

In the matter of the Police Act, R.S.A. 2000, c. P-17 and
in the matter of the Police Service Regulation, Alta. Reg. 356/1990

And in the matter of Complaints and Disciplinary Proceedings against
Regimental Number [REDACTED], [REDACTED]
of the Calgary Police Service

On February 20, 2020, [REDACTED] was charged with the following
counts of disciplinary misconduct:

Count #1

Deceit, under section 5(2)(d)(i) of the *Police Service Regulation*, wilfully or negligently making or signing a false, misleading or inaccurate statement or entry in an official document or record in that between December 7, 2016 and September 5, 2018, inclusive, at or near the City of Calgary, you submitted forty false claims to Green Shield Canada for services that you or your dependents had not received. Specifically:

- Three different service providers reported that 31 of the 40 claims (totaling \$3,145.74 of which \$3,045.48 was reimbursed to you) were reported to be false. Green Shield Canada subsequently requested that you provide receipts, or reimbursement, for the remaining 9 claims (totaling \$1,017.74). If documentation was unavailable, Green Shield directed that you were to remit full payment of \$4,063.22. On November 9, 2018 you sent a full remittance of \$4,063.22 to Green Shield Canada with a written explanation regarding the circumstances that lead to all the false claims.

Count #2

Discreditable Conduct, under section 5(2)(e)(viii) of the *Police Service Regulation*, doing anything prejudicial to discipline or likely to bring discredit on the reputation of the police service in that between December 7, 2016 and September 5, 2018, inclusive, at or near the City of Calgary, you submitted forty false claims to Green Shield Canada for services that you or your dependents had not received. Specifically:

- Three different service providers reported that 31 of the 40 claims (totaling \$3,145.74 of which \$3,045.48 was reimbursed to you) were reported to be false. Green Shield Canada subsequently requested that you provide receipts, or reimbursement, for the remaining 9 claims (totaling \$1,017.74). If documentation was unavailable, Green Shield directed that you were to remit full payment of \$4,063.22. On November 9, 2018 you sent a full remittance of \$4,063.22 to Green Shield Canada with a written explanation regarding the circumstances that lead to all the false claims.

Summary of Proceedings

██████████ made her first appearance on March 25th, 2020. ██████████ was not represented by Counsel or Agent. She was asked if it was her intention to retain Counsel. She stated on the record she would not be retaining Counsel.

At this first appearance, ██████████ entered “admit” pleas to the two counts contained in the Notice and Record of Disciplinary Proceedings.

An Agreed Statement of Facts was read into the record with the document being entered as an exhibit (Exhibit 4). The Agreed Statement of Facts was admitted to by ██████████ .

With the guilty plea and the admission of the contents of the agreed statement of facts which supported the charges, I found the charge of Deceit, under section 5(2)(d)(i) of the *PSR* and the charge of Discreditable Conduct pursuant to s. 5(2)(e)(iii) of the *PSR* to have been proven on a balance of probabilities. ██████████ was found guilty of the misconduct.

The Presenting Officer made submissions on penalty and ██████████ read a statement into the record. ██████████ was asked to elaborate on aspects of her personal and professional circumstances which she did.

The matter was set over to April 8th, 2020 for the decision on penalty.

Evidence

Exhibits:

- Exhibit 1 Notice and Record of Disciplinary Proceedings.
- Exhibit 2 Presiding Officer Appointment Memo.
- Exhibit 3 Presenting Officer Appointment Memo.
- Exhibit 4 Agreed Statement of Facts.

Details of Incident (As per the “Agreed Statement of Facts”)

1. On September 21, 2018, ██████████ contacted Green Shield Canada (“GSC”), Calgary Police Service (“CPS”) extended medical benefits plan provider, to report that she had submitted false claims for which she had received reimbursement from GSC. ██████████ was told that GSC was in the process of investigating the false claims.

2. On October 18, 2018, a letter was sent to [REDACTED] from GSC, advising her of the current audit of her account and asking for an explanation as to why multiple claims that had been submitted to GSC appeared fraudulent. GSC sought that a full reimbursement of the money that had been paid out to [REDACTED] be reimbursed if she couldn't provide an explanation of the transactions. In addition, GSC indicated that the repayment of any amounts "may not prevent GSC from carrying out other options, including contacting your plan sponsor" being CPS.
3. Between December 6, 2016, and September 9, 2018 inclusive, forty claims, totaling \$4,163.22 were submitted to GSC through the GSC Plan Member Online Services (PMOS) claims submission feature attached to the GSC account belonging to [REDACTED], for which \$4,063.22 was reimbursed to [REDACTED].
4. A GSC audit of [REDACTED] claims revealed that thirty one of the forty claims, totaling \$3,145.48, were in relation to three different service providers who, when asked, said that they had not seen [REDACTED] or any of her dependents on the dates/times in question nor had they received any payment for services provided on the dates/times in question. In addition, nine unsupported claims for unknown services from an unknown number of providers were submitted to [REDACTED] account totaling \$1,017.74. These were services that GSC could not confirm with the named service providers.
5. On November 9, 2018, a full remittance of \$4,063.22 was sent by [REDACTED] to GSC with a lengthy explanation regarding the circumstances that lead to the false claims.
6. On November 12, 2018, GSC notified the City of Calgary Pension, Benefits Governance and Design department of the results of their audit into [REDACTED] submission of false claims. On November 22, 2018, the City of Calgary then notified Human Resources at CPS, who forwarded the matter to CPS Professional Standards Section for investigation into any contravention of the *Criminal Code of Canada* and the *Police Service Regulations*.
7. [REDACTED], a General Production Order was authorized by Provincial Court Judge M.T.C. Tyndale for GSC to produce all documents, including written correspondence from [REDACTED] and claim information, in relation to the GSC audit of [REDACTED] claims between September 18, 2018 and December 4, 2018.
8. On January 31, 2019, GSC provided CPS with all documents pertaining to the audit of [REDACTED] claims, including a Letter of Explanation authored by [REDACTED] dated November 2, 2018.
9. On October 27, 2019, [REDACTED] provided an Involuntary Explanatory

Report taking full responsibility for the forty false claims submitted to GSC through the PMOS claims submission feature between December 6, 2016, and September 9, 2018 inclusive, totaling \$4,163.22.

Submissions of the Presenting Officer

The Presenting Officer advised that the criminal investigation report of [REDACTED] actions was sent to the Edmonton Crown Prosecutor's Office for review and opinion. The Crown determined that prosecuting [REDACTED] would not be in the public interest. The factors weighing against the public interest of prosecuting for fraudulent conduct included the restitution she paid, the remorse expressed, her personal circumstances, anticipated outcome, court resources, low recidivism risk, and availability of the *PSR* to hold her accountable.

Ms. Campbell advised that [REDACTED] has been a member of the Calgary Police Service for [REDACTED]. She is currently a Senior Constable Level II. She had two years of prior policing experience [REDACTED].

She advised that [REDACTED] PEAKS Assessments contained complimentary comments regarding her work performance in various work areas. She also has eight positive behavioural events on her file.

Ms. Campbell advised that [REDACTED] has undertaken [REDACTED] treatment through the Calgary Police Service and her treatment is currently being followed by the Human Resources Section. When she returned to work, she did so in [REDACTED]. After several months, returned to her prior work area, the [REDACTED] where she transitioned to full time hours. Her Inspector stated that "[REDACTED] presented as healthier than she has in the past." He reported increased work productivity which was previously above average.

Her return to work was with restrictions being; no overtime, dayshift only, administrative duties only, no uniform/handgun, and must be in a low-stress environment; for example, no high-profile cases. She is also bound by a treatment expectations letter which will be active until July 11th, 2021. [REDACTED].

She stated that [REDACTED] has a good service record without any prior disciplinary matters or negative behavioral events.

Ms. Campbell then spoke on four like case matters. These will be discussed at a later point in the decision.

She then spoke to the mitigating and aggravating factors. She advised that [REDACTED] presented a good attitude, was frank and cooperative throughout the investigation. She has taken full responsibility for her actions and she came forward

about her actions to Greenshields Canada (GSC) admitting to the false claims. She has expressed her remorse for her actions.

In aggravation, Ms. Campbell states this was not an isolated incident. [REDACTED] made forty false benefit claims over an extended period of time.

Ms. Campbell also advised that [REDACTED] had to testify on a homicide trial since in relation to her duties [REDACTED] Having become a "McNeil Officer," she was questioned on her McNeil status. She has since been removed as a witness for upcoming trials by the Crown's Office due to her McNeil status.

The Presenting Officer advised that the Police Service was not seeking the dismissal of [REDACTED]. She suggested that a reduction in seniority within the rank and a suspension from duty without pay for a period of 80 hours would be in the appropriate range for a penalty. She stated: "The Presiding Officer's decision as to the amount of hours and the level of reduction in rank should be based on any hardship consideration the penalty imposed will create for [REDACTED] such that she will be able to continue to serve the public as a whole and healthy officer."

Submissions of the Cited Officer

[REDACTED] addressed the hearing commencing by thanking everyone present as well as the Calgary Police Service (CPS) for allowing her to be present and for the opportunity to continue to work here. She stated she had lost sight of this day saying she had a deep-seated fear that she was not going to make it. She stated the CPS stepped in and helped.

She advised she had suffered years of trauma [REDACTED] from which she believed there was no escape. [REDACTED]

She stated: *"It's not simple for me to say I don't recognize the woman you see before you today or how I came to be. I am good but I have behaved badly."* She was broken and was afraid to ask for help. She stated she feels shame and embarrassment and she wears her guilt like a badge on her sleeve.

[REDACTED] told how she loves her career and has given it everything she has and will continue to do so.

In September 2018, she reached out to GSC regarding her false claims. She stated she confessed to a stranger her deepest shame-filled secrets and weaknesses. She had reached "rock bottom" and her integrity was gone.

She spoke of her journey and that it is not over. She stated: *"No one ever mentions the*

fact that sometimes the healing hurts more than the wound itself. But I am alive, and I am sober, and I have support from the Service."

She concluded stating: *"Please accept my sincere apologies for my actions and the disrepute I have brought upon the Service. I take full responsibility for my dishonourable behavior and deeply regret having allowed my actions to diminish the reputation of the Calgary Police Service."*

Analysis

██████████ has been found guilty of two counts of misconduct under the *Police Service Regulation* and it is now required that a penalty be imposed upon her.

The task of determining an appropriate penalty involves the assessment of a variety of factors. To aid in that assessment, in 1993 the Law Enforcement Review Board (LERB) provided a statement of principles regarding disciplinary sanctions.

These statements of principles, given in *Amery v. Young*,¹ are guidelines to assist in imposing discipline in these matters.

Not all the listed principles are applicable to the matter at hand but each of these principles should be considered before they are determined to be not applicable. I will speak to those principles that I believe are relevant to the matter before me.

1. *The principle purpose of police discipline is to advance the organizational objective of effective and efficient police services to the community.*

It is important that the public have the utmost trust and confidence in its Police Service. Without the support of the community a police service's level of effectiveness is severely hampered. The public must see that the police service is willing to recognize and effectively deal with members who commit disciplinary offences.

When a police service determines misconduct has been committed by one of its officers, it must act. The type of action taken will be determined by the type of misconduct, its impacts on the service, its members, as well as the community as a whole. Serious incidents of misconduct are sent to Disciplinary Hearing.

A police services primary stakeholder is the public. We are answerable to the public. We also have a duty to protect the public therefore all possible measures must be taken to ensure the ability to provide effective and efficient policing services is not compromised by the misconduct of a police officer.

There are times where the dismissal of a police officer is the best alternative. However, the primary purpose of any disciplinary action is to educate and to correct behavior. The agency's goal is to make any police officer a better police officer. In doing so, the

¹ *Amery v. Young* ALERB #007-093

agency increases its capacity to deliver its services to the public thus achieving the organizational goal.

2. *A fair and just sanction in the circumstances is the goal. The public interest must be considered in those cases where it is engaged.*

It is important that a police agency holds its members accountable for their actions. The public has that expectation. In this matter, the complainant is a Health Benefits Insurer who partners with the City of Calgary. The people with this company who manage and investigate fraudulent claims rightfully have expectations of the disciplinary process. They are vested in the outcome. Benefit fraud by public employees is increasing across the country. Any penalty must also be fashioned to address this growing concern.

However, the penalty is but one aspect of the disciplinary process. The sanction imposed in this matter should be such that it is not viewed as strictly punitive. What the cited officer takes away from her of the process is also important. The penalty itself is the final piece of the process and it must be tailored to the individual circumstances of the incident and the police officer. It must be fair, and not just punitive.

3. *In cases where organizational or administrative factors have played significant roles in contributing to the misconduct that contribution must be considered. In those instances, organizational policy or procedure should take priority for correction. Any individual discipline imposed in such circumstances must consider the overall context.*

Not applicable

4. *A remedial approach which seeks to correct and educate, rather than to punish, should be considered as a priority in those circumstances where it is appropriate. In the Alberta context Regulation 17 (3) promotes the use of special training or professional counseling. The constructive use of this option, in some circumstances, may work to achieve this goal.*

[REDACTED] is recovering from [REDACTED] illness. She is undergoing treatment [REDACTED] which she recognized at the time she notified GSC about the fraudulent claims.

[REDACTED]

From the submissions in the form of the Agreed Statement of Facts as well as the information provided by [REDACTED] in her submissions and in answer to questioning, it is clear [REDACTED] was a significant contributor to the misconduct.

[REDACTED]. Her access to the resources of the Calgary Police Service will assist in this recovery and to the goal of returning to full duties.

5. *Both aggravating and mitigating factors should be considered in determining a just sanction or punishment.*

To be discussed separately.

6. *Deterrence of other police officers and maintenance of public respect of the police are legitimate goals in the context of police discipline.*

As previously mentioned, fraudulent benefit claims are a growing issue in the public service. Police agencies across the country are seeing this type of fraud on a regular basis resulting in police officers being convicted of criminal offences and disciplinary misconduct. Many of these police officers are dismissed or are substantially reduced in rank. It is truly disconcerting when people who are responsible for enforcing the laws, are breaking them.

A police officer who commits this type of misconduct will be held accountable, and in some cases, that account could be the end of a career. Such a misconduct can also severely limit a police officer's career aspirations as their credibility and integrity will be questioned.

Police officers are not above the law, and in fact are to be held to a higher standard than the general public. Because of the power and authority conferred on police officers, they are held to a very high standard of honesty and integrity. That is and should be the expectation of the public.

A strong message must be sent that this type of misconduct will result in significant consequences.

7. *Consistency in disciplinary sanctions should be strived for. Like instances of misconduct should attract like sanctions.*

A quote from the ABCA in *Constable A. v. Edmonton Police Service*² speaks to this.

"In Amery v Young, LERB Dec No 007-93, the LERB stated that one of the objectives in selecting a disciplinary sanction is consistency; "like instances of misconduct should attract like sanctions": Amery at p 8. This Court in MacDonald supported the policy of treating like case alike and noted the need for a "fair and predictable consistency of approach", while acknowledging that all the relevant factors in each individual case must be assessed. A marked departure from these considerations, without adequate reason or explanation, can be an indicator that a sanctioning decision is unreasonable."

² Constable A v Edmonton (Police Service), 2017 ABCA 38 para: 53 (CanLII)

The Presenting Officer offered four matters as “like cases.” The cases provided speak more to sentencing principles but are not as analogous to the facts as many other cases available. These relevant case authorities will be discussed in more detail in the discussion part of this decision.

As previously stated, instances of benefit fraud committed by police officers is not uncommon. There are a number of matters that have been resolved after both criminal and disciplinary proceedings have been exhausted. There are many more currently before the criminal courts.

From my research, some matters relating directly to fraudulent benefit claims by police officers are as follows:

██████████ v York Regional Police Service

Between March 2013 and January 2014, ██████████ submitted 15 false massage therapy benefits claims and fraudulently received a total of \$1,224.97 for these claims. When the benefits insurer asked ██████████ for copies of receipts for all other claims she had submitted, she admitted that all of the claims, except one or two, were false. She asked if she could repay the amounts falsely claimed.

She was arrested in October 2014 and charged with two counts of fraud under \$5,000 and two counts of uttering a forged document contrary to the *Criminal Code*. On February 19, 2015 the officer pleaded guilty to one count of fraud under \$5,000. The remaining charges were withdrawn. ██████████ was granted a conditional discharge, placed on probation for one year and ordered to make restitution to York Region in the amount of \$1,224.97, which she did.

She was then charged under the Police Services Act with three counts: Discreditable Conduct, Deceit, and a second count of Deceit.

She pleaded guilty to the three counts, citing a series of personal issues, including the breakup of her marriage, her ex-husband’s bankruptcy and a subsequent relationship that turned abusive. She further explained that she was not spending the money on luxury items, rather using it as spending cash as she continued to pay off her debt, which she said ranged from \$70,000 to \$100,000.

On Dec. 10, 2015 ██████████ was dismissed from York Regional Police Service. ██████████ did not receive consideration for long service. At the time she commenced her fraud, she had been a police officer for less than two years. The dismissal was upheld on appeal by the Ontario Civilian Police Commission, and Ontario Superior Court.

██████████ v Hamilton Police

██████████ was charged and pleaded guilty to discreditable conduct for filing 22 false benefit claims amounting to \$960 for chiropractic and physiotherapy services. He claimed the mistakes were made as a result of poor record keeping and receipt storage, additionally he was going through a separation at the time.

On June 21, 2016 ██████████ was demoted from Sergeant to 2nd class Constable. (An amount in excess of \$26,000.00 annually) The Police Service had sought dismissal.

██████████ v. Sudbury Police

██████████ filed 29 false health insurance claims worth over \$3,000.00 for vision, massage, chiropractic care and physiotherapy over a 26-month period.

██████████ was charged with Fraud under \$5000 to which he pleaded guilty. He was granted an absolute discharge. ██████████ was charged however the criminal charges were later withdrawn.

Charged under the Police Services Act, ██████████ was demoted from 1st Class to 4th Class Constable. There was prior discipline on file for previous incidents of misconduct.

██████████ was also charged under the Police Services Act and was demoted from 1st Class to 2nd Class Constable for one year.

In explaining their conduct, both officers stated they were facing "difficult personal and financial pressures" at the time.

MacDonald and York Regional Police [2015]

In MacDonald, the officer submitted sixty-five deliberately fraudulent claims for services that were not rendered and improperly received \$6,373.00 from York Regional's Benefits Insurer. MacDonald was convicted of fraud and pleaded guilty to four *Police Services Act* charges.

MacDonald was demoted from 1st Class Constable to 3rd Class Constable.

██████████ and The York Regional Police Service (2016).

██████████ was found guilty of one count of discreditable conduct for forging a prescription and submitting numerous false claims for physiotherapy which he submitted on behalf of his wife.

██████████ was reduced from a 1st Class Constable to a 4th Class Constable.

The above noted cases of police officers defrauding benefit insurers provide an insight into the range of penalties for instances of like misconduct. Of note is the fact that the least serious discipline was a reduction from 1st Class Constable to 2nd Class Constable for a period of one-year resulting in a wage loss of just over \$10,000 before taxes and deductions. The most serious penalty was dismissal.

These matters all originated out of Ontario. In my experience and research, I am not aware of an Alberta police officer having been disciplined for making fraudulent benefit claims. While a number of Alberta police officers have been criminally charged and convicted of fraud, if they were not sentenced into to a jail term, most have resigned or retired prior to any disciplinary proceedings.

Other matters involving charges of “deceit” also provide guidance regarding reasonable sanctions.

The 2012 Calgary Police Service matter of “██████████” is an example. ██████████ recovered a stolen auto. He provided false information to the owner of the vehicle, sent a CPIC message to an RCMP Detachment containing false information, then submitted an Occurrence Report that also contained false information. ██████████ pleaded guilty to two counts of deceit, one count of neglect of duty, and one count of insubordination. ██████████ He was the sole provider for his family. He was reduced from a 1st Class Constable to a 2nd Class Constable for a period of two years.

In another Calgary Police Service matter, in 2016 after a hearing on the facts, ██████████ was found guilty of a single count of deceit relating to testimony given under oath in the application hearing for an Emergency Protection Order. The penalty given to ██████████ was a reprimand. The matter had taken over eight years to resolve, had been the subject of two Law Enforcement Review Board appeals as well as an appeal to the Alberta Court of Appeal.

The two Calgary Police matters are referenced to show that while deceit is a very serious form of misconduct, the penalty imposed can vary widely due to the circumstances of the deceit, and those of the individual officer.

The goal of consistency in attracting like sanctions is desirable. The wide-ranging facts and circumstances of the individuals involved in disciplinary matters must also be considered. The sanctions provided in other cases are a valuable guideline of what can be viewed as a reasonable outcome.

Aggravating and Mitigating Factors

(a) *Previous good record of the officer.*

██████████ PEAKS Assessments are all positive. The assessments from her time in the ██████████ show a police officer who entered a unit who

was motivated, wanted to learn and wanted to contribute. The assessments are consistent, written by different supervisors who use similar phrases. They describe [REDACTED] as determined, having a positive attitude, doing quality work, having a willingness to learn and willing to help. She was also described as proactive, detailed, organized and logical. [REDACTED]

[REDACTED] Even during this time [REDACTED] maintained a high-performance level. This is all to her credit.

[REDACTED] PEAKS assessments and Behavioral Events from the district demonstrate a police officer who was community minded and a positive influence on those she interacted with.

[REDACTED] reputation as a police officer was quite good prior to this misconduct. She is on the right track to earn that reputation back and to put this matter behind her. She is back to making good decisions and this will serve her well.

(b) Long service of the officer.

[REDACTED] has been a member of the Calgary Police Service for [REDACTED]. She is a Senior Constable Level II. She also served for two years as a police officer [REDACTED]. She is an experienced and long serving police officer.

(c) Whether or not the misconduct was an isolated incident in the employment history of the officer.

[REDACTED] does not have a prior disciplinary history or any documented negative behavior.

(d) The existence or absence of provocation.

Not applicable.

(e) Whether or not the misconduct was premeditated or was done on the spur of the moment being aberrational in nature.

This misconduct was conducted over an extended period of time (21 months) and involved 40 fraudulent claims. These actions became a pattern of fraudulent behavior that added up to over \$4,000.00 in false claims. Each of these claims required [REDACTED] to identify a service provider, a service provided, and an amount to be reimbursed. This information was then required to be submitted through the GSC on-line claims process. This all required a measure of planning and execution. These acts cannot be considered done "on the spur of the moment."

[REDACTED] advised that in many of these instances she had no memory of making the claim and was not aware of them until she received email confirmation. I can

accept this as the case; it is not uncommon for people [REDACTED] to not have recollection of some actions they have taken [REDACTED]. However, [REDACTED] became aware of the claims when she received email notification. She would be aware these claims were fraudulent. She did not take any corrective action until September 2018; 21 months after the first fraudulent claim.

[REDACTED] also told the hearing that at the time she committed these frauds, she could not support her financial situation nor her [REDACTED]. This was a premeditated course of criminal activity for financial gain.

- (f) *Whether the imposition of a particular penalty will create a special economic hardship for an officer in light of his/her particular circumstances.*

[REDACTED] has not made a claim of “special economic hardship” although she was clear, she is currently in a precarious financial position. She advised that her current expenses and financial obligations are in excess of her take home pay. [REDACTED]

[REDACTED] Any penalty resulting in reduction or loss in pay will be detrimental to her financial situation.

- (g) *Evidence that the rules or internal policies of the police service (written or unwritten) have not been uniformly enforced or applied, thus constituting a form of discrimination.*

Not applicable.

- (h) *Evidence indicating that a police officer misunderstood the nature or intent of a given order or directive and as a result disobeyed it.*

Not applicable.

- (i) *The seriousness of the misconduct. In circumstances involving a member of the public the impact or consequence to that person, or persons.*

[REDACTED] committed criminal acts and committed these acts over a protracted period of time. There were forty instances of fraudulent claims. The fact that the Crown Prosecutor’s Office decided not to prosecute does not eliminate that fact that her actions were criminal in nature. It is to her good fortune she does not have a criminal record as a result of her actions.

These acts were not the result of a single lapse of judgement. They were not the result of a loss of temper or an overreaction to a physical confrontation. They were a calculated and premeditated act to defraud for financial benefit for financial gain.

These acts involved dishonesty and demonstrated a lack of integrity; two of the most important values and characteristics a police officer must have. That makes these matters all the more serious and towards the top end of disciplinary misconduct. Anytime a police officer commits misconduct of this nature, it casts a pallor over the police service and policing in general. It is an affront to the oath taken and to the public office a police officer holds.

The public has a rightful expectation that the police officers in their community, sworn to protect them, will be above reproach. They expect their police officers to be of the highest moral character and most importantly, to be honest. They do not expect their police officers to commit fraud.

The actions of [REDACTED] did not result in criminal charges. There was no release of information to the public on this matter. This is fortunate for both [REDACTED] and the Police Service.

The *PSR* charges for these acts by [REDACTED] are "Deceit" and Discreditable Conduct." Deceit is one of the most serious misconduct charges a police officer can face. In some instances, it can and has had career ending consequences. In instances where the officer retains their position, it has an impact on a police officer's ability to perform their duties. This limits a police agencies ability to place an officer within the organization. As such it is career limiting for the police officer themselves.

A police officer with a disciplinary history of deceit can be and will be challenged in court regarding their truthfulness. Their credibility will be an issue for years.

(j) *Officer cooperation, frankness, and overall attitude.*

[REDACTED] has expressed deep remorse for her actions. Prior to any involvement of the police service, she notified GSC of her fraudulent claims. She made full restitution. During the PSS investigation she cooperated fully. She entered "admit" pleas at her first appearance on her disciplinary charges. She has accepted full responsibility for her misconduct and has apologized to the service for the discredit she has brought upon the service.

(k) *Circumstances of mental or emotional stress or a context of substance addiction or drug dependence. In considering such circumstances the likelihood of future misconduct arising from the same cause or causes is an important factor.*

[REDACTED]

[REDACTED]. In regards to the fraudulent benefit claims [REDACTED] stated: "I wanted to be caught, I needed it to stop." In September 2018, she notified GSC about the fraudulent claims. She contacted the Calgary Police Service Psychological Services Division and sought treatment.

[REDACTED]

[REDACTED] was cleared to return to work in a modified capacity on June 27th, 2019. She is currently assigned [REDACTED].

[REDACTED]

[REDACTED] Her PEAKS Assessments and other documentation describe a completely different person. It is contrary to the person she described herself as during her relationship with her former spouse and during [REDACTED]

The person she was during this period of her life, is not the person she was prior, nor the person she is presently.

One of the questions to be answered when assessing mitigation to be afforded to a police officer under this circumstance is the likelihood of future misconduct arising from the same cause or causes.

[REDACTED] has taken momentous steps [REDACTED] to address her illness. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The information provided regarding treatment and counselling has been in relation to [REDACTED]. Nothing has been indicated regarding counselling for [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] is also keenly aware of the impact this behaviour has had on her career, now and into the immediate future. How she responds to this is up to her however all indications are she will respond favourably and will return to be the productive police officer she has been in the past.

It is my opinion that with appropriate treatment and counselling [REDACTED], the likelihood of this type of misconduct being repeated is extremely low. [REDACTED] is well aware, if something like this occurred again, it would most likely be career ending.

(I) *Other mitigating or aggravating factors unique to the personal circumstances of the officer or the misconduct involved.*

[REDACTED]

A police officer finding themselves in such a position is less likely to reach out for help than the average citizen. Police officers do not consider themselves victims and if they do, they are more likely to try to handle the situation themselves. [REDACTED]

[REDACTED]

[REDACTED] provided a reference letter from her current work area Commander. [REDACTED] from the [REDACTED] spoke of when [REDACTED] was assigned to his work area as an overage [REDACTED]. At that time, he was not aware of her "personal or professional situation." He stated he was impressed with her positive attitude, work ethic and willingness to learn. He later learned of the disciplinary proceedings, [REDACTED]. He concluded his letter stating: "In getting to know and support [REDACTED]"

through this process I have come to know a vibrant, passionate and professional Police Officer who is working daily on growing, persevering and positively representing the Calgary Police Service. has my full support.” also attended hearing appearance.

The support of current area Commander is an indicator that this officer is on the road to recovery and rehabilitation.

I would also be remiss if I didn't speak of the reference letter written by . This letter provided insight into earlier years, prior to becoming a police officer. It spoke of her strength of character, and how from a young age she took responsibilities of far beyond her years.

also spoke of the loss of their father and how it affected as well as the family dynamics.

letter provided valuable context to the matter before me. It described the person was before . It shows me who she more likely is, not who she was during the time she committed this misconduct.

Discussion re Penalty

In crafting an appropriate penalty, the *Alberta Court of Appeal* in *Furlong*³ stated:

*“The task before the Presiding Officer and the Board was to select a fit sanction for the respondent, having regard to the misconduct for which he was being sanctioned. The fitness of a sanction depends on numerous factors, **and is particularly sensitive to the factual underpinnings of the offences.** The factors mentioned in *Amery v Young*, *Lingl v Calgary Police Service* and other decisions will be relevant in many cases. The appropriate sanction will depend on **the seriousness of the misconduct, the moral culpability of the constable, the existence of remorse and recognition of responsibility, the consequences for the public and the administration of law that resulted, the need for deterrence, denunciation or rehabilitation, the overall fitness of the constable for police service, the impact that the misconduct had on the relationship between the constable and his police service, and any other relevant factor.**”*

(Bolding and underline added)

³ *Edmonton (Police Service) v Furlong*, 2013 ABCA 121 para 36 (CanLII)

██████████ has already suffered career consequences as a result of her misconduct. As a result of the PSS investigation, she was classified as a “McNeil Officer” under investigation and then charged with “deceit and discreditable conduct.”

She was working in the ██████████ from which she was removed as a result of this misconduct.

As a result of these proven misconduct charges her ability to perform many functions as a police officer will be limited. This is particularly the case in relation to operations, or investigations.

While this is undoubtedly a hardship for ██████████, it is also an issue for the Police Service. We now have a police officer who must be placed in a position where her “McNeil” status does not impede her work.

In cases where a police officer commits a serious act of misconduct and is subsequently disciplined, the type of act committed must be examined. ██████████ was neither charged with nor convicted of an offence under the *Criminal Code*. To be clear though, her actions of filing false benefit claims were criminal in nature.

It is not unheard of for a police officer to be charged and convicted of criminal offences such as assault or impaired driving. While dismissal is sometimes the result, it is more common such offences result in a reduction in rank or seniority within a rank, or a significant forfeiture of hours. Such matters are often the result of a lapse of judgement and poor decision making. They are undoubtedly serious, and we as police officers do not condone other police officers committing criminal acts, but such offences are not often a measure of a police officer’s honesty or integrity which are vital to being a police officer.

The honesty and integrity of a police officer should be above reproach. When a police officer commits misconduct that has demonstrated a lack of honesty and integrity, serious consequences should result.

The Police Service is not seeking the dismissal of ██████████. If they had been, it would have been a reasonable request and one to be considered. Such a penalty would fall into the category of reasonable outcomes.

In 2015, in a Calgary Police Service matter, an officer who had in excess of twenty-years of service, stole a credit card number from a co-worker. He opened an on-line account with the stolen credit card information. The member was charged with one count of fraud and in 2017 he was convicted criminally. He was charged with three counts of “discreditable conduct” under the *PSR*. The Police Service advised it would be seeking the dismissal of the officer. In 2019, prior to the completion of the disciplinary process, the officer submitted his resignation.

As shown in the examples of like cases from Ontario, dismissal is an outcome that has been supported by both the Ontario Civilian Police Commission and the *Ontario Superior Court*. The [REDACTED] case which is quite analogous to this matter is a good example.

In the matters where the cited officer was reduced in rank, or reduced in seniority within the rank, dismissal was sometimes sought, and most often contemplated by the Hearing Officer. The mitigating circumstances of the individual officers were the determining factors that resulted in a lesser penalty. [REDACTED] has such mitigating circumstances that will factor into the crafting of her penalty.

The Presenting Officer discussed several matters in her submissions to provide guidance on a suitable penalty.

In the matter of *Cst. MacDonald and the Camrose Police Service* ⁴ she addressed the point where the *Court of Appeal* provided direction to the Law Enforcement Review Board in overturning their decision. It stated in part: *"The Law Enforcement Review Board should expressly address the substance of the presiding officer's reasons for dismissing MacDonald, including whether, having admitted to deceit, MacDonald can again function effectively as a member of the Camrose Police Service and the effect of his two prior disciplinary convictions. It may then proceed to determine whether the presiding officer's decision to dismiss him fell within the range of possible, acceptable outcomes."*

She stated the Board replaced dismissal, with 80 hours' suspension without pay, coupled with a reduction in rank of one year, underscoring the existence of the psychiatric and psychological conditions under which the officer was labouring at the time.

The second matter is the Edmonton case of *Cst. A. v. Edmonton Police Service*. ⁵ In this matter, a police officer was found guilty of five charges of misconduct including three counts of deceit. The officer had provided false information on an "Information to Obtain" a Search Warrant and submitted false reports. She was dismissed from the Edmonton Police Service. On appeal to the LERB, her dismissal was upheld, but on further appeal to the Court of Appeal, the LERB decision was overturned and returned for further consideration. On the reconsideration, in light of the Court of Appeal's decision, the Board considered the opportunity for rehabilitation as a significant factor mitigating against dismissal. The Board reduced the appellant's rank from Senior Constable Level II to 4th year Constable for a period of three years. In addition, she was suspended from duty without pay for 80 hours and directed to enroll in a police ethics course.

⁴ The Chief of Police of the Camrose Police Service v MacDonald 2013 ABCA 422 (CanLII)

⁵ A v Edmonton (Police Service), 2018 ABLERB 003

Two Ontario matters were also offered. *Buckle v. Ontario Provincial Police*⁶ from 2006 and *Ontario Provincial Police v. Purbrick*⁷ from 2013. Constable Buckle was found guilty of four allegations of misconduct involving the fraudulent misappropriation of \$4,000 resulting from several transactions over several months. The penalty imposed by the hearing officer was dismissal which was upheld on appeal to the OCPC.

In *Purbrick*, the officer stole gasoline valued at \$243 against the OPP card supplied from the Police Service. He was charged with theft, pleaded guilty, and was given an absolute discharge after making restitution to the Police Service. The officer allegedly suffered from PTSD. The Hearing Officer ordered that the officer be dismissed, but on appeal, the OCPC found the penalty to be excessive and reinstated the officer with a demotion in rank and promotion pending satisfaction of certain conditions. The Commission was concerned about the hearing officer's focus on the irrelevant medical issues such as the officer's PTSD and whether there was a cause and effect between the officer's PTSD, alcohol dependence, and depression and the offences he committed. The hearing officer erred by failing to take rehabilitative prospects and character evidence into account. The decision of the OCPC was upheld on appeal to the Superior Court.

_____ has a number of mitigating factors that benefit her. Two of the strongest mitigating factors that will be considered for _____ are her _____. She has taken proactive steps to address each of these situations that contributed to her misconduct.

_____ is not the first Calgary Police Service member who has been disciplined where mitigating circumstances relating to _____ and outside stressors have been considered by Presiding Officers when penalties were imposed.

In 2018, Calgary Police Service Sergeant _____ was charged and convicted criminally for threats to cause bodily harm and breach of a court order. The threats were directed at his former spouse's boyfriend and the breach of the court order was in relation to emails sent to his former spouse. He was charged with four counts of "discreditable conduct." Sergeant _____ was a former Canadian Services member who had deployed overseas on three occasions. These deployments resulted in a work-related stress injury diagnosed as PTSD. Other mental health diagnoses were also made. The medical professionals attributed Sergeant _____'s stress injury and mental health issues as a contributing factor to his criminal conduct which resulted in the disciplinary misconduct. He underwent treatment for PTSD which he continued. Sergeant _____ was reduced in rank from a Sergeant Level II to a Senior Constable Level II.

In 2017, Calgary Police Service Constable C.H. was arrested and charged with s. 253(1)(a) and 253(1)(b) of the *Criminal Code* operating his vehicle on Highway 2 south of Calgary. In 2018 in Provincial Court, he pleaded guilty to the s. 253(1)(b) charge with

⁶ *Buckle v. Ontario Provincial Police* 2006 CanLII 3963 (ON SCDC)

⁷ *Ontario Provincial Police v. Purbrick*, 2013 ONSC 2276 (CanLII)

the other charge being withdrawn. He received a Curative Discharge, and a driving prohibition. At the time of the offence, Constable C.H. was in the process of divorce proceedings. Prior to this matter, Constable C.H. had been receiving treatment for moderate depression symptoms, acute reaction to stress and psychophysiological insomnia. Post arrest, Constable C.H. was diagnosed with an Alcohol Use Disorder. He sought treatment which included treatment programs and continuing counselling. Constable C.H. also claimed "special economic hardship" where his monthly expenses exceeded his take home pay. In 2019, Constable C.H. pleaded guilty to "discreditable conduct" and from a joint submission on penalty, received a penalty of an 80-hour suspension without pay.

In 2020, Calgary Police Service Constable M.S. pleaded guilty to one count of "discreditable conduct" and one count of "insubordination" in relation to a service complaint. Constable M.S. suffered PTSD resulting from on duty incident and developed a significant alcohol dependency as a result. The misconduct occurred during the time period he was un-diagnosed and was drinking heavily. The on-duty misconduct was serious and was related to a "positive work-place" scenario but was not in any way criminal in nature. After the misconduct, Constable M.S. sought treatment for both his workplace injury as well as for the alcohol dependency which he continues. Constable M.S. also claimed "special financial hardship" having a wife and three young children and being on the verge of personal bankruptcy. Constable M.S. was assessed a total forfeiture of 60 hours accumulated through overtime.

In each of the three matters above, the cited officers had significant mental health and or substance abuse problems. Each of the officers sought out treatment which they successfully completed or are still continuing to receive. Two of the three officers had marital situations that played a direct, or indirect part in their misconduct. Two out of the three officers had significant financial difficulties where any monetary penalty would have a considerable adverse effect.

Each of the above matters did not involve premeditation or any type of planning. They were the result of poor judgement or an emotional response. The misconduct of [REDACTED] demonstrated dishonesty and a lack of integrity. It was premeditated.

Two of the matters discussed above involved criminal convictions, one did not. It is my view, the actions of [REDACTED] were far more serious than those of any of the three officers in the matters described above. [REDACTED] misconduct consisted of 40 fraudulent benefit claims for financial gain totaling just over \$4,000.00. The misconduct occurred over a protracted period of time; approximately twenty-one months. It also involved planning and execution.

The police service has chosen not to seek the dismissal of [REDACTED]. In making this decision, they have rightfully taken into consideration a number of factors.

In mitigation, I take into consideration [REDACTED] contacted GSC advising them of her fraudulent claims. She reimbursed the company for the entire monetary loss. She has accepted responsibility and is extremely remorseful. She pleaded guilty to her misconduct charges at the earliest opportunity.

Despite the fact that [REDACTED] committed numerous acts of dishonesty over a protracted period of time, this occurred during a bleak time in her life. I believe she has started to rehabilitate herself. The steps she has taken and continues to take are a measure of her commitment to this rehabilitation.

If it were not for these significant mitigating circumstances, her dismissal from the police service would be a reasonable penalty or at a minimum, a multi-level reduction in seniority in the rank. This is the message of general deterrence that other police officers need to take from this decision.

The question to be answered at this point is, taking all of the circumstances into consideration, what is a reasonable penalty for [REDACTED]?

The misconduct is extremely serious. Calgary Police Service members with similar mitigating circumstances have committed far less serious acts and have received serious penalties. Sergeant [REDACTED] lost a promoted rank; a reduction in pay of over \$13,000.00 annually until he retires or is once again promoted.

[REDACTED] does not hold a promoted rank. The police service has suggested a reduction in seniority in rank on count one, and a suspension from duty without pay on count two.

It is not the intent of this penalty to inflict undue financial hardship on [REDACTED], but a penalty must be meaningful. It has to have an impact and for this type of misconduct it still must be significant despite the mitigating circumstances.

In reviewing the matters of benefits fraud noted from Ontario police agencies, as well as the Calgary Police Service matters discussed, I believe that [REDACTED] should be reduced in seniority within the rank. A suspension from duty without pay was also suggested. Such a suspension would cause fluctuations in [REDACTED] pay that could be difficult for her to manage. A global penalty involving a reduction in seniority within the rank will be sufficient. [REDACTED] must be penalized and the penalty must serve as a reminder of her actions to both her and others.

[REDACTED] is presently a Senior Constable Level II with an annual salary of \$110,493.48 (2017 rates). A reduction to Senior Constable Level I would be a loss of 2% of that salary, or \$2,27.40. That would be less than \$100.00 gross per pay. Even with the significant mitigating circumstances, I do not believe such a reduction would in any way address the seriousness of the misconduct. A reduction to 1st Class Constable at \$101,370.12/yr. would be a 9% reduction in salary, being \$9,123.36.

[REDACTED] has committed to a course of treatment for [REDACTED]. This treatment and her on-going recovery are critical to her future successes as a productive member of the Calgary Police Service.

I am also concerned that what is likely the underlying cause of [REDACTED] has not been addressed to its fullest extent. While I am confident her present treatment program has touched on the issue, has [REDACTED] received any form of specific treatment or counselling regarding the [REDACTED] and resulting trauma?

Apart from learning coping mechanisms for domestic related trauma, proper treatment/counselling can assist people who were in abusive relationships, from ending up in future abusive relationships.

As such, an order under s. 17(1)(a.1) of the *PSR* for both [REDACTED] and [REDACTED] counselling are appropriate as part of the penalty imposed.

ORDER

On count one and count two, I order a global penalty as follows:

Pursuant to s. 17(1)(d) of the *PSR*, [REDACTED] is to be reduced from a Senior Constable Level II, to Constable 1st Class for a period of one (1) year. After one year, she will elevate to Senior Constable Level I for a period of one year after which time she is to be returned to Senior Constable Level II.

In addition, pursuant to s. 17(1)(a.1) of the *PSR* I impose the following conditions on [REDACTED]:

1. [REDACTED]
2. You are required to attend all treatment programs, seminars and/or counselling required by your physician/psychiatrist/psychologist/counsellor(s) or any other providers, relating to [REDACTED].
3. You shall report to the Psychological Services Division for the purposes of:
 - i. Receiving an assessment of her current condition related to the trauma she experienced [REDACTED];
 - ii. receiving recommendations on a possible course of treatment for:

- a. Addressing the effects of the trauma she experienced [REDACTED]; and
 - b. To develop coping strategies and other behavioural techniques to minimize the likelihood of becoming involved in [REDACTED] in the future.
- iii. [REDACTED] is required to follow any treatment recommendations made by the Psychological Services Division or any therapist recommended by the Psychological Services Division to provide such treatment and will do so until it is determined by the Psychological Services Division that participation is no longer required.
4. If treatment for [REDACTED] has been obtained outside of the Calgary Police Service, you are required to authorize Health Management Unit of the Calgary Police Service in consultation with the [REDACTED], the Calgary Police Service Psychological Services Unit to have access to:
- a) Information that relates to compliance with treatment programs/plans and/or progress; and,
 - b) You are required to notify Health Management Unit of the Calgary Police Service in consultation with the [REDACTED] and or the Calgary Police Service Psychological Services Unit immediately if there are any changes to your ongoing treatment including a different physician/psychiatrist/psychologist/counsellor(s), change in medication and/or in recommended treatment.

Failure to abide by any of the above noted conditions as ordered may result in charges of "Insubordination" pursuant to s. 5(1)(g) of the *Police Service Regulation*.

Original Signed

Superintendent Paul Manuel (Ret'd)
Presiding Officer

Presenting Officer:
Cited Officer:

Ms. Valerie Campbell
[REDACTED]

Issued at the City of Calgary, April 8, 2020