



TORONTO POLICE SERVICE DISCIPLINE HEARING

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

IN THE MATTER OF THE
THE TORONTO POLICE SERVICE
AND DETECTIVE MATTHEW WIGHTON (99536)

Charge: Insubordination

PENALTY DECISION

Hearing Officer: Inspector Richard Hegedus (Ret'd); Toronto Police Service

Prosecutor: Inspector Ronald Khan, Toronto Police Service

Defence Counsel: Ms. Joanne Mulcahy

Case Number: 6/2018

Hearing Dates: 2019.02.21

Decision Date: 2019.12.09

PENALTY DECISION

DETECTIVE MATTHEW WIGHTON (99536)

DATE: 2019.12.09

REFERENCE: 6/2018

Inspector Hegedus (Ret'd): Before commencing my penalty decision in this matter, I would like to thank Ms. Joanne Mulcahy, defence counsel, and Inspector Ronald Khan, the Service Prosecutor, for their submissions and exhibits tendered, all of which have assisted me in reaching my decision.

On February 21, 2019, Detective Matthew Wighton, #99536, pleaded guilty and was found guilty of Insubordination, contrary to the Police Services Act.

Summary

The facts are summarized from the Notice of Hearing and Agreed Statement of Facts (ASF) (Exhibit 4) as follows.

Detective Matthew Wighton has been a member of the Toronto Police Service (TPS) since May 1995. At the time of this occurrence he performed his duties as a detective in a plainclothes capacity as a member of 41 Division Criminal Investigation Bureau.

Detective Wighton was involved as a helper and coach with the Clarington Knights Minor Football Association for over seven years.

On August 20, 2017, while at the Clarington Knights Minor Football Association year- end banquet, while off duty, Detective Wighton overheard a conversation regarding one of the coaches. The information was about coach (B.L.) and that he had recent criminal charges. He heard the coach had been arrested for robbery and selling drugs and had run from a R.I.D.E. spot check and he had attempted to hide in a hot tub.

Detective Wighton was aware the coach had not submitted a criminal background clearance check letter with Clarington Knights Minor Football Association notwithstanding several requests to do so.

Detective Wighton was concerned that the coach would be working with children in the fall season and he was concerned for the safety of the children based on the information he had overheard of the coach's recent criminal record and his awareness that the coach had refused to provide a criminal background clearance check letter. He was also concerned that the coach may be on conditions or in breach of his conditions,

As a result of his concerns, when he was next back at work after the banquet, on August 25, 2017, Detective Wighton accessed Toronto Police Service computer systems. He accessed the Canadian Police Information Centre (CPIC) and other TPS records of contact with B.L. Although Detective Wighton stated he had concerns based on the information he had heard at the banquet, he did not file or submit a report with his concerns. He had learned through his checks that the information was dated and the coach was not on conditions. Detective Wighton did make notes in his notebook that he had conducted these checks.

Although Detective Wighton believed he was within the parameters of his duties as a police officer to conduct queries on B.L., these queries were not for official police business.

Penalty Decision

The penalty in this matter, imposed under Section 85(1) (e) of the Police Services Act will be:

For Insubordination, in that he did without lawful excuse, disobey, omit, or neglect to carry out a lawful order, a forfeiture of three days or 24 hours.

Prosecution Submissions

The prosecutor began his submissions by entering a Book of Authorities (Exhibit 5) and a Book of Records (Exhibit 6) to support his position.

The prosecutor indicated that he was joining defence counsel in proposing a joint penalty position of a forfeiture of three days. He indicated that the facts were straightforward, the joint position was consistent with previous penalties, and it satisfied the principles of discipline.

The prosecutor indicated that the objectives of discipline were to correct unacceptable behaviour, to deter others from similar behaviour, and to assure the public that the police were under control.

The prosecutor drew my attention to the 15 disposition considerations noted in the 2017 Legal Aspects of Policing Manual (Exhibit 6, Tab 1) and addressed the public interest. He submitted that Detective Wighton had violated the trust of the public and must be held accountable.

The prosecutor discussed *PSA s 43 (1)* which described the hiring criteria for police officers and noted that police officers must be of good character and habits (Exhibit 6, Tab 2). He brought my attention to Bright v. Konkle and Niagara Regional Police Service, 1997, Board of Enquiry, (Exhibit 5, Tab A) where the Board noted:

‘Good character is essential to both the public’s trust in the officer and in the police service’s ability to utilize that officer. The public has the right to trust that its police officers are honest and truthful and that absent extenuating circumstances, they will not be officers any longer if they breach this trust.’

The prosecutor indicated that police officers are held to a higher standard as was discussed by former Chief Blair in the Introduction to the TPS Standards of Conduct (Exhibit 6, Tab 3):

'Toronto Police Service members are held to a higher standard of conduct than other citizens. Not only is this an expectation from the community, this standard is an expectation we place upon ourselves. This higher standard of behaviour is necessary to preserve the integrity of the Service.'

The prosecutor submitted that the integrity of police officers was questioned when they breached their Oath of Office. The prosecutor noted that Detective Wighton had sworn an oath on June 5, 1998 to perform his duties impartially and according to law (Exhibit 5, Tab 4). He indicated that all actions by police officer must be able to withstand public scrutiny. The prosecutor submitted that Detective Wighton had broken the public trust when he failed to abide by lawful orders. The prosecutor indicated that access to CPIC was a privilege and the public expected police officers would not access it for their personal interest. The queries that Detective Wighton conducted were not for official business.

The prosecutor drew my attention to Nosworthy and Toronto Police Service, 2005 (Exhibit 5, Tab B) where the hearing officer noted:

'CPIC violations are viewed as serious misconduct, a violation of public privacy rights and a breach of contract with the RCMP. It is a critical law enforcement tool and it is in the public interest that CPIC violations be policed with an intolerant and unequivocal approach. Those who violate the rules will be held accountable, public trust demands it.'

In Christian vs. Grbich and Aylmer Police Service, 2002, OCCPS (Exhibit 5, Tab C) the Commission noted:

'The misuse of the CPIC system for personal or any other unauthorized reason can be a serious violation of a person's right to privacy.'

The prosecutor noted that police officers have tremendous powers and they were not to be compromised. In Jeary and Waterloo Regional Police Service, 2000, OCCPS (Exhibit 5, Tab D) the Commission noted:

'The Commission takes a serious view of deliberate disobedience of orders, properly authorized by statute, by authorities given responsibility under the statute. The Commission is of the opinion that if the decision as to whether or not a lawful order should be obeyed is a subjective one, then chaos must be the result and the complete breakdown of policing, which would undermine the force to a degree to make it impotent and create anarchy.'

And further

'Society therefore has a right to expect that police officers will follow lawfully issued orders.'

In this case Detective Wighton deliberately disobeyed a lawful order by using police information systems for other than police business. Breaches of CPIC were considered serious misconduct and a breach of the RCMP contract.

In Coulis and Toronto Police Service, 2005 (Exhibit 4, Tab E) the hearing officer noted:

'Make no mistake, that breaches of CPIC are considered as serious misconduct by both police management and by civilian oversight, as the conduct offends our contract with the RCMP and even more importantly, personal and individual privacy rights.'

In *Christian vs. Grbich* the Commission discussed that recognition of the seriousness of the misconduct was vital to the ability to reform or rehabilitate the officer. In this case an examination of Detective Wighton's actions by entering a guilty plea demonstrated remorse and an acceptance of responsibility.

In Carson and Pembroke Police Service, 2001, OCCPS (Exhibit 5, Tab F) the Commission noted that a guilty plea must be taken into account as recognition of the seriousness of the misconduct and was a mitigating factor in determining a penalty.

The prosecutor submitted that the reputation of the Service suffered every time a police officer committed misconduct and we could not afford to be complacent about our reputation. The prosecutor further submitted that public tolerance for misconduct was at a low and an appropriate penalty was required.

The prosecutor discussed Detective Wighton's employment history and submitted that it also related to his potential for rehabilitation. The prosecutor provided Detective Wighton's positive documentations and letters of appreciation (Exhibit 6, Tab 5) and indicated that there were approximately 40 positive entries.

The prosecutor provided me with Detective Wighton's last five performance appraisals from 2014 to 2018 (Exhibit 6, Tab 6). He noted that Detective Wighton's supervisors described him as courteous and professional with a great work ethic.

The prosecutor submitted that Detective Wighton displayed the potential to reform which was in keeping with his good employment history. Detective Wighton has demonstrated that he can continue to be a productive member of the Service. The prosecutor again brought my attention to the comments of the Commission in *Christian vs. Grbich* which noted that every attempt should be made to consider whether rehabilitation was possible and that the opportunity to reform must be a key consideration. The prosecutor indicated that a balance must be achieved to determine what would be an appropriate penalty. It must be consistent with previous decisions and not cause undue hardship.

The prosecutor discussed the correlation between a penalty and deterrence and brought my attention to Andrews and Midland Police Service, 2002, OCCPS (Exhibit 5, Tab G) where in regards to a penalty, the Commission noted:

'It must be properly balanced i.e. sufficient to punish and deter while not causing undo or excessive hardship while demonstrating reoccurrence will not be tolerated.'

The prosecutor submitted that a penalty of a forfeiture of three days would send a strong message to Detective Wighton. In regards to general deterrence, a summary of this decision would be posted on the TPS Intranet and would be available to all members.

In regards to consistency of disposition, the prosecutor drew my attention to Schofield and Metropolitan Toronto Police, 1984 (Exhibit 5, Tab H) where the Commission indicated that a true symbol of fairness was consistency. He further provided a number of historical cases to support his position. The prosecutor noted that the cases that he provided were of officers who were of a similar rank.

In McLeod and Toronto Police Service, 2008 (Exhibit 5, Tab I) the officer conducted CPIC queries as a favour for a family member and shared the information with that family member. The queries were not for official police business. He was assessed a penalty of a forfeiture of six days. That case was distinguished from this because the information was shared with an outside person

In Meech and Toronto Police Service, 2011 (Exhibit 5, Tab J) the officer conducted CPIC and other queries regarding a person he had been involved with. After a guilty plea, he was assessed a penalty of a forfeiture of 12 days. That case was distinguished from this one because the officer had another finding of misconduct and he had conducted 12 queries.

In Chambers and Toronto Police Service, 2002 (Exhibit 5, Tab K) the officer conducted queries of Ministry of Transportation records on a vehicle which was parked at his residence. The queries were not for official purposes. He pleaded guilty of one count of Insubordination and was assessed a penalty of a reprimand.

The prosecutor submitted that Detective Wighton undermined the public trust but he had entered a guilty plea and a penalty of a forfeiture of three days was suitable in this case and was consistent with previous decisions.

Defence Counsel Submissions

Counsel began by entering a Brief of Authorities (Exhibit 7) and Materials Relied Upon by Detective Wighton (Exhibit 8).

Counsel stated that the prosecutor's submissions were reasonable and the joint position was reasonable and well-supported by case law. The proposed penalty was not contrary to the administration of the discipline process.

As was noted in the ASF (Exhibit 4) Detective Wighton has volunteered approximately 17- 20 hours a week of his off-duty time from January to November for many years with the football association. That was a credit to him and was a large commitment.

Detective Wighton's conduct was not malicious, and was not for any corrupt benefit. It was for the best intentions but she acknowledged that it was contrary to policies of the TPS. Detective Wighton has acknowledged his misconduct by entering a guilty plea and accepting responsibility. He never denied conducting the checks during his interview with Professional Standards investigators.

Counsel submitted that this was a gray area because on its face it might appear that this was official police business and the man who was the subject of the query was bound to provide a criminal records check because of his volunteer position and he didn't do so. Information came out that he might have been engaged in criminal activity.

Counsel indicated that she was not trying to minimize the misconduct but she wanted to provide context. Detective Wighton became concerned for the safety of the children and he made a memo book note that he had conducted the query. He acknowledged his misconduct and knows there were other ways to deal with that circumstance.

Counsel indicated that Detective Wighton had an unblemished career. In regards to deterrence, he had already suffered penalties including that he could not obtain his 20 year medal from the TPS. He was held back in the promotional process despite getting a

glowing evaluation from his unit commander. This will be a roadblock to him for a number of years.

Counsel indicated that Detective Wighton had no detractors in his record but had received 46 positive letters or awards in many different circumstances (Exhibit 6, Tab 5) and (Exhibit 8, Tabs 9-13). He was previously a court officer and received commendations in that role while also doing volunteer work. Counsel reviewed a number of those documentations.

In 1996 he had observed individuals who were doused in gasoline attempting to enter a courthouse. He and his partner were able to strike the lighters from the hands of the persons who were prepared to light themselves aflame.

On another occasion, while still a court officer, he was doing prisoner transport and he observed and took control of a situation and secured a handgun.

On January 14, 1997, while still a court officer, he saw young offenders fighting with knives, he took quick action and assisted in making arrests and locating the weapons.

Counsel directed my attention to a commendation, when while still a court officer, he recognized a fellow court officer as someone who had previously engaged in discreditable behaviour. He brought this to the attention of the Service which had not previously been aware of the background of that person.

He had received commendations for his contributions during a difficult homicide trial, for his teamwork as a police officer during a project team addressing gang activity, and for his involvement during a foot pursuit and seizing a handgun.

In 2007 he was recommended for an award for removing a woman from an apartment during a fire. In another occurrence, he was recognized for bravery where a tenant had climbed over a balcony and sprayed a neighbour with a flammable liquid. Detective Wighton and his partner contained the apartment and were able to arrest the subject

without incident. Counsel further reviewed a number of other positive documentations as well.

Counsel acknowledged that though there had been some damage caused to the reputation of the Service, Detective Wighton had contributed much and brought a lot of credit to it as well.

Counsel brought my attention to Detective Wighton's evaluation from June 2018 where his supervisors and unit commander indicated that he is an asset to the organization and should be considered for future promotion.

Counsel provided a number of letters of support from assistant Crown Attorneys J. Balgopal, J. Dunda, P. Kelly, S. Olver, T. Pittman, and K. Smith which variously highlighted that Detective Wighton had an excellent reputation, was an excellent investigator, had integrity, and brought credit to the Service (Exhibit 8, Tabs 2-7, 14).

Counsel reviewed Detective Wighton's Unit Commander Assessment for promotion (Exhibit 8, Tab 8) which noted that he was a conscientious supervisor who had admitted his mistakes and had learned from them. He had an impressive investigative workload and he supported and mentored others.

Counsel indicated that Detective Wighton was accepting responsibility for the mistake he made. There had been no disclosure of information and he did not conduct the query for any personal gain. Counsel submitted that this case was missing those and other aggravating factors which were seen in other cases. She submitted that Detective Wighton had the best of intentions and was concerned for the safety of the children.

Counsel reviewed the details of prosecution's cases and also provided further cases for my consideration. In the case of Pickett and Toronto Police Service, 2016 (Exhibit 7, Tab 1) the officer had conducted a CPIC query with respect to a family member and he failed to notify RCMP that he had conducted the query. He was assessed a penalty of three days,

In the case of Spackman and Toronto Police Service, 2003 (Exhibit 7, Tab 2) the officer was involved in a domestic situation. He believed the person who he was having a relationship with was involved with another officer. He received a penalty of a forfeiture of one day.

In Attenborough and Toronto Police Service, 2001 (Exhibit 7, Tab 3) the officer conducted numerous checks of a person he was having a relationship with over many months. He was assessed a penalty of a forfeiture of one day.

In Lewin and Toronto Police Service, 1996 (Exhibit 7, Tab 4) the officer conducted queries of his ex-wife and her family members. He was assessed a penalty of two days.

In Mormile and Peel Regional Police Service, 2011 (Exhibit 7, Tab 5) the officer had been involved in a relationship and became suspicious of a vehicle he did not recognize. He called his division and requested that a check be conducted. He was assessed a penalty of a forfeiture of three days.

In the case of Collymore and Toronto Police Service, 2018 (Exhibit 7, Tab 6) the officer was assessed a penalty of three days.

In Bennett and Ottawa Police Service, OCPC 2012 (Exhibit 7, Tab 7) the officer had conducted queries of a person with whom he had been involved in a contentious personal relationship. The hearing officer did not impose a three day penalty that was part of a joint submission but imposed five days. After an appeal, the Commission reversed the hearing officer's decision, indicating a three day penalty was within the range.

In Merritt and Toronto Police Service, 2014 (Exhibit 7, Tab 8) the officer did unauthorized checks of a person during a homicide investigation for personal reasons. He was assessed a penalty of three days.

In Dzelajlija and Toronto Police Service, 2016 (Exhibit 7, Tab 9) the officer had conducted queries of a man who was associating with his wife. The man then threatened them. The penalty imposed in that case was a forfeiture of days.

Counsel submitted that a penalty of three days was consistent with other cases and met the objectives of discipline. Counsel acknowledged that the misconduct was serious and that was why it was before the tribunal.

Counsel submitted that Detective Wighton had the potential to reform and was continuing to work hard. Counsel submitted that all of the steps that he has taken to date will be a specific deterrent to him and my decision will address general deterrence. The effect of this penalty will be that he is required to spend three days away from his family.

Detective Wighton

Detective Wighton personally addressed the tribunal and said that he was sorry for his actions and would not be before the tribunal in the future.

Analysis and Decision

Police officers cannot perform their duties without the trust and support of the public. Access to CPIC and other confidential records systems is granted to police officers with the trust that they will only be used in an official capacity. Those records systems are tools that police officers are provided with in order to perform their duties.

The public has a right to expect that its privacy will be protected. Police officers are in a unique position in that they have access to confidential information in the course of their duties. As part of that, there is also a commensurate expectation that police officers will only use that information for the purpose of those duties. Police officers should not be in a better position than other persons when it comes to the ability to access confidential information.

The importance of acting in the public interest, in compliance with official duties and responsibilities has often been communicated to Service members. Accordingly, police officers are held to a higher standard than other members of the public (Exhibit 6, Tab 3).

On June 5, 1998, Detective Wighton swore an oath to perform his duties faithfully, impartially, and according to law (Exhibit 6, Tab 4). In this case he failed to act impartially and according to the procedures governing confidential databases.

Personal information about members of the public can only be accessed by due process. As discussed by the hearing officer in *Coullis*, CPIC breaches are considered serious misconduct that is contrary to the contract with the RCMP and they are a breach of personal and individual privacy rights. Police officers are expected to safeguard an individual's privacy except in specific circumstances. The queries that Detective Wighton conducted were not for the purposes of his official duties.

It is clear that Detective Wighton has recognized the seriousness of the misconduct. As indicated by counsel, he provided a lengthy written statement to investigators and also acknowledged his misconduct in his Professional Standards interview. He accepted responsibility for his actions and did not try to shift the blame elsewhere. Detective Wighton entered a guilty plea in the tribunal and further, personally addressed the tribunal to apologize for his actions and say that would not be before the tribunal in the future. Detective Wighton's actions post-misconduct and his recognition of its seriousness are mitigating factors in this matter.

As acknowledged by counsel, there were no issues with provocation or procedural fairness and I concur that there were some relevant personal circumstances in this occurrence. As noted in the ASF (Exhibit 4), Detective Wighton was a volunteer coach and helper in the Clarington Knights Minor Football Association (Exhibit 4). One of the responsibilities of the adults in those roles was to ensure the safety of the children in the league. One of the safety measures put in place by the league was to ensure that adults who volunteered their time to work with the children were subject to a police background check. When Detective Wighton came into possession of information involving another league volunteer that caused him concern, coupled with the knowledge that that person had not provided a background check, it heightened his worries about the safety of the children in the league.

In that context, I am satisfied that Detective Wighton's concerns were genuine and his actions were not for any improper purpose. That is also supported by the notation he made that he had conducted the queries (Exhibit 4). Though his concerns were understandable and well meaning, the manner in which he addressed them was not appropriate.

This event has had and will continue to have an effect on Detective Wighton. He became the subject of a misconduct investigation, could not receive his 20-year Police Exemplary Service Medal, and was held back in a promotional process. He will now have a finding of guilt and will have to forfeit pay as per section 85 (1) e) of the *PSA*. He will have to work hard to restore his professional reputation. All of those things are as a result of the actions of Detective Wighton for which he must bear responsibility.

I have not been made aware of any publicity in this occurrence but this hearing decision is a public document and any time it comes to light that a police officer has been found guilty of misconduct, it has the potential to cause damage to the reputation of the Service.

Detective Wighton has been a member of the Service since 1995, a police officer since 1998, and a supervisor since 2014. He has much experience in many roles and has been recognized many times throughout his career for making good decisions. I draw upon my own personal policing experience and note that the messages regarding appropriate use of Service information systems has been consistent throughout his career and is available to all members. There has been no systemic failure in this occurrence.

Detective Wighton was served notice that he was the subject of an investigation and has had the opportunity to make full answer and defence, including in his Professional Standards interview and in the tribunal. He has had the benefit of experienced counsel throughout these proceedings. There were no issues with procedural fairness in this matter.

I reviewed Detective Wighton's past five performance appraisals commencing from 2014 as a new supervisor and ending in 2018 (Exhibit 6, Tab 6). In those appraisals he was described by his various supervisors and unit commanders as having a good

understanding of his responsibilities, who used parades as a learning environment, and who was quick to correct officer behaviour when necessary. He was an experienced investigator who was thorough and methodical and he communicated well with his subordinates, peers and managers, bringing a positive attitude to his duties.

I reviewed the materials that were provided by the prosecutor and counsel (Exhibit 6, Tab 5) and (Exhibit 8, Tabs 9-13). During his career and in various positions, Detective Wighton has accumulated over 40 positive documentations, awards, and letters of appreciation and support.

He was recognized for volunteering his time for charitable causes, and other Service-related events. He received recognition for his role in responding to a dangerous situation involving persons soaked in gasoline, the arrests of persons for firearms, weapons offences, and other crimes of violence, and for providing court security during a challenging high profile homicide trial. He received further recognition for his role in dealing with gang activity, crowd control, and rescuing a person from a fire. There were many more examples in his file and all demonstrated the professionalism, dedication, and compassion he brought to his work in the community.

Counsel provided me with a number of letters of support from Assistant Crown Attorneys J. Balgopal, J. Dunda, P. Kelly, S. Olver, T. Pittman, and K. Smith (Exhibit 8, Tab 2-7, 14). The writers spoke highly of Detective Wighton and described his excellent work related to many court proceedings. He was noted to be highly professional, honest, to work long hours in challenging situations, and to display good judgement. It is telling that he was compared on occasion in the letters to the many other police officers the Assistant Crowns have had contact with and that he was considered in their estimation to be one of the most competent and dedicated. Detective Wighton's employment history is a mitigating factor.

The manner in which one deals with adversity is often a measure of a person's character. In this case, Detective Wighton accepted responsibility for his actions and demonstrated his desire to move forward in a positive manner. I also note that he has learned from this incident which was demonstrated by the personal apology he made in the tribunal and in

his Unit Commander promotional assessment (Exhibit 8, Tab 8). Past behaviour is often an indicator of future behaviour and based on his previous positive conduct in all areas, coupled with his actions post-misconduct, I am confident that Detective Wighton will demonstrate that he can continue to be a productive member of the Service.

Detective Wighton became the subject of an investigation and had to provide a response and interview to Professional Standards investigators. He has had to endure the loss of professional reputation and opportunity. He accepted responsibility for his actions and will now have a finding of guilt under the *PSA*. I am satisfied that deterrence specific to Detective Wighton has been addressed. In regards to general deterrence, a summary of this decision will be published on Routine orders and the Service Intranet where it will be available to the entire Service membership.

An important factor to consider when deciding on a penalty is consistency with previous similar cases as discussed by the Commission in *Schofield*:

'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.'

I reviewed the historical cases provided to me by the prosecutor and counsel. Those included *McLeod, Meech, Chambers, Pickett, Merritt, Pickett, Spackman, Attenborough, Lewin, Mormile, Collymore, Bennett, Merritt, and Dzelajlija*. The penalties in those cases ranged from a reprimand for checking licence plates of unknown vehicles in a parking lot at the low end to a high of a forfeiture of 12 days for multiple records queries related to a personal relationship. None of the circumstances of those cases were identical to the matter before me but all provided some comparisons.

I found the matters of *Chambers, Pickett, Merritt, and Dzelajlija* to be of the most assistance as they involved some concern on the part of the subject officer, the queries were not for personal gain, and the subject officer did not seek information about a current or ex-partner from a personal relationship.

Detective Wighton is a supervisor and supervisors are held to a higher standard than subordinates which would normally attract a higher penalty. In this case there is much to mitigate the penalty. This matter was also the subject of a joint penalty proposal arrived at after efforts by the prosecutor and counsel to put forth an appropriate position. While I am not bound by a joint penalty submission, after a review of the submissions and all of the exhibits provided to me, I see nothing that leads me to depart from it. It is within the range of penalties available to me.

I encourage Detective Wighton to continue to perform his duties in the manner in which he has previously and I also encourage him to share his experience with his co-workers to assist them in making good decisions in challenging circumstances.

I have carefully reviewed the mitigating and aggravating factors and considered the submissions of defence counsel and the Service prosecutor and I have determined a penalty.

As was noted at the beginning of this decision, on February 21, 2019, Detective Matthew Wighton, #99536, pleaded guilty and was found guilty of Insubordination, contrary to the Police Services Act. On August 28, 2019, I confirmed the penalty and released the penalty decision to the parties to allow Detective Wighton to begin serving it. I advised the parties at that time that the written reasons would follow.

The penalty in this matter, imposed under Section 85(1) (e) of the Police Services Act will be:

For Insubordination, in that he did without lawful excuse, disobey, omit, or neglect to carry out a lawful order, a forfeiture of three days or 24 hours.



Richard Hegedus
Inspector (Ret'd), Hearing Officer

Dated and Released Electronically: 2019.12.09

Appendix 'A'

List of Exhibits 10/2018

Det. Matthew Wighton (99536)

Hearing Officer A/Supt. Hegedus Letter of Designation (Exhibit 1)

Hearing Officer Insp. Barsky Letter of Designation (Exhibit 2)

Prosecutor Insp. Khan Letter of Designation (Exhibit 3)

Agreed Statement of Facts (Exhibit 4)

Prosecution Book of Authorities (Exhibit 5)

Bright v. Konkle and Niagara Regional Police Service, 1997, Board of Enquiry,
(Exhibit 5, Tab A)

Nosworthy and Toronto Police Service, 2005 (Exhibit 5, Tab B)

Christian vs. Grbich and Aylmer Police Service, 2002, OCCPS (Exhibit 5, Tab C)

Jeary and Waterloo Regional Police Service, 2000, OCCPS (Exhibit 5, Tab D)

Coulis and Toronto Police Service, 2005 (Exhibit 5, Tab E)

Carson and Pembroke Police Service, 2001, OCCPS (Exhibit 5, Tab F)

Andrews and Midland Police Service, 2002, OCCPS (Exhibit 5, Tab G)

Schofield and Metropolitan Toronto Police, 1984 (Exhibit 5, Tab H)

McLeod and Toronto Police Service, 2008 (Exhibit 5, Tab I)

Meech and Toronto Police Service, 2011 (Exhibit 5, Tab J)

Chambers and Toronto Police Service, 2002 (Exhibit 5, Tab K)

Prosecution Book of Records (Exhibit 6)

Legal Aspects of Policing Manual, Ceysens, 2014 (Exhibit 6, Tab 1)

Ontario Police Services Act s 43 (1) Exhibit 6, Tab 2)

Standards of Conduct – Introduction by Chief Blair (Exhibit 6, Tab 3)

Det. Wighton # 99536 – Oath of Office (Exhibit 6, Tab 4)

Det. Wighton # 99536 TPS 950 and Supporting Documents (Exhibit 6, Tab 5)

Det. Wighton # 99536 Performance Appraisals (Exhibit 6, Tab 6)

Defence Brief of Authorities (Exhibit 7)

Pickett and Toronto Police Service, 2016 (Exhibit 7, Tab 1)

Spackman and Toronto Police Service, 2003 (Exhibit 7, Tab 2)
Attenborough and Toronto Police Service, 2001 (Exhibit 7, Tab 3)
Lewin and Toronto Police Service, 1996 (Exhibit 7, Tab 4)
Mormile and Peel Regional Police Service, 2011 (Exhibit 7, Tab 5)
Collymore and Toronto Police Service, 2018 (Exhibit 7, Tab 6)
Bennett and Ottawa Police Service, OCPC 2012 (Exhibit 7, Tab 7)
Merritt and Toronto Police Service, 2014 (Exhibit 7, Tab 8)
Dzelajlija and Toronto Police Service, 2016 (Exhibit 7, Tab 9)

Materials Relied on by Det. Wighton (99536) (Exhibit 8)

Det. Wighton # 99536 – Internal Resume (Exhibit 8, Tab 1)
Letter of Support J. Balgopal (Exhibit 8, Tab 2)
Letter of Support J. Dunda (Exhibit 8, Tab 3)
Letter of Support P. Kelly (Exhibit 8, Tab 4)
Letter of Support S. Olver (Exhibit 8, Tab 5)
Letter of Support T. Pittman (Exhibit 8, Tab 6)
Letter of Support K. Smith (Exhibit 8, Tab 7)
Unit Commander Assessment (Exhibit 8, Tab 8)
Personnel Documentation from DC Maher April 26, 1996 (Exhibit 8, Tab 9)
Letter of Recognition May 28, 1998 (Exhibit 8, Tab 10)
Teamwork Commendation September 18, 2002 (Exhibit 8, Tab 11)
Award of 43 Division Street Crime Unit 2009 (Exhibit 8, Tab 12)
Letter of Recognition B. Ewart July 28, 2010 (Exhibit 8, Tab 13)
Letter of Recognition S. Olver June 25, 2018 (Exhibit 8, Tab 14)