In the matter of a Notice of Disciplinary Penalty pursuant to s. 202 of the *Community Safety and Policing Act, 2019*.

Between:

Commissioner of the Ontario Provincial Police

Applicant

and

Sergeant Adam Goodlett

Respondent

MOTION ORDER

ADJUDICATOR: **Colin Osterberg**

APPEARANCES:

For the Applicant: Jason Kirsh, Counsel

For the Respondent: James A. Girvin, Counsel

Held in writing: October 13, 2026

BACKGROUND

[1] The Commissioner of the Ontario Provincial Police (the "Applicant") submitted an Application for Appointment of an Adjudicator to the Ontario Police Arbitration and Adjudication Commission ("OPAAC") dated December 5, 2025, with respect to allegations of misconduct against Sergeant Adam Goodlett (the "Respondent"). The application was made pursuant to subsection 202(1) of the *Community Safety and Policing Act, 2019*, S.O. 2019, c. 1, Sched. 1 (the "CSPA") and relates to allegations that the Respondent deceived or misled investigators contrary to s. 31 of Ontario Regulation 407/23 (the "Code of Conduct").

[2] The Respondent brings this motion seeking a stay of proceedings pursuant to s. 23(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 ("SPPA") on the basis that the Professional Standards Unit ("PSU") investigation underlying the allegations was procedurally unfair and therefore constitutes an abuse of process. In particular, the Respondent alleges that the PSU investigators possessed information they regarded as contradictory to his account during a compelled interview on February 21, 2025, but failed to put that information to him before concluding that the allegations of deceit were substantiated.

[3] In the alternative, the Respondent seeks an order:

i. excluding from consideration, or restricting reliance upon, the Respondent's February 21, 2025, cautioned statement to the extent that the Applicant's theory of deceiving or misleading conduct depends on contradictory information that was not put to the Applicant;

ii. excluding from consideration the investigators' conclusions that the allegations were substantiated, and any investigative opinion that the Respondent's account was deceiving or misleading by reason of that unput contradictory information;

iii. for directions necessary to restore a fair opportunity to respond, including directions respecting outstanding disclosure of materials relating to Deputy Commissioner Dart's direction to withdraw a charge.

[4] The Applicant submits that the duty of procedural fairness applicable at the investigative stage is limited, that the statutory notice requirements were met, that any fairness concern was not raised at the earliest opportunity, and that in any event the alleged defect falls far short of the type of prejudice necessary to justify a stay of proceedings.

ISSUES

[5] The first issue on this motion is whether the conduct of the investigation resulted in an abuse of process such that the continuation of these proceedings would undermine the integrity of the adjudicative process.

[6] If so, then the second issue is the determination of the appropriate remedy.

RESULT

[7] I find that the conduct of the investigation did not result in an abuse of process or procedural unfairness. The motion for a stay or other remedy is dismissed.

ANALYSIS

Context

[8] The Respondent was the subject of an investigation conducted pursuant to s. 198(1) of the CSPA to determine if he engaged in conduct that constitutes misconduct. According to the CSPA, where there is an investigation, the Respondent is entitled to notice of the substance and reason for the investigation and a written report summarizing its findings once the investigation is concluded.

[9] According to s. 202 of the CSPA, if the Applicant has reasonable grounds to believe that the officer has engaged in misconduct for which the appropriate disciplinary measure is demotion or termination, the Applicant may apply to the OPAAC for the appointment of an adjudicator to hold a hearing.

[10] On October 17, 2024, the Respondent provided a recorded statement to PSU investigator Detective Sergeant Bechard ("Det. Sgt. Bechard") with respect to the circumstances surrounding the unholstering of his police-issued firearm and allowing civilians to hold the firearm, and the events which led up to those actions. Det. Sgt. Bechard later obtained evidence including GPS records, witness statements, and the Respondent's notebook entries, which are alleged to contradict elements of the Respondent's recorded statement.

[11] On December 3, 2024, the Respondent was provided with notice that he was being investigated pursuant to s. 198(6) of the CSPA and that it was alleged that he was less than forthcoming regarding statements to the PSU investigators regarding the alleged unholstering, unloading and allowing civilians to hold and point his police-issued firearm.

[12] On February 21, 2025, during a compelled interview, the Respondent was given a memorandum setting out his October 17, 2024 recorded statement. He was provided an opportunity to review the statement, and confirmed that its contents relating to his October 17, 2024 statement were accurate, aside from a couple of

facts which are not relevant to this motion. He was not advised of the evidence alleged to be inconsistent with his statement that had been obtained by Det. Sgt. Bechard prior to the February 21, 2025 compelled interview and he was not asked for his comments with respect to that evidence.

[13] On March 6, 2025, the investigation report was completed and concluded that the Respondent misled the PSU investigators in his statement of October 17, 2024, and therefore the allegations of misconduct were found to be substantiated.

Abuse of process

[14] The parties agree that a duty of procedural fairness applies to PSU investigations conducted pursuant to s. 198 of the CSPA. As stated by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 ("*Baker*") at para. 20:

> The fact that a decision is administrative and affects "the rights, privileges or interests of an individual" is sufficient to trigger the application of the duty of fairness.

[15] The Court in *Baker* sets out several criteria that should be used in determining what procedural rights the duty of fairness requires in a given set of circumstances but emphasizes that "underlying all these factors is the notion that the purpose of the participatory rights contained within the duty of procedural fairness is to ensure that administrative decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional, and social context, with an opportunity for those affected by the decision to put forward their views and evidence fully and have them considered by the decision-maker".

[16] The factors that should be considered according to *Baker* include, but are not limited to:

(1) the nature of the decision being made and the process followed in making it;

(2) the nature of the statutory scheme and other surrounding indications in the statute;

(3) the importance of the decision to the individual affected;

(4) the legitimate expectations of the person challenging the decision; and

(5) the choices of procedure made by the decision-maker.

[17] The Respondent cites *Kane v. Board of Governors of the University of British Columbia*, 1980 CanLII 10 (SCC) ("*Kane*") in support of the submission that a high standard of justice is required when the right to continue in one's profession or employment is at stake, that the tribunal must give the person under scrutiny a fair opportunity to correct or contradict any relevant statement prejudicial to that person, and that the Court will not inquire whether the withheld information in fact worked prejudice; it is enough that it might have done so.

[18] The Respondent acknowledges that the facts in *Kane* are different than those in the present circumstances. However he maintains that the principles set out in *Kane*, namely that a tribunal has an obligation to make the subject of disciplinary proceedings aware of the evidence against them and provide the subject with the opportunity to make submissions regarding that evidence before making its decision, continue to apply. The Respondent argues that this is particularly important where the right to continue in one's profession or employment is at stake. The Court in *Kane* acknowledges that a disciplinary suspension can have grave and permanent consequences upon a professional career.

[19] The Applicant cites a number of cases in support of its submission that an officer is only entitled to a limited level of procedural fairness at the investigative stage of a professional disciplinary process since the investigation stage is not final and determinative.

[20] The Ontario Civilian Police Commission in *Re Bennett*, 2013 ONCPC 2504 (CanLII) quotes author Sara Blake in *Administrative Law in Canada* (Markham: Lexis Nexis Canada, 2011) as follows:

> Where the authority granted is to investigate and report but not decide, there may be a limited duty to act fairly…An investigation that cannot result in a decision, other than a decision to commence proceedings in court or before a tribunal, attracts the fewest procedural requirements because the subsequent proceeding will provide the opportunity to be heard.

[21] In *Sommers v. Ontario Civilian Commission on Police Services*, 2005 CanLII 15466 (Ont. Div. Ct.), the nature of the decision under review was the requirement that the officer proceed to a hearing rather than an informal resolution. The Divisional Court states at paragraph 24 of its decision that the level of procedural fairness to be considered at the given stage of the proceedings is at the very low end of the scale. The Court noted with regard to the significance of the decision to the officer, the following:

> No one enjoys being subject to disciplinary proceedings. However, no findings have been made and no outcome attained. A finding of

misconduct following a hearing can be said to be far more significant than the requirement to proceed to such a hearing, a hearing ringed with procedural fairness protections.

[22] I note that similar conclusions and that similar findings were made in the context of discipline decisions in *Law Society of Ontario v. Odeleye*, 2024 ONLSTH 71, *Fiorillo v. Ontario Securities Commission*, 2016 ONSC 6559, and *Elgamal v. College of Physicians and Surgeons of Ontario*, 2026 ONSC 3823.

Baker factors

(1) Nature of the decision

[23] With respect to the nature of the decision being made and the process followed, the Court in *Baker* explains that the more the tribunal's process, the function of the tribunal, the nature of the decision-making body, and the determinations that must be made to reach a decision resemble judicial decision making, the more likely it is that procedural protections closer to the trial model will be required by the duty of fairness.

[24] In the present case, the context is an investigation under s. 198 of the CSPA, and a compelled statement taken by investigators during that investigation. The decision being made is whether the Respondent has engaged in conduct that constitutes misconduct. Following the issuance of the related investigation report, the Applicant may apply to the OPAAC for the appointment of an adjudicator to hold a hearing.

[25] The CSPA does not provide for an investigation process in which the subject officer is provided the right to a hearing before the investigators complete their investigation report. According to s. 198(5) of the CSPA, the subject officer may not even be entitled to notice of the investigation if, in the Applicant's opinion, providing such notice might prejudice the investigation.

[26] Further, unlike a judicial process, the decision of the investigators do not bind any party to a particular action or consequence. The investigators' conclusion does not result in the imposition of discipline and does not require that a discipline hearing take place. According to s. 202 of the CSPA, the Applicant *may* apply to the OPAAC if the investigation report provides reasonable grounds to believe that the officer's conduct constitutes misconduct, but action by the Applicant in response to the investigation report is not mandatory.

[27] Finally, according to the CSPA, the investigation report need only establish "reason to believe" that misconduct has occurred in order to base an application for a hearing, whereas in order for there to be a finding of misconduct which may

result in disciplinary consequences for the officer, misconduct must be established on the basis of "clear and convincing" evidence.

[28] The investigators' decision, that is whether allegations of misconduct are substantiated, is dissimilar to a judicial decision in that the issue to be decided is not determinative of the rights or obligations of the parties. The Applicant is not required to request a hearing. Whether the officer has committed misconduct which permits disciplinary action is not decided, and the disciplinary measures to be undertaken are not determined or even recommended by the investigators.

[29] The process does not include a hearing and is not subject to the procedural safeguards set out in the CSPA or the SPPA with regard to hearings. Further, the allegations, if substantiated at the investigation stage, are subject to ultimate determination at a *de novo* hearing by an adjudicator, where the parties are entitled to robust procedural fairness protections.

[30] In my view, the decision itself and the process to be followed is significantly dissimilar to judicial decision making and this factor supports a lower standard of procedural protection.

(2) Statutory scheme

[31] With respect to the statutory scheme, the Court in *Baker*, as an example of the application of this factor, states that greater procedural protections will be required when no appeal procedure is provided within the statute, or when the decision is determinative of the issue.

[32] In the present case, according to the CSPA the investigation report is not determinative of the issue as to whether an application for a hearing under s. 202 of the CSPA will be made, whether the subject officer will be subject to any discipline, or what that discipline might be. The statutory scheme provides that the Applicant may apply for the appointment of an adjudicator to hold a hearing following an investigation, at which hearing the officer is entitled to significant procedural protections under the CSPA. The hearing adjudicator is in no way bound by the conclusions of the investigators and the hearing is effectively a *de novo* one, in respect of which there are subsequent avenues for appeal.

[33] Further, s. 198 of the CSPA requires notice of the *substance* of the reason for the investigation. It does not require disclosure of all evidence gathered by investigators or disclosure of every inconsistency the investigators may have identified. In fact, as noted above, there are circumstances in which the CSPA provides that no notice of the investigation is required.

[34] As noted, the statutory scheme provides more extensive procedural protections at later stages of the process.

[35] In my view, the statutory scheme supports the requirement of a relatively low level of procedural fairness.

(3) Importance of the decision

[36] With respect to the importance of the decision to the individual affected, the Court in *Baker* states that the more important the decision is to the lives of those affected and the greater its impact on that person, the more stringent the procedural protections that will be mandated.

[37] The Respondent argues that the decision made by the PSU investigators affects his rank, livelihood, and professional reputation and that the allegations, if made out, follow him in future policing, disclosure, and credibility assessments. The Respondent relies on the *Kane* decision in support of the proposition that a high standard of justice is required when the right to continue in one's profession or employment is at stake.

[38] In my view, the *Kane* decision is distinguishable from the matter before me. In that case, Mr. Kane appealed his suspension which was imposed following a meeting that took place between the university Board of Governors, Mr. Kane, and his counsel. At the appeal Mr. Kane and his counsel made submissions as to why he should not be suspended. The Board adjourned to deliberate, during which deliberations the president of the university, in the absence of Mr. Kane or his counsel, provided the Board with necessary facts related to the suspension.

[39] In other words, in *Kane*, the very tribunal which was tasked with determining whether Mr. Kane's suspension would remain in place or be overturned, heard evidence in the absence of Mr. Kane and failed to provide Mr. Kane with an opportunity to respond.

[40] In the present case, the PSU investigators were not responsible for determining whether the Respondent would be disciplined. It was up to the Applicant to determine if a hearing should be requested and the decision as to whether the Respondent's conduct warranted a finding of misconduct and, if so, the disciplinary measures that should be imposed is that of the adjudicator appointed under the CSPA.

[41] In the present case, the Respondent was given notice of the specific allegations by December 2025 at the latest and will have the opportunity to make submissions with respect to those allegations, including leading evidence to refute any of the allegations should he choose to do so at the hearing. Unlike the circumstances in *Kane*, the Respondent remains able to challenge the reliability, interpretation and significance of the allegedly contradictory evidence. He is able

to cross-examine witnesses, adduce evidence, provide explanations for any inconsistencies and make submissions regarding credibility and reliability.

[42] Unlike the circumstances in *Kane*, this case does not involve a decision-maker receiving evidence outside the presence of the affected party and then determining the merits of the case. Rather, the complaint concerns the manner in which investigators conducted an earlier investigative process. The hearing itself remains available as the forum for determining the merits of the allegations.

[43] While the decision of the investigators to conclude that the allegations involving the Respondent were substantiated was important to him in the sense that he would be subject to a potential hearing to determine whether his conduct amounts to misconduct, its importance does not rise to the level of the decision in *Kane*, or similar matters, in which the decision was whether to suspend or not.

(4) Legitimate expectations

[44] The Court in *Baker* states that the legitimate expectations of the person challenging the decision may determine what procedures the duty of fairness requires in given circumstances. The Court states that this doctrine cannot lead to substantive rights outside the procedural domain and its application is based on the principle that the "circumstances" affecting procedural fairness take into account the promises or regular practices of administrative decision-makers, and that it will generally be unfair for them to act in contravention of representations as to procedure, or to backtrack on substantive promises without according significant procedural rights.

[45] The Respondent has not submitted that there were promises or regular practices of PSU investigators which were not followed in this case and I find that the Respondent's position regarding procedural fairness is not supported by consideration of this factor.

(5) Choices of procedure

[46] In *Baker*, the Court states that the analysis of what procedures the duty of fairness requires should take into account and respect the choices of procedure made by the agency itself, when the statute leaves to the decision-maker the ability to choose its own procedures or when the agency has an expertise in determining what procedures are appropriate in the circumstances.

[47] Neither party made any submissions with respect to this factor, and I find that it is not relevant to the issue to be determined.

(6) Additional factors

[48] In *Baker* the Court states that the above factors are not the only factors that may be considered. The Respondent submits that this case is different from many disciplinary investigations because the allegations are not simply that certain events occurred, but that the Respondent intentionally deceived or misled investigators. According to the Respondent, once investigators possessed information they considered contradictory to his account, fairness required that information be put to him before the investigators concluded that his statements were dishonest.

[49] I accept that allegations of deceit are serious. A finding that a police officer has intentionally deceived or misled investigators may have significant professional and reputational consequences. I also accept that apparent inconsistencies may arise for reasons other than dishonesty, including misunderstanding, imperfect recollection, confusion regarding timing or events, imprecise language, or other innocent explanations.

[50] However, the existence of those possibilities does not answer the legal question before me. The issue is whether the duty of procedural fairness applicable at the investigative stage required investigators to disclose the allegedly contradictory evidence and obtain the Respondent's explanation before completing their report.

[51] In my view, neither the CSPA nor the authorities cited by the parties impose such a requirement. The statutory obligation is to provide notice of the substance of the reason for the investigation. The legislation does not require investigators to disclose all evidence obtained during an investigation, to reveal every inconsistency identified, or to conduct the investigation in a manner analogous to cross-examination at a hearing.

[52] While obtaining and considering an explanation for an apparent inconsistency may be desirable investigative practice, that does not mean procedural fairness legally requires it in every case. There is a distinction between prudent investigation and a breach of procedural fairness. The question is not whether investigators could have conducted a more thorough or fairer interview. The question is whether the process that occurred fell below the level of procedural fairness required by law having regard to the nature of the investigative function and the surrounding statutory scheme. For the reasons already set out, I find that it did not.

[53] The Respondent submits that Det. Sgt. Bechard acknowledged at the hearing that it was unfair not to provide the Respondent with an opportunity to respond to the allegedly contradictory information before investigators concluded that he had

been deceptive. According to the Respondent, this acknowledgment constitutes a significant admission that the investigative process was fundamentally unfair.

[54] I do not accept that Det. Sgt. Bechard's acknowledgement is as significant as alleged.

[55] The ultimate issue before me is not whether an investigator, in hindsight, would have preferred to conduct additional interviews, disclose additional information, or provide a further opportunity for explanation. Nor is the question whether another investigator might have approached the investigation differently. The issue is whether the process that occurred satisfied the requirements of procedural fairness imposed by law in the circumstances of this case.

[56] The content of procedural fairness is determined by the governing legislation and applicable legal principles. It is not determined by the subjective views of an investigator, regardless of that investigator's experience or expertise. Therefore, while Det. Sgt. Bechard's views regarding investigative practice are relevant factual considerations, they are not determinative of the legal standard that must be applied on this motion.

[57] Therefore, I assign limited weight to Det. Sgt. Bechard's evidence regarding fairness. The evidence may support the proposition that a different investigative approach was available. It does not persuade me that the investigation failed to satisfy the level of procedural fairness required by law or that continuation of these proceedings would amount to an abuse of process.

Waiver

[58] The Applicant also argues that the motion should be dismissed because concerns regarding procedural fairness were not raised at the earliest opportunity.

[59] Given my conclusion that no breach of procedural fairness has been established, it is unnecessary to decide the issue. I note that there is authority supporting the proposition that procedural fairness concerns should generally be raised when they arise so that any alleged defect may be addressed or corrected.

[60] In light of my findings on the merits of this motion, I make no determination regarding waiver.

CONCLUSIONS

[61] I find that procedural fairness during the PSU investigation did not require that the Respondent be advised of the evidence in the possession of the investigators

or that the Respondent be given the opportunity to make submissions regarding that evidence prior to the completion of the investigation report.

[62] I find that the investigation did not amount to an abuse of process or failure to provide procedural fairness.

[63] Even if I were wrong in my conclusion that no breach of procedural fairness occurred, I would nevertheless decline to grant a stay of proceedings.

[64] A stay is an exceptional remedy reserved for the clearest of cases. The question is not whether some procedural imperfection occurred during the investigation. Rather, the question is whether continuation of the proceeding would compromise the integrity of the adjudicative process to such a degree that no lesser remedy would be capable of addressing the prejudice.

[65] On the record before me, that threshold has not been met. The alleged defect relates to the manner in which the investigation was conducted prior to the commencement of the hearing. The Respondent continues to enjoy the full procedural protections available in this adjudication. The hearing remains capable of determining the allegations fairly based on all admissible evidence.

[66] The public interest in having serious allegations adjudicated on their merits is substantial. Balanced against that interest, the prejudice alleged here falls well short of demonstrating that continuation of the proceeding would itself amount to an injustice or bring the administration of the disciplinary process into disrepute.

[67] Therefore, even if a breach of procedural fairness were established, a stay would not be a proportionate remedy.

[68] With respect to the alternative remedies sought by the Respondent, as I have found that there has been no abuse of process or breach of procedural fairness established, the entitlement to the alternative remedies has not been established. In any event, I would decline to make the broad evidentiary rulings sought on the present record.

[69] The fact that the investigators reached conclusions during the investigative process does not determine what weight, if any, should ultimately be accorded to those conclusions. The proper significance of investigative opinions, the interview evidence, and any allegedly contradictory information can be assessed within the evidentiary record as a whole at the conclusion of the hearing.

[70] To the extent that the Respondent contends that certain evidence should be given little weight because he was not afforded an earlier opportunity to respond to it, that argument remains available in submissions on the merits.

[71] The Respondent also raised concerns regarding materials relating to Deputy Commissioner Dart's involvement in the withdrawal of an allegation. The Applicant advises that the earlier failure to address the disclosure request resulted from an administrative error and that the request is now being processed. The Applicant further states that it does not intend to rely upon those materials.

[72] On the record before me, I am not satisfied that the issue warrants a stay or other extraordinary relief. However, the Respondent may renew any disclosure-related request should disclosure issues remain unresolved and should the relevance of the materials become more clearly established.

ORDER

[73] The motion for a stay of proceedings is dismissed.

[74] The Respondent's request to exclude the February 21, 2025 statement and the investigators' conclusions is dismissed, without prejudice to submissions concerning admissibility, reliability, relevance or weight at the conclusion of the evidence.

[75] The parties shall continue to address any outstanding disclosure issues in the ordinary course of the hearing.

[76] The hearing shall proceed on its merits.

Released: October 29, 2026



Colin Osterberg
Adjudicator