



2020 TAHP 01  
Decision issued: July 29, 2020  
Citation issued: June 24, 2019  
Citation amended: November 7, 2019  
Citation further amended: March 3, 2020  
File No.: [REDACTED]

IN THE MATTER OF THE *TEACHERS ACT*, S.B.C. 2011, c. 19

AND

A HEARING CONCERNING

JASON ALAN OBERT

(A Former Authorized Person under the *Teachers Act*)

## REASONS FOR DECISION ON FINDINGS AND DETERMINATION

Dates and location of hearings: March 3-5 and 11, 2020, at the Teacher Regulation Branch  
Panel: Meg Gaily, Chair, Matthew Cooke, and Tom Longridge  
Counsel for the Commissioner: Maureen S. Boyd and Michael Oland, Ministry of Attorney General  
Counsel for the Respondent: Jason Obert, self-represented

### INTRODUCTION

[1] The Commissioner of the Teacher Regulation Branch (the “Commissioner”) appointed a panel to conduct a hearing into a citation the Commissioner issued under section 56(1) of the *Teachers Act*<sup>1</sup> (the “Act”) on June 24, 2019.<sup>2</sup> The Commissioner amended the citation pursuant to s. 56(4) of the Act on November 7, 2019,<sup>3</sup> and the citation was further amended on March 3, 2020<sup>4</sup> (the “Citation”).

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<sup>1</sup> S.B.C. 2011, c. 19.

<sup>2</sup> Exhibit #3, Citation dated June 24, 2019.

<sup>3</sup> Exhibit #1, Amended Citation dated November 7, 2019.

<sup>4</sup> Exhibit #2, Further Amended Citation dated March 3, 2020.

- [2] Under the former *Teaching Profession Act*, the British Columbia College of Teachers granted Jason Alan Obert (the “Respondent”) a professional certificate on November 5, 2003, which was valid from September 1, 2003.
- [3] In 2012, School District No. 75 (Mission) (the “District”) employed the Respondent as an elementary school principal. At the time of the incidents described in the Citation, the Respondent was the principal of Windebank Elementary School (the “School”).
- [4] In the Citation, the Commissioner alleges the following:
1. In or about September and October 2016, [the Respondent], an authorized person under the *Teachers Act* (Professional Certificate No. [REDACTED]), while employed as an elementary school principal by School District No. 75 (Mission):
    - a. Responded by text message to a profile posted on the website “Skout” of a female, who purported to be an 18 year old named “Sara”;
    - b. Communicated electronically with Sara on the internet application “TextNow”;
    - c. Continued to communicate electronically with Sara after she represented to him that she was 15 years old;
    - d. Sent inappropriate electronic messages to Sara and to her purported friend “Hannah”, which messages included comments by [the Respondent] about using marijuana, Sara’s appearance, and other sexualized content;
    - e. Made arrangements to meet Sara on two occasions in October 2016; and
    - f. On or about October 14, 2016, went to a mall in Abbotsford to meet with Sara, where he was video-recorded by the group “Creep Catchers” while attempting to meet Sara. The recording of this encounter was posted online.

This conduct is contrary to Standard #2 of the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia*, 4<sup>th</sup> Edition, January 2012. [The Respondent] is guilty of conduct unbecoming a teacher under section 63(1) of the *Teachers Act*.

- [5] The Respondent admitted that the Citation and the Amended Citation were delivered to him. The Commissioner’s counsel delivered the Further Amended Citation to the Respondent in person at the hearing on March 3, 2020.

## ISSUES

- [6] In this conduct hearing, the discipline panel must make the following three determinations:
- (a) Has the Commissioner proved on a balance of probabilities that the conduct set out in the Citation occurred?

- (b) If so, does the proven conduct breach any of the Standards (in particular, the Commissioner alleges the Respondent's conduct breached Standard #2)?
- (c) If so, does the conduct amount to conduct unbecoming a teacher such that the Respondent is guilty of conduct unbecoming a teacher under s. 63(1)(b) of the Act?

The panel's findings with respect to the conduct proved by the Commissioner are set out in its findings of fact. The issue of whether that conduct breaches Standard #2 and amounts to conduct unbecoming is addressed in the panel's analysis and decision.

## **REVIEW OF EVIDENCE AND PANEL'S FINDINGS OF FACT**

- [7] The panel heard from five witnesses, including the Respondent. The Commissioner's witnesses were:
- Chelsea Bullon, who started the Fraser Valley "Creep Catchers" chapter;
  - Brian Mitchell, an investigator with the Teacher Regulation Branch ("TRB");
  - Special Constable Samuel Ward, Abbotsford Police Department; and
  - Angus Wilson, Superintendent of the District.
- [8] The Respondent testified on his own behalf. He did not call any other witnesses.
- [9] The Respondent obtained his certificate in 2003 and began his career as an elementary school teacher in both Ontario (for the first year) and British Columbia. He obtained his first position as an administrator in 2011.
- [10] In 2012, the District hired the Respondent as an elementary school principal at Silverdale Elementary School ("Silverdale"). In late October 2012, the District identified a discrepancy between the Respondent's explanation to the District about an entry on his pre-employment municipal criminal record check and information about the entry provided by the RCMP.<sup>5</sup> The Respondent admitted he met with the District about this discrepancy and identified the letter he received from the Acting Assistant Superintendent, Randy Huth, in which Mr. Huth wrote the following:

I am satisfied from our discussion that you understand that as a school principal you have a responsibility to act as a role model and to conduct yourself in a manner which will ensure the continued confidence and trust of the community in the school district. We appreciate your cooperation and your understanding of the importance of honesty and integrity in your role as a principal in the district.

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<sup>5</sup> Ex. #48, letter dated October 29, 2012 from Randy Huth, Acting Assistant Superintendent to the Respondent.

- [11] In September 2015, the Respondent became the principal of Windebank Elementary School (the “School”), where he was working at the time of the incidents set out in the Citation.
- [12] The Respondent testified that he wanted to present his version of the events to the panel (he referred to his testimony as his “capital T truth” or the “alternative narrative”). His explanation for his conduct was that in the summer of 2016, he became interested in the Creep Catchers and was intending to write a fictional or non-fictional piece about them. The Respondent admitted that in September and October 2016, as part of his personal research into the Creep Catchers, he sent the text messages attributed to “James 33” to “Sara” and “Hannah”, which are reproduced in the text chat logs discussed below.
- [13] The Respondent testified that he knew at that time that the persons he was exchanging text messages with were not a 15-year-old girl and her 14-year-old friend. The Respondent admitted that he arranged to meet “Sara” and “Hannah” in person on two different occasions in October 2016 and that he went to a mall to meet them, but he asserted that he knew that they were part of the Creep Catchers, and he went because he wanted to talk to the Creep Catchers as part of his research.
- [14] Ms. Bullon testified that in August 2016, she formed the Fraser Valley chapter of “Creep Catchers”. Ms. Bullon described Creep Catchers as a group of individuals who would pose as under-age kids in online chat sites so that they could “catch” people who wanted to chat with and meet under-age kids in person. The Creep Catchers would record the in-person meeting at which they revealed to the “creep” that he or she had been communicating with persons who were, in fact, adults, and members of Creep Catchers. The Creep Catchers would then post the video of the “catch” on YouTube. Ms. Bullon testified that as a member of Creep Catchers, she would cooperate with the police in their criminal investigations of the people who had been caught by Creep Catchers. Ms. Bullon told the panel that she is no longer a member of Creep Catchers.
- [15] Ms. Bullon testified that in late August or early September 2016, she posted a decoy profile on the “Skout” website posing as an 18-year-old named “Sara”. Ms. Bullon testified that she was the only person who responded to the texts sent to the Sara profile on Skout.
- [16] For the Sara profile, Ms. Bullon used the photo of a woman named Michelle Lordache, who Ms. Bullon described as young looking. Ms. Bullon said that Ms. Lordache consented to Creep Catchers using her photo for the Sara profile, and that Ms. Lordache also provided other photos of herself, which she knew were to be used as part of the Sara decoy profile. Ms. Bullon identified a series of photos of Ms. Lordache tendered by the Commissioner as photos she used for the Sara profile and when responding to texts as Sara.<sup>6</sup>
- [17] Ms. Bullon testified that in early September 2016, the Sara profile on Skout received a text from “James 33.” Ms. Bullon testified that posing as Sara, she replied to the text from “James 33” and that she and “James 33” then exchanged several texts. Ms. Bullon testified that she did not know that “James 33” was the Respondent.

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<sup>6</sup> Exhibit #4, copies of photographs of Michelle Lordache and Natasha Johnson.

- [18] At the hearing, Ms. Bullon identified a document tendered by the Commissioner comprised of a series of screen shots, which Ms. Bullon said she took on her cell phone, capturing the text exchanges between Ms. Bullon as Sara and “James 33” on the Skout website (the “Skout Chat Log”).<sup>7</sup> The screen shots show the profile picture of Ms. Lordache as Sara, beside texts from Sara in blue text boxes, together with a profile picture of “James 33” beside texts from him in white text boxes. Ms. Bullon’s evidence was that she sent the texts as Sara, and that no one else had access to her phone.
- [19] At the hearing, the Respondent admitted that he created the “James 33” profile on Skout, and he admitted that the photo in the Skout Chat Log is the one he used as “James 33.” The Respondent admitted that he initiated contact with Sara on Skout. The Respondent also admitted that he sent all of the texts from “James 33” reproduced in the Skout Chat Log.
- [20] The Respondent alleges that Ms. Bullon deleted text exchanges from the Skout Chat Log. Ms. Bullon denies editing or deleting texts from the Skout Chat Log. The Respondent did not submit evidence at the hearing to support his assertion that Ms. Bullon deleted texts, such as screen shots of the text exchanges taken from his cell phone. The Respondent testified that the reason for his inability to corroborate his evidence is that he threw his cell phone off the Mission Bridge the day after he was videotaped by the Creep Catchers because he was afraid they would find out who he was and come to his house to confront him.
- [21] In the screen shots in the Skout Chat Log, the text exchanges are not consistently reproduced in chronological order, the text exchanges are not dated, and many text exchanges are duplicated. However, both Ms. Bullon and the Respondent testified that they sent the texts as Sara and James 33 respectively, and both agreed that the content of the texts in the Skout Chat Log is accurate, although the Respondent alleges texts are missing. The Respondent did not deny that he sent any of the texts attributed to James 33 reproduced in the Skout Chat Log.
- [22] The panel finds that Ms. Bullon and the Respondent sent the texts reproduced in the Skout Chat Log. The panel has used the names Sara and James throughout the following summary of the texts reproduced in the Skout Chat Log.
- [23] In their initial text exchange on the Skout Chat Log, in her 5<sup>th</sup> text, Sara states, “I wanna be honest, you seem like a nice guy ... I’m 15 is that okay with you?” James texts, “Whoa. Why are u on here?” Sara texts that she is on to meet new people and is shy in person. James then texts, “Lol u a cop”, and asks her to send him a picture of herself making a peace sign. Sara then texts James a picture identified by Ms. Bullon as one of Ms. Lordache making a peace sign. Sara texts, “Happy now Lolz.” James then texts the following to Sara: “Ya but when was that second pic taken; Btw u look amazing; U should not be shy; Guys ur age must hit on u all the time”. Still in their initial exchange, James asks Sara if she has ever dated “an older guy before”, and Sara responds the oldest was 18.<sup>8</sup>

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<sup>7</sup> Exhibit #6, Skout Chat Log (17 pages of screen shots; page references are to the page numbers appearing on the bottom right corner of the printed pages in the Commissioner’s book of documents, Tab 34).

<sup>8</sup> Ex. #6, Skout Chat Log, pp. 1-3.

- [24] The panel finds that the Respondent did not cease communicating with Sara after she represented to him that she was a minor.
- [25] Further in the initial text exchange on Skout, Sara texts James that her mother has taken away her phone and she is using her friend's phone. James then texts, "Bad girl u should listen to ur mom" and asks, "U smoke weed." Sara texts, "I haven't tried it yet. Do you?" James texts, "I do." James asks Sara her name, which she tells him is Sara, and he tells her his name is James. When Sara asks James for a phone number, he provides one and texts, "Shoot me a text now to confirm the number."<sup>9</sup>
- [26] Ms. Bullon testified that after the initial contact with James 33 on Skout, she switched to communicating with James 33 using the "TextNow" app. Ms. Bullon identified a document tendered by the Commissioner made up of over 100 pages of screen shots, which Ms. Bullon testified she took on her cell phone, capturing the text exchanges between James 33 and Sara on TextNow (the "TextNow Chat Log").<sup>10</sup>
- [27] The TextNow Chat Log shows the dates and times of the text messages, but it does not identify or show the profile picture of the person sending the texts. Ms. Bullon testified that as Sara, she sent the texts in the blue text boxes in the TextNow Chat Log, and that the Respondent's texts to Sara as "James 33" are in the white text boxes.
- [28] At some point in the exchanges on TextNow, Sara's friend "Hannah" exchanges texts with James 33, in keeping with the story that Sara's mother had confiscated her phone, and Sara has to use her friend's phone. Ms. Bullon testified that she sent the texts to James 33 attributed to Hannah. Ms. Bullon testified that for Hannah, she used photos of a woman named Natasha Johnson who had consented to the use of her photos by Ms. Bullon for the purposes of Creep Catchers. Ms. Bullon identified four photos of Ms. Johnson tendered by the Commissioner as the photos she used when responding to texts as Hannah.<sup>11</sup> Ms. Bullon's evidence was that she was the only person who had access to her phone, and that she was the only person posing as Sara and Hannah sending texts to James 33. Ms. Bullon denied editing or deleting any of the texts in the TextNow Chat Log.
- [29] The Respondent admitted that as James 33, he sent the texts to Sara and Hannah reproduced in the TextNow Chat Log. The Respondent alleged that the TextNow Chat Log was missing several text exchanges and that Ms. Bullon or someone else had edited and deleted the texts. However, the Respondent did not produce evidence to corroborate his allegations, such as copies of screen shots taken on his cell phone, and he repeated his explanation that he had thrown his cell phone off the Mission Bridge on or about October 15, 2016.
- [30] The text exchanges in the TextNow Chat Log commence on September 18, 2016. The last text exchanges are from October 14, 2016, the date the Respondent arranged to meet Sara and Hannah, and the date on which their meeting was recorded by Creep Catchers. The

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<sup>9</sup> Ex. #6, Skout Chat Log, pp. 4-7.

<sup>10</sup> Exhibit #7, TextNow Chat Log (120 pages of screen shots; page references are to the page numbers appearing on the bottom right corner of the printed pages in the Commissioner's book of documents, Tab 35).

<sup>11</sup> Exhibit #4, copies of photographs of Natasha Johnson and Michelle Lordache.

screen shots in the TextNow Chat Log are duplicative and are not consistently reproduced in chronological order.

- [31] Special Constable Samuel Ward is a civilian member of the Abbotsford Police Department (the “APD”) where he works as a digital forensic analyst, performing data extraction and analysis from cell phones and computers. Constable Ward testified that in October 2016, another member of the APD (a Constable Sovio) performed the initial extraction of all of the data from a cell phone and saved this digital extraction to an APD computer. Constable Ward understood that the digital extraction was from a cell phone that Ms. Bullon had provided to the APD.
- [32] Constable Ward testified that Detective Tony Demers of the APD asked him to further extract the text exchanges from the digital extraction. Constable Ward testified that he used a program designed to read databases in order to extract from the initial digital extraction the messages on the TextNow App between James 33 and Sara. Constable Ward generated a chat log in a table form, which he then provided to Detective Demers (the “Ward Chat Log”). The APD provided the Ward Chat Log to the TRB. Constable Ward identified the document tendered by the Commissioner as the Ward Chat Log.<sup>12</sup>
- [33] Constable Ward testified that the Ward Chat Log shows the texts exchanged between Sara and James using the TextNow App, but that it did not capture the texts exchanged on the Skout website.
- [34] The information in the Ward Chat Log is set out in four columns. The left column identifies the person sending the text as either “James 33” or “Sara”. The middle two columns identify the times the text was sent and received in Greenwich Mean Time, and the fourth column reproduces the content of the texts. The Ward Chat Log includes all of the texts that were screen captured in the TextNow Chat Log.
- [35] Although he asserts that text exchanges have been deleted, the Respondent does not deny that he sent the texts attributed to James 33 reproduced in the TextNow Chat Log, which are also attributed to James in the Ward Chat Log.
- [36] The panel finds that as Sara and James 33/James, Ms. Bullon and the Respondent sent the texts reproduced in the TextNow and Ward Chat Logs. The panel has used the names Sara and James throughout the following summary of the exchanges.
- [37] In an exchange from September 19, 2016, the texts from James to Sara include the following: “Love to see what U wore today sexy”; “So how long u been single” “U must get hit on a lot ur pretty hot Sara.” James also asks Sara when she broke up with her 18-year-old boyfriend and, “He ur first?”<sup>13</sup>
- [38] During the September 19, 2016 exchange, James texts Sara, “Send me a pic girl” to which Sara responds, “Where’s my pic? James then texts the following: “Snap?”; “No offence

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<sup>12</sup> Ex. #17, Ward Chat Log (22 pages; page references are to the page numbers appearing on the bottom right corner of the printed pages in the Commissioner’s book of documents, Tab 33).

<sup>13</sup> Ex. #7, TextNow Chat Log, pp. 4-5; Ex. #17, Ward Chat Log, p. 1.

but I can get in trouble talking to u lol”; “scare u off?” Sara texts, “Huh what do you mean?” James texts, “Nothing”, “When u turn 16”, “U use snap chat?”<sup>14</sup> In response to a picture sent by Sara (a photo identified by Ms. Bullon as one of Ms. Lordache), the texts sent by James include the following: “U are mint”; “What about a body shot”; “Ur eyes are deadly Sara”; and “U look good just saying like it is.”<sup>15</sup>

- [39] In an exchange from September 25, 2016, Sara texts James that her mother was going away and Hannah would probably come over for the weekend. In this context, the texts exchanged between James and Sara include the following:

James: Cool; U guys gonna party

Sara: My step dad works graveyard ... sleeps all day gone at night.

James: Or just have me over

Sara: He doesn't care what I do! Sounds good to me!

James: Cool What u an Hannah gonna do

Sara: What ever we want lolz

James: What kinda music u like; U guys smoke weed?

Sara: I've never tried; All sorts of music

James: Drink

Sara: I've never been drunk; Why will you bring some?

James: Did u want?

Sara: I'm game

James: Is Hannah

Sara: She says yup!

James: We ll see how the week goes; If ur still down.<sup>16</sup>

- [40] During the September 25, 2016 exchange, Sara texts that Hannah is colouring Sara's hair black and that she can't send James a picture because she looks like she “painted her head with tar”, to which James texts, “U would look soo hot painted in tar lol.”<sup>17</sup> The following text exchange occurs (the emojis have been deleted):

Sara: Mud bath hahaha always wanted to try that lolz

James: Lol mmmm

Sara: Expensive though!

James: Who said u was paying lol

Sara: U paying???”

James: Of course; U dint ever have to ask; U just assume

Sara: Awe! Wow your so sweet James

James: That's how it fella should treat ya Sara<sup>18</sup>

<sup>14</sup> Ex. #7, TextNow Chat Log, pp. 6-7, 15-16; Ex. #17, Ward Chat Log, p. 1.

<sup>15</sup> Ex. #7, TextNow Chat Log, p. 17; Ex. #17, Ward Chat Log, p. 1.

<sup>16</sup> Ex. #7, TextNow Chat Log, pp. 35-36; Ex. #17, Ward Chat Log, p. 5.

<sup>17</sup> Ex. #7, TextNow Chat Log, pp. 36-37; Ex. #17, Ward Chat Log, pp. 5-6.

<sup>18</sup> Ex. #7, TextNow Chat Log, pp. 37-38; Ex. #17, Ward Chat Log, p. 5.



- [41] Later on September 25, 2016, James texts Sara, and Hannah tells him Sara went home. James then texts Hannah, “How old are u”, to which Hannah texts, “15” “Almost.” James texts, “How old is Sarah”, and Hannah texts, “15”.<sup>19</sup>
- [42] On September 26, 2016, James texts Sara and Hannah answers. James asks Hannah for a picture and Hannah sends a picture, which Ms. Bullon identified as a photo of Ms. Johnson. James then texts, “Wow Hannah”, “Ur hot”, “When u take that”. James texts, “So u single?”, “U and Sara must get hit on a lot”, to which Hannah texts, “I am, her more than me lol!” James texts, “She dating anyone now”, to which Hannah texts, “No”.<sup>20</sup>
- [43] The panel finds that by September 26, 2016, the Respondent had been exchanging texts with Sara and Hannah for approximately ten days, even though both of them represented to him that they are minors. The panel also finds that after several days of exchanging text messages, the texts attributed to James 33 do not refer to the Creep Catchers or provide any indication that the person sending the texts is conducting research into Creep Catchers.
- [44] In an exchange between James and Sara on September 27, 2016, James asks what happened to Sara’s phone and offers to buy her a new one (the emojis have been omitted):
- James: So why did ur mom take ur phone  
 ...  
 Sara: It’s a long story ... maybe I’ll tell you the whole thing on Sunday when you come hangout ... it has to do with the ex though  
 James: Ohh did U do something naughty with ur phone  
 Sara: Lol  
 James: Or did ur mom not like the ex  
 ....  
 James: Give me a hint what’s up with ur phone; Is she gonna give it back or should I buy u one  
 Sara: She said eventually but it’s been 2 months now lolz she’s a bitch; Maybe you should hahaha  
 James: Wanna go get one tomorrow? Ud have to hide it from her; ?  
 Sara: I do but I’m super busy 2moro ... I have dance after school and then dinner at my Grama’s; You would seriously get me a phone?!  
 James: Yes; Seriously; U need a phone; not safe without a phone these days; Where u do dance?<sup>21</sup>
- [45] Through texts exchanged on September 28, 29 and 30, 2016, James, Sara and Hannah arrange to meet at Highstreet, a shopping mall in Abbotsford, on Sunday, October 2, 2016.
- [46] The Respondent admitted that he arranged to meet Sara and her friend Hannah at the Highstreet mall on October 2, 2016. The Respondent admitted that he went to the Highstreet mall and exchanged texts with Sara when he was there on October 2, 2016, but that he did not meet Sara and Hannah as arranged.

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<sup>19</sup> Ex. #7, TextNow Chat Log, pp. 39-42; Ex. #17, Ward Chat Log, p. 5.

<sup>20</sup> Ex. #7, TextNow Chat Log, p. 45; Ex. #17, Ward Chat Log, p. 7.

<sup>21</sup> Ex. #7, TextNow Chat Log, pp. 51-53; Ex. #17, Ward Chat Log, pp. 8-9.

[47] The TextNow Chat Log contains the following text exchange from October 2, 2016, commencing after Sara has sent James a picture of Ms. Lordache holding a soft drink from McDonald's:

James: When u take that; You look super cute by the way

Sara: Right now lol I look rough today lolz; So when r u coming?

James: Where r u

Sara: At high street lolz

James: U look good Sarah take a pic of u two

Sara: I'm shopping lolz u coming?

James: Yea u at Walmart?; Sarah you look different in those pics send me one of u two

Sara: I said I looked rough thanks ...

James: All the pics u ve sent u look good; But they look like different girls; Take a pic of the store where u are

Sara: Why you playing? Come see me or not

James: I'm not I wanna see u; Why u so sketchy just send some pics

Sara: Your being sketchy ...

James: That's how we validate we send pics; Lol; I'm not sure why u can't send a pic;

I'm in the Walmart parking lot; Whereabout are u; ?; Where u go? Lol

Sara: I'm walking; Near cupcake place

James: K where to? Come to Walmart

Sara: I come to Walmart Mcdonald if you buy me a sundae lolz

James: Ok; How long it take you

Sara: 5 min

James: Wait I'm about ten minutes away; I started driving back

Sara: Okay; I'm sitting in the back, Hannah is in the washroom

...

James: How much time we have

Sara: U coming?

James: Yes; Bringing a joint we can smoke; How much time we have

Sara: Till 6

James: K can I give u a ride?

Sara: Sure; That would be awesome

James: Ok her mom ok with that

Sara: We can just tell her we took the bus; ???

James: K cool; Wait coming; U still at mcdicks

Sara: K 1 min

James: I'm just driving up mt Lehman; Come to the parking lot; By the escalator; I'll buy you a sundae after

Sara: What e u wearing

James: And some cupcakes

...

James: WhT u feel like; Can I call u

Sara: Just come down here; No minutes

James: Ok Where r u

Sara: At the Mcdonald's lolz; In Walmart

James: Go out the exit; And go to the escalator; Like ur going to London drugs; ok

Sara: I'll wait here lolz

James: Lol y  
 Sara: Cuz ur kinda scaring me now  
 James: lol I'm cautious I don't know if ur a cop  
 Sara: I'm not lolz just come down hahaha  
 James: So not coming? Come to London drugs I ll buy u some cupcakes. U there  
 Sara: No ur freaking me out ... I'm leaving  
 James: Ok; sorry; I'm here if u change ur mind; where u go? What happened  
 Sara: No come here ... lolz  
 James: Still there? I don't see u; ?: Lol ur not here?  
 Sara: I'm here  
 James: Who u with  
 Sara: Myself ... Hannah is walking around she got board  
 James: Come to the pet food; Ok; ?; Ok; Not coming?  
 Sara: I'm gonna call a cab, ur messing with me  
 James: Ya ur a cop or something; Why would u call a cab just wait til Hannah's Mom comes; There's something about this that don't add up too bad ur quite fin; Fine; U see me walk by; Maybe another time lol  
 Sara: What were you wearing? Lolz  
 James: Black  
 Sara: I didn't see you you're a jerk ...  
 James: I'm a lil freaked out Sarah; Ur too good to be true; Why didn't u come to pet food; Lol; Where r I now; U  
 Sara: Cuz u were scaring me; I'm coming outside  
 James: Yea but wouldn't pet food be safer than outside lol; where r u  
 Sara: Go the fuck away  
 James: Lol what?!; That turned quick  
 Sara: I'm mad at you!!  
 James: What did I do; Where r u; ?  
 Sara: You ditched, .. not ok I don't wanna talk to right now ...<sup>22</sup>

- [48] The Respondent testified that by the time he arranged to meet Sara and Hannah at Highstreet on October 2, 2016, he knew that Sara and Hannah were adults and likely members of Creep Catchers. The Respondent told the panel that he had done a “reverse search” of the picture of Sara on Google and had discovered that it was a picture of Michelle Lordache and that she was associated with Creep Catchers. The Respondent did not produce a copy of the reverse search he performed to corroborate his evidence. The Respondent does not deny that he arranged to meet Sara and Hannah, but testified that when he went to Highstreet, he saw a woman (who he identified at the hearing as Ms. Bullon) at the McDonald's with a group of people. He testified that although he was researching Creep Catchers, he decided he was not ready to talk to them at that time.
- [49] The panel finds that the Respondent arranged to meet Sara and Hannah at Highstreet shopping centre in Abbotsford on October 2, 2016.

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<sup>22</sup> Ex. #7, TextNow Chat Log, pp. 68-80 Ex. #17, Ward Chat Log, pp. 12-14.

[50] At the hearing, the Respondent admitted that although he did not meet Sara and Hannah at Highstreet on October 2, 2016, he continued to exchange texts with them. The following text exchange is dated October 3, 2016:

Hannah: She's pretty upset

James: What did she say

Hannah: She just kept saying why did he do that? Why couldn't he come to me? She honestly think you just faked and never came. Her feelings are hurt though ... she didn't think you would act like that I guess

James: I see; Sorry one has to be cautious

Hannah: Of what? Sara is harmless lol what is she gonna do??

James: Lol not sure u two are real; Lol; Both so shy about pics lol; Are u real lol; ?; No

Hannah: I don't know what to say? Lol of course I'm real, ... so is Sara! U don't have to believe us ..

James: Lol send me a pic lol; U chat with a lot of guys?

Hannah: No u send one; No I don't

James: Ya see that's the weird part; Why u guys don't send pics lol!

Hannah: Neither do u!

James: But I've got a job n career I could lose<sup>23</sup>

[51] The TextNow Chat Log shows that on October 6, 2016, James and Sara texted each other about the missed meeting at Highstreet:

James: How are u; U ok? I'm sorry; I messed up

Sara: I was pretty hurt

James: I'm sorry; How can I make it up to u

Sara: I dunno

James: What u doing tomorrow; Get u a phone

Sara: I was really sad James

James: 2 phones

Sara: No plans yet; Lolz

James: Let's hang out; Make it up to u; Go shopping; ?

Sara: Maybe .. I don't wanna get ditched again ..

James: I will never do that to you again Sara; Should I pick u up?

Sara: U promise

James: I promise; N pinky swear; Can I call u:?

Sara: No I'm just headed home I'll give you one more chance ...<sup>24</sup>

[52] Later on October 6, 2016, Hannah responds to texts from James. Hannah tells James she was just going to jump in the shower and James texts, "Ok shoot me a pic lol". Hannah texts, "Of me in the shower?? Lol". James texts, "Of ur shower of course", "U shouldn't send nude photos silly", "Lol". Hannah sends James a picture of a shower door and texts, "hahaha happy now". James texts, "Yes", "Thank U", "It looks safe", "I was worrie there for a" "Bit" "Now what about ur leg lol". Hannah texts back, "They are hairy hahaha so

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<sup>23</sup> Ex. #7, TextNow Chat Log, pp. 83-85; Ex. #17, Ward Chat Log, p. 15.

<sup>24</sup> Ex. #7, TextNow Chat Log, pp. 88-90; Ex. #17, Ward Chat Log, p. 16.

no leg lol". James then texts, "Lol hairy legs are hot lol" "Ok arm?" Hannah then sends him a picture of her arm.<sup>25</sup>

- [53] Throughout his testimony, the Respondent alleged that Ms. Bullon had deleted text exchanges, which would show that he knew Sara and Hannah were part of Creep Catchers and support his assertion that he was engaged in research. He told the panel that he repeatedly referred to "the group" or to Creep Catchers in text exchanges with Sara and Hannah, but that Ms. Bullon must have deleted these texts to build the Creep Catchers' case against him.
- [54] The TextNow Chat Log includes an entry from October 7, 2016, in which James sends the following texts: "Hey", "What u doing" "Getting the group together lol". Hannah or Sara texts back, "Hey! What group lolz".<sup>26</sup> Early in the morning of October 8, 2016, James texts, "How was ur night?", "Where'd u go thought u were gonna be around", and "U know what group". Hannah then texts, "Me and Sara lol? That group? Sry we ended up not hanging out ... I'm sick", to which the Respondent texts, "Ohh hope ur feeling better."<sup>27</sup>
- [55] The text exchanges of October 7 and 8, 2016 contain the only references to "the group" in the TextNow Chat Log.
- [56] Although the Respondent's evidence was that he knew or strongly suspected that Sara and Hannah were members of Creep Catchers, a suspicion bolstered by the people he saw at the McDonald's at the Highstreet Walmart on October 2, 2016, the Respondent continued to exchange text messages with Sara and Hannah. On October 12, 2016, the Respondent and Hannah exchange the following series of texts:

James: Cool; So how's school going

Hannah: It's ok ... same old lol

James: Lots of dudes hitting on u

Hannah: Sara is coming over 2moro if you wanna talk to her!; ?; Where? At school?

James: Lol anywheres

Hannah: Not really ... guess I'm not what they're looking for

James: What are u looking for

Hannah: Someone like me I guess .. same interests. someone relaxed and smart lol

James: Lol does Sara get hit on a lot

Hannah: Ya she is gorgeous

James: She with anyone right now

Hannah: No; She tells most of them off lol

James: U see her make out with her ex? Most of them? Lol

Hannah: Not make out ... just kiss; Ya u .. she said yes

James: Yes to who

Hannah: Like she wanted to get to know u .. she has turned everyone else down since and after she broke up with the bf she stayed away from guys for a long time ... u were the first in a while she thought maybe; But I'm not sure how she feels now ...

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<sup>25</sup> Ex. #7, TextNow Chat Log, pp. 92-95; Ex. #17, Ward Chat Log, p. 17.

<sup>26</sup> Ex. #7, TextNow Chat Log, p. 96; Ex. #17, Ward Chat Log, p. 17.

<sup>27</sup> Ex. #7, TextNow Chat Log, p. 97; Ex. #17, Ward Chat Log, p. 17.

James: I see  
 Hannah: ???  
 James: Not sure what to say; I feel horrible; And only hope I'll have another chances;  
 Chance  
 Hannah: Then you should try and make it up to her  
 James: How it's impossible to contact her lol; Flowers?  
 Hannah: I dunno ... just keep trying to contact her through me I guess  
 James: I will; Tell her what I said  
 Hannah: Okay ... I will  
 James: Any pics of her? That a no?  
 Hannah: U have pics of her lol  
 James: Send me one more recent one  
 Hannah: Of her or me?  
 James: Both or her; ?; Can't I see her?  
 Hannah: Sry my phone keeps freezing; I'll send it again  
 James: Lol send me s pic before it breaks lol  
 Hannah: Did u get it?  
 James: No send it again; Please  
 [Hannah sends James a picture identified by Ms. Bullon as one of Ms. Lordache]  
 Hannah: ?  
 James: Cool when's that from?  
 Hannah: Last week I think  
 James: Who she take that for lol  
 Hannah: Probably u  
 James: Ur right she is gorgeous; ...<sup>28</sup>

[57] On October 13, 2016, James and Sara exchange the following texts:

James: What's up; How was ur day  
 ...  
 James: How u been; When we gonna be able to chill  
 Sara: I've been so so ... idk ... I'm not sure you'll show  
 James: I will; U need to let me show u; And let me make it up to u; I owe u; How's school  
 Sara: Okay last chance!  
 James: Ok when  
 Sara: Sunday?  
 James: Ok what time u think  
 Sara: Or maybe 2moro night  
 James: Either works; What's up tomorrow; Can I call u  
 Sara: Nothing really, going to the mall maybe  
 James: Cool seven oaks?  
 Sara: Ya I like the boathouse store lolz; And foot locker I want new shoes  
 James: Cool should daddy buy u some shoes? ?lol guess not; That freak you out  
 Sara: No sorry Hannah's mom is nosy ... I'd love that

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<sup>28</sup> Ex. #7, pages 102-106; Ex. #17, Ward Chat Log, pp. 18-19.

James: I think I owe u a shopping spree; What u think  
 Sara: Really !?!?!  
 James: Yea really I owe u Sara; U need a daddy? To take care of u  
 Sara: That would be awesome!! Sure  
 James: Cool; How u getting to the mall tomorrow; ?  
 Sara: My mom  
 James: So why did ur mom take ur phone; Did she find a pic on it?  
 Sara: Ya lots of them  
 James: What were u doing; U n ex? ?  
 Sara: No him  
 James: That made her mad?  
 Sara: I got my phone taken cuz I kept talking to him even though my mom told me not to ... and she thought he was a loser. So I'm being punished ... it's not fair  
 James: Phone gone forever? That ok ur daddy can get u a new phone; Remember u have a daddy who takes care of ur needs  
 Sara: !!!  
 James: So we gonna hang tomorrow?  
 Sara: I will let you know for sure ... my mom always messes up my plans but I'll really try hard  
 James: ?That's what moms do;  
 [At this point, James attempts to call Sara, but it is not answered]  
 James: Why no answer  
 Sara: It's not working ... Hannah says she's outta minutes lolz; I'm trying to answer  
 James: Oh well; If daddy can't hear ur voice send me a pic  
 Sara: Sorry  
 James Lol; No pic? What u two doing; Y u so afraid of pics; Cause ur not who u say u are? Lol  
 Sara: I'm not afraid lolz but you never ever send any pics so there  
 James: lol send one more I'll send one blackb; Back; For ur daddy; ? Lol?  
 Sara: Nope u first this time!  
 [At this point, James sends a photo, which the Respondent identified as one of himself]  
 James: Ur turn?  
 Sara: Her mom just came hold up ...<sup>29</sup>

[58] The TextNow Chat Log reflects that James arranged to meet Sara and Hannah at the food court at the Sevenoaks Shopping Centre in Abbotsford on the evening of Friday, October 14, 2016. The following entries from October 14, 2016 are the last entries in the TextNow Chat Log:

James: Ok let me know when ur here  
 Sara: We are here; Lolz; In front of a&aw  
 James: No ur not lol  
 Sara: With Hannah yes I am; Where r u?  
 James: There a guy sitting behind u  
 Sara: Then come over silly

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<sup>29</sup> Ex. #7, TextNow Chat Log, pp. 107-113; Ex. #17, Ward Chat Log, pp. 20-21.

James: No who is the guy sitting behind u; is he with u  
 Sara: Where? No lol just me and Hannah  
 James: Come over to the Starbucks; I'm just at the entrance  
 Sara: Come here ... ur scaring me  
 James: This again  
 Sara: Well!  
 James: U want me to come sit down with u two  
 Sara: Of course!  
 James: Is that ok?  
 Sara: Ya why not  
 James: U want a coffee?  
 Sara: Not really thanks though  
 James: Lol us see the sign behind u  
 Sara: Come over lolz  
 James: Turn around; lol; U looked to the side lol  
 Sara: Come here u weirdo lolz; U coming? Or ditching again  
 James: I'm right here come over  
 Sara: Where??<sup>30</sup>

- [59] The panel finds that the Respondent arranged to meet Sara and Hannah in person on October 14, 2016 at the Sevenoaks shopping centre.
- [60] In summary, based on the evidence set out in the Skout Chat Log, the TextNow and Ward Chat Logs, as well as the testimony of both Ms. Bullon and the Respondent, the panel finds that the Respondent initiated contact with the Sara profile on Skout, exchanged text messages with Sara after she represented to him that she was 15 both on the Skout website and using the TextNow app, and arranged to meet Sara on two occasions in October 2016.
- [61] The Commissioner tendered in evidence the recording made by the Fraser Valley Creep Catchers of the “catch” of “James 33” at the Sevenoaks Mall on October 14, 2016 (the “Video”).<sup>31</sup>
- [62] Both Ms. Bullon and the Respondent identified themselves as the people sitting in the food court area of the mall in the Video when it starts. The Video clearly shows the Respondent reacting as male persons confront him while he is sitting with Ms. Bullon, calling him James, and asking him why he is at the mall to meet 14 and 15-year old girls. Ms. Bullon identified the men recording the “catch” whose voices are heard as Mike MacDonald and Chad Dean, members of the Fraser Valley Creep Catchers. Ms. Bullon’s voice is also heard on the Video asking similar questions of the Respondent.
- [63] In the Video, the Respondent can be overheard saying “all I did was talk” as he puts up his hood and walks away from the food court area of the mall. The Video also shows the mall parking lot and the Respondent getting into his vehicle and driving away. The Respondent testified that after he left the food court, he left the mall and walked around the streets near

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<sup>30</sup> Ex. #7, TextNow Chat Log, pp. 118-120; Ex. #17, Ward Chat Log, pp. 21-22.

<sup>31</sup> Ex. #5, Video.



the mall, before returning to his vehicle. The Respondent admitted that he is the person getting into his vehicle in the Sevenoaks mall parking lot in the Video.

- [64] The Respondent also admitted that, although he suspected Sara and Hannah were members of Creep Catchers before he arranged to meet them in person, he took no steps to protect himself, such as asking a friend or family member to accompany him when he went to meet them at the mall, or recording their meeting himself.
- [65] Ms. Bullon testified that after Mr. MacDonald had edited the Video, she posted the Video to YouTube on Friday, October 21, 2016.
- [66] Based on the evidence of the Video, together with the testimony of Ms. Bullon and the Respondent, the panel finds that the Respondent was recorded by the Fraser Valley Creep Catchers on October 14, 2016, while attempting to meet Sara, and that this video was posted on the Internet, via YouTube.
- [67] Angus Wilson became the Superintendent of the District in June 2016. He testified that he first met the Respondent in June 2016 when he was touring the schools as the new superintendent, and again at a meeting of the District principals.
- [68] Mr. Wilson described the role of a school principal as a leader and a manager, who occupies a position of inspiration for teachers, employees and students. In Mr. Wilson's opinion, a principal should have a deep belief in education and possess a good moral compass, and a principal should care about the students and the community.
- [69] Mr. Wilson testified that on the morning of Saturday, October 22, 2016, Rob Clarke, a Vice Principal in the District, contacted him and sent him a link to the Video. Mr. Wilson watched the Video and identified the man in the Video, "James 33", as the Respondent.
- [70] Mr. Wilson testified that he spent all of that Saturday in a series of phone calls with the District trustees, the senior staff of the School, as well as the District's lawyers, regarding the Video and the steps he and his staff had to take to deal with the impact of the Video on the School and its community.
- [71] Over that weekend, Mr. Wilson and Larry Jepson, the District Assistant Superintendent, had to arrange for a replacement principal at the School, which involved transferring the Silverdale principal to the School, and backfilling administrators from other schools, and arranging school counsellors to be available for staff and students of the School.
- [72] On the morning of Sunday, October 23, 2016, Constable Kevin Murray of the APD contacted Mr. Wilson and Mr. Jepson by email asking to speak with one of them as soon as possible about the Video.<sup>32</sup>
- [73] Starting the weekend of October 22-23, 2016, Mr. Wilson said he received many emails and phone calls about the Video from concerned parents and staff of the School, and of

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<sup>32</sup> Ex. #27, email to Angus Wilson, cc. Larry Jepson, from Cst. Kevin Murray, APD, dated October 23, 2016, 10:20 a.m. re "priority matter".

Silverdale (the school where the Respondent had formerly been the principal). The Commissioner tendered in evidence some emails Mr. Wilson exchanged with members of the Parent Advisory Committees of the two schools about the Video.<sup>33</sup>

- [74] On Sunday, October 23, 2016, Mr. Wilson contacted the Respondent by email and advised the Respondent not to attend at the School that Monday.<sup>34</sup>
- [75] Mr. Wilson said that the process of replacing the Respondent was very disruptive. Mr. Wilson testified that on Monday, October 24, 2016, he sent letters to the parents of children attending the School,<sup>35</sup> as well to the parents of children attending Silverdale,<sup>36</sup> about the replacement of their principals. Mr. Wilson testified that he had to send a second letter to the Silverdale parents, as they were upset that their principal had been moved to the School to replace the Respondent.<sup>37</sup> Mr. Wilson testified he held a series of meetings with parents at the School and at Silverdale to address their concerns because, in Mr. Wilson's words, to learn that the principal of their child's school was alleged to be exchanging texts and meeting minors, as depicted in the Video on YouTube, represented "every parent's nightmare."
- [76] Mr. Wilson testified he spent several weeks in late October and November 2016 handling the effects of the Video on the School and the community. He said that he and Mr. Jepson were pulled away from their regular duties, as were several District school counsellors, which meant that they were not available to perform their normally assigned tasks.
- [77] Mr. Wilson described the media coverage of the Video as "extensive" and identified news stories about the Video the Commissioner tendered in evidence.<sup>38</sup> Mr. Wilson testified he received emails from members of the media asking for comment on the Video.<sup>39</sup> He also testified that he had to confront and eject television reporters from off the School property early in the week of October 24, 2016.
- [78] On Monday, October 24, 2016, Mr. Wilson advised the Respondent in a letter<sup>40</sup> that he was suspending him with pay, pursuant to section 15(5) of the *School Act*<sup>41</sup>, and that the District would be conducting an investigation into the matter.

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<sup>33</sup> Ex. #28, email to Angus Wilson, cc. Larry Jepson and others, from Pontus Lindgren dated Sunday October 23, 2016 7:19 p.m. re "Mr. Obert and Silverdale Elementary"; and Ex. #31, email to Angus Wilson from Ashley Cau dated Sunday October 23, 2016 9:35 p.m., forwarding an email from Cheryl Chan, reporter, re "Interview request".

<sup>34</sup> Ex. #32, email to the Respondent from Angus Wilson dated Sunday October 23, 2016, 10:23 a.m., re "off from work".

<sup>35</sup> Ex. #33, letter from Angus Wilson to parents at Windebank Elementary School dated October 24, 2016.

<sup>36</sup> Ex. #34, letter from Angus Wilson to parents at Silverdale Elementary School dated October 24, 2016.

<sup>37</sup> Ex. #46, letter from Angus Wilson to Silverdale Parents dated October 25, 2016.

<sup>38</sup> Ex. #35, 604 Now, October 24, 2016, Crystal Scuor, "Creep Catchers Nabs Elementary School Principal"; and Ex. #36, BC News - Castanet, October 24, 2016, David Wylie, "Principal in creep sting?"

<sup>39</sup> Ex. #29, email to Angus Wilson from Cheryl Chan, Vancouver Sun/The Province, Sunday October 23, 2016 at 9:35 p.m. re "Comment on Jason Obert"; Ex. #30, email to Angus Wilson from Emily Lazatin, CKNW, Monday October 24, 2016, at 2:57 p.m. re "CKNW Radio Request".

<sup>40</sup> Ex. #37, letter from Angus Wilson to the Respondent dated October 24, 2016.

<sup>41</sup> *School Act*, R.S.B.C. 1996, c. 412, s. 15(5): "If the superintendent of schools is of the opinion that the welfare of the students is threatened by the presence of an employee, the superintendent may suspend the employee, with pay, from the performance of his or her duties."

- [79] Brian Mitchell has been an investigator with the TRB for approximately seven years. Mr. Mitchell testified that under the *School Act*, if a superintendent suspends an “authorized person”<sup>42</sup>, the superintendent must send a report of the suspension “without delay” to the Commissioner.<sup>43</sup> Mr. Mitchell confirmed that on October 24, 2016, Mr. Wilson reported to the Commissioner that he had suspended the Respondent pursuant to subs. 15(5) of the *School Act*, and he copied the Respondent.<sup>44</sup>
- [80] Mr. Mitchell confirmed that on October 26, 2016, the Commissioner advised the Respondent that as a result of Mr. Wilson’s report, the Commissioner was directing an investigation into the matter and had ordered the Director of Certification to suspend the Respondent’s certificate until the investigation was resolved.<sup>45</sup> The Respondent admitted he did not write to the Commissioner, requesting that the suspension be varied or rescinded, although the Commissioner advised him in the letter he had this option.
- [81] Mr. Wilson testified that as part of its investigation, the District arranged interviews with the Respondent in November 2016, but that the Respondent did not participate in the District investigation.<sup>46</sup>
- [82] On November 25, 2016, the Respondent was charged with one count of child luring (an offence under the *Criminal Code*). The Respondent was released on bail (recognizance), the conditions of which included that he was to have no contact or communicate directly or indirectly with anyone who reasonably appeared to be under the age of eighteen (unless accompanied by his wife or an adult approved by his bail supervisor), and that he not attend at any school ground.
- [83] The Commissioner tendered in evidence an email dated November 28, 2016 from Sally Mercer, the TRB Manager of Communications, in which Ms. Mercer had compiled media reports from November 26 and 27, 2016 about the Respondent’s arrest.<sup>47</sup> Mr. Mitchell confirmed that he had received the email from Ms. Mercer. The email reproduces ten separate articles from sources such as the Canadian Press, the Vancouver Sun, the Province, the Victoria Times Colonist, CBC, and CKNW. Mr. Wilson is quoted in most of the media reports.
- [84] Mr. Mitchell testified that when criminal charges are laid against an authorized person, the TRB will postpone its discipline investigation until after the criminal proceedings have concluded and that these investigations always take longer than investigations where no criminal charges are laid.

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<sup>42</sup> *School Act*, s. 16(1): “In this section, “authorized person” means a certificate holder or a person holding a letter of permission issued under the *Teachers Act*, but does not include a superintendent.”

<sup>43</sup> *School Act*, s. 16(2): “If a superintendent of schools suspends an authorized person, the superintendent must without delay send to the commissioner a report regarding the suspension.”

<sup>44</sup> Ex. #11, letter from Angus Wilson to Commissioner, TRB, dated October 24, 2016.

<sup>45</sup> Ex. #12, letter from Hon. Bruce M. Preston, Commissioner, TRB, to Respondent dated October 26, 2016.

<sup>46</sup> Ex. #40, letter from Angus Wilson to Respondent dated November 15, 2016; Ex. #41, letter from Angus Wilson to Respondent dated November 23, 2016.

<sup>47</sup> Ex. #13.

- [85] The Respondent testified that his legal counsel advised him not to participate in the District investigation given the criminal proceedings. On December 14, 2016, the District dismissed the Respondent from his employment asserting cause.<sup>48</sup> The Respondent advised the panel that he did not commence a legal action for the termination of his employment.
- [86] On July 17, 2017, the Crown entered a stay of proceedings of the child luring charge, based upon the Respondent entering into a further 9-month recognizance, which included conditions that were substantially the same as his bail conditions.
- [87] Mr. Mitchell confirmed that on July 18, 2017, he contacted the Abbotsford Provincial Court and asked the Court Registry to provide him with the court record pertaining to the Respondent as part of the TRB's investigation. The Abbotsford Provincial Court provided the court record to Mr. Mitchell by fax on July 24, 2017.<sup>49</sup>
- [88] Mr. Mitchell confirmed that on November 8, 2017, he contacted the APD and asked them to provide him a copy of the Ward Chat Log, which the APD provided to him on December 19, 2017.<sup>50</sup>
- [89] Mr. Mitchell testified that in the course of his investigation, he interviewed Ms. Bullon by telephone on September 26 and in person on November 21, 2018.<sup>51</sup> Mr. Mitchell testified that Ms. Bullon provided him with a flash drive, which is the Skout Chat Log. Mr. Mitchell said that he did not interview any other members of the Creep Catchers as part of his investigation.
- [90] As part of his investigation, Mr. Mitchell interviewed the Respondent once on April 3, 2019. Mr. Mitchell testified that it is standard practice for all TRB investigation interviews of authorized persons to be recorded and he identified the transcript tendered by the Commissioner as a copy of the transcript of his interview with the Respondent.<sup>52</sup>
- [91] Early in the interview, Mr. Mitchell asked the Respondent if he acknowledged that, as a principal of a school, he holds a "position of trust and authority with respect to children" and that he was "in fact a role model." The transcript reflects the following exchange:

JO: That – as in that position I I held it, yes. That's entirely correct.

BM: Okay, so you acknowledge that and at the time you were doing this that you were a principal and that was your, you know, that was a, that's a significant position, right, of

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<sup>48</sup> Ex. #45.

<sup>49</sup> Ex. #14, fax to Brian Mitchell from Abbotsford Provincial Court dated July 24, 2017, attaching the following: a copy of the information sworn November 25, 2016; a copy of the information sworn May 26, 2017; a copy of the bail recognizance dated December 2, 2016 with conditions; and a copy of the recognizance after allegation dated July 17, 2017, with conditions.

<sup>50</sup> Ex. #16, letter from Gwynne Oakley, Information and Privacy Analyst, APD, to Brian Mitchell dated December 19, 2017.

<sup>51</sup> Ex. #24 and #25, copies of Brian Mitchell's interview notes.

<sup>52</sup> Ex. #18, transcript of interview by Brian Mitchell of the Respondent dated April 3, 2019.

trust with the children?

JO: I uh yeah, in no way argue that.<sup>53</sup>

- [92] In the interview with Mr. Mitchell, as in his testimony before the panel, the Respondent admitted that he exchanged text messages with Sara and Hannah, and continued to text them after they represented to him that they were minors. He also admitted that he arranged to meet Sara and Hannah on two occasions and that he went to the Sevenoaks mall and was recorded by the Creep Catchers.<sup>54</sup>
- [93] During his interview with Mr. Mitchell, the Respondent explained all of his conduct as research into the Creep Catchers for the purposes of a story he planned to write about the Creep Catchers. Mr. Mitchell acknowledged that this was the first time he heard this explanation. The Respondent admitted to Mr. Mitchell that he did not participate in and was not interviewed by the District during its investigation into his conduct, and that he was not interviewed by the APD as part of its criminal investigation.<sup>55</sup>
- [94] In May and June 2019, the Respondent provided Mr. Mitchell copies of notes from conversations the Respondent said he had with Ryan LaForge, the founder of the Surrey Creep Catchers, as well as outlines for fiction and non-fiction stories about the Creep Catchers, and manuscripts of draft stories.<sup>56</sup> There is no way to confirm the date that these documents were created by the Respondent.
- [95] Mr. Mitchell confirmed that the Respondent's certificate was cancelled on November 1, 2019, due to non-payment of fees.
- [96] Mr. Wilson told the panel that he runs a leadership course for District teachers and that several of the teachers were aware he was to testify at this hearing. Mr. Wilson testified that he believes the teachers at the School still feel betrayed by the Respondent and are still coping with the impact of his conduct on them and on the public's confidence in the school system.

## ANALYSIS AND DECISION

- [97] There is no dispute that the applicable standard of proof in this case is the balance of probabilities.<sup>57</sup> In order to satisfy the balance of probabilities test, the evidence must be sufficiently clear, convincing and cogent.<sup>58</sup>
- [98] The panel acknowledges that the Chat Logs are not a perfect record of the texts exchanged between the Respondent as "James 33" and Ms. Bullon as "Sara" and/or "Hannah" on Skout and TextNow. However, the Respondent admitted to the panel that he wrote and sent the texts to "Sara" and "Hannah" attributed to "James 33", which are reproduced in

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<sup>53</sup> Ex. #18, p. 12.

<sup>54</sup> Ex. #18, p. 28.

<sup>55</sup> Ex. #18, p. 32 of 37, lines 33-36.

<sup>56</sup> Ex. #20, 21, 22 and 23.

<sup>57</sup> *F.H. v. McDougall*, 2008 SCC 53 at para. 49.

<sup>58</sup> *F.H. v. McDougall*, *supra*, at para. 46.

the three Chat Logs. Ms. Bullon denied that she deleted any text exchanges or edited the content of the emails sent by “James 33” or “Sara” or “Hannah” and the Respondent produced no evidence to undermine her testimony.

- [99] The panel finds that the text exchanges depicted in the Chat Logs are a reliable record of the texts exchanged between the Respondent and Ms. Bullon, posing as Sara and/or Hannah.
- [100] The Respondent also admitted that he arranged to meet “Sara” on two occasions, and on one of those occasions, he was filmed by the Creep Catchers, as depicted in the video posted on YouTube.
- [101] The Respondent rationalizes his conduct as research into the Creep Catchers. He asserts that the persons involved (that is, the Respondent and Ms. Bullon) knew they were playing roles, and both knew that they were not who they represented themselves to be. He alleged that Ms. Bullon had purposely deleted text exchanges in which he made it clear to her that he was researching the Creep Catchers. He also alleged that Ms. Bullon was financially motivated to set up Creep Catchers “stings” that would attract numerous hits on YouTube.
- [102] The panel finds that the Respondent’s explanation that his conduct was at best innocent personal research and at worst, flirtatious texting as part of role playing, is not plausible. The Respondent’s rationalization that his conduct was simply research and/or role playing does not alter the fact that he continued to send text messages to “Sara” after she represented to him that she was 15 years old, and that many of the messages to “Sara” and her friend “Hannah” (who represented that she was 14) were sexualized. Nor does the Respondent’s explanation alter the fact that the Respondent arranged to meet “Sara” and “Hannah” at a mall and went in person to the mall for the meeting, where he was recorded by Creep Catchers, in a video that was then posted on YouTube.
- [103] The fact that “Sara” was in reality an adult pretending to be a 15-year-old girl and her 14-year-old friend does not exonerate or excuse the Respondent’s behaviour. This was not a case of private role playing between two consenting adults. The texts are not innocuous flirtations as the Respondent asserts.
- [104] The panel finds that the Commissioner’s evidence is clear, convincing and cogent.
- [105] The panel finds that the Commissioner has proven that it is more likely than not that the conduct set out in paragraphs 1(a) through (f) of the Citation occurred.

**Does the proven conduct breach the Standards?**

- [106] Standard #2 provides as follows:

Educators are role models who act ethically and honestly.

Educators act with integrity, maintaining the dignity and credibility of the profession. They understand that their individual conduct contributes to the perception of the profession as a whole. Educators are accountable for their conduct while on duty, as well as off duty, where that conduct has an

effect on the education system. Educators have an understanding of the education system in BC and the law as it relates to their duties.

- [107] The Commissioner submits that the Respondent's conduct breaches Standard #2.
- [108] In response to a question from the panel, the Respondent agreed that a principal is a role model who acts as an example to the students and the school community as a whole, and that he agreed with and echoed the testimony of Mr. Wilson about the role of a principal.
- [109] In September and October 2016, the Respondent was an elementary school principal. Under cross-examination, the Respondent agreed that it was not appropriate for a principal to join the Creep Catchers or to participate in the activities of the Creep Catchers.
- [110] The Respondent explained his conduct as personal research into Creep Catchers for the purposes of writing a story when he was not at work. He chose to conduct this research through the first-hand experience of playing the role of a person exchanging what he described as flirtatious texts with young women who represented to him that they are minors.
- [111] The Respondent admitted that engaging in the conduct the panel has found to be proven by the Commissioner was extremely risky. The text exchanges clearly illustrate that the Respondent knew his conduct was problematic, exemplified by his comments to Sara and Hannah that he could get into trouble and lose his job and his career, and his repeated musings if they are in fact cops. The panel also notes that many of the text messages appear to have been exchanged during, or shortly after, normal school hours.
- [112] The Respondent, a principal, admitted he exchanged text messages with a person who had represented to him that she was 15, which included sexualized comments (such as suggesting that she was "hot" and "mint", asking if she was still a virgin, and referring to himself as her "daddy" who would buy her a cell phone and shoes). He admitted he sent similar sexualized texts to a person who represented that she was 14. In the text exchanges, the Respondent asked these minor girls if they smoked weed and offered to buy them alcohol. The Respondent admitted he arranged to meet these apparent 14 and 15-year-old girls at a mall on two separate occasions. The Creep Catchers filmed the Respondent "meeting" one of the girls and posted the "catch" on YouTube, identifying the location where the "catch" occurred.
- [113] The panel finds that the Respondent's conduct breaches Standard #2. In engaging in the conduct, the panel finds that the Respondent did not act with integrity. The panel further finds that the Respondent's conduct undermined the dignity and credibility of the profession and eroded the confidence of the community in the public education system.

### **Is it conduct unbecoming?**

- [114] Section 63(1)(b) of the Act provides that, after a hearing, a discipline panel may make a finding that an authorized person has been guilty of conduct unbecoming a teacher. Section 1 of the Act defines an "authorized person" as a certificate holder. At the time of the conduct set out in the Citation, the Respondent was an authorized person. Although the

Act refers to “conduct unbecoming a teacher”, the legislative scheme imposing discipline under section 63(1) captures administrators (*e.g.*, principals and vice-principals), as only a certificate holder (that is, a teacher) can become an administrator.

[115] There is no definition of “conduct unbecoming” or “professional misconduct” in the Act. “Professional misconduct” is generally considered to relate to conduct while engaged in the practice of the given profession, whereas “conduct unbecoming” relates to off-duty conduct (conduct that is not in the course of the practice of the profession).<sup>59</sup> The panel must look to the case law to determine if the Respondent’s conduct amounts to conduct unbecoming a certificate holder.

[116] Canadian courts have found that educators are role models who occupy positions of trust and confidence. For this reason, the off-duty conduct of an educator may be subject to professional discipline. The British Columbia Court of Appeal has described this rationale as follows:

The reason why off-the-job conduct may amount to misconduct is that a teacher holds a position of trust, confidence and responsibility. If he or she acts in an improper way, on or off the job, there may be a loss of public confidence in the teacher and in the public school system, a loss of respect by students for the teacher involved, and other teachers generally, and there may be controversy within the school and within the community which disrupts the proper carrying on of the educational system.<sup>60</sup>

[117] In its decision in *Ross*, a case involving a New Brunswick teacher who publicly made racist and anti-Semitic comments during his off-duty time, the Supreme Court of Canada made the following remarks about the reason educators are subject to discipline for their off-duty conduct:

It is on the basis of the position of trust and influence that we hold the teacher to high standards both on and off duty, and it is an erosion of these standards that may lead to a loss in the community of confidence in the public school system. I do not wish to be understood as advocating an approach that subjects the entire lives of teachers to inordinate scrutiny on the basis of more onerous moral standards of behaviour. This could lead to a substantial invasion of the privacy rights and fundamental freedoms of teachers. However, where a “poisoned” environment within the school system is traceable to the off-duty conduct of a teacher that is likely to produce a corresponding loss of confidence in the teacher and the system as a whole, then the off-duty conduct of the teacher is relevant.<sup>61</sup>

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<sup>59</sup> James T. Casey, *The Regulation of Professionals in Canada*, loose-leaf (Toronto: Carswell, 1994) at p. 13-1 (2014 – Rel. 3).

<sup>60</sup> *Abbotsford School District 34 Board of Trustees v. Shewan* (1987), 21 B.C.L.R. (2d) 93 at 97 (C.A.), cited with approval in *Ross v. New Brunswick School District No. 15*, [1996] 1 S.C.R. 825 at para. 44 (S.C.C.) (*Ross*).

<sup>61</sup> *Ross*, *supra*, at para. 45.



[118] Madam Justice Ross of the British Columbia Supreme Court summarized the applicable legal principles regarding the discipline of teachers for off-duty conduct in the first *Fountain* decision (*Fountain No. 1*) as follows:

The conduct giving rise to the citation occurred when Mr. Fountain was not performing his duties as a teacher. It is well settled that such off-duty conduct can give rise to discipline when the conduct has a negative impact on the teacher's ability to carry out his obligations as a teacher or where the conduct has a negative impact on the school system, for example, where the activities conflict with core values of the education system: see *Ross v. New Brunswick School District No. 15 ...*<sup>62</sup>

[119] Madam Justice Ross identified the factors relevant to a determination of whether a teacher has engaged in conduct unbecoming, particularly in the absence of direct evidence:

- a) The nature of the conduct at issue;
- b) The nature of the position;
- c) Whether there is evidence of a pattern of conduct;
- d) Evidence of controversy surrounding the conduct;
- e) Evidence that the private conduct has been made public; and
- f) Evidence that the private conduct has been linked by the member to the professional status of the member.<sup>63</sup>

[120] The panel has considered the application of the factors articulated by Madam Justice Ross in *Fountain No. 1* in this case. Using the pseudonym of "James 33", the Respondent continued to exchange sexualized text messages with a young woman for approximately one month after she had expressly represented to him that she was 15. The Respondent arranged to meet the young woman and her friend at a mall on two occasions and admitted he went to the arranged locations both times, although did not follow through the first time.

[121] The public does not condone sexual relationships between adults and minors, or communications between adults and minors of a sexualized nature.

[122] At the time of the conduct, the Respondent was the principal of an elementary school, and had been a certificate holder for thirteen years. The Respondent knew that a principal is a role model who must inspire trust and confidence in the community and whose conduct must reflect the values set out in the Standards.

[123] The Respondent's private conduct became very public when the recorded "catch" was posted on YouTube by Creep Catchers.

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<sup>62</sup> *Fountain v. British Columbia College of Teachers*, 2007 BCSC 830 at para. 51 (*Fountain No. 1*).

<sup>63</sup> *Fountain No. 1, supra*, at para 59.

- [124] Although he used a pseudonym, the Respondent's identity and profession was quickly linked to the Creep Catchers Video, resulting in numerous media reports, as well as public discussion and comment.
- [125] Mr. Wilson's testimony provided compelling evidence about the adverse impact of the Respondent's conduct on the School community. It is clear to the panel that the Respondent's conduct deeply shook the confidence of the School's parents and teachers, as well as of the public, in the education system. It is also clear to the panel that the Respondent's conduct continues to affect the School community.
- [126] The panel concludes that the Respondent's conduct clearly amounts to conduct unbecoming an authorized person.

## **ORDER**

The panel finds the Respondent guilty of conduct unbecoming a teacher under s. 63(1)(b) of the Act.

## **PUBLICATION**

Section 66 of the Act expressly requires that the panel's reasons for making an order under section 63(1)(b) be published, subject to limited exceptions, none of which apply here. Accordingly, the panel directs publication of these reasons.

## **CONSEQUENCES & COSTS**

Having found the Respondent guilty of conduct unbecoming a teacher under section 63(1)(b) of the Act, this panel is empowered to impose a penalty on the Respondent. The Commissioner has requested that the submissions on appropriate penalty be submitted in writing by both parties.

Accordingly, the panel directs that submissions on penalty be made in writing and that any submissions on costs be submitted in writing. The deadlines for these submissions shall be set by the Hearing Coordinator of the Teacher Regulation Branch.

For the Panel

Date: July 29, 2020



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Meg Gaily, Panel Chair

A handwritten signature in black ink that reads "Cooke". The letters are cursive and connected, with a prominent 'C' at the start.

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Matthew Cooke, Panel Member

A handwritten signature in black ink that reads "Tom Longridge". The signature is written in a cursive, flowing style.

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Tom Longridge, Panel Member