

UNDER SECTION 202 OF THE COMMUNITY SAFETY AND POLICING ACT
AND ONTARIO REGULATION 404/23 MADE UNDER THE
COMMUNITY SAFETY AND POLICING ACT

IN THE MATTER OF THE LONDON POLICE SERVICE
AND CONSTABLE DARRYL HORAN, 394227

Misconduct: *Contrary to O. Reg. 407/23 – Code of Conduct for Police Officers:*

1. Compliance with Laws (s. 4)
2. Interactions with the Public (s.10)
3. Integrity (s. 16)

PENALTY DECISION

Adjudicator: Peter Lennox

Prosecutor: David Amyot

Defence Counsel: Lucas O'Hara

Hearing Date: Friday, February 7, 2025

Decision Date: Friday, March 14, 2025

PENALTY

London Police Service and Constable Darryl Horan, 394227

DATE: FRIDAY, MARCH 14, 2025

Penalty

The penalty in this matter, imposed under subsection 202(9) of the Community Safety and Policing Act, is as proposed jointly by the parties.

Const. Horan will be demoted from first-class to second-class constable for a period of fourteen (14) months.

Background

Prior to this hearing, on December 11, 2024, a pre-hearing conference was held by Adjudicator Elie C. Labaky. The conference considered the factors listed in section 20 of Ontario Regulation 404/23 in order to refine the appropriate administrative factors of this penalty hearing, and to assist me in arriving at a just and expeditious hearing disposition.

The pre-hearing conference was held electronically, and is recorded separately in a report submitted to the parties by Mr. Labaky. The preamble to that report is relevant here as it outlines the authority and background for this penalty hearing.

The Applicant, Chief Thai Truong of the London Police Service, has applied to the Ontario Police Arbitration and Adjudication Commission for the appointment of an adjudicator pursuant to section 202(1) of the CSPA in relation to the Demotion or Termination of the Respondent, Constable Darryl Horan.

*An investigation conducted under section 198 of the CSPA, has provided the Applicant with reasonable grounds to believe that Respondent has engaged in conduct that constitutes misconduct and that the appropriate disciplinary measure is **demotion** of Constable Horan...*

Mr. Labaky's report also outlined the specific misconduct which Const. Horan was alleged to have committed.

Allegation 1 – Compliance with the Laws

On or about April 17, 2024, Constable Horan was charged with Operation while Impaired – blood alcohol concentration (>80ml/100mg), Obstruction of Justice, Operation while impaired – alcohol or drugs, and Dangerous Operation contrary to the *Criminal Code*; Speeding 1-49 km/h over [sic] posted limit contrary to the *Highway Traffic Act*; and Driving motor vehicle with open container of liquor contrary to the *Liquor Licence and Control Act*.

On June 17, 2024, Constable Horan pled guilty to Operation while Impaired– blood alcohol concentration (80 plus) contrary to the *Criminal Code*. All other charges were withdrawn. He was sentenced to a \$4,000 fine and 18 months' probation.

Constable Horan's finding of guilt of a criminal offence violates section 4 of O. Reg. 407/23: *Code of Conduct for Police Officers (Code of Conduct)* under the CSPA.

Allegation 2 – Interactions with the Public

On or about April 17, 2024, Constable Horan was speeding on Highway 401, while intoxicated, with open alcohol in his vehicle.

In doing so, Constable Horan conducted himself in a manner that undermined or was likely to undermine public trust in policing in violation of section 10 of the *Code of Conduct* under the *CSPA*.

Allegation 3 - Integrity

On or about April 17, 2024, Constable Horan displayed his badge and verbalize [sic] that he should not be charged. Additionally, Constable Horan attempted to intentionally delay providing a breath sample.

In doing so, Constable Horan used his position as a police officer to interfere with the administration of justice in violation of section 16 of the *Code of Conduct* under *CSPA*.

Through the report of the pre-conference hearing, I learned that the respondent's intention was to enter a plea to the first and second allegations, and that the Applicant would withdraw the third allegation. There would be an Agreed Statement of Facts (ASF), as well as joint documents, including a joint brief of authorities. The parties agreed to a virtual hearing, which enabled me to hold the hearing electronically as permitted by subsection 49(2) of O. Reg. 404/23. The availability of the parties was also discussed, which allowed me to set the hearing date for February 7, 2025.

An adjudicator is required (by section 45 of O.Reg. 404/23) to ensure that the hearing is recorded. I discussed this matter with the parties at the beginning of the hearing and we agreed, as the hearing was being held by Zoom, that I would record the proceedings and retain the file should it be required in the future.

Before this hearing on February 7, 2025, I was provided with a Request for the Appointment of an Adjudicator (Exhibit 1) which stated, in part, that "Chief [Thai] Truong [has] reasonable grounds to believe that Constable Horan has engaged in conduct that constitutes misconduct and that the appropriate disciplinary measure is demotion of Constable Horan's employment", necessitating a hearing (s. 202(1) of the *CSPA*). It also outlines the allegations against Const. Horan.

I was also provided with a Request for the Appointment of an Adjudicator (Exhibit 2), which specified that the reason for the hearing was found in s. 202(1) of the CSPA (seeking the demotion or termination of a police officer). My appointment, signed by Sig M. Walter, Chair, Ontario Police Arbitration and Adjudication Commission (OPAAC) (Exhibit 3) was also provided in advance, as was the ASF in this matter (Exhibit 4).

At the beginning of the hearing, I identified myself and stated the authority for the hearing. I confirmed the identity of the parties, made myself aware of those present, and asked the respondent officer to identify himself, which he did. I assigned exhibit numbers to the forms outlined above, and confirmed that Const. Horan had received a copy of the ASF and that he understood it.

Mr. Amyot, the prosecutor, read the ASF into the record in its entirety, making minor amendments to language surrounding the designation of exhibits.

The Agreed Statement of Facts is as follows (the amended exhibit designations are omitted):

1. The London Police Service ("LPS") has employed Police Constable Darryl Horan ("PC Horan") since January of 2012.
2. PC Horan, Badge #394227, currently holds the rank of Constable, First Class and at all material times was assigned to the 3 Section, Uniform Division. PC Horan is also a qualified Breath Sample Technician.
3. On January 3, 2012, PC Horan signed a Declaration of Concern and Intent which provides, *inter alia*, as follows:

Personnel shall conduct themselves, at all times, in a manner that promotes public confidence in the integrity and impartiality of the London Police Service...Personnel shall, at all times refrain from conduct or remarks which are detrimental to themselves, the London Police Service, the London Police Services Board, and the City of London.

4. PC Horan also signed an Oath of Secrecy on January 3, 2012, in which he swore, *inter alia*, to comply with the laws of Canada and Ontario.

5. Over the course of his employment with LPS, PC Horan has had positive annual performance appraisals, which are set out in the attached commendation sheet.
6. PC Horan does not have any prior discipline on his personal record.
7. On April 17, 2024, PC Horan was off duty, driving his personal motor vehicle westbound on Highway 401 toward Wonderland Road West.
8. PC Horan was pulled over by an Ontario Provincial Police (“OPP”) officer for travelling 135 km/hr in a posted 100 km/hr speed limit area.
9. Upon pulling PC Horan over, the OPP officer found open alcohol in PC Horan’s vehicle and subsequently determined that PC Horan showed signs of impairment.
10. PC Horan was arrested and was charged with the following offences:
 - Operation while impaired – blood alcohol concentration (80 plus), contrary to ss. 320.14(1)(b) of the *Criminal Code*, R.S.C. 1985, c. C-46 (the “*Criminal Code*”),
 - Obstruction of Justice, contrary to s. 139 of the *Criminal Code*,
 - Operation while impaired – alcohol or drugs, contrary to ss. 320.14(1)(a) of the *Criminal Code*,
 - Dangerous Operation, contrary to ss. 320/13(1) [sic] of the *Criminal Code*,
 - Speeding 1-49 km/hr over the posted limit, contrary to s. 128 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (the “*Highway Traffic Act*”), and
 - Driving motor vehicle with open container of liquor, contrary to ss. 42(1)(a) of the *Liquor Licence and Control Act, 2019*, S.O. 2019, c. 15, Sched. 22.
11. From April 21 to April 27, 2024, PC Horan attended a one-week treatment program for alcohol dependency at The Stable Grounds, which is a

specialized treatment facility that supports police officers suffering from addiction and substance misuse.

12. On June 17, 2024, PC Horan pled guilty to Operation while impaired – blood alcohol concentration (80 plus), contrary to ss. 320.14(1)(b) of the *Criminal Code*. All other charges were withdrawn by the Crown Prosecutor.

13. PC Horan was sentenced to a \$4000 fine and 18 months' probation.

14. Subsequently, PC Horan was charged with the following offences contrary to Ontario Regulation 407/23, Code of Conduct for Police Officers, under the *Community Safety and Policing Act, 2019*, S.O. 2019, c.1, Sched 1 (the "Code of Conduct"):

- s. 4 – Compliance with the Laws
- s. 10 – Interactions with the Public
- s. 16 – Integrity

15. Section 4 of the Code of Conduct states that a police officer contravenes the [C]ode of [C]onduct if they are found guilty of an offence under the *Criminal Code*.

16. It is acknowledged that on June 17, 2024, PC Horan was found guilty of Operation while Impaired – blood alcohol concentration (80 plus) under the *Criminal Code*.

17. It is therefore agreed that PC Horan is guilty of misconduct under s. 4 – Compliance with the Laws of the Code of Conduct

18. Section 10 of the Code of Conduct states that a police officer shall not conduct themselves in a manner that undermines or is likely to undermine the public trust in policing.

19. It is acknowledged that PC Horan's conduct on April 17, 2024 posed a serious threat to the public when he chose to drive his motor vehicle while impaired, at a rate of speed higher than the permitted speed limit, and while consuming open alcohol.

20. It is acknowledged that PC Horan's conduct was a breach of the public's trust and conflicts with the Declaration of Concern and Intent and Oath of Secrecy.
21. PC Horan's arrest and criminal charges laid against him have been the subject of media news reports.
22. It is acknowledged by PC Horan that his conduct on April 17, 2024, was harmful to the reputation of the London Police Service.
23. PC Horan accepts responsibility for his actions and is remorseful for his conduct.
24. Based on these facts, PC Horan pleads guilty to the count of Compliance with the Laws contrary to section 4 of the Code of Conduct for Police Officers of Ontario Regulation 407/23 under the *Community Safety and Policing Act, 2019*, S.O. 2019, c.1, Sched. 1.
25. Based on these facts, PC Horan pleads guilty to the count of Interactions with the Public contrary to section 10 of the Code of Conduct for Police Officers of Ontario Regulation 407/23 under the *Community Safety and Policing Act, 2019*, S.O. 2019, c.1, Sched.1.
26. The remaining count of Integrity, contrary to section 16 of the Code of Conduct for Police Officers of Ontario Regulation 407/23 under the *Community Safety and Policing Act, 2019*, S.O. 2019, c.1, Sched.1, will be withdrawn.

Following the reading of the ASF, I asked Const. Horan if he wished to enter a plea. He replied, "I plead guilty". We clarified that, as articulated in the ASF, he was pleading guilty to the first and second allegations, under sections 4 and 10. At the request of the prosecutor, I withdrew the third count, under section 16.

I found that the ASF provided me with clear and convincing evidence that PC Horan was guilty of the two acts of misconduct to which he pled guilty, and found him guilty of those allegations of misconduct.

During the submissions from the prosecutor and defense counsel, other exhibits were entered:

- Exhibit 5 – Document Brief of the Prosecution
- Exhibit 6 – Brief of Authorities of the Prosecution
- Exhibit 7 – Brief of Authorities of the Defence

More information about the exhibits and the cases referred to below can be found in the appendix to this document.

The prosecutor also submitted a document intended to reflect his verbal submissions. As such, it was not given an exhibit number, but I considered it along with my own record of Mr. Amyot's verbal submissions.

Prosecutor's Submissions

Mr. Amyot, the prosecutor, began by describing the joint submission to penalty, agreed to by both parties; that is, a reduction from first-class constable to second-class constable for a period of 14 months. I note that there was no request for evidence of satisfactory performance before the restoration of first-class status, so I infer that the parties saw no need for it.

He spoke briefly about Const. Horan's career to this point. He joined the London Police Service in January 2012, which means that he had about twelve years of service at the time of his arrest. He has no prior discipline on his record, and performs his duties very well as evidenced by three annual performance evaluations (Exhibit 5, Tab 3).

The prosecutor submitted that my disposition in this matter should be in accord with the purposes of the police discipline process, which he articulated as:

- Maintaining discipline in the workplace

- Fair treatment
- The public interest
- Ensuring high public confidence in the conduct of the police

Correction, he submitted, should take precedence over punishment, and the lowest penalty that is proportionate to the offence should be imposed wherever possible.

The prosecutor reminded me that Const. Horan has pled guilty to Compliance with Laws and Interactions with the Public, resulting from a criminal conviction of operating a vehicle with a blood-alcohol content of over 80. I note from the transcript of the criminal matter that the readings were 193 and 178, both of which are more than double the legal limit (Exhibit 5, Tab 6).

Using Williams and the OPP (1995) and Krug and the Ottawa Police Service (2003) as authorities, he discussed the list of factors to be taken into account by adjudicators in the consideration of penalty, but conceded that not all were relevant in this matter. He made submissions on the factors that he considered relevant, pointing to case law to support his positions. I will consider the recognized penalty factors in my analysis, below.

Starting with the *public interest*, he submitted that ensuring a high standard of conduct helps to ensure that the public remains confident in its police. Referring to Schofield and the Metropolitan Toronto Police (1984) in both his oral arguments and written summary, the prosecutor underscored that a penalty must be consistent with the seriousness of the matter to satisfy the public interest, and submitted that a fourteen-month demotion was sufficient to do so, especially as it would result in an effective financial penalty of about \$23,000.

He led me to Carson and the Pembroke Police Service to indicate that, while a single serious act of misconduct might justify dismissal and Const. Horan's misconduct is serious, if the act is "an isolated act of frailty" without premeditation, then that should be considered with respect to penalty. He underscored, though, with respect to the

seriousness of the misconduct, that various cases illustrate that an over 80 conviction is serious misconduct.

Moving to Const. Horan's *recognition of the seriousness of the misconduct*, the prosecutor indicated that Const. Horan's guilty pleas have a mitigating effect on penalty. He acknowledged that the respondent has recognized the seriousness of his misconduct; he has accepted responsibility for the misconduct and is remorseful. Additionally, he has cooperated in the joint resolution in both the criminal proceedings and in the current discipline process, which has been expeditious (it is less than a year since the infraction occurred). He submitted that this also has a mitigating effect to penalty.

With respect to *handicap or other personal circumstances*, the prosecutor submitted that Const. Horan has not only recognized that he has an issue with alcohol, but has sought treatment for it. He presented this as another mitigating factor.

He submitted that neither *provocation* nor *procedural fairness* have any bearing on the penalty in this matter.

The prosecutor's opinion is that Const. Horan's *employment history* is also mitigating to penalty. He has more than 13 years of service in London and has no other discipline history. His performance reviews (Exhibit 5, Tab 3) are positive, portraying a hard-working officer.

The potential to reform or rehabilitate the officer was the prosecutor's next point. He submitted that, in this case, that potential is significant. He suggested that I assume a remedial philosophy rather than a punitive one, taking into account Const. Horan's guilty plea, citing Andrews and the Midland Police (2003 – Quoted frequently in Exhibit 6), which underscores the need for corrective rather than punitive penalties when a respondent has an unblemished record, balanced with the need to send a clear message to the respondent and others about the seriousness of misconduct. He shared that the London Police Service is highly confident in Const. Horan's capacity to reform.

Although the joint penalty will cost Const. Horan a substantial amount of money (\$23,000 was suggested), the prosecutor submitted that this will not create undue or special hardship, so *the effect on the police officer and his family* is not a substantial issue in the present case.

The *consistency of disposition*, the prosecutor submitted, is an important consideration in this matter. He reminded me that consistency of disposition is a “hallmark dispositional factor”, and has been for many years.

He turned to a series of cases to give me context with respect to penalties that were imposed in earlier similar matters; that is, those involving criminal convictions for alcohol-related driving offences.

- Schofield and the Metropolitan Toronto Police (1994) underscores that consistency is “often the earmark of fairness” (statement by the Ontario Police Commission, as it was known at the time)
- Van Straalen and the Ontario Provincial Police (2017 – Exhibit 6, Tab 9) involved an off-duty officer without a prior discipline record who did not show signs of impairment but who registered a relatively low breathalyzer reading. She was reduced from first-class to second-class constable for 12 months.
- In Howard and the Ontario Provincial Police (2016 – Exhibit 6, Tab 8), an off-duty officer suffering the effects of PTSD and alcohol dependency struck his own house with his vehicle, and pled guilty to impaired driving. He also tried to prevent his daughter from calling police. Const. Howard was demoted from sergeant to first-class constable for 20 months. This case, the prosecutor submitted, was more serious than Const. Horan’s misconduct, hence the higher penalty.
- Schlarbaum and the Chatham-Kent Police (2013 – Exhibit 6, Tab 7) involved an officer who pled guilty to impaired driving after his host at a gathering contacted police. His blood-alcohol level was very high, but there was no property damage and the officer cooperated with the investigation. He had a good employment history. In this matter, the hearing officer rejected the joint submission for the forfeiture of 100 hours, and demoted the officer from first- to second-class for 15

months. On appeal, the Ontario Civilian Commission on Police Services reduced the period of demotion to nine months.

The prosecutor suggested that the “goalposts” for appropriate dispositions in cases similar to this one was between nine and 20 months, and that a period of 14 months was both reasonable and “well in line” with the case law.

Turning to *specific and general deterrence*, the prosecutor reminded me that an important objective of police discipline is deterrence from further misconduct by the respondent officer and other police officers. He submitted that the jointly recommended penalty would serve both purposes.

Considering the *damage to the reputation of the police service*, the prosecutor pointed me to two media articles (Exhibit 5, Tab 7) that reported on the incident at hand, including Const. Horan’s arrest and criminal charges. Citing Hassan and the Peel Regional Police (2006 – an Ontario Civilian Commission on Police Services (OCCPS) case that I located outside the exhibits), he submitted that, in accordance with OCCPS findings, an adjudicator may assume the perspective of a “reasonable person” in determining the extent of damage done to a police service by an officer’s misconduct. He further submitted that this misconduct, and its profile in the media, damaged the reputation of the London Police Service and the respondent’s fellow officers.

The prosecutor concluded his submissions by submitting that the joint penalty is reasonable in the circumstances, and aligns well with the relevant dispositional factors as it is well within the range of penalties following similar misconduct.

He specifically mentioned that it also considers the relevant mitigating circumstances, including that this is an isolated incident for Const. Horan, who had an unblemished employment record prior to this incident, and that the officer has accepted responsibility for his misconduct.

Defense Submissions

Mr. O'Hara, the defense counsel, began by acknowledging that the prosecutor was detailed in his submissions, and that he was therefore able to be brief in his. He informed me that his client is 34 years of age, and completed a police-foundations program at Fanshawe College before his appointment in 2012. His duties thus far have been as a road constable, though he has been on administrative duties since his arrest. He is married, and has one seven-year-old dependent.

He discussed the *public interest*, saying that the public has an interest in reducing impaired driving, and in seeing that the police service takes this matter seriously. Through the criminal and police-discipline processes, he said, an informed member of the public can see that the London Police Service has indeed taken the matter seriously.

He acknowledged that the *seriousness of the misconduct* was a factor, conceding that the matter is very serious, especially as police officers are held to a higher standard. He pointed out the absence of aggravating factors such as a collision, but agreed that the alcohol in the vehicle and the speeding exacerbated the seriousness of the matter.

He reminded me that the officer's *employment history* contained no previous misconduct.

He underscored mitigating factors in the matter, including the early guilty plea (second criminal appearance and at the first opportunity in the CSPA matter), which he submitted as a sign of remorse and *recognition of the seriousness* of the matter. The officer has also agreed to the material in the Agreed Statement of Facts.

With respect to the *potential to reform or rehabilitate*, Const. Horan committed himself to treatment immediately through a residential program, a step to ensure that the conduct was not repeated. He continues to manage his issues and to rehabilitate himself, making the potential for rehabilitation extremely high. Defense counsel called this a significant mitigating factor.

To address a *disability factor*, Const. Horan has recognized that alcohol is an issue in his life and, in addition to attending the program at the Stable Grounds (Exhibit 5, Tab 5), he is seeing a psychologist to address the root causes of his issue. This is a requirement of his probation following the criminal matter.

Defense counsel commented on the respondent's *employment history*, outlining his years of police service and his lack of disciplinary history to date. He pointed out Const. Horan's "extremely positive" reviews (Exhibit 5, Tab 3), which underscore the officer's integrity, professionalism, teamwork, and the respect of his colleagues and peers. He submitted that all this is evidence that Const. Horan is an excellent police officer, and that the current matter is both a blemish on an exemplary career and outside the character of Const. Horan.

Commenting on the *effect on the officer and his family*, counsel referred to the embarrassment that this incident has caused Const. Horan, but also the officer's recognition that it is in his power to fix his underlying issues. He pointed out that the loss in pay amounting to about \$23,000 over 14 months will be significant for both the officer and his family.

With respect to *consistency of penalty*, counsel remarked that the penalties for impaired driving in the policing realm have continued to rise over the last decade and repeated the prosecutor's perspective that the current range of penalties is demotion for between nine and 20 months. While he said that none of the historical cases is completely on point, both parties agree to this range. He encouraged me to refer to the cases, as some have aggravating factors that are absent in this case, such as collisions and the presence of children.

He spoke to the need for *specific and general deterrence*, pointing out that the increase in penalties (demotion is now "the norm") has a deterrent aspect. Other deterrents are also present here; Const. Horan remains on administrative duties and he faces his criminal conviction and period of probation.

The *effect of publicity* is also an issue here due to the news reports (Exhibit 5, Tab 7). In a similar vein, he acknowledged the position of the prosecutor (i.e., it has had the effect of further *damaging the reputation of the police service*).

Counsel concluded by submitting that the joint position on penalty reflects the case law and is reasonable considering the penalty factors discussed by both parties. He recognized that I am not bound by the joint submission but suggested that I give it “a high level of deference”, and accede to the position on penalty taken by both parties.

Officer's Comments

Const. Horan took the opportunity to express his feelings in the matter. He said that he has been a police officer for all his adult life and seen traumatic situations as part of the vocation. He has now recognized that he has established poor coping methods and is accepting professional help.

He underscored that this is not an excuse – he called his behaviour “inexcusable” – and apologized to his family and friends for letting them down. He also apologized specifically to the Ontario Provincial Police and the London Police Service.

He concluded by saying that he looks forward to regaining the trust he has lost and to re-starting his career.

Analysis

The behaviour that led to Const. Horan's conviction is not in dispute; it has been accepted by both parties. The plea of guilty in this tribunal and in the criminal realm as well as the joint submission on penalty tell me that the parties agree about what occurred, and that those actions constitute serious misconduct.

Below, I will consider the accepted penalty factors in light of the oral and documentary submissions of the parties.

Seriousness of the Misconduct

Mr. Amyot, the prosecutor, Mr. O'Hara, the defense counsel, and Const. Horan, the respondent, have all acknowledged that the matter at hand involves serious misconduct. I accept their acknowledgement and share that perspective.

This is underscored by the application of Chief Thai Truong's application under s. 202 of the Community Safety and Policing Act for a hearing. Under this new policing legislation, this occurs when a chief of police considers the appropriate penalty to be demotion or dismissal.

The particulars of the misconduct appear earlier in this document, both in the report of the pre-hearing conference and the Agreed Statement of Facts. These sources speak for themselves, and I will not repeat them here, but they outline the criminal matter that, through a guilty plea, resulted in a conviction. Such a conviction, for a police officer, is serious in itself.

This is supported by the case law. As both parties submitted, the range of periods of demotion is between nine and 20 months for cases involving operating a motor vehicle with a blood-alcohol level over 80, which is an indication of the seriousness which earlier adjudicators and appeal bodies ascribe to such behaviour.

The seriousness of this matter is aggravating to penalty.

Public Interest

I accept and agree with the prosecutor's position that ensuring a high standard of conduct among police officers is crucial to the confidence the community has in its police service. The seriousness of the misconduct is established above, and if we are to protect the public interest and the trust it holds for its police services,

the penalty must be commensurate with the seriousness of the respondent's behaviour on April 17, 2024.

I find that the public interest factor is aggravating to penalty in this case.

Recognition of the Seriousness of the Misconduct

While I consider the misconduct to be serious, I am also aware of Const. Horan's actions following the incidents of April 17, 2024, which tend to indicate that he did, in fact, recognize the seriousness of what he had done.

Submissions have made me aware of the early guilty pleas in both the criminal and discipline realms, and Const. Horan's acceptance of responsibility and feeling of remorse. I am also cognizant of Const. Horan's cooperation in both the criminal and discipline processes, and have the benefit of the respondent's own declaration of responsibility, remorse and apology near the end of the hearing.

I find that Const. Horan's recognition of the seriousness of his misconduct is mitigating to penalty.

Disability and other Relevant Personal Circumstances

I accept the position of both parties that Const. Horan, recognizing that he has an issue with alcohol, has sought treatment for it. While some such treatment was mandated as part of his probation, I note that the letter from The Stable Grounds (Exhibit 5, Tab 5) specifies that he attended the program from April 21 to 27, 2024. This means that he entered the program just four days after the incidents of April 17, 2024. I find this encouraging, and wish the officer well as he continues to take action to deal with the issues he faces.

While I am not able to condone in any way the act of driving with alcohol in one's system, I find that Const. Horan's recognition of his challenges and quick action to address those challenges is mitigating to penalty.

Provocation

I have been given no evidence that Const. Horan was provoked in any way to behave as he did. This factor is therefore neutral to penalty.

Procedural Fairness Considerations

Neither party has raised concerns about procedural fairness in this matter. Const. Horan has had the benefits and protections of the police discipline system and of experienced counsel.

Procedural fairness is neutral to penalty.

Employment History

Const. Horan's 13 years of service to the people of London has resulted in no prior discipline, and this is encouraging. I am also encouraged by Const. Horan's last three performance evaluations (Exhibit 5, Tab 3), which I read with interest. The ratings indicate that Const. Horan never failed to meet the standards prescribed by the Service, and the comments showcase the respect and trust his performance has garnered among his supervisors and colleagues. This is also very encouraging. He is described, among other things, as having a calm demeanour, thorough knowledge and understanding of his work which he applies commendably, and common sense. One statement in the 2021-2022 appraisal document stands out: "He maintains a high level of personal integrity and carries out his duties ethically and professionally. Constable Horan displays high ethical standards – honesty, integrity, transparency and trustworthiness in accordance

with the London Police Service's stated values". This helps to convince me that the behaviour under scrutiny here is unusual for the respondent.

I trust that this very satisfactory record of his employment history reflects the behaviour that will resume as Const. Horan continues in the policing vocation.

I agree with the parties that Const. Horan's employment history is mitigating to penalty.

Potential to Reform or Rehabilitate the Police Officer

The prosecutor, whose role it is to ensure that the perspectives of the London Police Service are evident to this tribunal, told me that the potential for Const. Horan's reformation and rehabilitation is "significant".

He acknowledged that the penalty must send a clear message to the officer and other police officers, but encouraged me to apply it in a corrective rather than a punitive manner.

These comments were reflected by defense counsel, pointing out that this was the first incidence of misconduct in his career, and that the respondent is actively managing the issues he faces.

This combines with the comments under "Recognition of the Seriousness of the Offence", above, to cause me to accept the positions of both counsel on Const. Horan's potential.

The potential to reform or rehabilitate Const. Horan – and his commendable actions to reform and rehabilitate himself – are mitigating to penalty.

Effect on the Police Officer and Police Officer's Family

Defence counsel provided me with facts about Const. Horan and his family. He is 34 years of age, and is married with one young dependent.

Defence counsel pointed out that the reduction to second-class constable will result in a loss of about \$23,000 in salary, which will certainly have an effect on the officer and his family. The prosecutor took a somewhat different position, indicating that the financial loss will not create undue hardship.

However, as he has acknowledged himself, Const. Horan is responsible for the actions that led to the loss of classification and salary, and I accept that the family, while possibly inconvenienced, will not be exposed to undue hardship.

This factor is therefore neutral to penalty.

Consistency of Disposition

The prosecutor provided me with nine previous cases in Exhibit 5. I paid close attention to the cases provided to me, as I agree that consistency of penalty is an important element of procedural fairness.

He underscored three such cases to guide me with respect to previous penalties in matters similar, even if not identical, to the current matter. I considered the Van Straalen, Howard and Schlarbaum matters (as articulated in the prosecutor's submissions, above) and, while I agree that they do not reflect this current matter precisely, I accept that, considering their own aggravating and mitigating factors, they are a valid guideline for the imposition of a penalty in this matter.

I also considered the summaries of other cases that were submitted by the defense in Exhibit 7 (which contained both summaries and complete findings for the matters below):

- Khan and the Ottawa Police Service (2024) describes an off-duty officer who engaged police in a pursuit before he was apprehended and charged with various driving and other offences. He pled guilty to driving over 80 and dangerous driving. He then then pled guilty to two counts of discreditable conduct under the old Police Services Act, and was demoted from first- to second-class constable for 14 months. Similarities included the over 80 conviction; differences included the additional count of dangerous driving and the police pursuit.
- Twiddy and the Durham Regional Police (2024) involved an officer who struck an on-duty police officer with his vehicle and then failed a roadside screening test. He pled guilty to over 80 in criminal court and was assessed a demotion from first to second class for 12 months. Similarities included the over 80 charge and the lack of a disciplinary history; differences included causing minor injuries to a colleague.
- Walker and the Hamilton Police (2010) involved an officer who was convicted of impaired operation, though the circumstances involved a collision and a failure to remain at the scene. She was charged with various offences, but pled guilty to only one. She was demoted from first to second class for 14 months. Similarities included the lack of a discipline record and alcohol-involved driving offences; differences included the collision, exacerbated by the officer leaving the scene.
- Ladurantaye and the Toronto Police (2021) involved an off-duty officer who struck a parked vehicle. Two off-duty police officers witnessed the collision and arrested the officer after he was forced to stop his vehicle due to damage. He was arrested for driving with a blood-alcohol content over 80 mg of alcohol in 100 ml of blood, and pled guilty in criminal court. He was reduced from first to second class for 15 months. Similarities included the alcohol-involved driving incident and the officer's acceptance of professional help to deal with substance use; differences included the collision and the failure to remain.

- Hussein and the Toronto Police (2023) involved a police superintendent whose vehicle collided with another vehicle on Highway 401. An OPP officer observed signs of impairment and administered a roadside test, which the officer failed. He had open liquor in his vehicle. Charged with over 80 and careless driving (under the Highway Traffic Act), Supt. Hussein, then the Toronto Police hearing officer, pled guilty and was reduced from superintendent to inspector for one year. Similarities included the alcohol-involved driving and open alcohol in the vehicle; differences included the officer's senior rank and the collision.
- Martin and the London Police Service (2019) involved a sergeant who had consumed alcohol as part of an undercover police training exercise. While still on duty, she drove her personal car at a sufficiently high rate of speed that an OPP officer was unable to catch up. She was arrested by a municipal officer who also had to drive at a high rate of speed to catch her. There were open and sealed containers of the alcohol and the officer showed signs of impairment. She failed a roadside screening test and then a breathalyzer test. She pled guilty in criminal court and was demoted from sergeant to first-class constable for 13 months. Similarities included the alcohol-involved driving at high speed and a positive employment history with no disciplinary entries; differences included the officer's supervisory rank.
- Stewart and the London Police Service (2022) involved an off-duty incident in which an officer was engaged in a dispute with his estranged wife at a hockey arena, after which he drove away. His wife had called 911 to say that he was intoxicated and wanted to drive his car, which he did. He was arrested later at the wife's residence. He provided high readings on the breathalyzer, to which he pled guilty in criminal court. He was reduced from first to second class for 11 months. Similarities included the alcohol-involved driving offence, the officer's lack of a disciplinary record and his acceptance of treatment for PTSD.
- Lourenco and the Toronto Police (2018) involved an off-duty officer who had taken a police vehicle without permission. He was caught driving at a high rate of speed with his high beams on. He failed a roadside screening

test, and a soft-drink can containing an alcoholic beverage was found in the car when he was arrested. He pled guilty to over 80 and was reduced from first to third class for nine months, and then spent a year at second class. Similarities include the alcohol-involved driving and the officer's immediate treatment for substance abuse; differences included previous discipline for similar misconduct.

None of these cases is an exact match for Const. Horan's misconduct, though Stewart may be the closest match. Reviewing the summary of these cases provided by the defense, supported by the full cases also found in Exhibit 6, does indicate that the jointly proposed penalty is within the range of penalties in similar cases, as both parties suggest.

The range of penalties in the eleven cases provided by both parties do not differ markedly from the joint penalty submission in this case.

Specific and General Deterrence

I accept the position of the prosecutor that an important objective of police discipline is to deter future misconduct, both by the respondent officer and by other police officers. I also accept the position of the defense that having one's name published in the media and being restricted to administrative duties also have a deterrent effect for the respondent himself, though my main concern is the deterrent effect of the penalty imposed by this tribunal.

Both parties suggested to me that a 14-month reduction from first to second class is sufficient to deter future similar behaviour. I accept that.

I am satisfied that the joint penalty submission of a reduction in classification for 14 months will address both specific and general deterrence.

Systemic Failure and Organizational/Institutional Context

Institutional failure was not mentioned by either party, and I find that, from the information I have been given, it is not a factor in this matter and is therefore neutral to my consideration of penalty.

Damage to the Reputation of the Police Force

The prosecutor provided two media articles (Exhibit 5, Tab 7) that named the London Police Service and Const. Horan in unflattering articles that described the respondent's offences in some detail. One article was from the CBC, and the other, which described the matter in greater detail, from the London Free Press.

Pointing to the OCCPS matter of Hassan and the Peel Regional Police, he reminded me that I may assume the perspective of a "reasonable person" to determine the extent of the damage to a police service that results from an officer's misconduct.

I accept his position that the publicity around this event, as well as the event itself, damaged the reputation not only of Const. Horan, but also of his service and his fellow officers.

The damage to the reputation of the London Police service is aggravating to penalty.

Effect of Publicity

This factor is addressed in "Damage to the Reputation of the Police Force", above.

Loss Resulting from Unpaid Interim Administrative Suspensions

I am unaware of any unpaid administrative suspension in this matter, and despite the new provisions in the CSPA, I have no information that it is a factor here.

The effect on penalty is therefore neutral.

Finding

I have reviewed carefully the mitigating and aggravating factors and considered the submissions of the prosecutor and defense counsel, as well as the documents with which I was provided. My conclusions are articulated under “Analysis”, above.

For all the reasons above, I find that I do not have reason to reject the joint penalty submission, and I accept it.

The penalty in this matter, therefore, imposed under subsection 202(9) of the Community Safety and Policing Act, is as proposed jointly by the parties.

Const. Horan will be demoted from first-class to second-class constable for a period of fourteen (14) months.

A handwritten signature in black ink, appearing to be 'Peter Lennox', with a stylized flourish at the end.

Peter Lennox
OPAAC Adjudicator

Dated and released (electronically) on Friday, March 14, 2025

APPENDIX

LIST OF EXHIBITS

Constable Darryl Horan and the London Police Service

1. Request for the Appointment of an Adjudicator Pursuant to s. 202 of the Community Safety and Policing Act (CSPA), submitted to the Ontario Police Arbitration and Adjudication Commission (OPAAC) by Chief Thai Truong, London Police Service
2. OPAAC form ON00653E, Request for the Appointment of an Adjudicator, indicating a request under s. 202(1) of the CSPA (Police Discipline Adjudication for “Demotion and Termination” of a Police Officer, submitted by Chief Thai Truong through Inspector Charlene Humble, London Police Service, and affirmed and signed by Jilaine McConnell
3. OPAAC designation of Peter Lennox as Merits Adjudicator, signed by Chair Sig M. Walter, OPAAC
4. Agreed Statement of Facts for Constable Darryl Horan and the London Police Service
5. Brief of Authorities Submitted by the Prosecution, containing:
 - i. Williams and Ontario Provincial Police, OCCPS 95-09, December 4, 1995
 - ii. Krug and Ottawa Police Service, OCCPS, 21 January 2003
 - iii. Schofield and the Metropolitan Toronto Police, OCCPS 84-12, October 29, 1984
 - iv. Carson and Pembroke Police, OCCPS 06-02, March 9, 2006
 - v. Carson and Pembroke Police, OCCPS 01-05, July 27, 2001
 - vi. Constable Ahmed Ali Hassan and Peel Regional Police, OCCPS 06-07, September 8, 2006

- vii. Schlarbaum and Chatham-Kent Police, 2013 ONCPC 5 (CanLII)
 - viii. Howard and Ontario Provincial Police, 2016 CanLII 53057 (ON CPC)
 - ix. Van Straalen and Ontario Provincial Police, 2017 ONCPC 17 (CanLII)
6. Document Brief of the Prosecution, containing:
- i. Declaration of Concern and Intent, signed by Const. Darryl Horan on January 3, 2012
 - ii. Oath of Secrecy, signed by Const. Darryl Horan on January 3, 2012
 - iii. Performance Appraisal Reports 2018/2019, 2019/2020, 2021/2022
 - iv. Ontario Provincial Police Arrest Report, dated April 21, 2024
 - v. Letter from The Stable Grounds to Darryl Horan, dated June 12, 2024
 - vi. Court Transcript – Ontario Court of Justice decision, dated June 17, 2024
 - vii. Articles from the public media on April 18, 2024
7. Defense Brief of Authorities (Case Law Index), containing:
- i. Cst Umer Khan and the Ottawa Police Service, June 3, 2024 (summary)
 - ii. Durham Regional Police Service and Detective Constable Paul Twiddy, June 4, 2024 (summary)
 - iii. Hamilton Police Service and Constable Kimberly Walker, April 23, 2010 (summary)
 - iv. Toronto Police Service and Constable Brock Ladurantaye, March 23, 2021 (summary)
 - v. Toronto Police Service and Superintendent Riyaz Hussein, April 3, 2023 (summary)
 - vi. Sergeant Barbra Martin and the London Police Service, March 19, 2019 (summary)
 - vii. London Police Service and Constable Kelley [sic] Stewart, October 12, 2022 (summary)
 - viii. Toronto Police Service and Constable Adam Lourenco, October 18, 2018 (summary)

- ix. Ottawa Police Service and Constable Umer Khan, #1730, June 3, 2024 (unreported hearing before Supt. Chris Rheaume, Ottawa Police Service)
- x. Cst Umer Khan and the Ottawa Police Service, June 3, 2024 (complete decision)
- xi. Durham Regional Police Service and Detective Constable Paul Twiddy, June 4, 2024 (unreported hearing before Supt. (ret) Robert F. Gould)
- xii. Hamilton Police Service and Constable Kimberly Walker, April 23, 2010 (unreported hearing before Supt. Michael P. Shea)
- xiii. Toronto Police Service and Constable Brock Ladurantaye, March 23, 2021 (unreported hearing before Supt. Riyaz J. Hussein)
- xiv. Toronto Police Service and Superintendent Riyaz Hussein, April 3, 2023 (unreported hearing before D/Chief (ret) Robin D. McElary-Downer)
- xv. Sergeant Barbra Martin and the London Police Service, March 19, 2019 (unreported hearing before D/Chief (ret) Terence Kelly)
- xvi. London Police Service and Constable Kelly Stewart, October 12, 2022 (unreported hearing before Supt. (ret) Greg Walton)
- xvii. Toronto Police Service and Constable Adam Lourenco, October 18, 2018 (unreported hearing before Supt. Neil Corrigan)