

***THE MATTER OF SECTION 202(1) OF THE COMMUNITY SAFETY AND POLICING
ACT, 2019, SO 2019, c.1, Sch.1***

Between:

TORONTO POLICE SERVICE

APPLICANT

- and -

CONSTABLE RICARDO GOMEZ

RESPONDENT

DECISION AND REASONS

Adjudicator:	Maureen Helt
For the Applicant:	Alexandra Miller, counsel
For the Respondent:	Sandip (Sandy) Khehra, counsel
Hearing Format:	In-Person
Hearing Date:	July 29, 2026

INTRODUCTION

1. The Applicant, Toronto Police Service, applied under s. 202(1) of the *Community Safety and Policing Act*, 2019, S.O. 2019, c.1, Sched 1 (CSPA). For adjudication between the Applicant and Constable Ricardo Gomez (Cst. Gomez or the Respondent) with respect to demotion and termination of a police officer.
2. The Applicant alleges that Cst. Gomez engaged in conduct that constitutes misconduct as he was found guilty of a criminal offence under the *Criminal Code of Canada* (CCC), contrary to section 4 of the *Code of Conduct for Police Officers*, Ontario Regulation 407/23 (Code) to the CSPA and therefore contrary to section 195 of the CSPA.
3. Cst. Gomez denies the above noted allegation of misconduct.
4. On consent, the following documents were marked as Exhibits.

Exhibit 1 – Applicant’s Book of Records with the following four tabs:

1. Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Guilty Plea Transcript (including Agreed Statement of Facts)*, November 18th, 2024;
2. Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Sentencing Hearing Transcript*, December 17th, 2024
3. Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Reasons for Sentencing Transcript*, April 30th, 2025
4. *R. v. Gomez* ONSC 1767

Exhibit 2 – Applicant’s Book of Authorities with the following tabs:

- A *Jacobs v. Ottawa Police Service and Krupa*, 2016 ONCPC 2
- B *Precious v Hamilton (Police Service)*, 2002 ONCPC 5

C *Mowers and Hamilton-Wentworth Regional Police Service*, 1999 CanLII 31610 (ON CPC)

D Code of Conduct for Police Officers. O Reg 407/23, made under the *Community Safety and Policing Act*, 2019, SO 2019, c 1, Sch 1.

Exhibit 3 - *Toronto (City) v. Canadian Union of Public Employees, Local 79*, [2003] 3 SCC 63.

BACKGROUND

5. At the outset of the hearing counsel for the Applicant set out the allegation against Cst. Gomez as follows: “The officer is alleged to have committed misconduct, and that he was found guilty of an offense under the *Criminal Code of Canada*, the *Controlled Drug and Substances Act*, or the *Cannabis Act*, which is contrary to section 4 of the Code of Conduct of Ontario Regulation 407/23, and therefore contrary to section 195 (1) of the *Community Safety and Policing Act* as amended.”
6. Cst. Gomez denies the allegation.
7. The facts in this case are relatively straightforward. Cst. Gomez attended Superior Court on November 18, 2024, before the Honourable Justice J. Kelly. and pled guilty to one count of Breach of Trust under section 122 of the CCC in connection with the duties of his office by providing confidential information on several occasions to a member of the public.
8. The facts underpinning the guilty plea were set out in an Agreed Statement of Facts (ASF) which was read into the record during the criminal proceedings.¹

1. Exhibit 1, Tab 1 - Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Guilty Plea Transcript (including Agreed Statement of Facts)*, November 18th, 2024 at pages 6 - 19

9. Madam Justice Kelly found Cst. Gomez guilty and registered a conviction on the count of Breach of Trust under section 122 of the CCC.
10. As a result of having been found guilty of an offence under the CCC, Cst. Gomez is alleged to have committed misconduct in that he breached section 4 of the Code which states:

Section 4. "A police officer contravenes this code of conduct if they are found guilty of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Cannabis Act* (Canada)."²

11. Cst. Gomez provided testimony during this hearing stating that he only pled guilty in the criminal proceedings as he felt pressured by his counsel to do so as he believed, if he went to trial, there would be a real possibility that he would lose custody of his three daughters. He further testified that he believed he was only pleading guilty to one charge related to the facts surrounding the Ministry of Transportation.

ISSUE

12. Is Constable Gomez guilty of misconduct as set out in section 4 of the Code, having been found guilty of an offence under the CCC?
13. The Panel is also being asked by the Respondent to determine what, if any weight, should be given to Cst. Gomez's testimony stating he was under undue influence to plead guilty, when determining if the alleged misconduct has been established?

EVIDENCE

Applicant's Evidence

² *Code of Conduct for Police Officers*, Ontario Regulation 407/23

14. The Applicant introduced one witness to introduce and verify the court documents contained in Exhibit 1. This included the *Guilty Plea Transcript* dated November 14, 2024; the *Sentencing Hearing Transcript* dated December 17, 2024; *Reasons for Sentencing Transcript*, April 30th, 2025 and the decision in *R. v. Gomez* ONSC 1767. No objections were made to the authenticity and admissibility of the above exhibits.
15. By way of background, Cst. Gomez faced the following criminal indictment when he attended Superior Court on November 14, 2024: “Ricardo Gomez between November 5, 2020, and the 28th day of January in the year 2021, at the city of Toronto or elsewhere in the province of Ontario, did, being an official, to wit, a police officer with the Toronto Police Service, commit a breach of trust in connection with the duties of his office by providing confidential information to a member of the public contrary to Section 122 of the Criminal Code of Canada.”³
16. At the outset of the Guilty Plea proceeding, the Honourable Justice Kelly had the following exchange with Cst. Gomez:

All right, Mr. Gomez, please stand, sir. I am told that today you wish to plead guilty to one count of Breach of Trust between November 5th, 2020, and January 28th, 2021. Is that your desire, sir?

RICARDO GOMEZ: Yes, it is, Your Honour.

THE COURT: And you know that in pleading guilty to this offence, you are giving up your right to be tried by a jury of 12 of your peers or a judge like me sitting alone. Do you understand that?

³ Exhibit 1, Tab 1 - Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Guilty Plea Transcript (including Agreed Statement of Facts)*, November 18th, 2024 at pg. 8

RICARDO GOMEZ: Yes, I do.

THE COURT: You also know that Crown Counsel is not going to call any witnesses to prove this doubt, and Counsel is not going to question any witnesses to raise a reasonable doubt. Do you understand that, sir?

RICARDO GOMEZ: Yes, I do.

THE COURT: And you are not going to testify in an effort to raise a reasonable doubt with respect to this offence?

RICARDO GOMEZ: Yes, I do.

THE COURT: You know that you are going to have to agree that between November 5th, 2020, and January 28th, 2021, you did commit a Breach of Trust. Do you understand that, sir?

RICARDO GOMEZ: Yes, I do, Your Honour.

THE COURT: And you appreciate that a plea of this nature has a number of consequences. Crown Counsel is going to ask that you serve a conditional sentence of four to six months, which essentially means you are going to serve a jail sentence in the community. Do you understand that, sir?

RICARDO GOMEZ: Yes, I do.

THE COURT: All right. So there are other repercussions as well. You were a police officer with the Toronto Police Service. I do not know what becomes of your employment, but you are at risk of losing your employment with this plea. Do you understand that, sir?

RICARDO GOMEZ: Yes, I do, Your Honour.⁴

17. After the above exchange, an Agreed Statement of Fact (ASF) was read into the record. A summary of those facts, and Cst. Gomez's admissions in relation to those facts, are set out by Justice Kelly in her Reasons for Decision⁵ at paragraphs 6 and 7:

[6] On December 2, 2021, Mr. Gomez was arrested. Two cell phones in his possession were seized from him. A further investigation ensued. It revealed that Mr. Gomez committed a breach of trust in connection with his duties as an officer of the TPS, as follows:

- a. On November 5, 2020, Mr. Gomez received six photographs of a white 2008 Volkswagen Rabbit car, including the Vehicle Identification Number from Mr. Issa. Thereafter, Mr. Gomez accessed the Ontario Ministry of Transportation ("MTO") database and discovered the name and personal information regarding the car's owner. He then checked the Canadian Police Intelligence Centre ("CPIC"), confirming personal information about the owner. He provided that information to Mr. Issa who then asked for the owner's driver's license number. Mr. Gomez obliged accessing both the MTO and CPIC databases a second time. That information was, again, provided to Mr. Issa who used it to replace the ownership of the car.
- b. On January 19, 2021, Mr. Issa sent Mr. Gomez three photographs of doors located in a building located at 1716 Weston Road (which he owns). The doors had red crosses spray painted on them. Mr. Gomez was not on duty at the time. Later that night, PC Andrew

⁴ Exhibit 1, Tab 1 - Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Guilty Plea Transcript (including Agreed Statement of Facts)*, November 18th, 2024 at pages 5 - 6

⁵ Exhibit 1, Tab 4, *R. v. Gomez* ONSC 1767

Darmitz of the TPS (a friend and colleague of Mr. Gomez) accessed a TPS report concerning a Mr. Jay Morris. That information was provided to Mr. Issa. Thereafter, Mr. Gomez sent a text to Mr. Issa with "suggestions" on how to deal with the issue. He suggested that Mr. Issa call the TPS and advise that Mr. Morris had spray painted his property and that he wants Mr. Morris investigated. A second suggestion made by Mr. Gomez was that Mr. Issa report that Mr; Morris spray painted the property and threatened him, among other things. A third suggestion was that Mr. Issa get a tenant to say that they have been threatened. A fourth suggestion was that Mr. Issa report Mr. Morris and have him "accessed under the mental health act". Mr. Gomez ended the text saying, "I wish we could have spoken in person to give u some sound advice." He offered various times when he would be free to speak.

- c. On January 28, 2021, there was a fire on the second floor of the building at 1716 Weston Road. The estimated damage caused by the fire was \$500,000. Twelve tenants were displaced. Mr. Gomez attended at the scene voluntarily. Mr. Gomez noted the names of some of the displaced tenants along with their apartment numbers. He sent photos from his TPS notebook to Mr. Issa's cell phone which included the names of the displaced tenants and other information about them.
- d. On January 29, 2021, Mr. Gomez sent Mr. Issa a 20-second-long video of the fire at 1716 Weston Road and a man escaping through a second-floor window. He *a/so* provided Mr. Issa with the TPS and Toronto Fire report numbers.
- e. Between December 2020 and December 2021, Mr. Gomez attended at 1716 Weston Road 47 times according to the GPS

tracking data on his cruiser. On only 27 of those occasions, did he advise TPS dispatch that he was attending. Several of his attendances had no connection with his duties.

[7] In committing the above-mentioned acts, Mr. Gomez agreed that that he violated the following:

- a. The oath of secrecy he signed on April 17, 2001, wherein he swore or affirmed that he would not disclose any information obtained by him in the course of his employment with the TPS except as he may be authorized or required by law.
- b. The affirmation/oath of office of a police constable wherein he swore or affirmed that he would (amongst other things) discharge his duties "faithfully, impartially and according to law".
- c. His agreement to abide by the TPS I&IT resources (the Toronto Police Service Information and Technology including access to their computerized systems) requirement not to access information for "personal gain, entertainment, or malicious purposes".
- d. The TPS Standards of Conduct including core values and the Police Services Code of Conduct. The Code of Conduct considers an officer to have committed misconduct if he or she engages in a "breach of confidence" by divulging any matter that is his duty to keep secret; communicating any matters connected with the police force with unauthorized persons, etc. It also provides that members shall avoid conflicts of interest and that members shall treat as confidential any information entered in a computerized information system. Further, members shall not release to any unauthorized persons any information in their memo books, etc.

The Standards of Conduct *also* require that no members shall use any facilities for purposes unrelated to their duties. They are to use computers only for police business. Members are also required to inform the communications operation regarding their locations, etc. Generally, constables are not to withhold any information about criminal activity.

- e. The Employee Security Statement Form which Mr. Gomez signed on May 7, 2005. It provides that he understood that he was to access data bases administered by the MTO for authorized reasons only. Further, he stated that he understood he was not to access information for personal reasons. Mr. Gomez acknowledged that if he failed to comply with the policies, it could result in disciplinary action and/or criminal prosecution.
- f. The *Police Services Act*, R.S.O. 1990, c. P.15, Code of Conduct which considers it a breach of confidence if he, amongst other things, "divulges any matter which it is his or her duty to keep secret" and "shows to any person not a member of the police force ... any record that is the property of that police force".
- g. The *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, which has as its purpose, amongst other things, to "protect the privacy of individuals with respect to personal information held by institutions", etc. Personal information is defined by the Act to include, information relating to an address, telephone number, criminal history, etc. The Act prohibits disclosure of personal information for reasons other than those permitted, such as disclosure to a law enforcement agency to aid in an investigation.⁶

⁶ Exhibit 1, Tab 4, R. v. Gomez ONSC 1767 at pages 2 - 4

18. The Applicant also referred to the following portion of the *Guilty Plea Transcript*:⁷

THE COURT: All right. Mr. Gomez, based on the facts that Mr. Nicol, as Crown Counsel, has just read into the record, including the Agreed Statement of Facts, the compendium of Toronto Police Service documents, the compendium of legislation, and the related exhibits, do you agree that those facts are substantially correct, giving rise to the offence of Breach of Trust between November 5th, 2020 and January 28th, 2021, sir?

RICARDO GOMEZ: I agree to those facts, Your Honour.

THE COURT: All right, so there will be findings of guilt, and a conviction will register at this point.

19. The Respondent chose not to cross-examine on any of the above evidence.

Respondent's Evidence

20. Cst. Gomez testified on his own behalf and set out that he had an honourable 20 years of service during which he received multiple commendations for his work, two chiefs' awards, and numerous letters from the public in appreciation.

21. During his examination-in-chief, Cst. Gomez was asked about his familiarity with the transcripts from the criminal proceeding and the Decision and Reasons of Justice Kelly. He acknowledged being familiar with their contents however, he stated that he was persuaded by his counsel to plead guilty.

22. More specifically, Cst. Gomez testified that he had "absolutely no choice but to plead guilty", although he believed he was innocent.

⁷ Exhibit 1, Tab 1, - Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Guilty Plea Transcript (including Agreed Statement of Facts)*, November 18th, 2024, at page 35

23. Cst. Gomez testified that he believed in pleading guilty, he was pleading guilty to one Ministry of Transportation of Ontario charge, and that by doing so, he would likely avoid jail time and avoid the likelihood of losing custody of his three daughters, over whom he has sole custody. He also testified that the prosecutor in the criminal court proceeding indicated to his counsel that he would also lose his pension if found guilty. It was because of the fear of losing custody of his daughters that Cst. Gomez states he had no choice but to plead guilty.
24. Cst. Gomez further testified that he disagreed with the testimony of one officer in the criminal proceedings who provided a sworn statement that Cst. Gomez was aware that Mr. Issa had a criminal history. In Cst. Gomez's view, this officer gave false evidence which influenced Justice Kelly in her sentencing.
25. With respect to the other facts agreed to, and admissions made in the ASF, Cst. Gomez testified that he could "easily articulate his actions" and that "all this other stuff that could be easily articulated in relation to the whole agreed statement of facts."
26. When asked why he did not raise any of these issues before Madam Justice Kelly, Cst. Gomez answered it was because of his children. He added, immediately after his sentencing he consulted with two lawyers about possibly appealing the conviction.
27. He testified he was told by the lawyers he consulted with that, as his criminal lawyer was covered by the association, they would not provide another lawyer to argue that he had an "incompetent" counsel. Cst Gomez stated he could not afford a lawyer himself and therefore did not file an appeal of the conviction.
28. A sentence appeal was filed and that matter is still before the court.
29. On cross-examination, Cst. Gomez confirmed that he had thirty days to file an appeal of the conviction of breach of trust, but he did not do so. He also confirmed that, pursuant to the transcript and pursuant to his testimony, he was found guilty of a

breach of trust. He again was asked to confirm that he pled guilty and that he did not appeal the guilty plea, which he did.

30. On cross-examination, the Applicant also directed Cst. Gomez to the *Guilty Plea Transcript* on page 6 wherein he confirmed that he was asked by Justice Kelly if “he appreciated that a plea of this nature has consequences, that he is at risk of losing his employment with his plea and that this conviction may have other implications for his employment going forward.” Cst. Gomez confirmed he understood.⁸
31. Cst. Gomez also confirmed that he answered “yes” when he was asked by the court if he understood that in pleading guilty “You’re not going to testify in an effort to raise a reasonable doubt with respect to the offence.”
32. The Applicant also questioned Cst. Gomez about his concerns regarding the one officer’s sworn statement that Cst. Gomez was aware that Mr. Issa had a criminal history. Cst. Gomez answered that Justice Kelly would not have sentenced him to such a harsh decision had she not relied on this evidence. The Panel notes that this was considered an aggravating factor by Justice Kelly in her list of several aggravating facts on sentencing.

ANALYSIS

33. While a criminal conviction requires proof beyond a reasonable doubt, a police discipline merit hearing operates under administrative, and the CSPA legislation and the standard used to establish misconduct is “clear and convincing evidence.”
34. The Respondent provided several cases which establishes the above test. In the Ontario Court of Appeal’s decision in *Jacobs v. Ottawa (Police Service)*,⁹ the Court

⁸ Exhibit 1, Tab 1 - Superior Court of Justice, Before the Honourable Madam Justice J. Kelly, *Guilty Plea Transcript (including Agreed Statement of Facts)*, November 18th, 2024, at pages 6

⁹ *Jacobs v. Ottawa (Police Service)*, 2016 ONCA 345

determined that the standard of proof in *Police Services Act* hearings is a higher standard of clear and convincing evidence and not a balance of probabilities”.

35. In the other decisions referred to by the Applicant, clear and convincing evidence is evidence which meets the standard established in previous decisions:

“The applicable burden of proof in this case is that of “clear and convincing evidence. There must be weighty, cogent and reliable evidence upon which a trier of fact acting with care and caution came to a reasonable conclusion that the officer is guilty of misconduct.” ¹⁰

36. Counsel for the Respondent agrees with the legal test of clear and convincing evidence as set out by the Applicant. He also accepts that Cst. Gomez pled guilty, and if he pled guilty, it brings discredit upon the service however also submitted that Cst. Gomez has “explained why, and he’s explained that this is why he wasn’t guilty”

37. It was submitted by counsel for the Respondent that the question before the Panel is one of weight and namely, what weight should be given to the testimony of Gomez when considering the test of clear and convincing evidence to establish misconduct.

38. The Respondent did not provide any cases or any legal precedent to support his position that the Panel must consider the contextual factors surrounding a guilty plea in a criminal proceeding in a subsequent disciplinary proceeding dealing with the merits of the misconduct.

39. Counsel for the Applicant referred to *Toronto (City) v. Canadian Union of Public Employees, Local 79*, [2003] 3 SCC 63¹¹, a Supreme Court of Canada decision which discussed the doctrine of abuse of process to prevent the relitigating of criminal convictions in labor arbitrations. While this is a discipline proceeding and not a labour

¹⁰ Exhibit 2, Tab B, *Precious v Hamilton (Police Service)*, 2002 ONCPC 5 at page 8. Note it references Carmichael and the Ontario Provincial Police (May 21, 1998, O.C.C.P.S at page 6

¹¹ Exhibit 3, *Toronto (City) v. Canadian Union of Public Employees, Local 79*, [2003] 3 SCC 63

arbitration the same principle applies.¹²

40. In *Toronto v. Cupe*, Justice Arbour, writing for the majority stated that s. 22.1 of the *Evidence Act* “speaks of the admissibility of the fact of the conviction as proof of the truth of its content, and speaks of its conclusive effect if unchallenged.”

41. Section 22.1 of the *Evidence Act*, R.S.O. 1990, c. E.23 sets out the following:

22.1 (1) Proof that a person has been convicted or discharged anywhere in Canada of a crime is proof, in the absence of evidence to the contrary, that the crime was committed by the person, if,

(a) no appeal of the conviction or discharge was taken and the time for an appeal has expired; or

(b) an appeal of the conviction or discharge was taken but was dismissed or abandoned and no further appeal is available.

(2) Subsection (1) applies whether or not the convicted or discharged person is a party to the proceeding.

(3) For the purposes of subsection (1), a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction or discharge, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted or discharged, or by the deputy of the officer, is, on proof of the identity of the person named as convicted or discharged person in the certificate, sufficient evidence of the conviction or discharge of that person, without proof of the signature or of the official character of the person appearing to have signed the certificate.

¹² *Supra*, at para 18

35. The Panel finds that the Applicant has established that the evidence presented in this proceeding, including the criminal court certified transcripts, is authentic pursuant to the *Evidence Act* as evidenced by their Certificate of Transcript *Evidence Act*, subsection 5(2) and section 22.1 renders the proof of conviction as admissible. There was also no appeal of the conviction.
36. As set out above, the Respondent does not dispute the validity of the conviction but rather submits that the contextual factors surrounding his guilty plea and conviction are a relevant consideration in determining if misconduct occurred.
37. The Applicant agrees that contextual factors are relevant but only on sentencing as that is when disposition factors such as what's the officer's employment history, what are the officer circumstances, what maybe had led the officer to make the decisions that he made or didn't make are taken into account.
38. Upon questioning, counsel for the Respondent confirmed he was not asking this Panel to re-litigate the facts and stated that is not the Panel's role but submitted it is necessary to consider Cst. Gomez's evidence about why he pled guilty as relevant to the issue of whether there was misconduct.
39. The Panel agrees its role is not to relitigate the facts. The Panel will however consider all of the evidence presented, including the testimony of Cst. Gomez, and determine what weight to assign to such evidence.
40. The evidence provided by the Applicant, including the criminal court certified transcripts, carries significant weight as they are authentic, credible and reliable and there has been no appeal of the conviction.
41. Justice Kelly conducted a thorough plea inquiry and Cst. Gomez stated, under oath, that he was pleading guilty voluntarily and admitted the facts. His testimony today contradicts that his plea was "voluntary" in that he felt influenced by his counsel who advised if he did not plead guilty, he could lose custody of his children.

42. While this explanation may have some plausibility, as the fear of losing custody of his children was likely very real, there is nothing on the record to corroborate Cst. Gomez's testimony. There is nothing in the transcripts suggesting any concern raised by Cst. Gomez throughout the criminal proceedings. There was no hesitation expressed to the court throughout the proceedings. Rather the transcripts show Madam Justice Kelly clearly asking Cst. Gomez numerous questions about whether he understood the charge made against him, if he was informed, if his plea was voluntarily, the potential impacts on his employment and other possible repercussions and, in each instance, Cst. Gomez answered yes.
43. Further, as submitted by the Applicant, it was not until this discipline hearing, well over a year since the Decision and Reasons was released, that the Applicant learned of Cst. Gomez's concerns surrounding his guilty plea.
45. The Panel has had an opportunity to hear all the circumstances surrounding Cst. Gomez's guilty plea and conviction. As it is uncorroborated I find it not to be sufficiently reliable and therefore assign it little evidentiary weight in determining if there is clear and convincing evidence that the misconduct occurred.

Decision

44. The Panel finds that the Applicant has established, on clear and convincing evidence, that Cst. Gomez did commit misconduct and that he was found guilty of an offense under the Criminal Code of Canada, contrary to section 4 of the Code of Conduct of Ontario Regulation 407/23,
46. A further hearing will be scheduled with respect to penalty.

A handwritten signature in cursive script, appearing to read "Maureen Helt". The signature is written in dark ink on a light background.

Maureen Helt
Adjudicator

Dated: September 18, 2026

Electronically delivered: September 18, 2026

Dated and Issued September 15, 2026.

Maureen Helt