

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  
Sergeant [REDACTED] Regimental Number [REDACTED]  
of the Calgary Police Service

## Disposition

On March 18, 2021 at the Professional Conduct Proceedings of Sergeant [REDACTED]  
[REDACTED] pleas of guilty were entered by him to Counts 1 and 2.

Count 1 reads:

### Count #1

Insubordination, contrary to section 5(1)(g) of the *Police Service Regulation*, as further defined by section 5(2)(g)(ii) of the *Police Service Regulation* as omitting or neglecting without adequate reason, to carry out a lawful order, directive, rule or policy of the commission, the chief of police or other person who has the authority to issue or make that order, directive, rule or policy, in that on or between the 27<sup>th</sup> of November, 2018 and the 11<sup>th</sup> day of February, 2020, at or near the City of Calgary, in the Province of Alberta, **Sergeant** [REDACTED] breached Section 6.1.(d) of the Calgary Police Service Information Technology Policy as it relates to “Mobile Phones” and Section 12(1)(a)(i) of the Calgary Police Service Respectful Workplace Policy as it relates to “Roles and Responsibilities” regarding the content of the WhatsApp chat group [REDACTED].

Count 2 reads:

### Count #2

Discreditable Conduct, contrary to section 5(1)(e) of the *Police Service Regulation*, as further defined by section 5(2) (e)(viii) of the *Police Service Regulation* as doing anything prejudicial to discipline or likely to bring discredit on the reputation of the police service, in that on or between the 27<sup>th</sup> of November, 2018 and the 12<sup>th</sup> day of February, 2020, at or near the

City of Calgary, in the Province of Alberta, **Sergeant** [REDACTED] participated in a WhatsApp chat group called [REDACTED] where the conversations could be considered offensive and inappropriate and allowed the inappropriate content to continue within the WhatsApp chat group [REDACTED]


### **Facts Supporting The Pleas of Guilty to Counts 1 and 2**

1. In December 2019, the CPS Human Resources Department (HR) received a complaint from a Constable in the [REDACTED] alleging targeting and bullying behaviour by a supervisor in the work area. As a result of this complaint that Constable requested a transfer out of [REDACTED] to another work area. HR was also notified that the [REDACTED] supervisor had released information pertaining to the Constable's complaint and medical status, to the complainant's peers, via WhatsApp chat group on CPS phones.
2. During the HR investigation, a WhatsApp chat group titled [REDACTED] was discovered. The chat group contained messages from Sergeant [REDACTED], Constable [REDACTED], Constable [REDACTED], Constable [REDACTED], Constable [REDACTED] and Constable [REDACTED]. All officers are members of the [REDACTED]. Sergeant [REDACTED] was the Sergeant in charge.
3. On 2020 February 12 the members from the [REDACTED] had their CPS issued mobile phones seized. A forensic audit of the phones was completed.
4. The [REDACTED] contained messages that included disparaging comments about specific CPS members and recruits; racially driven comments; comments about a past recruit being a terrorist; sexualized comments about CPS members; sexualized comments about recruits including refraining from taking a picture of a recruit with her pants down because there were cameras present; and comments about masturbating to a certain work colleague. All chats were done using CPS issued cell phones, except for two members who used private cell phones. The chat group began on 2018 November 27.
5. In relation to chat group [REDACTED] Sergeant [REDACTED] is heard saying:



6. Comments made by other members of the [redacted] chat group that Sergeant [redacted] heard and failed to address with his team members for being inappropriate and in breach of Respectful Workplace policy include:





The Agreed Statement of Facts was entered as Exhibit 4. Exhibit 4 contained 5 exhibits which formed part of it. These 5 exhibits were as follows:

- a) Calgary Police Service Information Technology Policy as it relates to “Mobile Phones”;
- b) Section 12(1)(a)(i) of the Calgary Police Service Respectful Workplace Policy;
- c) Annual PEAKS Assessments for 2012, 2013, 2014, 2016, 2017, 2018 and 2019;
- d) Behavioural Events Reports;
- e) Memorandum dated January 20, 2021 from [REDACTED].

After hearing the admitted facts, I found they supported the entry of the guilty pleas to Counts 1 and 2. I found those Counts have been proved as to the required burden of proof. They constituted reliable and cogent evidence which convinced me the civil burden of proof on a balance of probabilities has been satisfied. I find Sergeant [REDACTED] guilty on Counts 1 and 2.

Presenting Officer Campbell pointed out aggravating factors in Sergeant [REDACTED] culpable conduct were founded in his lack of appropriate leadership over a one and half year time period. She further noted the serious nature of the misconduct in that it breached two of the three high priorities which Chief of Police Neufeld has stressed are to be incorporated into the current culture of the Calgary Police Service. He directed any conduct of harassment and any conduct of bullying will no longer be tolerated in the Calgary Police Service. It is his desire

that such conduct should not only be deterred but must be eliminated in the Calgary Police Service.

If the members of the Calgary Police Service follow those two priorities of eliminating harassment and bullying, it only makes sense that the public will not only maintain respect for the police but will increase its respect for the police. Ms. Campbell submitted the public's respect and confidence in the Calgary Police Service would be shaken and would suffer a deterioration if knowledge of those communications was obtained.

It must be borne in mind that deterrence of other police officers and maintenance of public respect for the police are legitimate goals in the context of police discipline. Not only did Ms. Campbell assert the foregoing in her submissions, she further stressed the importance that all police officers must be vigilant of their conduct and how the public scrutinizes police comportment.

However, Ms. Campbell fairly brought out that Sergeant [REDACTED] presents with an excellent history prior to these offences. He has [REDACTED] years of police service with no prior disciplinary offences. He has risen to a Sergeant Level II. A review of his performance assessments for the years 2018 and 2019 demonstrates an officer whose police service work draws positive comments. The performance assessment for the 2017 year indicates some ratings which are slightly below standard in areas of conflict management, decision-making, development, fostering relationships, leadership, teamwork and team building. Except for that slight deviation he has been an asset to the Calgary Police Service and the [REDACTED] where he has been assigned recently. He is currently the [REDACTED]. In that role he has proven to be a team member who demonstrates a desire to improve professionally and personally.

In addition, Presenting Officer Campbell recognized Sergeant [REDACTED] took responsibility for his comments and for his failure to address the inappropriate and offensive language in which he was involved. She noted the remorse expressed by Sergeant [REDACTED] and his claim that he was not expressing biased views or targeting anyone for bullying. Despite that claim it is observed the conversation was overheard by another team player who was significantly impacted by the comments.

As a result of these charges I am advised that Sergeant [REDACTED] has reflected upon his conduct. This conduct has caused him deep regret in his failure to live up to the expectations he set for himself as a police officer. He now recognizes the inappropriateness of the comments. He understands he failed to provide appropriate leadership guidance to his subordinates in this area.

Most importantly not only did Sergeant [REDACTED] now recognize the damage his statements caused, he as well, has taken subsequent steps to educate himself respecting the effect of his statements upon others. These steps have caused him to take accountability for his actions.

That accountability was expressed to me in Sergeant [REDACTED] emotional address to me. It was reflected in his pleas of guilty and in the genuine remorse demonstrated in his remarks. He noted his actions caused emotional damage to others. He apologized to those persons. Indeed, he recognized his actions not only hurt fellow police officers but those same actions impacted his family. His remorse was founded on the perspective and resources provided to him by the Calgary Police Service in his quest for helpful education to understand and correct his conduct. His quest was motivated by his desire to better himself as a caring and responsible person who can provide leadership in the areas of harassment and bullying to other members of the police community. [REDACTED]

[REDACTED] Indeed, he authorized the personnel involved in the [REDACTED] resources that they were free to use his actions as an example and teaching tool to other police officers who might need to be educated in this area.

Sergeant [REDACTED] comments were delivered with conviction. I am satisfied he will demonstrate good leadership in the future to his subordinates.

Presenting Officer Campbell provided 3 similar cases involving penalties imposed in other disciplinary proceedings involving other police officers. Both she and Ms. Harris, Counsel for Sergeant [REDACTED], made a joint submission based on the recognized seriousness of the 2 charges facing Sergeant [REDACTED]; the mitigating and aggravating factors and the cited case authorities. The joint submission recommended that Sergeant [REDACTED] receive a penalty on each count of 20 hours suspension without pay.

In considering whether I accept and follow the joint submission I look to the aggravating factors in that Sergeant [REDACTED] failed to demonstrate adequate leadership to his team over a period of one and half years. This lack of leadership resulted in serious misconduct which breached the Calgary Police Service Policy priorities to deter and eliminate harassment and bullying. I look as well to the mitigating factors I have previously set out.

Finally, I must instruct myself on the established guidelines for imposing disciplinary sanctions or penalties as set out in the Law Enforcement Review Board decision of *Amery v Young*.

In discussing the nature of disciplinary proceedings, the Review Board noted such proceedings are not criminal or quasi-criminal in nature. Rather they are essentially civil in nature in the context of an administrative process. The intention of such proceedings is to maintain discipline, integrity and professional standards or to regulate conduct.

The Review Board recognized that a police officer occupies a special status as a public office holder. An officer has unique and extraordinary powers with an attendant obligation to exercise those powers within the law. The Review Board pointed out an abuse of those powers invites a loss of public trust and possible damage to the reputation of police forces.

The Review Board considered the following principles to be observed and followed regarding disciplinary sanctions:

- 1) The principal purpose of police discipline is to advance the organizational objective of effective and efficient police services to the community.
- 2) A fair and just sanction is the goal. The public interest must be considered in those cases where it is engaged.
- 3) In cases where organizational or administrative factors have played a significant role 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.
- 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 Alberta, section 17(3) of the *Police Service Regulation* promotes the use of special training or professional counselling. The constructive use of this option, in some circumstances, may work to achieve this goal.

- 5) Both aggravating and mitigating factors should be considered in determining a just sanction or punishment.
- 6) Deterrence of other police officers and maintenance of public respect for the police are legitimate goals in the context of police discipline.
- 7) Consistency in disciplinary sanctions should be strived for. Like instances of misconduct should attract like sanctions.

In addition to the principles enumerated in the ***Amery*** decision there are some additional foundational principles which are applicable.

The first principle in this context requires compliance with the purposes of the police discipline process. These purposes are:

- 1) The police service's dual interest in maintaining discipline in the police workplace and as a public body responsible for the security of the public.
- 2) The requirement to treat Sergeant [REDACTED] fairly.
- 3) The public interest in ensuring a high standard of conduct in the police service.

The second principle dictates that the corrective disposition should prevail while correcting Sergeant [REDACTED] behaviour and educating him.

The third principle articulates the least onerous disposition should be imposed. It should only be displaced if the public interest or other specified considerations should prevail.

In imposing penalty on Sergeant [REDACTED] it must be recognized that the penalty should act as a deterrent not only to him but to other members of the Calgary Police Service and to other police officers serving the public in all Canadian communities. Public respect for the police is founded on a foundational base that police officers must be aware their proper and correct conduct and compartment is under continuous scrutiny.

I further recognize I have two senior and competent Counsel making this joint submission. In my opinion, it does not bring the administration of justice into



disrepute and further it is not contrary to the public interest. I accept the joint submission.

As a result, I order on Count 1, being Insubordination contrary to section 5(1)(g) of the *Police Service Regulation*, as further defined by section 5(2)(g)(ii) of the *Police Service Regulation*, that Sergeant [REDACTED] under section 17(1)(c) of the *Police Service Regulation* be suspended from duty without pay for 20 hours.

I order on Count 2, being Discreditable Conduct contrary to section 5(1)(e) of the *Police Service Regulation*, as further defined by section 5(2)(e)(viii) of the *Police Service Regulation*, that Sergeant [REDACTED] under section 17(1)(c) of the *Police Service Regulation* be suspended from duty without pay for a further 20 hours. This order of suspension from duty without pay shall be a consecutive 20 hours to the order of 20 hours of suspension from duty without pay as imposed under Count 1.

In summary, Sergeant [REDACTED] shall be suspended from duty without pay for a total period of 40 hours.

Finally, as Ms. Harris, has no doubt informed you, section 22 of the *Police Service Regulation* allows, after the elapse of 5 years, if no other contraventions of the *Police Service Regulation* are made on your record of discipline, any record of this punishment, this contravention, or the action taken shall be removed from your record of discipline and destroyed. It will not be used after the elapsed 5 years in any future proceedings respecting you.

This disciplinary hearing is concluded.

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The Honourable Alexander G. Park, Q.C.

Presenting Officer, Ms. Valerie Campbell  
Ms. Lorena Harris, Counsel for Sergeant [REDACTED]  
Sergeant [REDACTED]