide. At the time, Ms. S.M. was 15 years of age and resided on the [location redacted].
- c) Corporal James transported Ms. S.M. to the [hospital] in a police vehicle. Ms. S.M. disclosed to Corporal James that she was a victim of previous sexual trauma.

- d) After being notified of Ms. S.M.'s previous sexual trauma, Corporal James had the following conversations with her or disclosed the following:
- That years ago, he and his wife watched a reality TV show documenting high school students in the interior of [British Columbia]. Young girls, thirteen and fourteen years old, shared what they were expected to do for their boyfriends [...] they were expected to have sex with them or lose their boyfriend and some of the girls said they preferred to let their boyfriends do anal sex because there was less chance of pregnancy.
  - That he was a virgin when he got married but that was not always by choice, sometimes things just did not work out.
  - That sometimes in past relationships he had wanted to have sex with people he was dating but they did not want to, so he did not have sex.
  - That when his wife got pregnant, her body changed. Corporal James talked about changes that women go through during pregnancy. That during pregnancy most women's breasts swell and their butts and hips get bigger.
  - That his wife spoke of getting a breast reduction.
- e) Corporal James told Ms. S.M. that a "C" cup is not flat.
- f) While parked at the hospital he commented to Ms. S.M. that she was very open about her sexuality. He told her that it seemed to him that she would simply flash someone to shock them or to show her interest in them.
- g) Upon arriving at the [hospital], Corporal James first parked by the emergency door and then moved to a regular parking spot.

## Evidence

[12] The Record before me includes the Code of Conduct investigation report dated July 28, 2022, comprised of 37 appendices as well as additional disclosure provided at the request of the Subject Member on February 1, 2024, and November 1, 2024.

[13] Three of the appendices were of particular importance in my assessment of Corporal James' credibility and reliability. These were Appendix N – PROS File 2021 [redacted] – Corporal James Supplementary Occurrence Report dated December 31, 2021 (the Supplementary Occurrence Report);<sup>1</sup> Appendix BB – Transcript of the April 19, 2022, Cautioned Statement that

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<sup>1</sup> *Subject Member's Book of Documents*, at Tab 3.



Corporal James provided in the context of the Alberta Serious Incident Response Team (ASIRT) investigation (the Cautioned Statement);<sup>2</sup> and Appendix CC – Prepared Statement of Corporal James that he provided to the ASIRT investigator at the start of the April 19, 2022, interview (the Prepared Statement)<sup>3</sup>.

[14] During the Conduct Hearing, I heard oral evidence from six witnesses, including the Complainant and Corporal James.

[15] In arriving at my finding on the Allegations, I considered my July 22, 2024, *Determination of Established Facts*, the Record and the oral evidence heard at the Conduct Hearing.

### **Credibility and reliability test**

[16] The six witnesses who testified at the Conduct Hearing are: Corporal James, Ms. S.M., Constable Barrette, Mr. A.L., Staff Sergeant Warren Wright and Sergeant Sandy Desjardins.

[17] In accordance with the Supreme Court of Canada decision, “[...] 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.”<sup>4</sup>

[18] In assessing the credibility of the six witnesses, I must consider whether they are being truthful and whether their evidence is reliable, that is, 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.<sup>5</sup>

[19] Furthermore, 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.<sup>6</sup>

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<sup>2</sup> *Subject Member’s Book of Documents*, at Tab 10.

<sup>3</sup> *Subject Member’s Book of Documents*, at Tab 11.

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

<sup>5</sup> *R. v R.E.M.*, 2008 SCC 51, at paragraph 65.

<sup>6</sup> *McDougall*, at paragraph 75.

[20] 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.<sup>7</sup> Rather, a trier of fact must determine whether the witness's story is consistent with the most probable interpretation of the surrounding facts.

[21] The determination of whether the witness's account has an air of reality is subjective, but it must be grounded in the totality of the evidence.<sup>8</sup>

[22] The Supreme Court of Canada notes that a finding that one party is credible may be determinative, because believing one party will mean explicitly or implicitly that the other party was not believed on the important issues of the case.<sup>9</sup>

[23] In assessing the credibility of the six witnesses that testified before me, I have taken into consideration the witnesses' ability to recall all the details of the events given the passage of time (almost three years). I have also considered the totality of the evidence adduced in the proceedings.

*Corporal James*

[24] For the most part, I find the Subject Member to be credible. He acknowledged most of the sexual topics that were discussed with Ms. S.M., but as the Conduct Authority Representative pointed out, the Subject Member denied initiating any of the conversations.

[25] However, I find numerous inconsistencies between his oral testimony before me and the Supplementary Occurrence Report, his Cautioned Statement and his Response.

[26] In his Response, Corporal James denied all the particulars contained in the *Amended Notice of Conduct Hearing* except for the fact that Ms. S.M. disclosed that she had been a victim of previous sexual trauma.

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<sup>7</sup> *Faryna v Chorney*, [1952] 2 DLR 354, at page 357.

<sup>8</sup> *McDougall*, at paragraph 58.

<sup>9</sup> *McDougall*, at paragraph 86.

[27] Allegation 1 is one of having had inappropriate sexual conversations with Ms. S.M. Corporal James denied that these conversations were inappropriate. Rather, he explained that he was simply asking questions to better understand Ms. S.M.'s suicidal feelings.<sup>10</sup>

[28] Furthermore, in his Response, he "vehemently" denied stating to Ms. S.M. that he had been with his wife for many years and never experimented with girls when he was younger.<sup>11</sup>

[29] A review of his Cautioned Statement demonstrates that Corporal James recalled advising Ms. S.M. that he was a virgin when he got married;<sup>12</sup> that despite wanting to have sex before marriage, the girls he dated did not want to;<sup>13</sup> that while discussing Ms. S.M.'s breast size, he noted that a C cup is not "flat";<sup>14</sup> and the fact that his spouse had a breast reduction.<sup>15</sup>

[30] Corporal James testified that when Mr. A.L. arrived at the hospital at 7:54 p.m., Mr. A.L. approached his police vehicle. Corporal James then advised Mr. A.L. that "[Ms. S.M.] was asking for another minute" before going into the hospital. This is also the version of events that Corporal James provided in his Cautioned Statement.

[31] However, both Ms. S.M. and Mr. A.L. maintained that it was Corporal James who asked for more time. In his December 30, 2021, interview with Corporal St. Hilaire who was mandated to investigate the complaint of sexual inappropriateness against Corporal James, Mr. A.L. stated:

I went and knocked on the window, he rolled down his window and said that they were having a conversation. I said, okay I'll be sitting in the vehicle when you are ready to go in. Ah ten minutes later they both got out, we went into the hospital. Constable, I don't even know his name, anyway he's like, "yeah me and [Ms. S.M.] had a fun conversation."<sup>16</sup>

[32] During her December 30, 2021, interview with Constable Leeann Bandy and during her testimony before me, Ms. S.M. stated that when Mr. A.L. arrived at the hospital and approached

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<sup>10</sup> *Subject Member's Written Submissions Pursuant to Section 15(3)*, dated June 23, 2023, at page 7.

<sup>11</sup> *Subject Member's Written Submissions Pursuant to Section 15(3)*, dated June 23, 2023, at page 7.

<sup>12</sup> *Subject Member's Book of Documents*, Tab 10, at page 70, lines 2259 to 2260.

<sup>13</sup> *Subject Member's Book of Documents*, Tab 10, at page 71, lines 2288 to 2311.

<sup>14</sup> *Subject Member's Book of Documents*, Tab 10, at page 74, lines 2404 to 2407.

<sup>15</sup> *Subject Member's Book of Documents*, Tab 10, at page 74, lines 2388 to 2392.

<sup>16</sup> *Subject Member's Book of Documents*, Tab 5, at page 3, line 77, to page 4, line 83.

the police vehicle, it was Corporal James who requested more time in the police vehicle prior to entering the hospital. Ms. S.M. stated:

Corporal James was like, okay, just a second we're having a conversation. So [Mr. A.L.] went back to his car and he rolls up his window again, and turns towards me and he's like ... And so, he goes like, I really like this conversation. How are you feeling right now? And I was like, ah I kind of just want to go in the hospital.<sup>17</sup>

[33] During his oral testimony before me, Corporal James denied that he discussed the reality TV show about the sexual behaviour of teenage girls with the Complainant. He asserted that the content of this show was on his mind throughout his interaction with Ms. S.M., but that he did not verbalize it. However, in his Cautioned Statement, he conceded discussing this documentary with Ms. S.M. and, upon reviewing my *Determination of Established Facts*, he did not object to its inclusion. For these reasons, I do not accept Corporal James' denial. Consequently, it remains an established fact that he discussed this matter with Ms. S.M.

[34] Allegation 2 is one of sexual assault for having put his hands on Ms. S.M.'s legs, knee, and/or back, while discussing inappropriate sexual touching, enroute to and/or in the parking lot of the hospital.

[35] In his Response, Corporal James "vehemently" denied sexually assaulting Ms. S.M. but "recalls" two instances of contact as described in his Prepared Statement and during his Cautioned Statement.

[36] On December 31, 2021, after being advised that a Code of Conduct investigation had been mandated, Corporal James prepared a Supplementary Occurrence Report, in which he stated the following:

[...] Corporal James reached over to [Ms. S.M.] with **his right hand and placed it on her left leg just above the knee** briefly in order to calm her down and put her at ease. [...] Corporal James advised [Ms. S.M.] that if [Mr. A.L.] put his hand on her leg and slid it up the leg at all should let someone know. During this advise **Corporal James briefly put his hand back on [Ms. S.M.'s] leg by the knee** and again to help comfort or calm her.

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<sup>17</sup> *Subject Member's Book of Documents*, Tab 7, at page 23, lines 697 to 705.

Corporal James also warned [Ms. S.M.] that if [Mr. A.L.] went to grab the back of her leg, or rub her leg. During this part of the **conversation Corporal James slipped the tips of his fingers under [Ms. S.M.'s] leg** (meant to demonstrate the action in a non-threatening way) but had the palm of his hand down against the fabric of the seat. This was done for just a couple seconds.<sup>18</sup>

[*Sic throughout*; Bold added]

[37] This establishes that, on December 31, 2021, 17 days after the incidents, Corporal James recalled three instances of “touching” Ms. S.M.

[38] A review of the Corporal James’ Prepared Statement describes only two instances of “touching”, the first and last instances described in the Supplementary Occurrence Report. In the undated Prepared Statement, Corporal James recalled the following:

[...] I reached over to [Ms. S.M.] with my **right hand and placed it on [Ms. S.M.]’s left leg at or just above her knee** briefly in order to calm her down and put her at ease. [...] After [Ms. S.M.] had finished sharing the experience, I spoke with [Ms. S.M.] about things that she should be careful of while alone with [Mr. A.L.]. I advised [Ms. S.M.] that if [Mr. A.L.] put his hand on her leg and slid it up the leg at all she should let someone know. I also warned [Ms. S.M.] that if [Mr. A.L.] went to touch her leg, or rub her leg she should tell someone. During this part of the conversation I placed the tips of my fingers on the seat next to [Ms. S.M.]’s leg with the palm down to demonstrate to her where it would be inappropriate for [Mr. A.L.] to try to touch her. **By accident the back of my fingertips touched [Ms. S.M.]’s leg.** The hand was on the seat for a couple of seconds at the most and the contact was accidental.<sup>19</sup>

[Bold added]

[39] A review of the Cautioned Statement confirms that it is consistent with his Prepared Statement and speaks of only two instances of touching.<sup>20</sup>

[40] During his testimony before me and despite his denials in the Response, the Subject Member admitted to many of the verbal exchanges enumerated in the particulars of the *Amended*

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<sup>18</sup> *Subject Member’s Book of Documents*, Tab 3, at page 3.

<sup>19</sup> *Subject Member’s Book of Documents*, Tab 11, at page 4 of 6.

<sup>20</sup> *Subject Member’s Book of Documents*, Tab 10, at page 32, lines 1094 to 1096; and page 36, lines 1213 to 1222.

*Notice of Conduct Hearing*, as well as two incidents of touching Ms. S.M.'s leg. He also contradicted admissions made during his Cautioned Statement.

[41] I find that Corporal James' version of events changed from his Supplementary Occurrence Report, which he drafted after he learned he was under investigation, to his Cautioned Statement, where he asserted that this statement was "a more accurate representation of what happened",<sup>21</sup> and to his testimony before me. He asserted that as time passed over the last three years, his memory improved.

[42] I find that the numerous inconsistencies in Corporal James' evidence impact his credibility when taken in the context of the totality of the evidence. I am left sceptical with respect to his version of the events. I cannot accept that, as Corporal James opined, his memory of the events improved over time and should take precedence over the Supplementary Occurrence Report.

[43] On the whole, I find that Ms. S.M.'s testimony is more consistent with the most probable interpretation of the surrounding facts. Her account has an air of reality, grounded in the totality of the evidence.

[44] For this reason, when Ms. S.M.'s and Corporal James' versions differ, I prefer Ms. S.M.'s version of events.

*Ms. S.M.*

[45] Ms. S.M. was 15 years old in December 2021, when she interacted with Corporal James. When she testified before me, she was 18 years old.

[46] I find the Complainant to be a credible and reliable witness.

[47] I agree with the Subject Member Representative that there were inconsistencies in Ms. S.M.'s testimony before me regarding the order of the various sexual topics discussed, where and when they were discussed, as well as when the various touches occurred.

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<sup>21</sup> *Subject Member's Book of Documents*, Tab 10, at page 59, lines 1935 to 1936.

[48] However, these inconsistencies were with respect to peripheral issues and not the core aspect of the Allegations. In my view, the inconsistencies in her testimony, three years after the incidents, did not impact her credibility when taken as a whole and in the context of the totality of the evidence.

[49] The reality is that, as the Conduct Authority Representative submitted, Ms. S.M.'s narrative of what happened is very similar to that of Corporal James' narrative when it comes to the conversations that took place in the vehicle over a period of approximately two hours from the time they left her residence and when they arrived at the hospital.

[50] I find that, during cross-examination, Ms. S.M. was not shaken on the essential elements of her testimony. She readily acknowledged areas of discussion put to her that she had not detailed or described during her December 30, 2021, interview.

[51] I disagree with the Subject Member Representative that these peripheral omissions constitute intentional misrepresentations. I find that this did not affect her credibility or reliability. Evidently, these topics did not stick out in her mind at the time of the interview. Ms. S.M. was simply describing the conversations and actions that impacted her.

*Constable Barrette*

[52] On December 14, 2021, Constable Barrette was a member of the RCMP posted at the same detachment as Corporal James. He attended Mr. A.L.'s residence with Corporal James to assess whether Ms. S.M. needed to be apprehended under the *Mental Health Act*, RSA 2000, c M-13, as a result of threatening suicide.

[53] I find Constable Barrette to be a credible and reliable witness, who was forthright, direct and had a clear recollection of his interactions with Ms. S.M., Mr. A.L. and Corporal James.

*Mr. A.L.*

[54] Mr. A.L. is Ms. S.M.'s stepfather. On December 14, 2021, he was at his residence, with Ms. S.M., when Corporal James and Constable Barrette attended in response to a report that Ms. S.M. was texting her father that she wanted to kill herself. Mr. A.L. also attended the hospital

to meet up with Corporal James and Ms. S.M. and stay with Ms. S.M., while she waited to be assessed.

[55] I find Mr. A.L. to be a credible witness. His memory was problematic three years after the events. However, he provided two statements shortly after the events, one on December 30, 2021, and another on February 17, 2022, which he adopted when these were put to him in order to refresh his memory.

*Staff Sergeant Wright*

[56] I note that the evidence provided by Staff Sergeant Wright and Sergeant Desjardins mostly constitutes “character evidence” and will be primarily considered during the conduct measures phase of this decision.

[57] Staff Sergeant Wright has been a member of the Force for 31 years and although he testified during the allegation phase of the hearing, his evidence mostly constitutes “character evidence” – and will be primarily considered during the conduct measures phase of this decision.

[58] I find Staff Sergeant Wright to be a credible and reliable witness who testified in a forthright and candid fashion.

*Sergeant Desjardins*

[59] Sergeant Desjardins’ evidence, similar to Staff Sergeant Wright, mostly constitutes “character evidence” which will be considered during the conduct measures phase of this decision.

[60] I find Sergeant Desjardins, a personal friend of Corporal James, to be a credible witness as well.

## **DECISION ON ALLEGATIONS**

### **Discreditable conduct**

[61] Corporal James faces two Allegations under section 7.1 of the Code of Conduct, which states: “Members behave in a manner that is not likely to discredit the Force.”



[62] The test for “discreditable conduct” under section 7.1 of the Code of Conduct requires that the Conduct Authority establish the following four elements on a balance of probabilities:

- 1) the acts that constitute the alleged behaviour;
- 2) the identity of the member who is alleged to have committed these acts;
- 3) that the member’s behaviour is likely to discredit the Force; and
- 4) that the member’s actions are sufficiently related to their duties and functions as to provide the Force with a legitimate interest in disciplining them.

[63] Whether a conduct is discreditable is a matter of law, which must be determined in the specific context and in view of all the circumstances of the case. Furthermore, given its natural and popular meaning, the term “discreditable” must be applied in relation to the special obligations and duties of a police officer.

[64] There is no dispute surrounding element 2, Corporal James’ identity.

[65] With respect to element 4, I note that this is also established since Corporal James was on duty at the time of the alleged incidents.

[66] The other two elements of the test require further analysis.

#### *Allegation 1*

[67] The *Amended Notice of Conduct Hearing* asserts that, on December 14, 2021, Corporal James engaged in inappropriate sexual conversations with Ms. S.M., a minor. These alleged conversations took place while he was escorting Ms. S.M. to the hospital for medical assistance. It is further alleged that Corporal James knew she was a victim of previous sexual trauma.

[68] I note that that, in his Response, Corporal James denied particulars 4 to 7, which form the basis of this Allegation, except for the fact that Ms. S.M. disclosed that she had been a victim of previous sexual trauma.

[69] In the present Allegation, the act described is that Corporal James engaged in inappropriate sexual conversations with Ms. S.M., a vulnerable minor, who had disclosed to him that she was a

victim of previous sexual trauma, and whom he was escorting to the hospital for medical assistance, as she had expressed thoughts of suicide.

[70] According to his Supplemental Occurrence Report, Corporal James left Mr. A.L.'s residence, with Ms. S.M., at 5:37 p.m. He arrived at the hospital at 6:44 p.m., where he parked in the temporary emergency parking area until 7:14 p.m., at which time he moved to the general parking area. Mr. A.L. arrived at 7:54 p.m. Corporal James, Ms. S.M. and Mr. A.L. entered the hospital at 8:06 p.m.

[71] Accordingly, we are looking at a period of two and a half hours during which Corporal James and Ms. S.M. were having discussions alone in the police vehicle.

[72] Particulars 1, 2 and 3 of the *Amended Notice of Conduct Hearing* are admitted.

[73] Particulars 4 and 6 of Allegation 1 contain approximately 28 topics or comments that were allegedly discussed during the 2.5-hour interaction between Ms. S.M. and Corporal James.

[74] In my *Determination of Established Facts*, I found that Corporal James did in fact have conversations regarding:

- his wife's body and breast reduction;
- his personal sexual history;
- how it seemed to him that Ms. S.M. would flash her breasts to shock;
- a troubling reality TV show he had viewed, documenting the sexual preferences, which included anal sex, of high school girls, who were Ms. S.M.'s age.

[75] During both Ms. S.M. and Corporal James' testimonies, many of the 28 sexual topics listed in Particulars 4 and 6 were admitted or conceded to.

[76] Based on the testimony I heard, as well as the Record before me that contains Ms. S.M.'s statements, the Supplemental Occurrence Report, the Cautioned Statement and Mr. A.L.'s statement to ASIRT, I find that the following conversations did occur:

- Corporal James asking Ms. S.M. whether she was intimate with her boyfriend;
- Corporal James asking how she would feel if her boyfriend did stuff with other girls;

- Corporal James and Ms. S.M. discussing role-play and oral sex;
- Corporal James stating that he never had the opportunity to experiment with other people;
- Corporal James advising Ms. S.M. to try things with other people if her boyfriend was cheating on her;
- Corporal James stating something to the effect that “the boobs always match the butt”.

*Finding on Allegation 1*

[77] The Conduct Authority needs to establish, on a balance of probabilities, the act or acts constituting the alleged conduct. They must demonstrate that the particulars essential to the allegation have in fact occurred. It is not necessary to establish each particular just enough that those that are established meet the threshold of discreditable conduct.

[78] The Conduct Authority has demonstrated that sufficient particulars essential to the Allegation have in fact occurred. Consequently, I find that the Conduct Authority has established on a balance of probabilities that Corporal James engaged in inappropriate sexual conversations with Ms. S.M. Therefore, element 1 of the discreditable conduct test is met.

[79] Corporal James conceded to having conversations with Ms. S.M. that involved sexual topics. However, he submits that discussing topics that have a sexual content does not make the conversation sexual in nature. He also contends that, situated in the proper context, these discussions did not rise to the level of discreditable conduct.

[80] I disagree. Police officers have a duty to protect youth and make them feel safe at all times.

[81] It is also commonly understood that members of the RCMP are held to a higher standard of behaviour than the general public. In addition, paragraph 37(g) of the *RCMP Act* stipulates that “It is the responsibility of every member [...] to act at all times in a courteous, respectful and honourable manner”.

[82] Thus, all that remains is element 3 of the discreditable conduct test where I must determine whether a reasonable person in society, with knowledge of all the relevant circumstances,

including the realities of policing in general and of the RCMP in particular, would consider Corporal James' conduct to be discreditable.

[83] In determining this point, I take into consideration the testimony of one of the Subject Member's own character witnesses, Staff Sergeant Wright, who is a member with 31 years of service and a personal friend of Corporal James.

[84] When the facts contained in the *Determination of Established Facts* were put to him and he was asked to comment as to their appropriateness, with respect to the TV reality show comments, he stated that this type of conversation has no place in a discussion with a sexual assault victim. He stated that it is inappropriate and unacceptable and, if he had been present, he would have shut down the conversation.

[85] Staff Sergeant Wright further noted that Corporal James' discussions with respect to his personal sexual history were also inappropriate and unacceptable.

[86] I fully agree with Staff Sergeant Wright. I find that a reasonable person in society, with knowledge of all the relevant circumstances, including the realities of policing in general and the RCMP in particular, would view Corporal James' actions of engaging in sexual conversations with a 15-year-old who has experienced prior sexual trauma and who was having a mental health crisis at the time of the conversation as likely to bring discredit on the Force.

[87] Accordingly, I find that Allegation 1 is established on a balance of probabilities.

#### *Allegation 2*

[88] The *Amended Notice of Conduct Hearing*, at Particular 8, alleges that, on December 14, 2021, Corporal James sexually assaulted Ms. S.M. by touching her leg with his hand and moving it up her leg towards her private parts while engaging in a conversation about consent to sexual touching.<sup>22</sup>

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<sup>22</sup> *Notice of Conduct Hearing*, November 11, 2024, at pages 2 and 3.

[89] At Particular 9, it is alleged that once they arrived at the hospital and parked in the general parking area, Corporal James put his hand on Ms. S.M.'s leg as well as behind her back. In addition, it is alleged that Corporal James:

- put his hands on and/or under Ms. S.M.'s leg while discussing consent and sexual touching;
- put his hand on her leg and squeezed and massaged her leg;
- put his hand under Ms. S.M.'s bum and squeezed;
- reached over to Ms. S.M. with his right hand and placed it on her left leg just above the knee.

[90] At Particular 10, it is alleged that Corporal James "warned [Ms. S.M.] that if [Mr. A.L.] touched her leg she should tell someone". In doing so, he placed the tips of his fingers on the seat next to Ms. S.M.'s leg demonstrating to her where it would be inappropriate for Mr. A.L. to touch her. It is alleged that this constitutes sexual assault.

[91] Finally, at Particular 11, it is alleged that Corporal James gave Ms. S.M. a close and tight hug at the hospital.

### ***Ms. S.M.'s evidence***

[92] In the morning of December 15, 2021, after being up for more than 24 hours and returning home from the hospital, Ms. S.M. completed her written statement and described the "touching" as follows:

Once we get to the hospital he drives away from his other officer friends into a different parking spot in the back and starts putting his hands on my legs demonstrating consent without actually getting consent from me. He explains how men are supposed to ask before doing stuff as he starts to move his hand up my thigh.<sup>23</sup>

[93] During her interview with Constable Bandy, Ms. S.M. was asked to use a diagram of a "Gingerbread Man" to show where Corporal James touched her. She circled three different areas on a drawing of a "Gingerbread Man". One circle is in the shoulder area and is described as "arm

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<sup>23</sup> *Subject Member's Book of Documents*, Tab 4, at page 1.

along back of shoulder”; a second is at the top of the left leg and is described as “hand on front of leg”; and the third circle is just above the left knee and is described as “hand underneath leg”.<sup>24</sup>

[94] Ms. S.M. testified that the third circle, just above the left knee, was where Corporal James “started” and then went to her thigh area near her hip, which is represented by the second circle at the top of the left leg or thigh area.<sup>25</sup>

[95] During her testimony in chief, Ms. S.M. testified that after arriving at the hospital, Corporal James called Mr. A.L. to enquire about his whereabouts, then moved the police vehicle and initiated a conversation about “consent”. She testified that he used that discussion to first touch her.

[96] Ms. S.M. testified that Corporal James “put his hand on my leg near my knee area and started to ride his hand up into my inner thigh around my private part area”.<sup>26</sup> She further described this touch stating: “So he had his hand around my knee area and slid it up and went between my thighs and got close to my private part area with his hand.”<sup>27</sup>

[97] Ms. S.M. also testified to Corporal James putting his arm around her shoulder area, and his hand resting on her collar area. She stated: “So he reached over, and he, like, put his arm around my shoulders from behind, and his hand was resting on my collarbone like chest area here.”<sup>28</sup>

[98] When asked if there was any further physical contact, Ms. S.M. responded: “The hug and that’s it.”<sup>29</sup>

### ***Corporal James’ evidence***

[99] As previously stated in paragraph 36 of this Decision, on December 31, 2021, Corporal James prepared a Supplementary Occurrence Report, in which he described touching Ms. S.M. on three separate occasions during the drive from her residence to the hospital.

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<sup>24</sup> Conduct Authority Representative’s Exhibit No. 2, Diagram of a “Gingerbread Man” with three circles.

<sup>25</sup> Transcript of Conduct Hearing – Volume 1, dated November 11, 2024, at page 70, lines 23 to 25.

<sup>26</sup> Transcript of Conduct Hearing – Volume 1, dated November 11, 2024, at page 52, lines 16 to 18.

<sup>27</sup> Transcript of Conduct Hearing – Volume 1, dated November 11, 2024, at page 70, lines 6 to 9.

<sup>28</sup> Transcript of Conduct Hearing – Volume 1, dated November 11, 2024, at page 65, lines 11 to 14

<sup>29</sup> Transcript of Conduct Hearing – Volume 1, dated November 11, 2024, at page 71, line 6.

[100] During his interview with ASIRT on April 19, 2022, Corporal James again confirmed the first touch, wherein he reached over with his right hand and placed it on Ms. S.M.'s leg at or just above the knee briefly in order to calm her down.<sup>30</sup>

[101] He went on to state that he warned Ms. S.M. that if Mr. A.L. put his hand on her leg and slid it up her leg, then she should tell someone. During this discussion, Corporal James described that he:

[...] did place [his], the tips of [his] fingers on the seat next to [Ms. S.M.]'s leg with the palm down to demonstrate to her where it would be inappropriate for [Mr. A.L.] to try to touch her. Ah by accident ah the back of [his] fingers touched [Ms. S.M.]'s leg, it was not intentional at all. It was just again, to accentuate where on the leg that ah, she should def...she would definitely have some concerns and tell someone about. So the hand was on the seat for only a couple of seconds at the most and the contact was accidental.<sup>31</sup>

[102] The third touch described by Corporal James was the “buddy hug” at the hospital.

[103] During his testimony before me, Corporal James confirmed that he had physically touched Ms. S.M. on three occasions. First, by placing his right hand on her left leg, just above the knee—what his Representative referred to as the “comfort touch”; second, the “inadvertent touch”; and finally, the “buddy hug” at the hospital.

### *Finding on Allegation 2*

[104] The Conduct Authority needs to establish on a balance of probabilities the act or acts constituting the alleged conduct. They must demonstrate that the particulars essential to the allegation have in fact occurred. It is not necessary to establish each particular, just enough that those that are established meet the threshold of discreditable conduct.

[105] In the present Allegation, the act described at Particular 8 is that Corporal James sexually assaulted Ms. S.M. by touching her leg while engaging in a conversation about consent for sexual touching. While touching her leg, his hand slid up towards her private parts. While at Particular 10,

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<sup>30</sup> *Subject Member's Book of Documents*, Tab 10, at page 11, lines 370 to 373.

<sup>31</sup> *Subject Member's Book of Documents*, Tab 10, at page 11, lines 384 to 392.

the “act” is described as the Subject Member placing tips of his fingers on the seat next to Ms. S.M.’s leg, demonstrating to her where it would be inappropriate for her stepfather to touch her.

[106] In her testimony before me, Ms. S.M. was adamant that Corporal James put his hand on her knee and then slid it up towards her private parts. This is consistent with her interview with Constable Bandy as well as her handwritten statement produced the morning of December 15, 2021.

[107] Interestingly, in his Supplementary Occurrence Report, the Subject Member’s description of the second touch is eerily similar to Ms. S.M.’s description. He states:

Corporal James advised [Ms. S.M.] that if that if [Mr. A.L.] put his hand on her leg and slid it up the leg at all she should let someone know. During this advise Corporal James briefly put his hand back on [Ms. S.M.]’s leg by the knee again to help comfort or calm her. Corporal James also warned [Ms. S.M.] that if [Mr. A.L.] went to grab the back of her leg or rub her leg. During this part of the conversation Corporal James slipped the tips of his fingers under [Ms. S.M.’s] leg (meant to demonstrate the action in a non-threatening way) but had the parm of his hand down against the fabric of the seat.<sup>32</sup>

*[Sic throughout]*

[108] Corporal James’ Cautioned Statement and testimony before me seem to now combine into a single incident what is referred to as Touch 2 and 3 in the Supplementary Occurrence Report.

[109] This is also consistent with Ms. S.M.’s testimony where she recalled one touch on the leg, as previously described. The one fluid movement from the knee sliding up to her private parts is also consistent with her testimony on the marks she placed on the “Gingerbread Man” diagram.

[110] I find that the description provided by Ms. S.M. is more believable and has an “air of reality”, especially when combined with Corporal James’ Supplementary Occurrence Report.

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<sup>32</sup> *Subject Member’s Book of Documents*, Tab 3, at page 3 of 4.



[111] As already stated, I cannot accept Corporal James' assertion that his recollection in his Prepared Statement provided in April 2022 or during the April 19, 2022, ASIRT interview would be better than when he was drafting his report shortly after the incidents of December 14, 2021.

[112] The Subject Member Representative challenged Ms. S.M.'s version of events based on the fact that she maintained the "touches" occurred at the hospital but wavered between it happening in the roundabout in front of the hospital or the general parking lot where Corporal James moved the police car to await the arrival of Mr. A.L.

[113] I note that where the touching occurred, that is, during the drive to the hospital or in a parking lot, is a peripheral issue. What is relevant is that, while engaging in inappropriate sexual conversations, Corporal James touched a vulnerable minor who was suffering from a mental health crisis.

[114] Thus, I find that the Conduct Authority has established Particulars 8 and 10 of Allegation 2.

[115] With respect to Particular 9, which contains numerous descriptions of various inappropriate touching, I find that the last description contained therein, that Corporal James "reached over and placed his right hand on [Ms. S.M.] left leg, just above the knee" to be established based upon Corporal James' admission that he did so "to calm" her.

[116] I also find that Particular 11—Corporal James giving Ms. S.M. a hug at the hospital—is established based upon Ms. S.M. and Mr. A.L.'s testimony as well as Corporal James' admission of giving her a "buddy hug".

[117] The Conduct Authority has demonstrated on a balance of probabilities that the alleged acts did occur. However, the allegation of discreditable conduct specifically states that the touching of Ms. S.M. by Corporal James constitutes a "sexual assault".

[118] Consequently, the question to be answered at this juncture is whether this touching occurred in circumstances of a sexual nature such that the sexual integrity of Ms. S.M. was

violated. The test is an objective one: “Viewed in the light of all the circumstances, is the sexual or carnal context of the assault visible to a reasonable observe[r]?”<sup>33</sup>

[119] I find that a reasonable observer would find that, with the exception of the “buddy hug” at the hospital, the previously described touching that occurred in the police vehicle was of a sexual nature as it occurred in combination with continued inappropriate sexual conversations.

[120] In this instance, the acts in question took place while Corporal James was on duty, in a position of authority over a vulnerable minor suffering from a mental health crisis and being driven to the hospital for assistance. I find that a reasonable person in society, with knowledge of all the relevant circumstances, including the realities of policing in general and of the RCMP in particular, would consider the conduct to be discreditable. Thus, the third element of the discreditable conduct test is met.

[121] Consequently, I find that Allegation 2 is also established on a balance of probabilities.

## **CONDUCT MEASURES**

[122] Having found Allegations 1 and 2 to be established and in accordance with subsection 45(4) of the *RCMP Act*, as well as with the *RCMP Conduct Measures Guide* (November 14, 2024, version), at page 19, I am required to impose “fair, balanced and consistent conduct measures”.

[123] At the outset of the Conduct Measures Phase, the parties requested a short recess, which I granted.

[124] Upon their return, the Conduct Authority Representative advised that the parties had reached an agreement on the Joint Proposal, and neither would be presenting evidence during this phase of the hearing. The Conduct Authority and the Subject Member proposed the following global conduct measure: a direction to resign within 14 days or be dismissed.

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<sup>33</sup> *R. v Menjivar*, 2010 ABPC 164, at paragraph 25.

## **Applicable legal principles**

### *Joint proposal*

[125] When presented with a joint proposal on conduct measures, there are very narrow circumstances in which a conduct board may refuse to accept the proposed conduct measures.

[126] The Supreme Court of Canada has recognized the value of settlement discussions as well as the strong policy reasons that favour the promotion of certainty to the parties when a settlement is reached.<sup>34</sup> Generally speaking, courts or administrative tribunals will not override a settlement reached by the parties unless it is against the public interest.

[127] Therefore, I must determine whether accepting the Joint Proposal would be against the public interest. This is not a question of whether the conduct measures proposed are the same as what I would have imposed. Rather, the public interest test sets a much higher threshold.

[128] On this point, the Supreme Court of Canada provides the following guidance, which is applicable to administrative tribunals:

[...] a joint submission should not be rejected lightly [...] Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussion, to believe that the proper functioning of [in this case, the conduct process] had broken down.<sup>35</sup>

[129] In applying the public interest test, a conduct board will need to consider whether the proposed conduct measures reflect the five principles that guide the assessment of a fit conduct measure.

### *Assessing conduct measures*

[130] There are five principles that guide the assessment of a fit conduct measure. First, conduct measures must accord with the purposes of the police complaint and discipline process. At its core,

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<sup>34</sup> *Rault v Law Society of Saskatchewan*, 2009 SKCA 81, at paragraph 19.

<sup>35</sup> *R. v Anthony-Cook*, 2016 SCC 43, at paragraph 34.

the determination of an appropriate sanction involves the balancing of four purposes or interests: the public interest; the interest of the RCMP as an employer; the subject member's interest to be treated fairly; and finally, the interests of those affected by the misconduct at issue.<sup>36</sup>

[131] The Supreme Court of Canada has placed emphasis on the public interest by stating that “The purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve public confidence in the profession [...]”.<sup>37</sup>

[132] In other words, in accordance with the *Conduct Measures Guide*, at page 20, I need to balance the need for “public confidence and internal discipline with the employment rights of the member, while taking into consideration the impacts on affected persons”.

[133] Second, per paragraph 36.2(e) of the *RCMP Act*, remedial and corrective measures should prevail, where appropriate.

[134] Third, there is a presumption that the least onerous conduct measure should be imposed. However, this presumption will be displaced if the public interest or other specified considerations should prevail.

[135] Fourth, in accordance with paragraph 36.2(e) of the *RCMP Act*, the conduct measures imposed must be proportionate to the nature and circumstances of the contravention. The relevant proportionality considerations must be weighed and, depending on the circumstances, may be either mitigating, aggravating or neutral.

[136] Fifth, as articulated by the Supreme Court of Canada, a higher standard of conduct applies to police officers.<sup>38</sup>

[137] While not prescriptive, the *Conduct Measures Guide* is intended to promote parity of sanction. It must be read in the context of evolving societal standards, as established by jurisprudence or applicable policies and legislation.

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<sup>36</sup> *Commanding Officer of “K” Division and Constable Ryan Deroche*, 2022 CAD 13, at paragraph 82.

<sup>37</sup> *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

<sup>38</sup> *Montréal (City) v Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2008 SCC 48, at paragraphs 33 and 86.

## Analysis

[138] In the present case, I find that both Allegations 1 and 2 are established as contraventions of section 7.1 of the Code of Conduct involving sexual misconduct with a vulnerable minor.

[139] As explained in the *Conduct Measures Guide*, at section B.7.1.4.8.5, when it comes to this type of misconduct, the starting point of the analysis is presumptive dismissal, which “means, if established, and in the absence of exceptional mitigating circumstances, the member can reasonably expect dismissal as a probable outcome”. In other words, “in light of the inherent seriousness of the misconduct, the subject member has to demonstrate **exceptional** mitigating circumstances with respect to the proportionality analysis in order to support conduct measures other than dismissal” (*Conduct Measures Guide*, at section A.8.6).

[140] Therefore, absent “exceptional” mitigating circumstances, the appropriate conduct measures available to a conduct board are either a direction to resign within 14 days or outright dismissal.

[141] On its face, the Joint Proposal aligns with the guidance provided in the *Conduct Measures Guide*, at pages 184 to 187, when dealing with this category of misconduct.

[142] The parties did not make any submissions during the conduct measures phase of the hearing, nor did they canvass any proportionality factors that would have an aggravating or mitigating effect on the conduct measure.

[143] However, during the Allegation Phase of the conduct hearing, Staff Sergeant Wright and Sergeant Desjardins testified on behalf of Corporal James with respect to his character and employment history. I note that, prior to giving their testimony, both witnesses were provided with and reviewed my *Determination of Established Facts* to ensure that they were informed of the established facts with respect to the alleged misconduct.

*Staff Sergeant Wright*

[144] Staff Sergeant Wright is a 31-year member of the RCMP. He testified that he met Corporal James in 2017, when he was promoted to staff sergeant Detachment Commander, and happened to move into the same subdivision as Corporal James.

[145] Staff Sergeant Wright stated that, from 2017 to June 2021, he interacted with Corporal James, both professionally and socially, on a weekly basis. He described Corporal James as a quirky person whom he considered a friend.

[146] He noted that Corporal James is “black and white and blunt”, and that he “has difficulty with filter, inside voice is becoming the outside voice”.<sup>39</sup> Staff Sergeant Wright described Corporal James as very professional and an individual that leads by example. He stated that Corporal James was a devout family man and Christian, who belonged to the Church of Jesus Christ of Latter-Day Saints.

[147] Staff Sergeant Wright noted that Corporal James was not a natural communicator and that there had been misunderstandings at the Detachment based upon Corporal James’ communication style. In Staff Sergeant Wright’s opinion, Corporal James has difficulty reading people and then tailoring his communication style to match their style to foster an effective flow of communication.

[148] When asked if the contents of the *Determination of Established Facts* altered his opinion or view of Corporal James, the witness stated that it did not. However, he noted that what he read did not “match” the person he knew.

[149] Staff Sergeant Wright confirmed that, during his service, he has had to deal with suicidal individuals, aboriginal persons, and victims of sexual trauma.

[150] In cross-examination, the Conduct Authority Representative put paragraph “e” of the *Determination of Established Facts* to the witness. He asked Staff Sergeant Wright where on the spectrum of quirkiness or miscommunication he attributed to Corporal James the discussion of 13- and 14-year-old girls having sex with their boyfriends and having anal sex to avoid pregnancy

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<sup>39</sup> Transcript of Conduct Hearing – Volume 3, dated November 13, 2024, at page 90, lines 3, and 10 to 11.

would fall, and what rationale would justify bringing up that type of topic. In response, Staff Sergeant Wright stated: “That type of conversation has no place in a discussion with a sexual assault victim, and I cannot imagine what Corporal James was thinking when that discussion took place. It’s inappropriate. It’s unacceptable.”<sup>40</sup>

[151] The Conduct Authority Representative continued by putting each of the established facts to Staff Sergeant Wright, who candidly conceded that all of the sexual topics brought up, including Corporal James’ disclosure with respect to his own sexuality as well as his wife’s breast reduction, pregnancy and body changes, were inappropriate.

*Sergeant Desjardins*

[152] Sergeant Desjardins has 26 years of service. In July 2020, she was promoted to the rank of corporal and transferred to the Detachment where Corporal James was posted. They worked together until November 2023.

[153] Sergeant Desjardins testified that she considered Corporal James a friend and had the opportunity to interact with him both professionally and personally. She described Corporal James as being very family oriented and the primary caregiver to his three children. Furthermore, she explained that Corporal James took his role in the Mormon church very seriously, and that he is a church elder.

[154] Sergeant Desjardins described Corporal James as someone who embodies several of the RCMP’s core values; noted that he works with integrity; and is someone who owns up to his mistakes. She continued by stating that Corporal James was an investigator who had compassion and empathy for victims.

[155] On a social level, Sergeant Desjardins described Corporal James as a “peculiar” person, which is not necessarily a bad thing. She conceded that he sometimes lacks a conventional sense of self-awareness, that he can be socially awkward, and that this can lead people to misunderstand

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<sup>40</sup> Transcript of Conduct Hearing – Volume 3, dated November 13, 2024, at page 97, lines 1 to 5.

what he is saying and/or what his intentions are. In her opinion, Corporal James' intentions are always good and come from his heart.

[156] When asked if the established facts that she reviewed changed any of her evidence or opinion, Sergeant Desjardins testified that it did not. She still respects Corporal James' professionalism. In her opinion, Corporal James attempts to offer support to people that he feels are in distress but that the execution of his efforts can sometimes be socially awkward.

[157] In cross-examination, the specifics contained in the *Determination of Established Facts* were put to Sergeant Desjardins, who was cautious in her responses with respect to whether the topics discussed were appropriate. In her view, it depended on the context and where the victim led the discussion.

[158] Sergeant Desjardins summarized her cross-examination by stating that Corporal James is "a very kind-hearted, very well-intentioned person, but he, at times, can be socially awkward and he can lack self-awareness".<sup>41</sup>

[159] At the conclusion of her cross-examination, I asked the witness if she had discussed the specifics of the allegations with Corporal James prior to her testimony. After responding that she had not discussed the specifics, it came to light that, in the course of her duties, she had occasion to review Constable Barette's Occurrence Report with respect to the December 14, 2021, service call, as well as Corporal James' Supplementary Occurrence Report. However, the witness noted that this was approximately two years prior to the conduct hearing and that she had not absorbed or retained the information.

### **Decision on conduct measures**

[160] When balancing the four interests of the police complaint and discipline processes with my analysis of the applicable proportionality factors, I find that the proposed conduct measure serves as a fair warning and reminder to other members of the high standard of conduct expected of a member of the RCMP, particularly in relation to sexual misconduct.

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<sup>41</sup> Transcript of Conduct Hearing – Volume 3, dated November 13, 2024, at page 120, line 24, to page 121, line 2.



[161] I find that the public interest is served. Corporal James is being directed to resign or be dismissed. The Supreme Court of Canada has affirmed that holders of public office owe a duty to use their offices for the “public good” and “is essential to retaining the confidence of the public in those who exercise state power”.<sup>42</sup> Through his misconduct, Corporal James has irreparably damaged any confidence the public can place in him.

[162] I find that educative or remedial conduct measures are not appropriate when considering the nature and seriousness of the misconduct as well as the public interest.

[163] Furthermore, imposing a conduct measure that fails to ensure that Corporal James is dismissed from the RCMP, a position of authority and trust as a police officer, would undermine the public confidence in the administration of the RCMP’s conduct process. Consequently, the presumption that the least onerous conduct measure should prevail is displaced.

[164] When I turn my attention to the fourth principle to be considered in assessing a fit conduct measure, that is, proportionality, I note that the parties did not make any submissions in support of their Joint Proposal. Despite this, I was able to identify the following mitigating factors based upon Corporal James’ Response and the testimony heard during the hearing:

- a) Corporal James is active in his community, serving on the local gymnastics club’s board of directors;
- b) Corporal James is active in his church, serving as a clerk for the congregation;
- c) Corporal James has no prior discipline issues;
- d) Corporal James is highly professional, compassionate and is consistently well reported in his performance evaluations.

[165] I have also identified the following aggravating factors:

- a) Corporal James was involved in misconduct, in which the Complainant was a minor, vulnerable and in a mental health crisis;
- b) Corporal James knew that the Complainant was a victim of previous sexual trauma;
- c) The Complainant is Indigenous;
- d) Corporal James was in a position of trust and authority over the Complainant;

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<sup>42</sup> *R. v Boulanger*, 2006 SCC 32, at paragraph 1.

- e) The intrinsic gravity of the behaviour itself from a police officer holding the rank of corporal and having over 16 years of service.

[166] Of significant importance in my decision to accept the parties' Joint Proposal is the fact that I have not been provided any evidence of "extraordinary" or "exceptional" circumstances that might overcome the presumption of dismissal.

[167] I find that nothing short of a direction to resign or be dismissed is required in order to protect the interest of the RCMP as an employer; its reputation as a police force; and maintain public confidence. Corporal James' misconduct constitutes a breach of trust that goes to the heart of the employer-employee relationship.

[168] Moreover, I find that Corporal James has failed to uphold the standards set by the Code of Conduct and act in accordance with the RCMP Core Values.

[169] The Joint Proposal recognizes that a higher standard of conduct applies to police officers' conduct. Corporal James has failed to meet this standard in his interactions with Ms. S.M. He failed in his duty to protect a vulnerable youth and make her feel safe at all times.

[170] I find that the Joint Proposal is not against public interest, nor would it bring the administration of justice into disrepute. As such, I accept the proposed conduct measure and hereby direct Corporal James to resign within 14 days, failing which he will be dismissed.

## **CONCLUSION**

[171] Allegations 1 and 2 are established on a balance of probabilities and the aforementioned conduct measure is imposed.

[172] 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.

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Louise Morel	June 18, 2025
Conduct Board	Date