

TORONTO POLICE SERVICE
Applicant

And

CONSTABLE RICARDO GOMEZ
Respondent

Adjudicator:
Maureen Helt

Appearances:
A. Miller, for the Applicant
S. Khehra, for the Respondent

Heard:
July 29, 2026

Date of decision:
September 18, 2026

Length of decision:
19 pp.

Statutory citations:
Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, ss. 195(1), 202(1)
O. Reg. 407/23, s. 4
Criminal Code, R.S.C. 1985, c. C-46, s. 122
Police Services Act, R.S.O. 1990, c. P. 15 (repealed); O. Reg. 268/10 (repealed) s. 2.1(e)
Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M. 56
Evidence Act, R.S.O. 1990, c. E. 23, s. 22.1

CRIMINAL OFFENCES - Breach of trust - Respondent pled guilty to charge of breach of trust, contrary to *Criminal Code* - Pursuant to s. 4 of O. Reg. 407/23, conviction on criminal charge amounts to a violation of Code of Conduct - Clear and convincing evidence that respondent committed misconduct.

EVIDENCE - Relevance - Respondent pled guilty to breach of trust, contrary to *Criminal Code* - Respondent not appealing criminal conviction - Respondent claiming in disciplinary proceeding that guilty plea resulted from undue pressure - Abuse of process doctrine applied - Evidence of contextual factors surrounding guilty plea in criminal trial not relevant to issue of whether respondent committed misconduct.

EVIDENCE - Standard of proof - Respondent pled guilty to criminal charge - Criminal conviction not appealed - Pursuant to s. 4 of O. Reg. 407/23, finding of guilt under *Criminal Code* amounts to violation of Code of Conduct - Abuse of process doctrine prevents re-litigation of a criminal conviction in subsequent proceedings - Clear and convincing evidence that respondent committed misconduct.

Summary of Reasons for Decision

The Toronto Police Service applied under s. 202(1) of the *Community Safety and Policing Act* for an adjudication with respect to demotion and termination of a police officer. The applicant alleged that the respondent, Cst. Gomez, breached s. 4 of the Code of Conduct, O. Reg. 407/23, in that he was found guilty of a criminal offence. Constable Gomez did not deny that he pled guilty to a criminal charge; however, he denied that under the circumstances his guilty plea in the criminal proceeding amounted to misconduct.

On November 18, 2024 Cst. Gomez attended Superior Court and pled guilty to one count of Breach of Trust, contrary to s. 122 of the *Criminal Code*, in connection with the duties of his office, by providing confidential information to a member of the public. Madam Justice Kelly found Cst. Gomez guilty and registered a conviction under s. 122. The respondent did not appeal his conviction. He did appeal his sentence, and that matter was still before the court.

In this subsequent disciplinary proceeding the respondent took the position that he had no choice but to plead guilty and was pressured into doing so by his counsel, because he was afraid that otherwise he would lose custody of his three children.

The transcript from the guilty plea, including an agreed statement of facts, was introduced at the disciplinary hearing, as were the sentencing transcripts and Justice Kelly's decision. At the outset of the guilty plea proceeding, Kelly J. reviewed with Cst. Gomez the various consequences attaching to his guilty plea, including the potential employment consequence of termination. Constable Gomez affirmed that he understood all of the various consequences and his plea was voluntary. Specifically, he admitted the facts underlying the s. 122 charge – viz., that on several dates between November 5, 2020 and January 28, 2021 he provided confidential information from police and government databases to a member of the public. He agreed that his actions violated: the oath of secrecy, his oath of office as a police officer, his agreement to abide by service IT policies, TPS standards of conduct, the TPS employee security statement, the breach of confidence subsection of the Code of Conduct under the now-repealed *Police Services Act*, and the *Municipal Freedom of Information and Protection of Privacy Act*.

Constable Gomez testified in the disciplinary proceeding and drew attention to his positive 20-year employment record. He stated that his criminal trial lawyer persuaded him to plead guilty; and he had no choice but to plead guilty, even though he believed he was innocent, because doing so would probably avoid jail time and the likelihood of losing custody of his three daughters. He claimed that one officer who testified at his trial gave false evidence, which influenced Justice Kelly in her sentencing. He explained that his decision not to appeal the

conviction was based on the advice of lawyers he consulted and their presumption that the association would be unwilling to fund further representation for him.

Held, misconduct established; breach of s. 4 proved.

There were two issues raised in this proceeding: whether, having been found guilty of an offence under the *Criminal Code*, Cst. Gomez was guilty of misconduct under s. 4 of the Code of Conduct; and, in determining that question, what, if any, weight should be given to his testimony that he was pressured into pleading guilty.

As to the first issue, the standard of proof applicable in a police disciplinary hearing was clear and convincing evidence of misconduct. In this case, that standard was met. As to the second issue, in determining whether misconduct was proved, little weight should be assigned to the evidence of circumstances surrounding the respondent's guilty plea.

In *Toronto (City) v. C.U.P.E., Local 79*, [2003] 3 S.C.C. 63, the Supreme Court of Canada applied the doctrine of abuse of process to prevent the relitigating of a criminal conviction in a subsequent arbitration proceeding. Arbour J., writing for the majority, held that under s. 22.1 of the *Evidence Act* a criminal conviction is admissible as proof of the fact that the person committed the crime, and the conviction has conclusive effect if unchallenged. Here, the authenticity of criminal court documents was not questioned and the conviction had not been challenged by way of an appeal.

Although the respondent did not dispute the validity of the conviction, he submitted that contextual factors were a relevant consideration in determining whether misconduct occurred. However, as the applicant contended, contextual factors were relevant only on sentencing, when disposition factors may be taken into account, such as employment record and state of mind.

It was not the role of the adjudicator to re-litigate proven facts. In this case the guilty plea was supported by authentic records, and no appeal of the conviction was filed. The respondent's guilty plea followed Justice Kelly's thorough plea inquiry with Cst. Gomez. He admitted the facts and affirmed that he was voluntarily pleading guilty. His testimony in the disciplinary proceeding contradicted the apparent voluntariness of his plea, yet there was no hesitation expressed to the court throughout the criminal proceeding and nothing in the court record suggesting any concerns; in fact, concerns about his guilty plea were not raised until the discipline hearing. The evidence of circumstances surrounding the guilty plea was uncorroborated and insufficiently reliable. As such, it was assigned little weight in determining whether there was clear and convincing evidence of misconduct.

Authorities cited

Jacobs v. Ottawa Police Service, 2016 ONCPC 2

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

Precious v. Hamilton Police Service, 2002 ONCPC 5

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

Toronto (City) v. C.U.P.E., Local 79, [2003] 3 SCC 63