

BACKGROUND

On Friday, September 20, 2013, **Staff Sergeant Paul BRIDGEMAN #1777** was found guilty of two Counts of Misconduct as described below.

COUNT #1

"Between April 23, 2010 to May 5, 2010 you did commit misconduct of Discreditable Conduct, in that you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force contrary to the Code of Offences section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 123/98 of the Revised Regulations of Ontario, 1997 and therefore, contrary to Section 80(1)(a) of the Police Services Act, R.S.O."

PARTICULARS

Staff Sergeant Bridgeman was the Officer in charge of Windsor Police Criminal Investigation Bureau (CIB) on April 23, 2010. On that date, he received a General Occurrence Report dated April 22, 2010 and a file relating to the arrest of Dr. Abouhassan by Detective VAN BUSKIRK on April 22, 2010. He assigned the investigation to Detective MCMILLAN. Detective MCMILLAN reported to Staff Sergeant Bridgeman that he had located a surveillance video tape. Staff Sergeant Bridgeman reviewed the video tape with Detective MCMILLAN, while Detective VAN BUSKIRK was present, on April 23, 2010.

Staff Sergeant Bridgeman oversaw the investigation of Detective MCMILLAN, reviewed the case and watched the video on numerous occasions.

Staff Sergeant Bridgeman had a telephone conversation with Dr. Abouhassan's lawyer, Anthony Barile, wherein he advised Mr. Barile that the surveillance video corroborated Detective VAN BUSKIRK's Report.

Staff Sergeant Bridgeman also met with Mr. Barile at Windsor Police Service Headquarters on April 29, 2010, at which time Mr. Barile, Detective MCMILLAN and Staff Sergeant Bridgeman reviewed the video. At that time, Detective MCMILLAN pointed to the initial interaction between Detective VAN BUSKIRK and Dr. Abouhassan stating that it was during that interaction that Dr. Abouhassan's "arm movement was threatening".

Staff Sergeant Bridgeman acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force by endorsing the Assault Police Charge against Dr. Abouhassan when there were no reasonable or probable grounds to do so, thereby committing misconduct of discreditable conduct contrary to the Code of Offences Section 2(1) (a) (xi) of the Code of Conduct, O. Reg. 123/98 of the revised Regulations of Ontario, as amended.

COUNT #2

“Between April 23, 2010 to May 5, 2010 you did commit misconduct of Neglect of Duty in that you without lawful excuse, neglected or omitted promptly and diligently to perform a duty as a member of the police force contrary to the Code of Offences section 2(1)(c)(i) of the Code of Conduct, Ontario Regulation 123/98 of the Revised Regulations of Ontario, 1997 and therefore, contrary to Section 80(1)(a) of the Police Services Act, R.S.O.”

PARTICULARS

Staff Sergeant Bridgeman failed to properly monitor and oversee an investigation under his command. He failed to properly monitor and oversee an investigation under his command. [sic]

Staff Sergeant Bridgeman willfully and/or negligently disregarded inconsistencies in the information obtained by Detective MCMILLAN during the course of the criminal investigation and allowed an Assault Police Charge to be laid against Dr. Abouhassan, thereby committing misconduct of neglect of duty contrary to the Code of Offences Section 2(1) (c) (i) of the Code of Conduct, O. Reg. 123/98 of the Revised Regulations of Ontario, as amended.

Hearing on the Matter of Penalty

The sentencing phase of the Hearing commenced on Monday, December 9, 2013, and lasted two days. The Prosecution did not call any witnesses but the Defence called the following nine members of the Windsor Police Service;

Superintendent Michael LANGOUIS
Deputy Chief Jerome BRANNAGAN (Retired – January 11, 2013)
Constable Craig JUDSON
Detective Dave TENNANT
Inspector John MCQUIRE
Staff Sergeant Allen FARRAND
Staff Sergeant Todd LaMARRE
Inspector Pat KEANE

POSITION OF COUNSEL AND THE LAW

Counsel were far apart in their submissions as to the appropriate disposition. The Prosecution has asked for a demotion to the rank of Sergeant for a period of 18 months while the Defence position was for a reprimand. Once again they were agreed that S/Sgt. BRIDGEMAN' is equipped with the skills, knowledge and training required to adequately perform the role of a Staff Sergeant.

I have carefully reviewed the argument and comments of Counsel both of whom were very able in presenting their positions. Although I noted all of their positions, I have commented below on those which raised important issues in the determination of the appropriate disposition of this matter.

CONSISTENCY OF PENALTY

As the Prosecution has pointed out, cases mirroring the particular circumstances and nuances of this matter are not easily come by. I have enumerated the cases below and commented as to the application of each, in my mind, as they relate to aiding in a determination of an appropriate sentence.

ASSESSMENT OF PENALTY

The factors to be considered by a hearing officer in assessing penalty are well established. They have been articulated in many decisions. In *Reilly and Brockville Police Service* (1997), 3 O.P.R. 1163 (O.C.C.P.S.) at page 1169 to 1170 they were described as follows:

*“In Williams and OPP (December 4, 1995, O.C.C.P.S.), the Commission identified three key elements to be taken into account. These include the **nature and seriousness of the misconduct**, the **ability to reform or rehabilitate the officer**, and the **damage to the reputation of the police force** that would occur if the officer remained on the force. There are also other factors which can be relevant, either mitigating or aggravating the penalty depending on the particular misconduct in question. They include the officer’s:*

- **employment history and experience;**
- **recognition of the seriousness of the transgression, and**
- **handicap or other relevant personal circumstances.**

*Finally, other considerations could include **provocation**, the **need for deterrence** and **concerns arising from management approach to the misconduct in question.***

When imposing penalty it is also important to take into account prior disciplinary cases dealing with similar types of misconduct. The reason for this is simple. As the Commission stated at page 615 in its decision in Schofield and Metropolitan Toronto Police: “Consistency in the disciplinary process is often the hallmark of fairness. The penalty must be consistent with the facts and consistent with similar cases that have been dealt with on earlier occasions.”

I will also make note of the observations of Superintendent FITCHES (Ret.), a very well-known and highly experienced Hearing Officer, in PPC David MOORE and Ontario Provincial Police - OCCPS#08-02, one of the cases presented, that adequately expresses the difficulty of ensuring consistency in relation to matters for which there are no known similar fact cases;

“While not disagreeing in the slightest with the notion of consistency as described by the Ontario Police Commission, I must, nonetheless state my views that in my experience, consistency is frequently an elusive target indeed. Because of the various and often unpredictable dynamics that enter into a hearing and into any given fact situation, it is often easier to talk about consistency than it is to actually apply it.....”

In addition, I have been directed by Counsel to “*Legal Aspects of Policing Volume 1*” at page 5.10(e) which adds **Public Interest, Procedural Fairness Considerations, Effect on the Police Officer and Police Officer’s Family, Effect of Publicity and Loss Resulting from Unpaid Interim Administrative Suspension** to the list of mitigating or aggravating circumstances to be considered if appropriate.

Obviously not all of the factors are necessarily relevant in each and every case.

The particular circumstances found in this matter are quite unusual and Counsel provided a number of cases (Appendix B). Some of the points to be remembered here are that;

1. The Defendant is a very experienced officer with at least 25 years of service at the time of the offenses and at the time he held the rank of Detective Sergeant in the Criminal Investigations Branch.
2. He became aware that a serious violent crime had been committed against an innocent member of the public by a Windsor Police detective.
3. He knew that the citizen was falsely accused by the officer of Assault Police but failed to protect him from further unjustified allegations.
4. He failed to properly direct the assigned investigator.
5. He failed to notify his superiors of the contents of a surveillance tape that showed the officer assaulting the citizen.
6. He allowed the investigating officer to submit an official report which he knew was misleading and supported the arresting officer’s version of events which he also knew to be untrue.
7. He allowed a Criminal Information to be laid against the citizen when he knew that the informant would unwittingly act upon the information generated from within the General Occurrence as the basis for his belief.
8. His actions were likely to bring the reputation of the Service into disrepute.
9. The conduct in this matter contains elements of deliberateness, deceit and breach of trust as well as a complete lack of acceptance of responsibility.

CASES CONSIDERED

Supt. Paul **GOTTSCHALK** and Toronto Police Service - OCCPS, January 29, 2003

In this case a Superintendent of the Toronto Police Service failed to follow up on information that he received regarding the past conduct of officers under his command that had left their appointed place of duty to go drinking. Their misconduct came to light in relation to the murder of a police officer that happened prior to him becoming aware of the issue. His lack of action did not contribute to the murder but was simply a failure to take appropriate disciplinary action. The penalty in that matter was a reprimand. The circumstances of this case bear little resemblance to the matter before this Tribunal.

Sergeant Shawn **HEWLETT** and Ontario Provincial Police - OCCPS#07-07

(Both the OCCPS and original Hearing findings were supplied and reviewed)

This matter concerned primarily the investigation of allegations of domestic assault by a number of officers under the direction of Sgt. HEWLET. It was alleged that Sgt. HEWLET failed to ensure that all of the OPP's directives and procedure relating domestic investigations were undertaken properly and in a timely manner. The Commission stated;

"We agree with the Hearing Officer that Sergeant HEWLETT did not offer proper direction to his officers. He was neglectful in not ensuring that the appropriate OPP Orders were followed by officers under his immediate and direct supervision. He did not ensure that there was diligence in the collection of evidence."

The penalty was a formal reprimand accompanied by specified training.

In effect a shoddy job resulted but otherwise this case has none of the more disturbing aspects of the matter before the Tribunal.

PPC David **MOORE** and Ontario Provincial Police - OCCPS#08-02

(Both the OCCPS and original Hearing findings were supplied and reviewed)

This matter involved the investigation of a car and its occupants after a pursuit. The officer was charged with Neglect of Duty for failing to conduct a proper investigation of the property in the vehicle and for releasing property that might have been obtained from the commission of a criminal offence. That the seriousness of this matter is by far much less than that before the Tribunal it is only necessary to read the comments of the experienced Hearing Officer, retired Superintendent Robert FITCHES who stated;

“After having heard the evidence, and in consideration of Constable MOORE’s career history and his work ethic as described in his evaluation, it is my belief that Constable MOORE’s neglect of duty was an error, possibly brought about by his commitment to some of the other aspects of the investigation and resulting prosecution.”

The matter was disposed of by reprimand.

PPC Graham **BETTES** and Peel Regional Police Service - OCCPS, February 6, 1996

Again this is a matter of a simple neglect of duty during the investigation of a Fail to Remain Collision. It involved a very junior officer who had only investigated 4 or 5 accidents prior to the one related to the charges against him. It is only necessary to quote from the Commission’s observation in the Penalty section of its decision to understand that this matter simply cannot be compared to the case presently before the Tribunal;

“It is unfortunate that this matter was not dealt with by way of counselling or perhaps an admonishment under the less formal provisions of section 59 of the Act. For these reasons we reduce the penalty from three days to a reprimand.”

PC Roy **FRIEGHT** and Hamilton Police Service - November 18, 2002

Constable FRIEGHT was the acting Sergeant at the time of an incident at a shopping mall for which the Service responded believing that there was a man with a gun. The response caused considerable commotion and was a very notable public event. PC FRIEGHT (the A/Sgt.) failed to ensure that a General Occurrence Report was submitted at the conclusion of the incident. At a later time the Chief of Police received an enquiry but, because a report had not been filed, he had no knowledge of the incident. Again this case has no resemblance to the issue before the Tribunal although the comments of the Commission are pertinent in regards to the responsibilities of S/Sgt. BRIDGEMAN;

*“The Appellant urges us to find that the only individuals responsible to ensure that the reports are filed were the officers who attended the scene. We cannot accept that proposition. **Supervisors must supervise. The buck stops there.**”*

(emphasis added)

PC’s Nick **CHEUNG** and Sean **MCGRATH** and Toronto Police Service - OCCPS#10-03

This Discreditable Conduct case is regarding whether or not officers called to a residence regarding a rent dispute should have entered the resident’s home. They were found not to

have had any authority in law for having done so and were convicted. Their actions drew judicial criticism and led to a public complaint. The officers lost 3 days off. Again the circumstances of this case have little in common with the matter before the Tribunal.

PC C. BERNARDON and Windsor Police Service (2 Unreported) May 23, 2012

This relatively junior officer faced PSA charges as a result of two separate sets of circumstances, one of which was generated through a public complaint as to the officer using profane, abusive or insulting language towards the public. The other situation revolved around the officer's domestic situation which had resulted from him having assaulted his spouse and breaking a non-communication undertaking. The matters were all dealt with by way of pleas and an agreed statement of facts. He was demoted from first class to second class constable for a total period of 12 months.

Although these matters were serious, and generated significant sanction, I doubt whether they generated the public interest and scrutiny that the matters currently before this Tribunal have. Some other notable differences include; recognition of the seriousness of the offenses, the experience and responsibility level of the defendant, the lack of the elements of deceit, or breach of trust.

Although this matter is quite distinguishable from the case of S/Sgt. BRIDGEMAN from a purely facts perspective, it provides some assistance to me as to determining penalty. It is both recent and local in nature and gives some insight into the expectations of the service.

Sergeant Daryl HALL and Windsor Police Service (Unreported) June 13, 2006

The matter for which Sgt. HALL was dealt with was in relation to his neglect of duty as the sergeant in charge of the Windsor Police lockup. He was aware that a fifteen year old female had been assaulted while in the custody of the Windsor Police Service and yet he did not take the appropriate action. He did not entirely conceal the matter or who was responsible. Nevertheless, he was guilty of a serious dereliction of his duty. His excellent work history and a Medal of Bravery award received around the same time period appears to have been taken into account along with consideration being given for the time he had spent under suspension. He received a penalty on a joint submission of the loss of 15 days leave. It is also worth noting the comments of the Hearing Officer, the then Inspector Jerome BRANNAGAN, who stated;

"However, I do not hesitate to point out to Sergeant HALL that more serious penalties already mentioned here, could have been realities in this matter."

Although this matter is relevant as it relates to the failure of a supervisor to intervene on behalf of a person being charged (and in this case actually in detention) again however, it is devoid of the more egregious issues present in the matter before the Tribunal and as described above.

R. v. Bradley D. SNYDER (Unreported) July 22, 2010, at Windsor

This matter refers to a criminal case in which the officer was convicted of Common Assault. The victim in the matter was handcuffed at the time. The judge granted a Conditional Discharge the probation period being one year. I note in this matter that the officer had already been dealt with in regards to the police discipline process and had apparently been penalized in the amount of \$4000. In addition, he made a further charitable donation of \$2000 bringing his effective financial penalty to \$6000. Also in this case the officer appears to have been suffering from some personal issues causing him to seek psychiatric counselling. Also of note is that the Crown stated that it was not seeking any type of weapons prohibition.

Again, I find that the circumstances of our matter are far different from those in the SNYDER case.

R. v. HUTCHISON [2009] O.J. No. 3588, 2009 ONCJ 387 August 12, 2009

Counsel referred me to paragraph 11 of the Judge's comments on sentencing in this case that revolves around a person resisting a lawful arrest by PC Ryan HUTCHISON which resulted in an accusation of excessive force against the officer and for which he received an Absolute Discharge.

Counsel's submissions regarding the comments of the judge in the matter (the banking of credit through previous good deeds or performance) are acknowledged by me as being appropriate in these matters.

With regards to penalty in this matter these were very different circumstances than those we are dealing with and I also note the Judge's comments in arriving at sentence;

"I agree with his lawyer, Mr. Kinahan, that as I look at all of this before me, and I have looked at it carefully, it was a momentary action done in anger and frustration. That is at the heart of this sorry event. It cannot be condoned but it should not be overblown either. We are not talking about a Rodney King situation here as I see this case".

A "momentary action done in anger and frustration" is not the case here.

PC Michael O'REILEY and Ottawa Police Service - 2013 on Sentence

This unreported case was tendered for its comments regarding the requirement that police officers are to be held to a higher standard and that they should act in the public interest. It is a case where the officer failed to arrest a person regarding a domestic abuse situation. I accept these comments as being relevant to this matter.

I also note the logic upon which the penalty, a 3 month reduction in rank, was arrived at.

PC David GUENETTE and Ottawa Carleton Regional Police Service - OCCPS#98-15

In this matter the Commission reversed the Hearing Officer's disposition of dismissal in relation to a theft of \$200 from a citizen who had left their bank card in a bank machine. The officer was in uniform at the time. The case stands for the proposition that highly discreditable behavior warrants significant penalty. The Commission in reversing the dismissal cited the officer's ability to reform and replaced the penalty with a 2 year demotion. There was also a misuse of CPIC.

I also note the comment of the Commission at page 9 in respect to consistency;

"We agree that "consistency in the disciplinary process is often the earmark of fairness". However, each case will have its own unique elements".

Sergeant Greg ANDREWS and Midland Police Service - OCPC#03-12

This case has some common aspects to the one before the Tribunal with respect to the role and responsibility of supervisors and it involved potential misconduct by another (of-duty) officer. It was presented for the proposition that the conduct in the role of supervisor requires stronger sanction. Sgt. ANDREWS was charged with 4 counts of Neglect 1 of Deceit. Deceit is in my view, one of the most serious offenses in the Code of Conduct.

The Commission found the penalty to be harsh and not to have taken into account the prospect of rehabilitation. In this matter the primary reasons that caused the Commission to vary the punishment are not present because the Service is not requesting dismissal and is accepting of an automatic return to the present rank after a period of reduction. In other words the Service is accepting of the rehabilitation prospect of S/Sgt. BRIDGEMAN.

PC Michael O'GORMAN and Windsor Police Service – July 10, 2013

This case is unreported and relates to Discreditable Conduct and Insubordination that was dealt with by an Agreed Statement of Facts and guilty plea. The officer had taken photographs of a female victim of assault when unaccompanied and when a female member was available. He

had also misused CPIC in relation to the same matter. He was demoted for 12 months. This has one aspect in common with the matter before the Tribunal in that there was, in effect, re-victimization of the complainant but it is also absent a number of the aggravating circumstances in the matter before the Tribunal including the supervisory position of S/Sgt. BRIDGEMAN, recognition of responsibility and the other factors mentioned in the previous list.

I accept that this case is of some value in attempting to reach a determination of consistency, especially in that it is a recent local case.

With the exceptions noted above I find most of these cases of very limited help as they mainly refer to single charges of Neglect of Duty, none of which in themselves, appear to have contributed to anything like the public interest and consequent embarrassment for the Service that this matter has, especially coming on the heels and directly connected to, the conviction of the former detective David VANBUSKIRK.

RETENTION OF S/SGT. BRIDGEMAN IN THE INVESTIGATIONS DIVISION

All too often officers who are suspended, at considerable public cost, remain in the Service's employ at the conclusion of the discipline process and therefore it is prudent to suspend only those who are likely candidates for dismissal or who are otherwise unfit for duty. In any event, it is the exclusive right of the Chief of Police to make such decisions.

Some argument was made by Counsel regarding the retention of S/Sgt. BRIDGEMAN, be it with the oversight of Insp. MCQUIRE, in the same position he occupied while these matters were proceeded with. The concern apparently being that this might in some respect count as either an aggravating or mitigating factor on sentence. In my view it is neither. The Service had apparently recognized that S/Sgt. BRIDGEMAN had a high probability of continued usefulness and therefore had no intent to, and in fact did not, request the penalty of dismissal.

SYSTEMIC ISSUES

I have carefully reviewed the “*Defendant’s Book of Records on Sentencing*” and in particular at TAB 4 (A) (B) and (C). ((A) Press Release January 6, 2012 – Project Accountability by A/Chief A. FREDERICK, (B) a 15 page extract from the Draft Report of the OIPRD entitled “*Windsor Police Service Policy and Service Review*”, and (C) a 41 page WPS report entitled “*Service Improvement Plan*” that tracks the implementation of the OIPRD report’s recommendations.) The Defence argues that there have been Systemic Issues that have contributed to the misconducts for which S/Sgt. BRIDGEMAN has been convicted, relating in particular to:

1. Changes that have since been made to the SIU notification protocol. The injury threshold for reporting has been reduced. (The *OSLER* definition of “*serious injury*” has been adopted rather than the previous definition which had been suggested by the OACP.)
2. Changes have since been made to the Conflict of Interest Directive prohibiting members from being involved in the investigation of incidents in which a family member is involved.
3. Changes have since been made which raise the level of oversight in the case of Assault Police charges. Now either the Inspector or Superintendent of the Division where the complainant officer is assigned has to approve the laying of a charge

Counsel argues that;

1. Had the SIU been notified of the injuries to Dr. ABOUHASSAN on the evening that he was assaulted by David VANBUSKIRK the matter would not have been assigned to S/Sgt. BRIDGEMAN and therefore no misconduct would have occurred.
2. Officers are not now allowed to take part in respect of investigations involving their own relatives. Perhaps the actions of David VANBUSKIRK would not have occurred.
3. Formally, the Investigations Branch prepared and oversaw Assault Police Charges. Evidence was heard from Retired Deputy Chief J. BRANNAGAN that he believes that after a change was made, taking the final decision away from Detectives and Detective Sergeants, Assault Police charges dropped by 75%.

I believe that arguments framing these “systemic issues” as mitigating factors are, in the particular circumstances of this matter, spurious for the following reasons;

1. S/Sgt. BRIDGEMAN’s misconduct is completely without any reliance upon the level of injury sustained by Dr. ABOUHASSAN. The misconduct issues with which he has been convicted involves determination of who the aggressor was by means of a thorough and complete investigation, devoid of bias and based upon observable facts. Once S/Sgt. BRIDGEMAN saw the surveillance video he must have known that David VANBUSKIRK was the aggressor. Certainly, when the video is observed in conjunction with the duty report of David VANBUSKIRK there can be no doubt. Even if Dr. ABOUHASSAN had sustained only the most minor of injuries, a level of injury not required to be reported to the SIU, he was still not the aggressor and the matter would still have been referred to S/Sgt. BRIDGEMAN. It should also be remembered that the true level of the victim’s injuries were not known to the Senior Officers involved in the decision to bifurcate the incident, one aspect of the investigation being, and rightly in my view, directed to the Special Victims Unit, while the other was directed, as was the practice at that time, to the Investigations Branch for oversight and preparation. I must also note that at TAB 4 (A), page 5, line 5 of the “*Defendant’s Book of Records on Sentencing*” it is stated by the then Acting Chief A. FREDERICK referring to the David VANBUSKIRK incident, “*OIPRD also investigated allegations of misconduct that were not substantiated; namely an allegation of failing to notify SIU of a serious injury as per legislation. This allegation was not substantiated by OIPRD after their independent investigation”.*
2. David VANBUSKIRK, who was reported to appear angry, was apparently prepared to commit a crime, a serious assault, and so it is unlikely that the presence of a WPS Directive would have prevented that from happening. In any regard he did assault the doctor and discussion of what his conduct might, or might not have been, had the Directive been previously amended, is pure speculation without foundations that would assist in assessing the seriousness of S/Sgt. BRIDGEMAN’s conduct.
3. I am wary of untested statistics but it seems to be likely from the evidence of retired Deputy Chief J. BRANNAGAN that the reduction in Assault Police charges has been significant. It may be that some investigators have not conducted very thorough reviews of Assault Police charges but in my view it is very unfortunate that the Service has been forced into the position of having an Inspector (or Superintendent), the positions of which are primarily administrative, assess whether a common charge such as Assault Police, should be laid or not. (Unless

perhaps, a Staff Sergeant or officer of higher rank is the alleged complainant.) It would seem to me that Senior Officers should be able to rely upon Detective Sergeants who are qualified and entrusted to oversee and give advice to Detectives engaged in the investigation of a wide range of very serious criminal offenses on a daily basis. Otherwise, what is the point in having a Detective Sergeant lead the day to day operations of an investigative unit? The Tribunal heard, at an earlier point, that the original purpose of assigning the case preparation of Assault Police charges to the Investigations Branch was to ensure they were reviewed prior to proceeding; *“A second set of eyes, so to speak”*. Ironically, it appears likely that this change has occurred precisely because S/Sgt. BRIDGEMAN abrogated his duty, an act that was likely to bring discredit upon the Service, and has in fact done so. The Tribunal has heard considerable evidence of the respect and trust placed in S/Sgt. BRIDGEMAN by officers at all levels of the Service but, on this occasion, he violated that trust in a very serious and consequential manner.

MANAGEMENT APPROACH

The Defence has previously, and again during this phase of the Hearing, attempted to bring into question what was known by Senior Officers and in particular by the then Superintendent Vince POWER. Some of the witnesses called by the Defence during this phase of the Hearing appeared critical of the Senior Command and at least inferred some level of failure at that level. The argument appears to be designed to infer that Senior Officers knew more about the circumstances of the assault upon Dr. ABOUHASSAN and perhaps should have taken different action; the implication being, that a lack such of action in some way relieves S/Sgt. BRIDGEMAN of some responsibility.

I am not prepared to entertain this argument as a mitigating circumstance for the following reasons;

1. The now Deputy Chief POWER could have been called as a witness but was not.
2. The evidence of S/Sgt. FARRAND is that the video could not be viewed on the Versadex system and that it would be unlikely that the report could be reviewed in its entirety within 15 minutes.
3. The only information available to the then Superintendent POWER on the Versadex system during the period of April 22 – May 3, 2010 was contained within the forty-

one page “*General Occurrence #2010-22570*” (Exhibit 29) which was accessed by him over a period of 15 minutes on April 29, 2010. (Exhibit 50 – Summary of File Access)

4. Exhibit 29 (GO# 2010-22570) at page 40, “*Related Property Report(s)*” indicates that Detective MCMILLAN did not submit the surveillance video into property holding until **May 19, 2010**. It is logical to expect that he had possession of it until that time.
5. S/Sgt. BRIDGEMAN met with Supt. POWER on either the 29th or 30th of April (his testimony was the 30th) but he testified that the information he imparted to the Superintendent was in regards only to the intentions of Mr. BARILE.
6. It was the evidence of S/Sgt. BRIDGEMAN that he reviewed the summary of the video prepared by Det. MCMILLAN on April 24, 2010. (Exhibit 29 GO# 2010-22570 **pg. 18** of 41)
7. I find that the description of the video as entered by Det. MCMILLAN, and reviewed by S/Sgt. BRIDGEMAN is substantially incorrect and is misleading. As an example, the report states at the last sentence of the sixth paragraph (the beginning of the video description), “*It appears that the accused makes a sudden movement with his right arm and Detective Vanbuskirk grabs the accused’s right wrist*”. This inaccurate description of the events depicted at the beginning of the confrontation in the surveillance video incorrectly leads a reader to the belief that Dr. ABOUHASSAN was the initial aggressor.
8. In the “*Narrative: Charge Summary*” (Exhibit 29 GO# 2010-22570) prepared by Det. MCMILLAN and referring to the initial encounter it states at **pg. 7** of 41, “*The accused immediately grabbed Detective Vanbuskirk by the throat and pushed him backward*”. Again, this would lead a reader to the belief that Dr. ABOUHASSAN was the aggressor. Further, no explanation for the discrepancy between MCMILLAN’s account at **page 7** and his description of the video at **page 18** is ever provided. The fact is that neither account is correct and that both would lead the then Superintendent POWER to have the belief that David VANBUSKIRK had been assaulted. A fact apparently confirmed for him by the author of the investigative reports, Det. MCMILLAN; the very officer assigned by the Service to investigate the matter and who was under the direction of S/Sgt. BRIDGEMAN. This version of the event is also repeated at **pg. 11** in the “*Narrative: Initial Officers Report*” authored by David VANBUSKIRK on April 22, 2010, and a careful reader cannot become aware of any discrepancy for a further **7** pages, in Det. MCMILLAN’s summary of the video which was, as I have already stated, inaccurate.

9. **There is no evidence before this Tribunal that S/Sgt. BRIDGEMAN ever raised a concern to any Senior Officer regarding the conduct of David VANBUSKIRK although he was inherently required by his duty, and his responsibility as a Supervisor, to notify his superiors that he had become aware of a serious misconduct committed by a member of the Service.**
10. It is evidence adduced by the Defence that he had caused his superiors to be notified of suspected misconduct in the case of the former Constable Michael SHANNON. It is therefore reasonable to believe that he knew what his duty, in the case of David VANBUSKIRK, actually was.

SERIOUSNESS OF THE MISCONDUCT

Policing in Ontario is based on six principles. They are set out in the very first section of the Police Services Act RSO 1990 which reads:

1. Police services shall be provided throughout Ontario in accordance with the following principles:
 1. **The need to ensure the safety and security of all persons and property in Ontario.**
 2. **The importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code.**
 3. **The need for co-operation between the providers of police services and the communities they serve.**
 4. **The importance of respect for victims of crime and understanding their needs.**
 5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
 6. The need to ensure that police forces are representative of the communities they serve.

In accordance with these principles the misconducts committed by S/Sgt. BRIDGEMAN must be considered to be extremely serious for the following reasons;

1. S/Sgt. BRIDGEMAN is a very experienced investigator with at least at least 25 years of service at the time of this incident. Several witnesses described him as a “*go to person*” within the Service. **He could not have misapprehended the significance of the surveillance video which he viewed on several occasions.**
2. His position was primarily supervisory and administrative within a criminal investigation branch, an important component of any police service. His duty at the time required that he supervise and provide advice and direction to other members themselves holding supervisory positions (Detectives/Sergeants), and to Constables. **All aspects of the evidence presented during this Hearing point to a complete failure on his part to properly direct Det. MCMILLAN or to cause an appropriate investigation to be carried out into the criminal conduct of David VANBUSKIRK.**
3. The effect of the failure to perform his duty was to compound the discredit already wrought upon the reputation of the Service by VANBUSKIRK. **It was he who, on his first viewing of the surveillance video, was in a position to take the action necessary that would have helped mitigate damage to the Service’s reputation on that matter.** Unpleasant as such an internal investigation is it would surely have helped to redeem the image of the Service in the eyes of the public. It is this kind of supervisory failure that may serve as a sufficient example justifying the creation in this Province of two independent police oversight bodies, the OIPRD and SIU.
4. It appears that S/Sgt. BRIDGEMAN fails to accept appropriate responsibility as his defence has revolved around insinuations that it was the action or inaction of others within the administration that bear responsibility for the situation he now finds himself in. **The reality is that he was the most senior member of the Service to view the surveillance video and understand its implications. He did not inform the Inspector of Investigations, the Superintendent of the Investigations Division or the Professional Standards Branch. The error was entirely his as Detective MCMILLAN did not conceal the video from him.**
5. Not only did S/Sgt. BRIDGEMAN not immediately bring the content of the surveillance video to the attention of his superiors, he also allowed the General Occurrence Report to stand uncorrected. When it was apparently checked by Insp. MCQUIRE on April 26, 2010 at 07:03 (Exhibit 50) the Inspector could not have known that the *Narrative: Supplementary*, submitted by Det. MCMILLAN on April 24,

2010 at 08:22, was inaccurate and misleading in its description of the event as captured by the surveillance video. **It appears somewhat disingenuous to suggest that it was the administration's fault that it did not act. The 'red flag' was never raised and in fact was effectively concealed by S/Sgt. BRIDGEMAN and Det. MCMILLAN.**

6. S/Sgt. BRIDGEMAN allowed the *General Occurrence Report* to be populated with information that he knew to be untrue. He knew that the *Detailed Charge Summary* would ultimately be relied upon as being true by Det. Kevin CROUGH, the Service's common informant. **The result of such action can only further discredit the reputation of the Service in the eyes of the Judiciary and negatively impact upon the administration of justice. I consider it to be a serious aggravating factor to have been complicit in misleading an affiant in such a manner.**
7. Perhaps most disturbingly, a sworn police officer holding an important supervisory position within the Service, permitted a person, Dr. ABOUHASSAN, a citizen who he knew was falsely accused of assault by VANBUSKIRK, to be victimized for a second time. **Dr. ABOUHASSAN gave evidence before this Tribunal that he was in fact less upset by the initial assault committed by Det. VANBUSKIRK than he was by the fact that, despite the video evidence proving his innocence, the original charge was not withdrawn by the police.** He also indicated that the existence of that charge had caused him professional difficulties.
8. Several witnesses have testified that S/Sgt. BRIDGEMAN was highly respected and trusted by the members of the Service in general, and by the Service's Administration. He exposed the Service's reputation to disrepute by his failure to immediately disclose the surveillance video's content to the senior management of the Service which amounts to **a serious breach of trust and is a serious aggravating factor.**

RECOGNITION OF THE SERIOUSNESS OF THE MISCONDUCT

The Prosecution has argued that there has not been recognition of the seriousness of the misconducts for which he has been convicted and I must agree for the following reasons;

1. During his testimony before this Tribunal S/Sgt. BRIDGEMAN continued to claim that the video was "*powerful evidence*" and "*The video was a great piece of evidence.*" supporting the Assault Police charge against Dr. ABOUHASSAN despite;

- a. The Crown's early decision (June 2010) to stay the charge against Dr. ABOUHASSAN.
 - b. The decision of the SIU to proceed against David VANBUSKIRK.
 - c. The admission of guilt and conviction of David VANBUSKIRK.
 - d. The reports of the OIPRD which resulted, at least in part, from their viewing of the video and also resulted in charges against himself and Det. MCMILLAN.
2. He gave contradictory evidence during which he alternated between claims to have given direction to Det. MCMILLAN as to the conduct of the investigation, while at other times distancing himself from it by claiming its conduct was up to Det. MCMILLAN and that he was too busy with other matters. This, despite the fact, that he had meetings with Dr. ABOUHASSAN's lawyer, and with whom he viewed the video, "*perhaps seven or eight times.*"
 3. During his evidence he again distanced himself (and Det. MCMILLAN) when he stated that they had been "*book ended.*" He also claimed that there has been no suppression of evidence despite the fact that none of the three descriptions of the surveillance contained within Exhibit 29 accurately reflect what actually took place during the initial contact between Dr. ABOUHASSAN and David VANBUSKIRK and that the video's true content was not disclosed to the Administration.
 4. He described Det. MCMILLAN as being a "very clever" man for his repetitive use of the term "it appears" in his description of the video's content commencing at page 8 of Exhibit 29 GO# 2010-22570 in which MCMILLAN, in effect, obfuscated the truth of what had actually occurred and was revealed in the video.
 5. He has continued, through argument, to suggest that others above his rank bear responsibility despite the fact that there is no evidence that he reported the content of the video or made the video available to those members.
 6. He has, also through argument, continued to suggest that the conviction of David VANBUSKIRK of Public Mischief excuses him of blame. This is despite the fact that VANBUSKIRK had effectively committed that offense as soon as he submitted the *Narrative: Initial Officers Report* (Exhibit 29 at page 11 of General Occurrence #2010-22570) on April 22, 2010 at 18:54 hours. It was his responsibility, along with Det. MCMILLAN, to properly investigate the subject matter of that very report and the discovery of the video was conclusive proof that the incident did not occur in the manner reported by VANBUSKIRK. He knew that Det. VANBUSKIRK had committed

Public Mischief contrary to the Criminal Code and Deceit contrary to the Code of Conduct.

7. At no time during his evidence did he acknowledge the harm that has occurred to Dr. ABOUHASSAN.

EMPLOYMENT HISTORY

It was acknowledged at the outset of the Hearing and was reconfirmed during this phase that S/Sgt. BRIDGEMAN is completely capable of carrying out his duties.

Each one of these witnesses (with the exception of S/Sgt. FARRAND), most of whom have known him for many years, hold a very high opinion of S/Sgt. BRIDGEMAN as a person and they were common in their respect for his professional proficiency. He was indicated to be highly trusted by the Senior Command and was described at the “go to” person. He displayed leadership and has the skills and ability to get things done or to assist others to do so. He was also recognized for his compassion and his ability to mentor others with regard to not only their professional lives but also for his willingness to assist members dealing with personal issues.

I have carefully reviewed the evidence (notes and audio recordings) of all of the witnesses testifying at this stage of the proceedings. The general respect and praise of S/Sgt. BRIDGEMAN as described by the witnesses called on his behalf was not challenged by the Prosecution and no witnesses were offered with opposing viewpoints. Most of these witnesses freely stated themselves to be personal friends of S/Sgt. BRIDGEMAN but that declared friendship should not unduly discount the value of their unchallenged evidence, given under oath or affirmation, as to his character or abilities. As a result, I recognize that S/Sgt. BRIDGEMAN is very well respected within the Service for his ability and character.

I have also carefully reviewed the “*Defendant’s Book of Commendations*” (103 tabs) submitted by the Defence. In doing so I recognize the general objection raised by the Prosecution regarding the lateness of its tender during the Hearing. However, it is admissible and I will lend it more weight that I might otherwise have done so simply because it consists primarily of documents retained by the Service. The vast majority of items predate S/Sgt. BRIDGEMAN’s present rank as I would expect them to do given the primarily administrative role of Staff Sergeants. It is notable that S/Sgt. BRIDGEMAN received some sort of recognition in every single year of service from 1986 to 2005 and I accept this as an indicator of a consistent effort throughout his service in the positions of Constable and Sergeant/Detective. I also note that

thereafter, there are a further eleven entries which I also find significant given the primarily administrative role played in later service. Also of note, is the fact that S/Sgt. BRIDGEMAN has received at least four letters of commendation since the laying of PSA charges.

In addition, I have carefully reviewed two un-tabbed but signed letters submitted along with the "*Defendant's Book of Commendations*". One is from Mr. Bob BOUGHNER, the President and owner of the Windsor Spitfires Hockey Club and the other from Ms. Carole DRAY (previous letters of thanks from her are also contained at TAB 5 and 11) of St. Anne's French Immersion School.

Of some note also, is the item at TAB 2 which is an email of thanks from Mathew McGHEE (member of the Service) in response to S/SGT. BRIDGEMAN's email of thanks to a number of officers who worked over the 2013 August weekend. In the attached copy of S/Sgt. BRIDGEMAN's original email he conveys acknowledgment of, and declares pride in, their accomplishments. Although there is an underlying tone hinting at the cloud under which he has operated since being charged, he is apparently still capable of good personnel management in acknowledging the outstanding work of other members.

Somewhat less weight has been given "*Quarterly Performance Appraisals*" found at TAB 3 (A)(B) and (C) to the "*Defendant's Book of Records on Sentencing*" for the reasons discussed during the Hearing as I suspect that little care and attention was taken in their preparation or review. I do however acknowledge that they are consistent with the *viva voce* evidence received at this phase of the Hearing. Such is also the case with the "*Job Performance Appraisal Sworn Personnel*" forms at TAB 3 (D) (E) (F) (G) which are for the most part unsigned and unexplained. I again acknowledge them to the extent that they do not conflict with *viva voce* evidence received under oath or affirmation.

No evidence of poor performance or previous criminal and/or disciplinary issues has been libelled by the Service and therefore I must conclude that the misconduct for which he has been found guilty may be justifiably described as aberrant behaviour. **His excellent previous service must be counted in his favour and credited as a mitigating factor going to penalty.**

EFFECT ON POLICE OFFICER AND HIS FAMILY

I accept the comments of Counsel that the effect of this matter upon both S/Sgt. BRIDGEMAN and his family has already been significant and that the penalty imposed may not lessen any difficulties. This, however regrettable, is a consequence of deliberate actions, the sanctioning of which have been provided for by the Legislature and are required in the public interest.

FINANCIAL LOSS

Mr. MCKAY has pointed out that the Prosecution's requested penalty will place a substantial hardship upon S/Sgt. BRIDGEMAN and consequently his family. I acknowledge that any demotion has immediate effect upon salary but I must also agree with Ms. PORTER that the comments with respect to pension are unproven.

ABILITY TO REFORM OR REHABILITATE

In Sergeant Greg ANDREWS and Midland Police Service - OCPC#03-12 the Commission has stated;

"The commission believes that rehabilitation is a key factor to be taken into consideration when a penalty is imposed, especially, when the officer has a prior unblemished employment record. Unless the officer is beyond rehabilitation (in which he would be a candidate for dismissal) the door should be kept open for the officer to be rehabilitated. The penalty should be tailored to provide him with the opportunity to do so."

It is not contested that S/Sgt. BRIDGEMAN is an able and experienced police officer and the Service has not requested dismissal. I must keep in mind when assessing, in totality, the aggravating and mitigating factors of this matter that the penalty should not preclude, and should foster an atmosphere in which S/Sgt. BRIDGEMAN can be fully re-incorporated into the daily functions of the Service in such a manner that he will remain a valuable and productive member.

Because the Service has not requested permanent reduction in rank it can be assumed that it has recognized that, *"the door should be kept open for the officer to be rehabilitated."* This is a

more reasonable position than was adopted by the Midland Police Service in the ANDREWS matter and effectively eliminates the issue dealt with by the Commission in that case.

EFFECT OF PUBLICITY

As demonstrated by Mr. McKay's display of his client's photograph on the front of the Windsor Star I am sure that bad publicity has cut both ways. Unfortunately the Service has certainly suffered no less from the bad publicity received by S/Sgt. BRIDGEMAN.

Counsel also complained that misreporting had occurred in that at some elements of the press continue to use the term "*Cover-up*" in articles about this matter. Unfortunately, although I have not used that term in my previous decision, I do not find that it is surprising in the slightest that the media have. It is very unfortunate that the Service may be tarred with the same brush that should properly be reserved for S/Sgt. BRIDGEMAN and the former Det. MCMILLAN. It was the Defendant who knew that Dr. ABOUHASSAN was innocent yet effectively concealed it from the attention of the Service. Such media attention is the consequence of his actions that have brought disrepute upon the reputation of the Service.

SPECIFIC AND GENERAL DETERRENCE

I believe that the circumstances in this case are somewhat specific in regards to what may have motivated S/Sgt. BRIDGEMAN's behaviour. Certainly he had nothing to gain personally other than perhaps the display of personal loyalty towards his former partner and personal friend, David VANBUSKIRK. These may be factors that discriminate his actions from those he displayed in the case of the former Constable SHANNON. In any event, his conduct cannot be excused on that basis as in doing so he completely violated the trust of the Service and in particular the citizens of Windsor. However, I believe that this event will have considerably lessened the possibility of repetition and therefore Specific Deterrence is of less importance now than General Deterrence.

The penalty in this case must ensure that all officers of the Service are left in no doubt that the responsibility they have to the office they hold and to the citizens of Windsor transcends their personal interest or that of their colleagues.

DAMAGE TO THE REPUTATION OF THE POLICE FORCE

There are several aspects of this matter that are singularly troubling but when combined together paint a very unflattering portrait of a police investigation gone horribly wrong and the trust of many betrayed. It has had devastating consequences not only to Dr. ABOUHASSAN, who has been twice wronged by members of the Service, but also to the reputation of the Windsor Police Service and the vast majority of its members who, I am sure, conscientiously perform their duties every day. The Defendant's professional reputation and personal character have been called into question in a very public manner, most likely, to the embarrassment of both him and his family. Importantly, the public cannot be but perplexed as they read or viewed news accounts in the local media. It can be presumed that many of them have also viewed the surveillance video that spawned the situation leading to this Hearing.

Successfully policing communities in a democratic society such as Canada demands that citizens willingly support and assist the police. An incident such as the one instigated by David VANBUSKIRK in which a responsible, reputable, productive and handicapped citizen was brutally assaulted without provocation by a member of a police service cannot help but cause pause for other law abiding citizens. Although it must be remembered that VANBUSKIRK was the sole instigator of the original assault (and has been convicted criminally) and that this Defendant is not in any way responsible for the assaultive actions of VANBUSKIRK, the public can only have been even more perplexed when VANBUSKIRK's criminal actions were then compounded by the action, or lack thereof, by other members of the Service entrusted with investigating the incident.

A reasonable person, well acquainted with the details of this matter may well be very concerned that if the police have treated a citizen, such as a doctor, in this manner, that they themselves may well be treated no better.

The Chief of Police has, in a press release (January 6, 2012) in relation to the "*Windsor Police Service - Project Accountability*" (Exhibit 47 at page 1), made the following statement:

"Collectively we must renew our commitment to our core organizational values of respect for the dignity of others, pride in service and professionalism. Going forward we embrace community expectations as the measure of our success, and they shall be the cornerstone of our culture."

Leadership in action is required throughout the organization. Peer to peer accountability is critical for individual and organizational success.

and, under the heading of “Moving Forward”,

“A primary goal of every member of the Windsor Police Service is accountability to the community we serve to ensure community trust and confidence.

With this in mind we are collectively on the road to organizational transformation with the goal of being true to our values and committed to “Honour in Service”.

These principles and expectations may have needed to be restated but they are not new expectations of the Windsor Police Service. I cannot do better than quote from one of the cases tendered to this Tribunal and authored by the then Inspector, and now Retired Deputy Chief of Police, Jerome BRANNAGAN in a disciplinary decision written on June 13, 2006;

*“Every supervisor attained the rank as a result of entering a competition. It was the individual’s decision to compete and seek success at a higher level of responsibility. **Along with the success of promotion, come added responsibilities. Sometimes that responsibility is heavy. That responsibility is not only to the officers under the sergeant’s command, to the senior management of the Service, for which the sergeant is a representative of, but also to the citizens of this community that we have a sworn duty to protect and serve. Along with that privilege, sometimes comes the added responsibility of making decisions. The template for making those decisions must be borne out of, upholding the law, accepting the responsibility of representing the best interests of the Windsor Police Service as well as the citizens of this community for which we take an oath to serve.**”*

(emphasis added)

S/Sgt. BRIDGEMAN has been found guilty of Discreditable Conduct and Neglect of Duty. **The Public Interest, along with the potential (and actual) damage to the reputation of the Service, cannot be understated in this matter and therefore the public, including the public complainant, must be assured that the objectives intended by the principle of General Deterrence are effectively met and that such behaviour will not be tolerated by the Service.**

PENALTY

Having carefully reviewed and weighed the relevant aggravating and mitigating factors in this matter, I find that the objectives of the police disciplinary process, including the opportunity for reformation of the Defendant, will be adequately met by the following disposition that shall apply individually to each charge but that shall run concurrently.

I order that Staff Sergeant Paul BRIDGEMAN be immediately reduced in rank from Staff Sergeant to that of Sergeant for a period of 18 months. At the end of that period he shall be returned to the rank of Staff Sergeant.

A handwritten signature in black ink, appearing to read 'Richard Finn', is written over a faint, larger signature that is partially obscured.

Richard Finn
Superintendent (Retired)
Hearing Officer
January 27, 2014

APPENDIX A

ADDITIONAL LIST OF EXHIBITS – PENALTY PHASE

<u>Exhibit #</u>	<u>Exhibit Description</u>
49	Book of Defendant's Book of Records on Sentencing
50	Privatization Request and Access During the Period of April 22 – May3/10
51	Notice of Higher Penalty (Served June 16, 2011)

APPENDIX B

CASES CONSIDERED

<u>Case #</u>	<u>Name</u>
1	Sergeant Greg ANDREWS and Midland Police Service - OCPC#03-12
2	PC C. BERNARDON x2 and Windsor Police Service (Unreported) May 23, 2012
3	PPC Graham BETTES and Peel Regional Police Service - OCCPS, February 6, 1996
4	PC's Nick CHEUNG and Sean MCGRATH and Toronto Police Service OCCPS#10-03
5	PC Roy FRIEGHT and Hamilton Police Service - November 18, 2002
6	Supt. Paul GOTTSCHALK and Toronto Police Service - OCCPS, January 29, 2003
7	PC David GUENETTE and Ottawa Carleton Regional Police Service - OCCPS#98-15
8	Sergeant Daryl HALL and Windsor Police Service (Unreported) June 13, 2006
9	Sergeant Shawn HEWLETT and Ontario Provincial Police - OCCPS#07-07
10	P R. v. Ryan HUTCHISON [2009] O.J. No 3588, 2009 ONCJ 387 August 12, 2009
11	PC David MOORE and Ontario Provincial Police - OCCPS#08-02
12	PC Steven MOUSSEAU and Metropolitan Toronto Police Force - OCCPS#81-07
13	PC Michael O'GORMAN and Windsor Police Service – July 10, 2013
14	PC Michael O'REILEY and Ottawa Police Service - 2013 on Sentence
15	R. v. Bradley D. SNYDER (Unreported) July 22, 2010, at Windsor
16	PPC L.J. TURGEON and Ontario Provincial Police and G.C. OCPC#12-11

APPENDIX C

Compact Disk (Attached)

Item #

Contents

1. ADJUDICATORS DECISION AS TO GUILT.pdf
2. ADJUDICATORS_DECISION_PENALTY.pdf