



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:

Chief Superintendent Steven Ing
Level III Conduct Authority, "E" Division

Conduct Authority

and

Corporal John Johnson
Regimental Number 46158

Subject Member

Conduct Board Decision

Sara Novell

May 16, 2024

Mr. Jonathan Hart, Conduct Authority Representative

Mr. Brad Kielmann, Subject Member Representative

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SUMMARY

The *Notice of Conduct Hearing*, dated November 26, 2021, contained three alleged contraventions of the RCMP Code of Conduct, two under section 7.1(discreditable conduct) and one alleged contravention of section 4.6 (unauthorized use of equipment and property). Following the withdrawal of the two discreditable conduct allegations by the Conduct Authority, only Allegation 2 remained, alleging that Corporal Johnson failed to ensure that his Force-issued service pistol, magazines and ammunition were used/stored in a safe and authorized manner. The Parties submitted an agreed statement of facts and a joint proposal on conduct measures, which was accepted by the Conduct Board. Allegation 2 was found to be established.

The following conduct measures were imposed: a) a forfeiture of 2 days of annual leave; b) a financial penalty of 1 day's pay, to be deducted from Corporal Johnson's pay; and c) a direction to undergo the requisite training necessary for the proper handling of a service pistol, including, but not limited to, ARMS and AMR02 within 6 months of his return to work.

INTRODUCTION

[1] On September 17, 2021, the Designated Level III Conduct Authority at the time signed the *Notice to the Designated Officer*, in which he requested the initiation of a conduct hearing in relation to this matter.

[2] On September 29, 2021, an initial conduct board was appointed. Following administrative changes, which led to the rescindment of that appointment, I was appointed as the Conduct Board, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*] on March 20, 2023.

[3] The *Notice of Conduct Hearing*, dated November 26, 2021, contained two allegations of discreditable conduct, under section 7.1 of the RCMP Code of Conduct and one allegation of misuse of government-issued equipment under section 4.6.

[4] On February 25, 2022, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*], Corporal John Johnson provided his response to the allegations, denying all three of them but admitting certain particulars with explanations.

[5] On January 16, 2023, and on July 7, 2023, respectively, Allegation 3 and Allegation 1, alleged contraventions of section 7.1 of the Code of Conduct, were withdrawn at the request of the Conduct Authority.

[6] The sole remaining allegation before me is Allegation 2. It alleges that on or about October 13, 2020, Corporal Johnson failed to ensure that government-issued equipment and property, specifically his Force-issued service pistol, magazines and ammunition, were used/stored in a safe and authorized manner, contrary to section 4.6 of the Code of Conduct.

[7] On August 22, 2023, the Parties advised that they had reached an agreement on facts and conduct measures with respect to Allegation 2.

[8] On September 19, 2023, the Parties confirmed their preference that I exercise my authority under subsections 23(1) and 24(1) of the *CSO (Conduct)* to render my final written decision based solely on the Record, subject to any issues arising out of my review of the agreed statement of

facts, joint proposal, written submissions and accompanying documentary evidence, which were presented to me on October 16, 2023.

[9] Following my review of the materials, I held a pre-hearing conference on October 24, 2023, to discuss the concerns I had with some of the agreed upon facts and supporting documentary evidence. The Parties subsequently provided their final agreed statement of facts, joint proposal and accompanying documentary evidence on November 1, 2023.

[10] Corporal Johnson admitted Allegation 2. The following conduct measures were jointly proposed by the Parties: a) a forfeiture of 2 days of annual leave; b) a financial penalty of 1 day's pay, to be deducted from Corporal Johnson's pay; and c) a direction to undergo the requisite training necessary for the proper handling of a service pistol, including ARMS and AMR02, within 6 months of his return to work.

[11] For the reasons that follow, I find that Allegation 2 is established and accept the joint proposal. The conduct measures as proposed, with slight amendments to align with the wording of the *CSO (Conduct)*, are imposed.

ALLEGATION

[12] The only remaining allegation relates to the misuse of government-issued equipment under section 4.6 of the Code of Conduct and is set out in the *Notice of Conduct Hearing* as follows:

Allegation 2

On or about October 13, 2020, at or near North Cowichan/Duncan, in the Province of British Columbia, Corporal John Johnson failed to ensure that government-issued equipment and property was used/stored in a safe and authorized manner, contrary to section 4.6 of the Code of Conduct of the Royal Canadian Mounted Police.

Particulars

[13] The *Notice of Conduct Hearing* contained a section titled "*Particulars common to all Allegations*". Where particulars or elements of a particular are not relevant to Allegation 2, I have omitted their inclusion below. The relevant particulars under that section are as follows:

1. At all material times you were a member of the Royal Canadian Mounted Police (“RCMP”) and posted to “E” Division, British Columbia.
2. In 2012, you began a dating relationship with [S.M]. In 2014, [...] [S.M.] moved into your residence in Duncan. On October 13, 2020, [S.M.] attended to the North Cowichan/Duncan RCMP detachment to report that she was concerned about your mental state [...]. The RCMP attended your residence following the complaint by [S.M.].
3. [S.J.] is your biological daughter. You have two other children [...]
4. Constable Jennifer Morgan (“Morgan”) of the North Cowichan/Duncan Major Crime Section was responsible for conducting the statutory investigation into your alleged actions.
5. Acting Sergeant Nancy Manning (“Manning”) conducted the first code of conduct investigation into your alleged actions. Sergeant Manning provided the completed Code of Conduct Investigative Report to the Conduct Authority on March 1, 2021.
6. Sergeant Judith Johnson (“Johnson”) conducted the second “supplemental” code of conduct investigation into your alleged actions. Sergeant Johnson provided the supplemental Code of Conduct Investigative Report to the Conduct Authority on August 5, 2021.

[14] Upon my review of the materials contained in the Record, including Corporal Johnson’s admissions from his February 25, 2022, response to the allegations, I find particulars 1 to 6 established.

[15] The *Notice of Conduct Hearing* also contained particulars specific to Allegation 2. Again, only particulars or elements of the particulars that are relevant to Allegation 2 have been included:

[16]

1. As a member of the RCMP, you were issued a 9mm Smith and Wesson Semi-Automatic service pistol (“service pistol”) and three magazines. Your service pistol is a prohibited firearm within the meaning of s. 84(1) of the Criminal Code and inherently dangerous.
2. [...] you became visually upset and subsequently gave [S.M.] two of your service pistol magazines for safe keeping. You also provided [S.J.] with various passwords and personalized information pertaining to your financial affairs and expressed emotional goodbyes. [S.J.] became sufficiently concerned with your mental well being and the possibility that you were suicidal that she contacted the RCMP for assistance.

3. When [S.M.] asked you about your service pistol [sic], you informed her that you had only given her “two of the three” magazines. Following a search, [S.M.] located your “gun” unsecured and the third magazine in the drawer of your nightstand. [S.M.] then attended to the North Cowichan/Duncan RCMP detachment “with three RCMP 9mm duty magazines full of ammunition” that she had taken from you. [S.M.] reported to Sergeant Adam Tallboy (“Tallboy”) that she believed you were suicidal.
4. The RCMP attended to your residence and you were apprehended under section 28 of the *Mental Health Act*. Sergeant Tallboy seized your unsecured and unloaded service pistol “in a holster in bag full of clothing” in your bedroom.
5. You failed in your duty to ensure that your service pistol and magazines were properly stored and used/handled in a safe manner – at all times. Your actions meet the threshold of a marked departure from the standard of care of a reasonable police officer in similar circumstances with respect to a prohibited firearm.

Agreed Statement of Facts and findings of fact

[17] On November 1, 2023, I received the Parties’ final agreed statement of facts, joint proposal on conduct measures and written submissions along with supporting documentary evidence. The agreed statement of facts was signed by Corporal Johnson and represents his admissions to those facts, which are as follows:

1. At all material times, Corporal Johnson was a member of the RCMP posted to the Group 2 “E” Division, Federal Serious and Organized Crime section at RCMP [“E” Division Headquarters], Surrey, British Columbia.
2. In the month of October 2020, Corporal Johnson was in an intimate partner living relationship with [S.M.].
3. As a member of the RCMP, Corporal Johnson was issued a 9mm Smith and Wesson Semi-automatic service pistol and three magazines. [His] RCMP issued service pistol is a prohibited firearm within the meaning of s. 84(1) of the Criminal Code and inherently dangerous.
4. On October 12, 2020, Corporal Johnson placed his unloaded service pistol in a holster in a bag. Corporal Johnson brought this bag to his bedroom because he intended on disassembling his service pistol after dinner and then cleaning it in his garage later that same evening. Corporal Johnson further fully intended to re-secure his service pistol in a safe manner after cleaning same. Corporal Johnson agrees that his plans were

altered following a family argument that caused him to feel emotionally distraught.

5. Corporal Johnson gave his three loaded with ammunition service pistol magazines to [S.M.] for safe-keeping, however, she inadvertently left one on the bed when she departed the residence. When [S.M.] returned to the residence, Corporal Johnson turned over the third magazine to [S.M.] and informed her that she had forgotten to take all of them.
6. On October 13, 2020, [S.M.] attended the North Cowichan RCMP detachment to report concerns that Corporal Johnson may be suicidal. Sergeant Tallboy was tasked with investigating [S.M.]’s complaint to police. [S.M.] provided [Sergeant Tallboy] with the “three 9mm duty magazines full of ammunition” belonging to Corporal Johnson.
7. When Sergeant Tallboy attended to Corporal Johnson’s personal residence, he located Corporal Johnson’s unsecured and unloaded service pistol “in a holster, in a bag full of clothing” in Corporal Johnson’s bedroom. Sergeant Tallboy seized Corporal Johnson’s service pistol.
8. Corporal Johnson agrees that he failed in his duty to ensure that both his service pistol and loaded magazines were properly stored and secured and used/handled in a safe manner – at all times.
9. Corporal Johnson agrees that his actions contravene section 4.6 of the *Code of Conduct* of the RCMP as he failed to ensure that his government-issued equipment – service pistol and three loaded magazines – were used/stored in a safe and authorized manner at all times.

[18] I have thoroughly reviewed the agreed statement of facts and have determined that it accurately reflects the relevant materials in the Record, with the following two clarifications:

- a) While I acknowledge Corporal Johnson’s explanation provided within fact 4 regarding his intentions of cleaning his firearm, I do not accept it as a finding of fact because it represents his alleged intention or an attempt to explain his behaviour. Consequently, my finding in relation to fact 4 is as follows:
 4. On October 12, 2020, Corporal Johnson placed his unloaded service pistol in a holster in a bag. Corporal Johnson brought this bag to his bedroom.
- b) Following my review of S.M.’s statement¹ and of Corporal Johnson’s admission regarding fact 5 in the agreed statement of facts, there is some dispute concerning the manner in which S.M. obtained the three duty magazines full of ammunition. Fact 5

¹ Final investigation Report_Johnson_210301, Appendix – 06 - [S.M.]’s transcribed statement, at pages 72 and 73.

provides context and is not, in and of itself, a constituent element of Allegation 2 that needs to be proven by the Conduct Authority in order to discharge their burden. As it is inconsequential, I decline to make a finding in this respect. Therefore, my finding in relation to fact 5 is as follows:

5. Out of concern for Corporal Johnson's well-being, and with his agreement, S.M. took possession of Corporal Johnson's three service pistol magazines, loaded with ammunition

[19] With these clarifications, I adopt the agreed statement of facts as my findings of fact.

Decision on Allegation 2

[20] Section 4.6 of the Code of Conduct provides that "[m]embers use government-issued equipment and property only for authorized purposes and activities."

[21] In their submissions, the Parties note that the legal test regarding the standard of care expected of an RCMP officer with respect to an RCMP-issued service pistol and loaded magazines was articulated in the *Roesler* decision.² However, unlike Corporal Johnson, Constable Roesler was facing an allegation of discreditable conduct under section 7.1 of the Code of Conduct, for which a different test applies.

[22] While the allegation Corporal Johnson is facing could have been more appropriately addressed under section 7.1 of the Code of Conduct, the allegation before me has been brought under section 4.6. As such, the Conduct Authority must establish the following three elements on a balance of probabilities:

- a) the identity of the subject member;
- b) that the subject member used government-issued equipment or property; and
- c) that the subject member used the equipment or property for an activity or purpose that was not authorized or operational.

[23] Corporal Johnson's identity is uncontested. As such the first element of the test is satisfied.

² *Designated Conduct Authority "E" Division and Roesler*, 2020 CAD 13 [*Roesler*], at paragraph 53.

[24] The 9mm Smith and Wesson semi-automatic service pistol and three magazines constitute government-issued equipment for the exclusive use of Corporal Johnson. Furthermore, he had a positive duty to ensure their use, handling and storage were in accordance with the *Storage, Display, Transportation and Handling of Firearms by Individuals Regulations*, SOR/98-209, and RCMP policy at all times. Therefore, the second element of the test is also satisfied.

[25] Finally, on October 12, 2020, Corporal Johnson placed his unloaded service pistol in a holster, in a bag that he brought to his bedroom. Corporal Johnson's failure to take adequate measures to secure his service pistol constitutes, among other things, a breach of his obligation to properly store, use and handle his government-issued equipment in a safe and authorized manner at all times. Furthermore, allowing S.M. to handle Corporal Johnson's three 9mm duty magazines full of ammunition is not an authorized or operational activity or purpose. Therefore, the third and final element of the test is also satisfied.

[26] In order to establish the act or acts constituting the alleged conduct, it must be demonstrated that the particulars that are essential to the allegations have in fact occurred. It is not necessary to establish each particular. The constituent elements of the misconduct, as they relate to the particulars under Allegation 2, can be found at Particulars 1, 4 and 5, as well as in part of Particular 3, when Ms. S.M. attended the North Cowichan/Duncan Detachment "with three RCMP 9mm duty magazines full of ammunition" that she had taken from Corporal Johnson. I find those particulars established.

[27] Accordingly, I find that Corporal Johnson failed in his duty to ensure that both his service pistol and loaded magazines were properly stored and secured as well as used/handled in a safe manner, at all times. As a result, Allegation 2 is established.

CONDUCT MEASURES

[28] Having found Allegation 2 established, I am required, by virtue of subsection 45(4) of the *RCMP Act*, to impose at least one of the conduct measures set out under that subsection.

[29] Following the withdrawal of the two allegations of discreditable conduct, the Conduct Authority Representative indicated that dismissal was no longer a proportionate measure. I agree.

[30] The Parties have presented me with a joint proposal on conduct measures, dated October 31, 2023, which was signed by both Corporal Johnson and the Conduct Authority. The Parties also provided brief written submissions detailing how the five foundational principles set out in the *Phase 1 Final Report*³ support the proposed measures along with their agreed upon aggravating and mitigating factors and supporting documentary evidence. The Parties propose the following conduct measures, which I have slightly amended to align with the wording of the *CSO (Conduct)*:

- a) a forfeiture of 2 days of annual leave;
- b) a financial penalty of 1 day's pay, to be deducted from Corporal Johnson's pay; and
- c) a direction to undergo the requisite training necessary for the proper handling of a service pistol, including ARMS and AMR02, within 6 months of his return to work.

Applicable legal principles

Joint proposals

[31] When a conduct board is presented with a joint proposal on conduct measures, there are very narrow circumstances in which they may refuse to accept the proposed measures. The Supreme Court of Canada has recognized the value of settlement discussions and provides that 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.”⁴

[32] The public interest test is a stringent one. It has been adopted by other professional disciplinary bodies⁵ and applied in several recent RCMP conduct decisions.

³ Ceyssens, Paul and Childs, Scott, *Report to the Royal Canadian Mounted Police “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*, February 24, 2022 [*Phase 1 Final Report*].

⁴ *R v Anthony-Cook*, 2016 SCC 43, at paragraph 32.

⁵ *Rault v Law Society of Saskatchewan*, 2009 SKCA 81 (CanLII), at paragraph 19.

[33] In order to determine whether the proposed conduct measures submitted by the Parties are against the public interest, I will begin my analysis by applying the five foundational principles that guide the assessment of a fit conduct measure as set out in the *Phase 1 Final Report*.

Assessing fit conduct measures

[34] The first principle states that conduct measures “must accord with the purposes of the police complaint and discipline process”, which requires the balancing of four interests: the public, the RCMP as an employer, the subject member in being treated fairly, and those affected by the misconduct at issue, where applicable.⁶

[35] Paragraphs 36.2(b) and (c) of the *RCMP Act* provide for the establishment of a Code of Conduct that emphasizes the importance of maintaining public trust and reinforcing the high standard of conduct expected of RCMP members. It also sets out the member’s responsibility and accountability for the promotion and maintenance of good conduct in the Force.

[36] The Supreme Court of Canada has also highlighted the importance of the public interest by stating that “[t]he purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve the public confidence in the profession”.⁷

[37] The second and third principles provide that remedial and corrective measures should prevail where appropriate and that the presumption of the least onerous disposition should be imposed.⁸ These principles are reflected at paragraph 36.2(e) of the *RCMP Act*, which requires that conduct measures be proportionate to the nature and circumstances of the individual case, and, where appropriate, be educative and remedial rather than punitive. However, both of these principles will be displaced if the public interest or other considerations, such as the seriousness of the misconduct, prevail.

[38] The fourth principle involves identifying the relevant proportionality considerations, assessing whether they may be mitigating, aggravating or neutral, and appropriately balancing

⁶ *Phase 1 Final Report*, at pages 22.

⁷ *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

⁸ *Phase 1 Final Report*, at page 22.

them in consideration of the circumstances of the case and of the four purposes of the police complaint and discipline process.⁹

[39] Finally, the fifth principle is that police officers are expected to adhere to a higher standard of conduct in light of the position of trust they hold.¹⁰

Analysis

[40] The November 2014 *Conduct Measures Guide* (the Guide), while not prescriptive, is intended to promote parity of sanction. It is a useful reference when determining the appropriate range of sanctions for a particular category of behaviour.

[41] Pages 35 and 36 of the Guide specifically identify the range of conduct measures imposed for the unsafe use of a firearm or of police equipment. An aggravated range provides for a financial penalty of 5 to 15 days where the incident caused injury, where there was a deliberate discharge of a firearm out of frustration or in cases of gross negligence. The mitigated range advances remedial measures for situations involving an accidental discharge when loading/unloading a firearm, when the conduct is self-reported or when no injury occurred. Finally, the recommendation for the normal range is from a reprimand up to a financial penalty of 5 days.

[42] In their joint proposal, the Parties advance that Corporal Johnson's actions fall squarely within the normal range of conduct measures as set out at page 36 of the Guide, which provides that "the normal range of conduct for such incidents should remain consistent at 2-5 days for contraventions involving carelessness".

[43] In support of this, the Parties identify eight proportionality factors that may have a mitigating effect on sanction:

- a) Corporal Johnson fully admitted Allegation 2, fully cooperated with the entirety of the conduct hearing process and has accepted full responsibility for the Allegation.

⁹ *Phase 1 Final Report*, at page 21.

¹⁰ *Phase 1 Final Report*, at page 22.

- b) Corporal Johnson was experiencing a significant personal stressor at the time of the incident. The Parties agree that this was a momentary lapse in judgment and an isolated incident.
- c) Corporal Johnson's intention of cleaning the firearm while off duty was both legitimate and to the betterment of his position as a police officer. The events, as they unfolded, were unintended. Nevertheless, Corporal Johnson acknowledges his responsibility of ensuring that his duty pistol and ammunition are always properly stored and secured.
- d) Corporal Johnson is an honest, dedicated and valuable member of the RCMP. He is regarded as a positive, eager and productive member with a strong work ethic.
- e) Corporal Johnson has no prior disciplinary history.
- f) Corporal Johnson has the support of his former supervisor, Sergeant Kimberly Stark, and of Acting Superintendent Kurt Bedford.
- g) Corporal Johnson is actively involved in his community and willingly volunteers his time to the betterment of others. For example, he has coached his children's soccer and rugby teams and has taught a women's self-defence class.
- h) Corporal Johnson has sought and received treatment from the RCMP psychologist and continues to seek treatment on an ongoing basis.

[44] I accept that Corporal Johnson has admitted Allegation 2 and cooperated with the conduct hearing process. However, I view this as a neutral factor. Regarding Corporal Johnson's acceptance of responsibility, I note that he has submitted a short, signed, but unsworn, statement in which he provides an overview of his background, family situation, employment history, personal challenges and stressors, as well as volunteer activities. His statement includes the following concluding paragraph:

[...]

I miss work. I am proud and love being a police officer. I am excited to return to work and be a part of a team. I have no prior disciplinary history. I recognize the mistake I made, and it will not happen again. I consider myself to be a high performing and meticulous police officer. The situation at the

time I left my firearm unattended was truly an exceptional circumstance, but I accept responsibility for it.¹¹

[45] While I acknowledge that Corporal Johnson has stated his acceptance of responsibility, I note the lack of remorse and recognition of the seriousness of leaving his service pistol unsecured and of allowing S.M. to handle his three loaded duty magazines. Consequently, the weight I can attribute to this consideration as a mitigating factor is negated, and I find it to be a neutral factor.

[46] I reject the third mitigating factor advanced by the Parties. Corporal Johnson's intention of cleaning his service pistol is not for the betterment of his position as a police officer. Ensuring his equipment is clean is a duty requirement¹² and does not justify leaving his service pistol unsecured in a bag full of clothes.

[47] Regarding the fourth and sixth mitigating factors agreed upon by the Parties, I have assessed them as a single factor as I consider there to be an overlap in the content of the letters and the character description of Corporal Johnson. I have attributed significant weight to the reference letter provided by Sergeant Stark as she is aware of the nature of the allegation against Corporal Johnson and has supervised him directly. Furthermore, she fully supports his return to work and has highlighted his qualities as a person and as a member of the RCMP.

[48] I find that Corporal Johnson's involvement in the community, while commendable, is a neutral factor.

[49] While I recognize Corporal Johnson's continued efforts to help manage his emotions by seeing a psychologist, I can ascribe no weight to this as a mitigating factor. The Subject Member Representative has confirmed this factor is not being submitted to take away from Corporal Johnson's responsibility in the allegation, nor have I been provided any evidence, medical or otherwise, that establishes a diagnosis or even confirms that Corporal Johnson was experiencing symptoms of a health condition in October 2020. More importantly, I have not been provided with

¹¹ Signed Statement, Corporal Johnson.

¹² RCMP *Firearms Manual*, Chapter 6, "Issue and Maintenance of Firearms and Related Equipment", section 4.2.1, (2016-05-16)

the reason for the consultation with the psychologist or with any information on Corporal Johnson's progress or on his rehabilitative potential.

[50] Finally, I accept the remaining considerations the Parties have presented as mitigating factors. I acknowledge that Corporal Johnson was experiencing an important personal stressor at the time of the incident. I agree with the Parties that the evidence suggests this was a momentary lapse in judgment and an isolated incident. I also recognize Corporal Johnson's unblemished disciplinary record throughout his 23-year career. I have attributed significant weight to these two factors.

[51] Turning to the aggravating factors, the Parties submit that the actions of Corporal Johnson resulted in his intimate partner, a civilian, having to handle and transport "three loaded with ammunition magazines". I retain this as a significant aggravating factor.

[52] Additionally, as a result of the inherently dangerous nature of a prohibited firearm, Corporal Johnson's actions potentially endangered all of the persons present within his residence, including his children. I also find this to be an aggravating factor.

[53] Finally, although not specifically addressed by the Parties as an aggravating factor, I note that Corporal Johnson had 23 years of service as a police officer at the time of the incident. Furthermore, he has acknowledged having received appropriate training for the proper handling of a service pistol during the course of his career. I have recognized the stressful circumstances surrounding the evening of October 12, 2020, as a mitigating factor; however, a member of the RCMP with as much service and training as Corporal Johnson should know better than to leave their service pistol unsecured in a bag full of clothes. Therefore, I have also considered Corporal Johnson's experience as an aggravating factor.

Decision on conduct measures

[54] When balancing the four interests of the police complaint and discipline process with my analysis of the applicable proportionality factors, I find that the proposed conduct measures serve as a fair warning and reminder to other members of their obligation to safely store and handle their service pistol and ammunition, at all times.

[55] I agree with the Parties' assessment of the appropriate range of measures applicable to Corporal Johnson's misconduct. The aggravating factors of involving a civilian and potentially endangering the other residents of his home place the misconduct out of the mitigated range. However careless Corporal Johnson's actions, they do not meet the threshold set out in the aggravated range. The proposed measures are both remedial and corrective and fall in the middle of the normal range provided for in the Guide.

[56] As such, I find that the financial penalty and forfeiture of leave are proportionate to the carelessness of Corporal Johnson's actions. These measures are neither trivial nor punitive and meet the expectation of both specific and general deterrence, all while holding Corporal Johnson accountable.

[57] The direction to undergo the requisite training necessary for the proper handling of a service pistol serves to educate and support Corporal Johnson in the pursuit of his employment with the RCMP while ensuring the public's safety.

[58] In light of the foregoing, I find that the proposed conduct measures satisfy the five principles that guide the assessment of a fit conduct measure. I conclude that the joint proposal is not against the public interest, nor would it bring the administration of justice into disrepute. Consequently, I accept the proposed conduct measures and hereby impose the following:

- a) a forfeiture of 2 days of annual leave, pursuant to paragraph 4(e) of the *CSO (Conduct)*;
- b) a financial penalty of 1 day's pay, to be deducted from Corporal Johnson's pay, pursuant to paragraph 4(d) of the *CSO (Conduct)*; and
- c) a direction to undergo the requisite training necessary for the proper handling of a service pistol, including ARMS and AMR02, within 6 months of his return to work, pursuant to paragraph 3(1)(c) of the *CSO (Conduct)*.

CONCLUSION

[59] Allegation 2 is established and the aforementioned conduct measures are imposed.

[60] My acceptance of the joint proposal provides Corporal Johnson with the opportunity to continue his career with the RCMP. It is expected that he will uphold the standards set by the Code of Conduct and the RCMP core values.

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

[62] This constitutes my written decision, as required by subsection 45(3) of the *RCMP Act*. Either Party may appeal this decision by filing a statement of appeal with the Commissioner within 14 days of the service of this decision on Corporal Johnson 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.

Sara Novell
Conduct Board

May 16, 2024
Date