

OPAAC ADJ #25-027

ONTARIO PROVINCIAL POLICE
Applicant

And

CONSTABLE MARK CONDRON
Respondent

Adjudicator:
Chris Renwick

Appearances:
I. Iafrate and A. Sandiford, student-at-law, for the Applicant
M. Wallace, for the Respondent

Heard:
October 20-23, 2025

Date of decision:
November 28, 2025

Length of decision:
38 pp.

Statutory citations:
Community Safety and Policing Act, 2019, S.O. 2019, ss. 201(10) and 202(1)
O. Reg. 407/23, ss. 10 and 30
Occupational Health and Safety Act, R.S.O. 1990, c O.1, s. 1(1)
Police Services Act, R.S.O. 1990, c P. 15 (repealed)

HARASSMENT - Sexual harassment - Respondent slapped female police colleague on the buttock at charitable event - Slap intentional rather than inadvertent - Actions constituted sexual harassment within the meaning of *Occupational Health and Safety Act* - Breach of s. 30 of Code of Conduct established.

UNDERMINE PUBLIC TRUST - False or misleading statements - Alleged dishonesty during compelled interview - Respondent interviewed by Professional Standards Unit with respect to incident of alleged sexual harassment - Whether respondent's answers during interview were deliberately false and thereby violated s. 10 of Code of Conduct - Clear and convincing evidence that respondent slapped buttock of female colleague - Some uncertainty as to details of slap - Not established that respondent deliberately misled investigator - Breach of s. 10 not proved.

EVIDENCE - Credibility of witnesses - Two allegations of misconduct arising from incident at charitable event - Alleged that respondent sexually harassed female colleague and misled investigator during compelled interview - Three witnesses testifying that respondent slapped colleague's buttock - Evidence of witnesses consistent and credible - Explanations of respondent not credible or reliable - Clear and convincing evidence of misconduct - Respondent engaged in sexual harassment, contrary to s. 30 of Code of Conduct.

EVIDENCE - Standard of proof - Allegation that respondent consumed alcohol during charitable event - Respondent was off-duty and assertion of excessive alcohol consumption not proved - Also alleged that respondent deliberately misled investigator during compelled interview regarding incident of sexual harassment - Misleading statements allegation not proved to required standard of clear and convincing evidence.

Summary of Reasons for Decision

The respondent, Cst. Condrón, faced allegations of misconduct in connection with a charitable golf tournament organized by his colleague, A/Sgt. Brianna Babin. The event took place on June 21, 2024. The applicant alleged that Cst. Condrón committed three forms of misconduct: 1) he consumed alcohol with an unclear level of intoxication while participating in the tournament; 2) he slapped A/Sgt. Babin on the buttocks with an open hand; and 3) he was less than forthcoming during his interview by the Professional Standards Unit. Constable Condrón admitted consuming some alcohol; otherwise, he disputed the allegations.

Three witnesses testified about the slap: A/Sgt. Babin, her husband, (D. Babin), and L. Vincent, A/Sgt. Babin's cousin. A/Sgt. Babin described Cst. Condrón as a mentor. She testified that they had a good working relationship but did not socialize outside work. She was on duty on June 21, having organized the event. At the end of the tournament, she was asked to do an interview by a journalist with a local radio station. During the taped interview, she saw Cst. Condrón walking towards her. She thought he did not "look himself"; he had a red face, and looked as though he had had a few drinks. A/Sgt. Babin testified that he swung and slapped her left buttock with his left hand as he walked towards the parking lot. Although she did not see his hand make contact, she felt the slap. Embarrassed, she nevertheless carried on with the interview. Her husband saw the slap but she persuaded him not to make a scene. She had a further interaction with Cst. Condrón later that evening in the club house: he asked when dinner was, put his hand on her shoulder and said, "I was just joking, Bri, just joking". A nearby table of OPP officers asked her about this exchange; and she replied that Mark had "slapped her bum". Some colleagues asked her if she was okay; one, Cst. K. Brown, called her the next morning to follow up. She went home and made notes of the incident. The next day, she received a text message from Cst. Condrón, thanking her for putting on the tournament and praising her for doing a good job.

D. Babin saw and heard the slap. He was extremely upset and wanted to confront Cst. Condrón; however, his wife persuaded him not to do so. L. Vincent, A/Sgt. Babin's cousin, also witnessed the slap; she was uncertain which hand Cst. Condrón used or what side of the buttocks was slapped but did recall a definite slapping motion. Also testifying for the prosecution was D./Sgt. D. Gauvin, the lead investigator assigned by Professional Standards in this matter. He

interviewed witnesses to the incident – except for the journalist, to protect involved OPP personnel, including Cst. Condrón, and to protect the reputation of the OPP. He admitted that he could not hear a slap in the audio recording of the media interview.

Constable Condrón confirmed that he and A/Sgt. Babin had a good working relationship. He attended the golf tournament with R, a neighbour. Constable Condrón testified that he was designated driver; as such, he would not, and did not, consume much alcohol. He admitted to drinking a third of a can of beer just before the tournament started, a sip of a cooler on a sample table, and half a can of seltzer after the tournament was over. He was sober throughout the day and his judgment was not affected by alcohol. When he saw A/Sgt. Babin, he did not realize she was being interviewed. As he walked by her, his intention was to give her a friendly tap with the back of his hand, to her back. He made contact with what he believed was her back, although it was hard to tell where the tap landed, given the loose/flowing shawl she was wearing. He first learned that he had in fact touched her buttocks the following day, when he texted A/Sgt. Babin to congratulate her; she replied that she felt uncomfortable and embarrassed when he slapped her behind. Constable Condrón testified he was shocked to learn this and would never intentionally do something like that to a friend and respected colleague. He texted back, “I’m sorry Bri...certainly wasn’t meant to be”. In a subsequent response text, he wrote, “For what it’s worth, I see you more like one of the guys. I guess I sometimes forget you are a woman. Not that it’s an excuse.” In his testimony, Cst. Condrón acknowledged that it is not okay to tap anyone on the buttocks but he insisted that was not his intent. In his compelled interview, he first indicated that the incident occurred after dinner; later, he conceded he could have been mistaken about the timing. He recalled the interaction in the clubhouse but did not recall putting his hand on her shoulder. He denied this conversation was in effect an apology and maintained that he was merely making a sarcastic remark about dinner being late.

Defense counsel submitted that with respect to the second allegation, what Cst. Condrón intended to do, and thought he was doing at the time, was to give A/Sgt. Babin a friendly tap on the back. As to the first allegation, there was no clear and convincing evidence of intoxication. Counsel submitted that the evidence of contact was not consistent across witnesses; they gave different versions of palm versus back of the hand, for instance, their distance from the interview-in-progress, whether they heard a slap. The shawl obscured A/Sgt. Babin’s anatomy, Cst. Condrón did not have a clear view, and he genuinely believed he had tapped her on the back. Counsel asked whether it was reasonable to think that Cst. Condrón would have slapped a colleague’s buttocks in front of others, including her husband? Addressing the text exchange, the respondent was trying to convey that his touching was not intentional. “For what it’s worth” referred to the respondent tapping male colleagues on the back, which he intended to do with her, treating her as one of the guys. The mistaken timeline in the compelled interview was just that – a mistake attributable to the fact the interview occurred 7 weeks after the incident.

Counsel for the prosecution submitted that Cst. Condrón slapped A/Sgt. Babin on the buttocks without her consent. A/Sgt. Babin was credible, and the respondent was not. His text message sent the next day was really an apology, an admission of guilt, and an attempt to rationalize his behaviour. The three witnesses all gave credible and reliable testimony on the main, important parts. Conversely, Cst. Condrón could not remember key details and his explanations were not credible. Counsel submitted that the primary allegation was the slap, and the secondary

allegation was that Cst. Condrón was not forthcoming during his compelled interview. Counsel submitted that the slap could qualify as either a violation of s. 10 of the Code of Conduct, because it had the potential to undermine public trust, or as workplace harassment, contrary to s. 30 of the Code. The prosecution sought a finding of guilt under s. 30; alternatively, a finding of guilt under s. 10, because the misconduct occurred at a public event and clearly undermined public trust in policing. Counsel asked for a finding that the respondent's untrue statements during his compelled interview violated s. 10.

Held, Violation of s. 30 established.

The testimony of A/Sgt. Babin was both credible and reliable. She offered no embellishments or opinions, other than her observations of Cst. Condrón's demeanor and behaviour during the incident and later in the dining room. She testified that she did not see his hand, but felt the contact through the "flowy" shawl and it sounded like a palm slap. Her evidence was consistent with that of her husband and her cousin; notwithstanding their kinship and partisanship, and despite some minor inconsistencies, their evidence on what they saw, and their interpretation and reaction, was both consistent and believable. Significantly, all three witnesses were consistent in their immediate reactions and interpretations; all three reacted with shock and disbelief to what they observed, describing it as embarrassing and humiliating. To accept Cst. Condrón's evidence would require a finding that A/Sgt. Babin, Mr. Babin, and Ms. Vincent each misinterpreted the intent and nature of Cst. Condrón's friendship gesture of a tap on the back – a conclusion that ran counter to the weight of the evidence. Constable Condrón's testimony that he was not aware of where his hand made contact was not credible; it was simply not believable that he could be so oblivious. A/Sgt. Babin reasonably took his subsequent "I was just joking" comment as a direct reference to him slapping her buttocks earlier; it was improbable that she once again misinterpreted this as an apology for the late-dinner remark instead of the slap. The text messages provided further support for A/Sgt. Babin's version, whereas Cst. Condrón's testimony amounted to further claims that his actions, messages, and intentions were misinterpreted.

Contact was established, even according to Cst. Condrón's version; therefore, the real question was whether he intentionally, recklessly, or accidentally slapped A/Sgt. Babin's buttock. Based on the testimony, and the text messages, the evidence was clear and convincing that he intentionally slapped her buttock. It was unnecessary to decide why he did so; it was sufficient to find that the evidence supported the conclusion that his action was deliberate. Although this behaviour could fall under either s. 10 or s. 30 of the Code of Conduct, it was important to recognize and address the sexual harassment component of this misconduct, by characterizing the offence as a respectful workplace violation, contrary to s. 30, which proscribed workplace violence and workplace harassment, including sexual harassment, as those terms are defined in the *Occupational Health and Safety Act*.

As to the first allegation, there was no direct evidence that Cst. Condrón consumed excessive alcohol at the tournament. In any event, he was not on duty that day, and there was no misconduct in consuming alcohol while off-duty and participating in a charity tournament.

The third allegation was based on Cst. Condrón's responses during his Professional Standards interview. While his recollection of several details was lacking, and his explanations for the

apology in the dining room and his text messages lacked credibility, the issue was whether his answers were deliberately untrue, and therefore contrary to s. 10. Although the slap was intentional, there was some uncertainty from the witnesses as to whether it was a backhand or a palm slap. Given the applicable standard of proof, clear and convincing evidence, it could not be said that the evidence met this threshold; the evidence did not establish that he deliberately misled or lied to D/Sgt. Gauvin.

Accordingly, Cst. Condron committed misconduct by violating s. 30 of the Code of Conduct, when he engaged in workplace harassment, including workplace sexual harassment, as defined under the *Occupational Health and Safety Act*.

Authorities cited

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Pitts and Director of Family Benefits Branch of Ministry of Community & Social Services, 1985 CanLII 2053 ONSC (Ont. Div. Ct.)

Peel Regional Police and Sgt. Harinder Sohi, OPAAC ADJ #25-013

Ministry of Labour, *Health and Safety Guidelines*, Workplace Violence and Harassment: Understanding the Law, s. 1.5