

**Hamilton Police Service Discipline Hearing**  
**In the Matter of Ontario Regulation 268/10**  
**Made Under The Police Services Act, R.S.O. 1990,**

**And Amendments thereto:**

**And**

**In The Matter Of**

**The Hamilton Police Service**

**And**

**Constable George Schmid #224**

**Charge: Discreditable Conduct (Seven Counts)**  
**Neglect of Duty (Six Counts)**  
**Deceit (Two Counts)**  
**Breach of Confidence**

**Before:**

**Superintendent (Retired) M.P.B. Elbers**  
**Ontario Provincial Police Adjudicator**

**Appearances:**

**Counsel for the Prosecution: Mr. Marco Visentini**  
**Hamilton Police Service**

**Counsel for the Defense: Mr. Brad Boyce, Administrator**  
**Hamilton Police Association**

**Penalty Decision with Reasons:**

**The Hearing:**

**Constable George Schmid #224 pled guilty on Friday March 09, 2012 and was found guilty of three Counts of Discreditable Conduct, Contrary to Section 2(1) (a) (xi), and four Counts of Neglect of Duty, Contrary to section 2 (1) (c) of the Code of Conduct contained in Schedule for Ontario Regulations 268/10, as amended.**

**Four Counts of Discreditable Conduct, Two counts of Neglect of Duty, Two Counts of Deceit and One Count of Breach Of Confidence was withdrawn by the Prosecutor, Mr. Marco Visentini.**

**The charges relate to sexual activity that Constable Schmid engaged in while on duty on July 3, 13, and 16, 2010. Constable Schmid was acting in a Sergeants position at the time of the above indiscretions and thereby was not supervising his platoon or advising the communication section of Hamilton Police Service of his location. The charges also relate to the time period of March 12, 2010 and September 02, 2010 where Constable Schmid failed to comply with Hamilton Police Service policy in not submitting a fraud allegation report prior to the end of his shift and failing to maintain the confidentiality and security of information in the possession and control of the Hamilton Police Service.**

**Exhibit #4 was filed as the Agreed Facts in this Hearing.**

- 1. On January 9, 2010, a female individual (hereinafter referred to as "the female complainant") attended at the Central Police Station, located at 155 King William Street, to report an alleged fraud in respect of her engagement ring.**
- 2. On January 11, 2010, the investigation into the alleged fraud of the engagement ring was assigned to Police Constable George Schmid.**
- 3. In the first week of March, Police Constable George Schmid met with the female complainant and took a statement from her in respect of the fraud investigation. Prior to this meeting. Police Constable Schmid and the female complainant exchanged cell phone numbers as a way of keeping in touch with each other for the purposes of the investigation.**

4. Shortly after the meeting between Police Constable George Schmid and the female complainant, they began to flirt with each other by way of text messaging.
5. On March 12, 2010, Police Constable George Schmid and the female complainant began an intimate, personal relationship, which occurred both on and off duty.
6. On March 31, 2010, further to the fraud investigation in which the female complainant was involved, Police Constable George Schmid attended the premises of the jewelry company to speak to the owner of the jewelry company.
7. On Saturday, July 3, 2010, Police Constable George Schmid was on duty in a uniform capacity, working nightshift on A squad in Division 3. During this tour of duty, Police Constable Schmid was assigned as a Uniform Patrol Supervisor (Acting Sergeant) and was operating a marked police supervisor vehicle.
8. During the tour of duty, Acting Sergeant George Schmid traveled in his assigned marked police vehicle to the residence of the female complainant, arriving at approximately 9:54 p.m. While at the residence of the female complainant, Acting Sergeant George Schmid engaged in consensual sexual activity with the female complainant. Acting Sergeant George Schmid left the residence at approximately 10:19 p.m.
9. On Tuesday, July 13, 2010, Police Constable George Schmid was on duty in a uniform capacity, working nightshift on A squad in Division 3. During this tour of duty, Police Constable George Schmid was assigned as a Uniform Patrol Supervisor ((Acting Sergeant) and was operating a marked police supervisor vehicle.
10. During the tour of duty, Acting Sergeant George Schmid traveled in his assigned marked police vehicle to the residence of the female complainant, arriving at approximately 10:34 p.m. While at the residence of the female complainant, Acting Sergeant George Schmid engaged in consensual sexual activity with the female complainant. Acting Sergeant George Schmid left the residence at approximately 10:48 p.m.
11. On Friday, July 16, 2012, Police Constable George Schmid was on duty in a uniform capacity, working dayshift on A squad in Division 3. During this tour of duty, Police Constable Schmid was assigned as a Uniform Patrol Supervisor (Acting Sergeant) and was operating a marked police supervisor vehicle.
12. During the tour of duty, Acting Sergeant George Schmid traveled in his assigned marked police vehicle to the residence of the female complainant, arriving at approximately 8:46 a.m. While at the residence of the female complainant, Acting Sergeant George Schmid engaged in consensual sexual activity with the female complainant. Acting Sergeant George Schmid left the residence at approximately 9:16 am.

13. On each of the dates as set out above, namely on July 3, 2010, July 13, 2010 and July 16, 2010, Police Constable George Schmid was on duty as a Uniform Patrol Supervisor (Acting Sergeant) in Division 3. As such, he had a duty to supervise the members under his supervision.
14. The duties of supervisors are set out in Police and Procedure 1.26, entitled "Supervision". On each of the dates and times set out above, while engaging in sexual activity with the female complainant, Police Constable George Schmid knowingly made himself unavailable to supervise the members under his supervision.
15. On each of the dates and times set out above, namely on July 3, 2010, July 13, 2010 and July 16, 2010, Police Constable George Schmid had a duty to report his location to the Communications Services Section in accordance with Policy and Procedure 5.1.01, entitled "Communication and Dispatch Operations".
16. While engaging in sexual activity with the female complainant, Police Constable George Schmid failed to advise or update the dispatcher in the Communications Services Section. Either by radio communications, Mobile Data Terminal transmission or otherwise, of his location and activity.
17. Police Constable George Schmid swore an Oath of Secrecy upon entering his employment with the Hamilton Police Service. Police Constable George Schmid swore, in that Oath of Secrecy, to not disclose any information obtained by him in the course of his duties, except as he may be authorized or required by law.
18. In early July, 2010, during the time that Police Constable George Schmid was involved in an intimate, personal relationship with the female complainant, he provided the female complainant with a data storage device for the purpose of obtaining photographs of the female complainant.
19. The data storage device that Police Constable George Schmid provided to the female complainant contained documents with confidential information, itemized as follows:
  - a. Duty Statement (or Will Say) of Police Constable George Schmid in respect of an incident involving the arrest of two individuals for drug offences.
  - b. Supplementary Occurrence in respect of the incident set out in paragraph (a), above, documenting Police Constable George Schmid's contact with counsel for one of the accused persons and that medical assistance was required for the accused person.

- c. **Duty Statement (or Will Say) of Police Constable George Schmid in respect of an incident involving the arrest of an individual for possession of stolen property.**
- d. **A Hamilton Police Service Criminal Intelligence Report documenting information obtained from a confidential informant relating to a potential homicide investigation.**

**20. While the female complainant was in possession of the data storage device, she was able to access the documents contained therein.**

**21. Hamilton Police Service Policy and Procedure 5.3.03, entitled "Confidentiality", states that it is the policy of the Hamilton Police Service to maintain confidentiality, control and security of all information in possession or control of the Police Service. In particular, the policy states:**

***"Members shall ensure that all records (def.) of information, including written and verbal communication, obtained by any member, or to which any member has access, during the course of police duties:***

- a. ***are only viewed and/or utilized by authorized police personnel engaged in bona fide police activities.***
- b. ***receives the degree of protection necessary to ensure confidentiality and prevent disclosure to unauthorized agencies or individuals.***

**22. The policy further states that a breach of an oath or affirmation of office or secrecy or confidentiality by a Member of the Service shall be considered a serious disciplinary matter and may be grounds for dismissal.**

**23. The personal relationship between Police Constable George Schmid and the female complainant ended in early September, 2010.**

**24. On September 20, 2010, Police Constable George Schmid completed a Supplementary Occurrence Report in respect of the investigation in the alleged fraud of the engagement ring involving the female complainant. The incident was cleared as "unsolved".**

**25. Between March 31, 2010 and September 20, 2010, there are no investigative steps documented in the Hamilton Police Service Records Management System in respect of the investigation into the alleged fraud of the engagement ring involving the female complainant.**

**26. Hamilton Police Service Policy and Procedure 4.3.09, entitled "Reporting, Investigative Responsibilities and Distribution of Reports", states**

***"Officers shall complete and submit occurrence/follow-up reports prior to the end of shift in order to facilitate clearing and reassignment".***

**27. The incident investigation should have been concluded when Police Constable George Schmid completed the last investigative step of the investigation and was prepared to clear it.**

**Mr. Marco Visentini, representing the Hamilton Police Service and Mr. Bradley Boyce, representing the subject officer, Constable George Schmid, has proposed a joint submission on penalty. The proposed submission is a two year demotion in rank. The officer would be demoted to Third Class Constable immediately and then after one year would be elevated to Second Class Constable. Constable Schmid will serve one year at Second Class Constable and then be elevated to First Class Constable after the year at Second Class Constable has been completed.**

**In Williams and the Ontario Provincial Police, the Commission identified three key elements a Hearing Officer must take into account when imposing a penalty. These include: the nature of the seriousness of the misconduct, the ability to reform or rehabilitate the officer, and the damage to the reputation of the Police Force that would occur if the officer remained on the Force.**

**Counsel has submitted fourteen (14) cases for me to consider in support of their joint submission in assisting me in determining the appropriate disposition.**

**They are found in Exhibits # 8 and #11.**

**These cases are not on point with this particular situation; however I have found them to be instructive in assisting the Tribunal to reach an appropriate disposition. They are instructional to this point as all fourteen cases are different in substance and fact. There are some similarities with regards to sexual activity on duty and also of supervisory personnel engaging in this type of behaviour. This being said, again it addresses the power a Police Officer possesses and the use or improper use of this power, can affect the Officer and tarnish the image and reputation of the Service for whom he/she is employed. In this circumstance it is the Hamilton Police Service.**

**Accountability, ethical behaviour and conduct are at a standard much higher than the public we serve.**

**The public observes and evaluates the Police 24-7. We, as individuals and as a professional organization must be mindful of this fact. Our members, while on patrol and off duty, must conduct themselves in a professional manner at all times.**

**Constable Schmid demonstrated unprofessional behaviour while in charge of a platoon as a Sergeant in July of 2010.**

**Constable Schmid has conducted himself in a way not conducive to the conduct that the Hamilton Police Service expects from their officers while either on or off duty. A strong message must be sent to this officer, so that we as an organization and the public at large maintain the high trust and accountability that the public demands of its police officers.**

**Members of the Hamilton Police Service are expected to investigate criminal activity in a professional and thorough manner. Reports are expected to be filed forthwith as policy dictates with this service. Members are not expected to engage themselves in a personal involvement with a victim. It is more serious when that officer is a supervisor. Constable Schmid was considered to be a "high flier" in the organization. He was the "go to guy" as seen by his superiors. This makes this indiscretion even more aggravating. Constable Schmid has disappointed his superiors and his platoon. He will have to work hard at trying to obtain that trust and loyalty he once possessed and commanded to a high degree to once again become that "go to guy".**

**It is unacceptable behavior to be given a supervisory position and utilize this position for personal gain. Constable Schmid can be thankful that a serious occurrence was not reported at the time he was attending the personal residence of a victim for sexual activity and that his platoon was able to function without his assistance for the period of time he was otherwise engaged in a non-police function.**

**Criminal reports, intelligence reports are crucial to the workings of a police department. They are secured within the police service to be obtained by authorized personnel. The sharing of this information to non- authorized personnel is deplorable behavior. As an acting Sergeant, it is a more aggravating consideration in my penalty disposition considerations.**

**In this case, we have a public complainant which was directly affected by Constable Schmid's actions. The public must be confident that the police will strive to set the example for those in the community. Anything short of this will be seen as a contradiction and serve no other purpose but to undermine the efforts of all serving officers and the explicit goals of the Hamilton Police Service.**

**I feel relatively confident that this experience, pleading guilty at the earliest opportunity that Constable Schmid has learned from his indiscretion and that he is fully prepared to take responsibility for his actions.**

**I believe that Constable Schmid understands and recognizes the seriousness of this misconduct. I believe today, he understands how his actions between March and September of 2010 have affected his career today.**

**He has shown remorse in part by pleading Guilty to this charge and apologizing to this Tribunal. This action has prevented a potential lengthy Hearing and calling of numerous witnesses at a Hearing.**

**Constable Schmid has been a member of the Hamilton Police Service since November of 2003. His performance evaluations are exemplary. He has received numerous exceeds in his performance evaluations and he is noted for his diligent police work that has earned him the Acting Sergeant position numerous times by his superiors. He is a highly respected member of the Service. Reading these performance evaluations makes it even more difficult to understand why this officer conducted himself in the way which he did to lead to these charges. Constable Schmid also has numerous letters of tribute, commendations and support in his file. These letters act as mitigating factors in my decision.**

**In addressing deterrence in this case I believe that specific deterrence is not an issue. As already stated, the officer has learned a great deal and I am confident he will continue serving the people of Hamilton in an acceptable if not an exemplary manner.**

**General deterrence in this situation offers the Adjudicator in this matter the opportunity to remind all members of this organization that policing is serious business. You must as a police officer strive daily to complete your duties as a sworn police officer in a diligent and professional manner. You are accountable for your actions and any deviance from those actions, the Hamilton Police Service will hold you accountable. This is what the public expects of the management of this police service.**

**Short of dismissal, it is unknown to this Tribunal or to the Hamilton Police Service whether this conduct will continue by this officer.**

**The proposed joint penalty submission submitted by Counsel in this matter suggests to me that the officer can be rehabilitated and once again be useful to this proud organization.**

**The conduct exhibited by this officer will cause damage to the Hamilton Police Service. The actions of Constable Schmid have garnered significant media attention from both live television and the local press. The media has reported the outcome of these proceedings from day one of the process.**

**There is no doubt that Constable Schmid will suffer from the proposed penalty disposition. Dismissal, demotion, forfeiture of hours, will have a significant impact on Constable Schmid. I have given this situation serious consideration in determining an appropriate disposition.**

**The Hamilton Police Service will not tolerate unacceptable behaviour from its members and views this misconduct as serious. A penalty must be imposed to protect the interest of the public we serve and send a message to the organization and its members.**



Our members, when dealing with the public, must act in a professional and cordial manner. The proposed penalty, as submitted jointly by Counsel I believe sends a message to the organization and its members.

I have considered the submissions by Counsel, the agreed statement of facts and the joint penalty submission agreed to by Counsel and Constable Schmid.

**Disposition**

In light of the seriousness of this allegation and bearing in mind all the evidence placed before me, Constable George Schmid #224 will be demoted to Third Class Constable immediately. He will be elevated to the rank of Second Class Constable after serving one year demotion at Third Class and then will be elevated to the rank of First Class Constable after serving one year demotion at the Second Class Constable position.

  
M.P.B. Elbers, Superintendent  
(Retired)

March 21, 2012  
Date