

**ONTARIO PROVINCIAL POLICE 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  
THE ONTARIO PROVINCIAL POLICE**

**AND**

**PROVINCIAL CONSTABLE B. (Brianna) Raison, #14563**

**CHARGES: Neglect of Duty**

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**DISPOSITION**

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| <b>Before:</b>                      | <b>Superintendent Lisa Taylor<br/>Ontario Provincial Police</b>   |
| <b>Counsel for the Prosecution:</b> | <b>Inspector Young<br/>Ontario Provincial Police</b>              |
| <b>Counsel for the Defence:</b>     | <b>Mr. James Girvin<br/>Ontario Provincial Police Association</b> |
| <b>Public Complainant:</b>          | <b>A.D.</b>   |
| <b>Hearing Date:</b>                | <b>January 7, 2020</b>  |

*This decision is parsed into the following parts:*

*PART I: OVERVIEW;*

*PART II: THE HEARING;*

*PART III: SUBMISSIONS, ANALYSIS AND FINDINGS; and,*

*PART IV: DISPOSITION.*

## **PART I: OVERVIEW**

### **Allegations of Misconduct**

The amended particulars of allegations state:

It is alleged that Provincial Constable (P/C) Raison committed neglect of duty in that she, without lawful excuse, neglected or omitted to promptly and diligently perform a duty as a member of the Ontario Provincial Police, contrary to section 2(1)(c)(i) of the Code of Conduct contained in the Schedule to Ontario Reg. 268/10, as amended.

On or about August 6, 2017 while on duty, P/C Raison responded with P/C Avarell to a call for service wherein she received information alleging domestic violence between A.D.<sup>1</sup> and M.M.<sup>2</sup> and an assault by A.D. on B.L.<sup>3</sup> It is alleged that P/C Raison failed to conduct a thorough investigation into these allegations, which included:

- Failing to obtain statements, probe or ask relevant questions of the involved parties and witnesses in relation to the allegations;
- Failing to conduct interviews with the involved parties and witnesses in relation to the allegations;
- Failing to discuss a safety plan with M.M., the alleged victim of the domestic assault or ask allegation-specific questions;
- Failing to enter incident information relating to the allegations into appropriate police databases;
- It is acknowledged that P/C Raison was on probation at the time of this call for service with very limited policing experience, and that she attended the call with her coach officer, P/C Avarell.

### **Representation**

In this matter, Mr. Girvin represented P/C Raison and Inspector Young represented the OPP.

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<sup>1</sup> Initials used to respect the privacy of the public complainant

<sup>2</sup> Initials used to respect the privacy of public party involved

<sup>3</sup> Initials used to respect the privacy of public party involved

A.D., the public complainant, who was present for the hearing, was not represented by counsel although he acknowledged he had that right.

## **Plea**

On January 7, 2020, PC Raison, accompanied by her counsel, Mr. Girvin, pled guilty to neglect of duty.

## **Positions on Penalty / Submissions**

Mr. Girvin and Inspector Young submitted a joint penalty proposal of a formal reprimand be imposed against P/C Raison. This proposal was supported with submissions which are detailed in Part III of this decision.

The prosecution noted that the public complainant was advised of the joint proposal and had the opportunity to provide documentation to advance a different disposition but did not do so.

## **Decision**

I have accepted P/C Raison's plea and reviewed the Agreed Statement of Facts. I find there is clear and convincing evidence to support finding P/C Raison guilty in respect to the allegations as outlined in the Notice of Hearing.

Having considered the submissions, I am satisfied the proposed penalty meets all the goals of discipline including, to correct specific behaviour, to deter others from similar misconduct and to reassure the community.

The proposed penalty is within the range of penalties imposed for misconduct of a similar nature. The appropriate disposition for P/C Raison is a formal reprimand. The reasons for my decision are as follows:

## **PART II: THE HEARING**

### **Exhibits**

The exhibits for this matter are listed in Appendix A.

## **Agreed Statement of Facts**

At the commencement of the hearing, the prosecution and defence counsel submitted an Agreed Statement of Facts which mirrored the particulars of allegations as outlined in the Notice of Hearing.

### **Part III: SUBMISSIONS, ANALYSIS AND FINDINGS**

The following analysis is based on submissions of the prosecution and defence counsel. The public complainant provided a victim impact statement to the tribunal that outlined the impacts of the misconduct on his life.

To assist me in my analysis, I will rely upon commonly-held proportionality considerations relevant to this matter. In my analysis, mitigating and aggravating factors will be balanced and weighed.

#### Public Interest

The prosecution outlined that public interest must be considered in each case as one of the objectives of the police discipline process is the protection of the public. A penalty must address the conduct on an officer's part and will attract an appropriate sanction. The public clearly has an interest in that police officers discharge their duties – faithfully, impartially and according to law and their oath of office. When police responded to the call for service as indicated in the Agreed Statement of Facts, a proper, thorough investigation did not occur.

The prosecution acknowledged that P/C Raison was still on probation when she responded to this call however she did not conduct a thorough investigation. This matter demonstrates that every officer is accountable for public safety and to maintain a very high standard in the performance of their duties. Even when responding to a call for service as a probationary officer it is important to understand when one's performance is not meeting the bar of professionalism and to discuss it with a coach officer, a colleague or a supervisor. This is an expectation of the public and the OPP.

Domestic violence is a very serious issue in our society. The public expects the police to conduct thorough and fair investigations at all times but incidents of domestic violence require diligence and compassion to determine the issues involved. I acknowledge that P/C Raison was a probationary officer at the time of the incident involving the misconduct however the training and the oath she took should have been paramount in her mind. Probationary officers are in the learning phase of their careers and I am certain that P/C Raison has learned a great deal from her experience about public expectations which are understandably high.

P/C Raison's actions has undermined the public interest and there is a need to establish confidence in the police. The public would expect police officers who fail to take appropriate investigative steps to be held accountable. The public complainant expressed extreme displeasure at his treatment and lodged a complaint with the OIPRD. The public complainant was present before the tribunal and provided a victim impact statement<sup>4</sup>. The process to hold this officer accountable in relation to the improper investigation has been validated but fair.

I concur with the prosecution that public interest is an aggravating factor for consideration.

### Seriousness of the Misconduct

The prosecution outlined that this incident was in relation to a police response to a call for service involving information and allegations of domestic violence. These allegations of domestic violence went uninvestigated and that is unacceptable. The prosecution submitted that seriousness of misconduct is an aggravating factor.

Allegations of domestic violence are always serious investigations and the police response is critically important. Although domestic violence investigations are addressed in this manner in the majority of situations, the hidden nature and prevalence of this issue is one that requires a police response that is prompt, diligent but compassionate.

Despite the fact that P/C Raison was a probationary officer, her training should have impressed the importance of such investigations. There is only one opportunity to undertake a professional first response and the inadequate police response by P/C Raison and her coach officer failed those involved in this matter.

I find seriousness of misconduct an aggravating circumstance.

### Recognition of the Seriousness of Misconduct

I concur with the prosecution who noted it is appropriate and important to determine whether a police officer truly accepts responsibility for their actions. The prosecution highlighted that at the earliest opportunity, P/C Raison took full responsibility for her actions and was willing to resolve the matter from the outset. This matter was first before the tribunal in November 2019 and the plea was quickly solidified as the officer recognized that she did the wrong thing. P/C Raison was noted as having fully cooperated with this process.

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<sup>4</sup> Exhibit 9: Victim Impact Statement (3pgs)

I am always impressed when a police officer takes direct and immediate accountability for their actions and it bodes well for P/C Raison in her future as a police officer, contributing positively to ensure a safe community. Her timely guilty plea has ensured that a full hearing involving civilian and police officer witnesses was not required. Through her counsel, the officer apologized to the public complainant and noted that she has learned through this process and is looking forward to moving forward positively in her career. Although it is difficult to attribute the same weight of a personal apology before the tribunal versus one submitted through counsel, I am satisfied the officer understands the gravity of the involved misconduct.

I find recognition of seriousness a significant mitigating factor.

### Employment History

P/C Raison's date of appointment to the OPP was on June 2, 2017. The incident involving the misconduct occurred on August 6, 2017 approximately 30 to 40 days into the officer's career. I have carefully reviewed the Performance, Learning and Development Plans (PLDP)<sup>5</sup> submitted for consideration of the tribunal.

The evaluations portray an officer who is diligent with completing her assignments and paperwork. She is noted to take pride in her work and is willing to learn from her mistakes. It is not lost on me that the comments following this incident, while she was facing a public complaint investigation, P/C Raison continued to strive to learn and grow as a police officer. She is described by her coach officer as demonstrating "great empathy and understanding [with victims of crime] through effective listening and her body language."

There are concrete examples given wherein P/C Raison has demonstrated she approaches her community and victims of crime in a fair and impartial manner and is noted as a "proficient problem solver." P/C Raison is described as professional and composed even when encountering those who have hostilities towards the police. As noted by her detachment commander, Inspector Cathy Bell, P/C Raison is "always respectful and professional in her communications and is quietly confident of her abilities." These are all attributes of a good police officer.

Although P/C Raison's employment history is limited I still find mitigation as outlined in the comments of her PLDPs. I wish P/C Raison success in her future career and encourage her to learn from mistakes, her own and others, and to continue to contribute positively, remembering what led her to this career. The positive PLDPs are evidence that P/C Raison will move beyond this misconduct matter to become a valuable member of the OPP, appreciated by the community she serves.

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<sup>5</sup> Exhibit 8: Career Profile and Performance and Development Plans

Employment history is a mitigating factor for consideration.

### Potential to Reform and Rehabilitate

I concur with Inspector Young who submitted that perfection is not the standard but P/C Raison's actions fell short in respect to the investigation at the root of this misconduct matter. The officer has taken responsibility for her actions and I find, considering her employment history to date, there is no reason to doubt she will continue to develop into a capable, compassionate and professional police officer.

Largely due to her limited career, I can find no mitigation in this regard but I consider this a neutral factor for consideration.

### Specific and General Deterrence

Dispositions in misconduct matters are meant to discourage the respondent officer and other officers from future misconduct. Both officers involved in this matter are being disciplined and I concur that it is a reminder to all officers, no matter their rank, that they will be held accountable to the professional standard that the OPP and the public expects.

Deterrence, both specific and general, is necessary.

### Consistency of Disposition

On the day of the hearing, I explained my role to the public complainant and further that, based on the officer's plea and on the Agreed Statement of Facts as outlined in the Notice of Hearing, I found her guilty of neglect of duty. My remaining task was to ensure the penalty imposed meets all the goals of the discipline process.

Defence counsel stressed that the joint penalty submission before the tribunal was reasonable and within the range of other penalties for similar misconduct. He noted that there was a significant discrepancy between the victim impact statement and the Agreed Statement of Facts and I concur with this observation. I would agree with defence counsel that the comments in the officer's PLDPs, are indicative that anti-black racism is not something P/C Raison would be involved in. Further, had that been an issue in this incident it is something that the OPP or the OIPRD would have investigated. Regardless, I understand this does little to alleviate the clear anguish felt by the public complainant as a result of his perceptions. Although the tribunal is addressing the issues of misconduct as outlined in the Agreed Statement of Facts, it truly saddens me to hear the perspective of the public complainant.

I am guided by the words of the Supreme Court in *Anthony Cook* which cited:

*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 would otherwise be contrary to the public interest.*

I acknowledged the public complainant's emotional statement to the tribunal in which he indicated his trust of police officers has been broken. The public complainant expressed concerns that P/C Raison would only receive a formal reprimand given the impacts to him and his family. Although she was on probation at the time, the public complainant felt she should not be held to a different standard as she is a first responder.

Given the opportunity to do so, the public complainant did not provide any submissions in respect to penalty. Hearing the emotions and words in his victim impact statement, I stressed to him that there are many good, caring police officers who work for this organization and without minimizing what he had been through I expressed the hope that he could keep an open mind; police officers are human and make mistakes.

I find given the circumstances of the misconduct before the tribunal, the public would be satisfied that P/C Raison was held appropriately accountable. A reprimand is a suitable sanction. P/C Raison is aware the misconduct was serious and for that reason it resulted in the formal tribunal process. However, due to mitigating factors including her tenure, her acceptance of responsibility and other factors which I have outlined, I am satisfied a formal reprimand is appropriate. I delivered a verbal admonishment for her actions within the tribunal and noted my written decision would follow. I stressed in the tribunal, that a reprimand is the most lenient sanction available but considering all of the circumstances, I find it is the most appropriate sanction.

#### Damage to the Reputation of the Police Service

I concur with Inspector Young that damage to the reputation of the police service is a neutral factor given the officer's inexperience at the time. All matters of formal police misconduct are in the public realm. The media often seek and obtain records of police discipline and when that happens they will be aware that this matter dealt with an inexperienced probationary officer with two months service.

I concur with the prosecution who stressed that P/C Raison relied upon her coach officer to guide her through the investigative steps to determine if appropriate enforcement was warranted. The OPP is aware of this and it is reflected in the sanction imposed. As defence counsel highlighted, the public will know that not only has P/C Raison been sanctioned but her coach officer has as well. His penalty will attract a greater sanction because of his role.

I reinforce the comments of the prosecution that it is important for officers to know the organization understands officers can make mistakes; this is a learning opportunity that P/C Raison can benefit from.

I find damage to the reputation of the police service a neutral consideration.

## Conclusion

I have considered whether the joint penalty position strikes a balance between community expectations, fairness to P/C Raison and the needs of the organization. I am familiar of the court comments in *Anthony Cook* and I see no reason to disturb the joint penalty proposal.

## PART IV DISPOSITION

I formally reprimand P/C Raison for this misconduct. This order is made pursuant to section 85(7)(a) of the *Police Services Act*, R.S.O. 1990.

2020-07-02

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Signed by: Lisa Taylor LS (M)

Lisa Taylor  
Superintendent  
OPP Adjudicator

Date electronically delivered: July 2, 2020

## **Appendix “A”**

The following exhibits were tendered during the hearing:

- Exhibit 1: Delegation – Adjudicator, Superintendent Taylor (Comm. Carrique)
- Exhibit 2: Delegation – Adjudicator, Superintendent Bickerton
- Exhibit 3: Designation – Prosecutor, Inspector Doonan
- Exhibit 4: Designation – Prosecutor, Inspector Young
- Exhibit 5: Designation – Prosecutor, A/Inspector Lepage
- Exhibit 6: Delegation – All Officers
- Exhibit 7: Designation – Prosecutor, Chris Diana
- Exhibit 8: Career Profile and Performance and Development Plans
- Exhibit 9: Victim Impact Statement (3 pages)