

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 Mark Bowles #2510 of the Peel Regional Police.

Charge: Discreditable Conduct (3 counts)

Disposition

Hearing Officer

Superintendent Martin Ottaway
Peel Regional Police

Prosecutor

Ms. Jovana Orabovic

Co-Prosecutor for the Chief of Police

Inspector Todd Christie

Member Representative

Mr. Andy Adams

PART I: OVERVIEW

Allegations of Misconduct

- [1] It is alleged that Constable Mark Bowles #2510 (“Cst. Bowles”), a member of the Peel Regional Police Service, 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 One Discreditable Conduct

It is alleged that Constable Bowles committed Discreditable Conduct in that on March 7th, 2018, he 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 constituting an offence against discipline; Discreditable Conduct as prescribed in section 2(1)(a)(xi) of the *Code of Conduct, Regulation 268/10*, as amended.

Count Two Discreditable Conduct

It is alleged that Constable Bowles committed Discreditable Conduct in that on June 22nd, 2019, he 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 constituting an offence against discipline; Discreditable Conduct as prescribed in section 2(1)(a)(xi) of the *Code of Conduct, Regulation 268/10*, as amended.

Count Three Discreditable Conduct

It is alleged that Constable Bowles committed Discreditable Conduct in that on February 5th, 2019, he 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 constituting an offence against discipline; Discreditable Conduct as prescribed in section 2(1)(a)(xi) of the *Code of Conduct, Regulation 268/10*, as amended.

Background

- [2] Constable Bowles of the Peel Regional Police Service appeared before Superintendent Graham Symington on June 5, 2020 in answer to a Notice of Hearing that was issued on March 13, 2020, alleging three counts 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)(xi) of the *Code of Conduct, Regulation 268/10*, as amended.

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- [3] On January 18, 2021, Constable Bowles appeared before me and entered a plea of guilty to three counts of Discreditable Conduct. An Agreed Statement of Facts was tendered as Exhibit #6 and read into the record. Based on those facts and the confirmation by

Constable Bowles 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 Mark Bowles #2510 of the Peel Regional Police Service for three counts of Discreditable Conduct:

A reduction in rank from First Class Constable to Second Class Constable for a period of three (3) months, following which the officer will be returned to the rank of First Class Constable on the basis of satisfactory work performance to be determined by the officer's Divisional Commander.

- [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 (Supt. Symington)
Exhibit #2	Prosecutor's Designation (Ms. Jovana Orabovic)
Exhibit #3	Prosecutor's Designation (Ms. Sharon Wilmot)
Exhibit #4	Co-Prosecutor's Designation (Insp. Dermot Coughlan)
Exhibit #5	Delegation of Powers and Duties to the Hearing Officer (Supt. Ottaway)
Exhibit #6	Agreed Statement of Facts
Exhibit #7	Joint Submission as to Penalty
Exhibit #8	Brief of Authorities (prosecution)
Exhibit #9	Book of Supporting Materials (defence)

Representation

[7] In this matter, Mr. Andy Adams represented Constable Bowles, and Ms. Jovana Orabovic and Inspector Todd Christie represented the Peel Regional Police Service. Inspector Todd Christie had replaced Inspector Dermot Coughlan who originally was the Co-Prosecutor in this matter.

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 #6, states;

Background

Constable Mark Bowles joined Peel Regional Police ("PRP") in August 2001. At the time of the misconduct, he was assigned to "B" Platoon, 11 Division.

Count One – Discreditable Conduct

- a) On March 7, 2018, Cst Bowles and officer A.L. were partnered together for an evening shift from 6:31 p.m. until 5:27 a.m. the following day.
- b) Throughout the shift, Cst Bowles made personal phone calls on his cellular phone, during which he made inappropriate innuendos of a sexual nature while smiling, laughing and looking at A.L.
- c) Cst Bowles then began to scroll through a dating application on his phone and showed A.L. photos of various women that appeared to be A.L.'s age, and were similar in appearance to A.L., which made her feel uncomfortable.
- d) Cst Bowles then showed A.L. a video depicting nudity on his phone, describing it as

hysterical. A.L. indicated that this was not her type of humour, at which point Cst Bowles attempted to show A.L. another offensive video. A.L. responded that she did not find the contents of the video funny, and told him to stop his behavior.

- e) Throughout their shift together, Cst Bowles persisted in this inappropriate pattern of behavior and continued to show A.L. photographs of females on his dating application, in spite of A.L. repeatedly indicating that she did not wish to see such images.

Count Two – Discreditable Conduct

- f) On June 22, 2019, officers A.P. and L.W. were partnered together for an afternoon shift from 3:38 p.m. to 2:21 a.m. They attended a community event (PR190228368) from 5:29 p.m. until 11:07 p.m. It was noted that fireworks would be deployed in this area.
- g) Cst Bowles was in the position of Acting Sergeant and he attended the same community event at approximately 8:41 p.m.
- h) Shortly after the fireworks concluded, and in the presence of L.W., Cst Bowles jokingly asked A.P. if the fireworks set off or triggered their Post-Traumatic Stress Disorder (PTSD). He made his comment while smiling, laughing, and trying to get L.W. to laugh along. A.P. felt it was inappropriate for an Acting Supervisor to joke about a medical condition in front of people who may suffer from PTSD.

Count Three – Discreditable Conduct

- i) On February 5, 2019, officers L.W and A.M. were partnered together for a day shift from 6:18 a.m. until 3:20 p.m. During the shift, they attended Credit Valley Hospital (CVH) (PR190044679) where they remained for the entire shift.
- j) Cst Bowles was in the position of Acting sergeant on this day and attended CVH for an unrelated radio call. Cst Bowles attended the location of L.W. and A.M.
- k) When Cst Bowles arrived, there was a nurse tending to a female patient near where A.M. and L.W. were seated. The nurse advised the female patient that she was present to give her a sponge bath.
- l) Cst Bowles heard this comment and then made a gesture and indicated, “I wouldn’t mind a sponge bath” while standing in front of L.W. and A.M.
- m) Cst Bowles then asked L.W. if she wouldn’t mind a sponge bath to which she replied “no”. In response, Cst Bowles followed up with the question “even if he was good looking?” or “what if the guy was hot”.

[9] **The actions of Constable Bowles constitute Discreditable Conduct as prescribed within section 2(1)(a)(xi) of the *Code of Conduct*.**

Positions on Penalty

[10] The parties representing the Prosecution and Defence provided a joint submission with respect to penalty, tendered as Exhibit #7, dated January 15, 2021. They proposed that the appropriate disposition for the finding of three counts of Discreditable Conduct is as follows:

A reduction in rank from First Class Constable to Second Class Constable for a period of three (3) months, following which the officer will be returned to the rank of First Class Constable on the basis of satisfactory work performance to be determined by the officer's Divisional Commander.

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

Submissions of the Prosecution – Ms. Orabovic

[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) (Exhibit #8, Tab #1)* was discussed to address the aggravating and mitigating factors to consider. In the present case, the Prosecution submitted that the relevant factors of consideration included: Seriousness of the Misconduct, Employment History, Need for Deterrence, Ability to Reform or Rehabilitate the Officer, Damage to the Reputation of the Police Force and Consistency of Disposition.

[13] Ms. Orabovic first addressed the category of Seriousness of the Misconduct. Misconduct involving sexual harassment is very serious. Ms. Orabovic quoted the definition of workplace harassment from Peel Regional Police Directive I-A-205 (f) as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought to be reasonably known to be unwelcome.”

[14] Workplace sexual harassment in the same directive is defined as engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. Further making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

[15] Listed within directive I-A-205(f) are examples of harassment matching the facts of the case which include:

- unwelcome sexual remarks, invitations or requests
- unwelcome remarks, jokes, taunts, suggestions about a person's body, attire, age, marital status, ethnic or racial origin, religion, disabilities, etc.;
- display or pornography, pin-ups, derogatory and/or sexually explicit pictures, photographs, cartoons, or other offensive material.

- [16] Ms. Orabovic submitted that it does not matter whether the comments or behavior is unintentional and that it is the content of the comments and behavior that matter in the incidents in question.
- [17] Ms. Orabovic referred to the facts of Count One in Exhibit #6 where Cst Bowles was on duty with a female officer, A.L., and made unwelcome sexual remarks and inappropriate behavior including displaying images of nudity through the course of their shift together. Cst Bowles persisted in this behavior even after being told by A.L. to stop.
- [18] In Count Three of Exhibit #6 it is detailed again that Cst Bowles, while in a supervisory position, made harassing comments of a sexual nature. These comments were made to two officers and in the vicinity of a nurse who was treating a patient within the hospital.
- [19] In Count Two of Exhibit #6, Ms. Orabovic submitted the facts of this count are also similarly egregious. The comments made by Cst Bowles were highly inappropriate and at the expense of another officer's disability.
- [20] Ms. Orabovic addressed the employment history of Cst Bowles next. She indicated that he has been a member of this Service for over 20 years and has a positive work history with no formal discipline. His work record suggests he has been a hard working employee who routinely makes positive contributions to the service. This was submitted as a mitigating factor.
- [21] Ms. Orabovic addressed specific and general deterrence. She indicated that in terms of specific deterrence, the proposed penalty would serve as a reminder for Cst. Bowles on the seriousness of his conviction. With respect to general deterrence, other officers will see that any sort of harassment and unwelcome inappropriate behavior will result in an officer receiving a serious penalty.
- [22] Ms. Orabovic then discussed the ability to reform or rehabilitate Cst. Bowles. She submitted that this case is problematic as the misconduct took place over the course of a years' time and this was not a single case of misconduct. However, the fact Cst. Bowles has accepted responsibility and entered a guilty plea is a positive sign and can be used as a mitigating factor.
- [23] Ms. Orabovic referred to the damage to the reputation of the police service next. The public expects a workplace to be free of harassment and police officers are held to a higher standard. Two out of three of these incidents occurred in the presence of other officers. A third incident occurred in front of not only other officers but also hospital staff. This behavior diminishes the reputation of the Peel Regional Police and should be seen as an aggravating factor.
- [24] Ms. Orabovic addressed the Consistency of Disposition. She submitted that there are no identical cases however there are some with similarities. She referred to Exhibit #8 Book of Authorities (prosecution).

- [25] In Exhibit #6 Tab 5, the case of *Peel Regional Police and Sergeant Hillary Ottley, May 20, 2005*, was referenced. This case involved inappropriate conduct from a supervisor towards a subordinate. Sergeant Ottley have given gifts to another officer on seperate occasions including perfume, body care products and a birthday card. In addition to this, Sergeant Ottley offered to attend the officer's residence to cook her a meal. Sergeant Ottley entered a guilty plea in regards to Discreditable Conduct and received a penalty of a 4-month demotion from Sergeant to First Class Constable.
- [26] In Exhibit #6, Tab 2, the case of *Peel Regional Police and Constable Harvey Sham, January 31, 2012*, was referenced. This case involved an officer working as a "wire-room coordinator" who was working with civilian employees. The officer engaged in inappropriate and unwelcome comments, which was sexual in nature. Cst Sham also touched civilian employees in an inappropriate and unwelcome way. In addition, he also displayed images of nudity on his computer. An Agreed Statement of Facts was submitted and a guilty plea entered. Cst Sham received a penalty of a 6-month demotion from First Class Constable to Second Class Constable. Ms. Orabovic did add that this case was more egregious as touching was involved.
- [27] In Exhibit #6, Tab 3, the case of *Peel Regional Police and Constable Perry MacVicar, April 10, 2015*, was referenced. This case involved an officer who was working as a driving training instructor. On two occasions, Cst MacVicar engaged in inappropriate and unwelcome behavior with civilian communication staff that was sexual in nature. In the first incident, Cst MacVicar, during a driving training session, engaged a civilian communicator in an unwelcome sexual conversation. During this sexual conversation Cst MacVicar had asked if he could touch the females breasts, showed her pictures of his penis, handed her his unloaded firearm and stated that she could place it between her legs and asked that they "park" at the rear of 180 Derry Road.
- [28] The second incident was similar in nature as Cst MacVicar was working as a driving training instructor and engaged in an inappropriate sexual conversation with a civilian communicator during a driver training class. Cst MacVicar advised the communicator that she had a "nice ass" and that he "liked to hook up with other people". In addition, he also showed pictures of himself naked to her. An Agreed Statement of Facts was submitted and a guilty plea entered. Cst MacVicar received a penalty of a six-month demotion from First Class Constable to Second Class Constable. Ms. Orabovic did add that the facts of this case were more egregious.
- [29] Ms. Orabovic referenced several more cases in Exhibit 6 those being the cases of the *Peel Regional Police and Constable Adam Cate, Toronto Police Service and Sergeant Gary Lewin and the Ontario Provincial Police and Richard A. Brayshaw*. These cases all involved inappropriate sexual harassment where there was a reduction in rank found to be the appropriate penalty.
- [30] In the case of *Ontario Provincial Police and Richard A. Brayshaw, September 3, 1992, ON PC CanLii 12273* (Exhibit #6, Tab 7), Detective Sergeant Brayshaw had been convicted of two counts of Discreditable Conduct and there was an appeal filed. Detective Sergeant Brayshaw's penalty was a reduction in rank from Detective Sergeant to First Class Constable. The allegations involved Detective Sergeant Brayshaw engaging in sexual comments and unwelcome touching with civilian employees. The appeal was dismissed

in this case and the penalty upheld.

- [31] Ms. Orabovic referenced paragraph 37 of this exhibit where it is stated that “we support the Presiding Officer in his attempt to send a clear message to the police and the public that this type of behavior is indeed discreditable and will not be tolerated.”
- [32] In Exhibit #6, Tab 6, *Toronto Police Service and Sergeant Gary Lewin, July 23, 2001, ON CPC Canlii 56739*, was referenced. This was an appeal against the finding of guilt on a charge of discreditable conduct made against Sergeant Lewin along with the penalty of a forfeiture of 15 days off or 120 hours.
- [33] Sergeant Lewin was alleged to have made offensive comments about women in the presence of a female officer while working together. Sergeant Lewin was her supervisor and training officer. The comments related to the legs, breasts, buttocks, and general appearance of women seen to be passing in the area that was being patrolled. The comments were not directed at the female officer, rather within the range of her hearing.
- [34] The appeal, as it applied to both guilt and penalty, was denied.
- [35] Ms. Orabovic completed her submissions by stating that the penalty she submits of a four-month demotion in rank is fair and reasonable. It strikes the appropriate balance and serves as a deterrent to Cst Bowles.

Member Representative – Mr. Andy Adams

- [36] Mr. Andy Adams, Member Representative for the Peel Regional Police Association, spoke on behalf of the officer and submitted that Cst. Bowles was before the Tribunal and accepted responsibility for three counts of Discreditable Conduct. Cst Bowles accepted the Agreed Statement of Facts and the Joint Submission as to Penalty.
- [37] Mr. Andy Adams also 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) (Exhibit #8, Tab #1)* was discussed to address the aggravating and mitigating factors to consider. In the present case, Mr. Adams submitted that the relevant factors of consideration included: Seriousness of the Misconduct, Recognition of the Seriousness of the Misconduct, Employment History, Ability to Reform or Rehabilitate the Officer, Specific and General Deterrence, Damage to the Reputation of the Police Force and Consistency of Disposition.
- [38] Mr. Adams first addressed the Seriousness of the Misconduct. It was agreed that Cst. Bowles conduct was in contravention of *Peel Regional Police Directive I-A-204 (f) – Code of Conduct and Discipline* and that the misconduct was serious in nature. The jointly proposed penalty adequately addresses the misconduct in this case.
- [39] With respect to the Recognition of the Seriousness of the Misconduct Mr. Adams submitted that in retrospect Cst Bowles recognizes that his comments in the presence of other members should not have been made and has realized that his unwelcomed

comments were not what he expects of himself. He understands that the Peel Regional Police will not tolerate this type of behavior. Cst. Bowles was cooperative when interviewed by Internal Affairs and is remorseful and embarrassed by his actions. By entering a guilty plea early in these proceedings, he has shown a clear acceptance of responsibility and recognition of his misconduct.

- [40] Mr. Adams spoke to Cst. Bowles Employment History. Cst. Bowles has been a police officer for 19 years with an employment file Mr. Adam's characterized as impeccable. Cst. Bowles has 29 honours and awards that consist of both internal and external recognitions. He has also been involved in the Kang Memorial Hockey Tournament over the past 7 years and has raised awareness on mental health issues on behalf of the Peel Regional Police Peer Support Team and Organizational Wellness as is captured in documentation in Exhibit #9, Tab 1, Book of Supporting Materials (defence). Also contained within Exhibit #9 are several copies of evaluations, commendations, letters of appreciation and emails all very positive of Cst. Bowles.
- [41] Mr. Adams discussed the Potential to Reform or Rehabilitate. Mr. Adams submitted that the issue of recurrence is closely connected with employment history. Cst Bowles, as previously discussed and demonstrated in Exhibit #9, has a very positive record of employment. Mr. Adams referenced Cst. Bowles last available annual evaluations ranging over many years from 2015 to 2018. A consistent theme was the rating in the majority of his performance dimensions of either "clearly exceeds expectations" or "exceeds expectations in some". Mr. Adams submitted many examples of positive comments provided by his supervisors who participated in the annual evaluations as detailed throughout Exhibit #9.
- [42] Mr. Adams submitted that when you consider the comments of his supervisors and ratings throughout his annual evaluations, along with his demonstrated work ethic, that these incidents of misconduct were isolated and unexpected poor decisions. Mr. Adams submitted that Cst. Bowles would continue to work in a positive manner once this matter is complete.
- [43] Mr. Adams addressed Specific and General Deterrence. He acknowledged that this matter does require deterrence. Mr. Adams submitted that the joint submission on penalty would have a tremendous impact on Cst. Bowles career. A demotion will have a financial impact and Cst. Bowles will be designated as a McNeil officer, which will have a further impact on his career. This will render him ineligible for promotion for a period of five years. This would also reaffirm the message to other officers that this type of conduct is unacceptable and will not be tolerated.
- [44] Mr. Adams addressed Damage to the Reputation of the Service. Mr. Adams submitted that there was no publicity in this matter and members of the public were not required to be interviewed by Internal Affairs. In saying that, Mr. Adams also stated that there is no doubt that the reputation of the Service would have been affected in a negative manner if the actions of Cst Bowles had become public knowledge.
- [45] Mr. Adams lastly addressed Consistency of Disposition. Mr. Adams referenced in Exhibit #9, Book of Supporting Materials (defence) that he had included ten cases dated between 2005 and 2019. There have been several internal discipline matters that involve members

who have made inappropriate comments. The cases included both formal and informal decisions. Mr. Adams submitted that the joint penalty proposed can be seen as being more severe when compared to some of the internal cases provided for review however the penalty being proposed has been jointly agreed to, giving due consideration to all the facts in issue and the particular details of this case.

[46] In conclusion, Mr. Adams submitted that the employment history of Cst Bowles is reflective of a productive officer with excellent potential whose career has now taken a turn due to a lapse in judgement. With Cst Bowles employment, involvement in the community and assistance in different initiatives you would not expect to see him in this tribunal dealing with misconduct. Cst. Bowles has made no excuses and accepted full responsibility of his actions. He is remorseful and has entered a plea of guilty at the earliest possible time.

[47] Mr. Adams submitted that the penalty of demotion to Second Class Constable for a period of three months is more than adequate in this case given the totality of the circumstances while considering Cst. Bowles's remorse, his dedication to the service and his potential to rehabilitate.

Submissions of Constable Bowles

[48] Cst Bowles spoke on his own behalf. He apologized to the tribunal for his actions. He stated his behavior was inappropriate and he is embarrassed by his actions. He did not want to bring the service into disrepute. Cst Bowles stated he had learned his lesson and this would not happen again.

PART III: DISCUSSION

[49] 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.

[50] Both the Prosecution and Defence in their submissions referred to Commission case law 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 Bowles are as follows:

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

Seriousness of the Misconduct

- [51] There is no doubt that the misconduct of Cst Bowles was serious. Both prosecution and defence agreed to this. The fact the misconduct involved harassment that was sexual in nature is an aggravating factor. Peel Regional Police Directive I-A-205(f) is clear in its definition of workplace harassment as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought to be known to be unwelcome”.
- [52] As stated in the Agreed Statement of Facts, on two of the occasions of misconduct, Cst Bowles was working as a supervisor in an acting capacity. Not only are police officers held to a higher standard but supervisors even more so. Officers look to supervisors for leadership and guidance. Not be subject to inappropriate comments and unwelcome behavior.
- [53] I find it troubling, as detailed in Count one of the Agreed Statement of Facts, that Cst Bowles engaged in inappropriate comments and behavior with a female officer over the course of a shift together and continued in this behavior even after being asked to be stop. This misconduct included showing the female officer offensive videos involving nudity and photographs of other women while making sexually harassing comments. I find these points under the Seriousness of Misconduct to be an aggravating factor to consider.

Recognition of the Seriousness of the Misconduct

- [54] Cst Bowles has pled guilty very early in these proceedings. He has expressed remorse and apologized to the Tribunal for his actions. He has recognized he was inappropriate in his behavior and is embarrassed of what he did. In addition to this, Cst. Bowles cooperated with Internal Affairs in their investigation and was respectful while being interviewed. I view this as a mitigating factor to consider.

Employment History

- [55] Cst. Bowles has over 19 years of policing experience. Both prosecution and defence agree that he has an unblemished employment history prior to these events taking place. I have reviewed the Book of Materials provided by Mr. Adams, which includes many awards, certificates, commendations and emails that are all very positive and congratulatory in nature. His annual evaluations are all positive and he “Clearly Exceeds” or “Exceeds in Some” in many performance dimensions over the three years of evaluations provided. Cst Bowles has volunteered his time in charitable events and raised awareness of mental health issues through his work with the Peel Regional Peer Support Team / Organizational Awareness. His employment history is a highly mitigating factor to consider.

Potential to Reform or Rehabilitate the Officer

- [56] Mr. Adams has submitted that the potential to reform or rehabilitate is closely connected with employment history. I agree with this submission. Cst. Bowles does have a very

positive record of employment. He has a consistent theme throughout the years of annual evaluations provided of exceeding in some fashion through many performance dimensions. His supervisors have given very positive comments on his work ethic and dedication to the service.

- [57] Ms. Orabovic submitted that it is problematic that the misconduct spanned over a year's time and that this was not a single incident. I do find that troubling as well, however the fact Cst. Bowles has expressed remorse and entered an early guilty plea in these proceedings in addition to his employment history, I will find this to be a mitigating factor to consider.

Specific and General Deterrence

- [58] Specific and general deterrence must be considered when assessing an appropriate disposition. It should demonstrate to the public and to the members of the police service that the misconduct is unacceptable. It is expected that all officers will act with professionalism and integrity. This needs to be clearly understood. I find in this case that this has been met.
- [59] The joint submission on penalty imposed will have an impact on Cst. Bowles career and serve as a reminder to others. As Mr. Adams submitted, Cst. Bowles will be affected financially and professionally as he will be a designated McNeil officer and will be ineligible for promotion for a period of five years.

Damage to the reputation to the Police Service

- [60] Ms. Orabovic submitted that the public and our members expect a workplace free of harassment and police officers are held to a higher standard. Two of the three incidents of misconduct occurred in the presence of other officers. As detailed in Count Three of the Agreed Statement of Facts, the third instance of misconduct took place in a hospital setting in the presence of not only other officers but also a nurse treating a patient. Mr. Adams submitted that this case did not receive any publicity and members of the public were not interviewed. I find that even though this case did not receive publicity, it is still an aggravating factor to consider as the misconduct did take place in front of other officers and in the public setting of a hospital.

Consistency of Disposition

- [61] Ms. Orabovic and Mr. Adams addressed consistency of Disposition in their submissions. I have reviewed the seven (7) cases provided by Ms. Orabovic in the Brief of Authorities (Exhibit #8) and the ten cases provided to me by Mr. Adams in the Book of Supporting Materials (Exhibit #9). The cases are comprised of both Commission and Peel Regional Police Service decisions. I concur with Ms. Orabovic and Mr. Adams 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 that support the proposed penalty which include Cst. Bowles's acceptance of responsibility, recognition of the seriousness of the misconduct, and his ability to reform and rehabilitate.

PART IV: DISPOSITION

[62] Constable Bowles'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

For the noted reasons, on the three (3) counts of Discreditable Conduct, as the Hearing Officer I impose on Constable Mark BOWLES #2510 of the Peel Regional Police Service:

A reduction in rank from First Class Constable to Second Class Constable for a period of three (3) months, following which the officer will be returned to the rank of First Class Constable on the basis of satisfactory work performance to be determined by the officer's Divisional Commander.

Marty Ottaway

Marty Ottaway, Superintendent #1872 Date: February 4th, 2021
Peel Regional Police – Hearing Officer