

# Cop denies abuse of power

## Tells Crown he didn't think sex with civilian was an offence

BY BARBARA BROWN

A Niagara traffic cop says he did not think it was a criminal offence to have sex with a female civilian after demanding that she accompany him to his cruiser for a roadside breath test.

Crown counsel Ian Scott suggested that the sexual encounter may have seemed consensual to Constable Michael Moore, but the 20-year-old woman in his front passenger seat was not the one packing a Glock service pistol, baton, handcuffs, pepper spray and bulletproof vest.

"The truth of the matter is that you knew you had all the power over (her) and she had no power over you," said Scott.

"Well, yeah, the way you're wording it. I was a police officer and she was a civilian," replied Moore, who has been with the police service for 11 years.

Moore, 40, who has pleaded not guilty to sexual assault and breach of public trust, was cross-examined by the special prosecutor during a second day in the witness box.

The woman did not pass the roadside test even though she had only a trace of alcohol in her system. That's because she had a G-2 or novice licence and was

forbidden by the Highway Traffic Act from consuming any alcohol at all.

Moore was required to issue her a ticket and a 12-hour driving suspension. Once she provided the breath sample, however, he no longer had the authority to detain the woman, given her low alcohol reading.

"Did you say at this point, 'I just want to make it clear to you that don't have to have sex with me?'" asked Scott.

Moore said he did not, and in his testimony this week maintained it was the woman who had seduced him, not the other way around.

The criminal charges arose from an incident at 2 a.m. on Aug. 6, 2004, when Moore pulled over a red pickup truck on Montrose Road in Niagara Falls.

The woman and her female friend had been to a nightclub, where the driver had won concert tickets for performing an acrobatic feat on stage and for having the sexiest tattoos.

Moore said he contemplated giving her a break after hearing that her brother, who had cancer, was relying on her to drive him to a chemotherapy appointment later that morning.

He considered making small talk and waiting 15 or 20 minutes until the driver had eliminated the remaining

alcohol from her system.

Moore said the woman volunteered to show him her tattoos, including a rubber ducky on her right hip and a Playboy bunny on her right buttock.

She testified that Moore stroked the bunny and asked her: "What can you do for the Niagara Regional Police for me to let you go?"

Moore denied uttering the remark.

"Your position is that there's nothing in the relationship between your getting oral sex and her not receiving a suspension. Are you seriously telling this courtroom that?" asked Scott.

"Yes. I am," said Moore.

Scott noted that within a minute of the woman leaving his cruiser, Moore was making jokes in e-mails to other police service personnel.

Moore said he only realized the magnitude of his folly after learning the woman had filed a complaint.

"The only thing I was worried about (immediately after the fact) was that my wife would find out that I had fooled around."

Scott and defence lawyer John Rosen are to make closing arguments in the case on Wednesday.

bbrown@thespec.com  
905-526-3494



BARRY GRAY, THE  
HAMILTON SPECTATOR

**Niagara  
Constable  
Michael Moore  
leaves court  
with his wife  
Detective  
Constable  
Jackie Moore.**