



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 ANDREW CORKILL (8175); (He/Him)

Charge: Discreditable Conduct (Case 6.2023)

Discreditable Conduct (Case 43.2023)

DISPOSITION DECISION

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

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

Public Complainant: Ms. Lesley Pike (She/Her) (Case 6/2023 only)

Defence Counsel: Mr. P. Brauti; (He/Him)

Case Numbers: 6.2023 and 43.2023

Hearing Dates: 2023.12.11 & 13

Decision Date: 2024.02.19

Before commencing my decision on penalty and sentencing in this matter, I would like to thank the Public Complainant, Ms. Pike (case 6/2023), Mr. Brauti, Defence Counsel, and Mr. Capotosto, the Service Prosecutor, for their submissions as to penalty and exhibits tendered, all of which have assisted me in reaching my decision.

Note: This decision is divided into three parts: PART I: OVERVIEW; PART II: ANALYSIS AND FINDINGS FOR DISPOSITION; and PART III: DISPOSITION.

PART I: OVERVIEW

Background

1. Constable Andrew Corkill (8175) commenced his employment with the Toronto Police Service (TPS) in 2001. Constable Corkill presently holds the classification of First Class Constable and is assigned to 53 Division.

Hearing in Absentia

2. On November 21st, 2023 the Prosecution made application was granted to proceed in 'absentia'. Defence Counsel, Mr. Brauti appeared and made comments that his client was fully aware of the charges and he was fully instructed to proceed by his client.

Guilty Plea – Finding of Guilt

3. On Monday, November 21st, 2023 Counsel Peter Brauti appeared for Constable Andrew Corkill (8175), entered a guilty plea to a Notice of Hearing (Case 6.2023) and was found guilty of Discreditable Conduct, contrary to the *Police Services Act*.
4. On Monday, November 21st, 2023 Counsel Peter Brauti appeared for Constable Andrew Corkill (8175), entered a guilty plea to a Notice of Hearing (Case 43.2023) and was found guilty of Discreditable Conduct, contrary to the *Police Services Act*.

Disposition Decision

5. I have carefully considered the joint submission and relevant information presented by the Public Complainant (Case 6/2023 only), 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).

Case 6.2023

For Discreditable Conduct in that Constable Corkill is guilty of: committing 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 the officer is a member - a Demotion from First Class Constable to Second Class Constable for a period of 6 months, after which Constable Corkill can be returned to his previous classification of First Class Constable.

Case 43.2023

For Discreditable Conduct in that Constable Corkill is guilty of: committing 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 the officer is a member - a Demotion from First Class Constable to Second Class Constable for a period of 6 months, after which Constable Corkill can be returned to his previous classification of First Class Constable.

The disposition for Case 6.2023 and Case 43.2023 are to run concurrently.

PART II: ANALYSIS AND FINDING FOR DISPOSITION

Exhibits

6. 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

7. In this matter, Mr. Brauti represented Constable Corkill, Ms. Pike is the Public Complainant (Case 6.2023 only) and Mr. Capotosto represented the Toronto Police Service.

Positions on Disposition

8. Defence and Prosecution agree by joint submission in a demotion in rank from First Class Constable to Second Class Constable for a period of 6 months, after which Constable Corkill can be returned to his previous classification of First Class Constable. The Public Complainant, Ms. Pike made no specific submissions as to disposition (Case 6/2023 only).

A summary of Ms. Pike's, Mr. Capotosto's and Mr. Brauti's submissions, are as follows.

Witnesses

9. No witnesses were called by the Public Complainant, the Prosecution or the Defence.

Submissions

Prosecution Submissions

10. The Prosecutor – Mr. Capotosto, in his submissions entered a Book of Records (Exhibit 9) and a Book of Authorities (Exhibit 10).

11. Mr. Capotosto commenced his submissions by outlining 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.
12. Mr. Capotosto indicated that there are fifteen considerations governing the determination of an appropriate disposition, and they can be found in the Legal Aspects of Policing, Section 5.10 (e), by Mr. Paul Ceysens. These principles were submitted at Tab 1, in Exhibit 9. The Prosecution fully considered all of these principles and in the submissions to penalty, noted the following as particularly relevant in this matter; public interest, seriousness of the misconduct, damage to the reputation of the Service, and the need for general and specific deterrence.
13. Mr. Capotosto submitted that located at Tab A, Exhibit 10, the matter of the Law Society of Saskatchewan and Peter V. Abrametz, the Supreme Court made the following comments in paragraph 53: the purpose of disciplinary bodies are to protect the public, regulate the profession and to preserve the public confidence in the profession. The second principle of sentencing, the corrective disposition should prevail where possible. The discipline imposed should be remedial rather than punitive.
14. The Prosecution submitted that in these matters, Constable Corkill used his position as a police officer as leverage in a private dispute with his tenant. In this case, using Toronto Police Service stationary. He misled Toronto Hydro with a later date of vacancy so that the tenant would be improperly billed for several months. He used Toronto Police Service databases to conduct inquiries on another tenant. In another matter, he used his position to make contact with a vulnerable victim from an intimate partner violence call. Constable Corkill continued to harass that victim through continued texting, and even contacted the shelter where she had been residing. Despite her clear indications that she no longer wanted contact from him. Mr. Capotosto submitted that it is a position of trust that police officers occupy, that Constable Corkill exploited.

15. The next principle of sentencing the Prosecution submitted was proportionality. It is the process of crafting an appropriate disposition when an allegation of police misconduct is proven. Proportionality requires the decision maker to: identify what disposition considerations are relevant, determine if each consideration is mitigating, aggravating or neutral in the circumstances, and appropriately balance the considerations given the factual background of the matter and competing interests.

16. Mr. Capotosto submitted that police officers are held to a higher standards than the public. The case of Montreal v. Quebec (Commission des droit de la personne et des droits de la jeunesse) located at Tab B, Exhibit 10 at paragraph 33, the court states that exemplary probity is an essential qualification for employment as a police officer. One of the objectives in a discipline system is the protection of the public. Further stated in paragraph 84 the court states: *Police have considerable power and discretion over matters that can effect fundamental rights of the members of the public whom they encounter. Police work requires individuals not only to exercise a significant degree of judgement and integrity, it is also a position that requires the utmost public trust.* The standard was echoed by the case of Edmonton Police Service and Furlong from the Alberta Court of Appeal located at Tab C, Exhibit 10 in paragraph 28 which states: *... has been observed many times, service on a police force is not an ordinary type of employment. Apart altogether from the extraordinary powers that police officers are given, their continuing service is governed by a public disciplinary regime set out in the Police Services Act. Police officers are, in many respects, subject to different standards of conduct, and a higher level of workplace discipline than ordinary employees.* The Prosecution stated the objectives of discipline are to correct unacceptable behaviour, deter other officers from similar behaviour and ensure the public that the police are under control. These are important factors in this matter. Constable Corkill's behaviour engages all three of these objectives.

17. The Prosecution submitted that public interest must be considered in all cases given the objectives of discipline process. Police have considerable power and

discretion over matters that can effect fundamental human rights of the public. As a result, police officers are held to a higher standard of conduct and the necessary scrutiny and transparency. Public interest arises where the conduct has offended or undermined the public confidence in the police. There is no doubt that Constable Corkill's discreditable conduct convictions have implications with the public trust that we as an organization strive to uphold. One of the objectives of discipline to ensure the public that the police are under control. That is why Constable Corkill must be held accountable for his behaviour, so the public can be confident in the discipline process

18. Mr. Capotosto brought my attention to Exhibit 10, Tab D – Bright, Konkle and the Niagara Board of Inquiry, 1997, which speaks to the necessity of a police officer to be of good character. He referenced the following passage in support, “*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.*” This is what the Service expects of our officers.

19. Mr. Capotosto then referenced Exhibit 9, Tab 3, which contained the criteria for hiring a police officer in the Police Services Act. He highlighted that at section 43(1) (d) the mandated need for an officer to be, “*of good moral character and habits*”. Mr. Capotosto submitted that the 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. In regards to this matter, Constable Corkill's conduct does not meet the standard expected by either the Toronto Police Service or the Public. It is clear that his conduct impacted the involved parties in both cases.

20. The importance of public trust was further addressed by the Prosecutor with reference to Exhibit 9, Tab 3; of the submitted Book of Records. Herein, the Toronto Police Service Standards of Conduct was reviewed from 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". The community expects its officers to execute their duties with diligence, professionalism and integrity. When an officer commits actions such as Constable Corkill, it indicates that he is not simply careless but that he deliberately did these actions.

21. The importance of public trust is further addressed by the Prosecutor with reference to Exhibit 9; the submitted Book of Records, at Tab 8 – Oath of Office. Herein, Mr. Capotosto submitted Constable Corkill's signed and sworn Oath to fulfill his duties faithfully, impartially and according to law. Public trust is paramount and all actions taken by police officers must be able withstand public scrutiny to maintain that trust. Public trust is the expectation that officers will uphold their oath of office. Constable Corkill's conduct on and off duty failed to uphold his oath of office.

22. With regards to the *seriousness of misconduct*, Mr. Capotosto added, the formal public hearing process initiated by the Chief in this instance, is a reflection of the seriousness of the misconduct. This misconduct represents a serious departure from the expectations of police officers and the facts underlying this misconduct strike at the core policing duties. It must be assessed at the more serious end of the spectrum. Each of these convictions would demonstrate circumstances to which the public would be appalled to hear, was committed by a police officer. Constable Corkill deliberately conducted these actions. The seriousness of the misconduct individually and collectively is aggravating.

23. On the principle of *recognition in the seriousness of misconduct, or remorse*, the Prosecutor referred to Purbrick and the Ontario Provincial Police, 2011, OCCPS (Exhibit 10, Tab F). The Prosecutor submitted that a guilty plea is one of the most indisputable forms of admission of culpability and wrong doing and responsibility. Recognizing the seriousness of the misconduct is vital to the ability to be rehabilitated. This guilty plea demonstrates both remorse and acceptance of

responsibility. In Carson and Pembroke Police Service, 2001 OCPC (Exhibit 5, Tab G) The Commission 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 guilty pleas demonstrate that Constable Corkill demonstrates his acceptance of responsibility for the misconduct.

24. Mr. Capotosto submitted that employment history is an important disposition factor in all cases. This can be a mitigating or aggravating factor for consideration. Located at Exhibit 4, Tab 9 is a form TPS 950, which is a summary of his complimentary activity and conduct issues. The Prosecution highlighted three incidents for formal discipline, indicating that this type of misconduct is not new for Constable Corkill. This factor is aggravating considering his conduct history.

25. In regards to the consistency of disposition, the Prosecution submitted that this represents one of the principles discipline system. It flows from the concept that similar conduct should be treated in a similar fashion, recognizing that no two cases are the same. Mr. Capotosto cited from Exhibit 10, Tab H, in Schofield and the Metropolitan Toronto Police, where it was stated, *“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 Prosecution submitted that the facts before the Tribunal show a pattern of behaviour by Constable Corkill, that has repeatedly failed to follow the rules and obligations imposed upon him.

26. Mr. Capotosto also cited that earlier case law decisions contained in Exhibit 10, at (Tab I) Lang and Toronto Police Service, 2006, (Tab L) Rogers and Toronto Police Service, 2015, (Tab J) Al-Khatib and Toronto Police Service, 2010, and (Tab N) Wildeboer and Toronto Police Service, 2006. The Prosecution submitted that the range of disposition is days.

27. Mr. Capotosto also cited further case law decisions relating to inappropriate relationship and harassment contained in Exhibit 10, at (Tab M) St. John and

Ottawa Police Service, 2015. For cases involving theft, (Tab K) Spizziri and Ontario Provincial Police, 1988. Failure to take notes of interactions (Tab E) Andrews and Midland Police Service, 2003. Constable Corkill has committed other misconduct and has a pattern of behaviour from previous convictions, which raises the disposition to a demotion.

28. In the area of *specific and general deterrence*, the Prosecution takes notice of the correlation between penalty and deterrents, both general and specific from Exhibit 10, Tab E, in Andrews and Midland Police Service, 2002, OCCPS, where the Commission stated, *“He was also correct that 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”*. General deterrence is of particular relevance in this matter. Officers of the Service need to understand the higher standard of conduct that is expected of them. Regarding specific deterrence the Prosecution highlighted the case of Wildeboer and Toronto Police Service, 2006 located at Tab N, Exhibit 10, and the Hearing Officer stated *“that specific deterrence was necessary given that Constable Wildeboer’s inability to stabilize his personal circumstances, has affected his decision making, and offended both his Oath of Office and public trust.”* This is relevant in this matter as Constable Corkill has difficulty separating his personal circumstances from his professional obligations.

29. Mr. Capotosto referenced the matter of Andrews and Midland Police Service, located at Tab E, Exhibit 10, regarding the factor of *ability to reform or rehabilitate*. The Commission stated *“rehabilitation is a key factor to be taken into consideration when a penalty is imposed, especially when the officer has a prior unblemished employment record. Unless the officer is beyond rehabilitation (in which he would be a candidate for dismissal) the door should be kept open for the officer to be rehabilitated. A penalty should be tailored to provide an opportunity to do so.”* In this case, the disposition of a six month demotion allows the officer an opportunity to do so.

30. The Prosecutor, in addressing the *damage to the reputation of the Service*, submitted that there is no doubt that this incident and the victim impact statement has placed members of our Service in a bad light. These occurrences constitute serious misconduct that involve members of the public and Constable Corkill's duties as a police officer. His actions fall to the high end of the spectrum and there has been damage to the Service's reputation.

31. As such, the Prosecutor submitted that the appropriate disposition of a demotion from First Class Constable to Second Class Constable, for a period of 6 months is appropriate in these circumstances.

Defence Counsel Submissions

32. Mr. Brauti commenced his submissions by commenting on Constable Corkill's past conduct issues. These conduct issues are relatively minor entries. The penalties were 4 days, reprimand, 6 days and 7 days. None of those offences involve conduct for high day penalties. High days are between 10 and 20 day penalties. These issues were resolved with low day penalties and relatively minor transgressions. In this case, there is no doubt that we are progressing up the discipline penalty chain with a demotion of 6 months. Constable Corkill has never received a high day penalty and is now proposing a joint disposition of a 6 month demotion. The Defence submitted that this was fair as we are dealing with multiple transgressions and global resolution. There is no authority submitted that suggests that this joint position is outside of the range.

33. The recent issues occurred while the officer was assigned to 53 Division. Constable Corkill has more than 25 years of service, with 23 of those years at 51 Division. 51 Division is a difficult division and has historically been one of the busier divisions in the city. The division involved calls for service that involves violence, death, and things of that nature. The Prosecution has been provided with medical evidence that Constable Corkill has been suffering from some significant mental health issues. Those issues caused Constable Corkill to move from 51 Division to

53 Division. Constable Corkill was not his regular self when these offences took place.

34. There has been a victim impact statement filed regarding the Public Complainant's allegations. Defence submitted that the Complainant has not been telling the entire truth the entire time about what occurred and how she feels. This tenant was not an easy tenant to deal with. Mr. Brauti had to become involved earlier in the process to assist Constable Corkill in getting the tenant removed. This was a circumstance where Constable Corkill had one home and another where the tenant was living. Due to a number of circumstances, it was decided that Constable Corkill was going to move himself into the condominium unit, which he was entitled by law to do. Ultimately, there were correspondences between counsel, Constable Corkill and the Complainant, trying to resolve the situation. It was a professional, cordial set of correspondence in the beginning. Counsel was involved initially but, afterwards Constable Corkill sent the letter in the Toronto Police Service envelope. Counsel submitted that Constable Corkill happened to be at work typing up the letter to the complainant, grabbed a Toronto Police Service envelope and placed a stamp on it. The stamp partially covered the TPS Logo. Constable Corkill should not have done that. He admitted that he did so. He appreciates that he shouldn't have done that. Defence suggested that the victim impact statement is exaggerated

35. Defence submitted that the basis for stating the victim impact statement was exaggerated, is that the Complainant is currently suing Constable Corkill for \$92,000 over this incident. Contained within the lawsuit is a document that the Public Complainant filed, Exhibit 11. Defence reviewed areas of inconsistencies from their view point. Defence Counsel highlighted a portion of the document, Exhibit 11, where the complainant indicated that she received a 'bully/threat' email from Andrew's lawyer, and an area regarding working out a settlement for rent. A comparison between Exhibit 11 and Exhibit 12 was made and Defence submitted the position that both cannot be true. Defence submitted that the Public Complainant was a difficult tenant, and reviewed exhibits filed indicated that she

was not truthful and exaggerated the emotional impact in her victim impact statement.

36. Defence submitted that with regards to the allegation involving the Hydro Bill, Constable Corkill did not receive a windfall as a result. The non-payment of rent is likely to exceed the Hydro bill. Defence acknowledge that it should not have happened.

37. Defence Counsel had no submissions on conducting CPIC checks on potential tenants.

38. Mr. Brauti made the submission that Case 43.2023 could be viewed in the way that Constable Corkill came across someone who was in a very dark place. As a result of that, he began to engage her with certain acts of kindness. There is no suggestion that he was overtly trying to get her to go on a date with him. He was being nice with her and having contact with her. Counsel suggested that Constable Corkill was trying to comfort her. We agree that it is misconduct because his efforts would appear to go into boundary crossing. Notwithstanding your acts may be kind, but at a certain point, the efforts can become too much and make the person feel uncomfortable. That is the misconduct. After he lost contact with the complainant, the shelter advised that he was calling inquiring. An inference you can draw is that he was calling to apologize or deal with the misunderstanding, and didn't get that opportunity. Mr. Brauti submitted that was the context of the misconduct.

39. Mr. Brauti submitted that the TPS 950 indicates that the complimentary activities far outweigh the misconduct issues.

Public Complainant (Lesley Pike) Submissions (Case 6.2023 Only)

40. The Public Complainant had provided a victim impact statement to the Prosecution. The Prosecution filed this impact statement, Exhibit 8. The Prosecution had

indicated that in discussions with the Public Complainant, she was not going to make submissions to disposition. The Public Complainant was observing these proceedings electronically. During the submissions of Defence Counsel, the Public Complainant became upset with some of the submissions of Defence, and then indicated that she now wished to make some submissions.

41. The Public Complainant submitted that this matter is a landlord and tenant dispute that has gone through the Landlord Tenant Board. The information that Defence counsel presented was about one percent of the overall information regarding this. She advised that she was represented by a real-estate lawyer through the entire process and ongoing. She was advised that she was being unlawfully evicted. She submitted that Constable Corkill wanted to capitalize on the increase in the rental market. She advised that she did not ever fail to pay rent. She paid her last month rent upfront and applied that to the one month and Constable Corkill was required to cover the other month if he was moving back into his property. No rent was owing. Constable Corkill filed a complaint with the Landlord Tenant Board and never showed up. A ruling was made against him. The Public Complainant submitted that this was bullying and what has been shown is only a small portion of the correspondence. The Public Complainant advised that she did leave on the date that Constable Corkill requested. She has also filed for compensation through the Landlord and Tenant Board for the egregious amount of rent she has had to pay as a result. The victim impact statement that has been submitted is something that the Public Complainant stands by.

42. The Public Complainant submitted that using a criminal lawyer and Toronto Police Service stationary were all part of the bullying tactic to have her move out.

Defence Counsel Reply to Public Complainant:

43. The Public Complainant has missed the point of submissions in this matter. Defence submitted that the only contact he had were the two emails that are before the Tribunal as an exhibit (Exhibit 12). He submitted that if the Public Complainant was

prepared to make comments about counsel based on two emails, the definition of bullying, threatening and lying comes into question.

Prosecution Reply:

44. The Prosecution submitted that in Exhibit 12, the entire email should be reviewed as there is additional information. The Prosecution submitted that there is no evidence that the Hydro was some form of compensation for the rent.

Analysis and Decision:

45. In the well known decision 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.

46. The Commission has also instructed that 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. Exhibit 9, Tab 4 - the *PSA*, s 43(1) (d) notes, “(a police officer) is of good moral character and habits”. Constable Corkill’s actions consistently fell short of these expectations

47. In this case Constable Corkill violated the public trust in two separate cases in misconduct for which he has pled guilty. In case 6.2023 involving a Public Complainant, he utilized TPS stationary for a personal matter of a private dispute. He improperly notified Toronto Hydro that the Public Complainant had resided at his property and was responsible for the hydro fees, knowing that she had moved out and was not responsible for such fees. He utilized Toronto Police Service information systems, namely CPIC, to conduct a query on a prospective tenant.

All three of these instances are clear violations of the public's trust. In case 43.2023 Constable Corkill inappropriately continued contact with a victim of intimate partner violence, causing her to advise him that she wanted nothing to do with him. He made no notations of these contacts. Again in this instance Constable Corkill violated the public trust with his pattern of behaviour. I find this factor aggravating.

48. The public must have confidence in the ability of the Service to deal with any misconduct on the part of its members and as such, the public also has an interest in ensuring that Constable Corkill is held accountable for his actions.

49. There is no doubt that the misconduct was serious as evident by the circumstances leading to the complaint filed by the Public Complainant. Constable Corkill misused TPS stationary, misled Toronto Hydro in an attempt to have a member of the public held financially responsible for fees and misused police information systems. In the second matter, he continued contact with an intimate partner violence victim. These circumstances cause concern as a pattern of serious misconduct is emerging. The continued acts of misconduct demonstrate that Constable Corkill does not comprehend the seriousness of his actions. I find this factor aggravating.

50. I do take note, at Exhibit 5 and 6, the Agreed Statement of Facts – that Constable Corkill exercised his option to have his counsel plead guilty in this Tribunal. This removed the need for a hearing(s) that would have required members of the public to testify. This indicates that Constable Corkill does have some recognition of the seriousness of the misconduct

51. The actions of Constable Corkill in both of these matters were a choice. It was a conscious decision, and those decisions have consequences. Defence Counsel submitted that the Prosecution had been provided with medical evidence that Constable Corkill has been suffering from some significant mental health issues, and that he was not his regular self when these offences took place. This Tribunal

did not receive any documentation to support this submission. Although Constable Corkill demonstrated by his actions he was unable to adhere to the Toronto Police Service Core Values of: Service at our Core, Do the right thing and Connect with Compassion located at Exhibit 9, Tab 7, surrounding the misconduct. His post incident conduct falls in squarely in line with the Core Value of Reflect and Grow.

52. Previous Hearings which described the circumstances and penalties assessed against members who committed similar misconduct have also been provided to the entire Service membership, to indicate that this behaviour will not be tolerated and to inform members of the penalties. Constable Corkill had the opportunity to know the consequences of his actions.

53. As noted in Carson and Pembroke Police Service, OCCPS, 2001 a guilty plea should be recognized as a mitigating factor. Constable Corkill has not tried to blame others for his actions and has accepted responsibility for them. This step he has taken demonstrates that he has recognized the seriousness of the misconduct and is willing to accept the consequences. I find this factor mitigating.

54. This event no doubt will have an effect on Constable Corkill. 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 Constable Corkill, for which he must bear the responsibility.

55. Though I have not been made aware of any media attention, this event has caused some damage to the reputation of the Service. The Public Complainant and the victim of the intimate partner violence are aware of the circumstances, and would not see Constable Corkill's actions in a positive light. This Tribunal is a public forum, and I note that no known members of the media were present during this proceeding, but a member of the public was observing online. If this matter is

reported on in the future by the media, it will likely cause further damage to the reputation of the Service.

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

57. I have reviewed the TPS 950 from Constable Corkill's personnel file in Exhibit 9, at Tab 9. Constable Corkill has been recognized on approximately seventeen occasions for his involvement in a number of significant arrests and investigations throughout his career, and has seven letters of appreciation. Those arrests / investigations involved firearm offences, drug investigations, and persons in crisis. Constable Corkill has five conduct related issues. In April 2022 while off duty, he was at a social function in a pub and inappropriately picked up the complainant and carried her about, without her consent and approval. He received a unit level forfeiture of four days. In September 2020 while on duty, he responded to a complaint for an intoxicated person and failed to utilize the In Car Camera while arresting the suspect. He received a unit level reprimand. Constable Corkill has three cases that involve convictions for insubordination under the *Police Services Act*. In February 2019, he was found guilty of two counts of insubordination. He utilized Police data bases to conduct queries of individuals for personal reasons. He received a disposition of a forfeiture of six days for each charge. In November 2011, he was found guilty of one count of insubordination for failing to enter notations in his memorandum book regarding conversations with witnesses in an ongoing investigation. He received a disposition of a forfeiture of seven days. In March 2006, he was found guilty of two counts of insubordination. One count for misuse of CPIC where he queried his own name, for which he received a reprimand. The second count for failing to notify his unit commander that he would be testifying in court pursuant to a defence subpoena. For this charge, he received a disposition of a forfeiture of six days. In reviewing the conduct issues of Constable Corkill there are striking similarities to the misconduct he has pled guilty to. I find his employment history aggravating.

58. In Exhibit 9, at Tab 12, I reviewed Constable Corkill's annual performance appraisals dating from 2015 to 2021. In the appraisals, his supervisors commented on the type of work he produces. Words that are used include, "...*he can be relied upon to help, guide and mentor the younger officers on the shift; he is an informal leader*". In his most recent evaluation his supervisor made the following comments "*PC Corkill has given twenty years as a front line officer at 51 Division and has wealth of experience to draw from. I do believe that he would make a fine instructor at the Toronto Police College*". All of his supervisors have supportive comments. Constable Corkill's evaluations in his personnel file are mitigating.

59. Past behaviour is often an indication of what can be expected from a person in the future. Constable Corkill has a somewhat positive employment history and has been recognized many times for his contributions. Constable Corkill has accepted responsibility for his actions. He entered a guilty plea in the Tribunal.

60. As discussed in Andrews and Midland Police Service, 2002, OCCPS, an officer with a prior unblemished employment record should be provided with the opportunity to be rehabilitated. Although Constable Corkill does not have an unblemished employment record, in this case, coupled with his prior evaluations and the observations of those supervisors, Constable Corkill has demonstrated that he has the potential to reform or be rehabilitated.

61. I am satisfied that deterrence specific to Constable Corkill has been addressed through his acceptance of responsibility, his guilty pleas, both 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, the decision will be published on the TPS Intranet, and the decision will be posted on the TPS External Website. Those documents are available to Public and the entire Service membership, and will reinforce the previous messaging in regards to the potential consequences for this type of misconduct.

62. The Commission discussed the need for fairness and consistency in the discipline process in Schofield and Metropolitan Toronto Police, OCCPS, 1984; “*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 a number of historical cases in support of the joint penalty position. The Prosecutor sought a penalty of a six month reduction in rank classification and Counsel Mr. Brauti joined Mr. Capotosto on this position.

63. The Prosecution submitted the following cases to support the joint submission: Schofield and the Metropolitan Police Service, 1984, Lang and Toronto Police Service, 2006; Al-Khatib and Toronto Police Service, 2010; Spizziri and Ontario Provincial Police, 1989; Rodgers and Toronto Police Service, 2015; St. John and Ottawa Police Service, 2016; Wildeboer and Toronto Police Service and Nicola Aylin, 2006 and Andrews and the Midland Police Service, 2003. Defence Counsel submitted the following cases for the Hearing officer to consider: Cameron and Ontario Provincial Police, 2021 and Manning and Ontario Provincial Police, 2021. In reviewing all of the cases from both the Prosecution and the Defence, it was apparent that even though many outcomes bore a number of similarities to others, there was no consistent penalty that was imposed. Each were 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. The following cases assisted in determining a disposition range.

64. The case of Lang and Toronto Police Service, from 2006 dealt with misconduct that involved the misuse of police resources. The officer pled guilty to one count of discreditable conduct and was given a disposition of a forfeiture of three days. This was upheld on appeal.

65. The case of Al-Khatib and Toronto Police Service from 2010 dealt with the misuse of CPIC for personal reasons. The officer pled to one count of Insubordination and received a disposition of a forfeiture of five days.

66. The case of Wildeboer and Toronto Police Service and Nicola Aylin from 2006 deals with misuse of CPIC on numerous occasions. This matter involved a public complainant who submitted a victim impact statement for consideration. The officer had two prior discipline findings. The officer pled to one count of Insubordination and received a disposition of forfeiture of 18 days. The matter was upheld on appeal. The original Hearing Officer made the following comment that is relevant in this matter: *Constable Wildeboer's inability to stabilize his personal circumstances, has affected his decision making, and offended both his Oath of Office and public trust.* This is also the case with Constable Corkill, blurring the line between personal and professional obligations.

67. The case of St. John and Ottawa Police Service from 2015 involves the officer directing an 18 year old female into an interview room for non-investigative purposes and engaging in personal conversation in which he made a sexually suggestive remark. The officer pled guilty to discreditable conduct and received a disposition of a forfeiture of 6 days. This differs from the current case involving Constable Corkill as there is no evidence of a sexually suggestive remark being made.

68. The case of Spizziri and Ontario Provincial Police from 1989 involves the officer stealing from a department store. The officer was convicted criminally. The officer was found guilty of Discreditable Conduct and ordered to resign within seven days. The matter was appealed and the disposition was altered to a demotion from first class constable to second class constable for six months. This case involves the officer relying upon medical evidence and stress in his personal life. In the matter involving Constable Corkill similar submissions were made but no supporting documents were filed with the tribunal.

69. The case of Andrews and the Midland Police Service from 2003 involves the officer failing to make notes and attempting to cover up another officer's involvement in a matter. The officer was found guilty of four counts of neglect and one count of

deceit. He received a disposition of a demotion in rank from Sergeant to third class constable for six months and then progress through the classifications. The matter was appealed and the disposition was altered to a reduction in rank to second class constable for a period of two years. There are similarities with case and the misconduct of Constable Corkill.

70. Defence Counsel submitted the case of Cameron and Ontario Provincial Police, 2021 and Manning and Ontario Provincial Police, 2021. These cases did not provide assistance in relation to determining an appropriate disposition.

71. In view of the cases submitted and the totality of misconduct for which Constable Corkill has pled guilty to a period of demotion is appropriate. In conjunction with the cases and the concept of progressive discipline supports the demotion. Constable Corkill has several *Police Services Act* convictions which are of concern. These convictions are striking similar to this new set of misconduct. It is clear by his actions that a more severe disposition is required to emphasize the unacceptable behaviour.

72. The Public Complaint in this matter, Lesley Pike, had drafted a victim impact statement that was filed by the Prosecution as an exhibit (Exhibit # 8). Both the Public Complaint and Defence Counsel made submissions regarding this statement. I find that there is no reference to Defence Counsel, Mr. Brauti in the victim impact statement and no reference to threatening or bullying by counsel. The victim impact statement is Ms. Pike's personal perception of the totality of the events of dispute with Constable Corkill, and not reserved to the facts that he has pled guilty to that are before this Tribunal. I acknowledge that the Public Complaint felt that she was significantly impacted by the actions of Constable Corkill causing stress in her life. I have placed the appropriate weight on this letter. This letter provides some support to the joint position but does not cause me to stray from it.

73. 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 Constable Corkill was no doubt serious and the circumstances surrounding his actions presented an unwarranted risk to the public. In this case, a penalty of 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.

74. In mitigation, Constable Corkill has contributed much to the community which is reflected in his employment record. He accepted responsibility for his actions by having his counsel enter a guilty plea in this Tribunal.

75. The Tribunal strongly urges Constable Corkill to heed the principles of progressive discipline and to govern himself by its intent. To do otherwise is to bring his usefulness to the Toronto Police Service into question and potential jeopardy.

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.

Disposition:

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

Case 6.2023

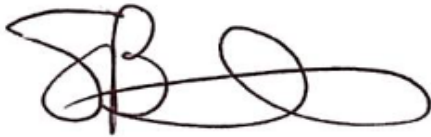
For Discreditable Conduct in that Constable Corkill is guilty of: committing misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which the officer is a member - a Demotion from First Class Constable to Second Class Constable for a period of 6 months

after which Constable Corkill can be returned to his previous classification of First Class Constable.

Case 43.2023

For Discreditable Conduct in that Constable Corkill is guilty of: committing 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 the officer is a member - a Demotion from First Class Constable to Second Class Constable for a period of 6 months after which Constable Corkill can be returned to his previous classification of First Class Constable.

The disposition for Case 6.2023 and Case 43.2023 are to run concurrently.

A handwritten signature in black ink, appearing to be 'SB' followed by a long horizontal stroke and a loop.

Shane Branton

Superintendent

Hearing Officer

February 19th, 2024

Appendix 'A' - List of Exhibits 6.2023 & 43.2023
Constable Andrew Corkill (8175)

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

Prosecutor L. Benoit Letter of Designation (Exhibit 2)

Prosecutor M. Chinneck Letter of Designation (Exhibit 3)

Cameron and the Durham Regional Police Service, OCPC, 2021 and

Manning and the Halton Regional Police Service, 2021 (Exhibit 4)

Agreed Statement of Facts for Case 6.2023 (Exhibit 5)

Agreed Statement of Facts for Case 43.2023 (Exhibit 6)

Prosecutor M. Capotosto Letter of Designation (Exhibit 7)

Victim Impact Statement – Lesley Pike (OIPRD Complainant) (Exhibit 8)

Prosecution Book of Records (Exhibit 9)

Police Discipline Process Chapter by Ceysens (Tab 1)

2017 Ed., Ontario Police Services Act by Ceysens & Childs (Tab 2)

Toronto Police Service Standards of Conduct, Chief Saunders (Tab 3)

Ontario Police Services Act s. 43(1)-Criteria for Hiring (Tab 4)

Ontario Police Services Act s. 42(1)-Duties of Police Officer (Tab 5)

Ontario Police Services Act, 2017, Employment History, pp 350-354 (Tab 6)

Toronto Police Service – Core Values (Tab 7)

Toronto Police Service Oath of Office- Constable Corkill (Tab 8)

Constable Corkill (90276) – TPS 950 and Awards and Letters of Recognition (Tab 9)

Performance Appraisals (Tab 10)

Prosecution Book of Authorities (Exhibit 10)

Law Society of Saskatchewan v. Abrametz, 2022 SCC 29 (Tab A)

Montreal (City) v. Quebec (Commission de la droite de la personne et de les
jeunesse),[2008] S.C.J. 49 (Tab B)

Edmonton Police Service (Chief of Police) v. Furlong, [2013]A.J. No. 284 (Tab C)

Bright, Konkle and the Niagara Board of Inquiry, OCPC, 1997-01 (Tab D)
Andrews and Midland Police Service, 2002, OCCPS (Tab E)
Purbrick and the Ontario Provincial Police, OCPC May 25, 2011 (Tab F)
Carson and Pembroke Police Service, OCCPS, 2001 (Tab G)
Schofield and the Metropolitan Police Service, OCPC, October 29, 1984 (Tab H)
Lang and Toronto Police Service, 2006 ONCPC 1 (Tab I)
Al-Khatib and Toronto Police Service, July 13, 2010 (Tab J)
Spizziri and Ontario Provincial Police, 1989 CanLii 6730 (ONCPC) (Tab K)
Rodgers and Toronto Police Service, July 9, 2015 (Tab L)
St. John and Ottawa Police Service, June 22, 2016 (Tab M)
Wildeboer and Toronto Police Service and Nicola Aylin, 2006 ONCPC 6 (Tab N)
R. v. Anthony-Cook, 2016 2 S.C.R. 204 (Tab O)

Timeline for Lesley Pike re: civil action against PC Corkill (Exhibit 11)

Correspondence (July 4, 2022) between Lesley Pike, PC Corkill and Peter Brauti (Exhibit 12)