

THE MATTER OF Constable Jennifer FINNISS #1054

And

CHIEF OF POLICE, OTTAWA POLICE SERVICE

APPEARANCES:

Mr. Mark WALLACE

for Constable Jennifer FINNISS #1054

Ms. Christiane HUNEALT

for Ottawa Police Service

HEARING OFFICER:

Acting Deputy Chief Don Sweet #817

Ottawa Police Service

PENALTY WITH DECISIONS

Before continuing with my decision, I wish to thank both the prosecuting Counsel and Defence for their hard work, efforts and their submissions that went into the agreed Statement of Fact and their joint submissions as to penalty. I have considered their submissions fully and they have greatly assisted me in reaching my decision.

I also want to thank Mr. Ryall for his consideration, contribution and patience during this process.

THE HEARING

I previously accepted the guilty plea on clear and convincing evidence, on June 5th, 2015 as well as the agreed Statement of Facts presented to me from the Prosecutor and Defence. As a result, on that day Constable Jennifer FINNISS was found guilty of:

Two counts of insubordination, with count one contrary to section 2(1)(a)(ii) of the Code of Conduct, Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Services Act*. This count relates to disobeying a lawful order in relation to access of the Canadian Police Information Centre (CPIC) and the unauthorized query of a young person.

Count two, contrary to section 2(1)(b)(ii) of the Code of Conduct, Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Services Act*. This count relates to disobeying a lawful order pertaining to the access of the Ottawa Police Service's Records Management System (RMS) and the unauthorized query of a young person.

One count of Breach of confidence contrary to section 2(1)(e)(i) of the Code of Conduct, Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Services Act*. This was related to your inappropriate disclosure of confidential information contained in a police report to your friend, C.M.

AGREED STATEMENT OF FACT

The agreed Statement of Fact was entered as Exhibit #5 on June 5th, 2015 and was read into evidence by Ms. Huneault. I won't reread that information today, but I have included it in my decision.

Cst. Jennifer Finniss (Cadre #1054), is a sworn member of the Ottawa Police Service (OPS). Cst. Finniss has been employed as a police officer since April 21, 1997.

In February 2014, the Ottawa Police Service received a public complaint alleging misconduct on the part of a member of the Ottawa Police Service having disclosed information that was provided to the OPS during an investigation. On January 24, 2014, the public complainant, K.R. had provided highly confidential information to the police about the young person J.R. The information was contained in the police general occurrence report #14-20936. The public complainant, K.R., later learned that the highly confidential information was disclosed to a member of the community by a member of the OPS. The public complainant, K.R., was concerned the information about the young person, J.R., was circulating throughout the community, causing problems for the young person and his family.

The OPS Professional Standards Section (PSS) conducted an investigation into the complaint. Cst. Finniss was identified as the respondent officer for the complaint. An examination of the OPS Records Management System (RMS) database revealed Cst. Finniss accessed general occurrence report #14-20936 on multiple occasions. Cst. Finniss was assigned to the Front Desk Services in East Division at the time and was not assigned to investigate any matters related to the general occurrence report #14-20936.

The PSS investigation also revealed Cst. Finniss misused the OPS Records Management System (RMS) and the Canadian Police Information Centre (CPIC).

Cst. Finniss conducted unauthorized record queries on five (5) individuals named within report #14- 20936. The person queries document would have revealed all complaint numbers, general occurrence numbers and/or ticket offence numbers for each person queried. Cst. Finniss accessed the text for general occurrence report 2013-99887. This general occurrence was classified as a child abuse complaint, contained details of the incident and contained the involved person's medical history. Cst. Finniss also accessed the text for general occurrence report 2005-68416. This general occurrence was classified as harassing phone calls and detailed the incident. Cst. Finniss also accessed the text for general occurrence report 2009-307859 that dealt with a civil dispute of her friend's late father's estate. Cst. Finniss was not authorized to query any of the above mentioned police reports.

Cst. Finniss also conducted an unauthorized record query of the young person J.R. on the CPIC database.

On January 25th, 2014, Cst. Finniss sent an email to an OPS School Resource Officer asking him to assist her friend C.M who was involved in the incident that generated the general occurrence report #14-20936. Cst. Finniss provided the officer with the case number and told him he could reach her at home if he needed anything.

On January 27th, 2014, Cst. Finniss received an email from the OPS School Resource Officer stating that he had spoken to her friend C.M. and that he would liaise with C.M. and the complainant, K.R., regarding the ongoing issues.

On January 29th, 2014 at 13:23 hours Cst. Finniss sent an email to OPS CPIC operator Chris Pennings and requested a Freedom of Information (FOI) version of the general occurrence report #14-20936.

On January 29th, 2014 at 13:29 hours Cst Finniss received an email from Sgt. O'Connor reminding staff to proceed through FOI when releasing information to the public. The email also details his concerns over the unauthorized release of information contained in the general occurrence report #14-20936.

On January 29th, 2014 at 13:36 hours Cst. Finniss received an email from CPIC operator which included a PDF attachment with a redacted version of general occurrence report #14-20936. The redacted version of the report did not contain the highly confidential information provided by the complainant, K.R., to the police on January 24, 2014.

On January 29th, 2014 at 14:04 Cst. Finniss sent an email to Sgt. O'Connor confirming C.M. had just attended the OPS Leitrim police station counter to obtain a copy of the FOI redacted report #14-20936.

Cst. Finniss attended on April 24th, 2014 and June 13th, 2014 for a compelled interview. Cst. Finniss advised PSS that her friend C.M. had contacted her earlier in the week of January 24th, 2014, in that conversation C.M. expressed to Cst. Finniss concerns for the safety of her child. Cst. Finniss advised C.M. to meet with the complainant K.R. and an OPS School Resource Officer to resolve the matter.

Cst. Finniss confirmed during the compelled interview to PSS that she was the officer responsible for the unauthorized release of confidential police information to a member of the public. Cst. Finniss confirmed that on January 25th, 2014 she had a telephone conversation with C.M. Cst. Finniss acknowledged that in that conversation she confirmed to C.M. the substance of the redacted portions of the report (#14-20936) which detailed the highly confidential information the public complainant provided to the police about the young person J.R.. Cst. Finniss also admitted that she conducted unauthorized RMS queries on five (5) individuals related to report #14-20936 and one (1) unauthorized CPIC query of the young person J.R. who is named in the report #14-20936.

Cst. Finniss acknowledged she exercised poor judgment and took full responsibility for sharing the confidential information and conducting unauthorized RMS and CPIC queries. Cst. Finniss explained her actions were motivated out of concern for the children in the community. Cst. Finniss is currently assigned to the Front Desk Services in East Division. Cst. Finniss does not have any incidents of discipline on her employment record.

JOINT SUBMISSION OF PENALTY

The joint submission as to penalty was entered as Exhibit #6 on June 5th, 2015 and was read into evidence by Ms. Huneault as follows:

The parties jointly submitted that the appropriate disposition for the finding of Discreditable Conduct and Breach of Confidence as follows;

Forfeiture of 160 hours (20days) off in accordance with section 85(1)(f) of the *Police Services Act* and a Forfeiture of 24 hours (3 days) pay in accordance with section 85(1)(e) of the *Police Services Act*.

DISPOSITION

In considering the joint submission as to penalty I took into consideration multiple factors as identified by Prosecution and as related to proportionality.¹

¹ Ontario Police Services Act, *Ceyssens and Childs*, p. 297

I would like to start my submissions on penalty by first outlining the objectives of discipline:

These objectives are to:

- Correct unacceptable behavior;
- Deter others from similar behavior;
- Assure the public that the police are under control.

The first factor I took into consideration was:

Public Interest

It is well known that the public expect police officers to safeguard private and confidential information provided to them in the course of their duties and to refrain from accessing such information for personal reasons. The community in general would be shocked to find that an officer accessed a confidential report, in which the officer had no involvement, and then provided the information contained within it, to a member of the public. The facts of this incident would affect the confidence of community members who trust police officers to maintain private and confidential information and respect privacy laws.

This incident has had a serious effect on the complainant and on the family of the young person due to rumours and gossip in the community.

Constable Finnis' conduct would not be deemed acceptable by the public and it is in the public interest that she be held accountable.

The next area I would like to address is:

Seriousness of the Misconduct

Cst. Finnis' misconduct is serious in nature.

She intentionally queried the name of young person J.R. both on CPIC and on RMS. She conducted additional queries of J.R.'s parents and learned of additional private information concerning the family. She confirmed information from the report to her friend over the phone. Constable Finnis' actions constitute a serious information breach with possible long lasting effects on the public complainant, J.R., and his family and the community where this incident occurred.

In regards to

Employment and Disciplinary History

Constable Finniss has been a member of the Ottawa Police Service since April 21st, 1997.

Her personnel file contains 4 commendations, 3 of which are letters of appreciation from members of the public and one from a commanding officer.

Constable Finniss has no prior record of discipline with the Professional Standards Section.

The next area that I would like to address is the:

Potential to Reform or Rehabilitate the Officer

Constable Finniss is a 17 year veteran of the Ottawa Police Service with no prior record of discipline. There is no reason to believe that her behavior could not be modified with an appropriate penalty. I have every reason to believe she will continue to be an asset within the Ottawa Police Service and will learn from this experience.

The next considerations I would like to address are:

Specific and General Deterrence

Police officers are held to a higher standard. The Ottawa Police Service does not condone the actions of Cst. Finniss.

It would seem that Constable Finniss' motivation for her interference in this file was to help her friend. The fact that she not only confirmed confidential information to her friend demonstrates a clear lack of respect for OPS policy and more importantly the Oath of Office she took when she was sworn in as a police officer.

Any penalty given in this matter must send a message specifically to Constable Finniss that this conduct is unacceptable and will not be tolerated. Any penalty should address that Constable Finniss must follow established protocols and respect her job description by not becoming involved in investigations that are outside of her purview or which pose a conflict of interest due to the involvement of persons personally known to her. Constable Finniss must recognize the significant disruption that her conduct caused to the public complainant and more importantly the potential harm it has and could cause to J.R. and his family.

Any penalty should reinforce to Constable Finniss and to the membership in general that unauthorized access of CPIC/RMS and unauthorized disclosure of confidential information is an extremely serious form of misconduct and that, regardless of the motivation, will not be tolerated by any means or for any reason. Chief Charles Bordeleau has been consistent on this messaging and remains so today.

I would now like to address the effects on the:

Reputation of the Police Service.

Constable Finniss' actions will affect the confidence that members of the community have in the Police Service because the community expects our members to keep information confidential. The community also expects our members to act in an impartial manner.

Given that Constable Finniss' actions involved accessing and releasing information pertaining to a young person, the public's perception of the Police Service in this incident could be eroded.

It should also be noted that members of the media have been present previously and are present here today. This decision will also be posted on the OPS public website for all members of the public to view. This combination will cause harm to the reputation of the Ottawa Police Service.

Any penalty should seek to properly deter these behaviors in order to regain the trust of our community.

I will now address:

Consistency of Disposition

When imposing a penalty, it is important to take into account prior disciplinary cases dealing with similar types of misconduct. This is to ensure consistency.

A review of the cases internal to the OPS and other Police Services within Ontario where officers have been found guilty of Insubordination and/or Discreditable Conduct relating to similar fact situations has been conducted. The penalty sought today of the forfeiture of 160 hours (20 days) off and a forfeiture of 24 hours (3 days) pay is consistent with this search.

The **mitigating** factors in this case are as follows:

- The officer has no previous misconduct, and

- That the officer plead guilty to this matter. Her plea has eliminated the need for a lengthy and potentially costly hearing in this matter.

Regarding the aggravating factors,


- Cst. Finniss has been a police officer for the past 18 years and as such should have known better than to act as she did.
- As outlined previously there is the need to show a specific and general deterrence to send a message both to Cst. Finniss and others that OPS management will not condone or tolerate the misuse of Police Information Systems.
- The other aggravating factors in this matter are the damage to the reputation of the police service, the public interest and the seriousness of the misconduct, as I have outlined previously.

DECISION OF PENALTY

Having regard to the aforementioned points, I agree with the joint submission concerning penalty in this matter. Insubordination and Breach of Confidence has been proven on clear and convincing evidence and the purpose of the discipline process can be met by imposition of the proposed penalty.

Cst. Jennifer FINNISS will forfeit 160 hours (20 days) off in accordance with section 85(1)(f) of the *Police Services Act* and 24 hours (3 days) pay in accordance with section 85(1)(e) of the *Police Services Act*.

Dated at Ottawa this 26th day of June 2015.



Acting Deputy Chief Don Sweet #817

Hearing Officer