



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

IN THE MATTER OF THE
THE TORONTO POLICE SERVICE
AND CONSTABLE Christopher Acorn (65647)

Charge # 1: Deceit (Withdrawn)
Charge # 2: Discreditable Conduct (Guilty)

PENALTY DECISION

Hearing Officer: Superintendent Michael Barsky; Toronto Police Service

Prosecutor: A/Inspector Shane Branton, Toronto Police Service

Defence Counsel: Mr. G. Clewley

Public Complainant: Mr. Geoffrey Pratt

Case Number: 10.2017

Hearing Dates: 2017.12.11

Decision Date: 2022.08.31

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

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

PART I: OVERVIEW

Background

1. PC Christopher Acorn (65647) commenced his employment with the Toronto Police Service (TPS) in 2002. PC Acorn presently holds the rank of First Class Constable and is assigned to 33 Division.

Allegations of Misconduct

2. Constable Christopher Acorn (65647), being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force, contrary to section 2(1) (a) (xi) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990 as amended.

Plea

3. On Monday, December 11th, 2017 Constable Christopher Acorn (65647), pleaded guilty and was found guilty of Discreditable Conduct, contrary to the Police Services Act.

Decision

4. I have carefully considered the joint submission and relevant information presented by both the Prosecutor and Defence Counsel as well as reviewed previous Tribunal Decisions. In light of the mitigating and aggravating circumstances, and in particular, the seriousness of the matter, I impose the following sanction under Section 85(1) (c) of the Police Services Act (PSA).
5. I find that PC Acorn is guilty of: Discreditable Conduct – Forfeiture of fourteen days or 112 hours pay.

PART II: THE HEARING

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. S. Clewley represented PC Acorn and A/Inspector Branton represented the TPS.

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:

PC Christopher Acorn #65647 has been a member of the Toronto Police Service since 2002. PC Acorn is presently attached to 33 Division.

On Saturday, September 3, 2016, between the hours of 9:30 a.m. to 3:30 p.m., PC Acorn was hired by the Metro Toronto Convention Centre to perform a paid duty at the 255 Front Street in the City of Toronto. PC Acorn's duties included assisting vehicles leaving the parking lot's west entrance located at Front Street West and John Street.

Upon arrival at the paid duty site PC Acorn parked his personal vehicle in the employee parking area. A security officer advised PC Acorn that he was not allowed to park at that location. PC Acorn became involved in a verbal altercation with the security officer, Mr. Geoffrey Pratt, over parking. PC Acorn eventually moved his vehicle to another location.

During the tour of duty PC Acorn initiated a Highway Traffic Act investigation against Geoffrey Pratt. The investigation culminated with PC Acorn telling Geoffrey Pratt, he would be receiving a Provincial Offences Ticket in the mail. PC Acorn provided no details as to the type of infraction that Mr. Pratt was alleged to have been committed.

PC Acorn issued a Provincial Offences Ticket for Geoffrey Pratt.

PC Acorn's account of the incident was not consistent with what actually took place, namely:

- *PC Acorn stated that you directed all pedestrians to stop*
- *PC Acorn stated that his (Geoffrey Pratt's) actions caused a delay for cars exiting the garage due to him crossing against the light*

PC Acorn subsequently completed the notes section for this investigation in the Versadex program. PC Acorn's notes were not consistent with what actually took place.

PC Acorn improperly used his authority and targeted Geoffrey Pratt.

PC Acorn is guilty of discreditable misconduct contrary to S.80 (1) (a) of the Police Services Act of Ontario.

Positions on Penalty

8. The positions on penalty are in congruence. Defence and Prosecution agree by joint submission in a forfeiture of fourteen days or 112 hours pay.

A summary of A/Inspector Branton's and Mr. Clewley's submissions, in support of this position, follows.

Witnesses

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

Submissions

Prosecution Submissions

10. The Prosecutor – A/Inspector Branton began his submissions by entering a Book of Authorities (Exhibit 4), a Book of Records (Exhibit 5).
11. A/Inspector Branton submitted that the facts in this case are straightforward, the misconduct is clear and the disposition proposed is consistent with previous cases and satisfies the principals of our discipline system.
12. He outlined the objectives of discipline, which are to: correct unacceptable behaviour, deter others from similar behaviour, and assure the public that the police are under control.
13. A/Inspector Branton highlighted that there are fifteen considerations governing the determination of an appropriate disposition and they can be found in Section 5.10(e) in the **2014 Legal Aspects of Policing Manual** by Paul CEYSSSENS; these principals were submitted at Tab 1, in Exhibit 5. The Prosecution fully considered all of these principles and in the submissions to penalty, noted the following as particularly relevant in this matter.

14. A/Inspector Branton submitted that PC Acorn's actions have *public interest* implications as it relates to the public trust. He reiterated the necessity for the public to be assured that the police are under control, and that PC Acorn had breached that trust and confidence of the public at large. For this reason PC Acorn is being held accountable for his conduct and that is what society expects from its Police Service.

15. A/Inspector Branton brought my attention to Exhibit 4, Tab B – 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.*"

16. A/Inspector Branton then referenced Exhibit 5, Tab 2, which contained the criteria for hiring a police officer in the PSA. He highlighted that at section 43(1) (d) the mandated need for an officer to be, "*of good moral character and habit*". A/Inspector Branton 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, PC Acorn's conduct does not meet the standard expected by either the TPS or the Public.

17. The importance of public trust was addressed by the Prosecutor with reference to Exhibit 5, Tab 3; of the submitted Book of Records. Herein, the importance of public trust is further addressed by then, Chief of Police William Blair, in the Foreward section of the Toronto Police Service Standards of Conduct
"I want to impress upon you...maintaining the trust and support of the public."

"the single most important role you (the member) fulfil is maintaining the trust and support of the public. In every interaction with members of the public or co-

*workers, you must conduct yourself lawfully, professionally and ethically....
Ultimately, you are responsible for ensuring that your conduct is above reproach.”*

It is without a doubt, that we as police officers are held to a higher standard. A standard that the public; the Service at large; our friends and family expects us to maintain. This is stipulated in the *Introduction* section of the Toronto Police Service Standards of Conduct which is found at Tab 4 of the Book of Records. The Chief stated,

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

18. The importance of public trust is further addressed by the Prosecutor with reference to Exhibit 5; the submitted Book of Authorities, at Tab B – the Bright, Konkle and the Niagara Board of Inquiry decision speaks to the issue of good character at top of page 13

“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.” The prosecution submitted that PC Acorn’s actions were contrary to the needs of the Service to ensure that the police are under control.

19. With regards to the *seriousness of misconduct*, A/Inspector Branton added, that PC Acorn’s conduct is no doubt serious misconduct and is an affront to our stated standards and values. The Prosecutor referenced Tab 5 of the Book of Records which contained the Toronto Police Service Core Values. The prosecution submitted that by the actions of PC Acorn he undermined all of these values.

20. The Prosecution referenced Constable Acorn’s Oath of Office is found at Tab 6 of the Books of Records. On September 6th, 2007 he swore to discharge his duties

as a constable faithfully, impartially and according to law. These duties, as outlined in the *Police Services Act* (PSA) 42(1), include performing the lawful duties as assigned by the Chief of Police.

The Prosecution submitted public trust is of paramount importance to the policing profession and all actions taken by police officers must be able to withstand public scrutiny in order to maintain that trust. The public has placed their trust in our officers to uphold their Oath of Office and Constable Acorn has broken that trust by his unacceptable Conduct. His actions were contrary to the needs of the Service to ensure that the police treat all persons with dignity and respect.

21. The Prosecutor referenced the Commission's decision in *Jeary and Waterloo*, at Tab A, page 12. The Commission reiterated a statement found in the matter of PC Thompson and Chatham police: "*This Commission takes a serious view of deliberate disobedience of orders, properly authorized by statute by authorities given responsibility under the Statute.*" Then starting at paragraph 3, the Commission went on to say;

"The Commission is of the opinion that if the decision as to whether or not a lawful order should be obeyed is a subjective one, then chaos must be the result and the complete breakdown of policing which would undermine the force to a degree to make it impotent and create anarchy".

The Prosecutor submitted PC Acorn did just that; he deliberately took action and targeted a member of the public. He charged a member of the public for an infraction that did not occur.

22. On the principle of *recognition in the seriousness of misconduct*, the Prosecutor referred to Christian and Grbich and Aylmer, 2002, OCCPS (Exhibit 6, Tab D). He drew attention in the decision to the fact that, in 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.*

23. A/Inspector Branton highlighted from the same decision that the Commission has also instructed that there are other factors to be considered in light of a particular misconduct which include the *recognition of the seriousness of the misconduct*, the *employment record*, the *public interest* in the administration of justice, general and specific deterrence, and the need for consistency.
24. A/Inspector Branton submitted in assessing PC Acorn's *recognition in the seriousness* of misconduct, asked that I consider PC Acorn's post-incident conduct, and in particular his early guilty plea in this Tribunal.
25. The Prosecutor also submitted, that by way of his guilty plea before this Tribunal, PC Acorn has demonstrated that he has accepted the responsibility for his misconduct, and he has demonstrated that he is willing to face the consequences to continue to be a productive member of the Service. In support, I acknowledge that in Exhibit 6, Tab D - Carson and Pembroke Police Service, 2001, OCCPS which stated, "*we have no doubt that a guilty plea should be recognized as a mitigating factor and taken into account along with other factors in determining an appropriate penalty.*"
26. A/Inspector Branton also submitted that the 2017 Ontario PSA by Ceysens and Childs guides us on how to assess an officer's employment history in association with recognition of the seriousness of the misconduct and potential to rehabilitate. A/Inspector Branton focused on Factor 7 - Employment History, wherein the commentary cites several Commission cases and in summary makes the following determinations with respect to this factor. "*Employment history is an important disposition in all cases. Employment history as a mitigating or aggravating consideration closely relates to the disposition consideration of rehabilitation potential.*" With that, He considered PC Acorn's employment history mitigating given the potential to reform or rehabilitate the officer.

27. In support of the above submission of positive *employment history*, A/Inspector Branton pointed at Exhibit 5, Tab 8, in the Book of Records. Here, he outlined PC Acorn's complementary activities the officer has a total of 13 positive documentations. A/Inspector Branton then pointed at Exhibit 5, Tab 9, in the Book of Records. He outlined PC Acorn's positive documentations or letters of appreciation for your perusal. There are 24 in total. Seventeen as a Police Officer and 7 as a Parking Enforcement Officer.

The most recent is a Unit Commander Award received on March 23, 2017 for Officer Acorn building a relationship with a security guard who provided information on a suspect armed with a handgun.

28. Further, A/Inspector Branton submitted, included at Tab 10 of Exhibit 5, are performance appraisals for PC Acorn from 2012 to 2016. I reviewed all of his performance appraisals and they speak of an officer with a positive and infectious attitude. An officer who can be counted on by his peers and always is willing to lend assistance when needed. In Constable Acorn's most recent evaluation his Staff Sergeant commented "PC Acorn performed his duties with confidence. He was always professional while carrying out his duties of interacting with his peers and supervisors. He was always willing to volunteer whenever he was required." The Prosecutor submitted that this officer's employment history suggests that he will remain a productive officer demonstrating usefulness to the Service.

29. A/Inspector Branton further added in regards to the *potential to reform or rehabilitate* by drawing attention to Exhibit 6, Tab D where the Commission noted in Christian and Grbich and Aylmer, 2002, OCCPS that, "*every attempt should be made to consider whether or not rehabilitation is possible. A police service and the community in which it is situated makes a significant investment in each police officer. Unless the offence is egregious and unmitigated, the opportunity to reform must be a key consideration*".

30. Further, in regards to the *potential to reform or rehabilitate the officer*, the Prosecutor drew attention to Exhibit 6, Tab C where the Commission noted in Grbich and Aylmer, found at Tab C, the bottom of page 10: “*every attempt should be made to consider whether or not rehabilitation is possible. A police service and the community in which it is situated makes a significant investment in each police officer. Unless the offence is egregious and unmitigated, the opportunity to reform must be a key consideration*”.

The Prosecutor submitted that he believes that PC Acorn can reform and he has it in him to continue to be a productive member of the Service. We see this not only in his letters of appreciation and various awards, but we also see this in his performance appraisals. The Service, the community, and he himself has invested a great deal in him and we should continue to do so.

31. In terms of *consistency of disposition*, A/Inspector Branton cited from Exhibit 4, Tab E, in Buckle and Ontario Provincial Police, 2005, OCCPS the principle as found in Schofield and the Metropolitan Toronto Police, where it was stated, “*consistency in the discipline process is often the earmark of fairness.*”

32. A/Inspector Branton also cited that earlier case law decisions contained in Exhibit 4, at (Tab F) Barnhardt and Toronto Police Service, 2016, (Tab G) Breendon and Toronto Police Service, 2016, (Tab H) Kan and Toronto Police Service, 2015, and (Tab I) Little and Toronto Police Service, which showed an appropriate range of penalty. He then summarized each of the historic cases, highlighting the similarities and differences, as they equate to PC Acorn’s matter.

33. In the area of *specific and general deterrence* I take notice that the correlation between penalty and deterrents, both general and specific from Exhibit 4, Tab A, 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*” and further that, “*sufficient to punish*

and to deter while not causing undo or excessive hardship while demonstrating that reoccurrence will not be tolerated.”

34.A/Inspector Branton added on the issue of *general deterrence*, that the penalty, when published on the Service’s Intranet, in this case should also send a clear message to all officers in the Service, and consistent with the repeated corporate messaging, that this type of misconduct is not acceptable and will not be tolerated.

35.The Prosecutor, in addressing the *damage to the reputation of the Service*, submitted that the Service’s reputation suffers every time one of our officers breaches the Oath of Office. It negatively impacts the public’s trust. Inspector Branton added that tolerance for police misconduct is low.

36.*Mitigating factors* the Prosecutor articulated are, PC Acorn’s positive employment record, that the officer acknowledged the misconduct and showed remorse by pleading guilty in this Tribunal, at the earliest opportunity.

37.A/Inspector Branton concluded his submission by indicating that the three key elements of consideration when determining penalty are: sending a clear message to the officer, other members and the community; consistency with other similar decisions should be balanced against causing any undue hardship to the member, and that the weight of all of the above relevant factors should be considered.

38.As such, the Prosecutor submitted that the appropriate disposition was a forfeiture of fourteen days or 112 hours pay.

Defence Counsel Submissions

39.Mr. Clewley commenced his submissions by stating he does not disagree with the submissions made by the Prosecutor. But, added that he would like to make further submissions to assist the Tribunal with its consideration of the joint submission.

40.Mr. Clewley submitted that this officer has had a remarkable career. He referenced Exhibit 5, Tab 8, Prosecution Book of Records, which contained 25 awards

recommendations and the most recent one was from September 2017. Of these awards five have been since this incident took place. Counsel reviewed the details of a number of the recent awards.

41. Mr. Clewley submitted that Officer Acorn, does a great job and you can see by his accolades that he gets involved and serves the public at every opportunity. These actions are out of character. Counsel submitted that PC Acorn knows that professionalism comes first. He regrets his actions and apologizes for them.

42. Counsel referenced that PC Acorn was going through some personal family issues with the surprise arrival of a newborn.

43. Defense Counsel concluded by stating that he joins the Prosecutor – A/Inspector Branton, in recommending a forfeiture of fourteen days or 112 hours pay.

Apology by PC Acorn:

44. PC Acorn was provided and took the opportunity to address the Tribunal. PC Acorn apologized for his actions and the impact that it had on his family, and the Service.

Public Complainant Submissions

45. The public complainant in this matter, Mr. Geoffrey Pratt, did not make any submissions.

Prosecution Reply:

46. Nil.

Analysis and Decision:

47. In 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.
48. 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.
49. In Exhibit 5, Tab 2, which contained the criteria for hiring a police officer in the PSA. He highlighted that at section 43(1) (d) the mandated need for an officer to be, “*of good moral character and habit*”. The Prosecution 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. I agreed that PC Acorn’s conduct does not meet the standard expected by either the TPS or the Public.
50. In this case Constable Acorn violated the public trust by his actions and is being held accountable for his actions in this Tribunal. He failed to meet the standard of conduct expected of him. 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 Acorn is held accountable for his actions.
51. There is no doubt that the misconduct was serious as evidenced by the circumstances leading to the public complaint submitted by Mr. Pratt involving Constable Acorn. Constable Acorn improperly used his authority as a Police Officer and specifically targeted Mr. Pratt. As mentioned in the Foreward section of the Toronto Police Service Standards of Conduct (Exhibit 5, Tab 3), Chief Blair made comments about a members conduct and the impact on public trust. The Chief’s comments included “*Ultimately, you are responsible for ensuring that your conduct*

is above reproach". Constable Acorn is responsible for his action and his conduct failed to meet expectations.

52. The *Introduction* section of the Toronto Police Service Standards of Conduct (Exhibit 5, Tab 4) The Chief stated, "*Toronto Police Service members are held to a higher standard of conduct than other citizens. Not only an expectation from the community, this standard is an expectation we place upon ourselves. This higher standard of behaviour is necessary to preserve the integrity of the Service*". Constable Acorn's actions have had an impact on the integrity of the Service not only from the perspective of Mr. Pratt, but the community in general.

53. I do take note, at Exhibit 3, the Agreed Statement of Facts – that Constable Acorn pled guilty in this Tribunal. This is a mitigating factor.

54. Constable Acorn's Oath of Office is found at Tab 6 of the Book of Records. On September 6th, 2007 he swore to discharge his duties as a constable faithfully, impartially and according to law. These duties, as outlined in the *Police Services Act* (PSA) 42(1), include performing the lawful duties as assigned by the Chief of Police. Constable Acorn's actions were not impartial nor were they according to law. The public has placed their trust in Constable Acorn to uphold his Oath of Office and Constable Acorn has broken that trust by his unacceptable Conduct. Constable Acorn deliberately took action and targeted a member of the public. He charged a member of the public for an infraction that did not occur. His actions were contrary to the needs and expectations of the Service and the public.

55. It would appear that Constable Acorn has taken a positive step since this event by pleading guilty here today. As noted in Carson and Pembroke Police Service, OCCPS, 2001 a guilty plea should be recognized as a mitigating factor. Constable Acorn 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.

56. This event will have an effect on Constable Acorn. 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 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 Acorn for which he must bear the responsibility.

57. Though I have not been made aware of any media attention, this event has caused some damage to the reputation of the Service^[TPS1], this Tribunal is a public forum and I note members of the media were present during this proceeding. If this matter is reported on in the future by the media it will likely cause further damage to the reputation of the Service.

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

59. I have reviewed the positive documentations from Constable Acorn's personnel file in Exhibit 5, at Tab 9. Constable Acorn has been recognized on approximately 25 occasions for his involvement in a number of significant arrests and investigations throughout his career as a Police Officer and as a Parking Enforcement Officer. Defence Counsel highlighted a number of awards which demonstrate his outstanding performance. Those arrests / investigations involved missing person investigations, as well as property, break and enter, robbery offences, and his life saving efforts among others. I consider these awards a mitigating factor.

60. In Exhibit 5, at Tab 10, I reviewed Constable Acorn's annual performance appraisals dating from 2012 to 2017. In the appraisals his supervisors commented Constable Acorn is an officer with a positive and infectious attitude. An officer who can be counted on by his peers and always is willing to lend assistance when needed. I consider these evaluations and his employment history as a mitigating factor.

61. Past behaviour is often an indication of what can be expected from a person in the future. Constable Acorn has a positive employment history and has been recognized many times for his contributions to community safety, often during

challenging or dangerous circumstances. Constable Acorn has accepted responsibility for his actions and has pleaded guilty in this Tribunal

62. 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. In this case, coupled with his prior positive employment record, the actions he has taken since this event, and the observations of those supervisors in a position to observe his behaviour, PC Acorn has demonstrated that he has the potential to reform or be rehabilitated.

63. I am satisfied that deterrence specific to PC Acorn has been addressed through his acceptance of responsibility, his guilty plea and his willingness to accept a penalty. In regards to general deterrence, the outcome of these proceedings will be published on TPS Routine Orders and this decision will be published on the TPS Intranet. Those documents are available to the entire Service membership and will reinforce the previous messaging in regards to the potential consequences for this type of misconduct.

64. The Commission discussed the need for fairness and consistency in the discipline process in Buckle and Ontario Provincial Police Service, OCCPS, 2005, penalties must be consistent with prior similar cases. The Prosecutor provided a number of historical cases in support of the joint penalty position. The Prosecutor sought a penalty of a forfeiture of fourteen days or 112 hours pay and Counsel Mr. Clewley joined Inspector Branton on this position.

65. In reviewing all of the cases, it was apparent that even though many outcomes bore a number of similarities to others, there was no consistent penalty that was imposed. Each was considered on its own merit, and penalties imposed were in a range that was dependent on all of the mitigating and aggravating factors specific to that case.
66. A penalty must be appropriate to the circumstances, and a penalty imposed in one case may not be appropriate in another similar case based on the disposition factors that are present. In the matter before me, the misconduct of PC Acorn was serious. In this case, a penalty of a forfeiture of fourteen days 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.
67. In mitigation, PC Acorn has contributed much to serve the community which is reflected in his positive employment record. He accepted responsibility for his actions by entering a guilty plea in this Tribunal.
68. PC Acorn has taken positive steps to address his personal challenges and put this matter behind him. Based on the information before me, I am sure he has learned much from these events, I am also confident that once this matter is behind him he will return to being a productive member of the Service.
69. I acknowledge that Constable Acorn has displayed remorse after committing the specific misconduct for which he now faces sanctions. The Tribunal strongly urges Constable Acorn 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.

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

Penalty:

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

71. For Discreditable Conduct in that he committed misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force, **a forfeiture of fourteen days or 112 hours pay.**

Michael Barsky
Superintendent
Hearing Officer

August 31, 2022

Appendix 'A' - List of Exhibits 10/2017

Police Constable Christopher Acorn (65647)

Hearing Officer R. Hedgedus Letter of Delegation (**Exhibit 1**)

Prosecutor S. Branton Letter of Designation (**Exhibit 2**)

Hearing Officer M. Barsky Letter of Delegation (**Exhibit 3**)

Agreed Statement of Facts (**Exhibit 4**)

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

2017 Ed., Ontario Police Services Act by Ceysens & Childs (Tab 1)

Ontario Police Services Act s. 43(1)-Criteria for Hiring (Tab 2)

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

Toronto Police Service Standards of Conduct, Introduction, Chief Blair (Tab 4)

Toronto Police Service – Core Values (Tab 5)

Toronto Police Service Oath of Office-PC Acorn (Tab 6)

Ontario Police Services Act, 2017, Employment History, pp 305-354 (Tab 7)

TPS 950 relating to Constable Acorn (65647) (Tab 8)

Positive Documentations of Constable Acorn (65647) (Tab 9)

Performance Appraisals of Constable Acorn (65647) (Tab 10)

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

Jeary and Waterloo Regional Police Service, 2000, OCCPS (Tab A)

Bright, Konkle and the Niagara Board of Inquiry, OCPC, 1997-01 (Tab B)

Christian and Grbich and Aylmer Police Service, OCCPS, 2002 (Tab C)

Carson and Pembroke Police Service, OCCPS, 2001 (Tab D)

Buckle and Ontario Provincial Police Service, OCCPS, 2005 (Tab E)

Barnhardt and Toronto Police Service, 30/2015, 2016 (Tab F)

Breendon and Toronto Police Service, 27/2015, 2016 (Tab G)

Kan and Toronto Police Service, 29/2014, 2015 (Tab H)

Little and Toronto Police Service, 28/2010, 2011 (Tab I)

Andrews and Midland Police Service, 2002, OCCPS (Tab J)

Compact Disk of Prosecution Book of Records and Book of Authorities (**Exhibit 7**)