











considering the Seriousness of the Misconduct. Constable Kadri had a duty to prevent this situation from escalating and he did not act.

- [19] The prosecutor concedes that the Employment History of Constable Kadri is positive and there is nothing significant concerning previous discipline.
- [20] The prosecutor is also cognizant of the fact that the officer has accepted responsibility for his actions and that this speaks to the disposition factor of Potential to Reform or Rehabilitate the Police Officer.
- [21] The Prosecution indicates that it is important for General Deterrence that other officers are aware that there are serious consequences for misconduct. Specific Deterrence in this matter is also very relevant, as it will provide Constable Kadri with a personal reminder that when misconduct is committed he will face consequences.
- [22] The prosecutor provided the tribunal with a number of cases to assist when considering the disposition factor of Consistency of Disposition. The cases tendered into evidence within Exhibit #7 include: PRP and Dela Cruz (Tab #2), PRP and Livingston (Tab #3), PRP and MacLeod (Tab #4), PRP and O'Shea (Tab #5) and Knickle and Metropolitan Toronto Police (Tab #6).
- [23] The prosecution admits that it is difficult to produce an exact case that would be comparable to this matter given that the lack of action by Constable Kadri resulted in more assaults on Mr. Wray. However, the cases that have been supplied in Exhibit #7 and listed in paragraph [22] provide a strong foundation to support the proposed Joint Submission as to Penalty.

#### **Submissions of the Defence – Mr. Adams**

- [24] Defence submitted that Constable Kadri has accepted responsibility for his actions by entering a guilty plea and that Constable Kadri is in agreement with the joint submission as to penalty. Defence presented the tribunal with a book of Documents that contains eight tabbed indexes. The Book of Documents is marked as Exhibit #8.
- [25] Defence references the *Krug matter* and outlines the factors considered to be relevant to the Joint Submission as to Penalty. The factors include:
- 1) Seriousness of the Misconduct
  - 2) Recognition of the Seriousness of the Misconduct
  - 3) Employment History
  - 4) Potential to Reform or Rehabilitate
  - 5) Specific and General Deterrence
  - 6) Damage to the Reputation of the Service
  - 7) Consistency of Disposition
- [26] In relation to the Seriousness of the Misconduct, it was suggested that Constable Kadri was not the first police officer who had a lapse in judgement. Notwithstanding, it was agreed that the conduct was in contravention of the Peel Regional Police Directive I-A-204(F) and the

misconduct was serious in nature. The proposed joint penalty adequately addresses the seriousness of the misconduct.

- [27] The Defence addressed the Recognition of the Seriousness of this Misconduct by stating that Constable Kadri did not handle this situation in a way that would be expected by a member of the Peel Regional Police. He was remorseful and embarrassed by his actions. A guilty plea at this stage and his agreement with all the facts supporting the Neglect of Duty charge demonstrates both a clear acceptance of responsibility and recognition of his misconduct.
- [28] Defence submits that the Employment History of Constable Kadri is very positive. He has provided six years of professional and dedicated service to Peel Regional Police. His file does not contain any formal discipline but does contain eleven honours and awards (Exhibit #8, Tab #1).
- [29] Defence submits that Constable Kadri has continued to work effectively and positively throughout this disciplinary process. In addition, a number of positive comments from his Performance Appraisals (Exhibit #8, Tab #2, #3 and #4) are highlighted to support the position that Constable Kadri has the Potential to Reform or Rehabilitate. This incident should be considered an isolated incident.
- [30] Defence takes the position that this matter does require deterrence and that the penalty proposed will address the issue specific to Constable Kadri and also sends a general message that this type of conduct is unacceptable and will not be tolerated by the Service.
- [31] Defence submits that there was no publicity in this matter so Damage to the Reputation of the Service is limited. However, it is acknowledged that Peel Regional Police would have been impacted in a negative manner if the actions of Constable Kadri had become public knowledge.
- [32] The Defence provided the tribunal with a number of cases to assist when considering the disposition factor of Consistency of Disposition. The cases were tendered into evidence within Exhibit #8 and include: PRP and Lee Hoy (Tab #5), PRP and Campbell (Tab #6), PRP and Patterson (Tab #7) and PRP and Piercy (Tab #8).
- [33] Defence concluded by stating that Constable Kadri is a valuable and respected member of Peel Regional Police. He accepts responsibility for his actions; he is remorseful and pled guilty to the Police Service Act charge at the earliest opportunity
- [34] The Defence is confident that a penalty of five (5) days forfeiture is more than adequate, given the totality of the circumstances.
- [35] Constable Kadri was provided the opportunity to address the Tribunal. He apologized and took responsibility for his mistake.

**PART III: ANALYSIS**

- [36] The extent of informative detail before the Tribunal is limited to what is listed in the Agreed Statement of Facts, and by the submissions made by the Prosecution and Defence with their supporting materials. I have reviewed all of the information and evidence that was submitted.
- [37] In their submissions, both the Prosecution and Defence referred to Commission case law and specifically, to a 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 be considered 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 Kadri are as follows:
- a) Seriousness of the Misconduct
  - b) Public Interest
  - c) Recognition of the Seriousness of the Misconduct
  - d) Employment History
  - e) Potential to Reform or Rehabilitate the Police Officer
  - f) Specific and General Deterrence
  - g) Consistency of Disposition
- [38] I find the Misconduct of Constable Kadri very serious. His decision not to intervene in a manner that is expected of a Peel Regional Police officer contributed to an ongoing assault against Mr. Wray. Ultimately, Mr. Wray suffered significant injury. Constable Kadri had the ability to take action that would have resulted in a different conclusion. His decisions in this matter are very troubling.
- [39] In my view, there is a strong Public Interest in this matter. Police officers take an oath to uphold the law and protect the public from personal injury. Police Officers need to be leaders and take control of situations within the community. Police need the support of the public to carry out their duties. When a police officer fails to act and there is a clear duty to act, then public confidence in the police is damaged. This is the situation in this matter.
- [40] I accept the defence submission that Constable Kadri Recognizes the Seriousness of his Misconduct in this matter. His guilty plea at an early stage of these proceedings coupled with his apology and acceptance of responsibility for his mistake are important factors when considering the appropriate penalty.
- [41] There is no dispute that the Employment History of Constable Kadri is positive. There has been no evidence presented of previous discipline for my consideration. The information forwarded by defence in Exhibit #8 Tab #1 is very encouraging and illustrates an officer that has made valuable contributions to the community and to Peel Regional Police.
- [42] I am prepared to accept the position of defence that this was an isolated incident. The likelihood of a recurrence of this behavior from Constable Kadri is unlikely and he has



Potential to Reform and Rehabilitate. This belief is grounded in his acceptance of responsibility for his actions, his positive employment history that has been identified in paragraph [41] and his supervisory assessments forwarded in Exhibit #8 Tab #2, #3 and #4. The evaluations of Constable Kadri's performance are consistent. He adds value to the work environment and has the potential to continuously grow as a police officer and employee.

- [43] Specific and General Deterrence is a disposition factor that always needs to be considered in police misconduct matters. Constable Kadri needs a personal reminder that his actions amount to misconduct to assist in preventing similar behavior in the future. In addition, as I have stated previously, the failure to take action in this matter is troubling. Police officers are expected to uphold their oath and take action. An appropriate penalty in this matter will remind all officers that there will be consequences when one has a duty to act and does not act.
- [44] I have reviewed all of the cases that have been tendered into evidence by the prosecutor (Exhibit #7, Tab #2, #3, #4, #5, #6) and defence (Exhibit #8, Tab #5, #6, #7 and #8). The exercise of reviewing previous decisions is obviously very important when considering the disposition factor of Consistency of Disposition. I agree with the prosecutor. Every case is unique and finding a specific previous matter that speaks to the current factors is always a challenge.
- [45] The Joint Submission as to Penalty is consistent with the penalties decided in the matters forwarded to me for consideration. I trust the prosecution and defence to be fair in their penalty submissions. They have provided a reasonable and appropriate joint submission in this matter.

#### **PART IV: DISPOSITION**

- [46] I have reviewed all of the available evidence. I am not bound by the joint submission. However, there is no clear and cogent reason before me to vary from the submission on penalty. This penalty addresses the need for specific and general deterrence. It provides the necessary balance between the public interest, the interests of Constable Kadri and the interests of the Peel Regional Police. It provides assurance to the public and to the policing community that Peel Regional Police 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**

[47] For the noted reasons, on the one (1) count of Neglect of Duty, I impose on Constable Ayodeji Kadri #3926 of the Peel Regional Police Service:

**A Forfeiture of five (5), eight (8) hour days (40 hours in total) to be served (worked) at the discretion of the Unit Commander.**

2020-11-03

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Superintendent Graham Symington #1354  
Peel Regional Police – Hearing Officer

Date