

DECISION

NSPRB-99-0057, 99-0111 & 98-0050

NOVA SCOTIA POLICE REVIEW BOARD

IN THE MATTER OF:

The Police Act, R.S.N.S. 1989, Chapter 348 and the Regulations made pursuant thereto

- and -

IN THE MATTER OF:

Notices of Review in Form 13 filed by **CONSTABLE DOUGLAS HILL**, Member, requesting a review of Decisions made by Deputy Chief Robert Barss on the 11th day of August, 1999 and the 3rd day of December 1999.

BEFORE:

Jean McKenna - Alt Chair
Linda Fraser - Member
Brad Barton - Member

COUNSEL:

Mr. Peter Driscoll - on behalf of Mr. Douglas Hill
Ms. Sandra Arab - on behalf of Halifax Regional Police

HEARING DATE:

MAY 1, 2, 3, 4, 5, 8, 9, 10, 11, 19, June 5, 2000

PLACE

Hearing Room of the Utility & Review Board, 1601 Lower Water Street, Suite 300, Halifax, Nova Scotia and the Old Town Council Chambers, Dutch Village Road, Halifax, Nova Scotia

DECISION DATE:

Interim Written Decision Dated: September 15, 2000
Written Decision (Complete): February 28, 2000

DECISION:

Dismissal - Appealed Denied

This matter came before the Nova Scotia Police Review Board by way of two Notices of Review which were filed on 23rd day of August, 1999 and 7th day of December, 1999 by Constable Douglas Hill. These appeals were in relation to decisions made by Deputy Chief Robert Barss and upheld by Chief David P. McKinnon on the 11th day of August, 1999 and the 3rd day of December 1999. The allegations founded by Deputy Chief Barss on the Form 12 (Disposition of Internal Disciplinary Proceedings) included both singular and multiple counts of the following:

5 (1) A member of a police force commits a disciplinary default where the member

(a) engages in discreditable conduct by

- (i) acting in a disorderly manner or in a manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the police force,
- (iii) Assaulting any other member of a police force,

(b) is insubordinate by

- (ii) disobeying or omitting or neglecting to carry out a lawful order without adequate reason;

(c) neglects duties by

- (ii) failing to work in accordance with orders or leaving an area detail or other place of duty without permission or sufficient cause or, having left a place of duty with such permission or cause, failing to return thereto without undue delay,

(f) engages in corrupt practice by

- (iv) improperly using one's position as a member of the police force for private advantage;

There are essentially three distinct factual situations which form the subject matter of the complaints; they will be referred to in this decision as (a) the Carol McIsaac issues; (b) the Rehabilitation Centre issues, and (c) the Atlantic Pilotage Authority issues.

Preliminary matters:

Three preliminary issues were raised on behalf of Constable Hill:

- (a) Should the discovery transcript from trial be entered as an exhibit before the Police Review Board?
- (b) Can Halifax Regional Police Services initiate an internal disciplinary procedure when a public complaint has been laid?
- (c) When was Constable Hill given formal notice of his dismissal?

(a) Should the transcript from trial be entered as an exhibit before the Police Review Board?

This issue was dealt with at the commencement of the hearing. The transcript was entered as an exhibit, but was not used or relied upon by the Board as direct evidence; it was only employed in cross-examination of some witnesses.

b) Can Halifax Regional Police Services initiate an internal disciplinary procedure when a public complaint has been laid?

On behalf of Constable Hill, it is argued that the initiation of a public complaint by an employee of the Halifax County Regional Rehabilitation Centre, and the failure to attempt informal

resolution of that complaint, and its subsequent discontinuance, prevents the department from initiating an internal complaint.

Section 16 of the Regulations pursuant to the **Police Act**, R.S.N.S. 1989, c. 348, as amended, provides as follows:

- 16(1) A complainant may withdraw a complaint at any time by giving notice of withdrawal of complaint in Form 6 of the Schedule, to the complaints officer of the police force of which the person complained of is a member, the Board or the Commission.

- 16(3) Despite subsection (1), where the authority to whom a complaint is to be referred for consideration and investigation is of the opinion for any good or sufficient reason, that the complainant should not have withdrawn the complaint, the authority may, not later than 30 days after the date the complaint is withdrawn, commence internal disciplinary proceedings against the member by serving a notice of meeting in Form 10 of the schedule upon the member.

However, Section 16 is not the only section of the Regulations with which to commence internal procedures. Regulation 20 also permits an internal complaint to be made, in the absence of any public complaint. In the view of the Board, Regulation 16 does not prevent a matter being initiated under Regulation 20. Furthermore, in this case, the 'complaint' by a member of the public (contained in correspondence from Caroline Campbell of HCRRC to Superintendent Chris McNeil dated March 2, 1999) was more specifically concerned with a positive employment reference provided by Sergeant Max Hartley, than with a misrepresentation by Constable Hill. Accordingly, the Board finds that Halifax Regional Police was entitled to proceed.

(c) When was Constable Hill given formal notice of his dismissal?

On August 11, 1999, Deputy Chief Barss met with Mr. Fisher, Constable Hill's legal counsel, on August 11, 1999, regarding the APA and HCRRC matters. Deputy Barss advised Mr. Fisher at that time that he intended to recommend to the Chief that Constable Hill be required to resign within seven days, and if he did not resign, he (Deputy Chief Barss) would recommend dismissal. Later that day, Mr. Fisher informed Deputy Chief Barss that Constable Hill would not resign. Chief McKinnon endorsed his concurrence with the recommendation on the Form 12's, and the Form 12's regarding the HCRRC and APA matters were served on Constable Hill's counsel, David Fisher, by Fax, on August 13, 1999.

On December 3, 1999, the Form 12 regarding the Constable Carol McIsaac matter was served on Constable Hill's present counsel, Peter Driscoll. On behalf of Constable Hill, it is argued that the dismissal was not effective until December 3, 1999, and Constable Hill, even if dismissal is upheld by the Board, is entitled to be paid from September 25, 1999 (the last day for which he was paid, due to administrative issues within the department), to December 3, 1999.

The Board accepts the submissions on behalf of the Department, that the Form 12's clearly conveyed to Constable Hill, via his counsel, that he was dismissed having refused to resign.

The Carol McIsaac Issues

Constable Hill was raised in Halifax, one of six children in what was described to the Board as a close knit family. He attended Dalhousie University for three years, from 1984-'87. He then attended Holland College Police Academy, completing the program in 1988. He went to work with Ports Canada Police, and in 1991 he joined the Halifax Police Department, now Halifax Regional Police. He has had a variety of assignments with the Department, including foot patrol on Gottingen Street and Community Liaison. In 1993 he was named Police Officer of the Year, in relation to an attempt to rescue a victim from a vehicle which had driven into Halifax Harbour.

Constable Hill was married and had two children. However, the relationship between he and his wife deteriorated, and in August 1996 he began seeing Constable Carol McIsaac, also a member of Halifax Regional Police. She and Constable Hill worked together on "4 watch". At the time, Cst. McIsaac was living in an apartment on Cow Bay Road with her daughter from a previous relationship. Constable Hill and his wife were living on Auburn Drive in Cole Harbour. However, Carol McIsaac described her relationship with Constable Hill at that time as "very serious" and "positive". It appears from the evidence of both Constable Hill and Constable McIsaac that their relationship at that time was not public, although the evidence of some fellow officers was that they believed Constable Hill and Constable McIsaac had a romantic relationship.

Constable Hill testified that his relationship with his wife had deteriorated as a result of her gambling problem, which had eaten up their savings. Although she obtained treatment at one point, she eventually returned to gambling in 1996, after they had built the house on Auburn Drive. He

recalled stopping by the house with another police officer on one occasion; he said that the house was a mess, the children weren't dressed, and he was "embarrassed".

His relationship with Carol McIsaac began in August, 1996, following a social gathering at the Lower Deck. They spent that night at Carol McIsaac's, and in his evidence, he implied that the next day, she seemed to have some memory loss as a result of intoxication. A cupboard door was broken, and she didn't recall how it had happened. This scenario was never put to Carol McIsaac in cross-examination. In any event, he said that the relationship developed quickly.

He said that he and his wife separated "officially" in December 1996, although it seems that they hadn't actually lived together for some time prior to that date.

Constable Hill's wife fully moved out in February, 1997. Around the same time, Carol McIsaac had been having difficulty with deteriorating conditions in her Cow Bay apartment, and in May of 1997, she found an apartment in the Auburn Drive area which seemed very suitable. She discussed this with Constable Hill, and he expressed strong opposition to her taking an apartment in his neighbourhood. He claimed that it would aggravate his wife (although she was no longer living with him). He testified that he was concerned that the two might meet as their children were enrolled in the same after-school program. He said that he had a good relationship with his wife, and that he didn't want to "rub her nose" in his new relationship. He claimed that he and Carol McIsaac were trying to be discreet, and that his children barely knew Carol McIsaac.

Carol McIsaac, however, had to get out of her old premises, and without his knowledge, she rented the Auburn apartment. She eventually told him, and he became very angry, saying that she had lied to him, and acted against his wishes. According to Carol McIsaac, he didn't speak to her for two weeks, and eventually e-mailed her at work, telling her she was "a selfish bitch, who lied and disobeyed him". In response, she packed any belongings of his that she had, and left them at his home.

Constable Hill confirmed that the relationship changed, when Carol McIsaac took the apartment in Cole Harbour, against his wishes, and without his knowledge. He said he had concerns about a possible confrontation between his former wife and her. When he found out that she had moved, he announced that the relationship was over. He felt he had been lied to. He entered a relationship with a Jennifer Davis. He had nothing to do with Carol McIsaac for several weeks.

According to Constable Hill, on June 25, 1997, Carol McIsaac came into his home during the night. She began crying hysterically, and apologized for having lied to him. She wanted their relationship to continue. Within a few days he had called Jennifer and "explained the situation", and on July 3, he ended that relationship.

Shortly after they reconciled, she spent the night at his place, and the next day, inadvertently overheard a voice mail message for him from a "Jennifer". She confronted Constable Hill about this relationship, however, he claimed that it was not serious; he and Jennifer had just had "a couple of

dates". She testified that after this, on a daily basis, he would call her "a selfish bitch, a liar, a manipulator". When she'd try to prove otherwise to him, he would accuse her of manipulating him. He said he loved her, but couldn't trust her, and that she would have to "prove to him that she was not selfish". She testified that he told her if she wasn't such a "bad person" he wouldn't have to see Jennifer. She said that this would cause her to "cry, beg, pull on his arm". In cross-examination Constable Hill acknowledged speaking to McIsaac in these terms.

Constable Hill's relationship with Jennifer and the "selfish bitch" accusations, etc., became an ongoing theme in the relationship. They would argue, he would accuse her of being a manipulative selfish bitch, and he would go back to Jennifer. McIsaac would then attempt to prove to him that she was not such, and they would reconcile. It was apparent from her evidence that she was in constant fear of displeasing him, but couldn't seem to please him. She knew that if he was not satisfied with her behaviour, he would scorn her, and go to Jennifer.

McIsaac said that Constable Hill had two "rules"; she was never to lie, and was never to make a public display of her affection for him. Constable Hill confirmed this view in his own evidence. Carol McIsaac testified that everything she did seemed to be wrong, in Constable Hill's view. She testified that on one occasion, for example, she wore a pair of shorts to work for the purpose of some undercover work. He accused her of looking like a "whore", and ripped the pockets. She said that when they got back together after the break-up over her apartment choice, he told her that there were three "Dougs". The first was "Doug", who goes to work. The second was

"Dougie", who was loving and caring. The third was "Douglas", who was negative and angry. She said that Constable Hill said that her behaviour caused him to be "Douglas". Over the summer of 1997 and into the fall, her physical and emotional health began to seriously deteriorate. She stopped going to the gym. She went from 125 to 100 pounds. In August of 1997, the relationship deteriorated, and she went home to Prince Edward Island for vacation. Constable Hill called while she was there, and when she returned to Nova Scotia, she found a letter and tape that he had left her, saying that he realized that she wasn't selfish, and that he loved her. Their relationship picked up again, but was essentially unchanged. He took the position that she had to prove herself to him, and that he would keep seeing Jennifer if she "let him down".

In July '97, physical violence occurred between Constable Hill and Constable MacIsaac. They had been out socializing with friends from the department, and were eating on an outdoor patio. She testified that some sort of insect landed on Constable Hill, and she brushed it off. He angrily told her that she was not to touch him in front of people from work. (apparently at this time they were still trying to conceal the romantic relationship from co-workers, at the wishes of Constable Hill). She was upset, but at that point, according to Constable McIsaac, she simply turned away and began talking to the others at the table.

The group then proceeded to a club down the street, and on the way, Constable MacIsaac and Constable Hill got into a disagreement over the incident in the restaurant. Once at the club, Hill ignored her, and she testified that she was pulling on his arms, trying to tell him there was no reason

to be angry. She said that he kept pushing her away, and finally said "we're getting out of here". Outside, he proceeded down the sidewalk, with her following, crying, asking him to stop, wanting him to talk. She caught up, and held him by the arm. He led her into a parkade. According to MacIsaac, she put her hands up on his chest, and asked him to "just listen for two minutes". Also according to MacIsaac, he then grabbed her by the arm, shook her, and threw her 8-10 feet; she landed on her bottom.

She testified that the next day, she apologized; he responded that he had never before been physically violent towards a woman, and that she needed to get help, "so that it wouldn't have to happen again". She acknowledged that she had a couple of drinks on the evening of the incident, but said that she was not intoxicated. She denied that she dug her nails into him, and she maintained in cross-examination that he threw her across the parking lot, although she acknowledged that in her statement in the subsequent investigation that he "pushed" her across the parking lot. In the view of the Board, nothing turns on the distinction.

Constable Hill's version of the event is somewhat, although not entirely different. His characterization of the event certainly was different. He said that on July 10, Constable Carol McIsaac assaulted him for the first time.

He described her brushing something out of his hair while they were at an outdoor bar on Argyle Street, and then resting her hand on his arm. He whispered to her that she shouldn't be so

affectionate in public. Later, when they went on to another Argyle Street bar, she confronted him about his comments. He responded that he was going to leave, and she grabbed him by the shirt, and punched him in the chest and arm. He left the bar, and she followed, shouting at him angrily, and grabbing his arm. He was concerned about being seen by others, and so he went into a covered parkade. He asked her angrily what her problem was; he started to go around her, she jumped in front of him and pushed him back, telling him he was "not going anywhere". She then grabbed his forearms and dug her fingernails in, and he pushed her back. She stumbled and fell. He apologized and they drove off together. Later, when he asked her about her behaviour, he said that she attributed it to a medication that she was taking.

At her suggestion, he called her mother about the medication, and said that Mrs. McIsaac confirmed that Carol was on medication. In any event, he stopped seeing her at that time, and resumed his relationship with Jennifer.

In her evidence, Anne McIsaac denies telling Constable Hill that Carol was on medication, although she said that she did have a conversation with Constable Hill who suggested that possibility. As far as she knew, the only medication McIsaac was taking was birth control pills.

At this point he said that he began seeing Jennifer again, however, Carol McIsaac maintained ongoing contact with him, making excuses to come by. On September 3, 1997, he ended his relationship with Jennifer, and began seeing McIsaac again. She became "clinging"; everywhere

he went, she had to be. He said that she invited him to PEI to meet her family, and he went, taking his daughter. He said that the last night that they were there, Carol became intoxicated on moonshine and essentially passed out in the bathroom. This caused him to lose respect for her. According to Constable Hill, her response the next day was "did I commit a crime by getting drunk last night?"

At this point in the relationship, Carol McIsaac decided to meet with Paul McKenzie, the Employee Assistance Co-ordinator; she felt that she needed help. She was referred to Dr. Charles Hayes, a psychologist. She saw Dr. Hayes several times before Christmas of 1997. She testified that she didn't confide in him much, and that she didn't want him to tell her that Doug Hill was abusive.

Constable Hill independently consulted with Dr. Hayes on December 18. He discussed his irritability with Carol McIsaac; he testified that he was not aware at the time that Carol McIsaac had also consulted with Hayes.

On December 20, 1997, Constable Hill and Constable McIsaac were to attend a Christmas party at the home of another police officer, Brian Veniot. A number of "4 watch" officers would be present. According to Carol McIsaac, she met Doug Hill by chance at the liquor store, the afternoon before the party. She mentioned that she would get some food to bring along, and asked him to pick a bottle of wine. He replied that he was taking a bottle of Crown Royal.

They had arranged to meet at Constable Hill's, with two other couples before proceeding to the party. She testified that she arrived there approximately one hour prior to the other guests, and that there were initially no problems. From the time she arrived until they left for the party, she had one and a half glasses of wine. She said that he was drinking a glass of Crown Royal, but she could not say how much he had to drink before they left.

According to Constable McIsaac, just before they left, she went into the kitchen with one of the other guests, and put her wine in a bag. She said that Constable Hill approached her, and called her a "selfish bitch"; she later learned that he was annoyed with her because she hadn't purchased any liquor for him. This upset her, and she says that as they drove to the party, she was crying, and questioning him about his manner. According to her, he accused her of being emotional, and suggested that she "didn't know how to behave".

She said that he became angry, cold and stiff, and wouldn't talk. At the party, she ended up in a small room off the kitchen with a number of other women. She said that at one point, Constable Hill came into the room and for no apparent reason, turned the music up; he left, and someone turned it down. This was confirmed by Constable Nancy Rudback, who also attended the party.

McIsaac said that she eventually went out to the kitchen, and tried to apologize to Hill. She said that he didn't respond, and she became upset, and went into the bathroom, crying. Lynn Keith, who was also attending the party, came in with her, concerned. A couple of other women also came

in to assist, and Carol McIsaac said that she explained to them why she was upset, and talked about her relationship with Constable Hill. Lynn Keith testified that McIsaac seemed to be blaming herself for problems with the relationship with Constable Hill, and that she seemed to have very low self esteem.

Carol McIsaac acknowledged that at this point she was intoxicated, having consumed approximately 5 glasses of wine, however, she said that she was in the washroom for approximately 1.5 - 2 hours, and she had nothing further to drink during that time.

Apparently Constable Hill attempted to come in a couple of times during her discussion with the other women, but they asked him to leave.

Carol McIsaac said that eventually the other women left, and Doug Hill came in. She said that he accused her of being selfish, making a scene, etc., and that he was angry. When she tried to hug him, he pushed her away, and she lost her balance and fell, knocking over a vase of flowers. She denied that she struck him or attempted to strike him. She said that neither of them particularly raised their voices while in the washroom.

Constable Hill left the washroom, and she came out shortly after. They left the party, and he drove en route to her apartment. She said that he was angry, accusing her of behaving badly, etc., and that he was driving aggressively, shifting gears frequently. She said that at first she was crying,

and then was angry at the way that he was driving her car; she pushed his hand off the gearshift when he was "grabbing at" the gears, and in response, he put his arm up and pushed her back in her seat. He told her he was leaving when they got to her place, and she was afraid; she said that she wanted "to make him not angry...that he would go out with another women, and it would be like torture, for days". She denied that she got up on her knees on the passenger seat, and said that approximately 2 weeks prior to the hearing she had tried this position, and said that it was virtually impossible in her Ford Probe. She also said that when Constable Hill drove the Probe, his head was almost touching the roof of the car.

She said that when they arrived at her building, Constable Hill gave her the keys and then turned away to leave. She grabbed his left arm with her left hand; she didn't want him to leave. He turned and struck the left side of her face in the cheek area. She described the blow as hard. He struck her a second time, this time making contact with her ear; she said that the second blow was much harder, so much so that she thought that he might have struck her with his fist. The second blow caused her to fall to the ground. As she went to get up, she said that he struck her again under the chin. As she began to get up again, he grabbed her by the hair, and pulled her up the stairs to the apartment, by the hair. Her back and side contacted the stairs. (Her apartment is on the second floor, accessed by an exterior flight of stairs).

Once inside, he "went on about how she was crazy, and he was leaving". She said that she grabbed him by the shirt, tearing his shirt, breaking his gold chain, and scratching him near the

collarbone, drawing blood. He suggested that he was going to call his mother, then started to dial, saying he was calling his ex-wife, Karen. MacIssac picked up the phone, and argued with him. He got up to leave, and she grabbed the lapel of his jacket, causing several buttons to come off. She does not believe that she tore the jacket, although some time later he showed her a tear in the jacket, which was entered as an exhibit.

He left, and she ran after him, according to her, fully clothed. She spent the rest of the night at his place, and she said that the next morning, he apologized. That morning, she noticed bruising on the side of her face and under her chin, and red marks on the right side of her back. She said that her ear was very painful, and that her scalp was sore, with some hair coming out.

According to McIsaac, Hill was apologetic that day, but said that she needed help, and that she had to learn to control how she behaved so that this wouldn't happen. He asked her if she remembered striking him in the bathroom at Veniot's, (and she didn't); he asked her if she had been drunk, and she denied this, as "..I wasn't allowed to get drunk..." She said she eventually admitted striking him in the bathroom, so that he would stop questioning her about it, but that she knew that she didn't hit him.

At the time of this incident, she was out of shape, and weighed approximately 100 pounds.

Douglas Hill's version of the Christmas party incident is somewhat different than Carol McIsaac's. He does however agree that he did take issue with the fact that she had not purchased any alcohol for him at the liquor store prior to the party, and did suggest to her that she was selfish. He said that it was a very brief discussion, and that "Carol was sensitive to the word 'selfish'. He acknowledged that he had called her a "selfish bitch" in the past, and said that it was selfish of her to have moved into the apartment in his neighbourhood. He said that he didn't want Carol around Karen.

He said that there was no argument en route to the party, a 15 - 20 minute drive along the 207 highway, a winding road through Lawrencetown. He claimed that the party was uneventful; he also denied that he was intoxicated, and said that he consumed two bottles of beer at his home, and one at the party.

Some time after his arrival at the party, he became aware that Carol McIsaac was in the bathroom. He knocked on the door, and was told by Lynn Keith "You're not welcome here". After several minutes he went back, said that the situation was ridiculous and anti-social, and then went in. Everyone left but he and Carol McIsaac. He asked her why she was upset, and told her that she was being inconsiderate. In response she slapped him, and then attempted to knee him in the groin. He said that he wrapped his arms around her to restrain her, and she struggled, yelling at him that he was a "fucking asshole". He said that he attempted to be affectionate, and calm her down.

They came out, and readied to leave. He said that he felt embarrassed, and felt that he was on "public display". They left, Constable Hill driving, and he described his driving as normal. He said that as he shifted into third gear, she struck his arm. He put his hand up to defend himself. According to Hill, McIsaac undid her seatbelt, got on her knees on the seat, and came at him "hand over hand, repeatedly, trying to get at my face and claw me". He described her as being "up over him". He said that she ripped his shirt and scratched his collarbone while in the car.

He said that the assault by Carol McIsaac continued along the 207 highway until they reached the Cole Harbour area, in the vicinity of John Stuart Drive, where he turned in. He says that throughout the drive he stayed in third gear.

Constable Hill further stated that when they arrived at her apartment, he directed a "few choice words" at her and started to leave. He described the ensuing physical confrontation in precise detail; she came after him, grabbed his sleeve and turned him around, saying "you're not going anywhere". He said that he spun away, and she ran in front of him, and put her hands up on his chest, cursing. He said that he tried to go around her, with the same result. He said that she grabbed his jacket and leaned back, bent at the knees; the jacket ripped and buttons flew off. She then pulled him back with her left hand and "smacked" him; in response, he smacked her with his right hand and she fell. She came up immediately, swinging at him with her head down, and he reached out, holding her off. He said he then got behind her and grabbed her hair, and then "guided" her up the

stairs. All the way up, she resisted, twisting, turning and kicking at him, finally settling down when they reached the top.

He testified that grasping the hair was an appropriate control technique, which he had learned as part of his training.

Evidence was given by Cst Lindsey Herndon, who is head of the emergency response team on the issue of use of force technique. He stated that this is not a technique that was taught to emergency response team members to control subjects, although he said in some situations "anything goes". However, he said the focus of any control technique is control, and the tactic employed by Constable Hill, as described to him, would leave at least one of the subjects hands free.

Constable said that they proceeded into the apartment, she insisting that he open the door and go in first. He unlocked the door, proceeded in, and then started towards the rear door, to leave. According to Constable Hill, she said "you're not going anywhere", and undressed to her bra and pants. He claims he went to the front door, and again the back door, still being confronted by her, and that she continued to say he was not going anywhere. He said that he "ended up " sitting on the couch, and that she straddled him, "wanting sex". He reached for the phone and she pulled it out of the wall; he went to the front door, and she followed, pounding him in the chest. She slapped him again, he slapped her, and she stopped. He pulled her into his body to control her, and managed to

open the door. He then ran down the stairs; she followed him halfway down in her underwear, ran back up and got dressed, and caught up to him halfway down the street.

He agrees that she spent the night at his house, but says that she did not mention any injuries the next day.

Constable Hill acknowledged that at the time of the Christmas incident, he was fit and healthy, at 6'3" and 225 pounds.

There was evidence from a number of other witnesses as to circumstances surrounding the Argyle Street incident and the Christmas party altercation.

A number of police officers who attended the party commented on the events. Constable Stephen Derrah described Constable Hill as becoming "progressively intoxicated", and that when he last saw him, approximately 1/2 hour prior to Constable Hill's departure, he could say with confidence that he was intoxicated. He also said that he was aware that Constable McIsaac was in the washroom, but he did not hear any noise or raised voices.

Constable Nancy Rudback recalled Constable Hill entering a small room off the kitchen where the women were talking, and turning up the volume on the radio or cd player. She recalled Constable Hill spilling a plate of food on the dining room table. She was "very confident" that he

was intoxicated. She also felt that Constable McIsaac was intoxicated; she didn't think either of them should be driving. She also was present prior to the hearing when Constable McIsaac attempted to replicate kneeling on the seat of the Probe. She said that it simply was not possible to kneel in an upright position.

Constable Todd Blake also felt that Constable Hill was intoxicated at the party; he had 9-12 beer himself, and felt he was impaired but not intoxicated. He worked for 5 years as a bartender, and was "positive" that Constable Hill was intoxicated. He felt that neither Hill nor McIsaac should have been driving.

Mike Parsons, who lived next door to Carol McIsaac's Cole Harbour apartment, was called by Constable Hill. Mr. Parson's said that he didn't know either McIsaac or Hill, although he had seen both of them on the street occasionally. He said that he was up that night until 1:00 or 1:30 a.m., "netsurfing". As he was going to bed, he heard the "screeching" of tires, and got up to look out the window. He saw a male and female in conversation on the gravel walkway between his house and her building. He said that he then decided to have a cigarette, and as he sat down he heard a scream; he got up to look out and saw the female beating on the male's chest. He said that he was trying to grab her hands; she stumbled, and he reached out to grab her, to prevent her from falling. He said he had no concerns, and moved away from the window. He heard more sound, and went to the window once more; he noticed Constable Hill walking away, and she grabbing at his sleeve, trying to pull him back. He couldn't overhear any specific words. He then stepped out on

the porch to "make his presence known"; at that point, the couple was arguing, and she was pulling at his sleeve, with enough force that he turned a time or two. He went back inside, and when he looked out again, there was no sign of anyone.

Later in his direct examination he added that when he last saw them, Constable Hill was not trying to get away, but that the couple were walking toward the apartment together. He said that Carol McIsaac was definitely the aggressor from what he saw.

Carol McIsaac returned to work on December 24; she said that by that time, her ribs and back were better, although her head ached, and her ear was painful. The bruises had faded, and she felt that she was able to cover them with makeup.

She was working with Constable Barbara Eye, who was driving, and she asked Constable Eye to take her to the VG emergency department to have her ear examined. She felt that if she went in uniform, hospital staff would assume that the injury occurred at work. She was diagnosed with a ruptured eardrum, and provided with medication.

She said that Constable Eye later asked her about the bruises on her face, and she gave some false explanation.

Constable Eye testified, and essentially confirmed Carol McIsaac's evidence. She had been working with Constable McIsaac for some time, and had noticed McIsaac's deteriorating condition. She said that McIsaac would come to work tired, was distracted, and had difficulty concentrating. She said that she had lost weight, that she looked drawn, and that her uniform began to hang off of her.

McIsaac discussed her emotional relationship with Hill and Constable Eye, including the fact that Hill would accuse her of being selfish. McIsaac told her that Hill was an "other blamer", and that he never took responsibility for things that happened. However, McIsaac also felt that there was something that she was doing wrong, and that there was something that she could do to change the relationship. Constable Eye tried to talk her out of continuing the relationship.

Constable Eye also attended the Christmas party; she said that Constable Hill appeared intoxicated when she arrived, close to midnight; she said that he was effusive and friendly, far more so than she would normally expect as they were just acquaintances.

She confirmed that when they worked together after the party, McIsaac asked to be dropped off at the V.G. emergency. After she picked her up, she noticed bruising on her cheek. She said there were two spots; one close to the temple and the other high on the cheek. Carol McIsaac appeared to be surprised; said "oh really", and looked in the rear view mirror. She asked if Doug had hit her, and she said that Carol denied this, and gave her a "ridiculous" story about tripping

going up stairs. Carol McIsaac told her about the argument before the party, and about going in to the bathroom. She felt that McIsaac had had a fair amount to drink, as she didn't seem to be able to provide a clear story about what had happened in the bathroom.

Dr. George Kovacs testified. He was on duty when Carol McIsaac came in to emergency complaining of a problem with her ear. He said that there was blood in the ear canal, which could be consistent with the date of injury alleged, although it would also be consistent with a very recent injury. He identified the emergency record, which indicated that she had stated that she was "hit with a fist 3 days ago (20/12/97)"

Dr. Joseph Nasser testified. He was qualified as a specialist in otolaryngology. He saw Carol McIsaac on referral from her family doctor. He testified that the injury was consistent with a slap or punch to the ear, requiring "a fair degree of force".

Carol McIsaac went home to Prince Edward Island on December 28; she eventually told her brother Rodney and his wife that Doug Hill had hit her. They "gave her a different view", such that she no longer felt it was "all her fault". She wrote notes at the time directed toward Doug Hill; she said that he later removed the notes from her apartment without her permission. She next saw the notes when she testified at the criminal trial against Constable Hill; they are reproduced at Tabs 2 and three of Exhibit 3. In general the notes contain her acknowledgement of the inappropriateness of her behavior, and also express the devastating impact of his behaviour on her feeling of self

worth. In her testimony, she explained that the behaviour that she was apologizing for was the crying, pleading, pulling on his arm, etc. In the note she refers to "physical retaliation" on her part, and in her testimony, she said that referred to striking him in the bathroom at the Christmas party. She said that he was so adamant that had occurred she began to believe that he was right.

Carol's mother Anne testified. She said that when Carol was at home over the Christmas vacation, she complained of a painful ear, saying that she had injured it at work.

After the Christmas incident, Constable Hill again made arrangements to see Dr. Charles Hayes, and he and McIsaac met together with Dr. Hayes on January 26. Dr. Hayes' handwritten notes of those meeting were introduced in evidence as "Exhibit 20".

The notes of January 6 reflect that he told Hayes that Carol McIsaac hit him in the washroom, that she tried to hit him in the car, and that she ripped his shirt. He also told Hayes that he called her "selfish", that he was furious, and that he hit her with an open hand. Dr. Hayes also notes that "He has been abusing her emotionally". He also described an incident on Argyle Street during the summer, at the end of which "he pushed her, and she landed on her ass".

The February 18, 1998 notes reflect that Constable Hill told Hayes that "He dragged her by the hair up to the apartment".

Dr. Hayes suggested to Hill that McIsaac accompany him to the next session, on January 26. He said that at that meeting, Carol McIsaac did not disagree with his version of events.

Constable Hill described a meeting with Carol McIsaac's family at his apartment in February, supposedly in response to concerns that Carol's brother had regarding the relationship. He described the meeting in precise detail, including the seating arrangements of all present. He said that Carol's brother Rodney wanted to know "what's going on", and that he explained to them exactly what had happened, essentially advising them that Carol had assaulted him, and that he had slapped her in self defence. He said that at that meeting, Carol did not disagree with his version of events. However, the evidence of Carol McIsaac and her mother was to the effect that Constable Hill controlled that meeting, even to the point of seating arrangements. As well, then evidence of Carol McIsaac, her colleagues, and her family, makes it clear that she in a fragile emotional state at the time, such that it would be unlikely that she would be capable of disputing anything that Constable Hill said. In addition, at that time (and indeed to the conclusion of the hearing), she wanted to avoid "creating" problems for Constable Hill.

Anne McIsaac described the February 1998 meeting with Doug Hill, which took place at his request, after the alleged assault had come to the attention of the department. She said that he described the events of the party in an emotionless manner; he described the Argyle Street incident, saying that he "hit her, so that she 'flew across' the lot; ; he described the drive home from the Christmas party, saying she was 'pounding on him'; he said that he struck her, and may have burst

her eardrum, and that he dragged her up the stairs by the hair. She was certain that he used the latter description, saying that she later 'visualized' it.

Carol's father David was also present at that meeting; he also tells of Constable Hill acknowledging that he may have broken Carol's eardrum, and that he "dragged her up the stairs by the hair.

The matter came to the attention of the department as a result of an incident which occurred on January 30, 1998, when Constable Carol McIsaac was working with Constable Stephanie Glendenning. Constable Douglas Hill had responded to a call concerning a man beating a woman at 'Pizza Corner'. Constable Hill asked Glendenning to meet with the woman. It transpired that the alleged assailant was a friend or acquaintance of Constable Hill's, an RCMP officer, Blois Brooks, from Cole Harbour, and the victim was his girlfriend. Carol McIsaac became upset, emotionally relating the incident to her own circumstances; she spoke to Doug Hill, who said that the girlfriend caused a public scene, resulting in Brooks getting in trouble.

At this, McIsaac confided in Stephanie Glendenning as to what she had been going through. She said that she told Glendenning that she hit Doug in the washroom, thinking that it would make what had happened at her apartment more acceptable. Constable McIsaac was crying and upset, and asked victim services volunteer Linda Mintz to come out in the patrol vehicle with her, where she

confided in her about the incidents with Constable Hill. She felt that her discussions with Mintz would be confidential. She did not, however, identify Constable Hill.

Stephanie Glendenning testified about the incident. She said that she was initially frustrated with Carol's unwillingness to assist with the assault, and actually noted it to her supervisor. She said that when she returned from driving the victim home, she confronted Carol, who began to cry. Carol then related the Christmas party incident to her.

Constable Glendenning previously had concerns that something was wrong; she was aware of the ear injury, with Carol offering the explanation that she fell while jogging. She also noted Carol was losing a lot of weight.

In the weeks following the discussion with Mintz, Carol confided further with her, but continued to blame herself for Doug Hill's conduct.

As a result of the disclosure to Mintz, the matter came to the attention of the Department. S/Sgt Frank Beazley met with Carol McIsaac on Feb. 11, 1998. Carol McIsaac refused to discuss whether she had been the victim of an assault by Constable Hill, refused to discuss whether she was involved in an abusive relationship with Constable Hill, and declined to make a formal complaint. She did however speak to Beazley as well as Christine Fisher, Employee Assistance Programme, and she was sent on mandatory referral to Dr. Hayes. As a result of that referral, it was determined

that she was not fit for duties, and she was placed on stress leave. Constable Hill was also sent for mandatory referral, and was tested and found to be fit for duty.

He consulted a personal friend, who is also a Crown Prosecutor. The friend suggested that Constable Hill and Constable McIsaac both write out statements, and take them to their lawyers. Constable Hill asked Constable McIsaac for a statement, and she refused, however, the next day, she produced a handwritten note. In that statement, she states that

"On December 20, 1997, I assaulted Douglas Hill several times over and over again. I would not let him leave and I hit him over and over again. Douglas Hill struck me only in self defence. Any other statements I may have made prior to this statement are false, including anything I may have said to Linda Mintz. There have been no other incidents of assaults having taken place at anytime, and once again, any statement I may have made otherwise is completely false. My eardrum was not busted as a result of being assaulted by Douglas Hill. This occurred prior to the fight of December 20, 1997. Any statement made by Douglas Hill about my character such as slut, bitch, whore, selfish, manipulative, obsessive, lazy, liar, etc., are all true. I intentionally lied about the incidents that took place between us so that management would get hold of the information and act against Douglas Hill."

He said that when she delivered this to him, he pretended to tear it up, but kept it.

Carol McIssac testified that she had never needed counselling before she met Doug Hill. She and Constable Hill agreed that they would jointly attend counselling, but that Constable Hill "for

some reason" wanted to attend the first session alone. She said that Constable Hill told her that she had to be sure to tell Hayes that she had hit him in the bathroom, and that she lost control. Apparently, at the first joint meeting she didn't say she lost control; this made Doug angry, and so the next meeting she said that she lost control. She said during these sessions, she had to talk about 'her' behaviour, because Doug was there. She said that she subsequently learned that he was seeing Hayes separately. She also saw Dr. Higgins, at the same clinic, when Constable Hill was not present.

In March of 1998, Constable Hill was suspended with pay, pending the outcome of an internal investigation into his conduct.

Criminal charges were also brought against Constable Hill in relation to the allegation of assault on Carol McIsaac on the night of the Christmas party. The matter proceeded to trial in Provincial Court on October 26, 27, 28, and 29, 1999. He was acquitted by Stroud, P.C.J., who found that he could not be satisfied beyond a reasonable doubt that the assault had occurred as described.

There are certainly differences between the Hill and McIsaac versions of the physical altercations between the two. As well, there are certainly inconsistencies between Constable McIsaac's evidence before the Board, and her comments in various notes, letters, Hayes medical notes, and evidence at trial. There are likewise inconsistencies between Constable Hill's evidence

and other evidence. What is clear, however, regardless of these inconsistencies, is that Constable Hill was very controlling and emotionally abusive throughout the relationship, and that this had a severe impact on Carol McIsaac's physical and emotional health. It is also clear, that in any physical confrontations, Constable Hill was by far Constable McIsaac's better, particularly as her physical condition deteriorated.

We accept her version of events that occurred in the Argyle Street Parkade in July of 1997. Her description of his cold and angry response to her touching him in public is consistent with his response throughout the relationship. She acknowledges pulling on his arms, and pulling her hands up on his chest, and we accept that this was not a hostile gesture (as he would have us believe), but was an attempt to convey to him that he should "just listen...just give her two minutes". He admits to being upset and embarrassed by her 'public display of affection' in touching his hair; he admits to feeling embarrassed at the bar when he thought a friend, Mike Gillette, saw them together. He says that embarrassment was because Mike "knew Karen" (his wife, from whom he'd been separated for months). He admits that Carol McIsaac wanted him to stop and talk, and deal with the issue "there and then".

The Board is satisfied on all of the evidence, including the totality of the relationship between the parties, that Carol McIsaac was much more likely to be pleading and cajoling, as she describes it, than viciously aggressive, as he would have us believe. We accept her evidence that he did physically throw her eight to ten feet, not a difficult feat given their comparative sizes.

Regarding the Christmas incident, the Board cannot accept the evidence of Doug Hill that Carol McIsaac was able to balance on her knees, in the front seat of a relatively small car, travelling down a narrow, winding road, and simultaneously lean over Constable Hill and pummel him continuously hand over hand for a period of 15-20 minutes. It seems highly unlikely that she would do this, and attempt to claw at his face, while he was driving her automobile, with her in it. Surely in response to such activity, Constable Hill would have done more than just put up one hand to hold her off; surely in response to such aggression he would pull off the road if for no other reason than to avoid an accident.

With respect to the ensuing confrontation in the parking lot and her apartment, we accept the evidence of Carol McIsaac that her physical contact with Constable Hill consisted of pulling at his arms, and banging his chest in a manner of pleading with him not to leave. We do not accept his description of her as the aggressor, angrily telling him "you're not going anywhere", spinning him around, pulling at him, with her feet planted, and her knees bent, etc. It was clear from all of the evidence that Carol McIsaac was not angry and aggressive that night, but rather was distraught and hurt by his conduct.

The Board also notes Douglas Hill's evidence that he was not intoxicated that night, despite the evidence of to the contrary of others present at the party. We also accept the evidence of Mr. and Mrs. McIsaac that he told them that he had "dragged" Carol up the stairs by the hair. Finally, in weighing the conflicting versions of events, we note that throughout the process, Carol McIsaac

has been trying to protect him from the consequences of events, to the point where she thought that she may have placed her own career in jeopardy by being less than forthright with management. We find that she had no motivation to falsify her evidence before the Board, and we find her to be completely credible.

The Board finds that Douglas Hill used excessive force in his response to Carol McIsaac's verbal and physical overtures to him. It is undisputed that in the Argyle Street incident and the Christmas party incidents, Carol McIsaac wanted to communicate with Doug Hill; she wanted him to stop, to talk, to reason. In every instance, his response to her overtures was anger, embarrassment, rejection of her, and ultimately, physical violence.

Even if we accept the evidence of Douglas Hill as to the level of aggression of Carol McIsaac, his response would still be inappropriate. Douglas Hill had two options available to him in the physical confrontations with her. He could have acceded to her pleading, entertained rational discussion, and at some later time, in a less emotional setting, withdrawn from the relationship. Even if we accept his view that was not possible given the level of aggression by Carol McIsaac, he could very easily have restrained her using minimal force. If his evidence is to be accepted, he was easily able to restrain her with a "bear hug" as he allegedly did both in the Veniot washroom and at her own apartment on the night of the Christmas party.

With respect to the Argyle Street incident, whether Carol McIsaac was pushed or thrown across the parking area, the force was excessive. No force whatsoever was necessary if Doug Hill had been prepared to respond to McIsaac's upset through a calm, rational, adult discussion. He clearly was unable to do so.

As to the night of the Christmas party, he justifies using a grip on Carol McIsaac's hair to 'escort' her up the stairs to her apartment. The Board does not accept that he had been trained in this technique, and note the evidence of Constable Leslie Herndon that this was not a technique taught in training. In any event, Carol McIsaac was not a suspect to be arrested ; in fact it was her wish that he come to the apartment with her. It was hardly necessary for him to use force to accompany her.

The Board is of the view that the force used by Constable Hill on the evening of the Christmas party, and in particular the blows to the head and the grip on the hair, was not defensive, but rather was an out of control, angry, response to her emotional state.

It is argued on behalf of Constable Hill that the matter was not fairly investigated by Halifax Regional Police.

The function of the Board is not to review the investigation by the Department. A hearing before the Board is a hearing *de novo*; parties are entitled to organize their case and to present all

relevant evidence, whether or not it formed part of the investigation at the Department level. The only impact of the findings and decision of the Department is to give the Board jurisdiction to hear the matter, they have no bearing or impact on the conclusions of the Board.

Counsel for Constable Hill also argues that based on the decision of the Board in the **Wilms** matter, Constable Hill should not be dismissed. In **Wilms**, the officer was charged with assault and uttering threats. He was convicted on both counts, but was given a conditional discharge. The Board did not dismiss in that case, and it is therefore argued that Constable Hill, who was acquitted, should not be subjected to a more severe penalty. Acquittal or conviction in Provincial Court has very little bearing on the decision of the Board. As with **Wilms**, there was more and different evidence before the Board than there was before the learned Provincial Court Judge. The burden of proof is different, as are the parties and the issues.

In **Wilms** the Board determined that the physical violence represented an isolated incident, with an element of self defence. The Board does not believe that is the case here; the evidence establishes a pattern of behaviour (described by Dr. Hayes as a "set piece" in the relationship between the parties) which ultimately and inevitably led to violence, on more than one occasion. We also find that Constable Hill has no insight into his own behaviour, and he continues to view Carol McIsaac as the cause, thereby justifying his own violent behaviour. His assault on another officer is discreditable conduct under Regulation 5(1)(a)(i) and (ii), and is of such a serious nature that dismissal is the appropriate remedy.

(b) The Rehabilitation Centre Issues (Commission File No. 99057)

(c) The Atlantic Pilotage Authority issues (Commission file No. 990111)

As was noted above, Constable Hill was suspended with pay on March 2, 1998. He testified that he was incurring legal costs in his defense to the criminal charge, and essentially needed money. On December 4, 1998 he applied to the Halifax County Regional Rehabilitation Centre for part-time employment as a nursing attendant. He had previously been employed there, in that capacity, in 1986. On his application, he describes himself as a full-time police officer, "still employed, seeking part time second job".

There is an interesting comment (considering his altercations with Carol McIsaac) on his "external review questions". He is asked:"The behaviour of some of our residents is very predictable. You may be hit or scratched for instance. How would you react to this happening to you"? His reply is: "Be familiar with behaviour, approach from side, non-confrontational".

He was interviewed on February 3, 1999, by Caroline Campbell, the Director of Human Resources, and Margaret Foster, the Director of Rehabilitation Services. Both Ms. Campbell and Ms. Foster testified before the Board. Both recalled that he said that he couldn't do overtime work with the Police Department, because he was in plainclothes, doing undercover work, and couldn't risk public identity as a police officer. (His resume indicated that he was "selected to Special Investigation Section as of 1998). He also told them that he could provide a two year shift schedule,

and this way they would know when he was available, and this was satisfactory from their point of view as he would be working "on call casual".

They contacted Sergeant Hartley at Halifax Regional Police; he was given as a reference on Constable Hill's application. Sergeant Hartley completed a reference check list, which was very positive, and under "reason for leaving" the response was "applicant is still employed".

Constable Hill was offered employment, to commence on March 1, 1999. However, on February 26, an article appeared in the local media concerning the status of another police officer facing charges, and the article mentioned that Constable Hill was also under suspension and had been since March of 1998. Caroline Campbell wrote to Superintendent Chris McNeil on March 2, expressing her concerns not only about the misrepresentation by Constable Hill, but also at the positive reference, which neglected to point out Constable Hill's status. Ms. Campbell and Ms. Wilson also met with Constable Hill on March 3, 1999. According to a memo summarizing that meeting, Constable Hill advised them at that meeting that the schedule which he provided was for the Atlantic Pilotage Authority, where he had also applied for, and been offered a position, commencing March 1, 1999. Also according to the memo, he also suggested to them that "...(they)...should be careful as an employer who made an offer in writing and then two weeks later, terminate the relationship. He told...(them)...that he had a prosecutor on his side looking into the charges and they were considering possible charges against the police department". As with the Carol McIsaac situation, he was apparently unwilling to impute any blame to himself. His conduct

in this matter then became the subject of an internal allegation, not only because of the misrepresentation, but also because of the failure to obtain permission from the Department to take on outside work.

In his own evidence, Constable Hill pointed out that he did not specifically say in his resume that he was working undercover. However, he acknowledged that he did not disclose the fact that he was under suspension, and he also knew that he was required to have permission from the Department to work.

Constable Hill said that on the question of permission, he contacted his counsel, Pat Duncan. Mr. Duncan in turn referred him to his union representative Dan Hanson, and made arrangements to meet. He also said that Hanson indicated that it wouldn't be much of a problem. He said that he did not hear anything further from Hanson.

Exhibit 11 is a memorandum from Constable Hanson to Staff Sergeant Kennedy, dated March 17, 1999. In it he notes a call at "...2245 hrs Friday night..." inquiring as to whether there was a departmental policy with respect to outside work. He advised the caller (who subsequently identified himself as Doug Hill), that permission of the Chief was required. Hanson advised that he "...didn't think the Chief could stop us constitutionally speaking but he still may get us under the *Police Act*. I also stated the reason the work was needed can be a factor...". Constable Hill advised that he needed the money to pay his legal expenses, and was being interviewed for a dispatch job.

Hanson states that he didn't think that would be a conflict but that he still had to have permission of the Chief. Hanson also said that he advised Constable Hill to call him on Monday, to meet over coffee, but received no calls or messages from Constable Hill, although he also says that he was having trouble with his pager.

Hanson's memo does not identify the date of the call, but he appears to believe that it was approximately 2 weeks previously. In any event, Constable Hill commenced employment with APA on March 1, 1999. On March 17, 1999, Peter Driscoll, Constable Hill's counsel, wrote to Chief McKinnon requesting permission to be employed with the APA. On March 19, 1999, Chief McKinnon replied that Constable Hill should submit an outline of the position, which was subsequently provided by Mr. Driscoll. The Chief, however, also required a copy of the work schedule, which was provided by counsel David Fisher on May 28. On the same date, Chief McKinnon advised Mr. Fisher that permission was denied. He noted the shift pattern was very similar to Constable Hill's shift pattern with the Department, and that he could not fulfil his responsibility as a member of Halifax Regional Police. Constable Hill, of course, was on paid suspension at the time. However, Chief McKinnon pointed out that the paid suspension "...is the only reason that he would be able to participate in this employment....if he were on full active duty he would be receiving no more or no less compensation than he currently is and would be required to work for his primary employer".

Despite the lack of permission, Constable Hill continued to work at APA, and continues to be so employed. He testified that he had to work, and was "damned if he did and damned if he didn't".

On August 11, 1999, Constable Hill was found to have committed a disciplinary default with respect to both the Rehabilitation Centre matters and the APA matters. Form 12 on both matters stated:

"Require member to resign within seven (7) days of the date of the hearing, August 11, 1999, and where the member does not resign within that seven day period, recommend dismissal"

Form 12 also notes: "confirmation received from Mr. D. Fisher on August 11, 1999 at 1:42 p.m. that Constable Hill was not prepared to resign". The recommended penalty was concurred by Chief McKinnon. Form 12 was served on Constable Hill's counsel at the time, David Fisher, on August 16, 1999. Due to a strike of civic employees, Constable Hill continued to be paid until September 25, 1999.

With respect to the Rehabilitation Centre issue, the Board is satisfied that Constable Hill fully intended to leave the impression with his potential employer that he was working as a full time police officer. This is confirmed by his application, as well as the comments recorded on the External Interview questions, noted above. He attempted to mislead his potential employers, and used his position as a police officer to lend credibility to himself as an applicant. His conduct (coupled with the silence of Sergeant Hartley on the issue of his suspension), could and did bring discredit on the Department.

With regards to the final count in the Rehabilitation Centre issue, we find that, as the evidence is somewhat inconclusive as to whether he was aware Hanson was seeking permission, that count cannot be sustained.

With respect to penalty on this issue, we find the deception very serious, particularly given that the basis for his suspension was an allegation of a violent act, and indeed a matter that was before the criminal court. We would impose a 30 day suspension without pay on this allegation.

With respect to penalty on the APA issue, Constable Hill, having been caught on the Rehabilitation Centre matter, took appropriate steps to obtain permission. When it was not forthcoming, he chose to ignore the Chief's specific order. While he may have been in a somewhat difficult position financially, this does not justify such conduct. It seems clear that he went through the process of requesting permission as a formality, with no intention of complying unless he got the response that he desired. He may have had other avenues open to him such as a grievance. His response shows total disrespect for the authority of the Chief.

It is argued on behalf of Constable Hill that he could not be guilty of violation of a lawful order, as the order of Chief McKinnon was not lawful.

Extra duty employment is governed by the Halifax Regional Police Service extra duty employment regulations, (Exhibit 3, Tab 31) which were directed to the members by Department Order 19-96, June 26, 1996. (Exhibit 3, Tab 30). The Regulations prohibit certain types of employment, and in particular, any activity "that interferes with or adversely influences the

performance of his/her duties as a member of the Halifax Regional Police Services or is likely to do so". The Regulation also provides that "All requests for, or from, a member of the Halifax Regional Police Service for the purpose of extra-duty employment must be made in writing to the Chief of Police outlining the nature of the extra-duty employment".

It was pursuant to those requirements that Constable Hill made his (late) request for permission to work at A.P.A., and by correspondence dated May 28, 1999, Chief McKinnon denied that request. It was Chief McKinnon's position that, as the shift schedule at APA was very similar to the Department schedule, Constable Hill "...could not participate in this employment and ...adequately fulfil his responsibility as a member of the Halifax Regional Police". In addition, he noted that the fact that Constable Hill was on paid suspension awaiting trial was the only reason that he would be available for this type of work in any event.

Clearly the Regulations permit the Chief to use his discretion in deciding whether to permit extra duty employment. The discretion should not be exercised arbitrarily. In the view of the Board, while it may be somewhat artificial to consider that Constable Hill's APA schedule would conflict with his departmental schedule, it is significant that his availability for that APA schedule is only by reason of his suspension. He cannot be said to be in the same position as an officer taking a part-time job outside of the department, and outside of his or her working hours. Chief McKinnon's decision to deny permission does not seem unreasonable in that light. In any event, the decision, while not being entitled "order", is in fact an order, and was blatantly disregarded. As was noted above, Constable Hill, if dissatisfied with the ruling, could have grieved the issue, but chose instead to ignore it. In light of the outstanding complaints already against Constable Hill at the time of this

offence, the Board finds the conduct particularly concerning, and finds that the appropriate penalty on this count is dismissal.

In summary, the Board finds dismissal to be the appropriate penalty on the McIsaac and APA issues, and thirty day suspension to be appropriate on the HCRRC issue.

DATED at Halifax, Nova Scotia this day of February, 2001

JEAN McKENNA
Alternate Chair

BRAD BARTON
Member

LINDA FRASER
Member

Distribution:

Constable Douglas Hill - Member - Halifax Regional Police C/O
Mr. Peter Driscoll - Solicitor for the named officer
Ms. Sandra Arab - Solicitor for the Halifax Regional Police
D/Chief Robert Barss - Halifax Regional Police
Chief David P. McKinnon - Halifax Regional Police
Ms. Jean McKenna - Alternate Chair NS Police Review Board
Mr. Brad Barton - Member, NS Police Review Board
Ms. Linda Fraser - Member, NS Police Review Board

NSPRB-99-0057, 99-0111 & 98-0050

IN THE MATTER OF:

The Police Act, R.S.N.S. 1989,
Chapter 348 and the Regulations made
pursuant thereto

AND IN THE MATTER OF:

Notices of Review in Form 13 filed by
CONSTABLE DOUGLAS HILL,
Member, requesting a review of
Decisions made by Deputy Chief
Robert Barss on the 11th day of
August, 1999 and the 3rd day of
December 1999.

D E C I S I O N

Before:

Jean McKenna - Alternate Chair
Linda Fraser - Member
Brad Barton - Member