

OPAAC ADJ #25-013

PEEL REGIONAL POLICE
Applicant

And

SERGEANT HARINDER SOHI
Respondent

Adjudicator:
Graeme Turl

Appearances:
S. Wilmot, prosecution counsel
H. Black, defense counsel

Heard:
August 6, 7, and 19, 2025

Date of decision:
September 20, 2025

Length of decision:
70 pp.

Statutory citations:
Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, s. 202(1)
O. Reg. 401/23
O. Reg. 402/23, s. 5
O. Reg. 404/23, s. 51(a)(i) and (ii)
O. Reg. 407/23, s. 10(1)
Statutory Powers Procedure Act, R.S.O. 1990, c. 22, s. 4
Human Rights Code, R.S.O. 1990, c H. 19, s. 5
Canadian Charter of Rights and Freedoms, s. 2(b) and 2(c)

UNDERMINE PUBLIC TRUST - Off-duty conduct - Public protests - Respondent attended and participated in two public protests organized by Khalistan supporters - Actions and responses at protests called into question his impartiality - Respondent's involvement had the effect of eroding public trust and community confidence in police service - Breach of s. 10 of Code of Conduct established.

CHARTER OF RIGHTS AND FREEDOMS - Application - Attendance at public protests by off-duty police officer - Whether officer's rights under *Charter of Rights and Freedoms* infringed by disciplinary action imposed for participation in protests - Supreme Court of Canada directing administrative decision-makers, in exercising discretionary powers under their home

statute, to balance *Charter* rights with tribunal's statutory mandate using reasonableness/proportionality standard.

CHARTER OF RIGHTS AND FREEDOMS - Fundamental freedoms - Freedom of expression and assembly - Whether off-duty police officer's rights under ss. 2(b) and (c) of *Charter* were infringed by disciplinary action - Necessary for administrative tribunals to balance *Charter* values with statutory objectives - Impartiality and maintaining public trust in policing were fundamental principles embedded in *Community Safety and Policing Act* and Regulations - In light of statutory objectives, disciplinary action for violating Code of Conduct represented a reasonable limitation on officer's *Charter* rights.

PROCEDURAL ISSUES - Filing obligations - Sufficiency of allegations and particulars filed by police service - No formal Notice of Hearing in new legislation - Required materials and timelines identified in O. Reg. 404/23 - Purpose of allegations and particulars in administrative proceedings to ensure that person has sufficient information to respond and mount adequate defense - Form used was accepted by both parties at hearing - Criteria listed in s. 51 of O. Reg. 404/23 were met.

EVIDENCE - Admissibility - Objection to authenticity of video shown at hearing - Video in question tendered to contradict respondent's claim that he was unaware of pre-existing tension between Sikh and Hindu communities - Ancillary evidence relevant only to issue of respondent's knowledge - Video admitted but assigned little weight.

EVIDENCE - Standard of proof - Allegations of misconduct - Pursuant to s. 202(9) of *Community Safety and Policing Act*, allegations of misconduct required to be proved on the basis of clear and convincing evidence - Standard of proof met - Established that respondent breached s. 10(1) of Code of Conduct.

Summary of Reasons for Decision

The Peel Regional Police Service (applicant) requested the appointment of an adjudicator to hold a hearing pursuant to s. 202(1) of the *Community Safety and Policing Act, 2019*, the provision for demotion and termination of a police officer. Sergeant Sohi (respondent) was alleged to have committed misconduct in violation of s. 10(1) of the Code of Conduct for police officers, O. Reg. 407/23. This decision dealt with the merits phase of the proceeding; and the issue before the adjudicator was whether Sgt. Sohi committed misconduct by attending at and participating in two protests on October 18, 2024 and November 3, 2024.

Because there was no Notice of Hearing or charge sheet, by agreement, the adjudicator read into the record the summary of allegations and particulars from the applicant's request for the appointment of an adjudicator, viz. that:

On October 18, 2024 Sgt. Sohi attended a protest in Toronto in support of the Khalistan movement; and video from the event depicted him "desecrating" the Indian flag by standing on it while pretending to beat with a shoe the Indian PM;

On November 3, 2024 Sgt. Sohi attended a protest at the Hindu Sabha Temple in Mississauga in support of the Khalistan movement; video from the event showed that he became involved in a physical altercation

with a member of the temple; and although he did not instigate any altercations, members of the group unlawfully stormed the temple, assaulted members of the temple, and committed other acts of violence, necessitating a significant police response.

The applicant alleged that Sgt. Sohi was identifiable as a PRP officer in both incidents. The service learned of the first incident while the respondent was under investigation for the November incident. The respondent was off-duty at the time of both protests.

Constable N. Johnston testified for the prosecution regarding the November protest. He was working a paid duty at the Hindu Sabha Temple on November 3, for purposes of security and traffic. A group of protesters holding the Khalistan flag were on the sidewalk. At the request of the Temple event organizer, Cst. Johnston spoke to the protesters, advising them they were allowed to be there for peaceful protest and were to remain on the sidewalk, not on Temple property. Later, someone from the Temple came out and started shouting at the protestors. This individual made a phone call, and more people from the Temple came out, holding the India flag. As video from the event showed, people from both sides were pushing and shouting at one another. In the case of the Khalistan group, they were chanting: "Who killed Nijjar? – Indian government!" and "Who's the terrorist? – Indian government!" Matters became tense and someone called for additional police. At some point during this face-to-face confrontation phase, Cst. Johnston noticed Sgt. Sohi – whom he had known for 10-15 years – in the group of Khalistan protesters. Surprised, he said nothing, in case the respondent was there in an undercover capacity. He was shown a second video showing confrontations between the two groups, who were battling with flag poles and sticks. Constable Johnston did not see Sgt. Sohi assault anyone. At some point someone (not Cst. Johnston) called for more police assistance.

Detective P. Colagiovanni of the Internal Affairs Bureau was assigned to investigate this incident. He testified that after the incident there was some public outcry and media attention – local, national, and international. One article identified Sgt. Sohi as a PRP officer – a source of concern as public perception mattered in terms of public trust. At the direction of the Chief, on November 4, 2024 he served a notice of investigation and suspension on Sgt. Sohi. While he was investigating the Temple incident, the PRP media office forwarded to him a video of an earlier Khalistan protest in which Sgt. Sohi participated at the India High Commission in Toronto. This video led to a second notice of investigation. The video came to the attention of the media office through a tweet, which identified Sgt. Sohi as one of the participants. The second video depicted Sgt. Sohi standing on a large flag of India, along with a smaller Russian flag. Sergeant Sohi carried a sign depicting Khalistan and calling for the India High Commission in Ottawa to be shut down. He was standing with a group of protestors, one of whom (not Sgt. Sohi) was pretending to beat a mannequin of India PM Modi with a shoe. Protestors were chanting slogans against Modi and approving Canadian PM Trudeau.

Detective Colagiovanni testified that the service received several complaints about the protests, from civilians, political parties, and politicians. These complaints expressed concerns about the perceived targeting of the Hindu community and the involvement of a PRP officer as a participant. At the same time, and after reviewing the second video, the witness determined that Sgt. Sohi was not an aggressor in the Temple incident and did not assault anyone or commit any criminal act. As a result, Sgt. Sohi was returned to work from suspension and assigned to administrative duties. In cross-examination Det. Colagiovanni was asked about O. Reg. 402/23,

s. 5(1), which states that an off-duty officer may engage in any political activity if not in uniform and identifies four exceptions. The witness agreed that the first three exceptions did not apply, but in his view, Sgt. Sohi did breach the last one, because it is the police's role to attend incidents such as this one to keep the peace and provide impartial service. In his opinion, after openly supporting one side in a conflict, Sgt. Sohi could not be seen as providing impartial service.

Sergeant Sohi testified as to his 20-year employment history with the service. Starting in uniform patrol, he then joined the Neighbourhood Policing Unit. After 2 years in that unit, he worked in the Criminal Investigation Bureau for 6 years. He then moved to Corporate Communications – Media Relations for 2 ½ years. In 2019 he was promoted to Sergeant. In 2020 he moved to a platoon assignment. On November 4, 2024 he was suspended for 4 days; eventually, he was reassigned to the On-line Community Reporting Bureau, in a non-supervisory role.

Sergeant Sohi testified that he was a Sikh though not fully practising because he was not baptized. He attended Temple every day. He stated that he was not aware of any tension in his home area (Brampton) between Sikhs and Hindus. With respect to the events for which he was disciplined, he attended what he thought were peaceful protests; he did not anticipate violence. Sergeant Sohi explained the Khalistan movement. He characterized both protests as political, rather than religious. He was not a member of the “Sikhs for Justice” group but was motivated to participate in the protests after the president of that group, Hardeep Singh Nijjar – originally from India but a Canadian citizen – was murdered outside a Sikh Temple. The respondent was aware of the strong reaction of the Canadian government to the murder of Nijjar, the investigation by the R.C.M.P. of links between agents of the Indian government into this and other criminal activities as well as interference in democratic processes, and the eventual expulsion of Indian diplomats from Canada. These events affected him deeply, especially due to his family connections to India. Therefore, he decided to participate in peaceful protests. In both protests, he was off-duty and attended in civilian attire. He knew that diplomats from India had been invited to the Temple event but he was there to support the Canadian government and the R.C.M.P.'s investigation, not to advance a religious message or to support violence. He did not storm the Temple; he was assaulted when the confrontation became violent; and he left after his old platoon officers arrived to deal with the situation.

In cross-examination, Sgt. Sohi maintained that he was unaware of on-going tension between Sikh and Hindu communities. He regretted his attendance at the Temple event because of the way it turned out, although his intentions going into the protest were peaceful. He agreed that perceptions of police impartiality mattered but contended that news articles suggesting the protests were inflammatory were based on misinformation emanating from the government of India. In re-direct he described his participation in the High Commission protest as relatively passive: he stood where he was directed, did not speak to anyone, and never encouraged or incited anyone to do anything.

The prosecution's submissions focused on the importance of public trust in policing and the importance of impartiality in maintaining public trust, as reflected in s. 10 of the new Code of Conduct and the offence of “undermine public trust”, formerly discreditable conduct. The prosecutor submitted that the necessity of providing impartial service represented a reasonable limit on a police officer's freedom of expression and freedom of assembly. Counsel cited case

law in support of these principles, including authorities which emphasize that for police officers, both on and off-duty behaviour that would undermine public trust is considered misconduct. She pointed out that the Regulation of Political Activity excludes participation in political activity which places the officer in a conflict of interest. In this case, the respondent placed himself in a clear conflict of interest by publicly taking a side in a highly charged geo-political situation; and his actions could be seen as compromising his ability to provide impartial service and hence, undermining public trust. Counsel agreed that police officers had rights of expression and peaceful assembly under the *Charter of Rights and Freedoms*; however, those rights may be subject to limitations which are reasonable and proportionate to the public benefit which the limit seeks to achieve. Counsel cited case law where police officers were disciplined for exercising off-duty, peaceful expressions of *Charter* rights which were contrary to the Code of Conduct because they undermined public trust. She submitted that the issue was not whether the activity engaged in was peaceful; rather, the issue was whether the activity undermined the public's trust in impartial police service. In any event, the circumstances here were neither peaceful nor harmless; it was a tense, violent conflict between opposing factions which resulted in complaints about the partiality of the Peel Regional Police and Sgt. Sohi.

Counsel for the defense emphasized that Sgt. Sohi attended the protests because he was shocked and concerned about the murder of Nijjar and wanted to show his displeasure as a Canadian citizen, in a responsible, peaceful way. He was off-duty, not in uniform, and not identifiable as a police officer, unless you happened to know him. Regardless, however, this was the sort of political activity which he was allowed to take part in and he did so in a lawful, reasonable and responsible manner. Further, any reasonable person would not view his participation as a conflict of interest. Thus, this was permissible political activity within the meaning of O. Reg. 402/23, s. 5. Counsel took issue with the Notice of Hearing, contending that the allegation was that Sgt. Sohi "undermined" public trust, which meant that the applicant had to prove this allegation, not simply that the conduct was "likely to undermine" public trust. Related to this strict-grounds argument, counsel also asserted that the former offence of discreditable conduct was different and distinguishable from undermining public trust, and the discreditable conduct case law was irrelevant insofar as it dealt with an offence that was no longer part of the Code of Conduct. Counsel contended that the tribunal must perform a *Charter* analysis because *Charter* rights were in issue. Counsel submitted that the *Charter* guaranteed Sgt. Sohi the rights of free expression and assembly, rights which were being threatened by prosecuting disciplinary charges. As to the allegations, counsel submitted that the prosecution failed to prove them on clear and convincing evidence.

Held, Misconduct proved.

On the second day of the hearing, the prosecution presented a video. Subsequently, defense counsel objected to this video on the grounds of authenticity, contending that because there was no evidence about its authenticity, the video was inadmissible. The prosecution, in turn, objected to defense counsel raising what appeared to be a whole new argument in closing submissions, instead of at the hearing via a motion which could be argued and answered during the hearing. The adjudicator determined that the video had been entered in response to Sgt. Sohi's claim that he was unaware of any tension between community groups; it was not entered as proof of

anything that the respondent caused or was responsible for. As such, the weight assigned to the video would be limited.

A hearing under Part XII of the *Community Safety and Policing Act* was a hearing into an employment matter – specifically, alleged misconduct. Pursuant to s. 202(9) of the *CSPA*, the standard of proving misconduct was clear and convincing evidence. In reaching a determination, it was necessary to assess the credibility of witnesses. In this case, the prosecution witnesses were credible and forthright. While much of Sgt. Sohi’s testimony was credible, some of it was self-serving.

Defense counsel raised two important concerns about the lawfulness of the proceedings against Sgt. Sohi: the sufficiency of the Notice of Hearing; and the constitutionality of the limits being placed on his *Charter* rights.

With respect to the first matter, the defense position was that the Notice cited only “undermines” public trust and did not include “or is likely to undermine”; and therefore, the applicant was not entitled to rely on the latter aspect. However, there was no requirement of a Notice of Hearing under the new *CSPA*. Counsel agreed to use the Commission’s (OPAAC) form “Request for the Appointment of an Adjudicator”. The form stated that it was a prerequisite for initiating an adjudication hearing under Part XIII. The form required a brief description of the matter, an overview of the misconduct. In this case a description was read into the record; Sgt. Sohi was asked and confirmed that he understood the charges and was aware of the information contained in the Request form; and he pled not guilty.

The Regulation governing the conduct of adjudication hearings under the *CSPA*, O. Reg. 404/23, stated at s. 51(a)(i) and (ii) (Responding Materials) that no later than 15 days following the appointment of an adjudicator, the chief of police shall submit to the adjudicator a description of the alleged misconduct and a description of the particulars of the alleged misconduct. In this case, the accepted document used for the hearing met these criteria. No argument was raised when s. 10 was read into the record as “undermines or is likely to undermine public trust in policing”. Moreover, and in contrast to the standards of precision governing allegations in criminal proceedings, the information read into the record from the Request form appeared to be consistent with requirements in administrative proceedings involving professional misconduct. The purpose of notice and particulars is to ensure the person has adequate notice of the allegations and enough information to mount an adequate defense. Accordingly, the information detailed in the Request form was sufficient.

As to the *Charter* argument, the Supreme Court of Canada ruled that administrative decision-makers and tribunals, in exercising their discretionary powers under their home statutes, must reasonably balance *Charter* rights with their statutory mandates: *Doré v. Barreau du Québec* (2012 SCC 12). Section 10 of the Code of Conduct addressed off-duty conduct that may discredit the police service or undermine public trust. If an officer challenged a disciplinary decision under s. 10 by invoking *Charter* rights, the *Doré* analysis became relevant and required the balancing of *Charter* rights with statutory objectives, according to a reasonableness standard. Instead of applying the full *Oakes* test used for laws, the adjudicator was obligated to ask

whether their decision reasonably and proportionately limited *Charter* rights, considering the statutory mandate of upholding police integrity and public confidence.

Given their unique powers, police officers were held to a higher standard of conduct, both on and off-duty. Their actions reflected on the integrity of law enforcement and public perceptions of justice. Integrity was critical to their profession; and misconduct eroded public trust. Sergeant Sohi admitted in his testimony that he was known in the community where he lived and worked and was involved in the community. He also held a face-fronting position on behalf of the service when attached to the Media Relations office. He therefore had an increased responsibility to ensure impartiality while on and off-duty. His attendance at the protests in question fell within the definition of an actual institutional conflict of interest, within the meaning of O. Reg. 401/23. Considering the statutory mandate of providing impartial service, the disciplinary action taken against him was a reasonable and proportionate limitation on his *Charter* rights of free expression and assembly.

Sergeant Sohi's claim that he was unaware of any tension between Hindu and Sikh cultures was not credible, in light of his personal background, the breadth of his experience in policing, and the extensive coverage in Canadian news about conflicts between these communities. He stated that once he learned of the Nijjar murder, he decided to attend the protests. While his attendance *per se* might not have been problematic, his actions were. In the Toronto event he was seen holding a Khalistan sign, joining in the chanting of anti-Modi slogans, and standing on the flag of India – an act widely regarded as a deliberate insult and expression of contempt. Further, he was recognized as a police officer. His actions could readily be perceived as pro-Khalistan; and someone of the Hindu faith, or someone from India, might perceive that he would not be impartial towards them. In the November event at the Temple, in the end Sgt. Sohi was the victim of assault when the protest became violent. He did not participate in the alleged attacks on the Temple or even go onto Temple property. On the other hand, he made no attempt to assist his colleagues or provide any information. He simply left the scene.

Sergeant Sohi's actions in both protests showed a significant lack of judgment. Others saw what he did and identified him as a PRP officer. The events made news locally, nationally and internationally. Both he and the PRP became the focus of media attention. Impartiality was a key occupational requirement: it was part of the oath of office, it was part of the service's principles, and it was part of the Conflict of Interest Regulation. In the wake of these events, Sergeant Sohi's ability to remain impartial was in question – which, in turn, had the effect of eroding public trust and confidence in the police service.

Accordingly, Sergeant Sohi committed misconduct, contrary to s. 10 of the Code, by attending at and participating in two protests.

Authorities cited

Doré v. Barreau du Québec, 2012 SCC 12

R. v. Oakes, [1986] 1 SCR 103

Allan v. Munro, Board of Inquiry, Niagara Regional Police Force (PCO55/93)

Golomb and College of Physicians and Surgeons of Ontario, (1976) O.R. (2d) 73 (Div. Ct.)

Gill v. Canada (Attorney General), 2007 FCA 305, [2007] FCJ 1241
Ceyssens, P. Legal Aspects of Policing, [Earlscourt]. Ch. 5.7(d)