

Portions of this decision have been redacted as they relate to an internal investigation undertaken by Peel Regional Police. As the results of internal police investigations are not posted on the OIPRD's website, those portions of the decision that refer to the internal investigation have been redacted.

PEEL REGIONAL POLICE

POLICE SERVICES ACT R.S.O. 1990, c. P. 15, as amended

IN THE MATTER OF a hearing held in accordance with section 76(9) of the Police Services Act into allegations of misconduct against Constable Joseph CROUSE #2730 of the Peel Regional Police;

Disposition - Neglect of Duty x 5
- Discreditable Conduct x 2

Superintendent David Downer (Hearing Officer)

Appearances:

Ms. L. Bordeleau
Insp. M. Barnhart
Mr. W. MacKenzie
Mr. J. Banton
Cst. J. Crouse #2730

Counsel for the Chief of Police
Counsel for the Chief of Police
Counsel for Cst. J. Crouse
Peel Regional Police Association
Subject Officer



REASONS FOR DISPOSITION

Finding of Misconduct

On November 7, 2013 Constable Joseph Crouse (CROUSE) #2730 of the Peel Regional Police (PRP) appeared before me [REDACTED]

As a result, CROUSE faced the following remaining charges:

Neglect of Duty – five counts; and,
Discreditable Conduct – two counts.

CROUSE entered a guilty plea to all counts.

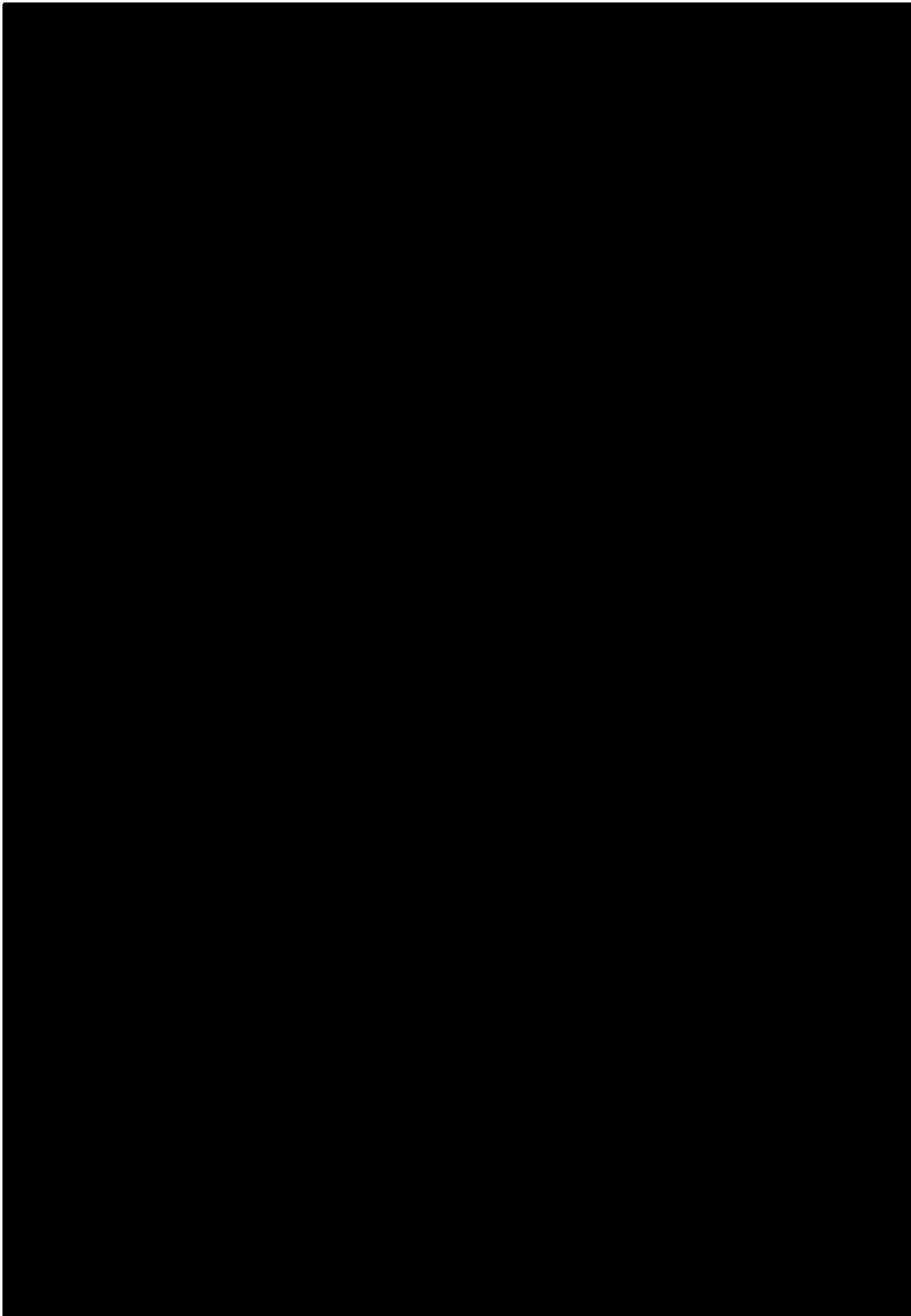
Ms. Bordeleau tendered an Agreed Statement of Facts (ASoF), filed as Exhibit #6. Based on the facts as contained in the ASoF and upon confirmation the facts were substantially correct, a finding of misconduct was registered on each count.

Agreed Statement of Facts

A summarized version of the ASoF is as follows:

Count One – Discreditable Conduct

CROUSE is a first class constable who has been a member of the Peel Regional Police since April 2003. CROUSE has worked at 22 Division, Airport Division and 21 Division. At the time of this allegation, CROUSE was assigned to 21 Division, G Platoon.



[Redacted]

[Redacted]

Count Three – Neglect of Duty

[Redacted]

Count Four – Neglect of Duty

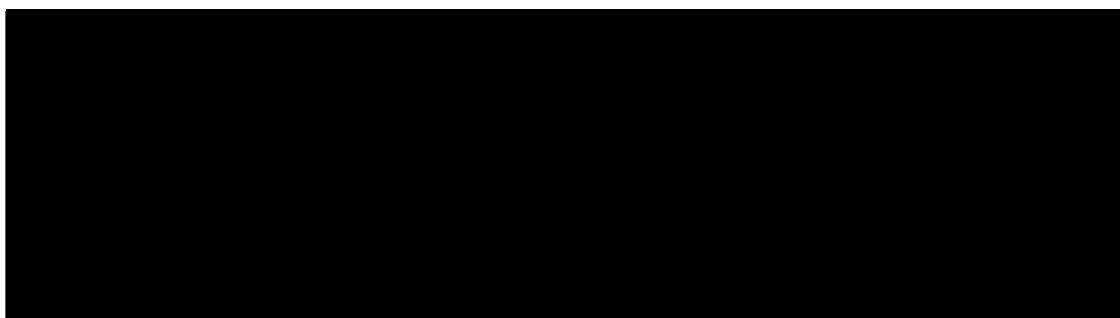
[Redacted]



Count Five – Neglect of Duty



Count Six – Neglect of Duty



Count Seven – Neglect of Duty

On April 20, 2013, CROUSE was assigned to 22 Div., G Platoon. At approximately 3:50 a.m., CROUSE was dispatched to 20 Blackmere Circle, Brampton for a landlord and tenant dispute. The landlord advised communications that someone had kicked and damaged the side door.

A second call was received by communications from a female party, later identified as Renee Morgan, who stated that a male friend had just assaulted her at the same address. CROUSE located Ms. Morgan a short distance away from the Blackmere address and dealt with her while a second officer attended the Blackmere address and dealt with the male party.

CROUSE was shown an injury by Ms. Morgan; however, he failed to make a notation of this in his notebook. CROUSE advised that Ms. Morgan received this injury during an altercation at a bar; however, he failed to make a notation of this in his notebook.

CROUSE attended the Blackmere address and spoke with the second attending officer. CROUSE advised the second officer that there was no assault.

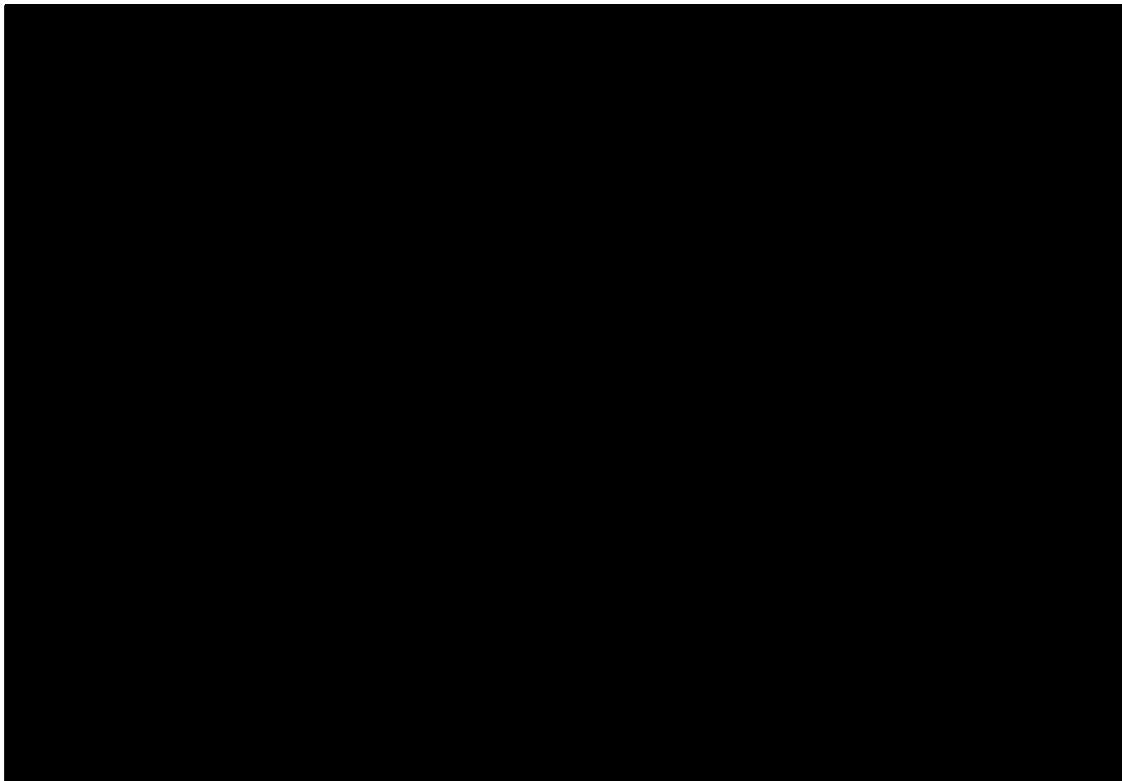
CROUSE did not observe the damage to the side door and was not looking for it as he felt it was not his responsibility.

CROUSE and the second officer submitted an occurrence report that indicated that the dispute was verbal only and that there was no damage to the side door. The call was cleared approximately an hour after CROUSE initially attended.

On April 22, 2013, CROUSE and a second officer dealt with Ms. Morgan again at the front desk of 22 Div. Ms. Morgan advised that she wanted the male party involved in the April 20th dispute charged with assault.

CROUSE and a second officer reinvestigated the April 20, 2013 incident, which resulted in criminal charges being laid. A follow-up occurrence was submitted by CROUSE and the second officer indicating that Ms. Morgan had been assaulted and that there was damage to the side door as originally reported by the landlord. CROUSE failed to undertake a proper investigation of the April 20, 2013 incident and his actions constitute Neglect of Duty.

Count Eight – Discreditable Conduct





Exhibits

The following exhibits were tendered:

Exhibit #1 – 1st Appearance Hearing Officer’s Delegation (Roselli)

Exhibit #2 – Prosecutor’s Designation (Bordeleau)

Exhibit #3 – Co-Prosecutor’s Designation (Barnhart)



Exhibit #5 – Hearing Officer’s Delegation (Downer)

Exhibit #6 – Agreed Statement of Facts

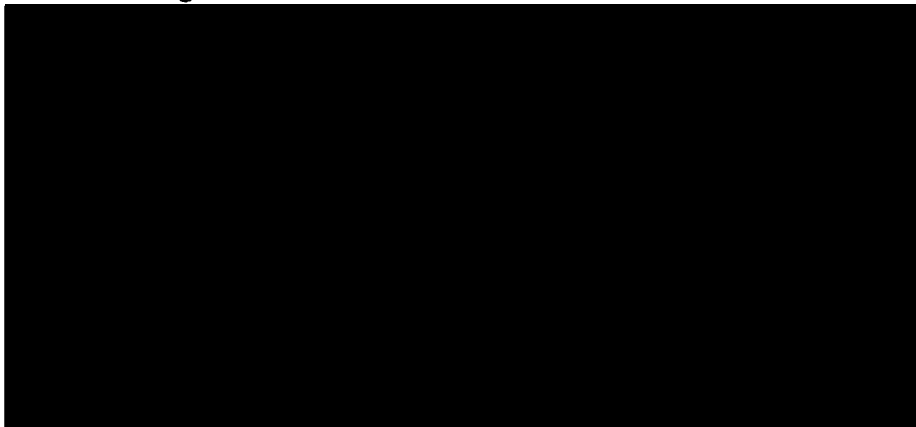
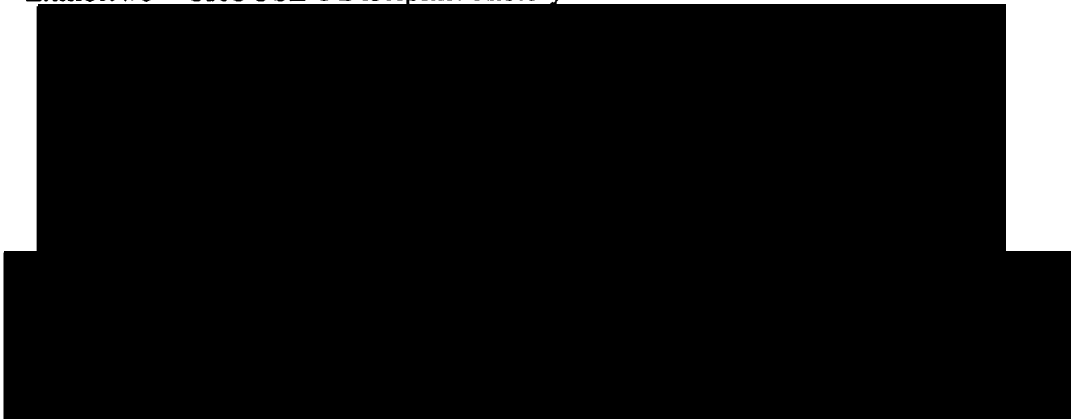


Exhibit #7 – Joint Submission as to Penalty

Exhibit #8 – CROUSE’s Discipline History



Penalty Positions

A Joint Submission has been tendered and is contained in Exhibit #7. Counsel agree the collective penalty for the misconducts as described should be a demotion from First-Class

Constable to Second-Class Constable for a period of fourteen months, on the basis of satisfactory work performance. In addition CROUSE is to participate in an upcoming Advance Patrol Training course and his work performance will be monitored and formally reviewed with him every three months for a two year period.

Prosecution's Submissions

Ms. Bordeleau tendered the case of *McGuire and Peterborough-Lakefield Community Police Service*, July 28, 2008 (OCCPS) and spoke specifically to the essence of progressive discipline where an officer has a number of recent disciplinary sanctions that have demonstrated performance deficiencies.

Ms. Bordeleau tendered Exhibit #8 which outlined the previous discipline history of CROUSE. In determining the appropriate penalty, it requires balancing the seven misconducts, and the public interest, reputation of police service, specific and general deterrence, effect on officer, totality of conduct and CROUSE's employment history.

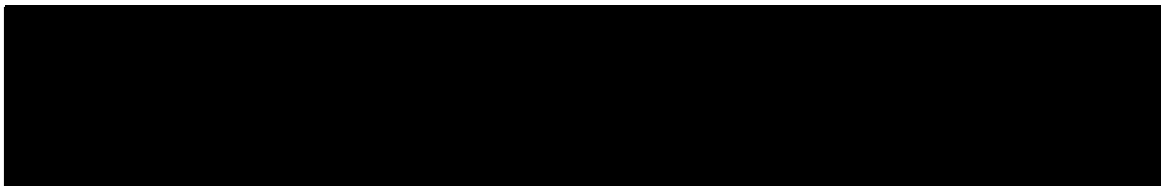
Ms. Bordeleau stated the officer has accepted responsibility for his failings and accepts the harsh penalty, realizing that the next step will be dismissal. Ms. Bordeleau also expressed concern that the officer must take responsibility for his actions and take his misconduct seriously. CROUSE needs to embrace the training afforded to him and participate fully in all opportunities afforded him. This is the only way he can continue to be a useful officer for PRP and do the job effectively.

Ms. Bordeleau stressed it will take a lot of positive work by CROUSE to once again become a productive officer for PRP. This is why a demotion in rank to Second-Class Constable and the corrective measure of requiring his work performance to be monitored is so important.

Ms. Bordeleau is hopeful that within fourteen months CROUSE will be back to the First-Class Constable level. She pointed out Mr. MacKenzie jointly agreed to the corrective measure.

Defence's Submissions

Mr. MacKenzie submitted the officer has entered a guilty plea, accepted responsibility and knows that his actions reflect poorly on his self and the organization. Mr. MacKenzie described CROUSE as thirty-five years of age, the father of two children, one age six and the other age nine. He is presently divorced but has joint custody of the children. He has claimed personal bankruptcy in the past and is paying \$1,800.00 a month for child support. He has ten years of service.



[REDACTED]

Mr. MacKenzie submitted that CROUSE had and continues to have issues with his organizational skills, confidence, and training. The Internal Affairs interviews outline his [REDACTED] lack of training in an assault investigation that led to a Neglect of Duty charge. These incidents occurred just after he came back from suspension prior to him having the opportunity to receive more training and gain confidence.

[REDACTED]

CROUSE is accepting of the harsh and significant penalty and knows he is responsible for his loss of professional standing and income that comes with it over the next fourteen months.

Discussion

In deciding the appropriate penalty in police disciplinary matters, there are key elements to be considered by a tribunal. 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. Other factors that may be considered include the officer's recognition of the seriousness of the misconduct and employment history, deterrence, public interest and consistency in penalty. In the matter at hand, each element is deserving of very serious consideration.

I first turn my mind to the nature and seriousness of the misconduct. CROUSE has been found guilty of five counts of Neglect of Duty as a result of his failure to make proper and accurate notes in [REDACTED] an arrest report. He has been found guilty of two counts of Discreditable Conduct due to [REDACTED] and the improper investigation involving an assault.

CROUSE's misconduct can be best described as egregious and falls at the high end of the spectrum of seriousness. [REDACTED]

[REDACTED] Failing to properly investigate an assault investigation is a grave matter and could have led to serious repercussions. [REDACTED]

[REDACTED] The nature and seriousness of CROUSE's misconduct

is most aggravating and unless mitigated, warrants the most severe sanction up to and including dismissal.

In regard to public interest, CROUSE's misconduct clearly has betrayed the public's trust and shattered their confidence in the PRP. The public expects their police to be accountable for their actions. Part of this accountability rests with completing accurate reports. CROUSE's [REDACTED] and record of arrest lacked accuracy, in fact on several accounts, they were untruthful. A strong message needs to be sent to the public that CROUSE's conduct is not the norm and is not condoned by the Service. The public interest is a significant aggravating factor and will be weighed accordingly in my decision.

In regard to CROUSE's employment history, I have considered his service record. He has been a member of this service since 2003. He is not inexperienced, and should be well aware of the expectations on an officer by the public and this Service. [REDACTED]

[REDACTED]

I have considered CROUSE's recognition of the seriousness of his misconduct and find it mitigates the sanction to be imposed. His plea of guilty and joint penalty submission amounts to a significant loss in wages and is indicative of acceptance and remorse for his wrong doing. I consider these constructive steps towards CROUSE recognizing the magnitude of his misconduct and desire to right his ill-doings.

Without recognition, CROUSE cannot hope to rehabilitate, and without the ability to rehabilitate, his usefulness to the Service has ended. [REDACTED]

[REDACTED] CROUSE is making an effort to show this Tribunal his remorse and desire to move forward with his career. That being, CROUSE has a long

road ahead before he can shed the shadow he has brought on himself. I guardedly consider this a mitigating circumstance.

The penalty leveraged against CROUSE must send a strong message to him and others that serious sanctions will follow those who fail to execute their duties within the framework of the legislation and blatantly disregard the policies and procedures of PRP.

I concur with then Superintendent F. Roselli's comments in the unreported case of *Peel Regional Police v. Cst. J. Crouse*, March 9, 2012 (PRP) where he stated the following:

"I am concerned whether there exists some serious underlying character flaw which manifests itself in the issues we have seen. Constable Crouse has displayed a "laissez faire" attitude towards his public duties and responsibilities, and perhaps a measure of arrogance."

CROUSE's behaviour that results in this attitude must change. The reputation of the PRP and the public trust that comes with it is too high to risk losing.

In summary, counsel has provided me with guidance in determining an appropriate penalty. I firmly believe that had CROUSE not accepted responsibility for his misconduct and pled guilty, a more severe penalty would have been well within range.

I agree with the prosecution's assertion the misconduct, as agreed to in this Tribunal, has clearly impacted the fine reputation of the PRP, and as such a specific and general deterrent must be imposed by a severe sanction. I am satisfied that discipline must be progressive in nature and trust this will be accomplished by the penalty imposed.

Disposition

As the Hearing Officer I am not bound by counsel's Joint Submission. However, having reviewed the relevant case law, there is no clear and cogent reason to vary from it. To this end, I cautiously accept the proposed sanction. I find it has taken into consideration the mitigating and aggravating considerations and addresses the seriousness and recognition of the misconduct, public interest, the need for specific and general deterrent, employee's history and consistency in penalty.

I therefore impose the following penalty:

A demotion from First-Class Constable to Second-Class Constable for a period of fourteen months, on the basis of satisfactory work performance.

In addition, CROUSE is to participate in an upcoming Advance Patrol Training course and his work performance will be monitored and formally reviewed with him every three months for a two year period by the officer's Divisional Commander.

Pursuant to Section 85(1)(c) of the *Police Services Act (PSA)*, R.S.O. 1990.

CROUSE will have to work diligently and with the utmost integrity in order to gain his reputation back with this police service. As a final note, I truly hope that CROUSE commits to work hard and to never appear in front of a *PSA* Tribunal in the future.

This sanction is to take effect at the earliest opportunity.

David Downer #871, Superintendent
Peel Regional Police
Hearing Officer

Date: November 18, 2013