

In the matter of the *Police Act*, R.S.A. 2000, c. P-17 and
In the matter of the *Police Service Regulation*, Alta. Reg. 356/1990, as amended.

And in the matter of disciplinary proceedings taken against
Reg. No. 1878 Detective Richard DAHL of the Edmonton Police Service.

DECISION

Superintendent Thomas Grue
Presiding Officer

I. Introduction

A. Disciplinary Charges

1. Detective Dahl was charged with one count of misconduct:

Count #1

Neglect of Duty contrary to section 5(1)(h) of the *Police Service Regulation* as defined by section 5(2)(h)(i) of the *Police Service Regulation* as neglecting, without excuse, to promptly and diligently perform his duties as a police officer.

Details of the Allegation

It is alleged that Detective DAHL, neglected to promptly or diligently investigate or lay charges against Mr. C.D. as recommended by the Crown.

B. Jurisdiction

2. No jurisdictional issues were raised with respect to this hearing.

C. Admission to the Charge

3. On the inaugural date of the disciplinary hearing, Detective Dahl admitted to the charge. On February 11, 2015, the hearing reconvened at which time the

Presenting Officer and Agent for the cited officer offered a Statement of Agreed Facts. The defence then called two witnesses who gave evidence concerning this matter.

II. Evidence

4. The substantive evidence relative to the charge in question consisted of a Statement of Agreed Facts and two witnesses called by the defence.

A. Statement of Agreed Facts (Exhibit 4)

1. The matters set out in this Statement of Agreed Facts are admitted solely for the purpose of the disciplinary hearing to be conducted into the charges set out in a Notice and Record of Disciplinary proceedings dated January 6, 2015. They are not admitted for any other purpose or any other proceedings. Either party may call additional evidence on the matters set out in this Statement, but may not contradict the matters set out in this Statement.
2. On September 23, 1998, a sexual assault investigation originated with a referral from Alberta Social Services. The referral was based on a disclosure by G.H. to her mother, E.F., that she had been “molested” by her father, C.D., from the time when she was 5 – 8 years old. On April 21, 1999, Detective I.J. completed a Follow-up R-2 concluding the investigation with no charges.
3. On December 30, 2009, Detective DAHL completed an EPROS Charge/Arrest Report which detailed the arrest of K.L. (brother of G.H.) for sexual assault, sexual contact, incest and uttering threats against G.H.. Detective DAHL’s investigation also included the following:

“Information along with a Promise to Appear and an Undertaking were forwarded to the Delta Police Department on 2010 Jan 19 to lay charges against C.D. for his sexual assaults on G.H.. Once this information is returned a follow-up will be submitted regarding the charges against C.D.”
4. In early 2010, the file regarding C.D., the father, was returned from Delta Police Department to Detective DAHL stating that they required Crown approval before they could lay the charges. The file

was then sent to the Edmonton Crown Prosecutor's office in May of 2010.

5. On November, 02, 2011, a letter was sent from the Edmonton Crown Prosecutor's office to Detective DAHL. The letter included an attachment with the opinion of Ms. M.N., dated August 19, 2011, which recommended charges against C.D.. It included instructions for Detective DAHL to notify their office when charges were laid and the date of first court appearance. The charges recommended were:
 - a. Sexual Interference, 151 C.C.
 - b. Sexual Assault, 246.1 C.C.
 - c. Sexual Interference, 140 C.C.C [sic]
6. In August or September of 2013, Detective DAHL attended Assistant Chief Crown Prosecutor Ms. O.P.'s office without notice. He said that he was there to "*fall on his sword*". He said that he had not laid charges as directed. Detective Dahl told Ms. O.P. that the matter had come to his attention after the Complainant [G.H.] had phoned him inquiring about the file. She informed Detective DAHL that she would look into to [sic] it to see if they still wanted to proceed with charges. She was concerned with proceeding due to the delay and, at that time, decided not to proceed.
7. While speaking to Ms. O.P. Detective DAHL was apologetic, took 100% responsibility and had no explanation as to why charges had not been laid. She stated "*I mean, he may have alluded that a lot of things were going on in his life, but he did not get into any detail and I didn't*".
8. Ms. O.P. was again consulted in the fall of 2013 and decided at that time that charges should be laid. [sic] As it was a historical sexual assault.
9. In November 2013 C.D. was charged with 2 counts of sexual assault, 1 count of gross indecency, and 1 count of sexual interference.

10. When contacted by PSB investigators the victim G.H. on February 19, 2014 she stated she was very frustrated with the entire process. She stated:

- She has not been able to work during the past five years as a result of PTSD brought on by abuse.
- She recently called off her wedding with the pending trial hanging over her head.
- She is angered at the fact that her father now has severe dementia and may not now be in a state to be accountable for what he has done to her.
- She expressed frustration with her investigation; *“There’s so many hoops ... and I’ve fallen through the cracks and when I went online again and I read Zebra’s Mission Statement, and their mandates and their services and I got none of that. I know I’m not a child, but I was a child. I was a child when that occurred. I was 16 the first time I went in. I haven’t had any of that support. I’ve done all of this alone and I felt like the process has taken advantage of my ignorance of how it’s supposed to go.”*
- She vaguely remembers Detective DAHL apologizing to her the last time they spoke. He stated that *“he had a bad year or something had happened.”*
- She offered her assistance to work with Zebra, Victim Services, and the Crown to make improvements to the process.

11. On March 21, 2014 Detective Dahl submitted an involuntary explanatory report/statement to investigators. In his statement Detective Dahl stated:

- On June 03, 2009, he was working as a Detective within the Child Protection Section of the Edmonton Police Service. He received file 98-104500 which dealt with the historical sexual assault of G.H. by her biological father C.D. and her biological brother K.L..
- On December 15, 2009, G.H. was interviewed. During this interview she disclosed being repeatedly sexually assaulted

by both her brother K.L. and her father C.D. from age four till age eleven.

- On December 30, 2009, K.L. was interviewed and subsequently charged.
- *“After consultation with my Staff Sergeant, I sent a package to the Delta Police Department in early February of 2010, requesting that C.D. be arrested and charged with the sexual assault of G.H.. I received an email from the investigating officer in Delta stating that for them to act on the information they needed Crown approval. They requested that to lay the requested charges that it go through our Crown and have a Western Canada Wide Warrant issued for C.D. so that he could then be transported to Edmonton to speak to the charges after his arrest. The package was returned to me and then forwarded to the crown [sic] in May of 2010.*
- *The file was initially assigned to prosecutor Q.R. for the opinion. In October of 2011 he provided an opinion that there would be no likelihood of conviction against K.L. but he had not dealt with the issue of charges against C.D.. After numerous attempts to contact Mr. Q.R. and getting no answer regarding C.D., I spoke to Ms. O.P. in person and via email about the issue. She informed me that she would have another prosecutor assigned to do the opinion on C.D..*
- *In an email dated April 26, 2011; Ms. O.P. advised that she had not received the file back from Mr. Q.R. till Mid-March of 2011 and that she would soon be assigning a prosecutor to do the opinion on C.D..*
- *In the fall of 2011, I received a letter from the Crown Prosecutors [sic] office with a decision that we could move forward with the charges against C.D.. By this time I was heavily involved in numerous other files and set this aside to come to it a short time later. Unfortunately I forgot about this file and never did come back to it.*

- *I was contacted by Ms. S.T. of the Victoria Women's Sexual Assault Center early in 2013 asking on behalf of G.H. about the investigation into C.D. and whether we were still proceeding with charges. I informed her that due to the delay that I would have to contact the Crown Prosecutor and see if we could still charge C.D.. I was contacted again a month or so later by Ms. S.T. who had G.H. with her in her office at the time. I spoke to G.H. who initially asked if there were some extra-judicial sanctions like mediation available. I told her that I would have to talk to the crown [sic] about that as well. Prior to the conversation ending, G.H. had decided with the support of Ms. S.T. that she did not want mediation but wanted charges against her father.*
- *On 2013, July 31, I returned from vacation and had received two emails from S/Sgt. U.V. of the Child Protection Section asking me about this file as he had been contacted by Ms. S.T.. I informed him that I had charged G.H.'s brother K.L. in the original investigation and she is asking about having her father charged now. I am just back from vacation tonight but will get hold of O.P. and see if we can still do this. G.H.'s Dad lives in BC, Surry [sic] area, so an extended warrant will be required.*
- *On 2013 September 11 at approximately 1100 Hrs, I went to the Crown Prosecutor [sic] Office and spoke to Ms. O.P. in person about the situation. I stated to her that I had screwed up and not charged C.D. back in the fall of 2011 and asked her if it was still possible to proceed with the charges at this time. She informed me that she would have to look into the matter and see what could be done".*

All of which is agreed to this 11th day of February, 2015

B. Summary of Witness Evidence

Retired Staff Sergeant W.X.

5. Retired Staff Sergeant W.X. (hereinafter referred to as W.X.) testified as follows:

- He was the Staff Sergeant i/c Child Protection Section (hereinafter referred to as CPS) from approximately March 2010 – September 2012. CPS consisted of the Detective investigators and the Sergeant and Constables that made up the Child at Risk Response Team members.
- The Detectives assigned to CPS were responsible for investigating the most serious cases of child abuse and neglect which typically involved sexual assaults and physical abuse.
- Given the heavy workload in CPS, the case file acceptance criteria had to be amended. It was so busy that he struggled to carry out his duties of reviewing the Detectives' files and their progress on them so as to ensure that everything was being covered off in a timely fashion.
- Ideally, each Detective would carry 8-10 files at any given time. In reality, the case load each Detective was carrying was much higher (16 – 18 files per Detective with some Detectives carrying as high as 20 at times).
- Detective Dahl was assigned to Child Protection Section during the period he was there.
- A case tracking system existed (NICHE) in which he would enter his comments relative to the progress of each Detective's files. He also used a spread sheet which contained the members' names, files assigned, file status, etc. He was also aware that the Zebra Centre (multi-disciplinary organization that addresses child abuse and includes CPS and CARRT) had a tracking system that tracked files based on the victims.
- At one point W.X. identified that Detective Dahl, who he believed was committed to the work of CPS, was experiencing challenges in his home life which impacted on his ability to get his work done. W.X. also commented that Detective Dahl had a domineering work partner who tended to steer Dahl into working on that partner's files.
- W.X. identified the difficulties Detective Dahl was having at work related to managing and working through his files. W.X. noted that the biggest challenge was getting Detective Dahl to focus on the task at hand. When Detective Dahl was focussed, he carried out his investigations satisfactorily.

- He attempted to help Detective Dahl through this period, including offering to transition him from CPS into the position of the CARRT Sergeant. Detective Dahl declined this offer. He also assisted Detective Dahl by helping him identify the key tasks that need to be done in his files. W.X. also contacted Employee Assistance Section to arrange for some sort of support to be provided to Detective Dahl.
- In an Annual Performance Review of Detective Dahl authored by W.X. (Exhibit 6) the impact of the Detective's personal problems on his performance was clearly identified. W.X. testified he was somewhat generous in his review of Detective Dahl's performance by taking into account the Detective's problems at home.
- Overall, two indicators demonstrated to W.X. that Detective Dahl was having problems:
 - Detective Dahl had difficulty focussing on his work tasks, and
 - Detective Dahl became emotional when the problems he was having at home were discussed.

Detective Richard Dahl

6. In his testimony, Detective Dahl reiterated much of the content of the Statement of Agreed Facts. This evidence will not be repeated. Additional facts or elucidation of facts pertinent to these proceedings include the following:

- Dahl was a member of CPS between 2009 – 2013.
- He received the kkkkkk file on June 3rd, 2009. The victim (G.H.) was interviewed on December 15, 2009.
- The Delta Police Service advised Detective Dahl that they would not accede to his request for them to charge the victim's father without prior Crown approval. Therefore, in May of 2010 he forwarded the file to the Provincial Crown's office in Edmonton for that purpose. He stayed in constant email contact with the Crown's office and learned in October, 2011 that a prosecution against the victim's brother would not proceed (no likelihood of conviction).
- At that time, he still had not received any direction back from the Crown with respect to whether or not charges against the victim's father should proceed. He tried to press the Crown's office for an opinion concerning charges against the victim's father by emailing

Ms. O.P. a couple of times and speaking to her personally when she attended the Zebra Centre.

- In November, 2011, Dahl received a letter from the Crown in which approval was given to proceed with charges against the victim's father. He was relieved at this decision. However, because he was working on a file involving high profile individuals at this time, he set aside the kkkkkk file. Then, for the reason of the significant problems he was having at home, he forgot about this file until February or March of 2013 when he was contacted by a person from the Women's Sexual Assault centre in Victoria, B.C. who had been working with the victim G.H..
- He advised this person that he would have to contact the Crown to determine whether he could still proceed with charges against the victim's father given the delay. He did not contact the Crown at this time as he was "trying to think of what to do".
- He left Child Protection Section in May, 2013 for a position in North Division.
- After returning from vacation in July, 2013, Dahl read email inquires from Staff Sergeant U.V. (who had replaced Staff Sergeant W.X. as the person in charge of Child Protection Section). Staff Sergeant U.V. had received inquires from the aforementioned woman with the Women's Sexual Assault centre in Victoria who, on G.H.' behalf, wanted to know what was happening with regard to charges being laid against the victim's father.
- As indicated in the Statement of Agreed Facts, Dahl did arrange to consult with the Crown and charges were authorized and laid.
- Dahl's problems at home concerned his troubled teenage son and the calamitous impact the boy's behaviour had on his marriage.
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- Dahl's son presently lives with him and things have improved with the boy.

- Dahl admitted that, while going through this aforementioned family ordeal, he was a “mess” at work, being very emotional. He agreed with Staff Sergeant W.X.’s testimony that he had good days and bad days in that he functioned well at work some times, but not very well at other times.
- In 2011 Dahl advised the EPS concerning the problems he was having at home. Employee Assistance Section advised him he should take time off of work on stress leave. He did this from June to the end of July 2012. He also saw a psychologist with respect to the stresses he was dealing with.
- Through Dahl’s testimony, his latest Annual Performance Review was entered into evidence (Exhibit 7). This review indicates he is performing well.
- He drafted a letter to the complainant in which he apologized to her (Exhibit 8). He has not yet sent the letter as he has been unable to locate the complainant.
- Dahl was asked in cross-examination whether he disclosed to the Professional Standards Branch (PSB) the information he provided at the hearing concerning the trouble he was having at home. He testified that he only advised PSB that he had been going through some personal issues at the time in question, but he did not provide them with any details and he was not asked for any.

III Argument as to Penalty

Summary of the Prosecution Submissions

7. The prosecution called for the penalty of an eighteen month demotion. It was submitted that despite his personal problems, Detective Dahl’s conduct fell far below what was expected of him. It was argued that Detective Dahl was provided with sufficient support by the EPS in terms of Staff Sergeant W.X.’s assistance and the assistance provided by Employee Assistance Section. It was suggested there was an onus on Detective Dahl to determine he was unable to handle the work he was assigned.
8. In support of the penalty it requested, the prosecution offered for consideration a disciplinary case from 2000. In this case, a Homicide

Detective was promoted out of Homicide Section. This member apparently believed his files would be reassigned while the Homicide Section was of the understanding that he would keep working on one particular file despite his transfer. Quite some time had passed until it was realized the former Homicide member was not working on the file in question.

9. The prosecution suggested that the 2000 case is analogous to this matter inasmuch as it involved a single major file that was overlooked by the person to whom it was assigned. The prosecution also claimed another similarity in that the member in the 2000 case was experiencing some family issues at the time in question.
10. In the 2000 case a plea agreement was reached, including an agreement that the member be demoted in rank for a period of one year.
11. The prosecution argued that this case called for a greater sentence (18 month demotion) as the conduct was more egregious. The following reasons were given for this assertion:
 - In the 2000 case, there were still many investigative steps to be completed, whereas in this case all that the member needed to complete was the charging process (i.e., warrant for the accused).
 - In the 2000 case the family of the homicide victim eventually experienced justice (the offender was found guilty of and sentenced for manslaughter). In this case, the victim's father was charged and found guilty. However, the victim believes that the father's dementia precludes him from being accountable for his actions. Having made this point, the prosecution fairly pointed out that not all of the delay in dealing with the victim's file was attributable to Detective Dahl.
 - In the 2000 file, the member received a one year demotion notwithstanding his apparent belief the file would be reassigned.

12. When questioned as to whether the Police Service bore any responsibility for the delay caused in concluding the file in question, the prosecution suggested that this may have been true. However, it was asserted that in the aforementioned 2000 case, some institutional responsibility was acknowledged, yet the member still received a one year demotion.

Summary of the Defence Submissions

13. The defence pointed out that Detective Dahl is a member with twenty one years of service and, until these proceedings, his career was unblemished by any disciplinary action. He has two letters of thanks, two Favourable Notices, and one “job well done” on his Service Record.
14. The defence underscored the stress Detective Dahl was experiencing as a result of the extraordinary difficulties he was having at home. It was argued that this was a significantly mitigating factor in the circumstances of this case.
15. The defence referred to a disciplinary decision from 2009 in which a member admitted to 27 counts of neglect of duty, six counts of deceit and two counts of insubordination. One of the neglect counts concerned the failure to lay a criminal charge as directed by the Crown. The Presiding Officer in that case found that the cited officer suffered from a medical condition that affected his cognitive functions and work performance. This member received an aggregate sentence of a suspension from duty for 170 hours.
16. In another disciplinary decision from 2009, a junior member admitted to 24 counts of neglect of duty. In that case, the cited member failed to process the necessary charging documentation in relation to eight criminal charges and 30 traffic offences. The Crown refused to proceed on any of

the charges. The officer had a clean service record and there was evidence he had been diagnosed with depression and anxiety at the relevant time the misconduct occurred. He was sentenced to a reduction of seniority in the rank for three years (as well as remedial training and a fitness for duty assessment).

17. Finally, the defence offered for consideration yet another decision from 2009. In this case, the member admitted to four neglect charges that involved six criminal matters and 14 traffic offences. Again, none of the charges were pursued. It is noted that the Presiding Officer took into account another disciplinary conviction when considering this member's sentence. The officer in the case was given a total sentence of 120 hours suspension from duty without pay in relation to the four counts.
18. The defence submitted that, in light of the three aforementioned disciplinary decisions it presented, the prosecution's proposal for an 18 month reduction in the rank was excessive. Instead, the defence suggested that an 80 hour suspension from duty was more reasonable and in keeping with prior decisions.

IV Findings of Fact

19. I accept the Statement of Agreed Facts. I also accept the evidence of both Retired Staff Sergeant W.X. and Detective Dahl.
20. In particular regard to Detective Dahl's evidence, the sense of desperation and pain he felt when dealing with his son's problems and the breakup of his marriage was palpable in his testimony. I find that Detective Dahl was and still is profoundly impacted by what happened in his family. I also find as a fact that this was a significant contributing factor to the commission of the misconduct in question in that, while attempting to deal with the problems at home as well as the pressures of work, he forgot about the file in question.

21. Finally, I find as a fact that an organizational/administrative factor contributed to the delay in dealing with the charges against the victim's father. This issue will be dealt with in greater detail in the following analysis.

V. Analysis

22. The starting point in determining the appropriate penalty in a disciplinary proceeding is an examination of the sentencing principles that were established in the Alberta Law Enforcement Review Board (LERB) decision of *Amery and Young*¹ with a view to determining which of these principles applies to the case at hand and how they operate so as to derive an appropriate penalty.
23. The sentencing principles articulated by the LERB are as follows:
- a. *The principal purpose of police discipline is to advance the organizational objective of effective and efficient police services to the community.*
 - b. *Fair and just sanction in the circumstances is the goal. The public interest must be considered in those cases where it is engaged.*
 - c. *In cases where organizational or administrative factors have played a significant role in contributing to the misconduct that contribution must be considered. In those instances organizational policy or procedure should take priority for correction. Any individual discipline imposed in such circumstances must consider the overall context.*
 - d. *A remedial approach which seeks to correct and educate, rather than to punish, should be considered as a priority in those circumstances where it is appropriate. In the Alberta context Regulation 17(3) promotes the use of special training or*

¹ Law Enforcement Review Board Decision 007-93

professional counseling. The constructive use of this option, in some circumstances, may work to achieve this goal.

- e. Both aggravating and mitigating factors should be considered in determining a just sanction or punishment.*
- f. Deterrence of other police officers and maintenance of public respect for the police are legitimate goals in the context of police discipline.*
- g. Consistency in disciplinary sanctions should be strived for. Like instances of misconduct should attract like sanctions.*

24. All of these sentencing principles apply to the circumstances of this case. As for fostering effective and efficient policing, it goes without saying that the failure to lay a charge in a timely fashion clearly violates this principle.
25. It is also clear from the circumstances of this case that, in fashioning a fair and just sanction, the public interest must be considered. The general public is entitled to rely upon the valid assumption that police officers will carry out their duties in a responsible and diligent manner. It also goes without saying that the failure to do so damages the confidence the citizens have in their Police Service.
26. The principle of general deterrence is also a valid consideration in these proceedings inasmuch as the sanction imposed on Detective Dahl must clearly communicate to the general membership (as well as the public at large) that the misconduct in question was serious and will be treated seriously. A trivial penalty would obviously send the wrong message.
27. While the application of the foregoing principles is clear, consideration of the remaining sentencing principles is required to contextualize Detective Dahl's misconduct so as to determine the appropriate penalty. These remaining principles will be considered in the context of aggravating and mitigating factors.

28. As for mitigating factors, the issue of Detective Dahl's personal problems features prominently. It is clear from both Staff Sergeant (Ret.) W.X.'s evidence and Detective Dahl's testimony that, at some point during the breakdown of his family, Detective Dahl himself became broken. Rightly or wrongly, broken men do not think as clearly in the fog of personal trauma as do those who are reasonably whole. It is difficult enough for a police officer experiencing the "normal" levels of stress to sort through the exigencies of policing and their private life, let alone while experiencing catastrophic pain and devastation in their personal relationships. Further, those who are experiencing significant personal trauma are often in the worst position to determine the impact their troubles are having on their work performance.
29. This leads me to the second mitigating factor which concerns my finding that an administrative factor played a significant role in the delay that occurred in dealing with the charges against the victim's father. In short, the reason that the investigative file in question got back on track was solely because the victim's representative contacted the Child Protection Section. In reality, the file had not only been overlooked by Detective Dahl, but it was effectively lost by the file management system CPS was utilizing. It must be acknowledged that relying exclusively on an individual investigator to ensure the milestones of serious investigations are reached is no longer (if it ever was) an acceptable administrative procedure. The tracking system did not operate effectively in this case, which leads me to consider the next mitigating factor.
30. It is clear this file did not follow the usual trajectory relative to similar investigations. The investigative process seemed to progress in a routine fashion until the file was sent to British Columbia for the purpose of having charges laid. It wasn't until the Delta police declined Detective Dahl's request to lay charges (presumably because of B.C.'s policy of mandatory

pre-charge Crown approval) that things started to go off the rails. It would seem that, because of an unusual set of circumstances, the file dropped out of the aforementioned tracking system. Further, the circuitous route this file took to get to the charging stage also contributed to its being forgotten by Detective Dahl. Finally, it should be noted that the return of the file from B.C. also set in motion a process that caused a significant amount of delay that had nothing whatever to do with Detective Dahl.

31. This reality leads to consideration of yet another mitigating factor. It must be acknowledged that Detective Dahl effectively completed the relevant file in early 2010 after requesting the Delta Police Service to charge the victim's father. He appears to have diligently and fully carried out his duties with respect to this matter in terms of investigating the complaint and attempting to lay charges. Even then, Detective Dahl was diligent to the point of contacting the Assistant Chief Crown Prosecutor when he wasn't able to contact the prosecutor assigned to provide the legal opinion concerning charges against the victim's father. It is clear that Detective Dahl treated this case seriously from the beginning and assiduously carried out his duties up until the time he forgot about the file.
32. The last mitigating factor to be considered relates to Detective Dahl's guilty plea and complete acceptance of responsibility for the disciplinary offence in question. It is also noted that the evidence indicates Detective Dahl advised the Crown of his error and apologized to the victim before the disciplinary process was even engaged (although I cannot accept the letter of apology to the victim in my deliberations as it had not been sent at the time of the hearing. The reason given was that the victim had not yet been located at that time).
33. Having considered the applicable mitigating factors, it is necessary to identify and assess the impact of any issues that could be considered as

aggravating in nature relative to the misconduct in question. In this regard, two such factors exist. First, the nature of the investigative file that is the subject of the negligence charge is obviously very serious. The more serious the file in question, the more damage done to the faith and confidence in the Police Service by the victim and public at large.

34. A second aggravating factor relates to the fact that, although Detective Dahl forgot about the file after receiving the Crown letter authorizing charges in November, 2011, he was reminded about the matter around March, 2013 when he was contacted by the victim's representative. However, he did not take immediate action at that time as he was "trying to think of what to do". It appears as though it wasn't until he got back from vacation at the end of July, 2013 and was asked about the file by the relatively new CPS Staff Sergeant (who had been contacted by the victim's representative) that Detective Dahl began to take action on the file again. Even if he was still suffering from the deleterious stress caused by his family problems, it is untenable to excuse his failure to act once he was reminded of the file around March, 2013. I find that he is principally accountable for the delay in dealing with this file from the March, 2013 time frame to at least August, 2013 (roughly speaking, a period of around five months or so).
35. The prosecution stated that the appropriate penalty in this case was a demotion in rank for a period of 18 months. Justification for this assertion was based on the aforementioned 2000 disciplinary decision involving an EPS member who failed to properly deal with a homicide investigation he was in charge of after he had left Homicide Section.
36. While superficial parallels exist between that case and this one, upon closer examination it is apparent there are noticeable differences. In the case of the Homicide member, there was apparently some thought that the organization contributed to the delay in pursuing the file by failing to

comprehend it was no longer being managed by anyone. It is difficult, however, to compare the file management systems in use back then as compared with those which applied in this case.

37. The prosecution suggested that the aforementioned 2000 disciplinary decision included a stress element as a contributing factor to the negligent conduct of the former Homicide member. It was argued this enhanced its value as a precedent. While it may be true that stress was a factor in that case, its nature and quality was significantly different from that suffered by Detective Dahl. The stress faced by the member in the 2000 disciplinary decision concerned the extra time he spent looking after his children while his wife attended to her dying father, the time he spent in some volunteer activities, and his involvement in a certain pastime. This is hardly comparable to the stress of trying to cope with a substance addicted, suicidal, out of control son while at the same time attempting to deal with a disintegrating marriage.
38. Finally, in the 2000 disciplinary decision the prosecution identified as an aggravating factor the fact that the member involved had already been disciplined for Neglect of Duty. In this case, Detective Dahl has no prior disciplinary record.
39. In my view, the case the prosecution offered in support of its call for a penalty of an 18 month demotion in rank is not sufficiently similar to the facts of this case so as to justify its use as a strong precedent. Rather, the aforementioned cases offered by the defence are more in keeping with the circumstances under consideration in these proceedings.
40. After weighing the evidence, argument, and sentencing principles, I find firstly that the conduct in question was primarily, although not exclusively, inadvertent in nature. There is a vast difference between willful

misconduct and negligent misconduct. Generally, speaking, willful misconduct is deemed to be a more serious form of wrongdoing. Further, negligence based on recklessness or indifference is, by and large, a more serious form of neglect than that which is truly inadvertent and based on the fallibility (incompetence, forgetfulness) of a well-intended officer in a particular set of circumstances. In this case, Detective Dahl forgot about an important file for a significant amount of time while going through a difficult and exceptionally stressful period in his personal life. I find that Detective Dahl's judgment and capacity to concentrate were compromised during the time period in question and the devastating stress he experienced was the determining factor in the inadvertent negligence which took place.

41. A harsh penalty for purely inadvertent negligence based on a philosophy of strict liability and without regard to the circumstances in which the error was made would, in my view, amount to gratuitous punishment and have a seriously deleterious impact on morale and discipline. As a practical matter, such an approach would invariably lead to some officers attempting to cover up purely inadvertent mistakes rather than honestly self-report them for fear of unduly harsh punishment. In my opinion, the disciplinary culture that must be cultivated is one of high expectations, honesty, and a measured approach to discipline that seeks to correct rather than shame and diminish a member for making an inadvertent error.

42. If Detective Dahl's negligence were solely inadvertent in nature, he would have been assessed a relatively minor penalty given the mitigating factors that have been acknowledged. However, as has already been identified, the roughly five to six month period that lapsed from the time the officer was reminded about the file until he began to take action on it again is not an example of pure inadvertence. He must, therefore, answer for this

neglect by receiving a penalty of some significance. An inconsequential punishment would have the effect of eroding the confidence of the general public in the EPS, devaluing the importance of the CPS' work, and discounting the significance of the criminal charges Detective Dahl was supposed to have processed.

43. The delay at least partially attributable to Detective Dahl (keeping in mind the EPS file management system should not have lost track of the file) consisted of approximately 20 months, five to six of which could not truly be considered inadvertent. This is in contrast to the systemic delay not attributable to the officer which amounted to roughly 23 months. After considering the relevant sentencing principles, including the mitigating and aggravating factors, I have concluded that the appropriate penalty for the disciplinary charge in question is the maximum allowable pursuant to section 17(1)(c) of the *Police Service Regulation* – 80 hours suspension from duty without pay.

44. It is apparent to me that Detective Dahl is still suffering the effects of the trauma he experienced concerning the catastrophic events involving his family. As indicated above, this was a significant contributing factor to the misconduct for which he has been disciplined. In this regard, and pursuant to section 17(3) of the *Police Service Regulations*, I am further directing that Detective Dahl report to Human Resources Division on or before March 20th, 2015 for the purpose of arranging for an evaluation, at their expense, by a mental health professional of their choosing concerning his psychological fitness for duty. Proof that this evaluation has been carried out must be provided by Detective Dahl to his contact in Human Resources Division no later than May 1, 2015. Additionally, Detective Dahl shall cooperate with any action HR deems necessary as a result of the evaluation so directed.

45. The reason for making this order is to determine whether Detective Dahl is sufficiently recovered from the aforementioned trauma involving his family so as to be able to reliably carry out his duties on behalf of the citizens of Edmonton. Relatedly, this order is issued in support of the Employee and Organizational Wellness policy of the Edmonton Police Service.

VI. Decision

46. The disciplinary offence of neglect of duty is proven. The penalty imposed on Detective Dahl is 80 hours suspension from duty without pay pursuant to section 17(1)(c) of the *Police Service Regulations*.

47. Additionally, pursuant to section 17(3) of the *Police Service Regulations*, Detective Dahl is required to report to Human Resources Division on or before March 20th, 2015 to arrange for a psychological fitness for duty evaluation, proof of the completion of which must be provided to his contact in Human Resources Division no later than May 1, 2015. Detective Dahl shall cooperate with any action HR deems necessary as a result of the evaluation so directed.

Superintendent Thomas Grue
Presiding Officer

Presenting Officer:

Martine Sallaberry
Counsel for the Chief of Police

Agent for Detective Dahl:

Mr. Bill Newton

Issued in the City of Edmonton, Province of Alberta, on the 11th day of March, 2015.

EXHIBITS

- Exhibit 1 Memorandum dated 2015 January 06 appointing Martine SALLABERRY as the Presenting Officer.
- Exhibit 2 Memorandum dated 2015 January 06 appointing Superintendent Grue as the Presiding Officer.
- Exhibit 3 Notice and Record of Disciplinary Proceedings with respect to disciplinary charges filed against Reg. No. 1878, .Detective Richard DAHL.
- Exhibit 4 Statement of Agreed Facts.
- Exhibit 5 Detective DAHL's Service Record Summary
- Exhibit 6 Detective Dahl's Annual Performance Review (October 19, 2012).
- Exhibit 7 Detective Dahl's annual performance review (January 27, 2014).
- Exhibit 8 Letter Detective DAHL intends to send to G.H..