



**ROYAL CANADIAN MOUNTED POLICE**

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

Between:

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

(Conduct Authority)

and

**Constable Olavo Castro**  
Regimental Number 64695

(Subject Member)

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**CONDUCT BOARD DECISION**

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Dominique Lepage and Jonathan Hart

(Conduct Authority Representatives)

Cait Fleck

(Subject Member Representative)

**CONDUCT BOARD:** Kevin L. Harrison

**DATE:** July 22, 2025

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## SYNOPSIS

On February 29, 2024, the Subject Member was served a *Notice of Conduct Hearing*, dated January 26, 2024, which contains two allegations under section 7.1 of the RCMP Code of Conduct. Both contraventions occurred on July 1, 2022, while the Subject Member was off duty. Allegation 1 alleges that the Subject Member operated a motor vehicle while under the influence of alcohol and that his ability to operate a motor vehicle was impaired by alcohol. Allegation 2 alleges that the Subject Member pointed a restricted firearm at two civilians and that he did not have the proper authorization to transport the restricted firearm to the place where he possessed it.

On January 28, 2025, having heard from two witnesses and from the Subject Member, the Conduct Board found both allegations to be established. After hearing from the Subject Member and the Representatives in the conduct measures phase of the hearing, the Conduct Board directed the Subject Member to resign from the RCMP, and in default of resigning within 14 days, to be dismissed from the RCMP.

## INTRODUCTION

[1] The Subject Member is facing two allegations under section 7.1 of the Code of Conduct (discreditable conduct). Both contraventions occurred on July 1, 2022, while the Subject Member was off duty. Allegation 1 alleges that the Subject Member operated a motor vehicle while under the influence of alcohol and that his ability to operate a motor vehicle was impaired by alcohol. Allegation 2 alleges that the Subject Member pointed a restricted firearm at two civilians and that he did not have the proper authorization to transport the restricted firearm to the place where he possessed it.

[2] On June 28, 2023, the Conduct Authority signed a *Notice to the Designated Officer*, in which he requested the initiation of a conduct hearing in relation to this matter. On June 30, 2023, the Designated Officer appointed me as the Conduct Board, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[3] On January 28, 2025, I found both allegations to be established on a balance of probabilities. On January 30, 2025, I directed the Subject Member to resign from the RCMP and, in default of resigning within 14 days, to be dismissed from the RCMP pursuant to paragraph 45(4)(b) of the *RCMP Act*.

## ALLEGATIONS

[4] The original *Notice of Conduct Hearing*, dated January 26, 2024, contained two allegations. This was amended during the conduct hearing to remove the phrase “out of the truck’s window” from Particular 15 under Allegation 2. Otherwise, the original *Notice of Conduct Hearing* and the corresponding particulars remain the same:

### **Particulars common to all Allegations**

1. At all material times, you were a Member of the Royal Canadian Mounted Police [“RCMP”] posted with [British Columbia] Highway Patrol in Williams Lake, British Columbia “E” Division as an investigator and held the rank of Constable.
2. On July 1, 2022, Williams Lake was hosting the annual Williams Lake Stampede; as such there were many visitors in town and extra police presence.

3. You were off duty.

#### **Allegation 1**

On or about July 1, 2022, at or near Williams Lake, in the Province of British Columbia, Constable Olavo Castro engaged in discreditable conduct contrary to section 7.1 of the Code of Conduct of the Royal Canadian Mounted Police.

#### **Particulars specific to Allegation 1**

4. At [2:05 a.m.], you were driving a grey 2020 Ford F350 truck in the parking lot of the rodeo grounds of 800 Mackenzie [Avenue] North.
5. You were stopped by Corporal Brett Squire (“[Corporal] Squire”) and upon contact, you exhibited an odour of liquor on your breath and your eyes were slightly watery. In addition, an open can of liquor was observed in the centre console of your vehicle. You were also observed losing your balance and lacked coordination. Therefore, there was a reasonable suspicion that you were operating a motor vehicle under the influence of alcohol.
6. Constable Nathan Smith (“[Constable] Smith”) was the lead investigator on the impaired investigation. [Constable] Smith made a demand of you for a breath sample into an Approved Screening Device [“ASD”].
7. In response to this first demand, you provided a breath sample. On your first attempt with the ASD, a “FAIL” result was registered when you blew into the device. A demand for a second breath sample was made to you, and you declined to provide a second breath sample.
8. Your vehicle was towed back to Williams Lake RCMP detachment for further investigation.
9. You were operating your vehicle under the influence of alcohol.
10. By operating a motor vehicle while your ability to do so is impaired by alcohol, you engaged in discreditable conduct.

#### **Allegation 2**

On or about July 1, 2022, at or near Williams Lake, in the Province of British Columbia, Constable Olavo Castro engaged in discreditable conduct contrary to section 7.1 of the Code of Conduct of the Royal Canadian Mounted Police.

#### **Particulars specific to Allegation 2**

11. [Mr. J.E.] and [Mr. W.B.] attended the annual Williams Lake Stampede.
12. As both [Mr. J.E.] and [Mr. W.B.] were leaving the rodeo, they walked up the hill toward the Tim Horton’s, during which they observed you driving down the hill. You drove your vehicle over to their side [of the road].

13. As they were standing about a foot away from your vehicle's door, you had your window rolled down, and you engaged with them by asking if they had a problem.
14. You then reached into your hoodie and pulled out a handgun and placed it on your stomach.
15. You proceeded by pointing the handgun at [Mr. J.E.] and [Mr. W.B.] and asked, "do we have a problem here". You also mentioned something to the effect of "this is my town; do we have a problem?"
16. There was no legitimate reason for you to point a firearm at two persons.
17. A search warrant was executed on your Ford F350 truck which, resulted in the seizure of a loaded Smith & Wesson M&P handgun (round in chamber).
18. You did not have a proper authorization to transport a loaded Smith & Wesson M&P 9 handgun which, is a restricted firearm.
19. You therefore engaged in discreditable conduct.

[*Sic throughout*; footnotes omitted]

[5] Per subsection 45(1) of the *RCMP Act*, my role as Conduct Board is to decide whether each Allegation under the Code of Conduct is established. The Conduct Authority has the onus of establishing the Allegations on a balance of probabilities. This means that I must find that it is more likely than not that the Subject Member contravened the Code of Conduct. This burden is met with sufficiently clear, convincing and cogent evidence.

[6] The Conduct Authority need not prove every Particular set out in the *Notice of Conduct Hearing* as some are included simply to give context to the Allegations.

## **WITNESS CREDIBILITY AND RELIABILITY**

[7] I heard evidence from three witnesses during the conduct hearing. Mr. J.E. and Mr. W.B. testified on behalf of the Conduct Authority. The Subject Member testified on his own behalf in both phases of the hearing. I begin my assessment of witness credibility and the reliability of their evidence by setting out some legal principles applicable to this task.

### **Credibility and reliability test**

[8] In assessing witness credibility, I must consider whether the witnesses are credible and whether their evidence is reliable. I may find a witness credible, but unreliable. It is open to me to accept some, none or all of a witness's evidence on a given point. In assessing credibility, I must consider the totality of the evidence. I cannot base my assessment of a witness's evidence solely on their demeanour. Rather, I must determine whether the witness's evidence is consistent with the most probable interpretation of the surrounding facts. The determination of whether a witness's evidence has an air of reality is subjective, but it must be grounded on the totality of the evidence. Finding that one party is credible may be a conclusive result on important issues, because believing one party will mean explicitly or implicitly that I do not believe the other party.

### **General comments about witness credibility and reliability of their evidence**

[9] The interaction between Mr. J.E., Mr. W.B. and the Subject Member, which occurred in Allegation 2, was very brief. It occurred spontaneously and not anticipated by Mr. J.E. and Mr. W.B. It was a highly stressful situation for everyone involved. Significant aspects of the witnesses' accounts varied in this case. I am mindful that the short duration and the intensity of the situation may account for these differences.

### **The Subject Member**

[10] I have concerns with the Subject Member's credibility and the reliability of his evidence.

[11] The Subject Member made admissions in his response to the Allegations and in his evidence at the conduct hearing. However, I find that most of these admissions were made in the face of incontrovertible evidence. It is in the "grey areas" of the evidence where I find that his story lacks an air of reality. I will explain this further when I address these grey areas in my findings of fact.

[12] During his statement provided to Constable Devin Kavanagh, the Subject Member repeatedly stated that he did not recall what occurred during the incident, which occurred approximately 21 hours before he provided his statement. He testified that he had a clearer

recollection of what took place at the time he provided his evidence because he is now “sober”. I do not accept that this could be the case.

[13] Furthermore, his statement to Constable Kavanaugh had internal inconsistencies that were pointed out by the Conduct Authority Representatives during cross-examination. These included the amount of alcohol he drank, the timing of when he moved the firearm and his perception of the threat posed by the interaction with Mr. J.E. and Mr. W.B. In his response to the Allegations and in his evidence, the Subject Member appeared to adopt the version of those inconsistencies that best suited his case.

[14] His evidence is also inconsistent with the evidence of Mr. J.E. and Mr. W.B. in the most significant areas, particularly as it relates to how this incident started and the pointing of the firearm. The Subject Member was unable to provide reasonable explanations for his actions.

**Mr. J.E.**

[15] Mr. J.E.’s evidence was not flawless. Mr. J.E. admitted that his memory faded on what he called “the outside parts” primarily due to the passage of time. He added that his memory was clear on some parts. Nevertheless, I generally found him to be a credible witness and his evidence to be reliable.

[16] This was a memorable incident for him. He went to the stampede with a friend and his boss for a night out while passing through Williams Lake after spending two weeks working “in the bush”. He had never had a gun pointed at him and was not expecting to have one pointed at him that night. I accept that certain aspects of that night stick out in his mind while less significant details may not be clear or were forgotten.

[17] Mr. J.E. was forthright in his answers. He admitted when he could not recall and made concessions during cross-examination.

[18] Mr. J.E.’s evidence coincides with Mr. W.B.’s and, in many respects, with the Subject Member’s. He admitted that he and Mr. W.B. discussed the incident after it occurred as a means of trying to determine what happened and why. I found no evidence that having these discussions constituted an intentional collusion between them. The Subject Member Representative suggested

that these discussions may have resulted in unintentional collusion. I do not accept this because both the statements and the evidence of these two witnesses contained a sufficient number of differences to eliminate this possibility. Neither Mr. J.E. nor Mr. W.B. had an apparent reason to make up the version of events they presented.

[19] Mr. J.E. consumed alcohol that evening. The amount he consumed was not established in the evidence. The Subject Member Representative suggested that Mr. J.E. downplayed his level of intoxication but conceded that he was not “falling or stumbling down drunk”. Constable Jordan Gelowitz made no mention of Mr. J.E. being intoxicated in his notes. I have no evidence to indicate that Mr. J.E.’s consumption of alcohol significantly impacted his evidence.

**Mr. W.B.**

[20] My assessment of Mr. W.B.’s credibility and the reliability of his evidence is essentially the same as my findings relative to Mr. J.E. for the same reasons.

[21] He mentioned at the start of his cross-examination that although this incident occurred almost two and a half years prior to his testimony, it was the type of “thing” that does not happen in life, so he recalls the incident fairly well.

[22] Mr. W.B. consumed less alcohol than Mr. J.E. that evening. I have no evidence to indicate that Mr. W.B.’s consumption of alcohol significantly impacted his evidence.

**FINDINGS OF FACT**

[23] At all material times, the Subject Member was a member of the RCMP holding the rank of constable. He was posted with the British Columbia Highway Patrol in Williams Lake, British Columbia.

[24] On July 1, 2022, the City of Williams Lake hosted the 94th annual Williams Lake Stampede (the stampede). The stampede is the most significant public event in Williams Lake. The event attracts many visitors to the city. Consequently, additional police resources were present in Williams Lake on that day.

[25] The Subject Member was off duty. In fact, he had been on extended medical leave since December 16, 2021.

[26] Mr. J.E. and Mr. W.B. were passing through Williams Lake on their way home to Victoria after working “in the bush” for two weeks. When they arrived in town, they learned the stampede was on and decided to attend.

[27] As Mr. J.E. and Mr. W.B. were leaving the stampede grounds in the early morning hours of July 1, 2022, they were approached by two foreign travellers who enquired about where they could get something to eat. As they talked, the group continued to walk towards the exit. I heard conflicting evidence about what happened next. This is one of the areas where I question the Subject Member’s evidence.

[28] The Subject Member testified that the road was wide enough for two large trucks to travel side by side. He said that Mr. J.E. and Mr. W.B. were walking on the side of the road and that he did not veer his vehicle in their direction. He drove straight ahead. The group of four pedestrians continued walking straight ahead. He had no intention of having an interaction with anyone that night other than the RCMP members working on the site. I find the last statement interesting because the Subject Member knew he was operating his vehicle while legally impaired. He told Constable Kavanagh that he had consumed seven beers before leaving his house that night. He had an open can of beer in plain sight in the truck’s console. Why would he go out of his way to interact with the police?

[29] I further question why he would simply not have given the pedestrians a wide berth if he had no intention of interacting with anyone. He had no reason to be hypervigilant about their presence on the road. By driving close to them as he did, he should have reasonably expected an interaction. The Subject Member could offer no explanation for his actions. Instead, the Subject Member attempted to place at least some of the blame on Mr. J.E. for this incident.

[30] Both Mr. J.E. and Mr. W.B. testified that the Subject Member veered his vehicle in their direction from the opposite side of the road. The truck pulled up within inches of them before it stopped. With the road being as wide as it was, there was no need for the Subject Member to come that close to them. Mr. J.E. raised his hands in the air following the near miss.

[31] After considering all the evidence, I accept the latter version and find that the Subject Member drove from the opposite side of the road towards them and nearly hit Mr. J.E. with the vehicle. This is what prompted Mr. J.E. to raise his hands in the air in what was referred to numerous times at the hearing as a “what the fuck” gesture. Mr. J.E. would not have raised his hands in such a gesture if the Subject Member had simply moved over and driven by them. No interaction would have occurred.

[32] A question arose as to whether the Subject Member rolled the truck window down after Mr. J.E. made the gesture or whether it was already down when the Subject Member stopped the vehicle beside Mr. J.E. and Mr. W.B. The important fact is that the window was down when the Subject Member asked Mr. J.E. and Mr. W.B., “Do we have a problem here?” which the Subject Member admitted he said.

[33] Both Mr. J.E. and Mr. W.B. agreed that the Subject Member commented that “This was his town.” They differed slightly about what he said after that, but the gist of what they both said was that because it was his town, he needed to know what was going on in it. Both witnesses agreed that the Subject Member asked them where they were staying, and both refused to provide an answer. I accept their evidence and find that the Subject Member said these things. I accept this as fact.

[34] The issue about whether the Subject Member pointed the firearm at Mr. J.E. and Mr. W.B. arises at this point.

[35] The Subject Member testified that he unholstered the firearm and moved it from his truck’s centre console to “his crotch” with the barrel of the firearm pointed at his feet. He reached for the firearm in response to Mr. J.E.’s raised hands, which the Subject Member characterized as an aggressive gesture.

[36] Both Mr. J.E. and Mr. W.B. testified that when the Subject Member brought the truck to a stop beside them, he was holding the firearm in the pouch of his hoodie (the pouch) and that he removed the firearm from the pouch at some point. Their evidence differs here.

[37] Mr. J.E. clearly said that the Subject Member removed the firearm entirely from the pouch and placed it on his lap and, at some point, returned the firearm to the pouch. He did this twice.

[38] Mr. W.B. said that the Subject Member removed the firearm only partially from the pouch. In his statement, he said half of the firearm was visible. At the hearing, he said the Subject Member pulled the firearm three quarters of the way out of the pouch. He qualified this by saying that the firearm was sufficiently exposed for him to recognize what type of firearm it was before the Subject Member returned it to the pouch. The firearm was a pistol, which has a short overall length. Therefore, I do not find the discrepancy between his two statements significant. Mr. W.B. was clear that he did not see the end of the firearm's barrel.

[39] Mr. J.E. and Mr. W.B. were emphatic that the firearm remained in the area of the Subject Member's lap throughout the interaction. They, particularly Mr. J.E., were within inches of the vehicle's open window when the interaction occurred. Both witnesses were close enough to see the movement of the Subject Member's hands. The Subject Member's version required him to reach to the truck's centre console where he unholstered the firearm before moving it to "his crotch". Although a relatively short movement, it is a distinct movement from the lap-to-lap movement described by both Mr. J.E. and Mr. W.B. I do not accept that they both could be wrong about what they saw. I accept the evidence of Mr. J.E. and Mr. W.B. that the Subject Member removed the firearm from the pouch to a sufficient degree to allow Mr. J.E. and Mr. W.B. to determine that what the Subject Member held in his hand was a firearm. This brings me to the key question: "Did the Subject Member point the firearm at Mr. J.E. and Mr. W.B.?"

[40] The Subject Member testified that when he removed the firearm from the holster, he placed it on his right thigh with the barrel pointing towards his feet.

[41] Mr. J.E. and Mr. W.B. insisted that the Subject Member had the firearm pointing towards the driver's door at all times, whether in or out of the pouch. In their statements to Constable Gelowitz, both Mr. J.E. and Mr. W.B. said that the Subject Member flashed the firearm at them.

Mr. W.B. did not say that the Subject Member pointed the firearm at him. Mr. Eades said that the Subject Member “had it out holding it there kinda pointing at me”.<sup>1</sup>

[42] After considering all of the evidence, I find that the Subject Member removed the firearm from a place of concealment in the pouch long enough for Mr. J.E. and Mr. W.B. to realize he had a firearm before returning it to the pouch. I find that “flashing the firearm” appropriately describes those movements. The important fact is that the Subject Member accosted two civilians with a firearm for no apparent reason. That is what Mr. J.E. and Mr. W.B. felt they needed to report to the police and that is what they reported. Their statements are only three and four pages long. Constable Gelowitz did not explore the position of the firearm in any detail with either of the two witnesses at the time.

[43] I find that both Mr. J.E. and Mr. W.B. were able to ascertain by the position of the Subject Member’s hand either inside or outside of the pouch that the firearm was being pointed at the driver’s door. Consequently, I also find that the Subject Member pointed the firearm at Mr. J.E. and Mr. W.B. Mr. J.E. was standing at the driver’s door engaged with the Subject Member in what became a heated discussion. The situation concerned Mr. W.B. enough that he felt it necessary to push Mr. J.E. out of the way so he could intercede and calm the situation down. The firearm was pointed at him when he moved in front of the driver’s door.

[44] In the cases provided by the Conduct Authority, criminal courts have determined that all that is required to make out a criminal charge of pointing a firearm is that the firearm must be pointed in a general way. The courts do not require the firearm to be aimed or directly pointed at a person in order to find that the firearm was pointed.<sup>2</sup>

[45] I find that the Subject Member pointed the firearm in the direction of Mr. J.E. and Mr. W.B. in a general way. I find no reason to require anything more than the criminal courts require to find that the Subject Member pointed the firearm. Therefore, I find that the Subject

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<sup>1</sup> *Card Binder – Cst. Castro*, at page 130 lines 59 and 60.

<sup>2</sup> *R v Johns*, 1995 CarswellAlta 979, at paragraph 22; *R v Minish*, 1984 CarswellSask 639, at paragraph 8; *R v Phillips*, 2009 CanLII 2922 (ON SC), at paragraph 73.

Member pointed the firearm at Mr. J.E. and Mr. W.B. The intercession by Mr. W.B. defused the situation, as he put it, by telling the Subject Member what he wanted to hear.

[46] After the situation was defused, the Subject Member drove off towards the stampede grounds. Mr. J.E. and Mr. W.B. observed the activated emergency lights of a police vehicle in the distance. They headed in that direction to report the matter to the police.

[47] At approximately 1:15 a.m., Mr. J.E. and Mr. W.B. approached Constable Gelowitz while he was conducting a traffic stop in the parking lot of a gas station near the stampede grounds. They reported that “a male in a newer, silver diesel Ford pickup truck had flashed a handgun at them”. Constable Gelowitz disseminated the report to other officers via the police radio.

[48] Corporal Squire was working near the entrance of the beer gardens situated on the stampede grounds at approximately 1:20 a.m. when he learned of the complaint Constable Gelowitz was investigating. At approximately 2:05 a.m., Corporal Squire observed the Subject Member entering the stampede grounds operating a grey 2020 Ford F350 pickup truck. Corporal Squire had observed the Subject Member enter the stampede grounds operating the same vehicle about an hour earlier. On that occasion, the Subject Member stopped his vehicle across the road from where Corporal Squire was working. They had a general conversation at that time.

[49] On the second occasion, Corporal Squire approached the driver’s side of the Subject Member’s truck. The Subject Member was the driver and lone occupant of the vehicle. Corporal Squire asked the Subject Member to get out of the truck. Once outside the truck, Corporal Squire informed the Subject Member he was being detained for pointing a firearm.

[50] Corporal Squire noted signs of impairment that included the odour of alcohol on the Subject Member’s breath. The Subject Member’s speech was clear, and his eyes were slightly watery. The Subject Member also emitted a predominant cigar odour. An open can of liquor was in the centre console of the truck.

[51] Corporal Squire turned the Subject Member over to Constable Smith for further investigation of the impaired operation of a motor vehicle. Constable Smith was assigned as the lead investigator for that aspect of the investigation.

[52] Constable Smith made a demand for the Subject Member to provide a breath sample into an ASD. The Subject Member provided a breath sample in response to Constable Smith's demand. The ASD registered a "FAIL" result.

[53] The Subject Member declined to provide a second sample of his breath. I note that the Subject Member was not legally obliged to provide a second breath sample. The Subject Member testified that he did not provide the second breath sample because he knew it would be a "fail" reading and that he did not want to waste anyone's time.

[54] Constable Smith issued the Subject Member an Immediate Roadside Prohibition pursuant to section 215.41 of the British Columbia *Motor Vehicle Act*, RSBC 1996, c 318 [*Motor Vehicle Act*]. Under this section, an Immediate Roadside Prohibition for a "fail" reading for a first or subsequent offence calls for a driving prohibition of 90 days, a 30-day vehicle impoundment and an administrative monetary penalty of \$500.

[55] The Subject Member provided a statement to Constable Kavanagh on July 1, 2022, at approximately 10:02 p.m. In his statement, the Subject Member admitted to having seven beers before he left his house to get some food. He also admitted to having taken some prescription medication. He repeated these admissions at the hearing.

[56] In addition to showing signs of impairment by alcohol, the Subject Member exhibited signs of mental distress. Consequently, Corporal Squire apprehended the Subject Member under the *Mental Health Act*, RSBC 1996, c 288 [*Mental Health Act*]. Corporal Squire escorted the Subject Member to the Cariboo Memorial Hospital for an assessment. Doctor Miller assessed the Subject Member and did not certify him. Instead, Doctor Miller discharged the Subject Member from the hospital. Corporal Squire drove the Subject Member home following his release.

[57] The Subject Member's vehicle was towed to Williams Lake RCMP Detachment for further investigation. Investigators obtained and executed a search warrant on the Subject Member's vehicle and located a loaded Smith & Wesson M&P 9-millimetre (9 mm) handgun.

[58] A Smith & Wesson M&P 9 mm handgun is a restricted firearm. The Subject Member did not have proper authorization to transport a restricted firearm. The Subject Member was charged

under subsections 94(1) and 95(1) of the *Criminal Code*, RSC, 1985, c C-46 [*Criminal Code*], which are for the unauthorized possession of a restricted weapon in a motor vehicle and the possession of a restricted firearm with ammunition respectively.

[59] The Crown Attorney entered a stay of proceedings in relation to the subsection 94(1) *Criminal Code* charge. The Subject Member pled guilty to a lesser charge under subsection 93(1) of the *Criminal Code*, which is for the possession of a restricted firearm at a place other than a place where it may be possessed under the *Firearms Act*, SC 1995, c 39.

[60] On November 30, 2023, the Subject Member appeared before the Honourable Judge R.D. Phillips in provincial court in Williams Lake. Judge Phillips imposed a suspended sentence with a 12-month probation. The terms of probation included the completion of 20 hours of community service work for the benefit of the stampede. Judge Phillips also ordered the firearm forfeit to Canada. He did not prohibit the Subject Member from possessing weapons because of his employment as a police officer.

## **DECISION ON ALLEGATIONS**

[61] Allegations 1 and 2 are allegations of discreditable conduct under section 7.1 of the Code of Conduct. To establish an Allegation under this section, the Conduct Authority must establish each of the following elements on a balance of probabilities:

- a) the acts that constitute the alleged behaviour;
- b) the identity of the subject member;
- c) whether the subject member's behaviour is likely to discredit the Force; and
- d) whether the member's behaviour is sufficiently related to his duties and functions to provide the Force with a legitimate interest in disciplining the member.

[62] I acknowledge that the test set out at page 158 of the *Conduct Measures Guide*, released on November 14, 2024, has different elements for section 7.1 of the Code of Conduct than the one I have just set out. Since I used the aforementioned test in my *Determination of Established Facts*, which I issued on September 23, 2024, I will continue to use the noted test in this case. Moreover, the differences in the two tests makes no material difference to my findings in this case.

### **Findings on Allegation 1**

[63] The acts the Conduct Authority says constitute the alleged behaviour for Allegation 1 are that the Subject Member operated his motor vehicle while under the influence of alcohol and that his ability to operate a motor vehicle was impaired by alcohol.

[64] A “fail” reading on the ASD is evidence that the Subject Member operated his motor vehicle while under the influence of alcohol. The Subject Member admitted that his ability to operate a motor vehicle was impaired by alcohol. Based on the evidence and the Subject Member’s own admissions, I find that the Subject Member operated a motor vehicle while under the influence of alcohol and that his ability to operation a motor vehicle was impaired by alcohol. Thus, the Conduct Authority has demonstrated the first element of the test for discreditable conduct on a balance of probabilities.

[65] The Subject Member’s identity is not at issue in this proceeding. Hence, the Conduct Authority has established the second element of the test for discreditable conduct.

[66] The third element of the test for discreditable conduct is whether the Subject Member’s behaviour is likely to discredit the Force. The test for discreditable conduct is well established. It is whether any reasonable person with the knowledge of the facts, including the realities of policing in general, and the RCMP in particular, would find the conduct discreditable or likely to discredit the Force.

[67] The Conduct Authority has established that the Subject Member operated a motor vehicle while under the influence of alcohol and that he operated a motor vehicle while impaired by alcohol. Societal attitudes towards impaired operation of a motor vehicle, by alcohol or a drug, are such that an RCMP officer found operating a motor vehicle while impaired is likely to damage public confidence in the RCMP. RCMP officers are not only expected to uphold the laws they enforce but are also held to a higher standard than the public.

[68] I find that a reasonable person with the knowledge of the facts, including the realities of policing in general, and the RCMP in particular, would find that an RCMP officer operating a motor vehicle while under the influence of alcohol to the degree that an ASD registered a “fail”

and operating a motor vehicle while impaired by alcohol is discreditable conduct or conduct that is likely to discredit the Force. Consequently, the Conduct Authority has established the third element of the test for discreditable conduct on a balance of probabilities.

[69] The fourth element of the test for discreditable conduct is whether the Subject Member's behaviour is sufficiently related or linked to his duties and functions to provide the Force with a legitimate interest in disciplining him.

[70] The RCMP Code of Conduct applies to members both on and off duty.<sup>3</sup>

[71] The enforcement of impaired driving offences is a cornerstone of the RCMP's policing mandate in the provinces and territories where the RCMP provides policing services under contract. This is especially the case for a member whose dedicated duties are traffic enforcement, as is the case with the Subject Member. Public confidence in the officer's ability to discharge their duties is eroded when RCMP officers violate the laws that they are duty-bound to enforce. Given this, the RCMP has a clear interest in disciplining the Subject Member in relation to Allegation 1. Hence, the Conduct Authority has demonstrated the fourth element of the test for discreditable conduct on a balance of probabilities.

[72] I am satisfied that the Conduct Authority has demonstrated all four elements of the test for discreditable conduct. Therefore, I find Allegation 1 to be established on a balance of probabilities.

### **Findings on Allegation 2**

[73] The acts the Conduct Authority says constitute the behaviour in Allegation 2 are that the Subject Member pointed a restricted firearm at Mr. J.E. and Mr. W.B. and that the Subject Member did not have proper authorization to transport the restricted firearm.

[74] The Subject Member was criminally charged and, after pleading guilty to a lesser offence than the one originally charged, was convicted for possession of a restricted firearm at a place other than a place where it may be possessed under the *Firearms Act*. I accept the findings of the

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<sup>3</sup> RCMP Code of Conduct, section 1.

criminal court as proof that the Subject Member did not have proper authorization to transport a firearm to the stampede.

[75] The second act that constitutes the behaviour is that the Subject Member pointed the restricted firearm at Mr. J.E. and Mr. W.B. for no legitimate reason. I have already found that the Subject Member pointed the firearm at two citizens. There was clearly no legitimate reason for him to do so. He should not have had the firearm in the first place. Other than an innocuous hand gesture prompted by the Subject Member's near miss of Mr. J.E. with his vehicle and a discussion, Mr. J.E. and Mr. W.B. did nothing to warrant having a firearm pointed at them. Hence, the Conduct Authority has demonstrated the first element of the test for discreditable conduct, which again are the acts that constitute the behaviour.

[76] The Subject Member's identity is not at issue in this proceeding. So, the Conduct Authority has established the second element of the test for discreditable conduct.

[77] With respect to the third element of the test, I have already found that the Subject Member pointed a firearm at Mr. J.E. and Mr. W.B. Subsection 87(1) of the *Criminal Code* reads: "Every person commits an offence, who without lawful excuse, points a firearm at another person, whether the firearm is loaded or unloaded." Although the Subject Member was not criminally charged for this offence, my finding that he pointed the firearm at two people without lawful excuse renders this action criminal in nature. Furthermore, the Subject Member was convicted for possession of a restricted firearm at a place other than one where he was allowed to possess it. All criminal behaviour, whether it occurred on or off duty, is considered discreditable conduct. As with Allegation 1, RCMP officers are not only expected to uphold the laws they enforce they are held to a higher standard than the public.

[78] All that to say that I find a reasonable person with the knowledge of the facts, including the realities of policing in general, and the RCMP in particular, would find that an RCMP officer pointing a restricted firearm at two civilians and illegally possessing a restricted firearm in contravention of the *Criminal Code* is discreditable conduct. Consequently, the Conduct Authority has demonstrated the third element of the test for discreditable conduct on a balance of probabilities.

[79] With respect to the fourth element of the test, the Supreme Court of Canada stated that most, if not all, criminal offences committed by police officers will be connected to their employment due to the importance of public confidence in the police officer's ability to discharge their duties.<sup>4</sup>

[80] Enforcing laws related to the possession, use and transportation of firearms plays a significant role in the RCMP's law enforcement efforts aimed at maintaining safe communities. The Subject Member had a role to play in these efforts. He had a duty to respect the laws that he enforces even while off duty.

[81] Hence, the Conduct Authority has demonstrated the fourth element of the test for discreditable conduct on a balance of probabilities.

[82] It follows then that the Conduct Authority has demonstrated all four elements of the test for discreditable conduct. Therefore, I find that the Conduct Authority has established Allegation 2 on a balance of probabilities.

## **CONDUCT MEASURES**

[83] Subsection 45(4) of the *RCMP Act* states that if a conduct board decides that an allegation under the Code of Conduct is established, the conduct board shall impose one or more of the three listed sanctions. The first is dismissal from the Force. The second is a direction to resign from the Force and, in default of resigning within 14 days after being directed to do so, to be dismissed from the Force. The third is any one or more of the conduct measures provided for in the rules. These are found in sections 3, 4 and 5 of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291.

[84] My role is to find the appropriate conduct measures for the circumstances of this case, taking into consideration the material before me, the evidence I heard during the conduct hearing and the parties' submissions.

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<sup>4</sup> *Lévis (City) v Fraternité des policiers de Lévis Inc.*, 2007 SCC 14, at paragraph 43.

[85] As a global conduct measure, the Conduct Authority asked that I dismiss the Subject Member.

[86] The Subject Member Representative suggested that the following conduct measures are appropriate in the circumstances of this case:

- a) a financial penalty of 30 days of pay;
- b) a forfeiture of 15 days of annual leave;
- c) ineligibility for promotion for 3 years;
- d) a direction to work under close supervision for a period of no more than 1 year;
- e) a direction to attend counselling or complete a rehabilitative program under the direction of the Health Services Officer; and
- f) a direction to write a letter of apology to Mr. J.E. and Mr. W.B.

[87] The two Allegations are significantly different. However, since they arise out of the same fact pattern, global conduct measures for both Allegations rather than the assignment of conduct measures specifically to each of the two established Allegations is appropriate.

### **Background facts relating to the Subject Member**

[88] The Subject Member was 41 years old on July 1, 2022. He was born in Brazil. He also lived in England for four years while his father completed his PhD, after which the family returned to Brazil.

[89] The Subject Member's father is a mechanical engineer. His mother is an architect. The Subject Member has an older brother who currently lives and works outside Canada. The Subject Member's family immigrated to Canada in 1993 for security reasons and to provide their children with a better chance at life.

[90] The Subject Member completed high school in Vancouver and attended a year-and-a-half of university in Saskatchewan, where he studied biology and dairy farming. He attended the British Columbia Institute of Technology and completed a three-and-a-half-year program in forestry.

[91] The Subject Member chose to remain in the Lower Mainland and became an arborist. This job lasted for 10.5 years. He still uses his skills as an arborist to help neighbours and friends.

[92] Arboriculture is a risky profession, so the Subject Member chose to become a sheriff with the British Columbia Sheriff Service as part of his progression towards his long-held desire to become a police officer. He began with the Sheriff Service in the Lower Mainland but transferred to Williams Lake.

[93] The Subject Member met his wife in Williams Lake. She is from there. They married in 2010 but are now divorced. They have two children, now aged 9 and 12, from the marriage. Both children have health care issues that are currently in remission but may return later in life.

[94] While with the Sheriff Service, the Subject Member applied for and was accepted into the RCMP. He graduated from Depot in January 2018. He was posted to Williams Lake where he performed general policing duties. In 2021, at his request, he transferred to highway patrol duties in Williams Lake. Although he was on medical leave beginning in December 2021, this was his posting on July 1, 2022.

### **Application of five foundational principles**

[95] In an effort to modernize how the RCMP deals with the conduct of its members, RCMP senior management adopted the recommendations found in the *Phase 1 Final Report* and the *Phase 2 Final Report*,<sup>5</sup> which include the application of five foundational principles.

[96] On November 14, 2024, the RCMP introduced the 2024 *Conduct Measures Guide*, which is an update of the *Conduct Measures Guide* (November 2014 version). The 2024 *Conduct Measures Guide* essentially combines the two noted reports including the application of the five foundational principles plus further guidance and direction to assist conduct authorities and conduct boards to arrive at appropriate conduct measures. Conduct boards, including myself, have

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<sup>5</sup> Paul Ceyssens and W. Scott Childs, “Phase 1” *Final Report Concerning Conduct Measures, and the Application of Conduct Measures to Sex-Related Misconduct under Part IV of the Royal Canadian Mounted Police Act*, Report to the Royal Canadian Mounted Police (February 24, 2022) (*Phase 1 Final Report*); Paul Ceyssens and W. Scott Childs, “Phase 2” *Final Report Concerning Conduct Measures and Related Issues under Part IV of the Royal Canadian Mounted Police Act*, Report to the Royal Canadian Mounted Police (January 31, 2023) (*Phase 2 Final Report*).

been applying these five foundational principles since the release of the *Phase 1 Final Report* almost three years ago.

[97] The *Phase 1 Final Report* summarizes the five foundational principles, at paragraph 8.2, as follows:

8.2 [...]

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

[98] I will apply these principles to the circumstances of this case with consideration of the parties' submissions.

*Proportionality*

[99] I begin with the fourth principle which is proportionality factors. This is the most technical and complex portion of the application of the five foundational principles. In the proportionality analysis, I am required to make three decisions. First, I must identify the relevant proportionality factors. Second, I must assess the identified proportionality factors as mitigating, aggravating or

neutral. Third and finally, I must appropriately balance the proportionality factors to arrive at the appropriate conduct measures.

[100] The *Phase 1 Final Report* contained a non-exhaustive list of 15 proportionality factors. The 2024 *Conduct Measures Guide* includes 13 specific proportionality factors that are similar but worded somewhat differently than the 15 factors listed in the *Phase 1 Final Report*. The amended wording simply eliminates some duplication or crossover from the original list. Hence, I will address all 13 factors from the 2024 *Conduct Measures Guide* in some way.

### ***Public interest***

[101] Police work requires police officers to exercise a high degree of judgment and integrity in order to foster public trust. The nature of the employment requires the highest standard of moral conduct both on and off duty.

[102] Notwithstanding his mental health issues, the Subject Member failed to live up to the standard expected of a member of the RCMP. His behaviour was either criminal or criminal in nature. I find this to be an aggravating proportionality factor.

### ***Seriousness of misconduct***

[103] Despite the *Motor Vehicle Act* providing for an administrative means of dealing with impaired operation of a motor vehicle, impaired operation of a motor vehicle remains a serious criminal offence. The Subject Member chose to operate a motor vehicle while impaired at a time when the most significant public event in Williams Lake was occurring, which I noted attracts many visitors to the city. He drove straight to the heart of that significant public event and attended the stampede, twice. In doing so, he placed the public in danger.

[104] The Subject Member was charged with two serious criminal offences relating to the restricted firearm. He was sentenced on a lesser charge in what appears to be a negotiated plea agreement. He was given the benefit of not being prohibited from possessing firearms, as most other offenders would have been, because he was employed as a police officer. He now has a criminal record in Canada. I cannot understate the seriousness of his conduct related to the firearm.

[105] Even if I am wrong in finding that the Subject Member pointed the firearm at Mr. J.E. and Mr. W.B., I find that committing the criminal offence of possessing a restricted weapon in a place where it was not to be possessed; withdrawing the firearm from its holster; displaying the firearm to Mr. J.E. and Mr. W.B.; and the Subject Member having the firearm in his hand at all times during the incident, regardless of where it was pointed, is very serious. Mr. J.E. and Mr. W.B. were legitimately intimidated and fearful that they may be shot by the person holding it.

[106] Given the foregoing, I find the seriousness of the Subject Member's conduct to be a very significant aggravating factor.

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

[107] The Subject Member expressed remorse for his actions during his testimony before me. He understands that his actions have had an adverse impact on others, including Mr. J.E. and Mr. W.B., his family, particularly his children, and others, but he did not specifically identify those others. I accept his apology as sincere.

[108] He also recognizes that his conduct was serious. He has accepted responsibility for his actions. His outright admission to Allegation 1 and his substantial admission to Allegation 2 demonstrates this.

[109] He firmly believed he did not point the firearm at Mr. J.E. and Mr. W.B. It was within his right to challenge the evidence relating to his actions, some of which was struck from the *Notice of Conduct Hearing* during the conduct hearing. Thus, I cannot find the fact that a conduct hearing was necessary to resolve outstanding issues to be an aggravating factor.

[110] The Subject Member accepted my finding that he pointed the firearm at Mr. J.E. and Mr. W.B., which is what he contested. He cooperated with the investigators at the scene in relation to the impaired operation of a motor vehicle offence. He attended the RCMP office the following day and voluntarily provided a statement to investigators about the entire incident. He also pleaded guilty to the criminal charge relating to the firearm.

[111] Based on the foregoing, I find that the Subject Member is remorseful for his actions; he recognizes the seriousness of his conduct, has accepted responsibility for his actions, and is willing to be held accountable for them. I find this to be a mitigating proportionality factor.

***Disability and other relevant personal circumstances***

[112] The Subject Member was diagnosed in May 2022 with four psychological disorders: PTSD, alcohol-use disorder, cannabis-use disorder and persistent depressive disorder. I will say more about what led to these diagnoses in the proportionality factor of potential to reform or rehabilitate.

[113] I accept the diagnoses. I also accept that the Subject Member had “hit rock bottom at this point in his life”. Nevertheless, his medical conditions do not absolve him of culpability for his actions. I find his lack of forethought, despite his medical and personal situations, for the impact of his actions to be unacceptable. Without condoning his actions, I find that his state of mental health at the time of this incident is a mitigating factor.

***Provocation***

[114] Provocation is a proportionality factor that is ordinarily considered to mitigate a conduct measure. However, I believe that it is open to me to consider provocation as an aggravating factor, particularly when the subject member instigates an incident which progresses into their serious misconduct as is the case in my findings on Allegation 2.

[115] I appreciate that irrational decision-making and hypervigilance accompany PTSD, but I cannot stretch these as far as I was asked by the Subject Member Representative in this case. Mr. J.E. and Mr. W.B. had gone to the stampede for a night of enjoyment while passing through town. They were leaving the stampede grounds on their way home, minding their own business. They did not approach the Subject Member, he approached them. In fact, there is no evidence that Mr. J.E. and Mr. W.B. even acknowledged the Subject Member’s presence on the road until he veered his vehicle in their direction and nearly hit them with it. It was only after this that Mr. J.E. reacted as he did. The Subject Member had no reason to be concerned about the group of four men. I heard that he may have passed another group of four pedestrians before encountering the

Mr. J.E./Mr. W.B. group and showed no signs of hypervigilance towards the earlier group. He instigated this incident.

[116] The Subject Member was unable to explain why he engaged Mr. J.E. and Mr. W.B. in the first instance or why he did not extract himself from the situation once he was faced with what he perceived to be Mr. J.E.'s aggressive actions. He had a means of escape. He further provoked Mr. J.E. by brandishing the firearm and showing it to him. This matter would not be before me if the Subject Member had simply driven by or driven away.

[117] This is a significant aggravating proportionality factor.

### ***Employment history***

[118] The Subject Member Representative presented the Subject Member as an excellent member with much potential. I do not find that demonstrated in the one full assessment and two partial assessments that were provided to me. For the most part, the Subject Member appears to have performed the duties expected of him as a member of the RCMP, with an aptitude for self-generated traffic work. The evaluations include areas for improvement, as all performance evaluations should. Several of these areas, like time management, is one that many members struggle with. In a few others, I could not understand what the evaluator was saying. The Subject Member testified that some of the areas identified for improvement stem from his lack of self esteem, which he has suffered from since childhood. I find this to be a reasonable assessment of those areas of improvement.

[119] The Subject Member provided me with 10 letters of support. None of the supporters are RCMP members or other persons that spoke directly to the performance of his duties as a member of the RCMP.

[120] From a performance perspective, his employment history is a neutral factor.

[121] The Subject Member has one prior established conduct matter for discreditable conduct under section 7.1 of the Code of Conduct. This occurred in January 2021. Although the circumstances are different than those in this matter, the aggravating factors, which the Subject Member agreed with, are similar in both cases. They included:

- a) potential to put a member of the public at risk;
- b) a member of the public was involved; and
- c) potential loss of public trust.

[122] The Subject Member was clearly informed in the *Record of Decision* in the previous matter that future breaches of the Code of Conduct on his part could result in more serious conduct measures including dismissal. The Subject Member received a reprimand in the previous case. This conduct measure was intended to be educative and remedial.

[123] It is important to note that the Subject Member has faced two conduct proceedings in just over four years of service. This is significant because most RCMP members complete an entire career without facing any form of discipline.

[124] Based on the fact that the Subject Member has faced two conduct proceedings, both involving putting members of the public at risk, in a relatively short period of time, I find this to be an aggravating proportionality factor.

***Potential to reform or rehabilitate***

[125] The potential to reform or rehabilitate is closely related to remorse and employment history. The Subject Member testified that he began experiencing medical issues in the fall of 2021. His response to the Allegations states that he began to experience symptoms of PTSD in late 2019 or early 2020. Calls for service and investigations at work were affecting him. An incident in 2021 tipped the balance. This incident prompted the Subject Member to request a transfer to highway patrol. He went off duty on medical leave on December 16, 2021.

[126] I accept that the Subject Member pursued medical treatment but was faced with delays and other issues that prevented him from receiving the medical treatment he needed, but by his own admission, he did not pursue these medical treatments aggressively enough.

[127] After July 1, 2022, the Subject Member received the medical treatment he needed, which was facilitated by the RCMP Health Services Officer and a treating medical practitioner. He states that he is now on track to become the person that he was and needs to be.

[128] The Subject Member was cleared by the Health Services Officer for a Graduated Return to Work on February 24, 2024. This was to be updated in June 2024; however, I do not have that update, possibly because the Subject Member was suspended from duty by that time.

[129] The Subject Member has committed to lifelong sobriety that is backed up by an *Aftercare Treatment Agreement* he signed with the Health Services Officer. He has also committed to continue his psychological treatment, which has provided him with insights into his mental health condition and ways to address signs of recurrence.

[130] I commend him for his efforts and commitments; however, I have concerns about his ability to remain on his current path for several reasons.

[131] The medical reports provided to me do not address whether the Subject Member is at risk of re-engaging in the type of behaviour that he has demonstrated in both of his conduct matters. The experiences he had during his one-and-a-half to two-and-a-half years of service are not unlike the experiences most members of the RCMP face on a frequent basis. If he is returned to full active duty, he will continue to experience the same types of calls for service and investigations that affected him in his first few years of service. I can say that some of the most traumatic experiences in my many years of general duty policing occurred when I was performing dedicated traffic duties.

[132] The Subject Member will continue to face the same stressors in his personal life. He has faced some of these challenges, like his divorce, since receiving treatment, and has been able to maintain his sobriety. But I have no indication from the medical professionals that he will be able to continue to do so when the challenges of operational police duties are layered on top of his personal challenges.

[133] Finally, the Subject Member prior discipline matter does not appear to have had any educative or remedial effect on him.

[134] I find this to be an aggravating proportionality factor.

***Effect on police officer and police officer's family***

[135] Any conduct measure I impose that involves a significant financial penalty or loss of employment will adversely impact the Subject Member and his family. The Subject Member testified that loss of employment will cause him to lose medical benefits that will impact his ability to provide future medical treatment for his two children. He further testified that their medical conditions are in remission but may resurrect themselves in the future.

[136] The *Conduct Measure Guide* (version 2024-1), at page 28, provides the following guidance with respect to this proportionality factor:

[...]

The effect on the subject member (and sometimes the member's family) as a proportionality consideration may, in some limited circumstances, mitigate a conduct measure. Since a conduct measure will always have an effect on the member, the case law appears to require an extenuating economic effect, or other exceptional impact, for this proportionality factor to be relevant.

[...]

[137] I have no evidence that a significant financial penalty or loss of employment will have an extenuating economic effect or other exceptional impact on the Subject Member. I also have no evidence about the impact a loss of employment might have in terms of loss of medical benefits, either for himself or his family.

[138] Furthermore, I note that the Subject Member has been receiving a medical pension from Veteran Affairs Canada since February 10, 2024. Consequently, as harsh as it may seem, I will follow the direction provided in the 2024 *Conduct Measures Guide*, which is based on the common law, and deem this proportionality factor as not relevant.

***Parity – Consistency of disposition***

[139] Parity of sanction addresses the issue of consistency of outcome. Although I am not necessarily bound by previous cases, a comparison of similar cases is essential to reaching an appropriate outcome.

[140] The Conduct Authority provided three RCMP conduct board decisions, a Federal Court decision related to the RCMP conduct process, and two other court decisions in non-RCMP matters. The Subject Member provided me with five RCMP conduct board decisions and one criminal court decision related to an RCMP member. Four of the five RCMP conduct board decisions provided by the Subject Member involved joint submissions from the parties on conduct measures. All of them also involved a subject member with mental health issues.

[141] I agree that cases involving joint submissions have value in setting out the potential range of conduct measures, but that value is limited because there are very narrow circumstances in which a conduct board may refuse to accept the proposed conduct measures. Conduct boards will not override a joint proposal from the parties unless it is contrary to the public interest. In professional misconduct cases, the overriding and paramount objective is to maintain the public's confidence in the integrity of the profession and the profession's ability to govern its members effectively.

[142] The current RCMP conduct process came into effect in late November 2014. Accompanying the implementation of the new process was the 2014 *Conduct Measures Guide*, which relied heavily on discipline cases under the former discipline regime. These provided little guidance or assistance to conduct boards under the current process for a number of reasons that are not relevant to this proceeding.

[143] The RCMP conduct board decisions presented by the Subject Member range in date from 2017 to 2022. During this time frame, conduct boards were still being presented with discipline cases under the old regime, which were not supplemented by a significant body of conduct board decisions under the current process. A shortcoming identified in the *Phase 1 Final Report* was that conduct board decisions relied too heavily on RCMP-decided conduct decisions with little consideration of professional misconduct decisions of other police services or the courts. Since the release of the *Phase 1 Final Report* in February 2022, conduct boards have shifted their focus to align with the recommendations in the *Phase 1 Final Report*, the subsequent *Phase 2 Final Report* and now the 2024 *Conduct Measures Guide*. The focus in these reports in terms of conduct measures is the public interest. Although the conduct boards in the cases provided to me

considered the public interest, it was not given the primacy it has today when it comes to cases involving members with mental health issues.

[144] Given the foregoing, I find that none of the cases provided to me by either party assist me in this case. Therefore, this is a neutral proportionality factor.

***Specific and general deterrence***

[145] I find that there is a need in this case to address both specific and general deterrence.

[146] Both Allegations relate to conduct that involved serious misconduct that was criminal or criminal in nature. The Subject Member has one previous established conduct matter from which he appears to have gained little insight into his responsibilities as an RCMP member. Consequently, a strong message needs to be sent to him personally.

[147] I also find that I must seriously denounce the Subject Member's conduct to ensure that other RCMP members may give serious consideration to their actions, both on and off duty, particularly when those actions involve serious misconduct that is criminal or criminal in nature.

[148] I find the need to address both specific and general deterrence in this case to be an aggravating proportionality factor.

***Public confidence in the police service***

[149] The 2024 *Conduct Measures Guide* reads, at page 28, as follows:

[...]

This proportionality consideration speaks primarily to the purpose of the police complaint and discipline process that involves protecting the employer's interest. Case law has interpreted "damage" to capture both reputational harm arising from the original misconduct, and harm that would occur to the reputation of the police force if the subject member were to remain a member. A decision maker may also lawfully infer public damage and damage to relationships with other agencies.

[...]

[150] Although I have no evidence as to the extent of the damage to the RCMP's reputation, based on the findings on the Allegations, I am confident in saying that the Subject Member's actions have the potential to contribute to a loss in public confidence in the RCMP.

[151] The evidence of Mr. J.E. and Mr. W.B. indicates that they have lost confidence in not only the RCMP, but policing in general. They appeared to me to be average hard-working members of society. I believe they are representative of a significant portion of the Canadian public.

[152] Moreover, Williams Lake is a small city. The Subject Member appeared in provincial court in Williams Lake on the docket with other members of the public who have interactions with the police. Everyone who appears in criminal court does so because they have breached society's trust. An RCMP member, who holds a higher level of public trust, appearing in a criminal court in the community in which they police can only serve to erode public confidence in the RCMP locally, if not further than the community in which the misconduct occurred.

[153] Furthermore, this incident occurred at an event that has a significant impact for the City of Williams Lake. As I mentioned, the stampede attracts many visitors to the city. I heard evidence that two days following this incident, an actual shooting occurred at the stampede grounds. Gun wielding patrons can have a detrimental impact on events such as the stampede. The fact that a member of local law enforcement was found, off duty, illegally possessing a restricted weapon on the same stampede grounds potentially compounds the detrimental effect of the actual shooting.

[154] I have not heard that the Subject Member's criminal conviction received any media attention, but I am sure it did. An incident like this one is news in a small community. Conduct board decisions are published publicly through the RCMP website, which provides a broader dissemination of the incident to the public. The greater the public access to knowledge of RCMP member misconduct, the greater the likelihood that a member's misconduct will adversely impact public confidence in the RCMP. As a result, I find this to be an aggravating proportionality factor.

### ***Conclusion on proportionality factors***

[155] I have found several aggravating factors including public interest, the seriousness of the misconduct, provocation, employment history, potential for reform or rehabilitation, specific and

general deterrence, and public confidence in the RCMP. These factors are aggravating to various degrees. Several are to a very significant degree.

[156] I have also found two mitigating factors, which include the Subject Member's recognition of the seriousness of his misconduct or remorse and his duty-related mental health issues.

[157] Parity of sanction was the only neutral proportionality factor.

[158] Three proportionality factors in the 2024 *Conduct Measures Guide* are not relevant to his proceeding. They are the effect on the police officer and the police officer's family, procedural fairness considerations and employer contribution to the misconduct.

[159] In balancing the aggravating and mitigating factors, I find the aggravating factors significantly outweigh the mitigating factors in this case.

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

[160] As previously mentioned, the first foundation principle is that conduct measures must accord with the purposes of the RCMP complaint and conduct process, which are found under Part IV of the *RCMP Act*. Section 36.2 of the *RCMP Act* sets out the purposes of Part IV, which, generally speaking, seeks to address four specific interests:

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

[161] My role is to balance these competing interests to arrive at the appropriate conduct measures in conjunction with the four foundational principles.

***Public interest***

[162] The public has an interest in ensuring that RCMP members demonstrate the highest level of integrity and moral character both on and off duty. Consequently, member misconduct is always a matter of public interest because it impacts public confidence in the RCMP. The Subject Member

did not live up to these expectations. He committed a serious criminal offence involving the possession of a restricted firearm and operated a motor vehicle while impaired, which would have resulted in a criminal charge but for the existence of an alternative administrative process in British Columbia. These offences endangered the public. The firearm incident directly impacted two members of the public. Moreover, the Subject Member failed to adhere to the RCMP's Core Values and caused a loss of confidence in his employer and the community.

[163] The public also recognizes that police officers are exposed to stressful and traumatic events in their duties that may impact on an officer's wellbeing. Consequently, the public interest also supports a compassionate approach to a police officer whose health is adversely affected by their duties as is the case with the Subject Member.

[164] Given the entirety of the circumstances, particularly the seriousness of the Subject Member's actions, I find that the public interest in maintaining public confidence in the RCMP outweighs the public interest in supporting a compassionate approach to the Subject Member's duty-related mental health issues.

#### ***RCMP's interests***

[165] The RCMP's interests relate to its dual role as an employer and as a public institution. As an employer, the RCMP must maintain integrity and discipline in the workplace. To do this, the RCMP must deal harshly with cases of serious member misconduct. Cases as serious as this one will often require the permanent removal of the member from the workplace.

[166] As a public institution, the RCMP is responsible for the security of the public. The Subject Member's actions ran counter to his employer's responsibility. The Subject Member not only failed to protect the security of the public but also endangered it by operating a motor vehicle while impaired, by possessing a restricted firearm in a place where he was not lawfully allowed to possess it, and by brandishing that restricted firearm at two members of the public.

[167] The circumstances of this case bring into question the Subject Member's moral ability to perform duties as a police officer. As stated in the 2024 *Conduct Measures Guide*, at page 23, although rehabilitative potential is an important consideration, it may not overcome the right to

terminate employment where the breach of trust goes to the heart of the employer-employee relationship. The Subject Member breached his employer's trust. The breach of trust goes to the heart of the employer-employee relationship. This requires the imposition of serious conduct measures, which include loss of employment.

***The Subject Member's interest***

[168] The Subject Member's interest in this proceeding is in being treated fairly. He has been represented by legal counsel throughout this conduct matter and has been afforded all of the aspects of procedural fairness, including the ability to respond to the Allegations, provided by the RCMP conduct process. He continues to have the ability to appeal both my findings on the Allegations and the conduct measures imposed once he is served with my final written decision.

***Interests of affected individuals***

[169] I heard from Mr. J.E. and Mr. W.B. about the impact the Subject Member's actions had on them, but I did not hear from them about their specific interests.

[170] Mr. J.E. testified that he is now generally mistrusting because he has continuing concerns that others he meets might be carrying a concealed weapon. He said that he knows good police officers, but the Subject Member's actions "bring a dark shadow on a lot of them". He was upset when he found out that the Subject Member was still an RCMP member but was pleased that he was at least suspended.

[171] Mr. W.B. was extremely worried that someone, particularly Mr. J.E., was going to be shot for no reason that night. He genuinely feared for his life. When he found out the Subject Member was a police officer, he "dropped all faith in society".

[172] The evidence of Mr. J.E. and Mr. W.B. demonstrates to me that the Subject Member's actions have adversely affected not just the RCMP, but broader institutions in society, including the police in general.

[173] Based on their comments, I find I can reasonably infer that their interests would be to have the Subject Member lose his employment.

*Predominance of educative and remedial conduct measures*

[174] In keeping with paragraph 36.2(e) of the *RCMP Act*, I must administer conduct measures that are proportionate to the nature and circumstances of the contravention and, where appropriate, that are educative and remedial rather than punitive.

[175] The seriousness of the misconduct and the public interest considerations render the imposition of educative and remedial conduct measures inappropriate in this case. The Subject Member's behaviour is a significant aggravating factor. The public interest favours the imposition of serious conduct measures. Combined, these considerations weigh strongly in favour of the loss of employment. The mitigating factor of the Subject Member's deteriorated mental state, which contributed to his actions, does not preclude serious conduct measures, including loss of employment.

*Presumption of least onerous conduct measure*

[176] Where several conduct measures are appropriate, a presumption of the least onerous disposition should prevail. This presumption can be supplanted if the public confidence in the administration of the RCMP conduct process and/or the organizational effectiveness of the RCMP is undermined.

[177] I find the presumption is displaced in this case. The Subject Member's actions alone undermine both public confidence in the administration of the RCMP conduct process and the organizational effectiveness of the RCMP if the Subject Member were allowed to continue his career in the RCMP.

*Expectation of higher conduct standard on police officers*

[178] The 2024 *Conduct Measures Guide*, at page 29, states: "The law is clear that a higher standard of conduct applies to police officers, as compared to other employees, generally principally because police hold a position of trust and authority."

[179] The Subject Member's conduct ran contrary to the exemplary image and integrity required to perform the duties of a police officer. His actions seriously tarnished the RCMP's image and

contributed to a loss of public confidence and respect for the RCMP and policing in general. The factors speak to the need to impose significant conduct measures, including the loss of employment. Again, this is tempered somewhat by the recognition that the Subject Member's duty-related operational stress injury played a role in his actions.

### **Decision on conduct measures**

[180] I find that the conduct measures I administer must be significant to be proportionate to the Subject Member's conduct. Throughout this decision, I stated that the loss of employment is an appropriate global conduct measure.

[181] Based on the circumstances of this case, particularly the seriousness of the misconduct combined with the additional aggravating factors, I find that the public interest supports conduct measures involving loss of employment. I have two options in that regard. The first is outright dismissal. The other is a direction to resign from the Force within 14 days and, in default of which, dismissal from the Force.

[182] In the absence of the mitigating factors of the Subject Member's recognition of his misconduct and his duty-related mental health issues, the public interest demands his outright dismissal. However, when those mitigating factors are brought into consideration, I do not think that the public interest is adversely affected by directing the Subject Member to resign from the Force. The main consideration is that he will no longer be a member of the RCMP. Based on the foregoing, I direct the Subject Member to resign from the Force within 14 days and, in default of which, dismissal from the Force, pursuant to paragraph 45(4)(b) of the *RCMP Act*.

### **DECISION**

[183] I have found that the Conduct Authority established both Allegations of discreditable conduct under section 7.1 of the Code of Conduct. I have directed the Subject Member to resign from the Force within 14 days and, in default of resigning within that timeline, to be dismissed from the Force.

[184] Those individuals who have been provided a copy of this decision are reminded of their obligations to handle such information properly in accordance with the applicable policies and legislation governing the treatment of personal information.

[185] 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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Kevin L. Harrison  
Conduct Board

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July 22, 2025  
Date