

Peel Regional Police

***Police Services Act* R.S.O. 1990, c. P. 15, as amended**

IN THE MATTER OF a hearing held in accordance with section 76(9) of the *Police Services Act* into allegations of misconduct against Constable Adrian Woolley #2301 of the Peel Regional Police.

Charge: Discreditable Conduct

Disposition

Hearing Officer:

A/Superintendent Lisa Hewison
Peel Regional Police

Prosecutor:

Ms. Jovana Orabovic
Peel Regional Police

Defence Counsel:

Mr. Lawrence Gridin
BT Legal

PART I: OVERVIEW

Allegations of Misconduct

- [1] It is alleged that Constable Adrian Woolley #2301 (“Constable Woolley”), a member of the Peel Regional Police Service, committed the following act of misconduct contrary to section 80(1)(a) of the *Police Services Act, R. S. O. 1990 c. P. 15*, as amended;

Count One Discreditable Conduct

It is alleged that Constable Woolley committed Discreditable Conduct in that on April 26, 2019, he was found guilty of an offence punishable upon summary conviction, namely Operate Motor Vehicle with Excess Blood Alcohol contrary to section 320.12 (1)(b) of the *Criminal Code of Canada* in relation to an incident which occurred on or about February 9, 2019 constituting an offence against discipline as prescribed in section 2(1)(a)(ix) of the *Code of Conduct, Ontario Regulation 268/10*, as amended.

Background

- [2] Constable Woolley of the Peel Regional Police Service appeared before me on August 19, 2019, in answer to a Notice of Hearing that was issued on August 1, 2019, alleging one count of misconduct contrary to section 80(1) (a) of the *Police Services Act*, constituting an offence against discipline, Discreditable Conduct, as prescribed in section 2(1) (a) (ix) of the *Code of Conduct, Regulation 268/10*, as amended.

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- [3] On January 14, 2020, Constable Woolley appeared before me once again and entered a plea of guilty to one count of Discreditable Conduct. An Agreed Statement of Facts was tendered as **Exhibit #4** and read into the record. Based on those facts and the confirmation by Constable Woolley that they were substantially correct, a finding of misconduct was registered.

Decision

- [4] After examining and weighing all of the evidence presented, as the Hearing Officer, I impose on Constable Adrian Woolley #2301 of the Peel Regional Police Service for one (1) count of Discreditable Conduct:

A reduction in rank from 1st (First) Class Constable to 2nd (Second) Class Constable for a period of eight (8) months to be served upon Constable Woolley’s return to service with the PRP as a sworn officer, from his current secondment as President of the Peel Regional Police Association.

- [5] The penalty is submitted in accordance with section 85(1) (c) of the *Police Services Act*.

PART II: THE HEARING

Exhibits

- [6] The Exhibits for this matter are listed as follows:

Exhibit #1	Delegation of Powers and Duties to the Hearing Officer
Exhibit #2	Prosecutor's Designation (Ms. Jovana Orabovic)
Exhibit #3	Co-Prosecutor's Designation (Ms. Sharon Wilmot)
Exhibit #4	Agreed Statement of Facts
Exhibit #5	Joint Submission as to Penalty
Exhibit #6	Prosecution Brief of Authorities

Representation

- [7] In this matter, Mr. Lawrence Gridin represented Constable Woolley, and Ms. Jovana Orabovic represented the Peel Regional Police Service.

Agreed Statement of Facts

- [8] The facts of this matter are substantially agreed upon by the parties to this Tribunal. The Agreed Statement of Facts, filed as **Exhibit #4**, stated;

Background

Constable Adrian Woolley #2301 has been a member of Peel Regional Police (PRP) since February 2000. He has worked in Uniform Patrol, Neighbourhood Policing Unit, Criminal Investigations Bureau and 11 Division. At the time of the incident, he was acting as the President of the Peel Regional Police Association ("PRPA").

Count One – Discreditable Conduct

Constable Adrian Woolley was found guilty of Operating a Motor Vehicle with Excess Blood Alcohol contrary to section 320.14 (1) (b) of the *Criminal Code of Canada* before Justice D. Gage on April 26, 2019 in Hamilton, Ontario.

The following facts were agreed to as being substantially correct and read into the record by the Crown:

- (a) On February 9, 2019, at about 11:12 p.m., Adrian Woolley was operating a 2013 Volkswagen Jetta motor vehicle, southbound on the Queen Elizabeth Way north of Woodward Avenue in the city of Hamilton.

- (b) A police officer conducting speed enforcement in that area observed his motor vehicle travelling at a high rate of speed, being 174 km/hr in a posted 100 km/hr zone.
- (c) The officer initiated a traffic stop on the right shoulder and confirmed Mr. Woolley's license information.
- (d) The officer detected an odour of an alcoholic beverage on Mr. Woolley's breath, formed reasonable suspicion that he had alcohol in his body, and read him the demand for an approved screening device.
- (e) Mr. Woolley registered a fail on the device and was arrested for the over 80 offence and transported to the Burlington detachment of the OPP.
- (f) Mr. Woolley provided a sample of his breath, and the first and lower of the two readings was 119 mg of alcohol per 100 ml of blood.

On April 26, 2019, Mr. Woolley pleaded guilty and was sentenced to a fine of \$3000.00 and a driving prohibition of 18 months.

The actions of Constable Woolley constitute Discreditable Conduct as prescribed within section 2(1) (a) (ix) of the prescribed *Code of Conduct*.

[9] Based on the clear and convincing evidence that was contained within the Agreed Statement of Facts, in conjunction with an acknowledgment from the Defence that the facts were correct, I made a finding of misconduct.

Positions on Penalty

[10] The parties representing the Prosecution and Defence provided a joint submission with respect to penalty, tendered as **Exhibit #5**, dated January 14, 2020. They propose that the appropriate disposition for the finding of one count of Discreditable Conduct is as follows:

A reduction in rank from 1st (First) Class Constable to 2nd (Second) Class Constable for a period of eight (8) months to be served upon Constable Woolley's return to service with the PRP as a sworn officer, from his current secondment as President of the Peel Regional Police Association.

The penalty was submitted in accordance with section 85(1) (c) of the *Police Services Act*.

Submissions of the Prosecution – Ms. Orabovic

- [11] Ms. Orabovic commenced her submissions that the Joint Submissions as to Penalty is reflective of the applicable mitigating and aggravating factors and is consistent with the penalties in similar cases.
- [12] Ms. Orabovic addressed the dispositional factors within the Ontario Civilian Police Commission (the “Commission”) case law to be considered when determining the appropriate penalty in police discipline matters. The case of *Krug and the Ottawa Police Service (OCCPS, January 21, 2003)* was discussed to address the aggravating and mitigating factors to consider. In the present case, the Prosecution submitted that the relevant factors of consideration include: Nature of the Misconduct, Public Interest, Damage to the Reputation of the Service, Recognition of the Seriousness of the Offence, General and Specific Deterrence and Consistency of the Disposition.
- [13] Ms. Orabovic addressed the first category of the Nature of the Misconduct and specifically discussed that the tribunal have repeatedly recognized that impaired driving offences be treated seriously. Ms. Orabovic highlighted the case of *Devine and the Ontario Provincial Police (OCCPS, November 26, 2008)* (Exhibit #6, Tab 2), in which the Commission stated “*It is clear that drinking and driving is a conduct which cannot be tolerated and for which a substantial penalty must be assessed. Both the community and Police Services across Ontario have become increasingly less tolerant of drinking and driving. Police Services have expended considerable resources to combat drinking and driving, and clearly the perception of the seriousness of this misconduct has increased with the passage of time*” (p. 8).
- [14] Ms. Orabovic suggested that impaired driving is a very common and prevalent issue which the community is very attune to. She submitted that Constable Woolley’s conduct was very dangerous, illegal and offensive to his role as a police officer and as the representative of the Peel Regional Police Association (PRPA).
- [15] She further submitted that there was a variety of factors which made this a serious offence. The factors she indicated were as follows; his blood alcohol surpassed the legal limit; his demonstration of signs of impairment including his excessive speeding. Together these factors demonstrated Constable Woolley showed a clear disregard for the law and for the safety of others by drinking in excess of legal limits and proceeding to drive in an impaired state. This misconduct was also exacerbated by the fact that it resulted in a criminal conviction and that his credibility as a police officer will be impacted going forward.
- [16] The factors of Public Interest and Damage to the Reputation of the Police Service were addressed by Ms. Orabovic. She began by highlighting the case of *Bryl and Toronto Police Service (OCCPS, May 27th, 2009)* (Exhibit #6, Tab #3), in which the Commission stated, “*The public must be assured that serving police officers will protect, not threaten, their safety. All officers have been and are placed on notice*

that convictions for impaired driving or similar conduct will have significant consequence to an officer's professional status.” (p.26).

- [17] Ms. Orabovic submitted that members of the public that are convicted of impaired driving face significant consequences. Additionally the members of the public certainly would be interested in ensuring that police officers tasked with enforcing the laws related to impaired driving would face similar significant consequences. Ms. Orabovic submitted that this is an aggravating factor as Constable Woolley's criminal convictions were ultimately made part of a public record, and as a result members of the judicial system and the public were made aware of his conduct, which brings the reputation of the Service into disrepute.
- [18] Ms. Orabovic then discussed that Constable Woolley's conduct is held to a high standard given his leadership role within the PRPA, his role as a police officer in the Peel Regional Police and the fact that serving officers would look to him for guidance when it comes to appropriate behaviour and standards of leadership. Members of the public expect those facing impaired offences will face significant consequences. Additionally, that police officers are held to a higher standard in these circumstances.
- [19] In relation to damage to the reputation to the service, Ms. Orabovic submitted that his conduct involved members of the public including the arresting officers, the Crown Attorney's Office and the presiding Judge whom would all be aware of Constable Woolley's status as a police officer. Also, as Constable Woolley was convicted of a criminal offence in court and as a result this would be made part of a public record.
- [20] In relation to recognition of the seriousness of the misconduct and the rehabilitative potential, Ms. Orabovic suggested that there is evidence to demonstrate that Constable Woolley recognizes the seriousness as he pled guilty to the criminal charges and to the allegations at this tribunal at the earliest opportunity. He admitted his guilt in open court to his actions and expressed remorse. Ms. Orabovic submitted that the Service is optimistic and hopeful that this was a unique incident and that he will continue to serve the Peel Regional Police community in a positive manner.
- [21] With regards to deterrence, Ms. Orabovic submitted that both specific and general deterrence are important and that a significant penalty will serve to remind that this is serious misconduct. Ms. Orabovic stated that the penalty needs to serve as a reminder to members of the community that impaired driving is a serious offence and that it will be penalized accordingly.
- [22] Consistency of disposition was addressed by Ms. Orabovic with reference made to seven (7) cases within the Book of Authorities (Exhibit #6). The cases contain some similar aspects with range of penalties for a first finding of guilt for impaired range from a six (6) to twelve (12) month demotion, depending on the circumstances of the case. The Commission cases included (Exhibit #6, Tab 1-3)

had a range of penalties from a nine (9) month demotion to dismissal for impaired matters. The case of *Peel Regional Police and D'Arcy O'Shea* (Exhibit #6, Tab #4), was included as it was a recent decision on September 10th, 2019, there was a nine month demotion for the impaired charge and included a refusal or a failure to provide a breath sample.

- [23] Ms. Orabovic concluded that the penalty of an eight (8) month demotion for Constable Woolley is supported by the case law and is reflective of the factual circumstances of this misconduct.

Submissions of the Defence – Mr. Lawrence Gridin

- [24] Mr. Lawrence Gridin, Defence Counsel, spoke on behalf of the officer and submitted that Constable Woolley was before the Tribunal and accepted responsibility for one count of Discreditable Conduct. Constable Woolley accepted the Agreed Statement of Facts and the Joint Submission as to Penalty. Mr. Gridin indicated that the submissions by the Prosecutor were fair and accurately reflected the law in this area.
- [25] Mr. Gridin submitted that the settlement reached between the Prosecution and the Defence should be given due consideration and that the penalty should be adopted as there is no reason to deviate.
- [26] Mr. Gridin submitted that there would be little impact on Constable Woolley's credibility as it would be a rare instance that a conviction for impaired driving would be relevant to any case that is before the court.
- [27] Mr. Gridin agreed with the Prosecution that the public expect that police will pay a heavy penalty for impaired driving, holding police officers to a higher standard, both of which are reflected in the proposed penalty.
- [28] He stated that the proposed penalty will have a financial impact on Constable Woolley, taking into account the fine from Criminal Court and from the demotion that will take effect upon his return from his secondment. He submitted that this financial impact meets all the requirements for reflecting the seriousness of the misconduct and addresses the public's concern that the police should be held to a higher standard.
- [29] Mr. Gridin indicated that Constable Woolley should be commended for entering a guilty plea very early in both the criminal proceedings and at this Tribunal.
- [30] Mr. Gridin concluded that the presented cases by the Prosecution accurately summarized the penalty range and that the proposed penalty falls within the applicable range.

Submissions of the Officer - Constable Woolley

[31] Constable Woolley addressed the Tribunal and apologized for his actions. He stated that he was extremely remorseful for his actions and apologized to everyone directly or indirectly involved. Additionally, he stated he was extremely apologetic if he brought discredit to any members of the Peel Regional Police and was sorry for anyone he hurt in this matter.

PART III: ANALYSIS AND FINDINGS

[32] The extent of informative detail before the Tribunal is limited to what is listed in the Agreed Statement of Facts, and submissions made by the Prosecution and Defence. I have reviewed all of the information and evidence that was submitted.

[33] The Prosecution referred to Commission case law in her submissions, and specifically the number of factors to be considered when determining the appropriate penalty. The case of *Krug and the Ottawa Police Service (OCCPS, January 21, 2003)* addresses the aggravating and mitigating factors to consider when determining the penalty, and that there is no requirement that any one factor be given more weight than another. The factors that I find relevant to focus on in assessing the misconduct of Constable Woolley are as follows:

- Nature of the Misconduct
- Public Interest
- Damage to the Reputation of the Police Service
- Recognition of the Seriousness of the Misconduct
- Potential to Reform or Rehabilitate the Police Officer
- Specific and General Deterrence
- Consistency of Disposition

[34] It has been clearly established that misconduct was committed by Constable Woolley. On April 26, 2019, Constable Woolley pled guilty to Operating a Motor Vehicle with Excess blood Alcohol contrary to section 320.14(1) (b) of the *Criminal Code of Canada* in relation to an incident on February 9, 2019. Constable Woolley received a fine of \$3000.00 and a driving prohibition of eighteen (18) months.

Seriousness of the Misconduct

[35] Police officers are held to a higher standard of ethical conduct and moral character. Good moral character is a standard before a candidate becomes a member of a Police Service which remains a necessary trait throughout a police officer's career. It is expected that police officers will conduct themselves at all times in accordance with the *Code of Conduct*.

[36] Constable Woolley's misconduct involves a serious incident that resulted in a *Criminal Code* conviction. Constable Woolley holds a position of trust to the public as a police officer which is in effect at all times whether on or off duty. As President

of the Peel Regional Police Association, Constable Woolley is in a leadership position where members of the Police Regional Police have entrusted him and look to him for guidance. Constable Woolley abused that trust that comes as a result of the powers that he is entrusted with.

- [37] The actions of Constable Woolley are very concerning in that he was operating a motor vehicle with excess blood alcohol and demonstrated signs of impairment including excessive speeding. Constable Woolley's conduct was not only unlawful but he exhibited extremely poor judgment and a blatant disregard for public safety and the law. I concur with Ms. Orabovic that Constable Woolley's conduct was dangerous, illegal and offensive to his role as a police officer and as the leader of the Peel Regional Police Association. When it is a police officer who commits such offences, it brings the profession of policing into disrepute. This is an aggravating consideration for the disposition.

Public Interest

- [38] Police officers are expected to obey the laws, regardless of circumstances or context. Impaired Driving, including operating a motor vehicle with excess blood alcohol, are crimes that police deal with frequently and are relied upon to investigate and charge offenders. A considerable amount of resources are spent by police services to address and prevent impaired driving from occurring. Additionally, the traffic stop which initiated the entire interaction was from the police officer conducting speed enforcement on the Queen Elizabeth Way. Constable Woolley was observed driving his vehicle 174 km/h in the posted 100 km/h zone. That in itself is a concern not only for the safety of Constable Woolley but for public safety. It is therefore a serious matter when a police officer is involved in such an offence as it erodes the public's confidence in the Service.
- [39] The crux of all police disciplinary matters is the consideration for public interest. The public are entitled to expect a high ethical standard of conduct from police officers and for officers to act responsibly and professionally at all times whether in their personal or professional lives. When those chosen to protect and serve the public fall short of the public's expectations, the officer must be held accountable. After an officer engages in serious misconduct, the disposition assessed must be applicable and transparent and serve to denounce the behaviour to ensure public confidence and maintain trust. The disposition in this matter must meet the public's expectations and it must serve to prevent recurrence by Constable Woolley. It must also provide a strong message to other officers that considerable sanctions will result for those who may contemplate similar misconduct. As a result, of the above reasoning, I find this to be an aggravating factor.

Damage to Reputation of the Police Service

- [40] The damage to the reputation of the Peel Regional Police Service is a consideration in the determination of a disposition. Constable Woolley's conduct involved several members of the public including the arresting officers, the Crown

Attorney's office and the presiding Judge. Anytime an officer is charged criminally and convicted of a criminal offence or a provincial offence, the officer's name becomes part of the public record and therefore the Police Service's reputation is undermined. The fact that a police officer drove under such conditions jeopardizing public safety along with the other involved factors would no doubt bring discredit to the Police Service through the lens of the general public. This is an aggravating consideration for the disposition.

Recognition of the Seriousness of the Misconduct

- [41] In regards to the recognition by the officer of the seriousness of the misconduct, Constable Woolley pled guilty at the earliest opportunity to the *Criminal Code* proceedings and to the *Police Services Act* charge of Discreditable Conduct. Constable Woolley clearly demonstrated his remorse through his own submissions to the Tribunal demonstrating an understanding of the seriousness of his conduct. Constable Woolley addressed the Tribunal and apologized to everyone affected by his misconduct including any members of the Peel Regional Police. Constable Woolley's recognition of the seriousness of his misconduct is a mitigating consideration.

Potential for Reform or Rehabilitation

- [42] Constable Woolley's acceptance of responsibility indicates that he appreciates the impact of his actions. I concur with Ms. Orabovic and Mr. Gridin that Constable Woolley has demonstrated his likelihood of rehabilitation through his acceptance of responsibility and expression of remorse. These factors combined demonstrate this is a mitigating consideration.

Specific and General Deterrence

- [43] In this case, specific deterrence is likely an objective which has already been met. Constable Woolley has already indicated he fully appreciates and accepts responsibility for the seriousness of his actions and is willing to accept the proposed penalty as a result. The penalty proposed in the joint submission would undoubtedly have a financial impact on Constable Woolley. The demotion upon his return to service with the Peel Regional Police as a sworn officer will also represent a loss of status amongst his peers. The balance to be reached in addressing specific and general deterrence is to ensure that any penalty imposed not be overly punitive while sending a clear message to Constable Woolley, the public, and throughout the Peel Regional Police that such misconduct is viewed seriously and will not be tolerated. With regards to general deterrence, a formal Hearing process and a subsequent disposition will send a clear message throughout the Police Service, to our policing partners, and the general public that such misconduct is viewed seriously and officers will be held accountable.

Consistency of Disposition

- [44] Consistency of Disposition was addressed by Ms. Orabovic and Mr. Gridin in their submissions. I have reviewed the seven (7) cases provided by Ms. Orabovic in the Book of Authorities (Exhibit #6). The cases are comprised of both Commission and Peel Regional Police Service decisions. I concur with Ms. Orabovic and Mr. Gridin that the case law establishes a range of reduction in rank for similar factual cases. The length of the reduction in rank is dependent on the unique factors relevant to each case, and whether there is previous discipline. With this in mind, the decisions were helpful in confirming that the proposed penalty is fair considering the specific circumstances. In my opinion, the cases reiterate the important point that misconduct of this nature must be taken seriously. It is critical for the Service to address the concept of deterrence through dispositions which foster the continuance of public confidence. In the present case, there are a number of mitigating factors which support the proposed penalty which include Constable Woolley's acceptance of responsibility, recognition of the seriousness of the misconduct, and his ability to reform and rehabilitate.

PART IV:DISPOSITION

- [45] Constable Woolley's acceptance of responsibility by pleading guilty indicates that he appreciates the impact of his actions. I have reviewed all of the available information and while a Hearing Officer is not bound by joint submissions there is no clear and cogent reason before me to vary from the submission on penalty. In addition to those factors previously considered, this penalty addresses the need for specific and general deterrence. It provides assurance to the public and policing community that the Peel Regional Police Service is prepared to impose sanctions on officers when their behaviour falls short of the expectations of the Service. I concur with the joint submission being suggested in this case as it is entirely appropriate.

Penalty

- [46] For the noted reasons, on the one (1) count of Discreditable Conduct, as the Hearing Officer, I impose on Constable Adrian Woolley #2301 of the Peel Regional Police Service:

A reduction in rank from 1st (First) Class Constable to 2nd (Second) Class Constable for a period of eight (8) months to be served upon Constable Woolley's return to service with the PRP as a sworn officer, from his current secondment as President of the Peel Regional Police Association.

- [47] The penalty is submitted in accordance with section 85 (1) (c) of the *Police Services Act*.



January 24th, 2020

Lisa Hewison #1921, A/Superintendent
Peel Regional Police – Hearing Officer

Date