



**AGENDA – OPEN SESSION MEETING
THURSDAY OCTOBER 6, 2022 AT 9:30 AM
CORNWALL CIVIC COMPLEX SALON ‘B’**

Excerpt from the Ontario Police Services Act:

Meetings

35. (1) The board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Proceedings open to the public

(3) Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

Exception

(4) The board may exclude the public from all or part of a meeting or hearing if it is **of the opinion that**,

(a) matters involving **public security** may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

(b) **intimate financial or personal matters** or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. R.S.O. 1990, c. P.15, s. 35.

- **Call to Order and Roll Call**
- **Approval of the Agenda**
- **Conflict of Interest Declaration**
 1. Adoption of the Open Meeting Minutes of September 1, 2022

Business & Correspondence:

2. Staffing Report – Chief Spowart
3. 2022-23 CCTV Grant – Chief Spowart
4. Wells Divisional Court Appeal Decision – Chief Spowart
5. Response to MACDOUGALL Inquest Recommendations – Deputy Chief Foy
6. 2nd Quarter Financial Statement – Chief Spowart
7. Resolution from Municipality of East Ferris re: School Bus Regulations
8. Verbal Report on the Sept 15/22 OAPSB Meeting in Trenton –Chair MacDonald
9. Notice from Agape Centre re: Cancellation of their Golf Tournament
10. Schedule of 2023 CPS Board Meeting Dates

ADJOURNMENT OF OPEN SESSION – IN CAMERA SESSION TO FOLLOW



**MINUTES – OPEN SESSION MEETING – CPSB SEPTEMBER 1, 2022
CORNWALL CIVIC COMPLEX SALON 'B' 9:30 AM**

Call to Order and Roll Call:

Present:

Elaine MacDonald	-	Chair
Michel Payette	-	Vice-Chair
Mayor Glen Grant	-	Director
Martha Woods	-	Director
William Beattie	-	Director
Shawna Spowart	-	Chief of Police
Vincent Foy	-	Deputy Chief
Ms. Elyse Lauzon-Alguire	-	Secretary

Guests: S/Sgt. George Knezevic
Stephanie McRae, CPS Director of Corporate Strategy and Communication

Approval of the Agenda: Item 6 - MacDougall Inquest moved to the October meeting as new information is forthcoming and Agape Golf Tournament Sponsorship request added under item 10.

Moved by: Bill Beattie
Seconded by: Glen Grant

That the agenda, as amended, be approved. All in favour. **MOTION CARRIED**

Conflict of Interest: None declared

1. Adoption of the Open Meeting Minutes of June 9, 2022.

Moved by: Michel Payette
Seconded by: Bill Beattie

That the June Open Meeting Minutes be approved. All in favour. **MOTION CARRIED**

New Business & Correspondence:

2. 2021 Annual Report – Chief Spowart and Stephanie MacRae – together provided an overview of the report. Distribution will mostly be done electronically. It will be posted on

the CPS website and social media. Board thanked and commended those who prepared this detailed report.

3. **Homelessness Presentation** – Deputy Chief Foy recently conducted a homelessness assessment in partnership with a number of local community agencies. To date the CPS have assisted 19 individuals in 2022. Homelessness is a CPS priority and will continue to monitor the issue with their community partners. The local transitional housing ‘safe bed’ program has also been quite success.
4. **Armoured Rescue Vehicle Presentation** – Chief Spowart/S/Sgt Knezevic – CPS were able to secure a ‘demo’ vehicle at a significantly reduced cost. The funds needed were within the current year budget. The vehicle will only be used for high risk rescue purposes and it will increase the level of safety of the officers. (The vehicle was parked outside the meeting venue to allow for a closer look after the meeting).
5. **2nd Quarter Professional Standards Report** (included in supporting documents) Deputy Chief Foy provided an overview.

Moved by: Glen Grant
Seconded by: Martha Woods

That the report be received. All in favour.

MOTION CARRIED

6. Response to MACDOUGALL Inquest Recommendations – moved to the October 6, 2022 Board Meeting
7. Response to EKAMBA Inquest Recommendations – Chief Spowart summarized the case where the Peel Police shot and killed an individual suffering with mental health and delusions that had stabbed two police officers. The inquest report contains 18 recommendations that was sent to all Ontario Police Services to respond regarding the recommendations by Feb 2023.
8. **Policy Review Committee Update** – Over this past summer Secretary Cousineau has updated and reformatted the mandated 71 Adequacy and Effectiveness Standard Policies - in accordance with Ontario Regulation 3/99 under the *Police Services Act*. The committee will continue to update CPS Board Policies on a regular basis.
9. **Invoices** – Secretary Cousineau presented two invoices from legal counsel Mathews, Dinsdale & Clark LLP - #429172 for \$23,098.80 and #426687 for \$4,683.85. Both were for services for the Cornwall Police Association Collective Agreement Negotiations.

Moved by: Michel Payette
Seconded by: Martha Woods

That the invoices be approved and paid. All in favour.

MOTION CARRIED

10.A) Funding Request Kids, Cops and Fishing event – Deputy Chief Foy – provided an overview of the event. The \$500 request is to help purchase fishing equipment and supplies for approx. 50 local youth.

Moved by: Glen Grant
Seconded by: Bill Beattie

That the request for a \$500 donation be approved. All in favour. **MOTION CARRIED**

B) Funding Request to sponsor the Agape Center Golf to End Hunger Tournament September 29, 2022.

Moved by: Michel Payette
Seconded by: Martha Woods

That the request for a \$200 for a Tee-Off Sponsor be approved. **MOTION CARRIED**

11. Correspondence:

- J. Poapst – Chief Spowart provided an overview and the CPS response back to Mr. Poapst. He continues to be banned from commenting on the CPS Facebook Page as he is in breach of the site posted Code of Conduct.
- Thank You messages: at the June 2022 meeting the CPS Board approved a donation in honour of Carol Ann Levac and a sponsorship of the Boys and Girls Club Golf Tournament. Both organizations sent thank you messages to the Board.

12. OAPSB Zone 2 Upcoming Meeting will be on September 16, 2022 in Trenton – both Chair MacDonald and Mayor Grant will be attending.

13. Presentation to retiring Director B. Beattie – Chair MacDonald thanked Director Beattie for his participation on the CPS Board since March 2019. Director Beattie was presented a gift of appreciation. Police Chief Spowart also thanked Mr. Beattie for his support.

14. Adjournment of Open Session:

Moved by: Glen Grant
Seconded by: Bill Beattie

That this meeting be adjourned 11:30 a.m. **MOTION CARRIED**

Elaine MacDonald, Chair

Carmen Cousineau, Secretary



CORNWALL POLICE SERVICE BOARD REPORT



To: CPS Police Services Board Members FROM: Chief S. Spowart

DATE: September 29, 2022

PURPOSE

The purpose of this report is to inform the Board as to the current status of staffing shortages affecting police operations. This report will provide a recommendation to the Board intended to address our requirement to provide adequate and effective police services while also ensuring that the mental health and wellbeing of our staff is maintained.

BACKGROUND

In 2016, the Province of Ontario enacted the "Supporting Ontario's First Responders Act" aimed at better supporting first responders with post-traumatic stress disorder (PTSD). This legislation created a presumption that PTSD diagnosed in first responders would be considered work related. The Act aimed to provide faster access to WSIB benefits, resources and treatment in a timely manner. Once a first responder is diagnosed with PTSD by either a psychiatrist or psychologist, the claims process to be eligible for WSIB benefits is expedited, without the need to prove a causal link between PTSD and a workplace event.

Though we strongly support what the Act is intended to achieve, the fact remains that the policing sector across the province has been severely impacted by the number of police officers who have gone off of work related to PTSD. Furthermore, of those who are off for more than one year, only 10% are ever expected to return to their full policing duties.

In 2019, upon the recommendation of Chief Aikman, the Board agreed to increase the Service's authorized strength from 89 police officers to 93. At the time, the Service had begun to experience the initial onset of an increase in the number of police officers off of work related to PTSD. Though the increase in our authorized strength provided much needed relief, the reality is that the number of officers off of work due to PTSD in 2022 has since doubled.

Over the past several years, there has been a significant focus on addressing the mental health and well-being needs of our members. We have been very intentional in working towards becoming more resilient as individuals and as an organization as a whole. There is no doubt that the stress of the COVID-19 pandemic has had a profound impact on these efforts. Despite all of the personal stressors of the pandemic, our front line workers continued to respond to the needs of the community, with the added responsibilities of policing public health measures and responding to protests. Our staff are coming out of the pandemic more tired and with less staff than ever before.

Cornwall Police Service's current deployment model ensures that there are appropriate resources in the areas of Community Patrol, Criminal Investigations, Quality Assurance/Support Services, as well as our Crime Reduction and Community Partnerships Division and Executive Services. Our capability to appropriately resource these areas, has a direct impact on our ability to provide the required

adequate and effective policing of the community, while also fulfilling our vision of a “A safer Cornwall”.

DISCUSSION

The Service’s deployment model level takes into account the member absences such as typical sick leave usage, vacation and statutory holidays as per the collective agreement. It does not however support the increase in absences such as WSIB claims, maternity/parental leave, Long Term Disability Leave and employees requiring modified duties.

The following chart provides an outline of the staffing shortages over the past 7 years.

Police Officer Absences	2016	2017	2018	2019	2020	2021	2022
Long-Term Disability	0	0	0	1	1	0	0
WSIB Claims	1	1	3	3	4	6	7
Non-occupational Injury/ Long-Term Illness	0	0	1	2	2	1	1
Modified Duties	0	5	3	4	5	5	3
Permanent Medical Restrictions	1	1	1	1	2	2	2
Suspended with Pay	0	0	2	1	1	1	0
Maternity/Paternity Leave	1	0	1	0	0	1	2
Other Leave of Absence	0	0	1	0	0	0	0
Training/Recruit	0	0	0	0	1	1	1
Total Absences/Unable to Perform Full Duties	3	7	12	12	16	17	16

The fifteen officers absent from regular duties are all frontline police officers and account for 31% of Community Patrol Division. The seven officers absent on WSIB claims, and two of the officers requiring medical accommodations have all been diagnosed with Occupational Stress Injuries (PTSD). It is important to reiterate that evidence suggests that only 10% of police officers diagnosed with PTSD, who have been away from the workplace for more than one year, will ever return to full duties.

We have been managing these staffing shortages, however we have been running with the minimum number of officers required to maintain day to day operations. We have also re-assigned officers from other divisions to maintain those minimum staffing requirements on the road. This includes having to redeploy almost all of our officers in the Crime Reduction and Community Partnerships Division over the summer months. This causes us to be in a continuous state of reaction, versus being proactively addressing the situation.

This approach is not sustainable given the current climate in policing. Calls for service are at an all-time high, while the number of arrests being made and the level of violent crime are also on the rise. These pressures are being felt throughout all areas of the organization. With fewer officers in Community Patrol Division, it means that more investigations require re-assignment to specialty units for conducting the follow up work.

As is the case in many industries, policing is experiencing a shortage of workers. This has resulted in many vacancies across the province and has opened the door for many police officers to consider moving. Their reasons for moving are often not specific to their respective police agency but rather for a variety of personal reasons. As such, we anticipate that we will not be immune to this issue and

it is possible, if not very likely that we will lose officers to other police services. If this were to occur, it would further impair our ability to support our current staffing model.

Recent research has indicated that poor mental health in police officers can be linked to a variety of sources. Two of the most widely recognized sources of police stress are operational stress and organizational stress. ¹

Operational Stress is commonly understood to mean the stress and trauma that police officers encounter in the course of their work. What is often overlooked is the effects of Organizational Stress, which is attributable to the characteristics of the workplace, including understaffing and lack of resources. The combined stress of increased workloads and working with only minimum numbers on patrol is contributing to a perpetual cycle of increased use of sick leave and absenteeism. One issue that interconnects occupational health, physical health and mental health is fatigue. Fatigue-related issues can bring on serious performance and safety concerns for police officers. ²

As a Schedule 1 WSIB employer, Cornwall Police Service recovers an average of \$62,803.75 from WSIB annually for each absent employee. The anticipated recoveries in 2023 for the four employees who have been absent for more than one year are \$251,214.60.

Hiring three new recruit, 4th Class Constables at a salary of \$62,324.00 plus benefits of \$20,500 each would total \$248,472.00. This would result in no increase to the 2023 Police Budget, but would provide some much needed assistance to our front lines.

This report contains an overview of some of the challenges faced by, not only the Cornwall Police Service, but all police services across Ontario. It is noted that in 2022, both the Belleville Police Services Board and the North Bay Police Services Board, have approved increases in the number of authorized police personnel for their Services, for similar reasons as outlined in my report. Both of these police services are considered similar comparators in the policing industry.

In conclusion, in taking into consideration all factors, including, the requirement of providing adequate and effective policing, the requirement of us to meet the needs of changed society, all while ensuring that the mental health and well-being of our members is being considered, I believe that we will require an increase to the authorized strength of police officers from 93 to 97.

Recommendation:

As Chief of Police, I believe we must take action to address the resource shortages that will ultimately affect officer safety as well as public safety. Currently, there are four police officers who have been absent from the workplace for more than one year and there are no indications of these officers returning to the workplace. I am therefore recommending the following:

That the Police Services Board authorize the hiring of three additional supplemental new recruit police officers at the rank of 4th class constable, effective January 2023 (the next available Basic Constable Training intake). There would be a net zero cost to this increase in 2023 by utilizing the WSIB recovery money as an offset within in the 2023 budget year. Should our staffing numbers improve, it would be

¹ The Centre for Addiction and mental health: Police Mental Health Discussion Paper, October 2018

² The International Association of Chiefs of Police: Officer Safety and Wellness Paper, 2018

understood that we reduce our authorized strength through attrition.

In order to be proactive, I further recommend that the Board authorize the hiring of one direct hire (fully trained) officer as soon as possible in 2022 to cover one of the two officers who will be absent from duty on maternity/parental leave for a minimum of one year each. The cost of this increase would not be contained in the 2022 budget however will be supported in 2023 as those officer salaries are already included within the budget and by that time those officers will no longer be on Cornwall Police Service payroll.

A presentation containing more in depth statistical data will be provided to the Board at our next meeting on October 6th, 2022.



Shawna Spowart
Chief of Police

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the 1 day of April 2022

B E T W E E N:

**His Majesty the King in right of Ontario
as represented by the Ministry of the Solicitor General**

(the “Province”)

- and -

Cornwall Police Services Board

(the “Recipient”)

BACKGROUND

In February 2020, the Province was approved to establish a new grant program to expand Close Circuit Television (CCTV) across the province to help address the growing issue of guns and gangs.

The Province has agreed to support the Recipient with one-time funding of \$48,500.00 in fiscal year 2022-2023 to allow the Cornwall Police Service to execute the initiative Project Clear Eye as indicated in Schedule “C”.

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 The agreement, together with:

- Schedule "A" - General Terms and Conditions
- Schedule "B" - Project Specific Information and Additional Provisions
- Schedule "C" - Project
- Schedule "D" - Budget
- Schedule "E" - Reporting and Payment Schedule
- Schedule "F" - Interim Reports/Final Reports

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule "A", the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule "A"; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule "A", the Additional Provisions will prevail over the provisions in Schedule "A" to the extent of the inconsistency.

3.0 AMENDING THE AGREEMENT

3.1 The Agreement may only be amended by a written agreement duly executed by the Parties.

4.0 ACKNOWLEDGEMENT

4.1 The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) His Majesty the King in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:

- (i) to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - (ii) funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project; and
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

The Parties have executed the Agreement on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
AS REPRESENTED BY THE SOLICITOR
GENERAL**

Date

Michelina Longo, Director
External Relations Branch
Public Safety Division

Cornwall Police Services Board

Date

Mrs. Elaine MacDonald
Chair

I have authority to bind the Recipient.

CITATION: Wells v. Cornwall Police Service, 2022 ONSC 5460
DIVISIONAL COURT FILE NO.: DC-21-2671
DATE: 20220926

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
Aston, Swinton and Sheard JJ.

BETWEEN:)	
)	
Constable Kevin Wells)	
)	L. Greenspon, for the Applicant
)	Applicant
)	
- and -)	
)	
Cornwall Police Service)	D. Migicovsky and J. Barrow, for the
)	Respondent
)	Respondent
)	
-and-)	
)	
Ontario Civilian Police Commission)	
Statutory Respondent)	V. Crystal, for the Commission
)	
)	HEARD at Ottawa September 16, 2022:
)	(virtual hearing)

ASTON J.

Introduction

- [1] On March 3, 2020, a Hearing Officer found the applicant guilty on four counts of misconduct over the course of his September 6, 2018 shift as a constable with the Cornwall Police Service. On October 7, 2020, the Hearing Officer ordered that Constable Wells be dismissed in seven days unless he resigned before that.

- [2] Constable Wells appealed both the findings of misconduct and the penalty imposed to the Ontario Civilian Police Commission (the “Commission”). On October 29, 2021, the Commission dismissed his appeal.

- [3] The applicant seeks judicial review of that decision, requesting that the misconduct findings be set aside, or alternatively, a reduction in the penalty imposed.
- [4] The issue before the Court is whether the Commission unreasonably dismissed the applicant's appeals from the decisions of the Hearing Officer March 2, 2020 and October 7, 2020. At the end of the hearing, the Court dismissed the application for judicial review with reasons to follow. These are the reasons.

Standard of Review

- [5] The standard of review to be used by the Divisional Court when reviewing decisions of the Ontario Civilian Police Commission is one of reasonableness. See *Ottawa Police Service v. Diafwila*, 2016 ONCA 627, paras. 61-63.
- [6] In *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 the Supreme Court of Canada explained at some length the reasonableness standard and what such a review entails.
- [7] Counsel acknowledge that *Vavilov* is the guiding light for both the Commission and this court, but they are somewhat at odds on the emphasis to be afforded to individual paragraphs within that decision. As noted by the Commission at para. 11 of its decision, the applicant emphasized para. 128 of *Vavilov* where the Supreme Court states "...a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision-maker was actually alert and sensitive to the matter before it". The respondent points to paras. 85 and 102 of *Vavilov* instructing reviewing courts to refrain from reweighing evidence considered by the decision maker or conducting a "line-by-line treasure hunt for error". Regardless of emphasis, it is abundantly clear that a review is not a hearing *de novo* and that before setting aside a decision the court (or the Commission) must be satisfied that the identified shortcomings are sufficiently serious that they are central and significant to the outcome and the chain of reasoning
- [8] The applicant's submissions in this court also emphasize paragraph 128 of *Vavilov*. I agree that a meaningful explanation for a conclusion requires more than mere recitation if the link or the logic is not self-evident. On the other hand, the decision-maker is not required to "grapple with", or even acknowledge, every disputed fact or issue extraneous to its decision.
- [9] Emphasis on this paragraph from *Vavilov* unfortunately invites a re-examination of all the evidence to discern whether the failure to allude to certain evidence, or to merely recite evidence without comment, constitutes a failure to meaningfully address the issues.
- [10] The best example of the perils of the "grapple with" argument is the applicant's challenge to the findings of misconduct.

Findings of Misconduct

Count #1

- [11] Constable Wells was found guilty of discreditable conduct for operating his marked police cruiser without a valid driver's license. His license had expired, and he knew it had expired, but he chose not to tell his supervisor when reporting for his shift and drove a service vehicle throughout his shift.
- [12] Constable Wells challenges the finding of misconduct on the basis that the Hearing Officer failed to "grapple with" six specific "pieces of evidence":
1. That his driver's license had expired but was not suspended;
 2. That he was not informed of his license expiry for two weeks after a fellow officer had learned of the expiry;
 3. That he was working an overtime shift that night;
 4. That he was supporting his co-workers, who would have otherwise been understaffed;
 5. That he planned to renew his driver's license the next day, and did so; and
 6. That another constable with the Cornwall Police Service (CPS) knew of the license suspension and mentioned it to the applicant.
- [13] The Hearing Officer's decision identified the essential elements of "discreditable conduct" and found, on the basis of uncontroverted evidence, that the offence had been proven. None of the six additional pieces of evidence contradict that finding or render it unreasonable.
- [14] At paras. 17 to 22 of its decision, the Commission explained why there was no need to "grapple with" these additional facts. At paras. 23 and 24, the Commission gives cogent reasons for dismissing the other two challenges on count #1 - not "weighing" Constable Wells' conduct against that of other officers in another case and not considering whether his conduct could also support a finding of neglect of duty. Irrelevant considerations do not have to be included. The decision-maker's obligation to grapple with "key issues" or "central arguments" does not expand just because one party characterizes an issue or an argument in that fashion.

Count #3

- [15] The Hearing Officer found Constable Wells guilty of neglect of duty for failing to immediately report an accident that caused damage to the undercarriage of his cruiser and for failure to make an entry in his notebook about his collision with a cement median. The Hearing Officer heard evidence from two officers that notwithstanding the published policy of CPS, "immediately" doesn't necessarily mean "right away". As found by the Commission at paragraph 30 of its reasons, the Hearing Officer considered the opinions of those other officers and rejected them for reasons he explained. This point highlights the problematic nature of the "failed to grapple with" argument. Very often it engages the reviewing court (and in this case, the Commission also) in an exercise of weighing evidence the original decision-maker already weighed and rejected. The applicant's appeal to the Commission simply asked it to consider the same evidence and conclude that a five-hour delay in

reporting the collision was close enough in time to be considered “immediate”. The Commission refused to brand the Hearing Officer’s decision to the contrary as “unreasonable”, using the standard of review it needed to apply rather than substituting its own view.

- [16] Moreover, there is no challenge to the finding of fact that Constable Wells failed to make note of the collision, his actual observation of the damage, or his having the cruiser examined by a friend who was a mechanic while he was on his shift. In short, there is ample evidence to support a finding of neglect of duty and no basis upon which the Commission could interfere with that finding.

Count #4

- [17] Constable Wells was found guilty of discreditable conduct for having an unauthorized mechanic inspect his damaged cruiser after hours and outside his policing jurisdiction. These facts are not challenged.

- [18] Constable Wells testified he did this in order to ensure the vehicle was safe to drive during his shift. The Hearing Officer did not accept that evidence because Constable Wells did not report the accident at the time or make note of it in his notebook. Instead, the Hearing Officer drew the inference that Constable Wells was attempting to either conceal the extent of the damage or the fact that he was driving without a valid driver’s licence or both. That inference, in the context of the other evidence, and other findings of fact, was open to the Hearing Officer. The standard of review insulates that finding from interference by the Commission and, in turn, by this Court.

Count #5

- [19] This finding of deceit is based on an extension of the events respecting count #4. The Hearing Officer found that failing to tell his superior about the inspection by the mechanic friend, or that Constable Wells had seen the damage himself and knew the specific nature of that damage, was deceitful, inaccurate, and misleading. So too the note Constable Wells gave to the authorized mechanic.

- [20] The applicant invited the Commission (and this court) to look at the evidence of Sergeant McLean, who testified he believed Constable Wells was being honest and genuine when he reported some damage to his cruiser that night. Having regard to the clandestine visit to the unauthorized mechanic, Constable Wells’ knowledge of the specific nature of the damage and his non-disclosure of the fact that he was driving without a valid driver’s license, it was open to the Hearing Officer to reach a different opinion than Sergeant McLean. The Commission found the Hearing Officer’s conclusion reasonable in determining as a fact that Constable Wells did not render an honest or genuine report of the damage to the cruiser and instead made inaccurate and misleading statements for the purpose of deceiving his supervising officer. That finding by the Commission is also reasonable and subject to deference on judicial review.

Summary respecting findings of misconduct

[21] The factual findings of the Hearing Officer on the constituent elements of a misconduct finding on each count were a combination of uncontradicted evidence, preferred evidence, and reasonable inference. The Commission correctly articulated the standard of review and gave a cogent explanation for why it rejected Constable Wells' submissions on appeal. The Commission "grappled with" those submissions while refraining from conducting a fresh analysis of the evidence, properly recognizing the difference between an appeal and a hearing *de novo*. The Commission's decision on the findings of misconduct was reasonable.

The Disposition

[22] The applicant's submission on penalty is framed and reframed in several ways with multiple reasons. However, his submissions all come down to an assertion that termination of employment is unreasonable because it is unduly and unnecessarily harsh. He points to mitigating facts and circumstances, the Commission's failure to specifically address the "ladder" principle, an undue emphasis on a previous misconduct disposition and the Commission's "rejection" of the Hearing Officer's conclusion that the public would be "shocked" if Constable Wells were allowed to remain on the police force given his misconduct history.

[23] The applicant acknowledges that the standard of review on penalty sets the bar quite high. Before the Commission, he must demonstrate a "clear error in principle" or that relevant material facts were "not considered". See *Karklins v Toronto (City) Police Service*, [2010] ONSC 747 at para. 10. The Commission is not to second guess the Hearing Officer's decision even if it might have imposed a different penalty, unless the Hearing Officer failed to fairly or impartially apply the considerations listed by both the Hearing Officer and the Commission in their respective decisions. Again, this Court must determine whether the Commission reasonably upheld the penalty decision.

[24] The "ladder principle", in employment law probably more appropriately labelled as the principle of progressive discipline, does not rule out termination of employment for new misconduct that is less serious than prior misconduct. The Hearing Officer and the Commission both demonstrate in their reasons an understanding that the incidents occurring on this one shift in September 2018 were not so serious as to warrant termination of employment but for the very serious prior misconduct and the penalty imposed for that misconduct. The applicant had been found to have committed serious misconduct in a 2016 decision and he was demoted from Constable Fourth Class to Constable First Class – the most serious penalty short of dismissal. In the present proceeding, problems of honesty, integrity and trustworthiness were regarded as persisting problems.

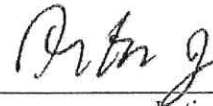
[25] Though the Commission did "not necessarily agree" with the word "shocked" in the Hearing Officer's characterization of how the public would perceive the continued employment of Constable Wells, it nevertheless agreed with him that there was a "potential for damage" to the reputation of the Police Service in continuing his employment.

[26] The Commission addressed all the applicant's other specific challenges to the Hearing Officer's decision in detail and explained (paras. 49 to 67) its conclusion that "the Hearing Officer did not make such errors in principle that would justify our interfering with the

penalty imposed". It is unnecessary for the court to repeat paras. 49 to 67 of the Commission's reasons. Suffice it to say the Commission explained why the Hearing Officer's decision to terminate Constable Wells' employment was "reasonable". Its explanation also meets the reasonableness standard and is entitled to deference on judicial review.

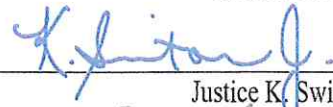
Conclusion

- [27] The applicant's judicial review application does not raise any fresh challenge to the Hearing Officer's decision that was not raised in his appeal to the Ontario Civilian Police Commission. The Commission addressed and rejected each and every one of those challenges. The Commission gave comprehensive and compelling reasons for doing so. The degree of deference the Commission afforded to the Hearing Officer's original decision, and its rationale, reflects the appropriate standard of review. That same standard of review insulates the Commission's decision from judicial interference.
- [28] The judicial review application is therefore dismissed. The applicant is to pay the respondent Cornwall Police Service costs fixed in the agreed amounts of \$30,000 for the judicial review application, and \$15,000 for the costs of the motion to stay his dismissal from the Police Service, those costs having been reserved to the panel hearing this application.



Justice D. Aston

I agree



Justice K. Swinton

I agree



Justice L. Sheard

CITATION: Wells v. Cornwall Police Service, 2022 ONSC 5460
DIVISIONAL COURT FILE NO.: DC-21-2671
DATE: 20220926

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
Aston, Swinton and Sheard JJ.

BETWEEN:

Constable Kevin Wells

Applicant

- and -

Cornwall Police Service

Respondent

-and-

Ontario Civilian Police Commission

Statutory Respondent

REASONS FOR JUDGMENT

Aston J.

Released: September 26, 2022



CORNWALL POLICE SERVICE
BOARD REPORT



TO: CPS Board Members

FROM: Deputy Chief Vincent Foy

UNIT/BUREAU: CPS Board

UNIT/BUREAU: Executive Bureau

DATE: August 22, 2022

Re: MACDOUGALL INQUEST – RECOMMENDATIONS 8, 9 and 10 IMPLEMENTATION

On April 3, 2018, Quinn MacDougall was fatally shot by officers of the Hamilton Police Service (HPS), after officers responded to several 911 calls made “about a man with a gun”.

A Special Investigations Unit (SIU) report said multiple witnesses shared similar stories with investigators alleging that MacDougall, armed with a knife, charged without warning at a plain clothes officer, who was seated in a vehicle. The SIU cleared officers determining shots fired by police to impede MacDougall were justified after attempts to stop him with taser-like weapons didn’t work. MacDougall was shot four times, before collapsing to the ground. He was pronounced dead at the hospital.

INQUEST - RECOMMENDATIONS

An Inquest was launched in February 2022. During the inquest, jurors heard recorded communications from officers and dispatchers, in which a first responder suggested the encounter may fall under the Mental Health Act. However, the HPS Mobile Crisis Rapid Response Team (MCRRT - CPS equivalent of Vulnerable Sector Mobile Acute Response Team - VSMART) was NOT dispatched to the scene.

The first recommendations call for the Ministry of the Solicitor General to review current “use-of-force” models, suggesting to look at “less-lethal” crisis options, visible markings for taser style weapons and reconsider the use of the term “force”.

Jurors recommended HPS explore the use of information management systems to “track” deployments of alternative responses to assist a Person in Crisis (PIC) call as well as the feasibility of having a 24-hour MCRRT team. They also called on the Ontario Police College, the Solicitor-General and the province’s police services to develop and provide additional de-escalation training.

OTHER POLICE SERVICES RECOMMENDATIONS

In Response to the Jury recommendations, the CPS is required to respond to the following three (3) recommendations.

RECOMMENDATION 8 – JOINT MENTAL HEALTH POLICE RESPONSE

If none already exists, explore with community health partners, the feasibility of establishing and adequately resourcing joint mental-health-police response teams to assist with Person in Crisis calls for service.

The Cornwall Police Service (CPS) established, in 2018, VSMART a mental health police response team.

This joint initiative with the Cornwall Community Hospital (CCH), allows officers and mental health professionals an enhanced ability to evaluate people in crisis they are dealing with and make recommendations for next steps.

The current agreement allows for one full time CPS and one full time CCH mental health nurse to patrol together on a full time basis.

CPS is currently seeking additional funding to create an additional joint team which would expand hours of service. Agreements between both agencies are reviewed and renewed annually and latest iteration was signed in June 2022.

Furthermore, as explained below in Recommendation 10, the CPS is pro-actively engaged in de-escalation and crisis intervention training where officers from each patrol team have received the training, thus providing 24/7 coverage to effectively deal with Persons in Crisis, when the VSMART response team is not on duty.

RECOMMENDATION 9 – JOINT MENTAL HEALTH TEAM ENGAGEMENT POLICY

If a police service has a joint mental-health police team, give studied consideration to implementing a policy that provides, once police officers attending a call identify a potential mental health concern and provided it is safe to do so, that the joint mental health-police team should be engaged.

The CPS has already a policy in place that directs officers to engage the joint mental health police team to deal with persons in crisis and to also proactively attempt to prevent persons at risk from reaching a crisis situation.

The CPS policy is FOB014 – *Police Response to Persons who are Emotionally Disturbed or have a Mental Illness or a Developmental Disability.*

Section 8 (VMSART Responsibilities) reads, in part:

8.01 Reporting to the OIC of the Crime Reduction and Community Partnerships Bureau (CRCP), the VSMART Team will attend calls involving a person in crisis. When not attending calls for service, the team will conduct outreach with any person not currently in a psychiatric facility that requires concentrated attention and connection to community supports and resources.

8.02 It is the main goal of the VSMART Team to prevent a person suffering from a mental illness or a developmental delay from reaching a crisis point. Once notified of a person in crisis, the VSMART

Team will attempt to intervene and reduce the likelihood of incidents involving any person in crisis from becoming critical in nature. The VSMART Team will operate collaboratively with our community partners to identify and connect persons with known or suspected mental health issues and / or developmental delays with community resources.

RECOMMENDATION 10 – DE-ESCALATION TRAINING

Explore developing and providing all police officers with additional de-escalation training.

The CPS has policy already established pertaining to de-escalation training. The policy is the same as above (Recommendation 9), FOB014 - *Police Response to Persons who are Emotionally Disturbed or have a Mental Illness or a Developmental Disability*.

Section 17 in FOB014 reads:

17.01 All new Service personnel who may come into contact with members of the public shall receive comprehensive training to assist in identifying persons with a mental health issue and/or developmental disability. FOB014 GENERAL ORDER – POLICE RESPONSE TO PERSONS WHO ARE EMOTIONALLY DISTURBED OR HAVE A MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY

17.02 All Service personnel who may come into contact with the public shall receive yearly refresher training to assist in identifying persons with a mental health issue and/or development disability. This training will include the following:

- a) local protocols;
- b) conflict resolution, de-escalation techniques, and use of force in situations involving persons who may be in crisis, or may have a mental illness or developmental disability;
- c) the relevant provisions of the Mental Health Act, Substitute Decisions Act and Health Care Act;
- d) the recognition of common mental illnesses; and
- e) providing assistance to families of persons who have mental illness.

17.03 The Ministry of Health and Long Term Care provides specialized training in crisis intervention relating to calls involving persons in crisis. Crisis intervention training is specialized training to identify and provide the most effective and compassionate response possible to persons in crisis.

17.04 Crisis Intervention Training will be provided to the Vulnerable Sector Officer (VSO) and any Crisis Intervention Team (CIT) appointed Officer on each Patrol Team.

17.05 Crisis Intervention Training will include:

- a) identifying persons with mental illness;
- b) communications with persons in crisis and mentally ill persons;
- c) de-escalation techniques;
- d) officer safety and public safety concerns; and
- e) community mental health supports available.

17.06 Prior to a CIT officer being reassigned to the duties of the VSO, the officer will have:

- a) completed the Crisis Intervention Training; and
- b) completed a minimum of 24 hours of job shadowing with the VSMART Team.

IMPLEMENTATION OF THE RECOMMENDATIONS

Police Services have been given until December 1, 2022 to report back to the Solicitor General on the implementation of these 3 recommendations.

Prior to the MacDougall Recommendations, the CPS had pre-established internal policies and agreements, that addressed all 3 recommendations:

- a. Joint Mental Health Response Team (VSMART);
- b. Joint Mental Health Team Engagement Policy;
- c. De-escalation Training.

Furthermore, the current CPS Strategic Plan, under the Community Engagement pillar, identified enhancing service to the vulnerable sector as a goal, thereby continuously striving to improve service delivery pertaining to dealing with Persons in Crisis.

To conclude, I am confident that the CPS is compliant or exceeds the recommendations from the MacDougall Inquest.

Respectfully,



Deputy Chief Vincent Foy
Cornwall Police Service

City of Cornwall
Financial Statement
as at June 30, 2022

Cornwall Police Services

	2021 Actuals Jun 30	2021 Budget	Y-T-D % used	2022 Actuals Jun 30	2022 Budget	Y-T-D % used
EXPENDITURES						
Salaries and Benefits	\$9,368,410	\$19,182,151	48.84%	\$10,163,080	\$19,921,669	51.02%
Purchase of Goods	\$358,904	\$958,688	37.44%	\$408,025	\$953,603	42.79%
Services and Rents	\$562,350	\$1,116,745	50.36%	\$609,187	\$1,132,998	53.77%
Financial and Transfers	<u>\$830,505</u>	<u>\$1,278,161</u>	<u>64.98%</u>	<u>\$844,550</u>	<u>\$1,281,335</u>	<u>65.91%</u>
Subtotal	\$11,120,169	\$22,535,745	49.34%	\$12,024,842	\$23,289,605	51.63%
Total Revenue	<u>\$555,052</u>	<u>\$1,849,818</u>	<u>30.01%</u>	<u>\$1,158,180</u>	<u>\$1,747,761</u>	<u>66.27%</u>
NET COSTS	<u>\$10,565,117</u>	<u>\$20,685,927</u>	<u>51.07%</u>	<u>\$10,866,662</u>	<u>\$21,541,844</u>	<u>50.44%</u>

Commentary

Purchase of Goods

Increased fuel costs may result in the fuel expense exceeding budget. Fuel was budgeted at \$1.10 a litre. The average cost is \$1.44 a litre for gasoline and \$1.62 for diesel. The department will monitor and report any significant variances in the third quarter.

Financial and Transfers

Financial and transfers are high due to contribution to capital and reserves booked at 100%.

Revenue

Revenue is above budget at this time due to the timing of Provincial grants and recoveries from WSIB and other municipalities for services rendered.

In addition, due to COVID-19 restrictions in the first part of the year, there is an anticipated shortfall in clearance letter revenue as many of the schools and community groups had not resumed their activities. The department will monitor this and report any significant variances in the third quarter.

POLICE SERVICES BOARD

September 22nd, 2022

To All Ontario Police Services Boards:

The Municipality of East Ferris Police Services Board is concerned that not enough is being done to protect children getting on and off school buses. Since the beginning of the 2022 school year, all school buses operating in Ontario have been equipped with a new eight-light amber light system, as well as text added to the back of the bus to remind drivers not to pass when the red lights are flashing. These changes are all intended to help drivers do the right thing. Unfortunately, the results since the beginning of this school year show no change in driver behavior. The East Ferris Police Services Board is convinced we must now proceed with the addition of the third component of the school bus safety program: camera equipped stop arms to ensure safety compliance.

A recent study by Nipissing-Parry Sound Student Transportation Services regarding illegal school bus passing found 552 incidents for the school year 2021 / 22 or 2.95 per school day. As part of the "Let's Remember Adam" campaign in the Municipality of East Ferris, illegal passing noted in the first three weeks of the 2022 / 23 school year by buses carrying East Ferris children shows no change in driver behavior. Therefore, it is time to move to Step 3: mandatory installation of cameras on all school buses. For change to happen, education plus enforcement are needed. The East Ferris Police Services Board is asking all Police Services Boards, given their mandate to ensure safety and well-being, to bring forward to their next Police Services Board Meeting the following resolution to adopt and circulate to the appropriate parties in their area.

WHEREAS in Ontario it is unlawful for a stopped school bus to fail to stop when the red overhead lights or the stop arm is activated, and

WHEREAS, an eight-light yellow and red light system and education campaign to encourage drivers to stop is now in place in Ontario, and

*WHEREAS data collected to date by the East Ferris Police Services Board indicates that there has been no change in driver habits since the beginning of the 2022 school year; and
WHEREAS over 837,000 students travel in a school vehicle in Ontario each school day; and*

T: 705-752-2740

E: municipality@eastferris.ca

390 Hwy 94, Corbeil, ON. P0H 1K0



WHEREAS the East Ferris Police Services Board believes that school buses should be as safe as possible and that safety standards should be higher than they are;

THEREFORE BE IT RESOLVED that the Police Services Board of the Municipality of East Ferris request the Attorney General of Ontario to enforce laws that protect students by prohibiting drivers from passing a school bus when dropping off or picking up passengers.

FURTHER, that the Attorney General request that the appropriate provincial government officials review recent proposed changes to school bus regulations by Transport Canada regarding required equipment, including:

- Infraction cameras*
- Extended stop sign arms*
- 360 degree exterior cameras*

FURTHER, that the Attorney General examine the application of camera and fine collection technologies similar to those used on electronically controlled toll highways to ensure that no offending driver is excluded from the law.

FURTHER, that a copy of this resolution be forwarded to Nipissing MPP Vic Fedeli, local school boards and the Ontario Good Roads Association.

In closing, the Municipality of East Ferris Police Services Board wish to thank you for your support on this matter.

Regards,

Pauline Rochefort
Pauline Rochefort, Chair
East Ferris Police Services Board

From: Admin <admin@agapecentre.ca>
Sent: Monday, September 26, 2022 3:16 PM
To: CPS Board <boardcps@cornwallpolice.com>
Subject: Golf Tournament

*** CAUTION: EXTERNAL EMAIL ***

This email originated from outside the organization. Please exercise caution and evaluate before you click on links or open attachments

Good afternoon,

Unfortunately, we've had to cancel the golf tournament. Our registration was too low.

Thank you for your continued support. Any sponsorships / entry fees will be refunded as soon as possible.

Thank you,
Justin Edwards
He/Him
Administrative Assistant



The Agape Centre
40 5th Street West
Cornwall, Ontario
K6J 2T4
613-938-9297 ext. 115



2023- Cornwall Police Services Board Meetings

MEETINGS ARE HELD THE FIRST THURSDAY OF EACH MONTH AT 9:30AM (a few exceptions apply)

Salon B at the Civic Complex has been reserved (however it is not available on 3 dates in 2023 but I have reserved the City Hall Council Chambers for all dates as a back-up).

January 12, 2023

February 2, 2023

March 2, 2023

April 6, 2023

May 4, 2023

June 1, 2023

No meetings in July/August

September 7, 2023

October 5, 2023

November 2, 2023

December 7, 2023

Any change to the schedule will be communicated to members well in advance.

The schedule will also be posted on the website www.cornwallpolice.ca under the heading 'Our Board'.

