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2021 CAD 08



**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:

**Assistant Commissioner Jodie Boudreau**

Conduct Authority

and

**Constable Craig Sakkit**  
Regimental Number 51392

Subject Member

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**Conduct Board Decision**

Gerald Annetts

March 12, 2021

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Ms. Shahana Khan, Conduct Authority Representative

Ms. Jill Gunn, Subject Member Representative

## **Table of Contents**

SUMMARY .....	3
INTRODUCTION .....	3
ALLEGATIONS .....	3
Decision on the Allegation .....	6
CONDUCT MEASURES .....	7
Aggravating factors .....	9
Mitigating factors .....	10
Decision on conduct measures and conclusion .....	10

## **SUMMARY**

Constable Sakkit faced 8 domestic-violence-related allegations in contravention of the RCMP Code of Conduct. Prior to a conduct hearing date being set, the parties reached a resolution of the matter. Pursuant to that resolution, seven of the allegations were withdrawn and Constable Sakkit admitted to the sole remaining allegation. The parties also provided a joint proposal on the appropriate conduct measures. The Conduct Board accepted the joint proposal as reasonable and within the applicable range of conduct measures. As a result, the Conduct Board imposed a financial penalty of 7 days (56 hours) to be deducted from Constable Sakkit's pay.

## **INTRODUCTION**

[1] The conduct hearing in this matter was initiated by the Conduct Authority on February 25, 2020. Eight allegations of misconduct were made against Constable Sakkit for off-duty incidents that occurred over a two-year period between March 1, 2017, and March 3, 2019.

## **ALLEGATIONS**

[2] Pursuant to resolution discussions between the parties, on February 19, 2021, the Conduct Authority withdrew Allegations 1 through 3 and 5 through 8 from the *Notice of Conduct Hearing*. The remaining allegation reads as follows:

#### **Allegation 4**

On or about March 17, 2018, at or near the Town of Lakeshore, in the Province of Ontario, Constable Craig Sakkit engaged in discreditable conduct, contrary to section 7.1 of the *Code of Conduct* of the *Royal Canadian Mounted Police*.

##### *Particulars*

1. M.S., who was seventeen years old at the time, had gone out with her friends to celebrate St. Patrick's day.
2. M.S. arrived home at approximately, 12:00 am, an hour after her curfew. She had been driven home by her friends, was "drunk" and was afraid to exit the vehicle and enter the house because it was passed her curfew.
3. You pulled M.S. out of the vehicle and yelled at her and her friends. You physically dragged M.S. into your home.
4. While in your house, you and M.S. argued. You then slapped M.S. across her face with an open hand, causing her nose to bleed.
5. On March 3, 2019, you were charged by the Ontario Provincial Police with an Assault against M.S. contrary to section 266 of the *Criminal Code*, for which you entered a plea of guilty on August 27, 2019, as part of a plea agreement, and received a conditional discharge.

[3] On February 8, 2021, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291, Constable Sakkit submitted his response to the *Notice of Conduct Hearing*. With some clarifications, Constable Sakkit admitted to Allegation 4. On February 19, 2021, the Conduct Authority withdrew the remaining seven allegations. On February 25, 2021, the parties provided me with an *Agreed Statement of Facts* and a joint proposal on conduct measures. The *Agreed Statement of Facts* reads as follows:

- a. On March 17, 2018 (St. Patrick's Day), [Constable (Cst.)] Craig [Sakkit] and Mrs. [S.S.] allowed their daughter, [M.S.] ([date of birth redacted]), to go out with her friends. Cst. [Sakkit] and Mrs. [S.S.] provided a curfew of 11:00 pm and advised [M.S.] not to consume any alcoholic beverages.
- b. Cst. Sakkit fell asleep on the couch at his home located at [...], in the Town of Lakeshore, and was awakened by his wife at midnight, advising him that [M.S.] had just arrived home, one hour past her curfew.

- c. Cst. Sakkit looked out the front door and saw a car parked at the end of the driveway. Cst. Sakkit stood watching for a while, waiting for [M.S.] to exit the vehicle, which she did not.
- d. Cst. Sakkit walked down the driveway and saw [M.S.] and three other girls inside the car. Cst. Sakkit opened the passenger door, and instantly detected a strong odour of alcohol emanating from the vehicle.
- e. At a certain point, [M.S.] fell out of the vehicle. She lay on the concrete driveway at Cst. Sakkit's feet. He attempted to pick her up, but this was made difficult by her being limp.
- f. Cst. Sakkit yelled at [M.S.] and her friends. He asked those in the car if they were all drunk. He asked the driver if she had driven while impaired.
- g. The three other girls in the vehicle, including the driver, told Cst. Sakkit that they had not been drinking. They advised that it was only [M.S.] who had been drinking.
- h. Cst. Sakkit picked up [M.S.] by wrapping his arms around her stomach and carrying her to his side. Cst. Sakkit found it difficult and awkward carrying a 130-pound limp person, and dropped [M.S.] twice.
- i. Cst. Sakkit yelled at [M.S.] telling her to get up and walk into the house.
- j. Once inside the house, [M.S.] sat on the staircase leading to the upstairs of the home. Cst. Sakkit and [M.S.] argued about her behaviour for a period of time, and Cst. Sakkit slapped [M.S.] across the face with an open hand.
- k. Cst. Sakkit did not break [M.S.]'s nose, however, her nose did begin to bleed. No medical attention was necessary for her bloody nose.
- l. The following day, March 18, 2018, when [M.S.] was sober, Cst. Sakkit apologized for his actions and explained his anger. Cst. [Sakkit] and Mrs. [S.S.] also discussed things and decided that in the future Mrs. [S.S.] would be the parent to deal with incidents like

this in order to avoid what had transpired. Cst. Sakkit is remorseful for his action that night.

### **Decision on the Allegation**

[4] Given Constable Sakkit's admission to Allegation 4, the *Agreed Statement of Facts* and Constable Sakkit's guilty plea in the parallel criminal charge, I have rendered my decision on the merit of Allegation 4 solely on the documentary record, pursuant to subsections 23(1) and (2) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291.

[5] In every case where discreditable conduct is alleged under section 7.1 of the Code of Conduct, in order to determine that the allegation is established, a conduct board must first find that it was the subject member who committed the acts in question. Identity is not an issue in this case.

[6] The second stage involves a determination on a balance of probabilities of whether the facts alleged actually took place. I am greatly assisted in making that finding by the *Agreed Statement of Facts* and Constable Sakkit's guilty plea in the parallel criminal charge. As a result, I find that the facts alleged within the particulars have been proven on a balance of probabilities.

[7] The final stage in the analysis is to determine whether Constable Sakkit's behaviour is likely to discredit the Force and is sufficiently related to his duties and responsibilities as a police officer to provide the Force with a legitimate interest in disciplining him. I find that a reasonable person with knowledge of all the relevant circumstances, including the realities of policing in general and in the RCMP in particular, would be of the opinion that the actions of Constable Sakkit in physically assaulting his teenage daughter are discreditable and likely to discredit the Force. Given the fact that he is a police officer sworn to uphold the law, there is little question that the Force has a legitimate interest in disciplining him for that illegal conduct. Therefore, I find Allegation 4 to be established.

## CONDUCT MEASURES

[8] Having found the Allegation established and in accordance with subsection 45(4) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*], as well as the *Conduct Measures Guide*, I am required to impose “a fair and just measure that is commensurate to the gravity of the contravention, the degree of blameworthiness of the member, and the presence of mitigating and aggravating factors”. Pursuant to paragraph 36.2(e) of the *RCMP Act*, conduct measures must be “proportionate to the nature and circumstances of the contravention of the Code of Conduct, and where appropriate, that are educative and remedial rather than punitive”.

[9] The parties submitted a joint proposal on sanction of a financial penalty of 7 days (56 hours) to be deducted from Constable Sakkit’s pay. I must not depart from a joint submission on penalty unless the proposed conduct measure would bring the administration of justice into disrepute or would otherwise be contrary to the public interest, per *R. v Anthony-Cook*, 2016 SCC 43 (CanLii), at paragraphs 32 to 36:

[32] Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.

[33] In *Druken*, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so “markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system”. And, as stated by the same court in *R. v. B.O.2*, 2010 NLCA 19, at para. 56 (CanLII), when assessing a joint submission, trial judges should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts”.

[34] In my view, these powerful statements capture the essence of the public interest test developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. 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 discussions, to believe that

the proper functioning of the justice system had broken down. This is an undeniably high threshold—and for good reason, as I shall explain.

[...]

[35] Guilty pleas in exchange for joint submissions on sentence are a “proper and necessary part of the administration of criminal justice” (Martin Committee Report, at p. 290). When plea resolutions are “properly conducted [they] benefit not only the accused, but also victims, witnesses, counsel, and the administration of justice generally” (*ibid.*, at p. 281 (emphasis deleted)).

[36] Accused persons benefit by pleading guilty in exchange for a joint submission on sentence (see D. Layton and M. Proulx, *Ethics and Criminal Law* (2nd ed. 2015), at p. 436). The most obvious benefit is that the Crown agrees to recommend a sentence that the accused is prepared to accept. This recommendation is likely to be more lenient than the accused might expect after a trial and/or contested sentencing hearing. Accused persons who plead guilty promptly are able to minimize the stress and legal costs associated with trials. Moreover, for those who are truly remorseful, a guilty plea offers an opportunity to begin making amends. For many accused, maximizing certainty as to the outcome is crucial—and a joint submission, though not inviolable, offers considerable comfort in this regard.

[10] That the same principle is applicable in administrative proceedings was established in *Rault v The Law Society of Saskatchewan*, 2009 SKCA 81 (CanLii), at paragraphs 18 to 20:

[18] While other jurisdictions, notably Ontario, have adopted a written policy with respect to joint submissions, in our opinion, they have simply adopted a principle that would be understood to apply. The discipline process in the *Act* has many similarities to the criminal process and as such the bargaining process is undermined if a joint submission, the product of compromise, is readily rejected by the Discipline Committee. There is a formal process for the handling of complaints, including the appointment of an Investigation Committee, which may set out a Formal Complaint outlining the allegations which may constitute a finding of guilt as to conduct unbecoming a lawyer. This can lead to the appointment of a Hearing Committee which determines if the allegations in the Formal Complaint are well-founded and, if so, the matter is referred to the Discipline Committee for sentencing on the charges.

[19] This process can be time-consuming for Benchers involved in the various stages leading to the final penalty imposed by the Discipline Committee and can involve significant costs for both the member and the Law Society. Therefore, all members and the Law Society have a vested interest in ensuring that matters proceed expeditiously. If the member co-operates with the investigation and hearing process and, as happened in the



instant case, pleads guilty, and puts an Agreed Statement of Facts before the Hearing Committee, the Law Society is relieved of the burden of proving the allegations in what could, in some instances, be a complicated and protracted hearing with the usual risks and vagaries that may occur in the course of such hearings. If the parties negotiating compromise agreements cannot expect their efforts will be respected, there is little incentive to attempt to negotiate a resolution. For this reason, joint submissions on sentence should be considered by the Discipline Committee in a principled way similar to the jurisprudence in criminal matters and as applied by discipline committees in the provinces noted above.

[20] While the Discipline Committee has the authority to impose sentence on a member who is guilty of conduct unbecoming and exercises its discretion in determining the appropriate sentence, this does not permit the Discipline Committee to ignore, without proper consideration, a joint submission [...]

[11] The joint proposal put forward by the parties would neither bring the administration of justice into disrepute nor be contrary to the public interest as it properly takes into account the mitigating and aggravating factors as well as the surrounding circumstances. Furthermore, it falls within the normal range of conduct measures as outlined in the RCMP *Conduct Measures Guide* (2014).

[12] Per the *Conduct Measures Guide*, the appropriate range of conduct measures for domestic violence contraventions in the “normal” range is a financial penalty of between 3 and 10 days of pay. In the present matter, I accept the following aggravating and mitigating factors put forward by the parties:

**Aggravating factors**

- a. Constable Sakkit was in a position of trust and authority with respect to the victim of his assault, who was 17 years of age at the time.
- b. Another police agency, the Ontario Provincial Police, was involved, which could serve to undermine the relationship of the RCMP with that agency.
- c. Constable Sakkit was charged criminally and pleaded guilty to that criminal charge.

### **Mitigating factors**

- a. The incident was isolated and out of character.
- b. The incident was not planned or premeditated, rather it occurred spontaneously in the heat of the moment.
- c. Constable Sakkit was immediately and profoundly remorseful.
- d. Constable Sakkit immediately took responsibility for his actions, cooperated with the investigation, pleaded guilty in the criminal proceeding, and admitted the Allegation in this proceeding.
- e. Constable Sakkit was granted a conditional discharge in the criminal proceeding.
- f. Constable Sakkit has successfully abided by and fulfilled all conditions of his 18-month probationary period, which expired on February 27, 2021; thus, he has demonstrated a maintained correction of his behaviour.
- g. Constable Sakkit has no prior discipline.
- h. Constable Sakkit has over 16 years of above average service with the RCMP.
- i. Constable Sakkit continued to perform well while he was temporarily reassigned to administrative duties from early March 2019 until his suspension in late February 2020.
- j. Constable Sakkit enjoys the support of his supervisor and co-workers.
- k. At the time of this incident, Constable Sakkit was suffering from an as-then undiagnosed mental condition, for which he sought and continues to seek treatment with positive results.

### **Decision on conduct measures and conclusion**

[13] The joint proposal put forward by the parties takes into account all of these factors as well as the circumstances of this case. I accept it as an appropriate resolution to this matter as

being in the public interest and that it will not bring the administration of justice into disrepute. Therefore, I impose as the appropriate conduct measure the financial penalty of 7 days of pay to be deducted from Constable Sakkit's pay.

[14] Any interim measures in place should be resolved in accordance with section 23 of the *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281. Either party may appeal this decision by filing a statement of appeal with the Commissioner within 14 days of the service of this decision on Constable Sakkit, as set out in section 45.11 of the *RCMP Act* and section 22 of the *Commissioner's Standing Order (Grievances and Appeals)*, SOR/2014-289.

_____ Gerald Annetts	March 12, 2021 _____ Edmonton, Alberta
Conduct Board	