In the matter of an Appeal pursuant to s. 87 of the *Police Services Act* and s. 216 of the *Community Safety and Policing Act, 2019*.

Date: 2026-09-31

Between:

Inspector Joyce Schertzer

Appellant

and

Toronto Police Service

Respondent

Denial of Request for Factum Extension

Adjudicators: L. Hodgson, J. Theoharis, M. Helt

Participants: J. Mulcahy, counsel for the appellant
S. Hutchison, counsel for the respondent

INTRODUCTION

1) The appellant, Inspector Joyce Schertzer, has appealed from the Hearing Officer's findings of misconduct in a decision dated August 7, 2024, and the Hearing Officer's penalty decision dated January 13, 2025. On February 6, 2025, pursuant to subsection 216(4) of the *Community Safety and Policing Act, 2019* S.O. 2019, c.1, Sched. 1.(the CSPA), adjudicators were appointed to hear the appeal of this matter.

2) The prehearing conference order dated January 28, 2026, in addition to including directions for a motion hearing which was held on May 21, 2026, included the following directions with respect to the appeal scheduled to be heard on October 8, 2026:

> [9] The appellant will serve and file their appeal materials electronically by August 7, 2026.
>
> [10] The respondent will serve and file their appeal materials electronically by September 9, 2026.
>
> [11] Factums will be no longer than 30 pages in length, exclusive of schedules or appendices. All text in factums must be double-spaced, except or quotations longer than four lines and footnotes. Margins must be approximately 40 millimeters on the left-hand side. Factums must use 12-point or larger font and use Arial or Times New Roman font. Parties may use hyperlinks to the cases cited in the factum to either CanLII or the party's book of authorities.

3) On Wednesday, August 5, 2026, counsel for the appellant requested, with the consent of the respondent, an extension of time to file materials on August 14, 2026, and, as a result, a corresponding extension for the respondent to file its materials on September 16, 2026. In an email dated August 6, 2026, the Panel allowed the appellant's request for an extension and a corresponding extension of time for the respondent.

4) On August 14, 2026, the appellant filed a factum by way of email. In addition to the factum, counsel for the appellant emailed a letter of the same date acknowledging the Panel's direction to file a factum of 30 pages; however, she requested the Panel accept the 236-page document filed (a 93 page factum with an additional 143 pages of attachments that included legal argument). In its correspondence, counsel for the appellant set out 19 reasons for the panel to accept the document as filed. The reasons included: the importance of the appeal to the appellant, the time spent drafting the factum, the length of proceedings (8 days), the length of the misconduct and penalty decisions appealed from (63 and 34 pages respectively), the appellant's 67 grounds of appeal and the "irreparable prejudice" to the appellant if the document could not be filed in its extended form.

5) The respondent, in correspondence to the Panel dated August 19, 2026, opposed the appellant's request to file the extended factum. It submitted, "the factum filed

and indulgence sought is not a modest extension and is not justified by the nature of the case". It notes the following: in addition to the factum being 93 pages it is not in compliance with the formatting ordered and is in essence "300% of the maximum length ordered"; the 93-page factum has 9 schedules - a number of which include summaries of evidence intended to be part of the appellant's argument; the rules of both Divisional Court and the Ontario Court of Appeal contain similar page limits.

6) In an email dated August 20, 2026, the panel denied the appellant's request to file the 236-page document. The panel indicated it would permit an extension of the factum length to 40 pages and extended the filing date to September 4, 2026. It was reiterated that, direction with respect to font, spacing and margin size as set out in paragraph 11 of the PHC Report and Order dated January 28, 2026, still applied. The panel also highlighted that schedules attached to the factum should not include legal argument. Although not requested, the respondent was granted the same extension of pages, and its factum was to be filed no later than September 18, 2026. Parties were advised that brief reasons for the denial of the page extension requested would follow. These are those reasons.

Reasons for Decision

7) As set out above, the Panel's order dated January 28, 2026, stipulated that the appellant was to file a factum no longer in length than 30 pages and indicated the requisite font and margin size. This is the same page limit the Ontario Civilian Police Commission (the OCPC), the predecessor to this Commission, set out in its Practice Directions. Those directions include the following:

    - A factum is a brief written argument setting out the facts and law which are relied on for the appeal.
    - The factum should be concise and focused on the issues to be argued.
    - No factum may exceed 30 pages in length without advance permission from the Commission.

8) Where, as in the circumstances here, a hearing was held under the *Police Services Act,* RSO 1990, c P.15 (PSA), but the appeal was filed after the *PSA* was repealed on April 1, 2024, and replaced by the CSPA, the appeal is governed by the transitional provisions of the *CSPA*. The transitional provisions mandate that if a person would have been allowed to appeal a matter dealt with under the *PSA* to the OCPC, the appeal shall instead be made to the Chair of the Ontario Police Arbitration and Adjudication Commission (OCAAP), who shall "appoint three adjudicators to exercise the powers and perform the duties of the Ontario Civilian Police Commission in the appeal" (s. 216(4) of the *CSPA*). Parties are advised at prehearing conferences that, with respect to transitional appeals such as this,

OCAAP panels will be following the OCPC Practice Directions.

9) In Ontario, the Divisional Court and the Court of Appeal have similar factum page limitations. The jurisprudence sets out the rationale for limiting factum length is "to focus counsel on the issues and not have a factum that goes on, and in fact, wanders" and to keep appeals manageable, efficient and cost-effective for the litigants and the court (see *OZ Merchandising Inc. v. Canadian Professional Soccer League Inc.*, 2020 ONCA 532, paras 4 and 5). Relief from compliance with the 30 page factum limit is exceptional and granted sparingly. The overarching question is "whether the extension is required in the interests of procedural fairness and justice to advise the other side of the issues in dispute so it can prepare properly for the appeal and to assist the division of the Court that hears the appeal to deal effectively with the issues". (*Oz supra,* paras 5 and 6*)*

10) The appellant sought to file a factum more than three times the page limit ordered with improper margins and attachments. The appellant has failed to establish that there is anything exceptional in the circumstances here, either factually or legally, that would warrant the significant extension requested. This matter relates to one appellant and is an appeal from two findings of misconduct and a penalty of demotion. We agree with the respondent that this appeal is no more complicated, and the consequences no more serious than many, if not most, of the appeals in courts of appeal where similar page limits are enforced.

11) Further, the appellant's choice to raise over 60 grounds of appeal does not justify a factum of over 90 pages. Again, the Court of Appeal's decision in *Oz*, *supra,* is instructive:

> The moving party's choice to raise numerous grounds of appeal does not serve as the kind of exceptional circumstance that justifies exceeding the 30-page limit. Such a "shotgun approach to appellate advocacy" was decried by Chartier J.A. (as he then was) in *R. v. Henderson (W.E.)*, 2012 MBCA 93, 284 Man. R. (2d) 164, at para. 51, when faced with a request for an extended factum in an appeal where counsel raised 23 grounds of appeal. His comments, at para. 50, are apposite here:
>
> Courts expect counsel to be of assistance in the appellate process. They expect counsel not to waste the court's valuable resources by simply dumping the appeal on the court's lap. Counsel are expected to have sufficient confidence to prioritize their arguments, to separate the wheat from the chaff and to provide fully developed arguments on what should be the real points for appellate review. Not only is this in the best interests of their clients; it is in the best interests of the administration of justice. (para 10)

12) The appellant has not demonstrated that a 236 document is required to fairly present the appellants' position, advise the respondent or assist the Commission. The materials provided are unreasonably long and will place an inappropriate burden on the appeal. Focused and concise facta are in the best interests of both the parties and the decisionmaker.

13) While the basis for an extended factum has not been established, as set out above, the panel nonetheless indicated that it would accept the appellant's factum if it was revised to less than 40 pages in accordance with the formatting directions previously stipulated and limited to schedules that do not include argument.

ORDER

14) As set out in directions issued by the Panel via email on August 20, 2026, the Panel orders the following:

i) the appellant's request to file the 236 page document received by the Panel on August 14, 2026, is denied.
ii) The panel permits an extension of the appellant's factum length to no longer than 40 pages and extends the filing date to September 4, 2026.
iii) The respondent is also granted an extension to 40 pages, and its factum is to be filed no later than September 18, 2026.
iv) Schedules are not to include argument.
v) As set out in paragraph 11 of the PHC Report and Order dated January 28, 2026, "All text in factums must be double spaced, except for quotations longer than four lines and footnotes. Margins must be approximately 40 millimeters on the left-hand side. Factums must use 12-point or larger font and use Arial or Times New Roman font."

DATED at Toronto: August 31, 2026

“Laura Hodgson”

Laura Hodgson

”Maureen Helt”

Maureen Helt

“Jeanie Theoharis”

Jeanie Theoharis