



PEEL REGIONAL POLICE DISCIPLINE HEARING

IN THE MATTER OF ONTARIO REGULATION 268/10
MADE UNDER THE POLICE SERVICES ACT, RSO 1990,
AND AMENDMENTS THERETO:

IN THE MATTER OF
PEEL REGIONAL POLICE
AND
CONSTABLE PAWANDEEP (PAWAN) SANDHU #4138

ALLEGATIONS:

Count 1: Discreditable Conduct	Count 6: Breach of Confidence
Count 2: Discreditable Conduct	Count 7: Discreditable Conduct (Withdrawn)
Count 3: Discreditable Conduct (Withdrawn)	Count 8: Breach of Confidence (Withdrawn)
Count 4: Discreditable Conduct	Count 9: Discreditable Conduct
Count 5: Breach of Confidence (Withdrawn)	

DECISION

Hearing Officer: **Superintendent Taufic Saliba #1796**
Peel Regional Police

Prosecutor: **Mr. K. Soles** **A/Superintendent M. Noble #1871** (1st Appearance)
Legal Counsel **Insp. R. Berrigan #1999** (Hearing)
Co-Prosecutor

Defence Counsel: **Mr. William (Bill) MacKenzie**
Case Number: **2023-PRS094**

Date of Hearing: **January 30, 2024**
Date of Decision: **March 18, 2024**

This decision is divided into four sections (*all sections are hyperlinked*):

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PART I – OVERVIEW

BACKGROUND

- [1] Constable Pawandeep (Pawan) SANDHU #4138 commenced employment with Peel Regional Police in December 2016. On the date of discipline hearing, he held the position of 1st Class Constable.
- [2] This hearing examined allegations of misconduct as laid out in a Notice of Hearing (N.O.H.) that was served on Constable SANDHU on June 20, 2023.

ALLEGATIONS OF MISCONDUCT

- [3] It is alleged that Constable Pawandeep (Pawan) SANDHU #4138, a member of Peel Regional Police, committed the following acts of misconduct contrary to section 80(1)(a) of the *Police Services Act, R.S.O. 1990 c. P.15*, as amended:

Count #1 – Discreditable Conduct (*Count #1 in N.O.H.*)

- [4] You are alleged to have committed Discreditable Conduct in that sometime in 2018, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police, by choking a private citizen while at a hotel in downtown Toronto, constituting an offence against discipline, as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Agreed Statement of Facts

- [5] Sometime in 2018, AA and Cst. Sandhu attended One King West Hotel (the “Hotel”) in Toronto for a pre-planned romantic date.

- [6] Prior to attending the Hotel, Cst. Sandhu and AA attended the Cactus Bar, a nearby establishment, for dinner and drinks.
- [7] Cst. Sandhu consumed approximately eight (8) drinks throughout the evening and was intoxicated by the end of the night.
- [8] Cst. Sandhu and AA left the restaurant and walked back to the Hotel to watch TV and continue drinking together.
- [9] Upon arriving back at the Hotel room, Cst. Sandhu became agitated over an issue he had been struggling with.
- [10] Subsequently, an altercation occurred which resulted in AA having reasonable grounds to subjectively fear Cst. Sandhu.
- [11] The following morning, AA attempted to discuss the altercation with Cst. Sandhu, however he minimized his actions and suggested that he was joking.
- [12] Cst. Sandhu was criminally charged in relation to the incident on October 26, 2021.
- [13] The matter resolved on November 21, 2022, by way of a two and a half year peace bond, where Cst. Sandhu conceded that AA had reasonable grounds to subjectively fear Cst. Sandhu.
- [14] The actions of Cst. Sandhu constitute Discreditable Conduct, pursuant to section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count #2 – Discreditable Conduct (*Count #2 in N.O.H.*)

- [15] You are alleged to have committed Discreditable Conduct in that on or around October 23, 2021, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police, by assaulting a private citizen in Brampton, ON during a dispute over infidelity, constituting an offence against discipline, as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Agreed Statement of Facts

- [16] On October 23, 2021, AA and her sibling, BB attended at Cst. Sandhu's residence in Brampton, ON, with the intent of confronting Cst. Sandhu regarding an affair he had been having while still in an intimate relationship with AA.
- [17] AA presented Cst. Sandhu with evidence of his infidelity while in the home garage, following which a heated dispute ensued.

- [18] While in the garage, an altercation occurred which resulted in AA having reasonable grounds to subjectively fear Cst. Sandhu.
- [19] Cst. Sandhu was criminally charged in relation to the incident on October 26, 2021.
- [20] The matter resolved on November 21, 2022, by way of a two and a half year peace bond, where Cst. Sandhu conceded that AA had reasonable grounds to subjectively fear Cst. Sandhu.
- [21] The actions of Cst. Sandhu constitute Discreditable Conduct, pursuant to section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count #3 – Discreditable Conduct (*Count #4 in N.O.H.*)

- [22] You are alleged to have committed Discreditable Conduct in that on July 28, 2020, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police, by photographing and capturing a video clip showing you mocking a private citizen during a mental health apprehension, constituting an offence against discipline, as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Agreed Statement of Facts

- [23] On July 28, 2020, AA received a photograph via text message from Cst. Sandhu, which depicted a civilian, EE, in police custody with a misspelled tattoo clearly visible.
- [24] On the same date, AA also received a video clip from Cst. Sandhu, depicting EE restrained in a chair at Brampton Civic Hospital and Cst. Sandhu mocking EE by stating “you don’t even know how to spell humble, if you’re going to tattoo yourself, you dumb fuck, make sure you know how to spell humble.”
- [25] AA recognized the apprehended male in the video clip as her neighbor, EE, who had been known for his mental health struggles.
- [26] The actions of Cst. Sandhu constitute Discreditable Conduct, pursuant to section 2(1)(a)(xi) of the prescribed Code of Conduct

Count #4 – Breach of Confidence (*Count #6 in N.O.H.*)

- [27] You are alleged to have committed Breach of Confidence in that on March 25, 2021, you divulged a matter which is your duty to keep secret, by sharing confidential police information with a private citizen regarding a search warrant, constituting an offence against discipline, as prescribed in section 2(1)(e)(i) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Agreed Statement of Facts

- [28] On March 25, 2021, AA received a text message from Cst. Sandhu that contained a photograph of a silver and black handgun. This was a gun that was seized during the course of Cst. Sandhu's police duties.
- [29] Examination of 22 CIB nightly reports revealed that a firearm was seized stemming from a search warrant executed at an address in Toronto. A comparison of the seized exhibits report associated to the relevant occurrence and AA's text message confirmed that the firearms depicted in the two pictures were one and the same.
- [30] In divulging a photo of a seized weapon to a private citizen, Cst. Sandhu breached PRP Directive I-A-204 (F) – Code of Ethics, Conduct and Discipline – Sworn Members, which stipulates that “5. All sworn members shall: (q) maintain appropriate confidentiality regarding official information.”
- [31] The actions of Cst. Sandhu, in divulging a matter which it was his duty to keep secret, constitute Breach of Confidence, pursuant to section 2(1)(e)(i) of the prescribed Code of Conduct.

Count #5 – Discreditable Conduct (*Count #9 in N.O.H.*)

- [32] You are alleged to have committed Discreditable Conduct in that on November 1, 2021, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police, by producing and utilizing your police identification to circumvent a COVID-19 checkpoint at a hotel in York Region, constituting an offence against discipline, as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Agreed Statement of Facts

- [33] On November 1, 2021, York Regional Police Professional Standards notified PRP Professional Standards of an ongoing police personation investigation involving the off-duty conduct of Cst. Sandhu.
- [34] On October 23, 2021, Cst. Sandhu attended the Springhill Marriott Hotel in Vaughan, ON. When Cst. Sandhu approached the hotel's vaccination checkpoint, he was asked by HH, a hotel employee, to provide his proof of vaccination, as per hotel policy.
- [35] Cst. Sandhu flashed his police badge in response to the request, and identified himself as a police officer, suggesting that he was exempt from the vaccination documentation requirement.

- [36] In response, HH advised that everyone was required to provide vaccination documentation, regardless of their profession, and denied Cst. Sandhu access to the restaurant.
- [37] HH conducted further analysis and discovered that Cst. Sandhu also produced his police identification to the hotel clerk upon check-in.
- [38] Video surveillance corroborated that Cst. Sandhu provided his police identification at the vaccination check point.
- [39] The actions of Cst. Sandhu constitute Discreditable Conduct, pursuant to section 2(1)(a)(xi) of the prescribed Code of Conduct.

APPEARANCES

- [40] On Jul 6, 2023, Constable SANDHU appeared before me in answer to the Notice of Hearing.
- [41] On January 30, 2024, an in-person hearing was conducted at Peel Regional Police Headquarters.
- [42] The Prosecution advised that as a result of discussions with the Defence, a joint position on penalty had been reached with respect to four (4) counts of Discreditable Conduct and one (1) count of Breach of Confidence.

PLEA

- [43] On January 30, 2024, Constable SANDHU entered a plea of Guilty to:

Count 1: Discreditable Conduct
Count 2: Discreditable Conduct
Count 4: Discreditable Conduct
Count 6: Breach of Confidence
Count 9: Discreditable Conduct

- [44] An Agreed Statement of Facts (ASF) was tendered and read into the record by the Prosecutor. Based on those facts and confirmation by Defence that they were substantially correct, a finding of guilt on the above counts was registered.

JOINT POSITION AS TO PENALTY

- [45] The parties jointly submit that the appropriate disposition for the finding of four (4) counts of Discreditable Conduct and one (1) count of Breach of Confidence as prescribed in sections s. 2(1)(a)(xi) and 2(1)(e)(i) respectively of the Code of Conduct, Regulation 268/10, as amended, is as follows:

- [46] A reduction in rank from First (1st) Class Constable to Third (3rd) Class Constable for a period of six (6) months, following which the officer can reclassify to each rank leading back to First (1st) Class Constable, as outlined in section ‘F’ of PRP Directive I-A-214 (O) ‘Performance Management’ and the reclassification schedule set out in the Uniform Collective Agreement.
- [47] The above penalty is submitted in accordance with section 85(1)(c) of the *Police Services Act*.

DECISION

- [48] I have carefully reviewed the submissions and supporting documentation presented by both the Prosecution and Defence, as well as previous tribunal decisions. In light of the mitigating and aggravating circumstances involved in this matter, the penalty for Constable SANDHU imposed under Sec 85(1)(c) of the *Police Services Act* is:
- [49] A reduction in rank from First (1st) Class Constable to Third (3rd) Class Constable for a period of six (6) months, following which the officer can reclassify to each rank leading back to First (1st) Class Constable, as outlined in section ‘F’ of PRP Directive I-A-214 (O) ‘Performance Management’ and the reclassification schedule set out in the Uniform Collective Agreement.
- [50] **The above penalty is effective January 31, 2024.**

PART II: THE HEARING

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EXHIBITS

- [51] The following exhibits were tendered during the hearing:

Exhibit #1	Delegation to a Hearing Officer (Supt. T. Saliba)
Exhibit #2	Designation to a Prosecutor (Ms. S. Wilmot)
Exhibit #3	Designation to a Prosecutor Case (Ms. J. Orabovic)
Exhibit #4	Designation to a Prosecutor Case (Mr. K. Soles)
Exhibit #5	Designation to a Prosecutor Case (A/Supt. M. Noble #1871)
Exhibit #6	Notice of Hearing Case 2023-PRS094
Exhibit #7	Agreed Statement of Facts (ASF)
Exhibit #8	Joint Position as to Penalty
Exhibit #9	Prosecution – Brief of Authorities
Exhibit #10	Prosecution – Directives (1 – 4)
Exhibit #11	Defence – Performance Appraisals (X2)
Exhibit #12	Defence – Recognition

PARTICIPANTS

- [52] The Prosecution was represented by Mr. Keegan Soles (Counsel) and A/Superintendent Mark Noble #1871 (Co-Prosecutor).
- [53] The Defence was represented by Mr. William (Bill) MacKenzie (Counsel).

SUMMISSIONS BY THE PROSECUTION

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- **Mr. Keegan Soles**

- [54] The Prosecution commenced submissions by stating that Constable SANDHU pleaded guilty to four counts of Discreditable Conduct and one count of Breach of Confidence in relation to his on-duty and off-duty conduct between 2018 and 2021.
- [55] The jointly proposed penalty is reflective of the applicable mitigating and aggravating factors.
- [56] Mr. Soles cited the case of *Krug and Ottawa Police Service*¹ which provides proportionality considerations for the tribunal to consider. In this case, the relevant factors are:
1. Public Interest
 2. Seriousness of the Misconduct
 3. Recognition of the Seriousness of the Misconduct
 4. Employment History
 5. Specific and General Deterrence
 6. Potential to Reform or Rehabilitate the Police Officer
 7. Damage to the Reputation of the Police Service
 8. Effect on Police Officer and the Police Officer's Family
 9. Management Approach to the Misconduct
 10. Consistency of Disposition
 11. Effect of Publicity
- [57] Mr. Soles submitted that the circumstances of this case are unique given the number of counts related to both on-duty and off-duty conduct. The Prosecution's submissions will focus on the substance of the charges and their cumulative impact.

Seriousness of the Misconduct

- [58] There are several factors that make Constable SANDHU's conduct serious. With respect to counts #1 and #2, the Ontario Civilian Police Commission (OCPC) and the Tribunal have consistently recognized that domestic violence offences must be treated seriously. Mr. Soles cited the cases of

¹ Exhibit #9 – Prosecution B.O.A. – Tab 1

*Peel Regional Police and Churly (2023)*² and *Peel Regional Police and Natt (2008)*, where the Tribunal took the position:

- [59] *“The community expects police officers to act at all times responsibly and professionally, in both their personal and professional lives. As indicated by the prosecution, the Police Services Act at Section 42 outlines the duties of a police officer, which include preserving the peace, preventing crime, and assisting victims. Assaultive behaviour in a domestic or any other context by a police officer is in contravention of the oath he has taken to fulfill these statutory duties. Violent behaviour is unacceptable in society, and domestic assault is considered particularly abhorrent. As such this must be considered as grave misconduct.”*
- [60] The seriousness of this misconduct is accentuated by the fact that there were two separate complaints from the same complainant regarding Constable SANDHU’s behaviour. This resulted in criminal charges and a disposition of a peace bond for 2 ½ years.
- [61] The facts outlined in Count #3 also highlight the seriousness of Constable SANDHU’s misconduct. This includes the highly discreditable act of openly mocking and recording a member of the public in the midst of a mental health crisis. This is contrary to his oath of office and the code of conduct that require him to treat all persons with dignity, courtesy, understanding and compassion.
- [62] With respect to Count #4, Constable SANDHU shared multi-media content from a police investigation with a member of the public (AA). He breached his sworn oath as an officer along with numerous Service directives including:
- I-A-204(F) Code of Ethics, Conduct and Discipline
 - I-B-722(F) Criminal Investigations
 - I-A-602(O) Release of Information from Police Service Files
 - I-A-506(O) Security of Police Computer Systems and Information
- [63] In doing so, Constable SANDHU risked compromising an active police investigation that involved the execution of a search warrant and the seizure of firearms. Had AA decided to publicly release the content that was sent to them, the entire investigation could have been called into question by Defence counsel towards a stay of the proceedings.
- [64] Mr. Soles submitted that the misconduct in this case was abundantly serious and discreditable.
- [65] The Prosecution then highlighted additional aggravating factors as they relate to Count #5. Constable SANDHU misused his police identification for personal purposes as he checked into a hotel and attempted to enter a restaurant. He disregarded mandatory COVID-19 measures in the midst of a pandemic. As a police officer, he was sworn to uphold those very same measures with the powers afforded him. He is therefore held to a higher standard than the general public.

² Exhibit #9 – Prosecution B.O.A. – Tab 1

[66] By consistently failing to follow police policies and directives, both on and off duty, Constable SANDHU's conduct was highly discreditable. The Service feels that the seriousness of the collective misconduct is aggravating.

Public Interest

Damage to the Reputation of the Service

[67] The Prosecution submitted that some of Constable SANDHU's conduct involved members of the public, and provided an overview as follows:

[68] Count #1 and Count #2 contain allegations related to a personal relationship with an individual that were settled in a criminal court.

[69] Count #3 pertains to incivility towards a member of the public while acting in a professional capacity. Constable SANDHU recorded the interaction and then shared it with a different member of the public.

[70] Count #4 pertains to sharing confidential police investigative information with a member of the public.

[71] Count #5 pertains to misusing police credentials to a member of the public. Although obtaining access to a restaurant was trivial, it was observed by hotel staff who were concerned enough to report the incident to York Regional Police.

[72] The Prosecution concluded that Constable SANDHU's collective conduct was unacceptable and will have an impact on the reputation of the service. He behaved in a manner that is contrary to what the Service and the profession stand for. His actions were in stark contrast to the high moral standards that are demanded of police officers.

[73] Since this matter is being held in a public forum and the Tribunal's decision will be made available, it may be subject to additional public scrutiny. The initial assault charges against Constable SANDHU were reported by local news outlets including Global News, City News, Insauga and CP24.

[74] Constable SANDHU's criminal court case and peace bond disposition was witnessed by our justice system partners and the general public.

[75] Mr. Soles concluded this section by stating that all of the above factors had notable impact on the Service's reputation.

Employment History

[76] Constable SANDHU has been a member of the Service since December 2016. The first incident occurred less than two years later (2018), and before he became a 1st Class Constable. He has now been a member of the Service for 7 years, although a portion of that time has been on suspension.

[77] Constable SANDHU received largely positive performance appraisals between 2018 and 2020. Although this is normally a mitigating factor, it is of limited weight due to his relatively short tenure.

Potential to Reform or Rehabilitate the Police Officer

[78] Constable SANDHU's guilty plea demonstrates an acceptance of responsibility and the potential for rehabilitation.

Specific and General Deterrence

[79] The Prosecution submitted that both general and specific deterrence are important factors in this case. This disposition must serve as a reminder to Constable SANDHU of the gravity and consequences of his actions, particularly in light of his role in the community. It should also be abundantly clear that the Service's policies and directives are not merely guidelines, and that he is at all times accountable to the public, his peers and his profession.

[80] The penalty should also remind other members of the Service that unprofessional behaviour and the failure to abide by policies are both serious forms of misconduct that will be penalized accordingly.

Consistency of Disposition

[81] The Prosecution noted the difficulty in locating previous cases that present similar facts to this matter, particularly those that include multiple counts of Discreditable Conduct and Breach of Confidence.

[82] Nonetheless, Mr. Soles cited the following cases in order to provide context for the appropriateness of the proposed penalty:

[83] *Mulligan and Ontario Provincial Police (2018)*³: where the officer wrote an opinion piece in a local paper criticizing the OPP Commissioner's decision to relocate an organizational asset. The officer made public an internal decision that had not yet been released. The 25-year officer had no prior discipline and an excellent employment record. There was a finding of Breach of Confidence and Discreditable Conduct, and the officer received a penalty of 1-year demotion.

[84] Mr. Soles submitted that Constable SANDHU's conduct was more serious than that in *Mulligan*.

³ Exhibit #9 – Prosecution B.O.A. – Tab 3

- [85] *Burrows and Ontario Provincial Police (2012)*⁴: where the officer was found guilty of Discreditable Conduct related to three criminal allegations of domestic violence. He received a 16-month demotion.
- [86] *Cudney and St. Thomas Police Service (2021)*⁵: where the officer was found guilty of Discreditable Conduct (X2) in relation to a criminal charge for domestic violence that was resolved with a peace bond. The penalty of a 3-year demotion commencing at 4th Class Constable was upheld by the Commission. Constable Cudney had a record of prior discipline.

Conclusion

- [87] Mr. Soles concluded by stating that a demotion of moderate length is appropriate to address the numerous counts of Discreditable Conduct and a Breach of Confidence. A shorter demotion would be insufficient to denounce the seriousness of the collective misconduct, the damage to the Service's reputation along with the need for deterrence.
- [88] As such, the proposed penalty is appropriate.

SUBMISSIONS BY THE DEFENCE

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- **Mr. William (Bill) MacKenzie**

- [89] The Defence commenced by accepting the Prosecution's submissions and acknowledging the difficulty in locating previous cases with similar facts to this matter. Although the cases cited (para XX and XX) may not align completely with the facts of this case, they do speak to Breach of Confidence and allegations of domestic violence.
- [90] Mr. MacKenzie noted that the first four counts involve AA who was Constable SANDHU's girlfriend at the time. The incidents outlined in Count #1 and Count #2 resulted in criminal charges that were ultimately withdrawn in lieu of a peace bond. As such, there was no admission of criminality or assaultive behaviour.
- [91] Count #3 and Count #4 involve disclosures to AA that were in breach of Service policies. Constable SANDHU thought that those disclosures would be held in confidence however they came to light during the criminal investigation and after the break-up of the relationship.
- [92] The Defence acknowledged the tumultuous period in the relationship between Constable SANDHU and AA (2018 – 2021). AA's disclosures to the Service lead to Constable SANDHU's suspension in the Fall of 2021.

⁴ Exhibit #9 – Prosecution B.O.A. – Tab 4

⁵ Exhibit #9 – Prosecution B.O.A. – Tab 7

- [93] The Defence submitted two performance appraisals⁶ for that were completed for Constable SANDHU in 2019 and 2020.
- [94] The first performance appraisal included a reclassification to 1st Class Constable and included four performance ratings of “Exceeds Expectations”, with the remaining ratings as “Meets Expectations”. The supervisor who completed the appraisal made the following comments in Section 3:
- [95] *“I have determined that Constable SANDHU has met all competency expectations in achievement orientation, attention to detail, decision making, ethical accountability, legislation and procedures, problem solving, teamwork, diversity and written skills. Furthermore, I have determined that Constable SANDHU has achieved the rating of “Exceeds in Some” in the interpersonal and leadership categories.”*
- [96] *“I have reviewed Constable SANDHU’s goals for the upcoming year and believe they are relevant and attainable. It is a pleasure to work with Pawan and I recommend that he be re-classed from 2nd to 1st Class Constable and I look forward to watching him develop into a highly effective uniform constable.”*
- [97] The second performance evaluation included the following supervisor comments:
- [98] *“Constable Pawan SANDHU #4138 was assigned to 22 Division, C Platoon on May 26, 2017. This performance appraisal marks his 12-month evaluation from January 1st, 2020 – 2021.”*
- [99] *“Constable SANDHU has established himself as a capable coach officer, mentor and informal leader on 22 C Platoon. He approached his work with enthusiasm and a positive attitude that inspires others to follow suit. He is patient and thorough during the coaching phase to ensure foundational skill sets are obtained by new recruits. He sets clear attainable goals, is receptive to new ideas and constructive criticism, and applies learned behaviour into how he performs his patrol and field training duties.”*
- [100] *“Constable SANDHU is a productive officer who is known for his outgoing personality. He is an effective communicator who is confident in his abilities and proficient in conflict mediation. He is able to defend his decisions and express counter arguments based on facts and evidence, but is flexible when presented alternative or alternatives.”*
- [101] *“I have determined that Constable SANDHU meets standards in 5 competencies and is progressing in investigative effectiveness. The progressing rating is not an indication of his lack of ability, but rather the result of his limited exposure to investigative practices.”*

⁶ Exhibit #11 – Defence – Annual Performance Appraisals (X2)

- [102] The Defence then provided an overview of several documents recognizing Constable SANDHU's work⁷. They include two Commendations for his involvement in the recovery of a stolen tractor trailer and his investigative / interview assistance during a shooting investigation. The submission also included letters of recognition for volunteering his time with Toys for Tots and Sheridan College.
- [103] Constable SANDHU joined Peel Regional Police in December 2016 after graduating from college in the Police Foundations program.
- [104] While he has been on suspension, Constable SANDHU has continued his education and obtained a Leadership in Policing diploma at Guelph-Humber. He also passed information along to the drug squad which resulted in a drug seizure.
- [105] Mr. MacKenzie suggested that the two primary considerations for the Tribunal are progressive discipline and consistency of penalty. With respect to the first consideration, Constable SANDHU finds himself being demoted – a penalty that is close to the extreme end of the discipline scale and demonstrates the Service's view of the seriousness of his misconduct.
- [106] With respect to the second consideration, the proposed penalty provides consistency with the cases that were presented by the Prosecution.
- [107] The Defence acknowledged that there is no excuse for Constable SANDHU's conduct. He was struggling with his personal relationship when the misconduct occurred. He has moved on from the relationship and is looking forward to returning to work.

Opportunity to Address the Tribunal

- [108] Constable SANDHU accepted an opportunity to address the Tribunal, and stated:
- [109] *I was told that when you put this patch on your arm, you not only represent yourself, you're representing the Service. I do thank the Prosecutor and the Inspector. Mistakes were made. Accountability is key and that's what I'm here to do today. I plead guilty and I understand the counts that are put in front of me. Lastly, I'd like to say that the passion is still there...it hasn't gone away. I am looking forward to coming back soon. I respect your decision. I am thankful and grateful that you're taking into consideration for me to come back. I'm excited to come back and do the job that I love.*
- [110] Mr. MacKenzie requested that the jointly submitted penalty, if accepted by the Tribunal, be effective immediately. The Prosecution agreed to this request.

⁷ Exhibit #12 – Defence – Recognition documents

PART III: ANALYSIS AND FINDINGS

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[111] I have reviewed and carefully considered the information provided during the hearing, including the *Agreed Statement of Facts* and the oral submissions made by the Prosecution and Defence. I have also reviewed all of the accompanying documents.

[112] A decision in this matter must ensure procedural fairness to the officer and the Service's accountability to the public.

[113] The principle of proportionality is key to arriving at a fair and effective disposition. It provides considerations that are referenced in almost every police discipline proceeding, some of which were touched on to varying degree by the Prosecution and Defence. I thank both counsel for their respective submissions.

[114] The considerations that I find relevant in assessing Constable SANDHU's misconduct are:

1. Public Interest
2. Seriousness of the Misconduct
3. Recognition of the Seriousness of the Misconduct (Remorse)
4. Employment History
5. Potential to Reform or Rehabilitate the Police Officer
6. Parity (Consistency of Disposition)
7. Specific and General Deterrence
8. Damage to the Reputation of the Police Service

[115] Where appropriate, I have addressed considerations together due to similar factors and relevance.

Public Interest

Damage to the Reputation of the Police Service

[116] I view these two considerations to be closely related. Any incident of police misconduct has the potential to attract public interest and cause reputational harm to the Service.

[117] Police officers are given extraordinary powers that authorize them to make decisions and take actions that directly impact those with whom they interact. The inappropriate use of those powers will negatively impact public confidence and trust in the police.

[118] Four of the five counts of misconduct to which Constable SANDHU plead guilty involved two members of the public. Although awareness of this matter was initially limited to AA and EE, it is reasonable to assume that they would share their experience with their families and social circles.

[119] Counts #1 and #2 resulted in criminal charges that were covered by local media outlets.

[120] The final count involved several hotel staff who, as presented in evidence during the hearing, were concerned enough with Constable SANDHU's behaviour that York Regional Police were summoned.

[121] In light of the above, it is reasonable to assume that there was reputational harm to the Service.

[122] In accordance with the Service's policy regarding transparency and accountability, this written decision will be made available on the Service's external website.

Seriousness of the Misconduct

Recognition of the Seriousness of the Misconduct

[123] Assessing the degree of seriousness of the misconduct is important towards determining an appropriate penalty.

[124] The Prosecution's submissions under this consideration (para 60 – 66) sufficiently articulate the aggravating factors and risks related to Constable SANDHU's conduct.

[125] As outlined in the *Agreed Statement of Facts*, Constable SANDHU's misconduct occurred over a period of time and involved:

- an intimate partner,
- an individual and property in his care, and
- an off-duty interaction.

[126] Each form of misconduct, on its own, is considered serious and contrary to the fundamental duties and responsibilities of a police officer. Collectively, they reveal a pattern of Constable SANDHU's departure from the Service's directives and standards of conduct.

[127] Further, I find that he did not consider the risks and consequences that could have resulted from actions, particularly with respect to Count #4.

[128] Finally, I was troubled by the submission that Constable SANDHU assumed his disclosure of the photograph and video to AA would be held in confidence (para 91). In my view, there is no circumstance where such disclosure to an unauthorized individual is appropriate.

[129] It is on these points that find the demotion of two ranks as laid out in the jointly proposed penalty to be appropriate.

Employment History

[130] An officer's employment history is closely related to rehabilitative potential and should be carefully considered. I accept the Defence position that Constable SANDHU's employment history, albeit brief, includes performance evaluations that highlight his investigative skills and leadership potential. Constable SANDHU was not lazy or unmotivated, a fact that is supported in the submitted documents.⁸

[131] In reviewing the performance appraisals further, I note Constable SANDHU's early career objective to focus on traffic enforcement, particularly impaired driving.⁹ In a subsequent appraisal, he expressed his desire to develop skills in the area of Intelligence and covert operations.

[132] Although these are mitigating factors, they are outweighed by the aggravating fact that his misconduct commenced approximately two years into his career, prior to becoming a 1st Class Constable, and involved separate incidents over a 3-year period.

Potential to Reform or Rehabilitate the Police Officer

[133] I acknowledge Constable SANDHU's guilty plea in this matter which, coupled with his apology during the hearing (para 109), demonstrates an acceptance of responsibility.

[134] Mr. MacKenzie noted that Constable SANDHU was struggling with his personal relationship during the period of the misconduct. I weigh this factor cautiously as evidence drawing a nexus between his relationship and the misconduct was not provided.

[135] I find that Constable SANDHU's rehabilitation is possible should he earn from this experience, return to work and commit to abiding by the Service's policies. He may also avail himself to any training and supports that are available.

Specific and General Deterrence

[136] Specific and general deterrence are equally important in this matter. All incidents of police misconduct test the public's tolerance and result in an erosion of trust.

[137] The Service's policies and procedures are embedded in an officer's training program upon hire and throughout their career. They form the foundation of the professional and personal conduct that is expected by their colleagues and the community.

[138] The penalty must remind Constable SANDHU and all officers, that the Service's policies, Code of Conduct and the very laws that they are sworn to uphold, must be adhered to both on and off duty in order to maintain public trust and overall integrity of the policing profession.

⁸ Exhibit #11 – Performance Appraisals 2020 & 20212, Recognition

⁹ Exhibit #11 – Performance Appraisal – May 2020 p 6

[139] I find that the jointly proposed penalty sufficiently addresses the need for deterrence.

Consistency of Disposition

[140] Assessing an appropriate disposition requires that I weigh the *Joint Position on Penalty* against both the circumstances of this case and previous discipline decisions involving similar misconduct.

[141] In addition to the three cases that were presented by the Prosecution during the hearing, I reviewed the remaining six cases for context:

[142] *Peel Regional Police and Churly (2023)*: where the officer was charged criminally with three counts related to domestic assault. He later plead guilty to a Police Services Act offence and the disposition was a 12-month Peace Bond, a fine and attendance in a Partner Assault Program. The penalty was a 6-month demotion.

[143] *Peel Regional Police and Arora (2023)*: where the officer was charged with three Police Services Act offences related to his involvement in a domestic incident and for improper use of a police database. The penalty was a 6-month demotion.

[144] *Peel Regional Police and Papageorgiou (2017)*: where the officer was charged with a Police Services Act offence in relation to a traffic court ticket disposition. The penalty was a 2-year demotion.

[145] *Peel Regional Police and Oldham (2013)*: where the officer was charged with numerous Police Services Act offences in relation to search warrants and interactions with confidential informants. The penalty was a 3-year demotion.

[146] *Gangadeen and Peel Regional Police (2022)*: where the officer faced numerous Police Services Act charges related to his involvement with known criminals, unauthorized police database queries and failure to make notes. The penalty of dismissal was upheld on appeal to the OCPC.

[147] *Markham and Waterloo Regional Police (2014)*: where the officer faced numerous Police Services Act charges related to his inappropriate access of police databases, sharing information with unauthorized persons and insubordination. The penalty of dismissal was upheld on appeal to the OCPC.

[148] I accept the Prosecution's view that previous cases with closely similar facts to this matter are not available. Nonetheless, the cases listed above do provide some guidance towards parity.

Conclusion

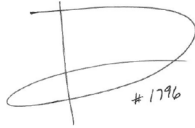
[149] I am satisfied that the jointly proposed penalty in this matter appropriately addresses the interests of the public, the Service and the officer.

PART IV: DISPOSITION

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Penalty

- [150] With the finding of guilt on four (4) counts of Discreditable Conduct and one (1) count of Breach of Confidence, the penalty for Constable SANDHU under Sec 85(1) of the *Police Services Act* is:
- [151] A reduction in rank from First (1st) Class Constable to Third (3rd) Class Constable for a period of six (6) months, following which the officer can reclassify to each rank leading back to First (1st) Class Constable, as outlined in section 'F' of PRP Directive I-A-214 (O) 'Performance Management' and the reclassification schedule set out in the Uniform Collective Agreement.
- [152] **The above penalty is effective January 31, 2024.**



Superintendent Taufic Saliba #1796
Hearing Officer
Peel Regional Police