



## TORONTO POLICE SERVICE DISCIPLINE HEARING

IN THE MATTER OF ONTARIO REGULATION 268/10 MADE UNDER THE POLICE SERVICES ACT, RSO 1990, AND AMENDMENTS THERETO:

IN THE MATTER OF THE  
THE TORONTO POLICE SERVICE  
AND POLICE CONSTABLE Dalbinder GILL (5239); (He/Him)

### **Charges:**

Corrupt Practice (2 Counts)

Breach of Confidence

Insubordination

Discreditable Conduct (2 Counts)

### **DISPOSITION DECISION**

Hearing Officer: Superintendent Shane Branton; Toronto Police Service; (He/Him)

Prosecutor: Mr. Mattison Chinneck, Toronto Police Service; (He/Him)

Defence Counsel: Mr. Philip Norton; (He/Him)

Case Number: 2.2022

Hearing Dates: 2023.10.25

Decision Date: 2023.12.11

Before commencing my decision on penalty and sentencing in this matter, I would like to thank Mr. Norton, Defence Counsel, and Mr. Chinneck, the Service Prosecutor, for their joint submissions as to penalty and exhibits tendered, all of which have assisted me in reaching my decision.

***Note: This decision is divided into four parts: PART I: OVERVIEW; PART II: THE HEARING; PART III: ANALYSIS AND FINDINGS FOR DISPOSITION; and PART IV: DISPOSITION.***

## **PART I: OVERVIEW**

### **Background**

1. Constable Dalbinder Gill (5239) commenced his employment with the Toronto Police Service (TPS) in 1998. Constable Gill presently holds the rank of Constable and is assigned to Traffic Services.

### **Allegations of Misconduct (Six Counts)**

2. Corrupt Practice (2 Counts)

Constable Dalbinder Gill (5239), being a member of the Toronto Police Service, you are alleged to have committed corrupt practice in that you improperly used your character and position as a member of a police force for private advantage, contrary to Section 2(1)(f)(v) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, as amended.

3. Breach of Confidence

Constable Dalbinder Gill (5239), being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did divulge any matter which it is your duty to keep secret, contrary to Section 2(l)(e)(i) of the Schedule Code of Conduct of Ontario Regulation 123/98 and therefore, contrary to Section 80(l)(a) of the Police Services Act, R.S.O. 1990, as amended.

4. Insubordination

Constable Dalbinder Gill (5239), being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did commit insubordination when without lawful excuse you, disobeyed, omitted or neglected to carry out a lawful order, contrary to section 2(1) (b) (ii) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990 as amended.

5. Discreditable Conduct (2 Counts)

Constable Dalbinder Gill (5239), being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member, contrary to section 2(1)

(a) (xi) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990 as amended.

**Plea**

6. On Wednesday, September 25<sup>th</sup> , 2023 Constable Dalbinder Gill (5239), pleaded guilty to a new Notice of Hearing and was found guilty of one count of Discreditable Conduct, contrary to the *Police Services Act*.

7. Counts 1 through 5 were withdrawn by the Prosecution as result of the plea.

## **Decision**

8. I have carefully considered the joint submission and relevant information presented by both the Prosecutor and Defence Counsel as well as reviewed previous Tribunal Decisions. In light of the mitigating and aggravating circumstances, and in particular, the seriousness of the matter, I impose the following sanction under Section 85(1) (c) of the Police Services Act (PSA).

9. For Discreditable Conduct in that PC Gill is guilty of: acting in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member- a reduction in rank classification from First Class Constable to Second Class Constable for a period of six months after which PC Gill can be returned to his previous classification of First Class Constable.

## **PART II: THE HEARING**

### **Exhibits**

10. The exhibits for this matter are listed in Appendix 'A', attached hereto. To avoid repetition, all exhibits will be referred to by number without the preface of Appendix 'A'.

### **Representation**

11. In this matter, Mr. Norton represented Constable Gill and Mr. Chinneck represented the TPS.

## **Agreed Facts**

12. The facts of this matter as amended are substantially agreed upon by the parties.

The Agreed Facts, from the statement of particulars, state:

13. Police Constable Dalbinder Gill is a member of the Toronto Police Service (“TPS”).

He was hired in 1998.

14. From 2015 to 2021, P.C. Gill was a member of the Traffic Division (TSV) of the TPS. In or around 2019, P.C. Gill met S. who is the owner of an automotive repair and tow truck business.

15. From March 2020 to June 2020, P.C. Gill communicated with S. and engaged in conversations over the phone with him.

16. In March 2020, P.C. Gill called S. and told him that he (P.C. Gill) had taken two K’s Towing tow trucks off the road and that you had laid \$700.00 worth of fines against them.

17. Additionally, in March 2020, S. provided P.C. Gill with personal protective equipment – masks (“PPE”).

18. P.C. Gill acknowledges that his comment to S. and accepting PPE from S. constitute misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Toronto Police Service contrary to s. 2(1)(a)(xi) of the Sch. Code of Conduct of Ontario Reg. 268/10 and therefore, contrary to s. 80(1)(a) of the Police Services Act.

## **Positions on Penalty**

19. The positions on penalty are in congruence. Defence and Prosecution agree by joint submission a reduction in rank classification from First Class Constable to Second Class Constable for a period of six months. A summary of Mr. Chinneck's and Mr. Norton's submissions, in support of this position, follows.

## **Witnesses**

20. No witnesses were called by the Prosecution or the Defence.

## **Submissions Prosecution**

### **Submissions**

21. The Prosecutor – Mr. Chinneck began his submissions by entering a Book of Records (Exhibit 4), and a Book of Authorities (Exhibit 5).

22. Mr. Chinneck submitted that the facts in this case are straightforward, the misconduct is clear and the disposition proposed is consistent with previous cases and satisfies the principals of our discipline system.

23. He outlined the objectives of discipline, which are to: correct unacceptable behaviour, deter others from similar behaviour, and assure the public that the police are under control. This case engaged all three of these objectives. The disposition must be proportionate to the conduct and involves a variety of considerations.

24. Mr. Chinneck highlighted that there are fifteen considerations governing the determination of an appropriate disposition and they can be found in the Legal Aspects of Policing, by Mr. Paul Ceyskens (Exhibit # 4, Tab 1) The Prosecution fully considered all of these principles and in the submissions to penalty, noted the following as particularly relevant in this matter.

25. Mr. Chinneck submitted that public interest arises where the misconduct has offended or undermined the public's confidence in the police. Constable Gill's actions have *public interest* implications as it relates to the public trust that we as an organization strive to uphold. Mr. Chinneck indicated the importance of holding PC Gill accountable for his behaviour. He reiterated the necessity for the public to be assured that the police are under control, and to provide the public confidence in the police discipline system. More importantly to ensure the public that Service members will fulfill their obligations to the public and not accept goods from members of the public or provide information regarding police investigations. An insufficient disposition in this matter would undermine the public confidence in policing.

26. The Prosecutor submitted that police officers conduct is always held to a higher standard with reference to Exhibit 4, Tab 5; of the submitted Book of Records. Herein, the Toronto Police Service Standards of Conduct was reviewed by the Chief and states, "*Toronto Police Service members are held to a higher standard of conduct than other citizens. This standard is not only an expectation from the community, it is an expectation we place upon ourselves. This higher standard of behaviour is necessary to preserve the integrity of the Service*

27. *The community expects Toronto Police Service members to conduct themselves and discharge their duties diligence, professionalism and integrity;..... comply with and be seen to act within the spirit and letter of the law*". It is evident that PC Gill failed to live up to this standard expected of a police officer.

28. The Prosecution submitted the case of Bright, Konkle and the Niagara Board of Inquiry, 1997, Exhibit 5, Tab A, which speaks to the necessity of a police officer to be of good character. The following passage supports section 43(1) of the PSA, *“Good character in a police officer is essential to both the public’s trust in the officer, and to a police service’s ability to utilize that officer. The public has the right to trust that its police officers are honest and truthful, and that, absent extenuating circumstances, they will not be officers any longer if they breach this trust.”*
29. Also, located at Tab 3 of Exhibit 4, there is the criteria for hiring a police officer. The PSA, s 43(1) (d) notes, *“(a police officer) is of good moral character and habits”*. The facts underlying the conduct in this case makes clear that the actions of PC Gill did not comply with these requirements. The Prosecution continued and submitted that from the Agreed Statement of Facts, PC Gill’s actions are concerning, unprofessional and demonstrate poor moral character. This is an aggravating feature.
30. The Prosecutor referenced Exhibit 4; the submitted Book of Records, at Tab 2 – Oath of Office. PC Gill’s signed and swore his oath in January 7<sup>th</sup>, 1999 to; *“discharge my duties as Police Constable with the Toronto Police Service, faithfully, impartially and according to law”*. Public Trust is of paramount importance to the policing profession and all actions taken by police officers must be able to withstand public scrutiny in order to maintain this trust. The public has placed that trust in officers to uphold their oath of office. PC Gill broke that trust when he accepted the materials and provided information regarding enforcement.
31. The prosecution submitted that a guilty plea has been long recognized as a mitigating factor. With regards to the *seriousness of misconduct*, Mr. Chinneck commented that this is a fundamental consideration in all dispositions. In the case of Carson and Pembroke Police Service, 2001, OCCPS, Exhibit 5, Tab E, which stated, *“we have no doubt that a guilty plea should be recognized as a mitigating factor and taken into account along with other factors in determining an appropriate*



*penalty.”*

32. Mr. Chinneck submitted the conduct in this case was serious. PC Gill, by receiving the personal protection equipment, obtained a personal advantage and being careless regarding an ongoing police investigation must be viewed as serious.

33. In the area of *specific and general deterrence* the Prosecutor advised that he is aware of the Service's position as it relates to misconduct involving public trust. I take notice of the correlation between penalty and deterrents, both general and specific. Mr. Chinneck referenced the case Andrews and Midland Police Service, 2002, (Exhibit #5, Tab B), where the Commission stated, “... *the penalties imposed for misconduct must be strong enough to send a clear message to other officers that such conduct or any conduct of this nature will not be tolerated*” and further that, “...*sufficient to punish and to deter while not causing undo or excessive hardship while demonstrating that reoccurrence will not be tolerated.*”

34. The Prosecutor submitted that disposition must be delivered to deter members of the Service from the same conduct. The standards of conduct must be upheld. The disposition must also communicate to PC Gill that his behaviour was completely unacceptable and that if he chooses to conduct himself in this manner again the Service will take an exceptionally serious approach which could lead to a greater term of demotion or potentially dismissal. In addition to word of mouth, at the completion of this hearing a copy of this decision will be posted on the TPS intranet for all members to view in keeping with the principles of general deterrence.

35. The Prosecutor addressed the factor of Damage to the Reputation of the Police Service. He submitted that this is an aggravating factor in this case. The Prosecution submitted that the public's view has to be considered. Many of the members of the public are present today. These actions can be viewed as PC Gill

accepted these masks while on duty attending a tow truck place of business. He essentially accepted a gift for having attended at the place of business. To show the public that any form of favourable treatment can be provided where goods are exchanged for services is inappropriate.

36. The recognition of the seriousness of the misconduct is a mitigating factor in this case. PC Gill has pled guilty and recognized the seriousness of his conduct. A guilty plea is an indisputable form of admitting culpability and taking responsibility for one's actions. This is a tremendous step for PC Gill. Recognizing the seriousness of the misconduct is vital to the ability to reform or rehabilitate the officer.

37. The officer's employment history is an important factor in determining all dispositions. PC Gill has many complementary entries in his employment record and no misconduct issues in the same vein that would demonstrate a pattern of inappropriate behaviour. Located at Tabs 7 and 8 of the Book of Records (Exhibit 4) are the positive documentations and performance appraisals. PC Gill's employment record is mitigation in this case.

38. In terms of *consistency of disposition*, Mr. Chinneck commented that similar conduct should have similar dispositions but also recognizing that no two matters are the same. The Prosecutor further submitted that the fact pattern in this case is unique and it was difficult to locate decisions that were on point but some similar decisions were provided for consideration.

39. Mr. Chinneck cited two previous case decisions contained in Exhibit 5. The first located at (Tab D) the case of Uppal and Toronto Police Service, 2016, in which the subject officer accepted ten to twelve free meals at a value of between \$10 to \$20 each meal. He accepted these meals and never intended to pay for them. The disposition in this case was a forfeiture of eight days. The Prosecution submitted that this case is the lower end of the range of dispositions for similar

misconduct.

40. The case of Ford and the Toronto Police Service, 2021, located at Exhibit 5, Tab C. The Prosecution submitted that this is the closest case in dealing with tow truck drivers and repair businesses, but is considerably different from the case at hand. In this case the officer received a disposition of a twelve month demotion for attempting to submit a fraudulent accident claim of approximately \$10,000 to assist a side business of another officer who PC Ford invested money with. He knew of the fraudulent activities of the other officer and failed to report them. The Prosecution submitted that the actions of PC Gill are not as serious as those of the case involving PC Ford. This case represents the upper end of the disposition.

41. Mr. Chinneck submitted that the appropriate disposition for this matter is a six month demotion in classification to ensure the principles of disposition, specifically general and specific deterrence, are satisfied. The Service is not seeking dismissal and the Prosecution submitted that should PC Gill engage in similar conduct or contact with this industry, receive goods or share information, that the Service would likely pursue dismissal. The Prosecutor requested a 'last chance' language be attached to the decision in this matter.

42. Mr. Chinneck acknowledged that there is no doubt this matter has already had an effect on PC Gill, his career and his family. The responsibility for his actions and the disposition being submitted must fall squarely on PC Gill's shoulders.

43. The conduct of PC Gill is serious misconduct. The Prosecutor submitted that the disposition recommended is appropriate and within the range for conduct of this nature. The lengthy demotion of six months sends a clear and necessary message that this behaviour will not be tolerated by the Service or the public.

## Defence Counsel Submissions

44. Mr. Norton commenced his submissions stating that this is a joint position for a six month demotion in rank classification from First to Second Class Constable with an automatic reinstatement to First Class Constable. He continued by stating there is a stringent test to reject a joint position from the principles set out in the case of *R V. Anthony Cook*.
45. Defence counsel submitted that PC Gill has been with the Toronto Police Service for approximately twenty-five years. He began his career in 23 Division Primary Response and then quickly moved to Traffic Services. PC Gill gravitated towards the Commercial Vehicle Enforcement Unit and in 2002 received his Commercial Vehicle Safety Alliance certification. He returned to 23 Division for a brief period and in 2004 returned to Traffic Services and the Commercial Vehicle Unit. He remained there until 2021 when PC Gill went on medical leave for a period of time. When PC Gill returned he was assigned to the North Collision Reporting Centre. PC Gill hopes to one day return to Traffic Services in the Commercial Vehicle Unit.
46. Mr. Norton commented on some of the accolades of PC Gill prior to becoming a police officer. In 1996, he was certified as a truck and coach technician and as a motor vehicle mechanic. This skill set has aided PC Gill and the Toronto Police Service. In 2010, PC Gill was elected as an executive member of Police Commercial Vehicle Committee. In 2015 he was appointed as vice-chair to this committee. In 2019, PC Gill was elevated to acting chair of this committee for two years. In these roles PC Gill lectured at various colleges, institutions and commercial vehicle industry functions.
47. Mr. Norton submitted that regarding the nature and gravity or seriousness of the offence, he disagreed with the Prosecution's submission. Defence submitted that based upon the agreed statement of facts, this matter is on the lower end of the

seriousness spectrum. It was during March 2020; it was two isolated acts. The first, PC Gill provided information to someone who was not in law enforcement and the second, he accepted personal protective equipment (PPE), a mask.

48. Although occurring in the same month, the information was not provided in exchange for the masks. In looking at these two incidents Defence submitted that the information provided was on the benign end of the spectrum. The receipt of PPE is contrary to procedure but was in the beginning of the global pandemic. PC Gill accepts responsibility for these acts but the circumstances surrounding these acts must be acknowledged.

49. Defence counsel disagreed with the Prosecution regarding the damage to the reputation of the Service. He submitted that there was no evidence of members of the public present. This is a minimal or non-existent damage to the reputation of the Service. This was an internal investigation, the comment and receipt of PPE was known to a handful of officers at Professional Standards. We cannot assume damage to the reputation of the Service absent evidence of actual damage and the evidence here is that there is no evidence that the conduct adversely affected the reputation of the Service.

50. Defence submitted that an officer is entitled to fall back on their employment record and experience. Defence Counsel referenced Exhibit 4, Tab 7, PC Gill's employment record, which contained twenty-six awards and twelve letters of appreciation citing his professionalism, volunteer initiatives, positive attitude and leadership skills. Defence counsel highlighted some of these awards.

51. PC Gill's performance appraisals located at Exhibit 4, Tab 8 contain reports for the past five years, 2018-2023. They provide a snapshot of a competent, dedicated officer who has a specialization for commercial vehicle road safety. Defence

submitted that in all appraisals PC Gill exceeds or surpasses all expectations or standards set by the Toronto Police Service. Superior in nearly every category. The majority of his career PC Gill has been attached to Traffic Services with a specialized skill set, where he assisted in making our streets safer. Defence counsel highlighted comments from his supervisors on his annual evaluations,

(a) Mr. Norton commented on specific deterrence, stating that it has been satisfied in this particular case. PC Gill has accepted responsibility for his actions, without excuse. There has been some personal impact to PC Gill as this has been a long path to this point. This path comes with stress and anxiety. There is also informal professional and personal stigma attached to the misconduct for PC Gill. PC Gill will have to report this misconduct in the courts and loose out on professional opportunities and career advancements. Regarding general deterrence, the decision will be posted for other officers to see to deter future conduct.

(b) Defence counsel submitted that regarding rehabilitation you can predict a person's future by their past. In PC Gill's case he has excellent prospects for rehabilitation. He has an unblemished twenty-five year career. His brief lapse in judgement in March of 2020 won't happen again.

**Comments by PC Gill:**

52. PC Gill was provided an opportunity to address the Tribunal. PC Gill indicated that his counsel, Mr. Norton has made his comments for him.

**Prosecution Reply:**

None

## Analysis and Decision:

53. In the well known case of Williams and the Ontario Provincial Police, 1995, OCCPS the Commission identified three key elements a Hearing Officer must take into account when imposing a penalty. These are: the nature and seriousness of the misconduct; the ability to reform or rehabilitate the officer, and the damage to the reputation of the Police Force that could occur if the officer remained on the Force.
54. The Commission has also instructed there are other factors to be considered in light of particular misconduct which include the recognition of the seriousness of the misconduct, the employment record, the public interest in the administration of justice, general and specific deterrence and the need for consistency.
55. In the case of Bright, Konkle and the Niagara Board of Inquiry, 1997 which speaks to the necessity of a police officer to be of good character the following passage supports section 43(1) of the PSA, *“Good character in a police officer is essential to both the public’s trust in the officer, and to a police service’s ability to utilize that officer. The public has the right to trust that its police officers are honest and truthful, and that, absent extenuating circumstances, they will not be officers any longer if they breach this trust.”* In this case PC Gill violated the public trust by providing information to the public that was his obligation to keep confidential and for accepting PPE from the owner of a tow truck company. He failed to meet the standard of conduct expected of him within the Service and outside the Service.

56. There is no doubt that the misconduct was serious. PC Gill accepted responsibility for his actions by pleading guilty. In the agreed statement of facts PC Gill provided confidential information to an owner of a towing company and on another occasion he accepted PPE from the same person. There is no evidence the information was provided for the PPE. Regardless, the actions of PC Gill are concerning and fall short of expectations.

57. I do take note, in the Agreed Facts – that PC Gill exercised his option to plead guilty in this Tribunal. The Prosecutor also submitted, that by way of his guilty plea before this Tribunal, PC Gill has demonstrated that he has accepted the responsibility for his misconduct, and he has demonstrated that he is willing to face the consequences to continue to be a productive member of the Service.

58. In support, I acknowledge that in the case of Carson and Pembroke Police Service, 2001, OCCPS which stated, “*we have no doubt that a guilty plea should be recognized as a mitigating factor and taken into account along with other factors in determining an appropriate penalty.*” The Commission has also instructed there are other factors to be considered in light of a particular misconduct which include the *recognition of the seriousness of the misconduct*, the *employment record*, the *public interest* in the administration of justice, general and specific deterrence, and the need for consistency.

59. In regards to the *potential to reform or rehabilitate the officer*, the Commission has made comments in Andrews and Midland Police Service, 2002, OCCPS, “*The Commission believes that rehabilitation is a key factor to be taken into consideration when a penalty is imposed, especially, when the offender has a prior unblemished employment record. Unless the officer is beyond rehabilitation (in which case he would be a candidate for dismissal) the door should be kept open for the officer to be rehabilitated. The penalty should be tailored to provide him with the opportunity to do so.*” PC Gill has an unblemished employed record spanning twenty-five years and therefore is a candidate for rehabilitation.



60. It would appear that PC Gill has taken positive steps since this event. PC Gill has cooperated with the investigation, admitted his misconduct, and pled guilty. As noted in Carson and Pembroke Police Service, OCCPS, 2001 a guilty plea should be recognized as a mitigating factor. PC Gill did not blame others for his actions and has accepted responsibility for them. These steps he has taken demonstrate that he has recognized the seriousness of the misconduct and is willing to accept the consequences.

61. This event has already had an effect personally and professionally on PC Gill and his family and will continue to in the future. His finding of guilt under the *PSA* will remain with him for a lengthy period of time. He has likely lost and will continue to miss out on professional opportunities until this matter is well behind him and he has restored his reputation. He will have to report this misconduct when he is called upon to testify in court. All of those effects are as a result of the actions of PC Gill for which he must bear the responsibility.

62. The Toronto Police Service Core Values are located at Exhibit 4, Tab 10. PC Gill violated the value of 'Do the Right Thing'. This value is described as acting professionally, with integrity, and without prejudice, even in the most challenging circumstances, when no one is watching, on and off duty; holding others accountable to the same standards; challenging any inappropriate behaviour; and asking ourselves 'Have I lived up to my word and values?' PC Gill's actions in the Agreed Statement of Facts fall short of expectations. PC Gill has embraced the value of 'Reflect and Grow'. He has pled guilty and acknowledged his mistakes and is moving forward in a positive manner.

63. Though I have not been made aware of any media attention, this event has caused some damage to the reputation of the Service. I disagree with the Defence submission that there is no evidence of any member of the public being aware of the misconduct. I note that these proceedings are taking place in person and virtually. There are unknown parties observing these proceedings virtually. In addition any member of the Toronto Police Service and any member of the Public

who was involved in the investigation or was aware of the circumstances of the misconduct of PC Gill would not see it in a positive light. If this matter is reported on in the future by the media it will likely cause further damage to the reputation of the Service. I find that PC Gill's actions have caused damage to the reputation of the Service.

64. All procedural fairness considerations have been addressed in this instance. PC Gill was provided the opportunity to make full answer and defence, and has had the benefit of an experienced counsel throughout these proceedings.

65. The Prosecution submitted the Legal Aspects of Policing, by Mr. Paul Ceyskens (Exhibit 4, Tab 1) that guide us on how to assess an officer's employment history in association with recognition of the seriousness of the misconduct and potential to rehabilitate. Under Factor 7 - Employment History, the commentary makes the following determinations with respect to this factor. *"Employment history is an important disposition in all cases. Employment history as a mitigating or aggravating consideration closely relates to the disposition consideration of rehabilitation potential."* The Prosecution acknowledged that PC Gill has no disciplinary record and numerous positive entries in his employment record. Defence counsel submitted that PC Gill has an excellent employment history with numerous awards and letters of appreciation.

66. I have reviewed the information from PC Gill's personnel file in Exhibit 4, at Tab 7. PC Gill has been recognized on an impressive twenty-six occasions for his involvement in investigations and has had twelve letters of appreciation from the community. Many of PC Gill's awards are as a result of his professionalism and expertise in the Commercial Vehicle area.

67. In Exhibit 4, at Tab 8, I reviewed PC Gill's annual performance appraisals dating from 2018 to 2023. In the appraisals available, his supervisors commented on PC Gill's performance as professional and service oriented. In his most recent evaluation in September of 2023 his Staff Sergeant made the following comments: *PC Gill arrived at the NCRC and immediately became part of the team. His traffic*

*experience is a huge asset to the unit.... I support PC Gill and I hope that one day he is able to return to TSV as a CVSA Officer.* Overall PC Gill's evaluations are extremely positive even after the incidents that are before this Tribunal. PC Gill's employment history is a mitigating factor.

68. As discussed in Andrews and Midland Police Service, 2002, OCCPS, an officer should be provided with the opportunity to be rehabilitated. In this case, coupled with his prior employment record, the actions he has taken since this event, and the observations of those supervisors in a position to observe his behaviour, PC Gill has demonstrated, and has his supervisors' support, that he has the potential to reform or be rehabilitated.

69. I am satisfied that deterrence specific to PC Gill has been addressed through his acceptance of responsibility, his guilty plea in this Tribunal and his willingness to accept a penalty. In regards to general deterrence, the outcome of these proceedings will be published on TPS Routine Orders and this decision will be published on the TPS Intranet. Those documents are available to the entire Service membership and will reinforce the previous messaging in regards to the potential consequences for this type of misconduct. This decision will also be posted externally on the Toronto Police Service website to support transparency and demonstrate to the public that officers are held accountable for their actions.

70. In Schofield and the Metropolitan Toronto Police, it was stated, "*each case must be judged on the facts peculiar to it. Consistency in the discipline process is often the earmark of fairness. The penalty must be consistent with the facts, and consistent with similar cases that have been dealt with on earlier occasions.*" The Prosecutor provided two historical cases in support of the joint penalty position.

71. The first, located at (Tab D) of Exhibit 4, is the case of Uppal and Toronto Police Service, 2016, in which the subject officer accepted ten to twelve free meals at a value of between \$10 to \$20 each meal. He accepted these meals and never intended to pay for them. The disposition in this case was a forfeiture of eight

days. PC Gill's matter differs as he only accepted PPE on one occasion but did supply confidential information on another occasion. This case assists in determining the range of dispositions for similar misconduct.

72. The case of Ford and the Toronto Police Service, 2021, is located at Exhibit 5, Tab C. This case is dealing with tow truck drivers and repair businesses. In this matter, the officer received a disposition of a twelve month demotion for attempting to submit a fraudulent accident claim of approximately \$10,000 to assist a side business of another officer who PC Ford invested money with. He knew of the fraudulent activities of the other officer and failed to report them. The actions of PC Gill are not as serious as those of the case involving PC Ford. This case assists in determining the range of disposition for similar misconduct.

73. In reviewing the cases from the Prosecution, it was apparent that even though the outcome bore a number of similarities to others, there was no consistent penalty that was imposed. Each case was considered on its own merit, and penalties imposed were in a range that was dependent on all of the mitigating and aggravating factors specific to that case.

74. A penalty must be appropriate to the circumstances, and a penalty imposed in one case may not be appropriate in another similar case based on the disposition factors that are present. In the matter before me, the misconduct of PC Gill was serious. The acceptance of items and disclosure of information is serious misconduct. In this case, a demotion is appropriate based on a consideration of all of the disposition factors. The penalty I am imposing is within the range of penalties for other cases involving similar misconduct.

75. I acknowledge that PC Gill has displayed remorse after committing the specific misconduct for which he now faces sanctions. The Tribunal agrees with the Prosecution's submissions and strongly urges PC Gill to heed the principles of progressive discipline and to govern himself by its intent. To do otherwise may

bring his usefulness to the Toronto Police Service into question and potential jeopardy. The Prosecution has submitted that if PC Gill is before the Tribunal again on similar matters, his termination will be sought.

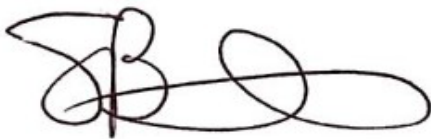
76. I have reviewed the mitigating and aggravating factors, considered the submissions of Defence Counsel and the Service Prosecutor and previous related Tribunal decisions. I am aware that I am not bound by the joint submission on sentence, but on the totality of the evidence before me, I have found no compelling reason to depart from the joint submission. I have determined a penalty.

**Penalty:**

77. The penalty in this matter imposed under 85 (1) (c) of the Police Services Act will be:

78. For Discreditable Conduct in that PC Gill is guilty of: acting in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member- a reduction in rank classification from First Class Constable to Second Class Constable for a period of six months after which PC Gill can be returned to his previous classification of First Class Constable.

79. The Notice of Hearing with counts 1 to 5 of Corrupt Practice (2 Counts), Breach of Confidence, Insubordination and Discreditable Conduct are marked withdrawn at the request of the Prosecution.

A handwritten signature in black ink, appearing to be 'S Branton', with a large, stylized flourish extending to the right.

Shane Branton Superintendent  
Hearing Officer

December 11<sup>th</sup>, 2023

## **Appendix 'A' - List of Exhibits 2/2022 Police Constable Dalbinder Gill (5239)**

Hearing Officer S. Branton Letter of Delegation (**Exhibit 1**)

Prosecutor N. Chinneck Letter of Designation (**Exhibit 2**)

Agreed Statement of Facts (**Exhibit 3**)

Prosecution Book of Records (**Exhibit 4**)

Police Discipline Process Chapter (Tab 1)

Oath of Office, Police Constable Dalbinder Gill (5239) (Tab 2)

*Ontario Police Services Act*, section 43(1) (Tab 3)

*Ontario Police Services Act*, section 42(1) (Tab 4)

*Toronto Police Service Standards of Conduct, Introduction* by Chief Mark Saunders (Tab 5)

*2017 Ontario Police Services Act* by Ceysens and Scott Childs, Principles of Discipline (Tab 6)

TPS 950, Awards and Letters of Recognition of Police Constable Dalbinder Gill (5239) (Tab 7)

TPS Performance Appraisals of Police Constable Dalbinder Gill (5239) (Tab 8) *Ontario Police Services Act, 2017*, Employment History, pp 350-354 (Tab 9) Toronto Police Service Core Values (Tab 10)

Prosecution Book of Authorities (**Exhibit 5**)

*Bright and Konkle and Niagara Regional Police Service*, OCPC March 14, 1997 (Tab A)

*Andrews and the Midland Police Service*, OCCPS, May 1, (Tab B) *Ford and Toronto Police*

*Service*, November 8, 2021 (Tab C) *Uppal and Toronto Police Service*, OCPC, July 27,

2016 (Tab D) *Carson and Pembroke*, OCCPS, July 27, 2001 (Tab E)