



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 Constable Kirk Ramphal (11285); (He/Him)

Charge: Discreditable Conduct (15/2024)

DISPOSITION DECISION

Hearing Officer: Inspector Suzanne Redman; Toronto Police Service; (She/Her)

Prosecutor: Mr. Matthew Capotosto, Toronto Police Service; (He/Him)

Defence Counsel: Mr. Sandy Khehra; (He/Him)

Case Number: 15/2024

Hearing Dates: 2024.04.25

Decision Date: 2024.12.10

Before commencing my decision on penalty and sentencing in this matter, I would like to thank Mr. Khehra, Defence Counsel, and Mr. Capotosto, 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. PC Kirk Ramphal # 11285, commenced his employment with the Toronto Police Service (TPS) in 2018, and has spent his career to date at 22 Division.

### **Allegations of Misconduct**

2. PC Kirk Ramphal # 11285, 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 service of which you are a member, contrary to Section 2(1) (a) (ix) 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**

3. On Thursday the 25<sup>th</sup> of April, 2024, Police Constable Kirk Ramphal #11285 pleaded guilty to the Notice of Hearing and was found guilty of Discreditable Conduct, contrary to the *Police Services Act*.

## Decision

4. I have carefully considered the joint submissions 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).

For Discreditable Conduct in that Constable Ramphal is guilty of: acting 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 he is a member;

A Reduction in Rank Classification of 15 months, specifically from First Class Constable to Second Class Constable for a period of 15 months, after which Constable Ramphal can be returned to his previous classification of First Class Constable

And Constable Ramphal is further ordered under Section 85 (7) (b) of the Police Services Act (PSA), to attend in person within 60 days at Toronto Police Service – Wellness Unit, to Ms. Ivy Nanayakkara, or a person designated by the Wellness Unit, and seek treatment as recommend by Toronto Police Service – Wellness Unit.

## **PART II: THE HEARING**

### **Exhibits**

5. 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**

6. In this matter, Mr. Khehra represented PC Ramphal and Mr. Capotosto represented the Toronto Police Service.

### **Agreed Statement of Facts**

The facts of this matter as amended are substantially agreed upon by the parties. The Agreed Statement of Facts, filed as Exhibit 3, state:

Case # 15/2024

### **Agreed Statement of Facts**

On September 2, 2023, Police Constable Kirk Ramphal was a uniform member of Toronto Police service.

At approximately 5:00 a.m., PC Ramphal was off duty and was driving his personal vehicle southbound on Kipling Avenue from Evans Avenue. At the time, two Toronto Police Service (TPS) Scout cars were parked perpendicularly on Kipling south of Evans blocking both southbound and northbound lanes with their emergency lights activated to prevent vehicles from entering the area where officers were investigating a fatal car accident. P.C. Ramphal missed the blockade, and continued to drive towards where the traffic investigation was being conducted. The officers blocking the road had to activate their full emergency equipment to warn the Traffic

Service officers who were conducting their investigation. PC Ramphal was stopped by police just prior to reaching the area where the officers were conducting their investigation, and his vehicle stopped just at the feet of one of the investigating officers.

Police spoke with PC Ramphal and observed a strong odour of alcohol on his breath and that his eyes were bloodshot. He admitted to consuming alcohol earlier in the evening. He was given a roadside screening test, which he failed.

PC Ramphal was arrested and transported to Traffic Services where he provided two breath samples.

1. First Reading: 187 mgs/100 ml of blood; and,
2. Second Reading: 182 mgs/100 ml of blood.

PC Ramphal was charged with impaired operation, driving with a blood alcohol concentration over 80 mg in 100 ml of blood, and dangerous operation, contrary to sections 320.14(1)(a), 320.14(1)(b), and 320.13(1) of the Criminal Code. PC Ramphal was cooperative with arresting officers throughout the evening.

On February 16, 2024 PC Ramphal pled guilty to the charge of over 80. He was convicted and received a \$3000 fine (\$900 Victim Fine Surcharge) and a 12-month driving prohibition.

#### **Positions on Penalty**

7. The positions on penalty are in congruence. Prosecution and defence agree by joint submission on a penalty of:

A Reduction in Rank Classification of 15 months, specifically from First Class Constable to Second Class Constable for a period of 15 months, after which Constable Ramphal can be returned to his previous classification of First Class Constable

8. A summary of Mr. Capotosto's and Mr. Khehra's submissions, in support of the position, follows.

### **Witnesses**

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

### **Submissions**

#### **Prosecution Submissions**

1. The Prosecutor – Mr. Matthew Capotosto, began his submissions by stating advised the joint position was that of a 15 month reduction in rank classification from First to Second Class Constable, upon completion being returned to First Class Constable.
2. Mr. Capotosto submitted that there are fifteen considerations governing the determination of appropriate disposition that are outlined in the annotated Ontario Police Services Act by Paul Ceysans which can be found at Exhibit 7, Tab 1 of his Book of Records.
3. Mr. Capotosto advised he would be focusing on the public interest, the seriousness of the misconduct, recognition of the seriousness of the misconduct, employment history, consistency of disposition and the need for specific and general deterrence and damage to the reputation of the Police Service.
4. Mr. Capotosto submitted that with respect to public interest there is no doubt that Officer Ramphal's actions, first impaired driving, then being found guilty of a criminal offence, have implications with the public trust that we as an organization strive to uphold.
5. Mr. Capotosto advised that one of the objectives of Police Discipline is to assure the public that the police are under control, and by getting into his vehicle while impaired and by driving in a manner that was objectively very dangerous to the public and the police officers, obviously Officer Ramphal

breached the public trust through his actions and also being found guilty of a criminal offence further damaged public trust.

6. Mr. Capotosto submitted that under his Oath of Office Officer Ramphal swore to preserve the peace, prevent offences and discharge his duties as a police officer faithfully, impartially and according to law, and by committing and being found guilty of a criminal offence Officer Ramphal violated both his Oath and duty.
  
7. Mr. Capotosto advised that both the prior and current Chief of Police have issued several Routine Orders and messages about the consequences associated to impaired driving which are included at Exhibit 7, Tab 2 of his Book of Records, is a command message, one of which was released less than two months prior to this misconduct took place on September 2<sup>nd</sup> and the message is from July. The relevant parts of the message as it relates to public trust is at page paragraph 3 the message speaks to public trust in relation to impaired driving offences and it states “Members of our community rightfully expect that we not only enforce the laws but that we will also comply with them” that in short, we must “walk the talk. As guardians of community safety and trust we are held to a higher standard and must conduct ourselves in a manner consistent with our core values”.
  
8. Mr. Capotosto went on to state that at paragraph 4, the Chief reminds members “that there is a zero tolerance for this sort of behaviour, that being impaired and driving, as it is dangerous, its criminal and it’s misconduct, that cannot and will not be tolerated” he advised he would return to this message, but it demonstrates just some of the implications that this type of conduct has in the public trust when officers like PC Ramphal are found to be contravening the laws they take an Oath to follow this further draws into question the integrity and reputation of the Service and brings discredit upon it, and that this is especially the case with impaired driving offences where despite increasing penalties by parliament and police services when imposing discipline, we continue to

see a large number of cases like these and they are not decreasing, that if anything they are steadily increasing.

9. Mr. Capotosto advised he next wished to address the seriousness of the misconduct, stating that obviously anytime an officer is convicted of a criminal offence that it is serious and that this is exacerbated when the incident involves the use of alcohol and driving. That this type of behaviour puts the safety of the general public as well as the officer at risk, and in this case, it also put the lives of fellow officers at risk who were investigating a fatal car accident on that road.
  
10. Mr. Capotosto submitted that there were many aggravating factors in this case that put it at the serious end of the spectrum of impaired driving, first the officer was impaired to such a degree that he blew by a police barricade meant to keep the road clear for the investigation, and not only did the officer drive past, but he failed to recognize what he had done and had to be stopped by the police with full emergency equipment and he did not stop until he reached the feet of one of the investigating officers. He went on to say that while there was no accident in this case, he suggested that he was just lucky, driving to the scene of an accident investigation and that he presented a very serious and imminent threat to the officers, and the argument can be made that one of the officers was nearly struck by his car, and this aggravating factor is akin and similar to situations where there has been an accident.
  
11. Mr. Capotosto went on to state that the readings are also very aggravating, high readings of 187 and 182 which are beyond the highest statutory aggravating range, his penalty in this case was a \$3000 fine which is \$1000 more than the minimum for those readings and \$2000 more than the minimum for impaired driving.



12. Mr. Capotosto submitted that the seriousness of the misconduct is demonstrated by the continuous messages of our Chief and the previous Chief who has directed Prosecution Services to take these matters very seriously and pursue all disciplinary measures.

13. Mr. Capotosto then referenced the message from Exhibit 7, Tab 2, paragraph 6, where the Chief states “Professional Standards, Prosecution Services and Labour Relations have been directed to ensure that all allegations of misconduct involving impaired driving by uniform and civilian members are thoroughly investigated and addressed, this means prosecuting uniform members for misconduct and pursuing all available disciplinary measures for all members, which may include demotion for multiple years or dismissal.” That this was a routine order that came out July 6<sup>th</sup> which was within two months of this conduct.

14. Mr. Capotosto then advised that he would only reference the most recent routine order to demonstrate the increase in penalties going forward. He went on to state the most recent routine order from December, after this incident, orders prosecutions to seek a minimum two-year demotion, and that if this incident had happened after that he most certainly would be seeking a much higher demotion for this type of conduct, demonstrating that impaired driving is very serious misconduct and that they would be seeking increasing demotions going forward.

15. Mr. Capotosto went on to state that the criminal conviction in this case has resulted in a one-year driving prohibition that will impact the officer’s occupational requirements, and this impact will be felt by the officer as well as the Service because the Service will be limited to deploy the services of the officer.

16. Mr. Capotosto next addressed the recognition of the seriousness of the misconduct stating in this case it was a mitigating factor. PC Ramphal pled guilty to his over 80 charges at an early opportunity and arranged his resolution with Prosecution Services very soon after, within a week or two of pleading guilty to his criminal charges, that his counsel reached out about pleading guilty to the PSA charges. Pleading guilty at the first opportunity is a significant sign of remorse and it sends a signal that the officer recognizes the seriousness of the misconduct

17. Mr. Capotosto then submitted that he has been provided a letter, without getting into details, that PC Ramphal has been receiving treatment and counselling and this also shows that he recognizes the seriousness of the misconduct and that he has the potential to rehabilitate himself.

18. Mr. Capotosto then referenced PC Ramphal's employment history saying he was a relatively recent hire from April 16, 2018, and that he has been with the Service for just over six years, and this is his first conviction on his disciplinary record, and he has no prior disciplinary record, which the prosecutor stated should be given limited weight as a mitigating factor.

19. Mr. Capotosto next addressed consistency of disposition, which represents one of the basic principles of the disciplinary process and flows from the idea that similar misconduct should be treated in a similar fashion, recognizing that no two cases are exactly the same.

20. Mr. Capotosto advised that he had provided five cases in his case book, Exhibit 6, which all involve impaired driving. He began with Tab A, S/Sgt Smith and the Toronto Police Service, and that this was an older case from 2011, and that the facts of which are at pages 1 to 3. Mr. Capotosto provided a summary, stating the officer was found crashed in a ditch, there were obvious signs of impairment and there were very high readings of 250 and 235.

21. He then advised the Tribunal to note page 27, keeping in mind it was 2011, at paragraph 3, the Hearing Officer stated “General deterrence and the public interest are important considerations in this matter. The public is intolerant of drinking and driving as evidenced in many public awareness campaigns, targeted enforcement programs, increased criminal sentences and ever stronger legislation, the penalty in this matter must reassure the public that the service will hold these members accountable who transgress these legal and community standards. It must reflect the seriousness with which the service regards violations and reinforce the consistent message from service management.” Mr. Capotosto went on to say that he read this to say that this was 13 years ago, and they were talking about increased penalties, and we still have officers committing this type of misconduct.

22. Mr. Capotosto then referenced page 27 of that decision, at the very bottom paragraph “What it is apparent is that recent cases show a clear trend towards increasing penalties, commensurate with societies and the Services lack of tolerance for drinking and driving behaviour. Even where there’s been no finding of guilt in criminal court there’s been a forfeiture of days off at the higher end of the available range. Cases that involve the criminal court for drinking and driving offences have tended to track a penalty to involve a term of demotion.”

23. Mr. Capotosto submitted that in this case the penalty was a one-year Reduction in Rank. He went on to say that this was from 2011, and the penalties continue to trend upward and command is calling for higher penalties going forward.

24. Mr. Capotosto next referenced Exhibit 6, Tab B, the case of Andrew Ford, advising the facts are on pages 2-3, he was working in plain clothes and attended a meeting, he remained to consume a quantity of alcohol and after dinner reported himself off duty, and then consumed more alcohol and was observed driving erratically on his way home. Police were

contacted and he had readings of 192 and 195, and he plead guilty. the Prosecutor advised the penalty was on page 25, the decision was a one-year demotion. He went on to submit that this case was much more aggravating than Ford as Ramphal drove past a police blockade into the scene of an active investigation at a high rate of speed, nearly striking an officer doing their duty, and again this is an older decision.

25. Mr. Capotosto submitted that at Exhibit 6, Tab C, the case of Ladurantaye and the Toronto Police Service, a more recent case from 2021. In this case the officer was off duty at the time and was arrested for impaired driving after a collision. He had readings of 180 and 190, the officer plead guilty to one count of discreditable conduct, for being found guilty of an indictable or a summary conviction offence and that could be found at pages 2 and 3 of that decision. He received a fine of \$2250 and a one-year driving prohibition, and he was given a penalty of a reduction in rank for a period of 15 months. Mr. Capotosto stated that there was an accident in the case of Ladurantaye, while in this case there was very dangerous driving that put at risk other officers from his own force. He would also note that the reason for maintaining a consistent penalty of 15 months would be the command messages since Ladurantaye, calling for higher penalties, and suggesting penalties should be increased to better promote general deterrence given the continued prevalence of impaired driving offences by our officers.

26. Mr. Capotosto next referenced Canning and the Toronto Police Service, Exhibit 6, Tab D, the facts of that decision being found at page 4, Officer Canning was operating his own motor vehicle when he collided with a parked vehicle, causing extensive damage to both vehicles, he was extracted by the fire department and taken to hospital for minor injuries, he had readings of 163 and 161, and he was convicted of over 80, received a \$2300 fine and a 15 month demotion with 30 days of treatment were ordered. He proffered that again, there was no accident in this case, just very dangerous driving that put our officers at risk, and that Canning

was given a \$2300 fine, and PC Ramphal was given a fine of \$3000 supports that penalties for impaired driving are going upward and needs a significant demotion even when there is no accident.

27. Mr. Capotosto then referenced Exhibit 6, Tab E, PC Hughes and the Toronto Police Service. In this case the officer was operating his personal vehicle when he collided with another vehicle, the other driver contacted police and he was arrested for impaired and gave readings of 160 and 140, he pled guilty in criminal court and received a \$1000 fine, and a one year driving prohibition, Officer Hughes then pled guilty at the tribunal to discreditable conduct for receiving a criminal conviction and received a 15 month demotion on a joint position.

28. Mr. Capotosto stated that the Hughes decision was released before the Chief Demkiw's message from July of 2023, where at paragraph 55, on page 16 it states "Previous messages from the Chief and prior hearing decisions which described the circumstances and penalties assessed against members who committed drinking and driving offences have also been provided to the entire Service membership, to indicate that there is zero tolerance and to inform members of the penalties. The most recent warning from Chief Demkiw, located at Tab 14, Exhibit 4 was released on July 7, 2023 after these events took place. Regardless, the message has been consistent that there is zero tolerance and members' non-compliance will be dealt with seriously. PC Hughes had the opportunity to know the consequences of his actions".

29. Mr. Capotosto submitted that PC Ramphal's conduct came about after the Chief's message of July 2023 and there's no doubt that PC Ramphal was even more aware of the consequences and the realities of a significant demotion. Further that the Hearing Officer also pointed out the fact that the behaviour was after a Chief warning and was an aggravating factor in sentencing, from paragraph 69. And further the Hearing Officer said "when considering if aggravating factors exist to the seriousness of an already

serious offence, I am of the opinion that the Hearing Officer should look to determine if the drinking and driving offence” – and then listed several factors: Involved a member of the public, involved a collision, involved property damage or physical injury, involved an attempt to obstruct justice, flee or attempt to obtain special favour, involved a breath reading that was excessive, which we have here, involved alcohol present in the vehicle, involved reckless driving as a factor, and that’s a factor here, if the behaviour was before or after the “Chief’s Order of Concern and Warning.” And that is one of the factors here, and he suggested that going forward those cases after the Chief’s message they will be seeking even higher penalties.

30. Mr. Capotosto continued with paragraph 70 of the Hughes decision “if one or more factors exist, I’m of the opinion that the seriousness of the offence alone could result in a significant demotion or dismissal after considering or balancing all the elements of sentencing.”

31. Mr. Capotosto next addressed specific and general deterrence and stated that given PC Ramphal’s remorse by entering an early guilty plea, he suggested that the more important factor is general deterrence. The Service has put all members of the organization on notice of the significance of drinking and driving and the consequences of any such misconduct. The Service has given clear direction with regards to penalty as it relates to impaired driving, and that frankly with the continuation of drinking and driving offences by members of the Service, lower demotions are simply not sending the message, increasing demotions for cases that don’t even involve accidents is necessary to send a message that this conduct will no longer be tolerated, going forward they will be seeking even greater demotions in cases that involve aggravating factors.

32. Mr. Capotosto next addressed the damage to the reputation of the Service. He submitted that there’s no doubt that this incident has placed our Service and other officers in a bad light, an officer putting members of

his own service at risk by driving past a police barricade, has an increased potential to cause damage to the reputation of the service. The Service reputation suffers every time one of our officers breaches their Oath of Office, commits a criminal offence, and is found guilty of impaired driving.

33. Mr. Capotosto stated in conclusion that this was serious misconduct, being found guilty of a criminal offence offends the public trust. The seriousness of the misconduct, impaired driving, moves the range of penalty up the spectrum. That PC Ramphal pled guilty to his criminal charge and here at the Tribunal, which is mitigating as he recognized the seriousness of the misconduct. The position of a 15 month Reduction in Rank is consistent with previous cases, but also presents an increase in line with the need for increasing demotions and dismissals in impaired driving cases.

34. He further stated that in cases of impaired driving, this finally sends a strong message to PC Ramphal, other service members and the community that this Service will no longer tolerate impaired driving. Further the penalty has not offended the Office of the Chief of Police or the organizational goal impressing upon the membership the importance of eradicating drinking and driving infractions.

### **Defence Submissions**

35. Defence Counsel, Mr. Khehra opened with comments that he would be brief as this was a joint position.

36. Mr. Khehra submitted that given the aggravating and mitigating factors addressed by the prosecutor he would be focusing on the mitigating factors. He went on to say that the 15 month Reduction in Rank proposed is appropriate in the circumstances.

37. Mr. Khehra advised that PC Ramphal was hired in 2018 at 30 years of age, and that from a young age this was the job he always wanted to do. That his prior life experience all had the long-term goal of becoming a police officer, and that his last job was a kind of security mental health

worker in a facility dealing with people in crisis, obviously a skill that could be of great use to the service and as an officer.

38. Mr. Khehra advised that since being hired he has worked predominantly as a primary response officer, and he has had the opportunity to acquire the skills and training one would expect of a first class officer, some time in CIB, traffic etc. He advised that PC Ramphal started in 22 Division and although that was not his first choice on his list, he says he really came to enjoy the division and enjoy the work, not only in terms of the division itself, but the residents, and that there was a good mix and balance of different types of police work that he's learning a lot from.

39. Mr. Khehra submitted that PC Ramphal comes before the Tribunal with no prior discipline history. He further submitted that he asked PC Ramphal if there were any underlying issues with alcohol and he has said that there are none, that since his arrest, he has addressed any potential issues, even though there were not any, by participating in the Hart program, proof of which was provided to the Prosecution, and that he did this without counsel's suggestion or anyone else's. He felt he needed to see if there was maybe some underlying issue and he has advised that there are not, that he can consume alcohol responsibly and it was simply an error in judgement on that day which he would elaborate on shortly.

40. Mr. Khehra advised that PC Ramphal has done everything you would expect someone to do after making a mistake, and that he was human after all. That the minute he was charged he hired a lawyer, and his first indication was he wanted to plead guilty and accept responsibility. That he didn't try to look for any technicalities or charter issues, that he wanted to fall on his sword and accept responsibility.

41. Mr. Khehra advised that despite his intention to deal with the matter quickly, the new courthouse didn't allow it to happen quickly. The incident



occurred in September and his plea wasn't until February, which wasn't his fault but the back log and delays in the system.

42. Mr. Khehra submitted that the next part was dealing with the Tribunal and that he wanted to accept responsibility but also wanted to get a fair penalty based on his actions. It took him some time to work out a resolution with Prosecutions. PC Ramphal was eager to plea and wanted to do so at his first appearance, which is not the norm, and we tried to get a date as soon as possible.

43. Mr. Khehra advised that PC Ramphal was fortunate that his Unit Commander allowed him to return to work after a month suspension and he is doing some productive work and learning in the CIB office, and that he wished more Unit Commanders gave people this opportunity, as he's assisting in investigations and learning a lot.

44. Mr. Khehra advised that with respect to that day, he was not faulting the Crown in Criminal Court or the Prosecutor to assume what happened was as a direct result of his alcohol consumption, it's a natural thing to assume, how do you miss a crime scene? And how do you go by a bunch of cones and officers. He advised that in a heart to heart with PC Ramphal that he lives in the division, that he was out with friends and had a few drinks, and his friends dropped him off and that he had no intentions of driving. But as we can all relate once you've had a few drinks sometimes you get the late night munchies and he made an error in judgement to go out and get some food and that while he was driving home he saw the police cars, and that living in the division and knowing the division he was curious, actually more distracted by it than anything, he was trying to look and see what officers were on the call, what was going on, that's what distracted him, of course alcohol played a part, there was no denying that, but this was not a case where he was impaired to such an extent where he didn't know what he was doing and drove right through and endangered his fellow

colleagues, and that he appreciated that at first glance that would be what people think, but that was not the case.

45. Mr. Khehra submitted that regardless he accepts the facts that the Prosecution put forward and accepts responsibility before the Tribunal today and is not making excuses. He was merely advising counsel, and he felt it was important that the Tribunal understood that.

46. Mr. Khehra submitted that all that was to say trying to save a few bucks on UBER eats has cost PC Ramphal a lot of money, and embarrassment, which he is not proud of and which is why he wants to put this behind him as soon as possible.

47. Mr. Khehra advised that he has gotten to know PC Ramphal over the last few months as he has been dealing with this and he is quite confident that he will not be seen at the Tribunal again, and that he expects he will go on to have a great career and this will probably be the butt end of a joke at his retirement party some 25 years from now.

**Officer Submission:**

48. PC Ramphal stated to the tribunal:

“Inspector, I am sorry for my conduct, I understand my actions have caused stress, embarrassment and disappointment not only on the Service, but on my division and my fellow co-workers, my family and myself, and I can promise you with everything that you will not see me here again”.

**Prosecution Reply**

49. No reply

## Analysis

50. I would like to start my analyses on penalty by first outlining the objectives of discipline. These objectives are to:

- Correct unacceptable behaviour
- Deter others from similar behaviour
- Assure the public that the police are under control

51. The extent of informative detail before the Tribunal is limited to what is listed within the Agreed Statement of Facts, and the submissions made by Prosecution and Defence. I have reviewed all of the information and evidence that was submitted. The facts of the matter are not in dispute.

52. I have considered all 15 principles with respect to disposition; however I will only comment to the ones I find to be particularly relevant and those that submissions were made on as this is a joint position on penalty that I have substantially agreed to the position with one relevant addition to ensure Constable Ramphal's success going forward.

53. Prosecution made submissions highlighting almost all the following areas:

- Public Interest
- Seriousness of the Misconduct
- Recognition of the Seriousness of the Misconduct
- Damage to the Reputation of the Police Service
- Specific and General Deterrence
- Consistency of Disposition

54. Defence made submissions mainly with respect to:

- Employment History

55. The prosecution submitted the following cases in their Book of Authorities: see appendix A.

56. The Prosecution submitted the following in their Book of Records: see appendix A

### Public Interest

57. In this case, Constable Ramphal violated the public's trust by being convicted of a Criminal Offence, specifically Driving while Over 80 Mgs of alcohol in 100ml of blood, C.C. s320.14(l)(b). He failed to meet the standard of conduct expected of him and violated his Oath of Office by committing an offence against the law which he swore to uphold. His breath readings were double the legal limit, and the potential jeopardy he subjected himself, the public at large, and his fellow officers to simply can't be ignored. I find this to be aggravating.

58. As submitted by the Prosecution, the Chief's comments from July of 2023 with respect to public trust, Exhibit 7, Tab 2, paragraph 3, the message speaks to public trust in relation to impaired driving offences and it states "Members of our communities rightfully expect that we will not only enforce the laws, but that we will also comply with them. In short, we must "walk the talk". As guardians of community safety and trust, we are held to a higher standard and must conduct ourselves in a manner consistent with our Core Values".

And further at paragraph 4, the Chief reminds members that there is a zero tolerance for this sort of behaviour, that being, impaired driving, as it is dangerous, it's criminal and its misconduct, that it cannot and will not be tolerated"

59. I agree with the Prosecution that public trust is critical to effective policing and that trust is seriously damaged every time an incident such as this occurs. The Public expect and deserve better. The Public also expect

Constable Ramphal to be held to higher standard and accountable for his actions. A Reduction in Rank of 15 months will convey to them that this type of behaviour will not be tolerated.

### Seriousness of the Misconduct

60. The Seriousness of this misconduct is noted by the formal public hearing process initiated by the Chief and is a direct reflection of the seriousness of the misconduct.

61. Drinking and driving by any citizen is an incredibly dangerous choice and very serious matter. Drinking and driving by an officer is that much more serious as it also involves a breach of their Oath of Office and damages the reputation of the Service involved.

62. Our Chief and previous Chiefs have continuously cautioned the membership of the seriousness of this type of misconduct and the penalties for such behaviour have progressively risen. The Chief's most recent Routine Order dated 2023 July, 06 – 0656, which indicates that the penalty for drinking and driving will result in “a demotion for multiple years or dismissal” was published prior to this incident and is also indicative of how serious the Service considers these types of matters to be.

63. I do recognize that there was not an actual collision in this matter. However, PC Ramphal did drive his motor vehicle into an active crime scene that was blocked off by on-duty police officers regarding a motor vehicle collision. Whether PC Ramphal was oblivious to the blockade, as suggested by the Prosecution, or was simply curious as suggested by the defence, I do not believe either option is less concerning. Oblivious is obviously concerning, however in my opinion, so is curious. To have had such seriously poor judgement to think that it would have been safe and or welcomed for him to drive into an active crime scene to satisfy his curiosity, where his fellow officers were investigating a situation not

expecting a random vehicle to enter without warning, is just as dangerous in my opinion and I do agree with the Prosecution that PC Ramphal is lucky there was no collision or injury that resulted.

64. While I can appreciate that PC Ramphal had been out consuming alcohol and initially and responsibly chose not to drive, the fact that PC Ramphal's blood readings were at least twice the legal limit of 80mgs when he did decide to drive and that he clearly knew better than to drive, as evidenced by how he got home earlier, I cannot help but to find it aggravating.

65. Overall, I find this falls on the more serious end of the spectrum.

#### Recognition of the Seriousness of the Misconduct

66. There is no doubt in my mind that PC Ramphal recognizes the seriousness of his misconduct. He pled guilty in Criminal Court at an early opportunity. He has taken steps to address of an issue he might have faced with the consumption of alcohol and has advised he does not believe he has any. PC Ramphal has also pled guilty in this tribunal and has shown his willingness to accept the associated penalty for his conduct. PC Ramphal also offered what appeared to be a genuine apology to the Tribunal which is also indicative of his recognition of the seriousness of this matter. I find this all to be mitigating.

#### Employment History

67. PC Ramphal's employment history is previously unblemished. His TPS 950 consists of three positive entries, an eight-hour award for saving a woman who had fallen down an embankment, a letter of appreciation from a community member for his professionalism locating an elderly male who was missing, and he was commended for his part in a project lead with the Hold Up Squad which involved a violent robbery. He has had no previous conduct issues.

68. PC Ramphal's evaluations were not submitted in evidence and as such I do not have any information with respect to his career to date, save the information provided on the 950. With only three entries of a positive nature and no prior conduct issues I am inclined to find this to be mildly mitigating.

#### Potential to Reform or Rehabilitate the Police Officer

69. PC Ramphal's documented history is quite short and relatively unremarkable, in fairness to him, he most likely had only just attained First Class rank when this event occurred. I do not have much prior event history to help determine his potential to reform or rehabilitate. I do however, have his conduct post incident with which can help me make a determination. PC Ramphal's post incident conduct, including his guilty plea in Criminal Court, his Guilty plea at this Tribunal and his willingness to accept a significant penalty, and his apology, all speak to his potential to reform. I find this to be mitigating.

70. While I can appreciate that PC Ramphal took measures to try to identify if he has an issue and came to the conclusion that he does not, I am inclined to order him to Wellness, so that he can explore that again in an objective fashion with trained professionals. Ensuring PC Ramphal has all resources available to him to assist in his wellness will undoubtedly assist with his rehabilitation.

#### Damage to the Reputation of the Police Service

71. The damage to the reputation of the Toronto Police Service is a vital consideration in the determination of a disposition. Policing by consent and public trust is crucial to the organization's ability to function as a public institution. Anytime an officer is arrested, charged and convicted of a criminal offence the reputation of the Service suffers. I am not aware of any specific media coverage with respect to this particular incident, but this decision will be available to the public and there is no doubt in my

mind that a Toronto Police officer being arrested and convicted for drinking and driving will damage the Services reputation. I did note that when he pled guilty in Criminal Court it was not mentioned that he was a police officer, simply that he was a City of Toronto Employee.

72. Police agencies must ensure visible accountability in all aspects of service delivery and member conduct. As the police, we are accountable to all citizens in everything we do. I believe the decision of this Tribunal will address accountability to both PC Ramphal and the public, but the damage to the reputation of the Service is clearly aggravating.

#### Specific and General Deterrence

73. I am satisfied that deterrence specific to PC Ramphal has been addressed satisfactorily through his acceptance of responsibility, his guilty plea at Criminal Court and at the Tribunal and willingness to accept a significant penalty.

74. With regards to general deterrence, the outcome of these proceedings will be published on TPS Routine Orders and a summary of this decision will be published on the TPS Intranet. Those documents are available to the entire Service membership and will serve to reinforce the previous zero tolerance messaging with regards to the potential consequences for this type of misconduct.

#### Consistency of Disposition

75. Reviewing all of the submitted cases, it was apparent that even though many bore a number of similarities, there was no specific, consistent penalty that was imposed, although they were within a close range. Each was considered on its own merits and the penalties imposed were in a range that was dependent on all of the mitigating and aggravating factors specific to that case.



76. 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 Ramphal was serious and the circumstances surrounding his actions warrant a serious penalty. His actions demonstrated a lack of judgement and were not in keeping with the expectations of a police officer. His post conduct choices, his employment history, albeit limited, and his recognition of the seriousness all are mitigating. In this case, a penalty of Reduction in Rank for 15 months as proposed by both the Prosecution and the Defence is appropriate. In addition, the order to attend Wellness and follow their direction is also consistent and will serve to ensure PC Ramphal's success going forward. The penalty imposed is within the range of penalties of the submitted cases involving similar misconduct and recognizes the call for higher penalties for incidents of this nature as demanded by the Service.

#### Procedural Fairness

77. Although not referenced in submissions, it is important to note all procedural fairness considerations have been addressed in this matter. PC Ramphal was provided the opportunity to make full answers in defence and has had the benefit of an experienced counsel throughout these proceedings.

**Disposition:**

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

For Discreditable Conduct in that Constable Ramphal is guilty of: acting 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 he is a member;

A Reduction in Rank Classification of 15 months, specifically from First Class Constable to Second Class Constable for a period of 15 months, after which Constable Ramphal can be returned to his previous classification of First Class Constable

And Constable Ramphal is further ordered under Section 85 (7) (b) of the Police Services Act (PSA), to attend in person within 60 days at Toronto Police Service – Wellness Unit, to Ms. Ivy Nanayakkara, or a person designated by the Wellness Unit, and seek treatment as recommend by Toronto Police Service – Wellness Unit.



Suzanne Redman  
Inspector  
Hearing Officer

December 10, 2024

**Appendix 'A' - List of Exhibits 15/2024**

**Constable Kirk Ramphal #(11285)**

**(Exhibit 1) Delegation – Inspector Redman**

**(Exhibit 2) Designation –Mr. Schachter**

**(Exhibit 3) Sine Dye email**

**(Exhibit 4) Designation – Mr. Capatosto**

**(Exhibit 5) Agreed Statement of Fact**

**(Exhibit 6) Prosecution Book of Authorities**

- Smith and TPS – February 4, 2011
- Ford and TPS – September 7, 2016
- Ladurantaye and TPS – May 4, 2021
- Canning and TPS – April 3, 2022
- Hughes and TPS – January 22, 2024

**(Exhibit 7) Prosecution Book of Records**

- 2017 Ontario Police Services Act by Paul Ceysens and Scott Childs pp314-317
- Command Message – July 6, 2023 – Impaired Driving
- Transcript of Proceedings – February 16, 2024
- TPS 950