

**PEEL REGIONAL POLICE**

**POLICE SERVICES ACT R.S.O. 1990, C. p. 15, as amended**

**IN THE MATTER OF** a hearing into allegations of misconduct against  
Constable Adam Cate, a member of the Peel Regional Police.

---

**Decision of Superintendent Mike MacMullen - Hearing Officer**

**Charge: Discreditable Conduct**

---

**Appearances:**

Ms. L. Bordeleau  
Constable Adam Cate  
Mr. Jeff Banton (PRPA)

Counsel for the Chief of Police  
Subject Officer  
Representative – Subject Officer

**(A) Allegation of Misconduct:**

Constable Cate is charged with one count of Discreditable Conduct. It is alleged that while on duty on the 26<sup>th</sup> day of February, 2010 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.

**(B) Hearing:**

On November 23<sup>rd</sup>, 2011 a Notice of Hearing was signed by Chief of Police M. Metcalf. On March 26<sup>th</sup>, 2012 a hearing was convened pursuant to the Police Services Act.

**(C) Plea**

Constable Cate appeared before the Hearing Officer on March 26<sup>th</sup>, 2012 and entered a plea of 'guilty' to the allegation of Discreditable Conduct. The Peel Regional Police were represented by counsel, Ms. Lynda Bordeleau. The subject officer was represented by Mr. Jeff Banton, Peel Regional Police Association.

**(D) Agreed Statement of Facts:**

An agreed statement of facts has been filed as exhibit #4 and states the following:

1. Constable Adam Cate has been a member of the Peel Regional Police since 1988. He is currently assigned to the Records Bureau.
2. On March 11<sup>th</sup>, 2011, the Office of the Independent Review Director assigned a public complaint made by Ms. Michelle Burch to the Peel Regional Police for investigation. The complaint was in regards to allegations that Constable Christy Clough had used her position as a police officer to access confidential information that had been used in an ongoing family court process.
3. Investigators conducted an offline CPIC search and a Police Information Portal (PIP) audit on Michelle Burch.
4. On February 26, 2010, Constable Cate conducted two Persons Queries (10-29), one Criminal Name Index query (CNI) and a Canadian Firearms Registry Online (CFRO) query of Michelle Birch with an age of 36.
5. On February 26, 2010, Constable Cate conducted two Person Queries (10-29), one Criminal Name Index query (CNI) and Canadian Firearms Registry Online (CFRO) query of Michelle A Burch with an age of 36.

6. On February 26, 2010, Constable Cate conducted two Persons Queries (10-29), one Criminal Name Index query (CNI) and a Canadian Firearms Registry Online (CFRO) query of a Michelle A Birch with a date of birth of September 3, 1976.
7. On February 26, 2010, Constable Cate also accessed the following Durham Regional Police occurrences using the Police Information Portal: 09-63149, 08-119663, 08-120216, 08-51665, and 07-97250.
8. Constable Cate was interviewed by Internal Affairs on May 24, 2011 and on August 25, 2011. On both occasions he admitted to having conducted the CPIC and PIP queries of Michelle Burch on February 26, 2010.
9. Constable Cate told investigators that he had conducted the queries at the request of Constable Clough and that he had provided her with the query results in hardcopy.
10. Peel Regional Police Directives I-A-403(F) and I-A-506(O) provide members with clear guidelines, regarding the use of CPIC and that information contained on computerized police files is classified as confidential.
11. At the time of the queries conducted on February 26, 2010, Constable Cate was not undertaking an active criminal investigation on Michelle Burch, nor did he have any authorized or official purpose to be conducting the CPIC queries.
12. Constable Cate's actions in conducting CPIC checks and PIP queries on Michelle Burch for unauthorized purposes constitutes Discreditable Conduct.

**(E) Finding:**

As a result of the plea entered and the agreed statement of facts, Constable Cate was found guilty of one count of Discreditable Conduct contrary to Section 2(1)(a)(xi) of the Code of Conduct, Regulation 268/10, as amended, as set out in the Notice of Hearing dated November 23<sup>rd</sup>, 2011 and signed by Chief of Police Michael Metcalf.

**(F) Joint Submissions as to Penalty:**

Exhibit #5 is a joint submission as to penalty which states.

1. The parties jointly submit that the appropriate disposition for the finding of one count of Discreditable Conduct is three (3) days forfeiture to be served (worked) at the discretion of the Divisional Commander.
2. The above penalty is submitted in accordance with section 85(1) (e) of the Police Services Act.

**(G) Exhibits - other**

Ms. Bordeleau filed the following two exhibits.

1. Exhibit #6 – Peel Regional Police Directive I-A-506 (O) – Security of Police Computer Systems and Information
2. Exhibit #7 – Peel Regional Police Directive I-A-403 (F) – Canadian Police Information Centre (C.P.I.C.)

Mr. Banton filed the following two exhibits.

1. Exhibit #8 – Discipline and Related Cases Constable A. Cate #1336
2. Exhibit #9 – Personnel File Constable A. Cate #1336

**(H) Summary - Defence Submissions:**

Mr. Banton supports the joint submission on penalty.

Mr. Banton requests the Hearing Officer to consider that the officer recognizes the serious nature of his misconduct and that he has entered a guilty plea at the earliest possible date. The officer is aware of how his conduct reflects poorly on both the Peel Regional Police and himself. Constable Cate is 54 years old and has been employed by the Peel Regional Police for 24 years. He has served in the past at 11, 12 and 21 Divisions. He has completed university courses in criminology and has lived internationally. He is proficient in 2 languages and conversant in a third. In July of 2010 he was reprimanded in relation to an inappropriate disclosure of information relating to police records. Constable Cate is assigned to the Records Bureau where he is becoming accommodated for medical reasons. The officer's last two Performance Appraisals indicate that Constable Cate is rated as exceeding expectations in several performance dimensions and meets standards otherwise. Comments from supervisors are favourable and indicate that he is a valued member, hard worker, takes pride in his work and is an effective and efficient officer with a strong sense of team. His personnel file contains 4 commendations and 26 letters of appreciation reflecting his support of charitable events and his commitment to his work. Mr. Banton advises that the officer did not conduct the queries for personal reasons. He conducted the checks on behalf of an upset co-worker who is a sworn member of the Service. He submits that the misconduct is an isolated incident and that it is a direct result of his motivation to assist the upset co-worker.

Mr. Banton submits that the cases contained in his submissions, exhibit #8 – Discipline and Related Cases, provide a firm foundation in support of the joint submission as to penalty.

**(I) Summary – Prosecution Submissions:**

Ms. Bordeleau, counsel for the Chief of Police indicates that it is position of the Peel Regional Police that unauthorized release of information from C.P.I.C. and information contained in police computer databases is a serious act of misconduct and a clear violation of policy and procedure.

Constable Cate was reprimanded in 2010 in relation to an inappropriate disclosure of police information. His conduct in relation to this matter demonstrates his recognition of the serious nature of his misconduct. The officer admitted his misconduct and accepted responsibility during his compelled interview with Internal Affairs. He has entered a plea of guilty at the earliest opportunity. These actions can serve to mitigate penalty.

An appropriate disposition must address deterrents. The cases contained in the defence brief are relevant and the case of Peel Regional Police v. Constable Nelson Bodden is a good reference as it is similar to this matter as it involves the accessing of police information for an unauthorized purpose.

The penalty imposed, in addition to addressing deterrents, must serve to maintain public trust, while recognizing that an invasion of privacy is an included element in the officers' misconduct.

Mr. Bordeleau submits that the agreement as to penalty is appropriate as it reflects management's approach to dealing with serious misconduct of this nature while also recognizing the officers past employment history and his early recognition and acceptance of responsibility.

**(J) Considerations as to Penalty**

My considerations as they relate to penalty take into account the case of *Krug and the Ottawa Police Service – OCCPS 2003*. The Krug case highlights key elements I must consider. They include the nature and seriousness of the misconduct, the public interest, the ability to rehabilitate the officer, impact of the penalty on the officer, damage to the reputation of the police service, the officer's employment history, recognition by the officer of the seriousness of the misconduct, and deterrents, both general and specific. Further there must be an element of consistency in penalties imposed by Hearing Officers.

It has been clearly established that misconduct was committed by Constable Cate. Peel Regional Police Directive I-A-403(F) – Canadian Police Information Centre (CPIC), tendered as exhibit #7, at section D.1. states, *Information contained in C.P.I.C. is for the use of Law Enforcement Agencies only. The unauthorized use, or release of information from C.P.I.C. to unauthorized personnel is a criminal offence and any abuse may result in criminal charges.* Peel Regional Police Directive I-A-506(O) – Security of Police Computer Systems and Information, tendered as exhibit #8, at Section D.1 states, *All computerized police files and information are classified as "Confidential – For Official*

*Use Only*". Section D.3 states, *A member found to be in violation of this directive with respect to release of information or damage to corporate system assets shall face the possibility of criminal charges, charges under the Police Services Act (P.S.A.) and/or internal disciplinary actions, up to and including dismissal.* The agreed statement of facts at paragraph 11 state, *"At the time of the queries conducted on February 26, 2010, Constable Cate was not undertaking an active criminal investigation on Michelle Burch, nor did he have any authorized or official purpose to be conducting the CPIC queries"*.

Constable Cate's actions are in direct contravention of Peel Regional Police policy. His conduct was reckless and reflects poorly on himself, his peers and the Peel Regional Police. He has compromised the professional image of the Peel Regional Police with the Royal Canadian Mounted Police who maintain and administer the CPIC system, other law enforcement agencies and most importantly the public. Privacy interests have been violated and therefore I am in complete agreement that the misconduct is serious in nature. The public deserve and expect conduct from police officers that inspires confidence, pride, and integrity. Misconduct committed by a single officer can erode public confidence and community support. Further, it can serve to erode the degree of trust and confidence afforded to Constable Cate by his peers and supervisors in the future.

Prior to rendering my decision and imposing penalty I gave careful consideration to the facts of this case as well as the materials and submissions made by both the prosecution and the defence. Although I am not bound by the joint submission presented I cannot see any valid reason to vary their recommendation.

#### *Seriousness of the Offence*

I have already indicated that in my opinion the misconduct in this matter is serious. The agreed penalty reinforces the police department's view that conduct of this nature will not be tolerated and will be dealt with as a serious violation of the code of conduct.

#### *Specific and General Deterrents*

Forfeiture of 3 days to be worked at the discretion of the Divisional Commander sends a clear message to Constable Cate, his colleagues and policing in general that unauthorized release of information from the CPIC system and other police computer systems and databases is serious misconduct with significant professional consequences. Constable Cate was reprimanded for an inappropriate disclosure of police information in 2010. The increased penalty imposed in relation to this matter should give clear notification to Constable Cate that this conduct is not tolerated and will not be tolerated in the future.

#### *Public Interest*

The public are entitled to expect a high standard of conduct by all police personnel. This high standard of conduct is expected by officers in both their professional and personal

lives. When an officer engages in serious misconduct the penalty assessed must serve to denounce the activity and hopefully maintain public confidence and instill trust. In my opinion the penalty imposed accomplishes this objective.

Work History

Mr. Banton filed an overview of Constable Cates work history. The materials indicate that he is an experienced officer who has been recognized for his excellent work on past occasions. He has been described as a valued member of the Service who has demonstrated dedication to his job, the community and charitable events. He was recently reprimanded in 2010 for an inappropriate disclosure of police information. His work history was not disputed Ms. Bordeleau.

Recognition of Serious Nature of the Misconduct

Constable Cate entered a plea of guilty at the earliest opportunity and cooperated fully with the Internal Affairs Bureau during their investigation into this matter. Specifically by cooperating and admitting responsibility during his compelled interview with investigators. In my opinion these actions demonstrate that the officer not only recognizes the serious nature of the offence but has also demonstrated his willingness to accept responsibility and be held accountable for his actions. Ms. Bordeleau agreed that guilty pleas could serve to mitigate penalty. I am also in agreement in particular when considering the guilty pleas in tandem with the officer's good work history.

Impact of Penalty on the Officer

The allegation of misconduct, the resulting Hearing and the penalty imposed should send a clear message that the officer's actions have caused the employer to lose a degree of confidence and trust. The same perception may be held by the officer's colleagues and supervisors. Only the subject officer can offset the negative professional impact through his future work performance and positive conduct.

Consistency of Penalty

The cases provided confirm that the proposed penalty is within the appropriate range. In particular as they relate to other cases of misconduct committed by members of the Peel Regional Police.

**(K) Summary:**

I am of the opinion based on the materials filed and the submissions of both counsel that a three (3) day forfeiture to be worked at the discretion of the Divisional Commander is an appropriate disposition in this case.

I have no submissions or evidence before me to suggest that the misconduct in this case is part of an ongoing pattern of behavior that will continue in the future and therefore there is no rehabilitation issue for me to consider.

**(L) Penalty:**

**I impose on Constable Adam Cate #1336 the penalty of three (3) days forfeiture to be served (worked) at the discretion of the Divisional Commander.**

I trust that Constable Cate recognizes that future similar misconduct will not be tolerated and will be dealt with as a serious code of conduct offence. The materials contained in the work history brief received from Constable Cate indicate that this officer is capable of positive and productive contributions. It is my hope that he will move forward with his career making valued contributions to the Peel Regional Police and the community.

Signed Original 

April 19th, 2012

---

Mike MacMullen, Superintendent  
Peel Regional Police  
Hearing Officer