

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 Jason Mathers #6160

CHARGE: UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY

DISPOSITION WITH REASONS

HEARING OFFICER

Superintendent Al Albano #3902
Halton Regional Police Service

APPEARANCES

Counsel for the Prosecution: Mr. Marco Visentini

Counsel for the Defence: Ms. Sarah Diamond

Hearing Date: June 11th, 2018

Disposition with Reasons

Before commencing with my decision in this matter, I wish to thank Mr. Marco Visentini, Prosecutor for the Halton Regional Police Service, and Ms. Sarah Diamond, Defence Counsel, 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 Jason Mathers #6160 stands charged with:

1. On or about December 17th, 2016, at the Town of Oakville in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, you did not have good and sufficient authority to arrest a person, namely M.C., thereby committing the offence against discipline to wit: Unlawful or Unnecessary Exercise of Authority as specified in Section 2(1)(g)(i) 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 June 11th, 2018 and Constable Jason Mathers pleaded guilty to the single count, and was found guilty on clear and convincing evidence, of Unlawful or Unnecessary Exercise of Authority as specified in Section 2(1)(g)(i), 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. Marco Visentini:

Facts:

Constable Jason Mathers 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 December 17, 2016, at approximately 1:30 a.m., the manager of Dave & Busters, located at 2021 Winston Park Drive, Oakville, Ontario, called the Halton Regional Police Service to report that there were eight (8) males in the establishment who were threatening management and were refusing to leave the building. The manager was very calm during the phone conversation.
2. Three police officers were dispatched to the call and were told that there were eight (8) intoxicated males in front of the establishment. P.C. Simpson was the first officer to arrive on scene and found there was no disturbance occurring outside the business. P.C. Simpson entered the premises and was told by the Manager that the four males who were standing in the foyer between the inside and outside doors were part of the larger group that had been intoxicated and the four refused to leave when directed. P.C. Simpson told the four males to leave and three of them left. The fourth male, the Complainant, said he did not have to leave, that he was waiting for a cab and that it was too cold to wait outside.
3. P.C. Simpson warned the Complainant that if he did not leave, he would be arrested under the authority of the *Trespass to Property Act*. When asked, the Complainant provided P.C. Simpson with his driver's licence. The Complainant was argumentative with P.C. Simpson but did end up leaving the premises as directed by P.C. Simpson. When PC Simpson exited the premises, the Complainant and his friends were gone.
4. P.C. Mathers was one of the officers dispatched to the occurrence by Acting Sergeant Yates. When Acting Sergeant Yates heard officers were being dispatched to the scene and that there were eight males involved in the disturbance, he requested that P.C. Mathers be dispatched. This was confirmed by the communications recording.

5. When P.C. Mathers arrived on scene, the Complainant was already gone. P.C. Simpson told him what had transpired with the Complainant. P.C. Simpson did not recall providing P.C. Mathers with a description of the Complainant; however, he told P.C. Mathers that there was no longer any issue and that the incident was over. P.C. Mathers left the area.
6. A short time later, P.C. Mathers' police vehicle was stopped close to the Alice Fazooli's restaurant with its emergency lights activated. P.C. Simpson drove to P.C. Mathers' location and when he arrived he saw that P.C. Mathers was placing the Complainant in the back seat of his police vehicle. P.C. Mathers stated that he placed the Complainant under arrest for failing to leave premises when directed under the *Trespass to Property Act*. P.C. Simpson did not see the initial contact between the Complainant and PC Mathers.
7. According to P.C. Mathers, he came across the Complainant as P.C. Mathers was leaving the parking lot. P.C. Mathers noticed the Complainant because he was yelling, screaming and making homophobic slurs to two people walking to their car. P.C. Mathers did not obtain the names of the two witnesses, nor did he take a statement from these individuals. P.C. Mathers stated that he recognized the jacket the Complainant was wearing, so he knew this was the person P.C. Simpson had dealt with earlier. Based on his recognition of the Complainant and knowledge of his actions at Dave & Busters, and the actions P.C. Mathers witnessed at Alice Fazooli's, P.C. Mathers arrested the Complainant under the *Trespass to Property Act*, and also for causing a disturbance under the *Criminal Code of Canada*.
8. After P.C. Mathers had arrested and transported the Complainant to the police station and returned to Dave & Busters, he returned to take a statement from the Manager, which included a description of the Complainant.
9. Two of the Complainant's friends, who were involved in the original incident, were with the Complainant walking through the parking lot when P.C. Mathers pulled up in a police vehicle and told the group to stop. One friend stated that P.C. Mathers got out of his vehicle, came over to the group, grabbed the Complainant, handcuffed him and placed him in the back seat of the police vehicle. The other friend stated that the Complainant had done nothing to

warrant being treated that way by P.C. Mathers. The other witness stated that he did not hear P.C. Mathers tell the Complainant why he was being grabbed.

10. Section 2(1)(b) of the *Trespass to Property Act* states that a person who is not acting under a right or authority conferred by law who does not leave the premises immediately after he is directed to do so by the occupier of the premises or a person authorized by the occupier is guilty of an offence.

11. Section 10 of the TPA reads as follows:

Where a police officer believes on reasonable and probable grounds that a person has been in contravention of section 2 and has made fresh departure from the premises, and the person refuses to give his or her name and address, or there are reasonable and probable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant.

12. When the Complainant was arrested by P.C. Mathers for contravening the *Trespass to Property Act*, the Complainant was not on or in the Dave & Busters premises, and he had not failed to identify himself.

13. The *Trespass to Property Act* authorizes a police officer to make an arrest without warrant if an individual has made a fresh departure from the premises and the person refuses to provide his name and address. When the Complainant was arrested, he was not on the premises. The Complainant had left the premises when directed to do so by P.C. Simpson. As well, the Complainant identified himself to both P.C. Simpson and P.C. Mathers.

14. When P.C. Mathers arrived on the scene, P.C. Simpson let P.C. Mathers know what had occurred. P.C. Simpson told P.C. Mathers that he was no longer conducting any investigation as there was no disturbance. As well, the Complainant had identified himself and did eventually leave the premises.

15. P.C. Mathers did not have good and sufficient authority to arrest the Complainant for an offence under the *Trespass to Property Act*. Further, P.C. Mathers did not have good and sufficient authority to arrest the Complainant for cause disturbance under the *Criminal Code of Canada*. There is no evidence that the Complainant's actions met the threshold to be arrested pursuant to either the *Trespass To Property Act*, or for the criminal charge of causing a disturbance. The Complainant should not have been arrested. Both charges were withdrawn at the request of the Crown Attorney.

ADMISSIONS

Based on the foregoing facts, Constable Jason Mathers acknowledges and admits that:

On or about December 17th, 2016, at the Town of Oakville in the Regional Municipality of Halton, while being a member of the Halton Regional Police Service, and while on duty, he did not have good and sufficient authority to arrest a person, namely M.C., thereby committing the offence against discipline to wit: Unlawful or Unnecessary Exercise of Authority as specified in Section 2(1)(g)(i) 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, cP.15, as amended.

SUBMISSIONS ON DISPOSITION

Mr. Marco Visentini advised that this was an OIPRD directed hearing. Mr. Visentini also had discussions with the Complainant, who supports the resolution proposed. The Complainant was advised of the hearing date, time and place by Mr. Visentini, but was not present. The Complainant simply wanted to be apprised of the resolution. Mr. Visentini, after receiving consent from the Complainant, contacted the OIPRD and the OIPRD has also agreed that the proposed penalty is an appropriate resolution of this matter.

Constable Jason Mathers, M.C. (Complainant), and the Prosecutor acting on behalf of Stephen J. Tanner, Chief of Police, agree that the appropriate penalty for the misconduct, set out in the paragraph above, titled "ADMISSIONS", is the forfeiture of thirty-nine (39) hours and for Constable Mathers to undergo refresher training in respect to arrest procedures and authorities, to be completed at the discretion of his commander.

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. Marco Visentini

There are three key factors when determining an appropriate penalty in the context of police misconduct hearings. 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. Mr. Visentini submitted *Krug and Ottawa Police Service* pages 12-13, which outline the factors to be considered.

Public Interest

The public requires a high standard of conduct from its police officers and have a fundamental interest in ensuring police officers, before restraining an individual by way of arrest, are crystal clear on their authorities for doing so.

Seriousness of the Misconduct

Mr. Visentini emphasized that the seriousness of the misconduct in this case is serious and police must only act within the scope of their lawful authorities. Mr. Visentini explained that in a free and democratic society an individual may do anything except that which is forbidden by law, but the State can do nothing except for that which is expressly authorized by law. The unlawful arrest of an individual is a fundamental breach of this principle. Mr. Visentini believes that this conduct is on the high end of the spectrum.

Recognition of the Seriousness of the Misconduct

Mr. Visentini expressed that he believed Constable Mathers was entitled to mitigation from his guilty plea and not caused the need for the Prosecution to call witnesses.

Employment History

Constable Mathers has a discipline history with the Halton Regional Police Service:

- June 19th, 2014 – Conviction for neglect of duty for failing to keep adequate notes. It was an informal resolution and he received counselling and training as a penalty.
- October 29th, 2014 – Conviction for neglect of duty for failing to keep adequate notes and failing to properly secure evidence. He was informally disciplined and his penalty was the forfeiture of eighteen (18) hours.

- August 19th, 2015 – Conviction for neglect of duty for failing to keep adequate notes. He was formally disciplined and his penalty was the forfeiture of twenty-four (24) hours.
- April 26th, 2016 – Conviction for neglect of duty for disposing of non-essential equipment. He was informally disciplined and his penalty was the forfeiture of eighteen (18) hours.

Constable Mathers was hired by the Halton Regional Police Service on September 20th, 1999, representing over eighteen (18) years of service. He was also previously employed by the Toronto Police Service, hired in 1996, which is over twenty-one (21) years of service overall.

In totality, there are four documented occurrences and, although not similar to this case, they are concerning. He should not be entitled to the strong mitigation he may have expected with a long service history, if he had no prior discipline.

Potential to Reform or Rehabilitate the Police Officer

An important measure as to whether or not the officer can be rehabilitated is related to recognition of the seriousness of the misconduct, which is mitigating in this case. The proposed penalty for this offence meets the purposes of discipline. It is a single act of misconduct as opposed to a pattern of behaviour. Officer Mathers has learned from this experience and, in addition to the forfeiture of hours, there is a training component as part of this joint submission, which can contribute to rehabilitation.

Damage to the Reputation of the Police Force

When an officer is engaged in an activity such as an unlawful arrest, this does call into question the professional image of the police service. If this conduct was known widely in the public, it would damage the reputation of the police service.

Specific and General Deterrence

Deterrence is a legitimate objective of police discipline. The proposed penalty meets this objective in regards to specific deterrence. The certainty of penalty can also act as a general deterrent. The degree of penalty in this case makes it clear to all officers in the Halton Regional Police Service that certain conduct will not be tolerated. This penalty meets the objective of general deterrence.

Effect on Police Officer and Police Officer's Family

This proposed penalty is one hour short of a full week. The reason for thirty-nine (39) hours has to do with language in the Halton Regional Police Service Uniform Collective Agreement. A forty (40) hour penalty would result in the loss of performance pay. A plea to forty (40) hours would actually amount to a fifty-eight (58) hour additional penalty, when you include the reduction for performance pay. This penalty has been canvassed with the Complainant and the OIPRD and they have agreed to the resolution. The financial impact on Constable Mathers is significant.

SUBMISSIONS BY DEFENCE

Ms. Sarah Diamond

Public Interest

I believe that public interest does need to be considered and has been covered by Mr. Visentini.

I believe the sentence proposed does recognize that this is a first offence of this nature. The public complainant has been involved and there is a substantial pay loss.

Seriousness of the Misconduct

Ms. Diamond indicated that this is a single occurrence and out of character for Constable Mathers. There was no personal gain. Consequences are arguably limited to the complainant in this matter and there was no intent on behalf of Constable Mathers and it has not happened again since.

Recognition of the Seriousness of the Misconduct

Ms. Diamond explained that Constable Mathers entered a guilty plea and that he will state that he accepts full responsibility for his conduct. This should be considered a mitigating factor.

Employment History

Ms. Diamond identified that Constable Mathers' employment history is not without any blemish, but it is important to look at his day in and day out performance, in tandem with his discipline record.

Ms. Diamond tendered four separate appraisals for Constable Mathers:

Exhibit #6 (2016 Appraisal) – A solid appraisal with five of the seven categories scoring him as a highly-effective contributor and, in two of the seven, he was scored as a valued contributor. The comments provided by Sergeant Rob Andrew and Staff Sergeant Craig Platt recognize that Constable Mathers has twenty (20) years of policing experience, is proactive and is a top performer in charges laid. He has also received two commendations. The first was for his thoughtful and compassionate manner in which he dealt with a radio call. His approach left a positive impression on both a young woman and her mother. He was thanked for representing himself and the Halton Regional Police Service in a positive manner. The next commendation was from Staff Sergeant Platt: *“Thank you for taking on (frequently) additional work and responsibilities – also, you have continually recently offered help in many various ways – it is noted Sir – today with a continuation of a 914 and 903 issue and yesterday assisting other districts achieve their goals.”*

In the following paragraph Sergeant Andrew noted that he had personally attended calls for service and observed Constable Mathers treat citizens with whom he interacts with respect and compassion, regardless of the gravity of their concern; this approach instills confidence in those citizens that their concern and input is valued and will be effectively addressed by Constable Mathers. In paragraph five of the appraisal it states that his efforts have uncovered several individuals engaged in underlying activity including: human trafficking/prostitution, fraudulent activity, surveillance subjects, child pornography, auto theft and other suspicious individuals who are transiting the region of Halton.

This is relevant because, as per the agreed statement of facts, Constable Mathers was on the way to a radio call when his attention was drawn to the complainant in this matter and his intent was to simply be a good police officer.

Exhibit #5 (2017 Appraisal) – Constable Mathers now scored as a highly-effective contributor on six of the seven categories. He was a valued contributor in one category. Ms. Diamond pointed out that in neither of these two appraisals was Constable Mathers ever scored as below standard, referred to as an improved contributor.

In paragraph two Sergeant Martin Dick stated: *“Jason has an eye for the unusual or out of place and has an uncanny ability to uncover criminal activity with great frequency He is an experienced officer who has worked in specialist units and this shows both in his practical and written work. Jason has the ability to speak with all levels within the community and can be extremely articulate when required, but can also converse on the level with the more unsavory characters we as police officers often come across. This in itself is a great skill set. He was a well-respected member of the platoon and often the go to guy for more junior members.”*

Ms. Diamond summarized his appraisals as showing Constable Mathers to be an informal leader, hard worker and recognized as being a strong communicator with all levels of the community.

Exhibit #7b (2015 Secondment/Modified Appraisal) – Constable Mathers was on a medical accommodation in the Domestic Violence Unit working for Detective Sergeant Glenn Mannella, who authored his appraisal. By reading the appraisal we see that he is a team player. He not only accomplished his assigned tasks, but also assumed greater duties. He adapted his role to serve as an assistant/partner/mentor to members of the unit. He was a good communicator with Detective Sergeant Mannella by keeping him apprised of all medical appointments and accounted for his time out of the office. He was proactive and identified an issue with Peace Bonds/revocable consent and designed a form to be used for this purpose.

His actions on December 17, 2016 are reflective of his proactive policing style. This type of misconduct is very different from Constable Mathers’ past record.

Potential to Reform or Rehabilitate the Police Officer

Ms. Diamond stated that the likelihood of a recurrence is minimal. Constable Mathers has pushed forward and continued doing his job. He is a highly effective, model employee and informal leader within his platoon. He is willing to step forward and take responsibility for his mistakes. This error is out of character and that this can hopefully be inferred from appraisals. According to Ceysens, when something is out of character there is likely a higher potential to rehabilitate. Based on his performance, both before and after this incident, the Service has no concerns that this particular misconduct would call his personal character into question.

Effect on Police Officer and Police Officer's Family

Ms. Diamond reiterated that this would in effect be a penalty of ninety-eight (98) hours if Constable Mathers accepted a forfeiture of forty (40) hours. Constable Mathers has three children at home that he is financially responsible for. The financial sacrifice of almost two thousand (\$2,000) dollars will be significant.

Need for Deterrence

Ms. Diamond agreed with the prosecutor that the penalty will be both a general and specific deterrent. Also being an informal leader on his platoon, Constable Mathers does have discussions with the other platoon members on how not to make the same mistakes.

STATEMENT BY OFFICER

Constable Mathers had nothing further to add.

Both the prosecution and defence agreed that there was no need to reconvene and that the ruling could be delivered electronically. Mr. Visentini would then deliver a copy to the OIPRD and the Complainant.

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 was recognized as relevant in this case. Police officers should know their arrest authorities and exercise them cautiously and legally. Police 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 the police know and apply the law accordingly. Unlawfully arresting a citizen falls well below the standard of expectation held by the public.

I therefore find that this is an aggravating factor.

Seriousness of the Misconduct

From the agreed statement of facts, the Complainant was arrested by Constable Mathers for the criminal offence of causing a disturbance and also under the authority of the Trespass to Property Act. During the interaction, Constable Mathers recognized the clothing that the Complainant was wearing, which was similar to the description from an early police occurrence, where Constable Mathers was not present. The Complainant was handcuffed and transported to the police station. The Complainant was charged and both charges were eventually withdrawn by the Crown. The Complainant was not just arbitrarily detained in this case, but arrested, restrained, transported to the police station, spent time in custody, and charged. I did not hear evidence on whether the Complainant attended any court dates or whether the Complainant had any expenses related to defence counsel and I will not make any assumptions on these points. In considering the fact that this was a single occurrence by Constable Mathers with no personal gain, I must weigh this against the unlawful arrest, application of restraints, continued detention and criminal charges being laid against the Complainant. I find that this conduct is on the higher end of the spectrum.

I therefore find that this is an aggravating factor.

Recognition of the Seriousness of the Misconduct

Constable Mathers has plead guilty and accepted the agreed upon penalty. The guilty plea saved the tribunal time from a full hearing and the inconvenience of the Complainant from having to attend and testify. These actions demonstrate that Constable Mathers has accepted and acknowledged responsibility for his actions.

I therefore find that this is a mitigating factor.

Employment History

Constable Mathers has over eighteen (18) years of service with the Halton Regional Police Service and an additional three (3) years with the Toronto Police Service. With that length of tenure, you would expect a sound knowledge of arrest authorities. I reviewed the appraisals submitted and note that there are a number of positive commendations, which speak to his proactive work, being a team leader and his ability to effectively communicate with the public. The majority of his ratings for both appraisals were that of a “highly-effective contributor”.

Constable Mathers has four (4) previous convictions for neglect of duty, all within the last four (4) years. Although the circumstances of this incident are quite different from the previous ones, I must still acknowledge that his record is far from clear.

On balancing a past discipline history with very positive appraisals, I find that this is a neutral factor.

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, counsel for Constable Mathers suggested that his actions were out of character for him. In reviewing all of the evidence presented I accept this notion.

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. Visentini explained that this was a single act of misconduct as opposed to a pattern of behaviour. Ms. Diamond has also pointed out that this behaviour is out of character for Constable Mathers. I agree with the points raised by both counsel.

I therefore find that this is a mitigating factor.

Damage to the Reputation of the Police Force

For officers to know and exercise their authority appropriately, especially when it comes to arresting citizens, is quite important in the eyes of the community. I believe that if the community were to learn of this incident, they would be somewhat shocked with the actions of Constable Mathers and that would, in turn, reflect poorly on the Halton Regional Police Service.

I therefore find that this is an aggravating factor.

Effect on Police Officer and Police Officer's Family

This proposed penalty is one hour short of a full week and I understand the rationale for the proposed number of hours. One additional hour would, in effect, amount to an additional fifty-eight (58) hours. I draw solace from the fact that the Complaint and the OIPRD were both consulted with regard to the proposed penalty and both are supportive of it. The proposed penalty would cost Constable Mathers almost two thousand (\$2,000) dollars and from the submissions provided, Constable Mathers has three children, which he supports financially.

I therefore find that this is a mitigating factor.

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 Mathers has the ability to be rehabilitated and continue to be a productive member of the police service.

The Prosecution and Defence are jointly recommending a disposition. I have carefully weighed all of the mitigating and aggravating considerations 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 thirty-nine (39) hours from Constable Mathers, and
- b) Constable Mathers is to undergo refresher training in respect to arrest procedures and authorities, to be completed at the discretion of his commander;

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



Al Albano
Superintendent
Halton Regional Police Service

Dated: June 29th, 2018

Appendix "A" – HRPS Discipline Hearing Constable Jason Mathers

Exhibit List

Exhibit #	Description of Exhibit
1	Delegation of Powers and Duties - Adjudicator
2	Designation – Prosecutor
3	Designation – Investigator
4	Agreed Statement of Facts, Admissions, & Penalty
5	Performance Appraisal and Development Plan for Constable Jason Mathers #6160 <ul style="list-style-type: none"> • Evaluation Period: June 19, 2016 – June 19, 2017
6	Performance Appraisal and Development Plan for Constable Jason Mathers #6160 <ul style="list-style-type: none"> • Evaluation Period: June 19, 2015 – June 19, 2016
7a	Appraisal Exception for Constable Jason Mathers #6160 <ul style="list-style-type: none"> • Evaluation Period: June 14, 2014 – January, 2015
7b	Secondment/Modified Duty Appraisal for Constable Jason Mathers #6160 <ul style="list-style-type: none"> • Evaluation Period: January 19, 2015 – April 17, 2015
	Brief of Authorities (Prosecution) – Penalty Submissions <ul style="list-style-type: none"> • <i>Krug and Ottawa Police Service</i> (January 21, 2003, OCCPS)