

**HALTON REGIONAL POLICE SERVICE DISCIPLINE HEARING**

**IN THE MATTER OF ONTARIO REGULATION 268/10  
MADE UNDER THE *POLICE SERVICES ACT*, RSO 1990,  
AND AMENDMENTS THERETO;**

**AND IN THE MATTER OF**

**HALTON REGIONAL POLICE SERVICE**

**-and-**

**Constable John Eddolls #9210**

**CHARGES: DISCREDITABLE CONDUCT (2 Counts) & NEGLECT OF DUTY**

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**DISPOSITION WITH REASONS**

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**HEARING OFFICER**

Superintendent Al Albano #3902  
Halton Regional Police Service

**APPEARANCES**

Counsel for the Prosecution: Mr. Ken Kelertas  
Counsel for the Defence: Ms. Pamela Machado  
Hearing Date: March 29<sup>th</sup>, 2017

### **Disposition with Reasons**

Before commencing with my decision in this matter, I wish to thank Mr. Ken Kelertas, Prosecutor for the Halton Regional Police Service, Ms. Pamela Machado, Defence Counsel, and to the complainant Mr. Chris Golden for the assistance they provided me over the course of the Hearing, including their submissions and exhibits tendered, all of which aided me in reaching my decision.

### **ALLEGATIONS OF MISCONDUCT:**

Constable John Eddolls #9210 stands charged with:

1. On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, you acted in a manner likely to bring discredit upon the reputation of the police service by arbitrarily detaining C.G., thereby committing the offence against discipline to wit: Discreditable Conduct as specified in Section 2(1)(a)(xi) of the Schedule, Code of Conduct, Ontario Regulation 268/10, and are thereby guilty of misconduct contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, c P.15, as amended.
2. On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, you acted in a manner likely to bring discredit upon the reputation of the police service by failing to provide C.G. with his Rights to Counsel and Right to Silence Caution, thereby committing the offence against discipline to wit: Discreditable Conduct as specified in Section 2(1)(a)(xi) of the Schedule, Code of Conduct, Ontario Regulation 268/10, and are thereby guilty of misconduct contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, c P.15, as amended.
3. On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, you, without lawful excuse, neglected or omitted promptly and diligently to perform a duty as a member of the police force, namely that you failed to complete an Arrest/Investigative

Detention Report and an Occurrence Report following your interaction with C.G., thereby committing the offence against discipline to wit: Neglect of Duty as specified in Section 2(1)(c)(i)(A) of the Schedule, Code of Conduct, Ontario Regulation 268/10, and are thereby guilty of misconduct contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, c P.15, as amended.

## **THE HEARING**

A Hearing was held on March 29<sup>th</sup>, 2017, and Constable John Eddolls pleaded guilty to all counts, and was found guilty on clear and convincing evidence, of all three counts; two counts of Discreditable Conduct as specified in Section 2(1)(a)(xi) and one count of Neglect of Duty as specified in Section 2(1)(c)(i)(A), of the Schedule, Code of Conduct, Ontario Regulation 268/10, of the *Police Services Act, R.S.O. 1990, cP.15, as amended*.

## **EXHIBITS**

The exhibits for this matter are listed in Appendix "A", attached hereto. To avoid repetition, exhibits will be referred to by number without the preface of Appendix "A".

## **THE AGREED STATEMENT OF FACTS:**

As read by Mr. Ken Kelertas:

### **Facts:**

Constable John Eddolls, Chris Golden, and Stephen J. Tanner, Chief of Police of the Halton Regional Police Service, through his counsel, agree to and admit the following facts:

1. On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, at about 1:20 am, Constable Eddolls stopped Chris Golden ("C.G.") while he was walking on Mill Street.
2. Constable Eddolls told Mr. Golden that he was being detained for allegedly stealing from vehicles.
3. Constable Eddolls took physical control of Mr. Golden to conduct a pat down safety search.

4. Constable Eddolls agrees that he was not authorized to conduct a pat down search of Mr. Golden for the purposes of locating evidence in relation to the investigation of theft from vehicles.
5. Constable Eddolls located and removed an object from Mr. Golden's pocket, believing it might be a stolen item. The item was a cigarette pack. Constable Eddolls opened it and looked inside before returning it to Mr. Golden.
6. After the search was completed, Constable Eddolls told Mr. Golden that he was free to leave
7. Constable Eddolls failed to inform Mr. Golden of his right to retain and instruct counsel without delay pursuant to section 10 of the Canadian Charter of Rights and Freedoms. Constable Eddolls also failed to caution Mr. Golden regarding his right to silence.
8. At the time of the detention of Mr. Golden, Constable Eddolls had not been dispatched to investigate theft from vehicles. There was no crime reported in the area related to theft from vehicles immediately prior to or at the time of this incident. Constable Eddolls did not conduct any further investigation into theft from vehicles following his interaction with Mr. Golden.
9. Following the detention and search of Mr. Golden, Constable Eddolls did not complete the necessary Arrest or Investigative Detention Report or Occurrence Report and therefore he failed to comply with Halton Regional Police Service Directives CPO-004 (Arrest and Search of Persons) and REC-002 (Field Reports, Report Headings, Statistical Scoring).
10. Constable Eddolls acknowledged and agrees that it was unnecessary for him to have stopped and made physical contact with Mr. Golden during their interaction.
11. Subsequent to these events, when approached by Mr. Golden, Constable Eddolls personally apologized to Mr. Golden for his actions.

## **ADMISSIONS:**

12. Based on the foregoing facts, Constable Eddolls acknowledges and admits that:

- (a) On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, he acted in a manner likely to bring discredit upon the reputation of the police service by arbitrarily detaining C.G., thereby committing the offence against discipline to wit: Discreditable Conduct as specified in Section 2(1)(a)(xi) of the Schedule, Code of Conduct, Ontario Regulation 268/10, and is thereby guilty of misconduct contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, c P.15, as amended.
  
- (b) On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, he acted in a manner likely to bring discredit upon the reputation of the police service by failing to provide C.G. with his Rights to Counsel and Right to Silence Caution, thereby committing the offence against discipline to wit: Discreditable Conduct as specified in Section 2(1)(a)(xi) of the Schedule, Code of Conduct, Ontario Regulation 268/10, and is thereby guilty of misconduct contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, c P.15, as amended.
  
- (c) On or about May 9<sup>th</sup>, 2015, at the Town of Acton in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, he, without lawful excuse, neglected or omitted promptly and diligently to perform a duty as a member of the police force, namely that he failed to complete an Arrest/Investigative Detention Report and an Occurrence Report following his interaction with C.G., thereby committing the offence against discipline to wit: Neglect of Duty as specified in Section 2(1)(c)(i)(A) of the Schedule, Code of Conduct, Ontario Regulation 268/10, and is thereby guilty of misconduct contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, c P.15, as amended.

### **SUBMISSIONS ON DISPOSITION:**

Constable Eddolls, Chris Golden, and the Prosecutor acting on behalf of Stephen J. Tanner, Chief of Police, agree that the appropriate penalty for the misconduct set out in paragraph #12 above is the forfeiture of eighteen (18) hours to be taken from Constable Eddolls' vacation bank forthwith.

### **DISPOSITION CONSIDERATION:**

In each discipline case, it is proper for the Tribunal to consider, where relevant, a variety of elements in assessing disposition.

The Commission set out a list of (13) factors to be considered in determining a disposition in discipline cases which has become well established in *Krug and Ottawa Police Service, (January 21, 2003, OCCPS)* at pp.12-13.

Paul Ceysens, Volume 1, at page 5-246-248 of "Legal Aspects of Policing," Earls court Legal Press, Inc. (updated 21, December 2005) summarized the mitigating and aggravating (and neutral) considerations governing disposition in relation to proportionality, being the fourth principle governing the determination of a disposition. That list of (15) considerations include the (13) factors from *Krug and Ottawa Police Service* and are as follows:

1. Public Interest
2. Seriousness of the Misconduct
3. Recognition of the Seriousness of the Misconduct
4. Disability and Other Relevant Personal Circumstances
5. Provocation
6. Procedural Fairness Considerations
7. Employment History
8. Potential to Reform or Rehabilitate the Police Officer
9. Effect on Police Officer and Police Officer's Family
10. Consistency of Disposition
11. Specific and General Deterrence
12. Systemic Failure and Organizational/Institutional Context
13. Damage to the Reputation of the Police Force
14. Effect of Publicity
15. Loss Resulting from Unpaid Interim Administrative Suspension

There is no requirement that any one factor be given more weight than another. The seriousness of the offence alone may justify dismissal. Aggravating factors can serve to diminish the weight of any mitigating factors.

## **SUBMISSION BY THE PROSECUTION**

### Mr. Ken Kelertas:

Mr. Kelertas provided the Hearing with a Brief of Authorities. The Prosecution's position is that on the recommendation of the parties that a global disposition for the forfeiture of (18) hours from the officer's vacation bank.

Mr. Kelertas stated that that proposed penalty was appropriate in the circumstances taking into account all of the aggravating and mitigating circumstances with regard to the misconduct. Mr. Kelertas referred to Tab #1 of Exhibit #6 to draw attention to the factors to be considered with respect to penalty, from Paul Ceysens "Legal Aspects of Policing". Mr. Kelertas also referred to Tab #2 of Exhibit #6, *Carson and Pembroke Police Service* (March 9, 2006, OCCPS #06-02), specifically pages 14 and 15, which outline the factors to consider in assessing a suitable penalty, which in turn was referenced in *Williams and Ontario Provincial Police (1987), 2 O.P.R. 1257 (O.C.C.P.S.)*, where the Commission identified three key elements in assessing penalty. They 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 service that would occur if the officer remained on the force. Further considerations can include the need for deterrence, provocation or concerns arising from management's approach. Other factors can be relevant, either mitigating or aggravating a penalty, depending on the conduct in question. These include the officer's employment history and experience, recognition of the seriousness of the transgression and handicap or other relevant personal considerations.

### Seriousness of the Misconduct:

Mr. Kelertas emphasized that the seriousness of the misconduct is a fundamental consideration. The test in Ontario for misconduct is primarily an objective one where conduct must be measured against the reasonable expectations of the community. When looking at the language used in the Code of Conduct with respect to discreditable conduct the meaning of the word likely to bring discredit upon the reputation of the police force was considered in *Silverman v. Ontario Provincial*

*Police* (1997), 3 O.P.R. 1181 (O.C.C.P.S) – Tab #3 of Exhibit #6. The Commission stated, “The measure used to determine whether conduct has been discreditable is the extent of the potential damage to the reputation and image of the Service should the action become public knowledge.” Mr. Kelertas submitted that an arbitrary arrest and detention is not a minor breach of discipline. He also expressed how the community expects the police to carry out their duties professionally and ethically and respect the rights of individuals. On the facts, Mr. Golden was deprived of his civil rights, which undoubtedly caused him inconvenience, frustration and embarrassment. This should be considered an aggravating factor.

Recognition of the Seriousness of the Misconduct:

Constable Eddolls has accepted responsibility for his role in this matter, evidenced by his admissions. Constable Eddolls apologized to Mr. Golden for his actions. He also agreed to the imposition of a penalty for the loss of hours from his vacation bank, which may cause him some hardship this year. This fact should be given favourable weight and be a mitigating factor.

Damage to the Reputation of the Police Force:

It has been said in the past that it is of paramount importance that the public have faith in the integrity of police officers. There is an expectation that police uphold the core values of the police service and act with integrity. Society expects the police to know their authorities, the limits of those authorities and how to make proper use of them. If Constable Eddolls’ actions were known to the public at large, would undermine the public’s perception of his integrity, as well as the reputation of the police service and therefore this should attract a sanction.

Public Interest:

The public requires a high standard of conduct from its police officers, especially when there is a high level of trust involved and a great deal of autonomy.

Potential to Reform or Rehabilitate the Police Officer:

By Constable Eddolls accepting this penalty he has an opportunity to move forward and learn from his mistakes. Mr. Kelertas referred to Tab #4 of Exhibit #6, *Andrews and Midland Police Service (May 1, 2003, OCCPS #03-12)* page 19:

“We believe that rehabilitation is a very important and significant factor when considering an appropriate penalty. A community, in which a police officer serves, has made a significant investment in every police officer.

The Commission believes that rehabilitation is a key factor to be taken into consideration when 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.”

Mr. Kelertas stated that the Service has no concerns with rehabilitation in this case. Constable Eddolls has undergone recent training in the Collection of Identifying Information in Certain Circumstances. He has also recognized his error and wants to prove he is competent and capable going forward. This would be a mitigating factor.

Employment History:

Constable Eddolls has been a member of the Halton Regional Police Service since August of 2007. At the time of the incident he had almost (8) years of experience and no prior discipline. He is well respected by his peers and the conduct in this matter could be characterized as out of character for him. He is not a rookie and should be a role model to junior officers.

Specific and General Deterrence:

Deterrence is a legitimate objective of police discipline. Actions should be denounced by significant sanctions so that neither the officer, nor his colleagues will repeat it.

Consistency of Disposition:

Mr. Kelertas referred to Tab #5 of Exhibit #6, *Schofield and Metropolitan Toronto Police Service* (1984), 2 O.P.R. at page 615:

Each case must be judged on the facts peculiar to it. Consistency in the discipline process is often the earmark of fairness. The penalty must be consistent with the facts, and consistent with similar cases that have been dealt with on earlier occasions.

Mr. Kelertas stated that it was difficult to find a case on all points with this case. Mr. Kelertas did provide some recent dispositions for unnecessary use of authority and failing to provide Charter Rights. Those dispositions were provided at Tabs #6 through #10 of Exhibit #6.

Exhibit #6, Tab #6 is *Elliott and Niagara Regional Police Service* (January 10<sup>th</sup>, 2017, Superintendent Brett Flynn). In that case the officer affected an arrest under the Trespass to Property Act without reasonable grounds to do so, caused an injury to the complainant during the arrest, which led to the complainant receiving three stitches. The officer also did not provide the complainant with his Right to Counsel. The public complainant did not participate in the proceedings but asked that community service to be part of the sanction. The penalty on a plea was (24) hours of community service.

Exhibit #6, Tab #7 is *Baston and Lafreniere and Ottawa Police Service* (March 2016, Superintendent Dan Delaney). In that case the two officers affected an arrest under the Trespass to Property Act, which was determined to be an unlawful exercise of authority. There was a finding of guilt after a full hearing. The penalty was the forfeiture of (8) hours for one of the officers and a reprimand and training on arrest authorities for the other officer.

Exhibit #6, Tab #8 is *Mullville and Azaryev and York Regional Police* (January 11<sup>th</sup>, 2016, Superintendent Graeme Turl). In that case there was an allegation of misconduct and unnecessary use of authority. There was no allegation of failing to provide Charter Rights. There was no admission of wrong doing by the officers. The Hearing Officer in that decision stated that the constable was reluctant to accept responsibility. The hearing Officer imposed a penalty for the conviction of unlawful/unnecessary arrest, which consisted of a forfeiture of (12) hours.

Exhibit #6, Tab #9 and #10 are in reference to a single Halton Regional Police Service Incident, Informal Discipline Disposition Memorandums, dated February 17, 2014 and September 12, 2014. The incident, which involved three officers, occurred in Oakville. A female found an intruder in her home and recognized him as a neighbour. She called police, who attended the scene. The officer did not charge the suspect, did not collect evidence or nor take down a statement from the suspect in their notes. A senior officer at the call was charged with three counts of neglect of duty. The officer accepted (12) hours for failing to collect evidence and (6) hours for not capturing a statement. The supervisor (acting sergeant), accepted a global disposition of (18) hours for neglect of duty. If Constable Eddolls' neglect was looked at in isolation it would attract a disposition of reprimand to (8) hours for a first offence.

In closing Mr. Kelertas reiterated that the terms of the disposition are appropriate in the circumstances and urged the Hearing Officer to adopt them.

## **SUBMISSIONS BY PUBLIC COMPLAINANT:**

Mr. Chris Golden:

The complainant said that he agreed with the proposed penalty and that he agreed that the penalty was appropriate. The complainant expressed that he was happy with the way the police force had acted during the hearing. He went on to say that he knew his rights and should not have to assert them to an officer, but that officers should know them. The complainant stated that a lot of citizens would not have had the persistence to go forward with these types of cases, but hoped that this can lead to deterrence going forward and can lead to something good.

## **SUBMISSIONS BY DEFENCE:**

Ms. Pamela Machado:

Ms. Machado started by addressing the cases put forth by the Prosecutor. Ms. Machado advised that the *Elliott* case involved an injury and required medical assistance. She also informed the Tribunal that the *Mulville* case is one where she is representing the officer and that it is up for appeal.

Ms. Machado thanked Mr. Golden for his opinion but reminded the Tribunal that opinions of the Public Complainant don't carry any weight for the proceedings.

Ms. Machado explained that it was a joint submission and believed that it is a reasonable penalty considering all the mitigating and aggravating factors, along with the appropriate sentencing principles. The resolution was reached with the support of the Public Complainant. The joint submission was fairly negotiated taking into account relevant sentencing factors, where penalty is within the range of consistency with other similar cases and should be given deference. Ms. Machado advised that she wouldn't go over the aggravating factors again as presented by Mr. Kelertas but will discuss the mitigating factors.

Ms. Machado briefly outlined the mitigating factors before discussing each in detail.

- Willingness to improve and evidence he has
- 10-year veteran of the HRPS
- Remorse is prevalent in admission of guilt
- Impeccable employment record, no previous discipline and very positive performance evaluations
- The support of the Association
- The support of his spouse
- Several positive character letters
- Strong involvement in the community
- The organization has made a large investment in training him, and Constable Eddolls is of great value to the Service, given his level of expertise and skills as a police officer

Background:

Constable Eddolls is 39 years old, born in England and grew up in Acton. He has been married for six years and has two young children. Constable Eddolls was hired in 2007. Prior to this he had a career as a competitive swimmer. He was Captain of the Canadian National Lifesaving Team, where he competed worldwide and received the Queen's Jubilee medal for his contributions to life saving.

Employment History:

Ms. Machado referenced the two most recent Performance Appraisal and Development Plans for Constable Eddolls.

2014-2015 – Constable Eddolls exceeded expectations in many areas and is described as an asset, was reliable, enthusiastic and able to remain composed in highly stressful situations. He also had positive work habits and behaviour. He also had several commendations and was described as an officer who connects well with the community. He holds incredible value in his patrol zone and demonstrates pride in serving the community.

2015-2016 – Constable Eddolls exceeded standards in several areas. He improved in efficiency and time management. He had a commendation for a thorough sudden death investigation. He was also recognized for his interaction with the public.

#### Character Letters:

Ms. Machado explained how disciplinary proceeding may deter fellow officers from declaring support for a colleague being disciplined. Constable Eddolls had three letters of support.

Rev. Rob Thomas:

Described Constable Eddolls as having integrity and commitment at work and in his family life.

Constable Brad Hodge:

Has known Constable Eddolls for 10 years and is impressed with his work ethic and drive. He described him as a team player, supportive and quick to lend a hand. He is also described as loyal and dedicated to his profession and family. He is upstanding and continues to make a difference in the lives of those around him.

Constable Ken Best:

Has worked with Constable Eddolls for almost 10 years and described him as a team player, with passion and enthusiasm. He also described how Constable Eddolls in an acting role had put his own responsibilities aside to benefit another officer.

#### Professional Commendations:

Ms. Machado did not go through all of the commendations but encouraged me to review them. They came from members of the public to the Chief of Police describing Constable Eddolls' professional conduct. Others came from senior officers praising his work and dedication.

Ms. Machado then began discussing the factors which should be taken into consideration in sentencing when it comes to policing.

#### Public Interest:

His years of experience amount to a great deal of valuable knowledge that the Service simply cannot afford to lose. It is also in the public interest to acknowledge that accountability and remorse will be recognized.

Seriousness of the Misconduct:

Ms. Machado indicated that the misconduct is at the low end of the spectrum, there was no pattern of misconduct or lack of remorse.

Recognition of the Seriousness of the Misconduct:

Ms. Machado explained that the role of a police officer demands a high degree of accountability and exemplary conduct. Constable Eddolls showed a great deal of accountability for his actions and has since engaged fully in meaningful discussions with the public complainant to ensure closure and accountability. Constable Eddolls also fully cooperated with the Professional Standards investigation and has pleaded guilty, demonstrating that he has accepted and acknowledged responsibility for his actions.

Employment History:

Ms. Machado described how Constable Eddolls has been gainfully employed for the last 10 years with the Halton Regional Police Service, has had very positive performance reviews and has no previous discipline. There have been no past concerns regarding his performance or conduct. His performance reviews consistently demonstrate his ability to interact with the public well, diffuse bad situations through his calm demeanor and exceeds expectations in professionalism. He also exceeds expectations in his commitment to help and serve others, investigate proficiently and show initiative.

Need for Deterrence:

Ms. Machado advised how this incident was out of character for Constable Eddolls.

Potential to Reform or Rehabilitate the Police Officer:

Ms. Machado stated that there was nothing to suggest that this is a pattern of behaviour and that Constable Eddolls will continue to be a valuable member of the Service.

Damage to the Reputation of the Police Service:

Ms. Machado indicated that it was minimal.

Disability and Other Relevant Personal Circumstances:

Ms. Machado detailed how Constable Eddolls had to deal with the sickness of his child and that the matter has caused him severe stress and undue hardship. The delay in these proceeding will be two years in May. The delay is not the fault of Constable Eddolls.

Effect on Police Officer and Police Officer's Family:

Ms. Machado explained that the negative effect that the entire process of a discipline hearing has on an officer was clear. She went on to say that is was detrimental to one's overall health and was a significant source of stress and anxiety to both the officer and his family. The amount of time the matter has taken to reach this stage has had a significant impact on the officer and his family. Through no fault of his own, this had added stress and anxiety.

Consistency of Disposition:

Ms. Machado stated that when imposing a penalty, it was important to take into account prior disciplinary cases dealing with similar types of misconduct. The Service had disciplined officers for similar acts in the same fashion. Each case is to be considered on its merits, and the facts of this matter, being at the very low end of the spectrum, and accountability being shown, equate to the proposed resolution being well within the range of reasonable.

Ms. Machado then discussed legal submissions on the acceptance of a joint submission. She reiterated that she believed that the penalty was reasonable. She outlined how she believed that the penalty met the goals and objectives of correcting behaviour, deterring the officer and others from similar behaviour and reassuring or restoring public confidence in the Police Service.

Ms. Machado provided a number of cases in which joint submissions are to be considered. The cases included; *Rault v Law Society of Saskatchewan* (2009) SKCA 81, *Ottawa and Lord* (2011) OCPC p. 37, *Yakimishyn and the Peel Regional Police* (2008) OCPC, *R v. Druken* (2006), 215 C.C.C. (3d) 394 (Nfld. C.A.), *R. v. Douglas* (2002), 162 C.C.C. (3d) 37, paras. 42-43 and *R. v. Cerasualo* (2001), 151 C.C.C. (3d) 445 (Ont. C.A.), at pp. 447-8.

Ms. Machado finished by stated that in totality of the circumstances the penalty was reasonable. There were mitigating factors of Constable Eddolls' early guilty plea and acceptance of responsibility for his conduct. The joint submission was fairly negotiated, taking into account all relevant sentencing factors. There was nothing to suggest the joint position being suggested was

contrary to the public interest, does not address any of the sentencing factors, or would bring the administration of justice into disrepute.

**STATEMENT BY OFFICER:**

Constable Eddolls addressed the Tribunal. He started by apologizing to Mr. Golden for his actions, recognizing that they impacted his civil liberties and caused needless embarrassment and stress. He also apologized to the Service for his actions and for the negative impacts they may have had on public perception. He asserted that he had learned from the situation and that over the nearly two years that this matter has been progressing he has endeavoured to be a positive role model by leading through example. He expressed how he had continued to strive for excellence trying not to let this matter affect his quality of work or work ethic. As a result, he explained how he has been able to develop other officers by showing them how to identify the positives in any situation, forget the negatives and become a better officer. He reiterated that he was sorry to all those affected.

**STATEMENT BY PROSECUTOR:**

Mr. Kelertas stated that he would adopt who heartedly all submissions about adopting the joint penalty.

**STATEMENT BY PUBLIC COMPLAINANT:**

Mr. Golden stated that he was also in agreement with Ms. Machado. The two year delay was for everyone involved and not a good experience.

**Analysis**

The principle of proportionality requires me to identify all applicable mitigating and aggravating considerations. In assessing proportionality, my next task is to determine if they are mitigating or aggravating.

Public Interest:

Public interest is very relevant in this case. Police officers are held to a higher standard, as is identified as one of the principles governing the determination of discipline (see also *Guenette and Reilly*). There is an expectation by the public/community that its police officers comply with the Canadian Charter of Rights and Freedoms and that they obey their Service policies with regard to submitting reports. Constable Eddolls has fallen short of this expectation.

I therefore find that this is an aggravating factor.

Seriousness of the Misconduct:

In *Silverman v. Ontario Provincial Police* (1997), 3 O.P.R. 1181 (O.C.C.P.S), the Commission stated, "The measure used to determine whether conduct has been discreditable is the extent of the potential damage to the reputation and image of the Service should the action become public knowledge." The arbitrary arrest and detention of Mr. Golden, and depriving him of his civil rights is a significant breach of discipline. The detention was brief and the evidence before the Tribunal suggests that this is out of character for Constable Eddolls.

I therefore find that this is an aggravating factor, albeit on the lower end of the spectrum.

Recognition of the Seriousness of the Misconduct:

Constable Eddolls has accepted responsibility for his role in this matter, evidenced by his admissions, guilty plea and agreed upon penalty. He also apologized to Mr. Golden for his actions. Constable Eddolls also fully cooperated with the Professional Standards investigation. All of these actions clearly demonstrate that he has accepted and acknowledged responsibility for his actions.

I therefore find that this is a mitigating factor.

Disability and Other Relevant Personal Circumstance:

This case took almost two years to come to a conclusion. Although I was not fully apprised to the cause of the delays, it would appear that Constable Eddolls had no fault in the delay. He had to endure the stress of the disciplinary hearing, as well as had to deal with family issues with regard to his child. There is no doubt that this has caused Constable Eddolls some undue stress.

I therefore find that this is a mitigating factor.

Employment History:

Constable Eddolls has been a member of the Halton Regional Police Service for (10) years. With that tenure also come expectations on knowledge of authorities and to set a positive example for less experienced officers. I reviewed the Performance Appraisal and Development Plans for 2014-2015 and 2015-2016. There are a number of positive commendations which speak to his ability to deal with the public in a positive manner. The majority of his ratings for both appraisal periods fall in the "Valued Contributor" rating. This rating is described as "performs all the essential requirements of the job effectively." This would suggest that he is performing at an average level, neither excelling nor being deficient. There is also no evidence of any prior discipline.

I therefore find that this is a mitigating factor.

Potential to Reform or Rehabilitate the Police Officer:

The Commission has made it clear in *Andrews and Midland Police Service (May 1, 2003, OCCPS #03-12)*, that rehabilitation is a key factor to be taken into consideration when penalty is imposed. Mr. Kelertas stated that the Service has no concerns with rehabilitation in this case. Constable Eddolls has undergone recent training and has recognized his error. There is nothing to suggest that this was a pattern of behaviour for Constable Eddolls or that it would occur again.

I therefore find that this is a mitigating factor.

Effect on Police Officer and Police Officer's Family:

As I mentioned earlier, there has been an almost two year delay for this case to come to the Tribunal for a guilty plea. The delay was not attributed to Constable Eddolls. I learned that he was also dealing with an ill child during this time as well as dealing with the stress of these proceedings.

I therefore find that this is a mitigating factor.

Consistency of Disposition:

Mr. Kelertas provided several cases that may have had one similar aspect but none that were on all points with this matter. Ms. Machado also raised a point about one of the cases being under appeal. What was clear from both counsel was that they submit that the joint submission on penalty is appropriate in the circumstances and urged me to adopt it.

I therefore find that this is a neutral factor and find the joint submission compelling.

Specific and General Deterrence:

Deterrence is a legitimate objective of police discipline to prevent the officer and colleagues from repeating the actions. In this case both counsel suggested that the actions of Constable Eddolls on this date would appear to be out of character for him.

I therefore find that this is a mitigating factor.

Damage to the Reputation of the Police Force:

Protecting and respecting the rights of citizens is of paramount importance. I believe that if the community were to learn of this incident that they would be disappointed with the actions of Constable Eddolls and that would in turn reflect poorly on the Halton Regional Police Service.

I therefore find that this is an aggravating factor.

I also reviewed the (14) commendations from Constable Eddolls' file provided by Ms. Machado. They date back to 2012 and include personal letters from members of the public, supervisors and senior officers within the Service. They outline examples of excellent service delivery and performance.

I read each of the three character references provided. Each author spoke highly of Constable Eddolls' work performance and his good character in his personal life.

Lastly, I want to comment about Constable Eddolls' address to the Tribunal. His statements were both sincere and thoughtful. They were words that thoroughly expressed that he fully understood what his actions had caused and was truly remorseful.

Counsel has provided a number of cases where it has been recognized that a joint submission should be accepted. Under the public interest test a Hearing Officer should not depart on submission of penalty unless the proposed submission would bring the administration of the police complaints and discipline process into disrepute. This was clear in *R. v. Anthony-Cook*, 2016 SCC 43, [2016] 2 S.C.R. 204

A. *The Proper Test*

[32] Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But, what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.

[33] In *Druken*, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so “markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system”. And, as stated by the same court in *R. v. B.O.2*, 2010 NLCA 19, at para. 56 (CanLII), when assessing a joint submission, trial judges should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts”.

**DISPOSITION:**

The fundamental process of the police discipline process is to rehabilitate the officer and not merely punish. It is clear that Constable Eddolls has taken steps to address his issues and that he has the potential to serve the citizens of Halton in a positive and productive fashion.

The Prosecution and Defence are jointly recommending a disposition. I have carefully weighed all of the mitigating and aggravating considerations; all cases presented to me and all relevant disposition principles that make up the context of this matter. I find, as a result of the evidence before me that the appropriate disposition would be to adopt the position from the Prosecution and Defence with regard to their joint submission.

It is the decision of this Tribunal that:

- a) There shall be an immediate forfeiture of eighteen (18) hours to be taken from Constable Eddolls' vacation bank;

This decision is pursuant to section 85(1) (b) of the *Police Services Act*.



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Al Albano  
Superintendent  
Halton Regional Police

Dated: April 21<sup>st</sup>, 2017

Appendix "A" – HRPS Discipline Hearing Constable John Eddolls

**Exhibit List**

Exhibit #	Description of Exhibit
1	Delegation of Powers and Duties - Adjudicator
2	Designation – Prosecutor
3	Designation – Investigator
4	Notice of Hearing
5	Agreed Statement of Facts, Admissions, & Penalty
6	<p>Brief of Authorities (Prosecution) – Penalty Submissions</p> <p>Tab 1: Mitigating and Aggravating Consideration Affecting Disposition: The Police Discipline Process, <i>Legal Aspects of Policing</i>, Ceysens, P., Earls Court Legal Press, Inc. (updated 21, December 2005), Vol. 1, p. 5-246-248</p> <p>Tab 2: <i>Carson and Pembroke Police Service</i> (March 9, 2006, OCCPS #06-02)</p> <p>Tab 3: <i>Silverman v. Ontario Provincial Police</i> (1997), 3 O.P.R. 1181 (OCCPS)</p> <p>Tab 4: <i>Andrews and Midland Police Service</i> (May 1, 2003, OCCPS #03-12)</p> <p>Tab 5: <i>Schofield and Metropolitan Toronto Police Service</i> (1984), 2 O.P.R. 613 (O.P.C.)</p> <p>Tab 6: <i>Re: Elliott and Niagara Regional Police Service</i> (January 10<sup>th</sup>, 2017, Superintendent Brett Flynn)</p> <p>Tab 7: <i>Re: Baston and Lafreniere and Ottawa Police Service</i> (March 2016, Superintendent Dan Delaney)</p> <p>Tab 8: <i>Re: Mulville and Azaryev and York Regional Police</i> (January 11<sup>th</sup>, 2016, Superintendent Graeme Turl)</p> <p>Tab 9: Halton Regional Police Service Memorandum, Informal Discipline Disposition, February 17, 2014.</p> <p>Tab 10: Halton Regional Police Service Memorandum, Informal Discipline Disposition, September 12, 2014.</p>

7	<p>Sentencing Book (Defence)</p> <p>Tab 1: Written sentencing submissions</p> <p>Tab 2: Agreed statement of facts and joint position on penalty</p> <p>Tab 3: Performance reviews for Constable John Eddolls (2015, 2016)</p> <p>Tab 4 Character Letters (Rev. Rob Thomas, Constables Brad Hodge and Ken Best)</p> <p>Tab 5: Legal Authorities</p> <ul style="list-style-type: none"><li>- <i>Magabi Suleiman v. Ottawa Police Service and Constable Jack Lord.</i>, OCPC #11, dated October 4<sup>th</sup>, 2011.</li><li>- <i>Watson v. Catney. The Chief of the Peel Police Service.</i>, 84 O.R. (3d) 374., January 26, 2007.</li></ul>
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