

OTTAWA POLICE SERVICE DISCIPLINE HEARING

IN THE MATTER OF ONTARIO REGULATION 268/10

MADE UNDER THE *POLICE SERVICES ACT*, RSO 1990, c.P.15 as

THE AMENDMENTS THERETO.

THE OTTAWA POLICE SERVICE

AND

Constable Yourik Brisbois, #2140

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DECISION ON DISPOSITION AND SENTENCE

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**APPEARANCES:**

Counsel for the Prosecution: Ms. Vanessa Stewart.

Non-Legal Representation for the Defence: Mike Lamothe.

**BEFORE:**

Superintendent Chris Rheaume

Ottawa Police Service

Hearing Officer

December 11, 2023

## **Part I: Overview.**

### **Background of Respondent Officer.**

1. Constable Yourik Brisebois is a sworn member of the Ottawa Police Service possessing 19 years of experience. He was working in his role as a Detective assigned to the Internet Child Exploitation Unit (ICE) for approximately two years. He had previously been assigned to the Partner Assault Unit for approximately four years. Cst Brisebois was working in ICE on July 24, 2020, when the incident occurred that led to the *Police Services Act* charge before this disciplinary hearing. Cst Brisebois has no previous discipline, excellent performance evaluations and was fully cooperative during the investigative process.
2. Constable Brisebois was in a common law relationship with J.C., who is a civilian member of the Ottawa Police Service. They had been in a relationship for approximately six years and have been living together for five. They purchased a home together in 2019, and only shared a room together on a couple of occasions following its purchase.
3. Constable Brisebois has battled alcohol addiction in the past but stopped drinking on his own. Prior to the incident of July 24, 2020, Constable Brisebois began consuming alcohol and legalized cannabis edibles (in the form of gummies) to help him sleep at night when other methods were not proving successful. J.C. described Constable Brisebois' drinking as a "significant problem" when they first met.
4. Constable Brisebois confided in J.C. throughout their relationship that he had a "dark side" and had a lifelong struggle with thoughts of suicide. Constable Brisebois explained to the criminal investigators and J.C. that he "wanted the pain to stop". By his own admission, Constable Brisebois has had a lifelong battle with what he describes as the "dark side" of himself and suicidal thoughts but has always been able to "deal" with the issue himself or with the help of J.C. during their relationship.

## **Allegations and Particulars of Misconduct.**

1. Constable Brisebois is alleged to have committed one count of Discreditable Conduct in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Ottawa Police Service by, being found guilty of the criminal offence, Possession of a weapon, on March 23<sup>rd</sup>, 2023, by Justice Janet O'Brien, in the city of Ottawa, thereby constituting an offence against discipline as prescribed in section 2 (1)(a)(xi) of the Code of Conduct, Schedule to Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Service Act*.
2. Constable Brisebois is alleged to have committed one count of Discreditable Conduct by acting in a disorderly manner, or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Ottawa Police Service by, being found guilty of the criminal offence of uttering threats against J.C., on March 23<sup>rd</sup>, 2023, by Justice Janet O'Brien, in the city of Ottawa, thereby constituting an offence against discipline as prescribed in section 2 (1)(a)(xi) of the Code of Conduct, Schedule to Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Service Act*.

## **Plea.**

3. A hearing was held on October 17, 2023, at 13:30 hrs, in which Constable Brisebois pled guilty to two counts of Discreditable Conduct. I accepted the guilty plea on clear and convincing evidence.
4. As a result of this plea, a joint submission on penalty was submitted in which both parties agreed that the appropriate disposition for the finding of two counts of Discreditable Conduct would be a demotion from 1<sup>st</sup> Class Constable to 2nd Class Constable for two (2) years. This was accepted on the Record during the Hearing by Constable Brisebois on October 25, 2023, at 14:30 hrs.

## **Part II: Summary of Misconduct.**

### **Agreed statement of facts.**

5. An agreed statement of facts (Exhibit #6) was read on record by the prosecutor, Ms. Vanessa Stewart, on the 25<sup>th</sup> of October 2023 proceeding as follows:

The subject officer, Constable Brisebois (cadre, #2140) is a sworn member of the Ottawa Police Service and has 19 years of experience.

On the evening of Friday, July 24, 2020, J.C. was at home and preparing her dinner, while Constable Brisebois was in the basement. At one point, J.C. saw Constable Brisebois come up from the basement and had a "glazed" look in his eyes. J.C. recognized that when Constable Brisebois had this look, it usually meant he had consumed alcohol or cannabis edibles, and often resulted in them arguing.

While at the refrigerator, Constable Brisebois looked over at J.C. who was now getting nervous about what may transpire. Constable Brisebois was reported to have taken notice of J.C.'s nervousness and said "What!" Constable Brisebois made his way toward the basement steps and made a comment to the effect of "he is looking forward to not having to be like this/walking on eggshells" around J.C. anymore. In frustration J.C. told Constable Brisebois "Tell me when to sell, I'm ready to go, let's do this".

Constable Brisebois got angry and frustrated. Constable Brisebois made his way to the same side of the kitchen island where J.C. was standing. Constable Brisebois grabbed the kitchen knife that J.C. had left on the kitchen counter and held it in his hand with a bent elbow, blade facing down. Constable Brisebois made a comment J.C. believes was to the effect of "are you kidding me", and then walked toward the basement stairs with the knife still in hand.

Constable Brisebois turned around when he appeared to have realized he still had the knife in his hand and walked back to the island, "stabbed/struck" the quartz countertop, causing the blade tip to bend/curl, then slamming the knife on the counter.

In frustration, Constable Brisebois walked away and came back and then took hold of a nearby water bottle and held/squeezed it, causing the cap to come off and some water to eject from it and falling on J.C. and the floor. Constable Brisebois picked up the knife again and J.C. took a step back as she felt afraid. Constable Brisebois stated words to the effect of "are you kidding me you're afraid because I have a knife, what, you're playing the victim now". Constable Brisebois slapped the knife down on the counter and pushed it and as a result the cutting board with vegetables on it slid and fell into the nearby sink. J.C. was pulling the cutting board and vegetables out of the sink when Constable Brisebois made a statement to the effect that she did not fear him as she was more concerned for her vegetables.

Constable Brisebois went to J.C. who was on her knees cleaning up the water and he began to shout at her and stated that his daughter was coming this weekend. Constable Brisebois proceeded to say, "Nina is coming over this weekend, you better not make her feel uncomfortable, if you make her feel uncomfortable, I'll fucking kill you." Constable Brisebois was said to have repeated the words "fucking kill you" three times. Constable Brisebois subsequently stated, "I'll record it and when you go see partner, you'll have a recording of it". Constable Brisebois subsequently left the kitchen area and was believed to have made his way to the basement.

A short time later, Constable Brisebois went to see J.C. in the bedroom and apologized to her, displaying his "usual" behavior of regret, and apologized for his actions.

On the weekend of August 1, 2020, the couple had discussions about leaving each other and Constable Brisebois asked J.C. to leave and take their dog with her. Given what had been transpiring at times and Constable Brisebois' frequent and more violent comments about committing suicide and wanting to die, J.C. left and went to stay with family.

On Tuesday August 4, 2020, J.C. reached out to a Staff Sergeant to get help for Constable Brisebois. Being concerned for Constable Brisebois' safety and hers, J.C. told Staff Sergeant of Constable Brisebois' increase in comments of his suicide "threats".

Later in the afternoon, Sergeants were assigned to the matter and interviewed J.C. where the above was disclosed. Given the high risk, and concern for Constable Brisebois' safety, he was apprehended later in the day and taken to the Queensview Carleton Hospital. Constable Brisebois was admitted for an assessment and seen by a psychiatrist the following morning.

On the morning of August 5, 2020, Constable Brisebois was discharged from hospital and brought to 474 Elgin Street (Central Station). Constable Brisebois was subsequently interviewed by a Sergeant and gave a statement. In the late afternoon, the OPS executed a search warrant at the couple's residence where the knife that was alleged to have been used was located. The tip of the knife was bent in the manner consistent with J.C.'s statement.

Constable Brisebois was arrested and charged on August 5, 2020, by the Ottawa Police Service for two criminal code charges (possession of a weapon and uttering threats) in relation to a domestic incident on July 24, 2020.

Constable Brisebois pleaded not guilty to both charges. A trial for those charges was held Dec 1<sup>st</sup> and 2<sup>nd</sup> of 2022. On March 23, 2023, after a two-day trial, the verdict for Constable Brisebois was read in court by Justice O'Brien. Constable Brisebois was found guilty of both criminal charges.

Constable Brisebois was sentenced on May 4, 2023. J.C. provided a victim impact statement and indicated that this incident and the criminal process had a significant impact on her.

During the PSA investigation, Sgt. Menard was assigned to investigate allegations of professional misconduct. He interviewed Cst. Brisebois after his finding of guilt on the Criminal matter. Cst. Brisebois showed substantial remorse and regret for his actions at several points during his interview.

Sgt. Menard formed reasonable grounds to believe misconduct occurred on the part of Cst. Brisebois and charged him with two counts of discreditable conduct.

Constable Brisebois has no previous discipline, excellent performance evaluations and was fully cooperative with the PSU investigator.

### **Summary of Evidence and Exhibits.**

6. As part of this hearing, the Prosecution presented the following exhibits and no witnesses:
  - Ottawa Police Service Hearing Officer Designation – Superintendent Chris Rheume (Exhibit #1)
  - Ottawa Police Service Prosecutor Designation – Ms. Vanessa Stewart (Exhibit #2)
  - Ottawa Police Service Prosecutor Designation – Ms. Christiane Huneault (Exhibit #3)
  - Notice of Disciplinary Hearing (Exhibit #4)
  - Notice of increased penalty (Exhibit #5)
  - Agreed Statement of Facts (Exhibit #6)
  - Book of Authorities (Exhibit # 7.1, 7.2, 7.3, & 7.4)
7. Defence presented reference letters on behalf of Detective Yourik Brisebois (Exhibit #8). Defense called no witnesses.

### **Part III: Analysis.**

8. I will start my decision on penalty by first outlining the objectives of police discipline, which are to:
  - i) Correct unacceptable behaviour;
  - ii) Deter others from similar behaviour; and
  - iii) Assure the public that the police are under control.
9. To assist me in achieving these objectives, I am guided by the foundational principles that govern the determination of an appropriate disposition in police disciplinary proceedings. Those principles are described in the Annotated Police

Services Act (Ceyskens & Childs) as follows:

The first principle is that the disposition should fully accord with the purposes of police discipline processes, which are as follows: the employer's interest in maintaining discipline in the workplace; the rights of a respondent officer suspected of misconduct being treated fairly; the public interest: ensuring a high standard of conduct in the constabulary, and public confidence in the constabulary; and where members of the public are involved the process should ensure that the interests of those individuals is protected.

The second principle, which flows from the move towards a more remedial philosophy, as noted above, dictates that a corrective disposition should take precedence over a punitive disposition, where possible.

The third principle is the presumption of the lowest disposition – that a respondent police officer is entitled to the most favourable disposition in the circumstances of the case, where possible.

The fourth principle is proportionality, requiring that the tribunal consider all applicable mitigating and aggravating considerations, and then weigh those applicable factors appropriately.

The fifth principle is that the law holds police conduct to a higher standard. Court and tribunal decisions have consistently embraced the concept that police officers should be held to a higher standard of behaviour compared to other employees or members of the public.

10. In *Legal Aspects of Policing*, Paul Ceyskens outlines the steps that a decision-maker should follow to properly adhere to the proportionality principle:

It is a “fundamental proposition” that a disposition must be proportionate to the



misconduct, “given due regards to those special considerations applicable to service in the police force. Proportionality is arguably the most complex of the five principles that govern the process of crafting an appropriate disposition, and requires three decisions:

- First, a decision-maker must identify which disposition considerations are *relevant* to the matter in question.

- Second, a decision-maker must determine whether the relevant disposition considerations are *mitigating, aggravating or neutral*.

- Third, the decision-maker must *properly balance* (or appropriately “weigh”) the identified relevant considerations in accordance with the factual background of the matter, and the competing interests. Thus “a decision-maker must give proper weight to the relevant factors in a particular case,” and a “proper balance” is of “utmost importance.” In Ontario, although the Commission frequently cites various disposition considerations as “key factors”, it has stated that “there is no requirement that any one factor be given more weight than another,” while at the same time stating that a hearing officer need not give all the factors equal weight and one factor can support the highest penalties, if appropriate.

11. Mr. Ceysens lists 15 factors which now routinely guide the proportionality analysis of police discipline adjudicators in Ontario. I will speak to seven of the established 15 disposition considerations: public interest; seriousness of the misconduct; recognition of the seriousness of the misconduct; employment history; deterrence; damage to the reputation of the police service; and consistency of disposition. I am satisfied that these factors sufficiently capture all the relevant issues and considerations in the present matter.

### **Public Interest.**

12. The prosecution submitted the decision of Cudney vs St Thomas Police Service, where the Commission or Hearing Officer held that, “The public has an interest in ensuring police officers maintain a remarkably high standard of conduct. Public trust is eroded when an officer fails to meet those expectations and accordingly, the public must have confidence that an officer will always act professionally, demonstrating the essential characteristics of a police officer such as honesty and integrity.” The assurance that police officers will not utter threats or threaten to use a weapon against their spouse is essential to the public’s trust and confidence in policing. Police officers should not respond with intimidation or violence against their spouse or common-law partner. Police officers must always conduct themselves professionally, whether on duty or off duty.
13. From the presented in the criminal trial and disciplinary hearing, it is clear that Constable Brisebois uttered threats to J.C. and was in possession of a weapon during the incident. Constable Brisebois was found guilty in the Court Proceedings by Justice O’Brien and his sentence was a conditional discharge with probation for a period of three (3) years. Constable Brisebois is to have no direct contact with J.C. and will participate in a rehabilitation program. The Ottawa Police Service has been named in multiple news articles where members of the public have shown dissatisfaction towards Constable Brisebois’ actions, thereby undermining trust and confidence in the police. The public must be assured that its police officers will always demonstrate professionalism in their actions--whether they are on duty or off duty. Constable Brisebois has eroded public trust by engaging in this type of behavior.
14. In determining an appropriate disposition in this matter, I consider the public interest in Constable Brisebois’ actions to be an aggravating factor.

### **Seriousness of the Misconduct.**

15. I concur with Ms. Stewart’s assertion that the offences that Cst Brisebois was charged with and found guilty of rightfully fall within the classification of serious misconduct. These charges are of a serious nature and should be dealt with appropriately.

16. In *Cudney and St Thomas Police Service, 2021*, the Hearing officer stated:

Police officers are held to a higher moral and ethical standard. Cst Cudney's behaviour was unprofessional, unacceptable, and serious in nature.

17. The seriousness of the misconduct is further aggravated by the fact that Constable Brisebois has been a police officer for over nineteen (19) years. Moreover, Constable Brisebois has experience working as a Detective in the Partner Assault Unit and therefore he ought to have used better judgement than that exhibited in the facts of this matter.

18. In light of the foregoing, I consider the seriousness of Constable Brisebois' misconduct to be an aggravating factor.

### **Recognition of the Seriousness of the Misconduct.**

19. To the credit of Constable Brisebois, during his interview with Professional Standards, he told Sergeant Menard multiple times that he expressed sincere remorse and regrets for his actions. He was ashamed of what he did, and this demonstrates his appreciation and recognition of the seriousness of his misconduct.

20. I consider Constable Brisebois' recognition of the seriousness of his misconduct a mitigating factor for the purposes of determining a proportionate disposition.

### **Employment History.**

21. As addressed above, Constable Brisebois has over 19 years of policing experience. He has no previous discipline on his record and has multiple reference letters for his demeanor and professionalism since he has been a police officer. While Constable Brisebois' extensive experience as a police officer suggests that he should have known better than to utter threats and be in possession of a weapon, I consider Constable Brisebois' employment history a mitigating factor for the purposes of determining an appropriate disposition given his positive employment record and commendations.

## **Deterrence.**

22. With respect to general deterrence, every sworn officer must know fully well that they are held to a higher standard, and that they must not utter threats or intimidate others, especially their spouse, with a weapon. Mr. Lamothe conceded specific and general deterrence are relevant considerations given the particulars of this matter. Ms. Stewart cited the case of Constable Cudy vs St Thomas Police Service:

Rehabilitation is one of the hallmarks of our discipline process but deterrence and a strong commitment towards the elimination of domestic violence must also be a major consideration in an appropriate sanction.

The penalty imposed in this matter must impress upon all police officers the message that they cannot utter threats to anyone--especially their spouse.

23. In terms of specific deterrence, it is evident that Constable Brisebois now recognizes that his actions of uttering threats and being in possession of a weapon constitutes a serious matter and there is no evidence before me to suggest that there is a likelihood that he will reoffend in the future. Constable Brisebois has completed counselling for the Partner Assault program, and he has an understanding for the need to eliminate domestic violence in the community. However, misconduct must be met with profound consequences to ensure clear deterrence in the subject member.

24. Mindful of the objectives of police discipline enumerated at the beginning of this decision, I regard the need for effective general and specific deterrence to be an aggravating factor in the present matter.

## **Damage to the Reputation of the Police Service.**

25. Through the evidence presented, I am left with no doubt that the actions of Constable Brisebois have strained the reputation of the Ottawa Police Service, particularly by the fact that Constable Brisebois committed discreditable conduct by being found guilty of the criminal offence of possession of a weapon and as well being found guilty of a criminal offence of uttering threats against J.C. Police officers are held to a higher standard and the

public expects that officers will not threaten or intimidate people. Constable Brisebois breached this trust to the public by being found guilty in Criminal Court by being charged with and found guilty of both offences, possession of a weapon and uttering threats against J.C., thereby damaging the reputation of the Ottawa Police Service as well as police services.

26. I consider the damage to the reputation of the Ottawa Police Service to be a factor that aggravates the appropriate penalty for Constable Brisebois' misconduct.

### **Consistency of Disposition.**

27. Consistency of disposition is particularly relevant to the determination of an appropriate penalty in the present circumstances. Ms. Stewart spent considerable time outlining case law to support her position that the joint submission on penalty constitutes a fair and reasonable sanction for Constable Brisebois.

28. Ms. Stewart referred me to a similar of fact case that addresses misconduct involving an officer that abused his spouse. In *Cudy vs St Thomas Police Service* (March 4, 2021), Constable Cudy was demoted from first-class constable to fourth-class constable for 12 months. At the conclusion of the term and subject to a satisfactory work performance evaluation, Constable Cudy would then be moved up to third-class constable for another 12 months. At the conclusion of the term and subject to a satisfactory work performance evaluation, Constable Cudy would then be moved up to second-class constable for another 12 months. At the conclusion of the term and subject to a satisfactory work performance evaluation, Constable Cudy would then be reinstated at first-class constable.

### **Summary of Findings.**

29. I have taken into consideration several mitigating factors in reaching a disposition. Constable Brisebois acknowledges and accepts his actions and the harm that they have caused to himself and the Service. His guilty plea is viewed as further acceptance. Furthermore, there is no previous history of discipline and Constable Brisebois possesses

a positive employment history spanning the course of his career.

30. In determining an appropriate disposition in this matter, I have also assigned weight to various aggravating factors. The seriousness of the misconduct itself commands a disposition that will send a clear message of deterrence to all Ottawa Police Service officers that there must and will be severe consequences for officers that are found guilty in criminal court of uttering threats and possession of a weapon. The public interest and the loss of trust resulting from a police officer being found guilty in a criminal court of these offences has caused considerable damage to the reputation of the Ottawa Police Service, which has had an aggravating effect on my determination of a proportionate disposition.
31. Finally, I am also mindful of the significant body of jurisprudence, within and beyond the realm of police discipline, which supports the notion that joint submissions should be accorded a high level of deference and are not to be disregarded unless there are good and cogent reasons for doing so.

#### **Part IV: Disposition on Penalty**

##### **Disposition.**

32. I have taken into thoughtful consideration the agreed statement of facts, the submissions of the parties, relevant case law, and the applicable principles of disposition to come to a fair and fitting decision. Discreditable conduct has been proven on clear and convincing evidence. The joint submission on penalty has been of assistance in reaching a decision and I see no argument or sound reason to vary from the penalty agreed to by the parties.
33. I order that Constable Brisebois be demoted from 1<sup>st</sup> Class Constable to 2<sup>nd</sup> Class Constable for a period of **two (2) years** in accordance with section 85(1)(f) of the *Police Services Act*.

Dated at Ottawa, this 11<sup>th</sup> day of December 2023.

Superintendent Chris Rheume

Hearing Officer.

**Appendix A: Book of Authorities.**

**AUTHORITIES**

**TAB**

*Cudney v. St. Thomas Police Service*, March 4, 2021

1

**Consistency of Disposition**

*Cudney v. St. Thomas Police Service*, November 16, 2021

2