



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  
TORONTO POLICE SERVICE

AND DETECTIVE Jeffrey LaFosse #7704; (He/Him)

Charge: Discreditable Conduct

DISPOSITION DECISION

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

Prosecutor: Inspector John Babiar, Toronto Police Service; (He/Him)

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

Case Number: 77.2022

Hearing Dates: 2023.12.13

Decision Date: 2024.02.09

Before commencing my decision on penalty and sentencing in this matter, I would like to thank Mr. Norton, Defence Counsel, and Inspector Babiar, 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

Detective Jeffrey LaFosse #7704 commenced his employment with the Toronto Police Service (TPS) in 1999. Det. LaFosse was promoted to Sergeant in 2014. Det. LaFosse presently holds the classification of Detective and is assigned to 43 Division.

### Allegations of Misconduct

Detective Jeffrey LaFosse #7704, 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

On Wednesday the 13<sup>th</sup> of December, 2023 Detective Jeffrey LaFosse #7704 pleaded guilty to an amended Notice of Hearing and was found guilty of Discreditable Conduct, contrary to the Police Services Act.

## Decision

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 Det. LaFosse is guilty of: acting in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member;

Forfeiture of 7 days or 56 hours pay.

Det. LaFosse 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 – Equity, Inclusion and Human Rights Unit to Inspector Jack Gurr, or his designate, and seek and complete training and education as Toronto Police Service – Equity, Inclusion and Human Rights Unit sees fit.

Prosecution and Defence submitted a New Notice of Hearing for one count of Discreditable Conduct replacing the original, which was four counts of Discreditable Conduct and one count of Insubordination. Those remaining counts of case 77/2022, were marked withdrawn at the request of the Prosecution.

## PART II: THE HEARING

### Exhibits

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

In this matter, Mr. Norton represented Detective LaFosse and Inspector Babiar 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:

Jeffery LaFosse is a Detective with the Toronto Police Service. He was hired in October 1999. He was promoted to the rank of Sergeant in July 2014. From March 2022 to late June 2022, he was assigned as the lead Detective to the Major Crime Unit ("MCU") at 43 Division.

## Homicide Scene

On June 8, 2022, Detective LaFosse and the MCU team attended at a homicide scene in 43 Division after an "assist officer" call was broadcast. Upon their arrival, Detective LaFosse and the MCU team were met by an angry crowd. The crowd was comprised of persons of various races/colours and was upset by the death of the victim and the circumstance surrounding the murder. The crowd was yelling, swearing, and accosting members of the Toronto Police Service which interfered with officers' ability to conduct life saving measures and their efforts to secure and contain the murder scene. Detective LaFosse asked members of the crowd if anyone knew what happened. He also relayed to the crowd that police were trying to help and directed people to move back and exit the crime scene area.

As captured on body worn camera, Detective LaFosse then walked away from the crowd and began speaking with TPS officers who just arrived on scene to brief them. Detective LaFosse then stated “So, you can see what we're being met with...fucking dicks.” It is unclear if any members of the crowd heard Detective LaFosse’s comment.

#### Gender Diversity and Trans Inclusion Training (Part I)-CPKN

On June 05, 2022, Detective LaFosse completed the Gender Diversity and Trans Inclusion Part I training on the Canadian Police Knowledge Network (CPKN). In or around June 20, 2022, as the supervising Detective, Detective LaFosse reminded members of the MCU team that the deadline to complete the course was approaching. During this conversation with the MCU team, Detective LaFosse could not recall the exact title of the course and stated: “make sure you finish the gay and lesbian course” - rather than referencing the course by its proper name. Detective LaFosse did not mean for his short forming of the course name to be derogatory.

#### Citizen Telephone Call

On June 21, 2022, while working as the Case Manager at D43, Detective LaFosse received a telephone call from a citizen seeking information about an accused person’s release conditions and related bail documents. Detective LaFosse provided the caller with the conditions over the phone but said he could not provide her with a copy of the document or facilitate an emergency transfer to a new apartment as there were no safety concerns to necessitate it. The ensuing conversation led to mutual frustration. After the telephone call had ended, Detective LaFosse stated to members of the MCU team, that the caller was a “loser” and a “low life.”

Detective LaFosse acknowledges that his comments, as set out in this agreed statement of facts, were inappropriate and that he ought to have known would be unwelcome and/or offensive to members of the Toronto Police Service. He further acknowledges that his

comments constitute misconduct contrary to s. 2(1)(a)(xi) of the Sch. Code of Conduct of Ontario Reg. 268/10 and therefore, contrary to s. 80(1)(a) of the Police Services Act.

### Positions on Penalty

The positions on penalty are in congruence. Prosecution and Defence agree by joint submissions on a penalty of 7 days.

A summary of Inspector Babiar's and Mr. Norton's submissions, in support of the position, follows.

### Witnesses

No witnesses were called by the Prosecution or Defence.

### Submissions

#### Prosecution Submissions

The Prosecutor – Inspector John Babiar, began his submissions by entering a Book of Records (Exhibit 4) and a Book of Authorities (Exhibit 5).

Inspector Babiar 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.

Inspector Babiar highlighted 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 principals were submitted at Tabs 1 and 2, in Exhibit 4. The Prosecution fully considered all of these principles and in the submissions to penalty, noted the following as particularly relevant in this matter.

Inspector Babiar submitted that public interest arises when the misconduct has offended or undermined the public confidence in police or would do so. He submitted that with no doubt Det. LaFosse's actions have implications to the public trust that we as an Organization strive to uphold.

Inspector Babiar submitted that officers' conduct is always held to a higher standard. He submitted that this is set out in the introduction of the Toronto Police Services Standards of Conduct, found in Exhibit 4 Tab 3, where the Chief stated,

"Toronto police Service members are held to a higher standard of conduct than other citizens. Not only is an expectation from the community, this standard an expectation we place upon ourselves. This higher standard of behaviour is necessary to preserve the integrity of the Service."

Further:

"The community expects TPS members to conduct themselves and discharge their duties with diligence, professionalism, and integrity; practice fairness and equality in their official dealings with the public; comply with and be seen to act within the spirit and letter of the law."

Inspector Babiar submitted the criteria for the hiring of police officers and one of the key criteria is that Police Officers must be of good moral character and habits.

Inspector Babiar submitted that the actions of Det. LaFosse clearly did not comply with those standards and that criteria.

Inspector Babiar submitted that Det. LaFosse's actions were not professional and not in the public interest and that this was aggravating.

Inspector Babiar referenced the Core Values of the Service, Exhibit 4 Tab 7, highlighting two sections.

Do the right thing: by acting professionally, with integrity, and without prejudice, even in the most challenging circumstances, when no one is watching, and on and off duty; holding others accountable to the same standards; challenging any inappropriate behaviour;

Connect with Compassion: by treating all people with empathy, respect, equity and dignity; going the extra mile to ensure others feel safe, supported, included, engaged and valued; standing up for those who cannot stand up for themselves; valuing others life experiences.

Inspector Babiar submitted that Det. LaFosse did not live up to the Service Core Values and this has impact on the public interest.

Inspector Babiar submitted that the Seriousness of the Misconduct was a fundamental consideration and is present in all disposition considerations.

Inspector Babiar submitted that the misconduct was serious as Det. LaFosse is a Supervisor and therefore has an expectation to lead by example, employ ethical decision making, to demonstrate integrity, as well as professionalism and accountability. He further submitted that Det. LaFosse agreed to convey these qualities when he accepted the rank of Supervisor.

Inspector Babiar submitted that the role of Sergeant is one of the most important ranks in the Organization when it comes to influencing the behaviour of the rank and file and a Sergeant is expected to lead by example.



Inspector Babiar submitted that the Core Values of the Service are “not only art on the wall” but that they form part of the Service’s “DNA”. He further submitted that a Supervisor is not only expected to adhere to the core values but to exemplify them.

Inspector Babiar submitted that the seriousness of the misconduct was exacerbated by the fact that the comments at the homicide scene were captured on body worn camera. He submitted that while the comments may have been out of view of the public, the potential exists for them to be made public through the disclosure process.

Inspector Babiar submitted that there has been media attention with respect to this case, as a major news outlet published a story on January 21<sup>st</sup>, 2023, based on Det. LaFosse’s Tribunal appearance, and that the material would be entered as part of Defence’s Book of Records.

Inspector Babiar submitted that the Gender Diversity Trans Inclusion training is designed to foster understanding of a particularly vulnerable group in society and to educate members of particular nuances of different segments of the community. He further submitted that “words matter”.

Inspector Babiar submitted that although he may accept that Det. LaFosse’s intention was not to be derogatory regarding the course, when dealing with any form of Human Rights matter intent is immaterial and the consideration is impact. Inspector Babiar submitted that Det. LaFosse’s failure to refer to the training by its correct name or even the acronym, GDTI, is disrespectful to the community, it further diminishes the Service’s commitment to the initiative and it isn’t what the Service expects from a supervisor.

Inspector Babiar submitted Det. LaFosse’s oath of office and referenced Exhibit 4, Tab 8, where he swore to discharge his duties as a constable faithfully, impartially and according to law. He further submitted these duties include performing the lawful duties as assigned by the Chief of Police, as outlined in the Police Services Act (PSA) 42(1).

Inspector Babiar submitted that public trust is of paramount importance to policing and all actions taken by police officers must be able to withstand public scrutiny in order to maintain that trust.

Inspector Babiar submitted that he would reference recognition of the seriousness of the misconduct and how this was mitigating, and often called remorse.

Inspector Babiar submitted that Purbrick and the Ontario Provincial Police, Exhibit 5 Tab A, informs that a guilty plea is “one of the most indisputable forms of admission of culpability, wrongdoing and responsibility”.

Inspector Babiar submitted that recognizing the seriousness of the misconduct is vital to the ability to rehabilitate the officer and works hand in hand. He submitted that in assessing Det. LaFosse’s recognition of the misconduct we must look at post conduct, specifically the guilty plea, as it demonstrates both remorse and an acceptance of responsibility.

Inspector Babiar submitted that a guilty plea has long been accepted as recognition of the seriousness of misconduct and referenced Carson and the Pembroke Police Service, Exhibit 5, Tab B, where the Ontario Civilian Commission states “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”.

Inspector Babiar submitted that Det. LaFosse’s guilty plea indicates he has accepted responsibility for this misconduct and demonstrated that he is willing to face the consequences. Inspector Babiar further submitted that this was mitigating.

Inspector Babiar submitted that Det. LaFosse has taken affirmative steps by taking a number of courses via the Canadian Police Knowledge Network (CPKN) on his own accord, and that this was mitigating.

Inspector Babiar submitted that an officer's employment history represents an important disposition factor in all cases. He further submitted that employment history as a mitigating or aggravating consideration closely relates to the disposition consideration of rehabilitation potential.

Inspector Babiar submitted that Exhibit 5, Tab 9 shows that Det. LaFosse has a number of positive documentations on file as well as letters of appreciation, including complimentary activities and letters of appreciation from the public. Inspector Babiar further submitted that there are no previous conduct issues.

Inspector Babiar submitted that Exhibit 5, Tab 10 included Det. LaFosse's performance appraisals from 2018 on. Inspector Babiar submitted that he had reviewed those documents and that Det. LaFosse's employment history overall was mitigating.

Inspector Babiar submitted that consistency of disposition represents one of the basic principles of discipline and flows from the idea that similar misconduct should be treated in a similar fashion, recognizing that no two cases are the same.

Inspector Babiar submitted the case of Schofield and the Metropolitan Police Service as it speaks directly to the issue of consistency. He submitted "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."

Inspector Babiar submitted Gabriel and the Toronto Police Service from June 2011, Exhibit 5 Tab D, where the officer pled guilty and received a disposition of 5 days (40 hours).

Inspector Babiar submitted the facts of this case are substantially that PC Gabriel was accepted as an addiction coordinator and full time referral agent for the newly formed EFAP; that he occasionally interacted with female peers and female clients using unwelcome sexual remarks, jokes or innuendo; that he would ask about their relationships, discuss inappropriate television, and make complimentary comments about their clothing or appearance. Further there was some physical contact, such as placing an arm around them or playfully nudging them in interactions.

Inspector Babiar submitted that in this case the penalty was less, but that PC Gabriel was not in a supervisory role. He further submitted that Det. LaFosse's conduct was aggravating by the fact that he was in a greater position of power and trust.

Inspector Babiar submitted that although the case was dated, it showed that hours can be an appropriate penalty when someone takes responsibility for how their actions affect others even if unintended.

Inspector Babiar submitted Smith and The Toronto Police Service from April of 2019, Exhibit 5, Tab E, where the officer pled guilty to one count of Discreditable Conduct and one count of Insubordination and received a penalty of 40 hours for each count, totalling 80 hours.

Inspector Babiar submitted the facts of this case are substantially that PC Smith acted inappropriately with a member of the public; that he attended a domestic call with his partner and ended up speaking with a male complainant while his partner spoke to a female witness; that a few months later he contacted the complainant advising he needed to speak to the female witness regarding a separate investigation; that he ended up texting the female witness on her personal phone requesting to date her; and that she attended the police station the next day to file a complaint.

Inspector Babiar submitted that the similarities were the text messages that involved a member of the public with one complainant, and that Det. LaFosse's events involved three internal complainants.

Inspector Babiar submitted the case of PC Fernandes of the Toronto Police Service.

Inspector Babiar submitted the facts of this case are substantially that PC Fernandes pled guilty to multiple incidents of misconduct involving seven female complainants and two male witness officers; that the female complainants were all recruits at the time and therefore in a vulnerable position.

Inspector Babiar submitted that the Prosecution requested dismissal and the Defence requested a reduction in rank from First to Fourth Class Constable.

Inspector Babiar submitted the penalty received was one of a 36 month demotion as well as an order to attend Wellness for monitoring of sobriety and wellness, as well as to attend further counselling or treatment as directed by his health care professionals.

Inspector Babiar submitted that this case was much more serious involving multiple incidents and multiple misconducts.

Inspector Babiar submitted that the last factor he wanted to touch on was Specific and General Deterrence.

Inspector Babiar submitted the case of Andrews and the Midland Police Service citing page 18, third paragraph where the commission stated "the penalties imposed for misconduct must be strong enough to send a clear message to other officers that such conduct or any conduct of this nature will not be tolerated."

Inspector Babiar submitted that at page 19, first paragraph, the Commission further stated that a penalty must be “sufficient to punish and deter while not causing undo or excessive hardship while demonstrating that reoccurrence will not be tolerated.”

Inspector Babiar submitted that the penalty delivered must be one that demonstrates to members of the Toronto Police Service that this behaviour won't be tolerated and the standards of conduct must be upheld especially from Supervisors. He further submitted that it communicates to Det. LaFosse that his behaviour was completely unacceptable and if he conducts himself in that fashion again, the Service will take it seriously and it could result in his dismissal.

Inspector Babiar submitted the case of Hominuk and the Toronto Police Service from April 2023, Exhibit 5, Tab H. PC Hominuk was at a homicide scene where he made inappropriate comments, captured on Body Worn Camera. The comments concerned the ancestry, race, or ethnic origin of the suspect and could be construed as offences based on the protected grounds set out by the Ontario Human Rights Code and Service policy. He submitted this matter was resolved by way of a guilty plea and a joint submission of 7 days forfeiture and training with the Service Equity, Inclusion and Human Rights Unit, and this was accepted by the Hearing Officer.

Inspector Babiar submitted the case of Sgt. Liggio and the Toronto Police Service, Exhibit 5, Tab I. Sgt. Liggio was a supervisor who engaged in text conversations and social media that was inappropriate and ought to have known was inappropriate. He submitted this matter was resolved with a guilty plea and a joint submission of 8 days forfeiture, and this was accepted by the Hearing Officer.

Inspector Babiar submitted that both of these cases bear similarities to Det. LaFosse's case.

Inspector Babiar submitted in his conclusion that Det. LaFosse's actions constituted misconduct and the joint submission to penalty was within an appropriate range for conduct of this nature.

### Defence Submissions

The Defence, Mr. Norton, opened his submissions with the threshold to reject a joint position, the joint position of Toronto Police Prosecution Services and Defence being 7 days (56 hours), and referred to the case of Cook.

Mr. Norton submitted that the "meat on the bone" could be found at paragraph 5 setting out the test with respect to rejecting a joint position, essentially that the adjudicator should accept a proposed joint position unless it is so far out of line as to send the administration of justice into disrepute.

Mr. Norton submitted that rationale for imposing such a high position on judicial officers is to allow the parties to negotiate with certainty about the outcome, to streamline the resolution process, and simplify the Tribunal process itself.

Mr. Norton submitted that at Tab 1 of his Book of Records is the internal resume of Det. LaFosse which provides background into his career with the Service. He submitted that Det. LaFosse has been with the Service for 24 years, the majority of which he has been at 43 Division.

Mr. Norton submitted that he was hired in October of 1999 and posted in 42 Division. He transferred to 43 Division in 2006 where he spent time in the Primary Response Unit, the Major Crime Unit and Traffic.

Mr. Norton submitted that Det. LaFosse was promoted in 2014 to Sergeant when he transferred to 41 Division for a year and a half, then returned to 43 Division, where he became a Detective in General Investigation.

Mr. Norton submitted that in February of 2022 Det. LaFosse became a Detective in the 43 Major Crime Unit and in July of 2022, following the allegations, he was placed on administrative duties in the CIB.

Mr. Norton submitted that Det. LaFosse did a short three month term as a PRU Sergeant and then unfortunately went back to administrative duties in the CIB in January of 2023, where he has remained until present day.

Mr. Norton submitted that all of this information is documented in Tab 1 of the Defence Book of Records.

Mr. Norton submitted that he differs in position from Prosecution as to the nature and gravity of the seriousness of the misconduct. He submitted that this misconduct is on the lower, if not the lowest, end of the seriousness spectrum.

Mr. Norton submitted that the Agreed Statement of Facts provides the context to make this submission.

Mr. Norton submitted that in the month of July, 2022, Det. LaFosse made three isolated singular comments to other members of the Toronto Police Service.

Mr. Norton submitted that he wished to breakdown each one of the incidents.

Mr. Norton submitted that with respect to the homicide scene, Det. LaFosse, along with other members of the Service were met with an angry crowd. He submitted that they were yelling, screaming and accosting those members. He submitted that the crowd was



actively interfering with police efforts, not only to secure and maintain a homicide scene, but with life saving efforts as well.

Mr. Norton submitted that Det. LaFosse attempted to “stick handle” the situation and commence an investigation.

Mr. Norton submitted that Det. LaFosse actively communicated with the crowd to deescalate the situation; he told the crowd that the police were there to help, and he directed the crowd to move back and exit the scene.

Mr. Norton submitted that Det. LaFosse was not surprisingly frustrated with the scene and walked away from the crowd and spoke to other officers in private and made the comment that he did.

Mr. Norton submitted that the comment made was not made directly to the crowd which is contrary to the allegations that were set out in the original Notice of Hearing, count one. He further submitted that the comment was not said to their face, it was said to other officers in private.

Mr. Norton submitted that the Agreed Statement of Fact was important as it provides context to explain why the comment was said, an expression of frustration with the crowd.

Mr. Norton submitted that police were there attempting to do their job, to assist, to render assistance, and they were met with disrespect.

Mr. Norton submitted that with respect to the Gender Diversity and Trans Inclusion training, again, the Agreed Statement of Fact is very helpful as it provides context to the comment made by Det. LaFosse.

Mr. Norton submitted that Det. LaFosse was reminding members of his team, in passing, about the need to complete a mandatory course by a specific deadline.

Mr. Norton submitted that this was again a singular isolated comment.

Mr. Norton submitted that the Agreed Statement of Facts is agreed to by Prosecution Services in this case and this again provides context as to why he said what he did. He submitted that Det. LaFosse could not recall the exact name of the course.

Mr. Norton submitted that focusing on Det. LaFosse's intention, he strongly disagreed with the Prosecution's submission that "intent is immaterial".

Mr. Norton submitted that it cannot be immaterial and that the intent of Det. LaFosse as agreed to by Prosecution Services, quoting the ASF, "he did not mean for the short forming of the course name to be derogatory".

Mr. Norton submitted that the Agreed Statement of Facts eliminates any speculation about any nefarious intention behind the comment, and that he did not have any intention to disparage, insult or be offensive.

Mr. Norton submitted that from a legal perspective, the Tribunal must accept the facts in the Agreed Statement of Facts as indisputable facts on the disposition.

Mr. Norton submitted that during the citizen phone call, as set out in the Agreed Statement of Facts, Det. LaFosse, as a case manager of 43 Division, was assisting a caller with information about bail conditions and related bail documents. He submitted that it was only when Det. LaFosse refused to accede to the caller's other demands that she became displeased.

Mr. Norton submitted that this was not a situation where Det. LaFosse outright refused to help. He submitted that Det. LaFosse explained to the caller why he couldn't accede to the request and that led to the mutual frustration.

Mr. Norton submitted that Det. LaFosse did not make the comments to the caller but made them to a fellow colleague after the call.

Mr. Norton submitted that the Agreed Statement of Facts provides context of the utterance, the level of frustration, mutual frustration, Det. LaFosse toward the caller and the caller toward Det. LaFosse. He further submitted when you take this in totality and the context in which the utterances were made, this was on the lower end of the seriousness spectrum. This is the basis of his submission.

Mr. Norton submitted that with respect to the damage to the reputation of the Service, this was an internal investigation and he concedes that there was publicity with respect to this matter.

Mr. Norton submitted that Tab 3 of the Defence Book of Records provides a CTV news article from January 21<sup>st</sup>, 2023, which was shortly after the first appearance.

Mr. Norton submitted that the title of the article was "Toronto Police allege Detective refused to help victim amongst series of racist, homophobic tirades" and that this was based on the original Notice of Hearing filed on January 17<sup>th</sup> of this year.

Mr. Norton submitted that with respect to the media coverage of the allegations as set out in the original Notice of Hearing, there was far more damage to Det. LaFosse's reputation than to that of the Service.

Mr. Norton submitted that the personal impact to Det. LaFosse cannot be minimized or ignored.

Mr. Norton submitted that the media report and the original Notice of Hearing paint Det. LaFosse as being racist and homophobic.

Mr. Norton submitted that the allegations as set out in the Notices of Hearing on which the media reported are completely unfounded and untrue. He submitted that this publicly humiliated Det. LaFosse and caused him personal embarrassment.

Mr. Norton submitted that the conclusions about Det. LaFosse in the article are somewhat typical in that there were assumptions and prejudgement, and that Det. LaFosse was essentially prejudged to be racist and homophobic, and he believed this conclusion was made in an informational vacuum.

Mr. Norton submitted that the “derogatory” homophobic comments regarding the LGBTQ2+ community are completely unfounded and untrue. He submitted that as we know from the Agreed Statement of Facts, Det. LaFosse forgot the specific training course name and short formed it, one time. He submitted that this was the extent of the derogatory comments made, in the plural, about the LGBTQ2S training. He submitted that this was the basis of the media publicizing that Det. LaFosse went on a homophobic tirade. He submitted that again, as Prosecution Services concedes, Det. LaFosse had no intention to be derogatory when he made this comment.

Mr. Norton submitted that with respect to the allegation that Det. LaFosse made racist or anti-Black comments, this didn't just hit close to home for Det. LaFosse, but that it literally hit home. He submitted that Det. LaFosse's family is of mixed race and his spouse/wife is bi-racial and that her maternal side of the family is Black. He submitted that her grandfather fled from South Africa to Canada due to the persecution faced by the Apartheid regime.

Mr. Norton submitted that the suggestion that Det. LaFosse is racist or that he harbours any ill will or hatred towards Black people is not only preposterous, but that it is absolutely insulting. He submitted that you could imagine the situation over the past 18 months when you're interacting with your loved ones, your spouse, your children, your extended family in the face of these allegations of racism and being anti-Black. He submitted that this has caused major friction in his home and amongst his extended family. He further submitted that these allegations have not only adversely affected him, but it has taken a psychological toll on his entire family.

Mr. Norton submitted that to further address the allegations of being racist and anti-Black, at Tab 4 of his Book of Records, he has provided proof that since 2006, over the last 17 years, Det. LaFosse and his wife, through the World Vision Organization, have sponsored impoverished children in Africa and the Middle East.

Mr. Norton submitted that Det. LaFosse is here and has acknowledged his misconduct, however the conduct has nothing to do with making homophobic or racist anti-Black comments.

Mr. Norton submitted that that the damage done by these unfounded allegations and inaccurate labels of being racist or homophobic will haunt Det. LaFosse for years and make any subsequent post TPS employment opportunities very difficult to obtain. He further submitted that a simple Google search of his name results in the links being populated immediately.

Mr. Norton submitted that based on this, acknowledging there was dissemination of this particular case, any damage done to the reputation of the Toronto Police Service was vastly out-weighed by any personal and professional damage to the reputation of Det. LaFosse.

Mr. Norton submitted that when an officer runs afoul of the PSA they are entitled to fall back on their Service record. He submitted he has Det. LaFosse's resume at Tab 1 of his Book of Records, and the Prosecution submitted in Tab 9 of their Book of Records, the awards and commendations presented to Det. LaFosse over his 24 year career. He submitted that he has seven letters of appreciation and 25 UC awards commendations. This includes, from Tab 2 of the Defence Book of Records, two additional courses, that are not noted in his most recent evaluation, as well as being awarded, in late 2020, the Police Exemplary Service Medal, awarded by the Governor General.

Mr. Norton submitted that these awards and commendations note his professionalism, his enthusiasm, positive attitude, and leadership skills. He submitted that they vary in his involvement from assisting with investigations which resulted in the seizure of firearms, to locating a 90 year old male with dementia who would have likely frozen to death, and assisting in the capture of a vicious animal which had already injured several people in the GTA.

Mr. Norton submitted that Det. LaFosse's performance appraisals and development record from the Prosecution's Book of Records at Tab 10 are for a 5 year period and provides a snapshot of a competent and dedicated officer. He submitted that every appraisal without question he exceeds and surpasses every and all expectations of the standards placed on his shoulders. He submitted that he is superior in nearly every category.

Mr. Norton submitted that his most recent evaluation notes at page 1, dealing with the self-initiated developmental courses, he has completed 18, including Management of Unconscious Bias, Cultural Awareness, Ethics, Customer Service in the Police Environment, Victims Rights, Anti-racism in the work place and two additional courses where the certificates are included in the Defence Book of Records at Tab 2.

Mr. Norton submitted that he wished to note some comments about Det. LaFosse made by those who know him to provide insight into who he is. He submitted in his most recent performance appraisal, May 2022-May 2023, his Unit Commander highlighted Det. LaFosse's positive outlook and contribution to the Toronto Police Service despite being the subject of disciplinary action and being laterally moved within 43 Division. He stated "Jeff is a capable, smart, very competent, hard working supervisor. He is someone that can be relied upon to get tasks done and to hold his people to account. I will say that even though Jeff has been the subject of an internal investigation, no one would ever know it. He has continued to come to work with a positive attitude, accepted each transition or change in his supervisory duties without complaint and has conducted himself in a professional manner in each role."

Mr. Norton submitted that Det. LaFosse's Unit Commander's performance comments from 2020-2021 were, "Jeff is a very well rounded supervisor who possesses rock solid work ethic. He definitely has excellent problem solving skills and is not afraid of making decisions. All good traits for a supervisor to possess. Thank you for your hard work over the past year Jeff."

Mr. Norton submitted that his supervising Staff Sergeant for 2018-2019 stated "Det. LaFosse is currently in his 20<sup>th</sup> year of policing. He has mentored many young investigators during his tenure in the CIB. Jeff has notably volunteered to remain in the CIB to allow a smooth transition of the management of the C Platoon Detective office. He is a learned individual who is an accomplished Detective and I appreciated his updates on all serious investigations wherein he is case manager. His updates are always informative and concise and excellent for sharing. Thank you Jeff for your leadership and work ethic."

Mr. Norton submitted that he briefly wished to address specific deterrence and that it was satisfied in this case as Det. LaFosse accepts responsibility without excuse.

Mr. Norton submitted that in the same vein general deterrence is satisfied as the Tribunal's decision will be disseminated on the Service's internet and other officers will understand that there are consequences for making similar utterances to other TPS personnel and will therefore deter them from making the same mistake.

Mr. Norton submitted that with respect rehabilitation, one of the most significant factors when imposing penalty is, as the saying goes, one can dictate a person's future based upon past actions, and if this is true then Det. LaFosse's prospects for rehabilitation are excellent. He further submitted that he has an unblemished 24 year career, a career that's highlighted by awards and positive performance appraisals since joining the Service in 1999.

Mr. Norton submitted that his comments in June of 2022 were a lapse in judgement and a mistake that won't happen again. He further submitted that his evaluation reports can't be ignored and they highlight that Det. LaFosse is deserving of another opportunity to demonstrate that this was a brief and certainly regrettable departure from an otherwise excellent service career.

Mr. Norton submitted that the Prosecutor also noted the unique circumstances and that the most mitigating factor in this case was the acknowledgement of guilt. He further submitted that it's very significant that Det. LaFosse is not blaming others and is holding himself accountable for his actions and has admitted responsibility. He further submitted that this saves the Toronto Police Service the cost of litigating the matter, and that when he attended Professional Standards for an interview, he was cooperative with investigators and admitted the comments.

Mr. Norton submitted that the Prosecution submitted that the comments were inconsistent with the core values of the Toronto Police Service, but the actions today of Det. LaFosse were wholly consistent with the Services core values. We are all human, whether we wear



a badge or not, and we all make mistakes. He submitted it's important to take ownership of them and accept responsibility and the consequence and move forward.

Mr. Norton submitted that he had touched briefly on the personal consequences and the professional impact to Det. LaFosse and he wished to highlight two others. He submitted that this was obviously a long path to get here, approximately 18 months, and that stress and anxiety come along with the process. Being served a Notice of Investigation, conducting a Professional Standards interview, having a Notice of Hearing served on him, being called before the Tribunal and pleading guilty here today, and the imposition of a penalty have impacted his stress and anxiety.

Mr. Norton submitted that there have also been wellness consequences and that Det. LaFosse has advised him that he has, throughout the process, sought psychological counselling to deal with the day to day stresses that this matter has brought about.

Mr. Norton submitted that not surprisingly, as he has moved within the Service, there has also been a financial consequence for Det. LaFosse. He further submitted that Det. LaFosse has advised him that he estimates he has lost approximately 15 thousand dollars to date as a result of loss of Paid Duty income and Callback eligibility.

Mr. Norton submitted that this is primarily due to the evolution of this case. He submitted that in June 2022, due to the allegations being brought forward, as noted in his resume, he was removed from his position in the MCU and placed on administrative duties. He further submitted that in September he was assigned to uniform, Primary Response, but a short time later, in December of 2022, when the Notice of Hearing was served on him he was advised by a supervisor that based on the allegations he could no longer supervise others and was returned to administrative duties in the CIB.

Mr. Norton submitted that in February of 2023, Det. LaFosse inquired about doing paid duties and call-backs and due to allegations was served a 649 by a Supervisor prohibiting

him from having any contact with the general public and that included any paid duties and call-backs. He also had his Service firearm taken away and forced to miss the Use of Force requalification and for those reasons there was a financial consequence to him.

Mr. Norton submitted that there is also a formal professional stigma attached to the misconduct that will remain with him for quite a long time. The McNeil reporting requirements require him to report for a period of five years when called to testify in court. He will likely lose out on professional opportunities, career advancement would possibly, if not likely, be derailed and based on all of this, there is a professional humiliation attached.

Mr. Norton submitted that with respect to consistency, the cases of Hominuk and Liggio, not directly on point, but have narrowed the field with regards to an appropriate disposition. He submitted that this is why the joint position was advanced to the Tribunal for 7 days or 56 hours forfeiture and that it is in the range of acceptable dispositions. He said it is an appropriate penalty in this case and, on behalf of Inspector Babiari, requested that I accede to that joint position.

#### Prosecution Reply

Inspector Babiari submitted that the Defence had characterized the word de-escalation with respect to the homicide scene and the word de-escalation was not included in the Agreed Statement of Fact.

Inspector Babiari submitted that while he recognizes that there is some form of stress and anxiety associated with the process, there is no evidence before me with respect to any psychological counselling or other medical evidence that would allow me to make findings of such impacts.

Inspector Babiar submitted that, with respect to the economic cost, it is well within the Unit Commanders', in fact the Chief's purview to assign members, suspend members, and re-assign them. Those are all labour issues. He understands that the member has been re-assigned to administrative tasks, however the original notices indicated a larger picture that needed to be investigated. It was investigated and during the investigative phase, it was totally appropriate for the Unit Commander to take the steps they deemed suitable, and these were all labour issues.

## Analysis

I would like to start my discussions 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

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

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.

Both Prosecution and Defence made submissions highlighting almost all the following areas:

- Public Interest
- Seriousness of the Misconduct

- Recognition of the Seriousness of the Misconduct
- Employment History
- Potential to Reform or Rehabilitate the Police Officer
- Damage to the Reputation of the Police Service
- Specific and General Deterrence
- Consistency of Disposition

The Prosecution submitted the following cases in their Book of Authorities and Book of Records.

The Defence submitted a Book of Records but did not submit a Book of Authorities and relied on the Prosecution's submission. The Defence did however submit the case of R Vs Anthony-Cook Oct 16<sup>th</sup>, 2016.

The Prosecution submitted the public interest arises when the misconduct has offended or undermined the public confidence in police or would do so. He submitted that with no doubt, Det. LaFosse's actions have implications to the public trust that we as an Organization strive to uphold. The Defence made no submissions with respect to Public Interest.

The Toronto Police Service code of conduct dictates, "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 Toronto Police Service members to conduct themselves and discharge their duties with diligence, professionalism and integrity; practice fairness and equality in their official dealings with the public; comply with, and be seen to act within the spirit and letter of the law; act in the public interest and give priority to official duties and responsibilities."

The conduct as set out in the Agreed Statement of Fact, does not meet the higher standard expected and would undermine the public's confidence in the Service and therefore would have implications with respect to public trust in the Service. I accept the Prosecution's submission and agree that this factor is aggravating.

Both Prosecution and Defence made submissions to the seriousness of the misconduct. The Prosecution submitted that it was serious, the Defence submitted that it was less serious.

The Prosecution submitted it is serious, as Det. LaFosse is a supervisor and therefore has an expectation to lead by example, employ ethical decision making, to demonstrate integrity, as well as professionalism and accountability. He further submitted that Det. LaFosse agreed to convey these qualities when he accepted the rank of supervisor.

The Defence submitted that it was less serious and relied on the Agreed Statement of Facts and provided context to the events, stressing the circumstances and lack of nefarious intent.

When Det. LaFosse attended the Homicide scene, it was described as a very dynamic situation where he was met with a crowd that was in a highly charged mood. This is unfortunately not an unusual occurrence and I would expect any officer much less a Supervisory Officer with 24 years of policing experience to have the maturity and professionalism to not make an unprofessional comment out of frustration to co-workers regardless of whether it was being captured by a body worn camera. The fact that it was captured on body worn camera with a high degree of probability that it could potentially be disclosed during any court proceeding resulting from this incident is further concerning as its disclosure would surely bring further damage to the reputation of the Service. As such I find this to be more serious.

Det. LaFosse's intent with respect to his comment about the GDTI training, which violated a protected ground of the Ontario Human Rights Code, is in fact immaterial as submitted by the Prosecution. Whether or not Det. LaFosse intended insult with his comments with respect to the GDTI does not negate the fact that it is misconduct. Further, the intent does not diminish the impact that his conduct would have on his subordinates and co-workers. I find this to be more serious.

With respect to the citizen telephone call. At times in policing, interaction with members of the public can lead to frustration. We as a Service and the public still expect our members to be professional at all times and as our core values dictate to "do the right thing" and "connect with compassion". In this incident Det. LaFosse was dealing with a victim of domestic violence. Although his comments were not heard by the member of the public they were heard by members of the Service and were completely in contravention of what our core values stand for. The fact that Det. LaFosse was a Supervisor making those comments in front of subordinates complicate and heighten the level of seriousness.

Taking all of the submissions with respect to the seriousness into consideration, I believe the collection of comments to be more serious, and the fact that Det. LaFosse was a Supervisor making those comments even more so. I find this to be aggravating.

Both Prosecution and Defence agreed that Det. LaFosse has accepted responsibility for his actions by way of a guilty plea and this speaks to his recognition of the seriousness of his misconduct and his willingness to face the consequences. I agree and find this to be mitigating.

Both Prosecution and Defence agreed that Det. LaFosse has an excellent employment record with no prior conduct issues. Both agreed that his evaluations are almost all superior or exceeds with very favorable comments by his supervisors and Unit

Commanders. I have reviewed Det. LaFosse's employment history and agree with Prosecution and Defence and find this to be mitigating.

Both Prosecution and Defence agree that Det. LaFosse's employment history point to excellent potential to reform/rehabilitate. I agree with both Prosecution and Defence that his previously unblemished career and multiple commendations indicate he has the potential to continue his career without further disciplinary issues. Det. LaFosse has admirably engaged in taking multiple online courses since the events that brought him to the Tribunal, which will hopefully assist him going forward and is indicative that he's actively trying to reform.

While I recognize and accept the Agreed Statement of Facts, I do have concern about Det. LaFosse's "short forming" of the course named Gender Diversity and Trans Inclusion Training (GDTI). I note that ten days before making that particular comment he had completed the on-line GDTI training. Had Det. LaFosse had a full appreciation of the contents of that course, he would have known that calling the course "the gay and lesbian course" is not in fact an accurate short form. The course is about Gender Diverse and Trans individuals and is not about the gay or lesbian communities. Each one of the letters and lone number in the acronym 2SLGBTQ+ represents a separate and unique community that has been historically marginalized and deserves recognition of their uniqueness. This is part of the reason the GDTI exists, as well as to provide deeper understanding for our members and enable them to treat Gender Diverse persons with respect, humanity and dignity as required by the Ontario Human Rights Code (OHRC), as Gender Expression/Identity are protected grounds under the OHRC. Det. LaFosse's comment was clearly not demonstrative of that understanding and respect.

For this reason I believe that further individual in person training would help ensure Det. LaFosse succeeds going forward. Including but not limited to, his appreciation of marginalized communities such as these, so as to avoid finding himself back before the Tribunal.

I agree with Prosecution and Defence that Det. LaFosse shows potential to reform and rehabilitate and I agree that it is mitigating.

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. Det. LaFosse's conduct compromised the trust that the public places in the police. 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.

Det. LaFosse swore an oath of office to discharge his police duties according to law. As a result of his conduct, Det. LaFosse has undermined the credibility, reputation and the Core Values of the Toronto Police Service.

The CTV article submitted by defence was referenced by both Defence and the Prosecution. The headline "Toronto Police allege Detective refused to help victim amid series of racist, homophobic tirades" clearly has potential to damage the reputation of the police service and most likely did. Both the Prosecution and Defence agreed on this.

Defence submitted that the damage to Det. LaFosse's personal reputation clearly outweighed the damage to the Service's reputation.

Defence made extensive submissions to address allegations of racism or anti-Black sentiment. Presumably to address the contents of the news article. Defence put forth Det. LaFosse's familial circumstances and he and his wife's support of impoverished children in Africa and the Middle East to refute any implications of Det. LaFosse being racist or anti-Black. I note that the Agreed Statement of Facts does not include any allegations that have racial or anti-Black overtones and as such, consider those submissions to be neutral to my decision.



While I recognize that the damage to Det. LaFosse's reputation was most likely significant to him and will continue to be, the damage to his reputation is as of a direct result of his chosen conduct. This is always a potential consequence when one runs afoul of the Police Services Act Code of Conduct. Further, no matter how significant his personal reputation has been damaged, that does not negate the damage to the reputation of the Service nor does it diminish it. These are two separate issues and this Tribunal is only concerned with the reputation of the Service when weighing this as aggravating, mitigating or neutral.

The damage to the reputation of the Service is clear and therefore aggravating.

The balance to be reached in addressing specific and general deterrence is to ensure that any penalty imposed not be overly punitive, while sending a clear message to Det. LaFosse, the rest of the Service, and the Public that such misconduct is viewed seriously and those who commit misconduct will be held accountable.

In this case, specific deterrence is likely an objective which has already been met. Det. LaFosse has indicated that he fully accepts responsibility for the seriousness of his actions and is willing to accept an appropriate penalty as a result. The proposed 7 day penalty is noteworthy and is within the range for similar misconduct. Det. LaFosse must also be aware that an increased sanction may be sought if he commits similar misconduct in the future.

With respect to general deterrence, a formal hearing process and subsequent posting of the disposition, both internally and externally, will send a clear message throughout the Police Service that this misconduct is viewed seriously.

In Schofield, the Ontario Police Commission noted: "Consistency in the discipline process is often the earmark of fairness. The penalty must be consistent with similar cases that

have been dealt with on earlier occasions.” The penalty in this case must be consistent with sanctions imposed in previous cases with similar circumstances. It is my responsibility to ascertain the appropriate range of penalties available to the Tribunal based on the cases provided by the Prosecution and supported by the Defence. Additionally, I must apply the appropriate weight to each of the relevant disposition considerations and identify where in the range Det. LaFosse sits, based on the pertinent penalty principles.

I have reviewed the cases submitted by the Prosecutor, which were supported by Defence. This is a case where there are no exact comparator decisions. However the cases involve comparable elements. The submitted cases provide good direction as to the range of penalty, 5 to 8 days, as well as aggravating and mitigating factors. The decisions were helpful in confirming that the nature of this misconduct was serious and the proposed joint penalty, 7 days 56 hours, is within the range.

Defence gave submissions that the stress and anxiety of the entire process led to Det. LaFosse seeking counseling to manage that stress. While I find it admirable that the officer sought help I note that there is no evidence that was submitted to the Tribunal to support this submission and consider this information to be neutral.

Defence gave submissions with respect to Det. LaFosse having an estimated loss of fifteen thousand dollars as a result of the assignment to administrative duties. I note again that no evidence was submitted to the Tribunal to support this submission. Even if evidence of economic loss had been submitted I am of the opinion that Paid Duties and Call-Backs are a privilege and not a right. I also take note that the Prosecution correctly replied to this submission that this is a labour issue, and as such is neutral to my decision making process.

Defence made submissions with respect to each incident and described them multiple times as singular or solitary. I note the dates of the allegations from the Agreed Statement

of Fact, June 5<sup>th</sup>, 2022, June 8<sup>th</sup>, 2022, June 21<sup>st</sup>, 2022, are all within 16 days of each other. I could agree that each allegation on its own could be described as singular or solitary. However, the three incidents within such a short time frame suggest to me that these are not singular or solitary but are in fact indicative of pattern of behaviour. I find this to be aggravating.

If this matter had not been put forward with a joint position that was within the range of acceptability I have no doubt that I would have been considering a far greater penalty. I advise Det. LaFosse to heed the principle of progressive discipline. Any further misconduct may impede or jeopardize his position as a Supervisor or usefulness to the Service.

With respect to procedural fairness, Det. LaFosse has been represented by experienced counsel throughout the process.

I have considered the submissions by the Prosecution and Defence. I have examined the exhibits, reviewed the historical cases provided and have considered the mitigating and aggravating factors. I am aware that I am not bound by the joint submission on penalty, but on the totality of the evidence before me, I have no compelling reason to depart from the joint submission of the Prosecutor and Defence save for the addition of a training component.

Disposition:

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

For Discreditable Conduct in that Det. LaFosse is guilty of: acting in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member;

Forfeiture of 7 days or 56 hours pay.

Det. LaFosse 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 – Equity, Inclusion and Human Rights Unit to Inspector Jack Gurr, or his designate, and seek and complete training and education as Toronto Police Service – Equity, Inclusion and Human Rights Unit sees fit.

Prosecution and Defence submitted a new Notice of Hearing for one count of Discreditable Conduct replacing the original, which was four counts of Discreditable Conduct and one count of Insubordination. Those remaining counts of case 77/2022, were marked withdrawn at the request of the Prosecution.



Suzanne Redman  
Inspector  
Hearing Officer

February 9th, 2024

Appendix 'A' - List of Exhibits 77/2022  
Detective Jeffrey LaFosse #7704

(Exhibit 1) Letter of Delegation: Inspector Suzanne Redman

(Exhibit 2) Letter of Designation: Inspector John Babiar

(Exhibit 3) Agreed Statement of Fact

(Exhibit 4) Prosecution Book of Records

A Purbrick and the Ontario Provincial Police, OCPC May 25, 2011

B Carson and Pembroke, OCPC, July 27, 2001

C Schofield and the Metropolitan Police Service, OCPC, October 29, 1984

D Gabriel and the Toronto Police Service, June 7, 2011

E Smith and the Toronto Police Service, April 9, 2019

F Fernandes and the Toronto Police Service, August 23, 2021

G Andrews and the Midland Police Service, OCCPS, May 1, 2003

H Hominuk and Toronto Police Service, April 25, 2023

I Liggio and Toronto Police Service, September 28, 2023

(Exhibit 5) Prosecution Book of Records

1 Police Discipline Process Chapter

2 2017 Ontario Police Services Act by Paul Ceysens and Scott Childs, pp. 314-317

3 Toronto Police Service Standards of Conduct, Introduction by Chief Mark Saunders

4 Ontario Police Services Act, section 43(1)

5 Ontario Police Services Act, section S.42(1)

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

7 Toronto Police Service Core Values

8 Oath of Office, Sergeant Jeffery La Fosse (7704)

9 TPS 950, Awards and Letters of Recognition of Sergeant Jeffery La Fosse (7704)

10 TPS Performance Appraisals of Sergeant Jeffery La Fosse (7704)

(Exhibit 6) Defence Book of Records

1 Internal Resume

2 Course Certificates

3 CTV News Article

4 World Vision Sponsorship