



Tribunals Ontario
Ontario Civilian Police Commission

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Tribunaux décisionnels Ontario
La Commission civile de l'Ontario sur la police

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Notice of Particulars

Re: Notice of Hearing of the Ontario Civilian Police Commission to Deputy Chief Dean Bertrim (Deputy Chief Bertrim) of the Durham Regional Police Service (DRPS)

1. In 2017, the DRPS commenced an internal investigation into certain allegations against DRPS Det Pat Waters and DRPS Cst Rob Parcels (Waters and Parcels). An internal complaint was filed against them with the Professional Standards Unit (PSU) of the DRPS on February 15, 2017, and the two officers were served with a Notice of Investigation, dated February 15, 2017.
2. This date began the six-month limitation period, defined in ss. 83(17) and (18) of the *Police Services Act (PSA)*, which would elapse on August 15, 2017. After that day, under *PSA* ss. 83(17), the Chief must apply to the DRPS Board for an extension that will not be granted unless the Board is of the opinion that it was reasonable under the circumstances to delay serving the notice of hearing.
3. Deputy Chief Bertrim, then an Inspector, was placed in charge of the DRPS's PSU on June 5, 2017. On June 20, 2017 he reassigned the *Waters and Parcels* investigation to Sgt Thomas Dingwall (Sgt Dingwall).
4. On August 3 or 4, 2017, Deputy Chief Bertrim requested that Sgt Dingwall draft Notices of Hearing and Chief of Police Complaint Forms in order to initiate disciplinary proceedings against Waters and Parcels in preparation for a meeting on August 4, 2017 with then Chief Paul Martin (Chief Martin).
5. The chief is statutorily obligated to review a written report under *PSA* ss. 76(9) before initiating a disciplinary hearing. That subsection states " if at the conclusion of an investigation and on review of a written report submitted to him or her, the chief of police believes on reasonable grounds that the police officer's conduct constitutes misconduct ... he shall hold a hearing into the matter".
6. Before the meeting, Sgt. Dingwall provided Deputy Chief Bertrim with draft Notices of Hearing, draft Chief of Police Complaint Forms and a General Incident Report. Sgt Dingwall will say Deputy Chief Bertrim neither asked for nor received a copy of any written report into the *Waters and Parcels* investigation, draft or otherwise.

7. Sgt. Dingwall will say that Deputy Chief Bertrim wanted the Notices of Hearing completed in the *Waters and Parcels* matter before the six-month limitation period expired because he (Deputy Chief Bertrim) did not want to go before the DRPS Board to request an extension due to the fact that it would look bad.
8. Deputy Chief Bertrim attended a meeting with Chief Martin on August 4, 2017 in which Chief Martin signed the Notices of Hearing and Chief of Police Complaint Forms. Waters and Parcels were duly served.
9. Det Waters retained Ms. Joanne Mulcahy as his counsel. Cst Parcels retained Mr. William MacKenzie as his counsel.
10. On November 21, 2017, defence counsel received disclosure from the DRPS prosecutors, which included a 98-page report of the *Waters and Parcels* investigation, dated October 18, 2017. The report made no reference to any report having been submitted to Chief Martin on or before August 15, 2017.
11. Defence counsel filed a Motion Record and factum on March 18, 2018 requesting a dismissal of the *PSA* charges against Waters and Parcels on the basis that the Hearing Officer lacked jurisdiction to hold a hearing because the DRPS had failed to comply with *PSA* ss. 76(1) and ss. (9). They submitted that proper notice was not served within the six-month limitation period.
12. In response, the DRPS prosecutors filed an affidavit, sworn by Deputy Chief Bertrim on April 16, 2018 with supporting exhibits. In it, Deputy Chief Bertrim swore that he met with Chief Martin on August 4, 2017 on the *Waters and Parcels* matter and presented him with a draft investigative report. He swore that they reviewed the draft investigative report together with the Notices of Hearing, Chief of Police Complaint Forms, Incident/Arrest Report, Appendix from the Warrant, an email from Sgt Waters to his team and a photo of a desk. Further, Deputy Chief Bertrim swore that he did not retain a copy of the draft investigative report because it was not yet in its final form. However, he attested, a final draft was completed on October 18, 2017.
13. DRPS Inspector Bruce Townley had been designated as the Hearing Officer in this disciplinary proceeding against Waters and Parcels. He set April 27, 2018 for the hearing of the Preliminary Motion filed by defence counsel.
14. On the April 27, 2018 motion date, Deputy Chief Bertrim was the only witness. He testified in cross-examination that he had no notes of the meeting with Chief Martin, no minutes were taken, no willsays for himself or Chief Martin referable to the meeting were drafted, nor did he author any reports. Further, no draft

report was ever provided directly to Waters or Parcels or to defence counsel. He also testified that no draft report was saved or retained by himself after the August 4th meeting. As well, Deputy Chief Bertrim testified that the October 18, 2017 report was not submitted to Chief Martin at the August 4, 2017 meeting.

15. Deputy Chief Bertrim further testified that after he left the meeting, he returned all of the documents he took to the meeting to Sgt Dingwall, which were the signed Notices of Hearing and Chief of Police Complaint Forms, the General Incident Report and the draft investigative report. He also testified that Chief Martin did not retain copies.
16. On June 12, 2018, Inspector Townley ruled in favour of the Applicant's request to stay the charges on the basis that no written report was presented to Chief Martin on August 4, 2017, and stayed the charges against Waters and Parcels. The ruling was not appealed.
17. The officer-in-charge of the Waters and Parcels investigation, PSU Sgt Dingwall, will say that he provided Deputy Chief Bertrim with draft Notices of Hearing and Chief of Police Complaint Forms, and a General Incident Report. He did not provide Deputy Chief Bertrim with a copy of a draft investigative report as he was not requested to do so. Further, he did not attend the August 4, 2017 meeting between Chief Martin and Deputy Chief Bertrim.
18. Shortly after that meeting, Sgt Dingwall will say that Deputy Chief Bertrim returned the same documents, some now signed, to him that he had provided to Deputy Chief Bertrim shortly before the August 4, 2017 meeting. Sgt Dingwall will say that Deputy Chief Bertrim did not give a draft investigative report to him after the meeting.

Dated the 1st day of February, 2023

Sean Weir
Chair, Ontario Civilian Police Commission
Executive Chair, Tribunals Ontario