IN THE MATTER of a public
Complaint of A.A.
Against Constable J.S. made under the
Royal Newfoundland Constabulary Act 1992

Royal Newfoundland Constabulary Public Complaints Commissioner

AND

Constable J.S. **RESPONDENT**

AND

Chief of the Royal Newfoundland Constabulary **THIRD PARTY**

Merits Decision

Hearing Dates:	December 13, 2023 & February 28, 2024
Decision Date:	January 16, 2025
For the Commission:	James Strickland
For the Respondent:	Jerome Kennedy, K.C.
For the Chief of the RNC:	Erin Matthews
Adjudicator:	John Whelan Q.Arb., Chief Adjudicator RNCPCC

PROCEDURAL HISTORY

1. On or about March 23, 2017 Andrew Abbass ("the Complainant") filed the herein Complaint. The Complaint was referred to the Chief Adjudicator on January 13, 2023.

2. The Chief of the Royal Newfoundland Constabulary was added as a Third Party to the Complaint by Consent of the RNCPCC and Respondent.

EXHIBITS

3. The following table provides a listing of all exhibits from the hearing:

Exhibit Title	Description
Consent 1	Portions of the Report of Robert Cuff – January 31, 2022
Consent 2	Email regarding tweets of A.A. from T.B. to All Staff at RNC dated 6 April 2015
Consent 3	Various tweets from A.A
Consent 4	*Abbass v. Western Health Care Corp.,* 2017 NLCA 24
Consent 5	*Abbass v. Western Health Care Corporation,* 2018 NLSC 96
Consent 6[1]	Text Messages between J.S. and T.B
Consent 7	Testimony from the Commission of Inquiry respecting the Death of Donald Dunphy – S/Sgt Buckle
Consent 8	Testimony from the Commission of Inquiry respecting the Death of Donald Dunphy – Cst. J. Smyth
Consent 9	Complaint of Andrew Abbass – 23 March 2017
Consent 10	Reference to the Chief Adjudicator – 13 January 2023
Consent 11	OCIO Directive – 20 January 2015

[1] While the Respondent consented to the inclusion of the text messages in the Consent Book of Documents, there was an objection to their admissibility. This is discussed below.

Respondent 1	June 22 2017 Decision – Chief Janes
Respondent 2	August 24, 2017 Decision – Chief Boland

BACKGROUND & FACTS

4. The factual matrix of this Complaint is not in dispute.

5. On April 5, 2015 the Respondent was involved in a fatal shooting incident while on duty. On April 6, 2015 the Complainant made a series of posts to Twitter, as it was then, discussing the events. Another member of the RNC, T.B., circulated the tweets to members of the Royal Newfoundland Constabulary.

6. On April 7, 2015 the Complainant was detained under the *Mental Health Care & Treatment Act (*SNL 2006 c. M-9.1). The Complainant was detained by the Western Health Care Corporation for six days and underwent a psychiatric evaluation. The Complainant was released on April 13, 2015.

7. The Complainant made an application to the NLSC for a writ of *habeas corpus*. The application was initially denied. The Complainant appealed to the NLCA who overturned the initial denial and remitted the matter back to the NLSC.

8. On April 27, 2018 Furey J. granted the Complainant a writ of *habeas corpus* finding that his detention under the MHCTA was not justified on legal grounds.

9. An investigation into the officer involved shooting was conducted by the Royal Canadian Mounted Police. As part of that investigation, the RCMP requested that the Respondent voluntarily surrender his Blackberry. The Respondent complied with the request of the RCMP to submit his Blackberry for examination.

10. Between January and March of 2017 the Commission of Inquiry respecting the Death of Donald Dunphy ("CIDDD") held public hearings at which both the Respondent and T.B. provided testimony.

11. The Respondent testified at the CIDDD between January 16-18 and 23-25, 2017.

12. Following the Respondent's testimony, a secondary forensic examination was conducted on the Blackberry that had been voluntarily submitted to the investigation. Among the recovered data, a BlackBerry Messenger (BBM) exchange was discovered between the Respondent and T.B.

13. On April 7, 2015 the Respondent and T.B. exchanged the following BBM messages:

> ***S/Sgt. T.B.:*** *Arrested Abbass under MHCTA (19:32:08hrs)*
>
> ***Cst. Smyth:*** *Saw that! Nice (19:32:19hrs)*
>
> ***S/Sgt. T.B.:*** *He's at hospital now (19:32:23hrs)*
>
> ***Cst. Smyth:*** *Loser (19:32:48hrs)*
>
> ***S/Sgt. T.B.****: Yup (19:33:00hrs)*

14. At the time the messages were sent, T.B. was off duty for the day & the Respondent was on leave following the shooting incident that had occurred two days prior. There were no other individuals included in the chain of messages.

15. The phone used by the Respondent to send the messages to T.B. was issued by the RNC. The RNC allowed personal use of the phone by officers.

16. The Complainant was watching the CIDDD and became aware of the text messages. The Complainant subsequently filed a complaint with the RNCPCC alleging misconduct by the Respondent.

Chief Janes & Boland Reports

17. At the hearing, the Respondent tendered two documents whose admissibility was challenged by the RNCPCC. In its written brief, the RNCPCC requested written reasons for the inclusion of these reports. When the reports were entered, I noted for the parties that I would allow the documents to be entered as evidence, but I would determine the appropriate weight to be placed on these reports. Having reviewed the reports, I find that it is appropriate to provide them with zero weight when determining this matter. The reports are non-binding decisions of other individuals procedurally associated with this complaint prior to its hearing in front of me. They have had no bearing on the outcome of this decision.

ISSUES

18. Two issues are central to this matter:

i. Is the BBM exchange admissible?

i. Did the Respondent have a reasonable expectation of privacy over the BBM messages?

ii. Would admission of the BBM messages constitute abuse of process?

ii. If admissible, does the BBM exchange between the Respondent and T.B. constitute a breach by the Respondent of the *Royal Newfoundland Constabulary Public Complaints Regulations* (the *Regulations)* under the *Royal Newfoundland Constabulary Act, 1992* (the *Act)*?

EVIDENTIARY STANDARD

19. The appropriate evidentiary standard for administrative hearings is the balance of probabilities.

ADMISSIBILITY OF BBM MESSAGES – Expectation of Privacy

20. The Respondent argued that he had a reasonable expectation of privacy over the BBM messages and that they should not be admissible in this hearing.

21. The Respondent acknowledges that he voluntarily surrendered his Blackberry when requested to do so by the RCMP. However, the Respondent stated that while he had surrendered his phone for the investigation of his officer involved shooting, he did not consent to the contents of that phone being made public. Essentially, the Respondent argues that he retains an expectation of privacy over the BBM messages and that their admission as evidence would constitute an unreasonable infringement upon his privacy.

22. The Respondent argued that it is established law in Canada that individuals have an expectation of privacy over the electronic communication. In support of this position, the Respondent relied on *R. v. Telus Communications Co.,* [2013] S.C.J. No 16., and *R. v. Marakah* 2017 SCC 59

23. I will not provide a detailed synopsis of the Respondent's position in relation to the expectation of privacy. For the purposes of this hearing, I find that it is settled law that Canadians have a reasonable expectation of privacy over their electronic communications. The relevant question in this instance is whether that presumptive expectation has been rebutted.

24. The Respondent relied upon the decision of MacDonald J. in *Power v. Mount Pearl (City)*, 2022 NLSC 129 (NLSC) in support of the contention that the Respondent's reasonable expectation of privacy in this instance precluded the admission of the BMM messages. That case examined, *inter alia,* whether the former Chief Administrative Officer of the City of Mount Pearl (Steve Kent) had a reasonable expectation of privacy over Facebook Messenger messages that were received on a City owned tablet.

25. To summarize the facts of *Power v. Mount Pearl,* CAO Kent was on leave during a workplace investigation and had returned the City owned tablet to the City. Kent had changed his Facebook password prior to the return of the City owned tablet and believed this act was sufficient to prevent the City from obtaining his electronic messages. The City discovered that Facebook messages sent to Kent were still being received by the tablet and were displayed as banners on the tablet lock screen. During the investigation, the City kept a record of the messages that were visible on the lock screen of the tablet. The City did not inform Kent that the messages were being received by the tablet.

26. The Supreme Court of Canada considered a similar case in *York Regional District School Board v. Elementary Teachers' Federation of Ontario*, 2024 SCC 22. The Court assessed whether a teacher had a reasonable expectation of privacy over electronic communications on a board owned laptop. In that decision, Rowe J. concluded that the Principal's unconsented search of the laptop contents breached the teacher's reasonable expectation of privacy. The Principal had entered the teacher's classroom and accessed their computer without permission. The Principal took pictures of messages that were contained within the teacher's electronic correspondence.

27. The RNCPCC argued essentially two main points. First, that the Respondent voluntarily surrendered his phone to the RCMP and as a police officer the Respondent ought to have been aware of the ramifications of such action. Second, that the basis for the Complaint was not the contents of the phone, but rather the evidence that was submitted to the CIDDD.

28. I find that the Respondent did have a reasonable expectation of privacy over the contents of his phone. However, I find that the Respondent negated that expectation when he consented to a search of the phone by the RCMP. As a trained police officer, the Respondent can be

reasonably assumed to know the potential consequences of surrendering an electronic device to the police for examination.

29. Respondent Counsel argued that the provision of the phone to the RCMP was for the limited purpose of a homicide investigation and should not be taken as a blanket consent for all potential uses for the information that was contained within the device.

30. Respondent Counsel suggested that the implied undertaking rule supported this argument. Counsel raised the decision of Binnie J. in *Doucette (Litigation Guardian of) v. Wee Watch Day Care Systems Inc.,* 2008 SCC 8, at paragraphs 25-27. In that decision, Binnie J. stated:

> *25 The public interest in getting at the truth in a civil action outweighs the examinees privacy interest, but the latter is nevertheless entitled to a measure of protection. The answers and documents are compelled by statute solely for the purpose of the civil action and the law thus requires that the invasion of privacy should generally be limited to the level of disclosure necessary to satisfy that purpose and that purpose alone. Although the present case involves the issue of self-incrimination of the appellant, that element is not a necessary requirement for protection. Indeed, the disclosed information need not even satisfy the legal requirements of confidentiality set out in Slavutych v. Baker, 1975 CanLII 5 (SCC), [1976] 1 S.C.R. 254. The general idea, metaphorically speaking, is that whatever is disclosed in the discovery room stays in the discovery room unless eventually revealed in the courtroom or disclosed by judicial order.*
>
> *26 There is a second rationale supporting the existence of an implied undertaking. A litigant who has some assurance that the documents and answers will not be used for a purpose collateral or ulterior to the proceedings in which they are demanded will be encouraged to provide a more complete and candid discovery.*
>
> *27 For good reason, therefore, the law imposes on the parties to civil litigation an undertaking to the court not to use the documents or answers for any purpose other than securing justice in the civil proceedings in which the answers were compelled (whether or not such documents or answers were in their origin confidential or incriminatory in nature).*[2]

[2] *Doucette (Litigation Guardian of) v. Wee Watch Day Care Systems Inc.,* 2008 SCC 8.

31. While I appreciate the argument raised by Respondent Counsel, I find that there is a distinct difference between civil litigation and the instant case. Civil litigation deals with the private rights of individuals and, generally, private issues between private individuals. In this instance, we are not dealing with the rights of two private parties. Instead, we are dealing with the conduct of a state actor and whether or not his conduct satisfied his statutory and regulatory obligations.

32. Further, I note that Binne J. summarized "the general idea, metaphorically speaking, is that whatever is disclosed in the discovery room stays in the discovery room unless eventually revealed in the courtroom."[3] The evidence clearly established that the Complainant based his complaint on the public testimony at evidence at the CIDDD. The information relied upon by the Complainant was public information. Had the Respondent wished to keep the text messages from reaching the public, he could have claimed his reasonable expectation of privacy at the CIDDD and relied upon s.12(1) of the *Public Inquiries Act,* SNL 2006 c. P-38.1.

33. Respondent Counsel suggested that I ought to consider the contextual factors of the Respondent when evaluating whether or not the consent to search was *bona fide*. I find that those contextual factors are more appropriate to the assessment of the weight to be given to the text messages and the assessment of whether the messages constitute police misconduct rather than their admissibility.

34. Using the framework articulated in *R. v. Cole,* 2012 SCC 53 and endorsed by MacDonald J. in *Power v. Mount Pearl*,[4] I find the following:

i. The subject matter of the search was personal electronic correspondence that was deleted but remained stored on the Respondent's work issued cellular phone
ii. The Respondent has a direct interest in the subject matter of the search
iii. The Respondent had a subjective expectation of privacy in the subject matter of the search
iv. The subjective expectation of privacy was not objectively reasonable having regard to all the circumstances

35. I have concluded that the subjective expectation of privacy was not reasonable in the circumstances because the instant situation is materially different from the scenarios such as those in *Power v. Mount Pearl,* and *York Regional District School Board v. Elementary Teachers' Federation of Ontario*. In those cases, the employer essentially engaged in clandestine real-time

[3] *Supra*, at para 25.
[4] Supra.

surveillance of the employee communications. In *Mount Pearl*, the City was monitoring communications between Kent and other individuals as the communications were occurring. Further, in *Mount Pearl,* Kent had taken active steps to attempt to protect his communications. Similarly, in *York Regional District School Board v. Elementary Teachers' Federation of Ontario*, the Principal in that instance had accessed the workstation of a teacher without that individual's consent.

36. Both *Power v. Mount Pearl* and *York Regional District School Board v. Elementary Teachers' Federation of Ontario* involve non-consensual search of electronic correspondence. In this case, the Respondent knew that the RCMP would have been able to access the deleted messages on his phone if they chose to do so. Further, *Power v. Mount Pearl* involved contemporaneous monitoring of Kent's electronic correspondence ***without*** notice to Kent, which is significantly different than the scenario involving the Respondent.

37. In this case, the Respondent voluntarily surrendered his phone, and its data, to the RCMP. That consent is a significant distinguishing fact when assessing whether the presumptive privacy expectation has been rebutted.

38. Further, it is important to note that the Complainant has based his complaint on the public record of the CIDDD. This is not a meaningless distinction. Once the information was released into the public sphere, it is difficult to suggest that the Respondent retained any expectation of privacy.

39. Respondent Counsel ably argued that an objection to the admissibility of evidence at a Public Inquiry cannot be made lightly and that, for a number of practical reasons, the Respondent was limited in his ability to object to the admission of the messages at the CIDDD. That may well be true, but the ultimate fact is that the messages became public. The Complainant has a right to rely on the record of the CIDDD when pointing to officer conduct that involves him.

ADMISSIBILITY OF BBM MESSAGES – Abuse of Process

40. The Respondent has also argued that the BBM messages should be excluded because to allow the record from the CIDDD to be introduced would constitute an abuse of process. The Respondent again relies on the decision of MacDonald J., in *Power v. Mount Pearl,* in support of this position.

41. The Respondent notes that MacDonald J. considered the applicability of the doctrine of abuse of process at paras. 94-96:

94 However, in Donald J. M. Brown and J. M Evans, Judicial Review of Administrative Action in Canada, looseleaf (Toronto: Thomson Reuters, 2015) at page 6 - 61 states, "[I]t is within the court's discretion to refuse to admit evidence ... on grounds of abuse of process ... ".

95 Justice Boone discussed the conceptual basis for an abuse of process remedy in O'Dea. In particular he said:

(a) "[A litigant] read the private communications of another. This kind of intrusion has always been considered as morally wrong. The right of privacy in electronic communication is now guaranteed by tort law, by statute and by regulation. Unauthorized access is prohibited and subject to sanction." (para. 23);

(b) "[T]he regulation of process and the doctrine of abuse of that process, is concerned less with respect for the court itself and more for the respect for the administrative process the court has adopted to ensure fair adjudication of disputes." (para. 39);

(c) The Ontario Court of Appeal decision of "Canam Enterprises Inc. v. Coles, (2000) 2000 CanLII 8514 (ON CA), 51 OR. (3d) 481 (Ont. C.A.) ", which said at paragraph 55, "The doctrine of abuse of process engages the inherent power of the court to prevent misuse of its procedure, in a way that would be manifestly unfair to a party to litigation before it or would in some other way bring the administration of justice into disrepute. It is a flexible doctrine unencumbered by the specific requirements of concepts such as estoppel. "[emphasis added] (para. 39); and

(d) "[T]he purpose of a remedy for abuse of process is, if possible, to restore fairness in a proceeding in order to protect the integrity of the administration of justice. In fashioning a remedy, the court must be mindful that the administration of justice in our system embraces the adversarial process in the search for truth." (para. 43)

96 Thus, when I consider whether I can restore fairness, I must first consider the unfairness the City caused.[5]

[5] *Power v. Mount Pearl (City)*, 2022 NLSC 129 (NLSC), at para. 94-96.

42. MacDonald J. ultimately concluded that it was necessary to exclude the Kent messages "to restore fairness and to protect the integrity of the administration of justice."[6]

43. As noted above by Boone J., quoting from *Canam Enterprises Inc. v. Coles,*[7] the goal of the doctrine of abuse of process is to prevent the misuse of judicial powers or procedures to avoid manifest unfairness or bring the administration of justice into disrepute. As noted above, it is to maintain fairness in proceedings to protect the administration of justice.

44. It is widely accepted that the application of the doctrine requires a balancing of interests between the parties. On one hand, the Respondent raises strong and well taken concerns about the administration of the Public Complaints Process – including the duration of time taken to obtain a hearing and the impact that such delay has had on the Respondent. On the other hand, the Complainant was determined to have been improperly detained by the state and the public has a legitimate interest in assessing the facts surrounding that detention.

45. While I appreciate the arguments raised by the Respondent under the abuse of process doctrine, and am making no final decision at this point as whether a stay may be an appropriate remedy, I cannot conclude that the admission of the BBM messages would constitute such an unfairness as to bring the administration of justice into disrepute.

46. Consequently, I find that the abuse of process doctrine is not a bar to the admissibility of the BBM messages.

ISSUE 2 – DO THE MESSAGES CONSTITUTE MISCONDUCT?

47. The following sections of the *Act* and *Regulations* are relevant to the determination of this matter:

> *3. (1) A police officer shall not conduct himself or herself in a manner unbecoming to a police officer and liable to bring discredit upon the Royal Newfoundland Constabulary, which shall include but not be limited to the following:*
>
> *(a) without good and sufficient cause make an arrest or detain a person;*

[6] *Supra*, at para 113.
[7] 2000 CanLII 8514 (ON CA), 51 OR. (3d) 481 (Ont. C.A.)

(b) use unnecessary force with a prisoner or other person contacted in the execution of duty;

(c) be discourteous to a member of the public;

(d) neglect or omit to promptly and diligently perform his or her duties as a police officer;

(e) fail to record or report promptly a complaint made to him or her;

(f) without proper authority, disclose, directly or indirectly to a person, information which he or she has acquired as a police officer;

(g) attempt to commit, aid, abet, counsel or procure another police officer to contravene these regulations;

(h) improperly use his or her character and position as a police officer for private advantage;

(i) obstruct a police officer or investigator either in the course of an investigation or in the carrying out of that person's duties under an Act;

(j) carry out his or her duties in a manner contrary to the Policy and Procedures Manual;

(k) wilfully or negligently make a false, misleading or inaccurate oral or written statement or entry in an official document or record, or otherwise pertaining to official duties;

(l) without lawful excuse destroy, mutilate or conceal an official document or record, or alter, erase or add to an entry in that document;

(m) place himself or herself under pecuniary or other obligation to a person in a manner that might affect the proper performance of his or her duties as a member of the Royal Newfoundland Constabulary;

(n) report for duty or be on duty while unfit for duty as a result of impairment by alcohol or a drug; or

(o) conduct himself or herself in a manner contrary to the Act.

> *(2) A police officer who violates the provisions of subsection (1) commits a breach of these regulations and is liable to the penalties set out in section 33 of the Act.*[8]

48. The RNCPCC has alleged that the Respondent is in breach of s.3(1) of the Regulations having engaged in Discreditable Conduct.

49. The Discreditable Conduct test was articulated in *Spurrell v. Priddle and Puddicombe.*[9] Chief Adjudicator MacGrath concluded that:

> *a) The test is primarily an objective one.*
>
> *b) The board must measure the conduct of the officer by the reasonable expectations of the community;*
>
> *c) In determining the reasonable expectations of the community, the Board may use its own judgement, in the absence of evidence as to what the reasonable expectations are. The Board must place itself in the position of the reasonable person in the community, dispassionate and fully apprised of the circumstances of the case;*
>
> *d) In applying the standard the Board should consider not only the immediate facts surrounding the case but also any appropriate rules and regulations in force at that time;*
>
> *e) Because of the objective nature of the test, the subjective element of good faith is an appropriate consideration where the officer is required by the circumstances to exercise his discretion.*[10]

50. The RNCPCC argues that I should rely on the following contextual factors when objectively assessing the messages:

i. That the Complainant had been detained earlier that day under the MHCTA;
ii. That the Complainant was in a vulnerable position, having been removed from his home and detained in a mental health facility;
iii. That the Respondent called the Complainant a “Loser”

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[8] *Royal Newfoundland Constabulary Regulations* under the *Royal Newfoundland Constabulary Act, 1992* (OC 96-244), at s.3
[9] A decision of the RNCPCC 24 March 2016.
[10] *Ibid.,* at p. 117

51. The RNCPCC relies primarily on two Ontario cases in support of its position. First, *The Matter of the Ontario Provincial Police Constable Sasa Sljivo #65711 Dated January 18, 2018* wherein two officers were ultimately found guilty of misconduct for private comments that had been recorded. The officers in that instance were making fun of a disabled child while on duty. Second, *The Matter of the Ontario Provincial Police And Detective Constable Douglas Holmes (10301), discreditable conduct. Dated February 21, 2023* wherein one officer used vulgar and derogatory language towards another officer. Again, the communication between the officers was private.

52. The RNCPCC also alleges that the conduct of the Respondent in this instance is likely to have a detrimental impact on the reputation of the RNC in the community.

53. The Respondent acknowledges that the text exchange was inappropriate, but argues that it falls short of disreputable conduct.

54. The Respondent argues that I should consider, *inter alia,* the following contextual elements:

i. The Complainant had been heavily critical of the RNC, and by extension the Respondent, on social media in the days following the officer involved shooting;
ii. The message exchange occurred a little more than 48 hours after the death of Donald Dunphy, which was a time of extreme stress for the Respondent;
iii. The extensive media coverage of the incident
iv. The Respondent had an incomplete recollection of events in the days following the shooting

55. No evidence was placed before me by either of the parties regarding what the reasonable expectations of the community would have been in circumstances similar to this one.

56. Essentially, the question becomes whether a reasonable person, dispassionate and fully apprised of the circumstances in this case, would consider the conduct of the Respondent to be discreditable.

57. I find that the following circumstances are relevant to the determination of this matter:

i. The Respondent had been recently involved in an incredibly stressful event, specifically the fatal shooting of Donald Dunphy (mitigating factor);

ii. At the time of the messages, the Respondent was on approved leave as a result of the shooting incident (mitigating factor);
iii. At the time of the messages, the Respondent was not involved with the decision to detain the Complainant under the *MHCTA* (mitigating factor);
iv. The Respondent was not involved with the actual detention of the Complainant under the *MHCTA* (mitigating factor);
v. The correspondence with T.B. was made in a private setting and not intended for public consumption (mitigating factor);
vi. There was no RNC policy prohibiting the off-duty communication between members about particular files (neutral factor);
vii. Referring to the detention of an individual under the *MHCTA* as "nice" is not acceptable, particularly from a police officer, as it may bring the administration of justice and the reputation of the RNC into disrepute (aggravating factor);
viii. Referring to an individual detained under the *MHCTA* as a "loser" is not acceptable, particularly from a police officer, as it may bring the administration of justice and the reputation of the RNC into disrepute (aggravating factor);
ix. A communication, albeit private, between two officers regarding the detention of an individual under the *MHCTA* when that individual had been critical of one of the officers may bring the administration of justice into disrepute (aggravating factor).

58. Based on the totality of the circumstances before me, I conclude that the Respondent's text message exchange with T.B. was not appropriate but does not constitute discreditable conduct by the Respondent.

59. I find that the decisions in *Sljivo* and *Holmes*, relied upon by the RNCPCC are distinguishable from the instant case. In *Sljivo*, the officers were on-duty and the nature of the comments by the officers towards the disabled child were, in my view, significantly more damaging to the individual specifically and to the reputation of the police force generally. Similarly, I find that the language used by the officer in *Holmes* was significant more inflammatory than the language used by the Respondent in this instance.

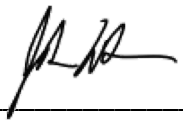
60. To be clear – the Respondent's commentary towards the Complainant was not appropriate. The Respondent admits as much. However, I cannot conclude that the comments were significant enough to cause a credible risk to the reputation of the RNC.

61. I find that the Respondent's comments fall below an implied *de minimis* threshold for complaints of officer conduct. While the conduct of the Respondent in this instance may satisfy

the technical minimums to constitute a breach of s.3(1) of the *Regulations,* the conduct lacks the severity necessary to warrant such a conclusion.

62. Consequently, I find that the Respondent has not breached s.3(1) of the *Regulations*.

Dated at St. John's this 16th day of January, 2025



John R. Whelan Q.Arb
Chief Adjudicator
Royal Newfoundland Constabulary Public Complaints Commission