



PEEL REGIONAL POLICE DISCIPLINE HEARING

**IN THE MATTER OF ONTARIO REGULATION 268/10
MADE UNDER THE POLICE SERVICES ACT, RSO 1990,
AND AMENDMENTS THERETO:**

IN THE MATTER OF

**PEEL REGIONAL POLICE
AND
CONSTABLE JACOB LANCIA #3859**

ALLEGATIONS:

Count 1: Discreditable Conduct

DECISION

Hearing Officer: Superintendent Taufic Saliba #1796
Peel Regional Police

Prosecutor: Mr. Keegan Soles
Prosecutor

Inspector Ryan Berrigan #1999
Co-Prosecutor

Defence: Mr. Mark Gordon – PRPA Member Representative

Case Number: 2023-PRS100

Date of Hearing: May 7, 2024

Date of Decision: July 23, 2024

This decision is divided into four parts:

- PART I: OVERVIEW**
- PART II: THE HEARING**
- PART III: ANALYSIS AND FINDINGS**
- PART IV: DISPOSITION**

PART I – OVERVIEW

BACKGROUND

- [1] Constable Jacob LANCIA #3859 commenced his employment with Peel Regional Police in August 2013, and presently holds the rank of 1st Class Constable.
- [2] This hearing examined an allegation of misconduct as laid out in a *Notice of Hearing* that was served on Constable LANCIA on February 27, 2024.

PARTICIPANTS

- [3] The Prosecution was represented by Mr. Keegan Soles (Counsel) and Inspector Ryan Berrigan #1999 (Co-Prosecutor).
- [4] The Defence was represented by Peel Regional Police Association Member Representative Mr. Mark Gordon.

ALLEGATIONS OF MISCONDUCT

- [5] It is alleged that Constable Jacob LANCIA #3859, a member of Peel Regional Police, committed the following misconduct:

Count #1 – Discreditable Conduct

- [6] It is alleged that Constable LANCIA committed Discreditable Conduct in that on September 29, 2023, he was found guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction, namely, operation while impaired – blood alcohol concentration (over 80) – operation causing bodily harm, contrary to section 320.14(2) of the *Criminal Code of Canada*, in relation to an incident which occurred on or about April 6, 2022, constituting an offence against discipline, as prescribed in section 2(1)(a)(ix) of the Code of Conduct, Ontario Regulation 268/10, as amended.

PLEA

[7] On May 7, 2023, Constable LANCIA entered a plea of Guilty to:

Count 1: Discreditable Conduct

[8] An *Agreed Statement of Facts* (ASF) was tendered and read into the record by the Prosecutor. Based on those facts and confirmation by Defence that they were substantially correct, a finding of guilt was registered.

POSITIONS ON PENALTY

[9] A Joint Submission as to Penalty was tendered to the Tribunal. The document was signed by Mr. Soles, Mr. Gordon and Constable LANCIA.

DECISION

[10] I have carefully reviewed the submissions and relevant information presented by both the Prosecution and Defence, as well as previous tribunal decisions. In light of the mitigating and aggravating circumstances involved in this matter, the penalty for Constable LANCIA imposed under Sec 85(1)(c) of the *Police Services Act*, for;

Count 1: Discreditable Conduct

[11] A reduction in rank from 1st (first) Class Constable to 2nd (second) Class Constable for a period of two years, following which the officer will be returned to the rank of 1st (first) Class Constable, on the basis of satisfactory work performance, to be determined by the officer's Divisional Commander.

PART II: THE HEARING

APPEARANCES

- [12] On May 7, 2024, Constable LANCIA appeared before me in answer to the *Notice of Hearing* at Peel Regional Police Headquarters.

EXHIBITS

- [13] The following exhibits were tendered during the hearing:

Exhibit #1	Delegation to a Hearing Officer (Supt. T. Saliba)
Exhibit #2	Designation to a Prosecutor (Ms. S. Wilmot)
Exhibit #3	Designation to a Prosecutor (Mr. K. Soles)
Exhibit #4	Designation to a Prosecutor (Insp. R. Berrigan #1999)
Exhibit #5	Notice of Hearing
Exhibit #6	Agreed Statement of Facts (ASF)
Exhibit #7	Joint Submission as to Penalty
Exhibit #8	Prosecution – Book of Authorities
Exhibit #9	Defence – Book of Materials

AGREED STATEMENT OF FACTS

- [14] The ASF was read into the record by the Prosecutor, Ms. Soles.

Count #1 – Discreditable Conduct

- [15] In the late evening of April 6, 2022, Constable Lancia was operating his 2012 Mazda 3i in the City of Guelph when he lost control of his vehicle and veered toward the sidewalk, striking a pedestrian.
- [16] A civilian witness contacted police. Upon police attending the scene, Constable Lancia was ultimately charged with operation while impaired – over 80, contrary to section 320.14(1)(b) of the *Criminal Code*. This charge was later upgraded by the prosecuting Crown to operation while impaired – over 80 – causing bodily harm, contrary to section 320.14(2) of the *Criminal Code*.
- [17] On September 29, 2023, Constable Lancia entered a guilty plea to operation while impaired – over 80 – causing bodily harm at the Ontario Court of Justice in Guelph.
- [18] The following facts were submitted to the Court for consideration on sentencing and accepted by Constable Lancia as correct:

- [19] On the 6th of April 2022, at approximately 11:20 P.M. [Constable] Lancia was operating a conveyance, specifically a 2012 Mazda M3i, silver in colour, bearing Ontario license plate BPJL 649.
- [20] The vehicle was traveling southbound on Wyndham Street South, south of Wellington Street East in the City of Guelph. This roadway curves to the left at that location, and then it becomes known as York Road.
- [21] At some point, after taking the curve and as it proceeded on York Road, [Constable] Lancia's conveyance came in contact with and struck a female pedestrian, Ms. [J.P.] who was out walking.
- [22] A Guelph by-law enforcement officer happened upon the scene and contacted the police.
- [23] Upon the arrival of the police, [Constable] Lancia initially equivocated, but ultimately admitted to being the driver of the silver Mazda that had struck Ms. [J.P.].
- [24] The investigating officer could smell the odour of an alcoholic beverage from within the cabin of the motor vehicle.
- [25] As a result of this observation an approved screening device demand was made for [Constable] Lancia at approximately 12:09 A.M. After providing an insufficient sample on his first attempt, [Constable] Lancia provided a suitable sample on his second attempt, which was analyzed by the approved screening device that registered a fail.
- [26] [Constable] Lancia was arrested on the reasonable probable grounds that he had been operating a conveyance with 80 plus milligrams of alcohol in 100 milliliters of blood. He was provided his cautions, his rights to counsel, and read a breath demand.
- [27] [Constable] Lancia was transported to the Guelph Police Service at this detachment, and at this point, it was observed that he had an odour of an alcoholic beverage on his person.
- [28] Once his rights to counsel were satisfied, [Constable] Lancia provided two samples of his breath into an approved instrument. Those samples were taken at 1:46 A.M. and 2:09 A.M. and were analyzed at 140 and 130 milligrams of alcohol in 100 milliliters of blood, respectively.
- [29] The pedestrian, Ms. [J.P.] suffered bruises and abrasions, but no fractures or dislocation of any bones or joints. She did complain of soreness to her hip. And as a result of the pain from being struck by the car, she missed roughly one week of work following the accident.
- [30] She is not suffering from any long term or lasting effects from this incident.

- [31] Accordingly, Constable Lancia plead guilty of operation while impaired – over 80 – causing bodily harm, contrary to section 320.14(2) of the *Criminal Code*.
- [32] The Court imposed a sentence of a \$2,500 fine, and a 12-month driving prohibition.
- [33] The actions of Constable Lancia constitute Discreditable Conduct, pursuant to section 2(1)(a)(ix) of the prescribed Code of Conduct.

SUMISSIONS BY THE PROSECUTION

- **Mr. Keegan Soles**

- [34] The Prosecution commenced submissions by presenting the relevant factors for the Tribunal to consider in this matter:
- Public interest,
 - Seriousness of the misconduct,
 - Recognition of the seriousness of the misconduct,
 - Employment history,
 - Need for deterrence,
 - Ability to reform or rehabilitate the officer,
 - Damage to the reputation of the police service,
 - Effect on the officer and the officer’s family,
 - Management’s approach to misconduct,
 - Consistency of disposition; and
 - Effect of publicity.

Public Interest

Damage to the Reputation of PRP

Effect of Publicity

- [35] It is a well-established principle that public confidence is an essential ingredient to an accountable police service. The public must be assured that police officers will protect, and not threaten, their safety. To that end, the public is interested in ensuring that police officers, who are tasked with enforcing impaired driving laws, face significant consequences when their own actions are found to breach those same laws.
- [36] Mr. Soles referred to a passage from the Ontario Civilian Police Commission decision in the appeal case of the *OPP and Sergeant Cameron Howard (2016)*, wherein the Commission held:

- [37] *“We take no issue with the Hearing Officer stating his belief that the public’s perception of the seriousness of drinking and driving by police officers has increased in the subsequent years.”¹*
- [38] Mr. Soles noted that this justified the Hearing Officer imposing a more stringent penalty in consideration of the increased public interest.
- [39] Constable LANCIA’s conduct involved a member of the public, a 19-year-old female University of Guelph student who was walking home from her shift working at the campus bar. He struck her with his motor vehicle, causing fear and injury.
- [40] The female student’s roommates and a bylaw officer showed up at the scene. Others driving by the public thoroughfare in Guelph would have witnessed the scene. The victim surely recounted what happened to her to her friends, family, employer, and fellow students at school.
- [41] This undoubtedly caused damage to the reputation of the Service, and police generally – especially given it followed on the heels of several other high-profile officer DUIs in the Region.
- [42] Following the Service’s necessary media notification of this matter, the story was picked up by Global News. Fortunately, the media publicity was limited, and the article does not mention the officer by name, nor the fact that he is a Service officer.
- [43] Constable LANCIA also pled guilty in criminal court – a public forum – which further tarnishes the image of the Service among members of the public, judiciary, and the court staff involved. These are all aggravating factors.

Seriousness of the Misconduct

- [44] The Commission and this Tribunal have repeatedly and consistently recognized that impaired driving offences must be treated seriously. In *Devine v. OPP* (2006), the Commission observed:
- [45] *“It is clear that drinking and driving is a conduct which constitutes a serious misconduct. It is conduct which cannot be tolerated and for which a substantial penalty must be assessed.”²*
- [46] Communities and police services across Ontario have become increasingly intolerant of drinking and driving. The perception of the seriousness of this misconduct has increased with the passage of time, and this is evidenced by a corresponding escalation in the length of demotions and outright dismissals in subsequent *PSA* disciplinary hearings.

¹ Exhibit #8 – Prosecution Book of Authorities – Tab 6 Para 24

² Exhibit #8 – Prosecution Book of Authorities – Tab 7 Page 8

- [47] The Prosecution noted that the Service is very concerned with instances of impaired driving amongst its members and feels it necessary that appropriate messaging be sent out to demonstrate that this sort of behavior will not be tolerated.
- [48] There are factors that make this misconduct in particular very serious. Constable LANCIA consumed an unknown number of alcoholic beverages, then made the decision to drive home in the evening hours via populated roadways in Guelph.
- [49] He ended up in a motor vehicle collision, veering off the road, onto the sidewalk, and ultimately into an innocent bystander. His conduct was clearly creating an active risk to any other drivers or pedestrians in his vicinity. He is fortunate that neither the victim nor himself suffered more serious injuries as a result of his actions.
- [50] He was travelling too fast for road conditions even if he had not been under the influence of alcohol and was unable to navigate a turn, thus veering off the road. Constable LANCIA also equivocated with those at the scene about what had transpired, before ultimately confessing to the fact that his vehicle had been responsible striking the pedestrian. He also ultimately owned up to his actions to first responders while still on scene.
- [51] Constable LANCIA registered a “fail” on an Approved Screening Device (ASD) and provided two samples back at the Guelph Police Service detachment, registering 140 and 130 mgs/100 mls of blood respectively. These readings are well above the legal limit and are enough to compromise Constable LANCIA’s ability to operate a motor vehicle. The numbers are high enough to be considered aggravating with respect to the minimum fine imposed as per the Criminal Code, yet below the level that would warrant the maximum fine, which requires readings of over 160 mgs/100 mls of blood.
- [52] Constable LANCIA pled guilty to impaired over 80 Cause Bodily Harm, contrary to the Criminal Code. This is an aggravating factor.
- [53] Although the officer unintentionally hit someone, he took a risk by driving impaired in populated areas. The impact and consequences of this must be considered by courts and tribunals.
- [54] In this case, there was harm caused to the victim. As noted in the ASF, the victim did not suffer any fractures or dislocations, however she did have bruises and abrasions and missed a week of work. While it appears that she made a full recovery, a more vulnerable victim could have found themselves in considerably worse circumstances.
- [55] Lastly, pursuant to his guilty plea in criminal court, Constable LANCIA is subject to a one-year driving prohibition, which the Service has and will continue to accommodate.
- [56] The Service submits that the seriousness of this misconduct is an aggravating factor that must be stressed in order to ensure that we are protecting our community members.

Employment History

- [57] Constable LANCIA has been with the Service since 2013. He has served with positive performance reviews, commendations on file and no prior discipline. There is no evidence before this Tribunal that Constable LANCIA is a problematic officer. Rather, his actions prior to suggest the opposite. Mr. Soles noted that everyone he has spoken to, including the Professional Standards officers that interviewed him, clearly hold him in high regard and have faith that he will bounce back from this.
- [58] This is a mitigating factor.

Rehabilitative Potential Recognition of Seriousness of Misconduct

- [59] Alongside employment history, other factors relevant to an officer's rehabilitative potential include their acceptance of responsibility, recognition of the seriousness of their misconduct, and any outward expressions of remorse.
- [60] Constable LANCIA took responsibility for his actions by pleading guilty before the Court and this Tribunal. He recognized the error he made and took positive steps to ameliorate it. He expressed remorse in his compelled interview, made no attempts to minimize or justify his actions, and demonstrated insight into his behaviour.
- [61] This is seen as a clear acceptance of responsibility and, coupled with his otherwise positive performance reviews and unblemished history, demonstrates that Constable LANCIA has considerable rehabilitative potential with the Service.
- [62] It should be added that Constable LANCIA returned from suspension shortly after the incident and worked without issue to re-establishing his value to the Service.
- [63] Both of these factors are also mitigating.

Need for Deterrence Management's Approach to Misconduct

- [64] Both specific and general deterrence are relevant in this case. Firstly, this penalty will act as a constant reminder to Constable LANCIA of the seriousness of his actions, and how crucial it is to his career advancement and his continued employment with the Service this never happens again.
- [65] Further, management wants to ensure that discipline penalties are effective in serving as a clear sign to *all* members of the Service that any criminal conduct is serious misconduct and will be penalized as such.

[66] This disposition, along with other impaired driving decisions by the Tribunal, puts all members of the Service on notice that aggravating factors such as causing accidents or causing harm, will attract a substantial penalty.

Consistency of Disposition

[67] The Prosecution presented several cases for the Tribunal's consideration, three of which were recent Peel Regional Police matters that involved impaired driving and resulted in a penalty of demotion for 18 months (see pages 18 – 19). Although those cases involved higher readings, this matter presents aggravating factors which include Constable LANCIA's initial equivocation and the victim's injuries.

[68] Mr. Soles then examined the two following cases:

[69] York Regional Police and Constable Amanda Knegje (2023)³: where the officer was pulled over after a civilian called in her erratic driving behaviours. She had clear signs of intoxication, and very high readings (over 200 mgs/100 mls). She expressed remorse to the officers on scene, owned up to her actions and pled guilty in court and a Tribunal at the first opportunity.

[70] The Prosecution sought a 2-year demotion while the Defence sought a 14-month demotion. The Hearing Officer imposed a 20-month demotion.

[71] Although Constable Knegje's readings are higher than this matter, Constable LANCIA's incident includes the causing of an accident, injuring a pedestrian, and initially equivocating with first responders.

[72] Devine and OPP (2008) OCPC Appeal⁴: where the officer hit a patch of black ice while attempting to navigate a bend in the road and lost control of his vehicle, ultimately skidding into a ditch. He required medical attention, and a passerby took him to the hospital. He then contacted an acquaintance to drive him back to the scene, where they notified the police. The officer had an otherwise positive albeit brief employment history. He was a 2nd Class Constable at the time.

[73] The penalty of a 2-year demotion was upheld by the Commission.

Conclusion

[74] Impaired driving is a serious issue, and the Service must be unambiguous in demonstrating that this sort of behavior will not be tolerated.

³ Exhibit #8 – Prosecution Book of Authorities – Tab 5

⁴ Ibid – Tab 7

[75] The Prosecution noted that Constable LANCIA has taken responsibility and demonstrated the willingness and ability to be rehabilitated and move forward in a positive manner. In fairness to the officer, from the time he owned up to his conduct at the scene onwards, he has stepped up and done everything that could be expected of him. It is the Service's sincere hope that the officer will continue in this positive trajectory.

[76] Mr. Soles acknowledged that the Tribunal is not bound by joint positions. However, in order to depart from a joint position, a Hearing Officer would need to find that the penalty proposed is outside of the reasonable range of penalties imposed for similar misconduct, and that accepting it would bring the administration of justice into disrepute. Considering the dispositional factors that are highlighted by the Prosecution and the Defence, the proposed penalty is seen to be reasonable and fair.

SUMISSIONS BY THE DEFENCE

- **Mr. Mark Gordon**

[77] Constable Jacob LANCIA stands before the Tribunal having accepted responsibility for the charge of Discreditable Conduct. By entering a guilty plea, he has acknowledged that the *Agreed Statement of Facts* accurately reflects the nature of his misconduct. The joint submission on penalty is a demotion to 2nd class constable for twenty-four months (2 years). He accepts the penalty that is proposed by the prosecution and supported by the Association.

[78] Mr. Gordon cited *Krug and the Ottawa Police Service (2003)*, for the relevant mitigating and aggravating factors to be examined in this case. He proposed that these factors serve to support the joint submission on the proposed penalty.

Seriousness of the Misconduct

[79] It is agreed that Constable LANCIA's conduct was in contravention of internal directive I-A- 204(f) – *Code of Conduct, Ethics, Conduct and Discipline*, and that the misconduct was serious in nature. The proposed penalty adequately addresses the misconduct in the matter.

Recognition of the Seriousness of the Misconduct

[80] Constable LANCIA was originally charged by Guelph Police for operating a motor vehicle while impaired by alcohol. Constable LANCIA plead guilty to the offence of Impaired Driving, Over 80, Causing Bodily Harm, contrary to section 320.14(2) of the Criminal Code. He accepted the imposed sentence for the offence, receiving a \$2,500 fine and a twelve (12) month driving prohibition.

- [81] Throughout the process, including the initial contact with Professional Standards investigators, Constable LANCIA maintained his professionalism and respect in an otherwise un-professional circumstance. The presiding judge in criminal court made it clear that Constable LANCIA displayed “real genuine remorse”, not just for himself but everyone around him, and most notably the person that he struck with the vehicle.
- [82] Constable LANCIA could have sought this matter to go to trial, and there were considerable triable issues as noted by the Judge in the case. However, Constable LANCIA accepted responsibility and dealt with the matter in the most respectful way and plead guilty for the offence, showing accountability for his actions, knowing full well what the penalties would likely include.
- [83] A guilty plea today, in conjunction with the agreement of the facts, demonstrates both a clear acceptance of responsibility and recognition of the misconduct.

Employment History

- [84] Constable LANCIA has provided approximately ten (10) years of professional and dedicated service to Peel Regional Police. He has been assigned to Airport Division, B Platoon for the past eight (8) months. Prior to this, Constable LANCIA was assigned to the Airport Division CIB where he was a valued member of an investigative team for two (2) years and made positive impressions with the Command Team. He also displayed a work ethic and experience beyond his years of service.
- [85] During his career with the Peel Regional Police, Constable LANCIA has been recognized with eleven (11) honors and awards that consist of both internal and external recognitions.⁵ (*Included copies of the above mentioned in Tab 4*). Overall, his employment record can be described as extremely positive.

Potential to Reform or Rehabilitate

- [86] This factor speaks to the issue of the proclivity of the said behavior or misconduct. There is a significant nexus to employment history that can lead to a conclusion in this regard.
- [87] Based on Constable LANCIA’s work performance from the inception of his career, he has demonstrated an exemplary employment record. Both current and past supervisors support this statement. Constable LANCIA has taken it upon himself to make considerable life changes. He has quit the consumption of alcohol and has maintained his sobriety since the date of this incident.

⁵ Exhibit #9 – Defence Book of Materials – Tab 4

- [88] Constable LANCIA deserves the opportunity to demonstrate he has the appetite and ability to reform and show remorse; the penalty proposed will allow him such an opportunity. On occasion, members facing discipline can shut down, distance themselves from positive steps of rehabilitation and become part of a toxic culture that has a negative effect in the workplace. This has been the opposite of what Constable LANCIA represents as he has continued to make positive contributions in his area.
- [89] The most recent Performance Appraisal in 2023 clearly demonstrates these points wherein he “Met Expectations” in all competencies as an investigator in the Airport CIB office, having completed his TIPS in this role. Comments made by Constable LANCIA’s immediate supervisor refer to him as being “*an example of a team player*” who “*can be trusted to work with minimal supervision and can be counted on to make the right decision*”.⁶ Over this period of evaluation, he has been heavily relied upon in the investigative capacity to be the main conduit to the GTAA for notification and updates. Constable LANCIA displayed reliability and accountability in dealing with primary stakeholders. Comments from his supervisor as a patrol officer; “*consistently displays a positive attitude and professionalism to his duties*”.⁷
- [90] From the 2022 Performance Appraisal, Constable LANCIA was found to “Meets Expectations” in three (3) competencies and “Exceeds Expectations” in three (3) competencies. He was rated in this evaluation as a patrol officer in the Airport Division. Supervisor’s comments made in include, “*uses his interpersonal skills to enhance a positive work environment with his peers and when dealing with members of the public*”⁸, “*provides good customer service to the public and our partners within the GTAA*”⁹.
- [91] In Constable LANCIA’s 2021 Performance Appraisal, Constable LANCIA was described to have clearly established a positive trend in performance. This was supported by his supervisor who indicated he “Meets Expectations” in all competencies. The Supervisor stated that he is a “*well respected member of the platoon*”, “*team orientated individual*”, “*experienced officer who cares about and participates in the community*”.¹⁰
- [92] Mr. Gordon requested that the Tribunal consider and closely examining Constable LANCIA’s entire body of work. Based on the totality of positive and effective work performance as indicated in his evaluations, there is no doubt that given the opportunity, Constable LANCIA can continue this trending performance.
- [93] Constable LANCIA also has an unblemished employment record over ten (10) years of exemplary service up to this point. This was a very “out of character” event that truly does not represent the dedication and commitment that he has displayed to this organization. This should

⁶ Ibid – Tab 5 Pg 4

⁷ Ibid – Tab 5 Pg 5

⁸ Ibid – Tab 6 Pg 3

⁹ Ibid – Tab 6 Pg 4

¹⁰ Ibid – Tab 7 Pg 3&4

weigh heavily in the Tribunal's analysis.

Specific and General Deterrence

- [94] It is recognized by everyone, including Constable LANCIA, that this type of misconduct does require deterrence. The Defence feels that the proposed penalty addresses this as it will have a significant impact on Constable LANCIA's career and family, including a financial loss of approximately \$37,000 in wages.
- [95] The penalty resonates a strong message to Constable LANCIA and all officers that this type of conduct is unacceptable and will not be tolerated by the Service, which has seen increased penalties in recent years for this type of offence.

Damage to the Reputation of the Service

- [96] This is a common and integral consideration when assessing a penalty and the possible impact on the police service. Fortunately, there was limited publicity in this matter. Constable LANCIA always displayed a level of remorse and responsibility for his actions which can be viewed as a mitigating factor in reputational damage to the Service.
- [97] Constable LANCIA plead guilty to the criminal charges, thereby avoiding a prolonged public record of the incident which could have caused damage to the Service. As previously mentioned in the Judge's ruling, there were triable issues in this matter that could have led to a less serious penalty or even an acquittal. There is no doubt that had the process been drawn out over a period of time, the potential for the matter to become a pronounced public record would be imminent.

Consistency of the Disposition

- [98] Consistency represents one of the basic principles of the discipline process and internal consistency is a primary factor to consider. There have been a few internal discipline matters that involve members being convicted of driving offences while either impaired or having care and control, some of which have similarities to this matter.
- [99] Constable LANCIA was operating a motor vehicle under the influence of alcohol when it inadvertently struck a pedestrian. The injuries were determined to be minor, which would indicate that the impact was minor as well. Constable LANCIA remained at the scene and did not make any attempt to evade. Although he initially provided misleading information as to the culpability of the accident, Mr. Gordon attributed this to shock and fear of what had transpired. Constable LANCIA eventually did own up to his behavior and cooperated with the investigation in its entirety.

[100] In each case that was provided by the Defence, the penalty consisted of a demotion that was less than the proposed penalty for Constable LANCIA.

[101] Mr. Gordon proposed that the jointly proposed penalty can be viewed as modest increase from, and within a reasonable range of the submitted cases.

Conclusion

[102] Constable LANCIA is a valuable and well-respected member of Peel Regional Police and the community in which he serves. His employment history speaks for itself and represents a pattern of character and behavior that is not consistent with the misconduct that is before the Tribunal.

[103] This incident comes by way of misfortune and a lapse in judgement. From the earliest interactions, Constable LANCIA displayed integrity and professionalism in the face of significant adversity.

[104] The support that he has received from his peers and the Service is not lost on Constable LANCIA. He has provided approximately ten (10) years of service that has mirrored this sentiment. He has pledged to repay his gratitude in the form of continued exemplary service. Mr. Gordon suggested that Constable LANCIA's past service record ensures that this will be fulfilled.

[105] The Defence is confident that a 2-year demotion to 2nd Class Constable is not only adequate, but also fair.

Opportunity to Address the Tribunal

[106] Constable LANCIA accepted an opportunity to address the Tribunal and stated:

[107] *"I would like to begin, first and foremost, by apologizing to the Service, the Chief and everyone in this room who has had to spend any time as a result of the actions that I took on that day. I am incredibly sorry for what I did and I can assure you that moving forward I will do everything in my ability to remedy that. Outside of my family, this job has given me more in my life than I could be grateful for and I'm so sorry to suggest that my actions would seem that I have forgotten that."*

PART III: ANALYSIS AND FINDINGS

[108] I have reviewed and carefully considered the information provided during this hearing, including the Agreed Statement of Facts, the submissions made by the Prosecution and the Defence, and the accompanying supportive documents.

[109] As the Adjudicator in this matter, I must make an objective, dispassionate assessment of the evidence presented during this Tribunal with respect to the appropriate penalty. This ensures the interests of;

- the public,
- the employee, and
- the Service.

[110] The principle of proportionality is key to arriving at a fair and effective disposition. It provides considerations that are referenced in police discipline proceedings and were touched on to varying degree in the Prosecution's and Defence's respective submissions.

[111] The considerations that I find relevant to focus on in assessing Constable LANCIA's misconduct are:

- Public Interest
- Seriousness of the Misconduct
- Recognition of the Seriousness of the Misconduct (Remorse)
- Employment History
- Potential to Reform or Rehabilitate the Police Officer
- Parity (Consistency of Disposition)
- Specific and General Deterrence
- Damage to the Reputation of the Police Service

[112] Where appropriate, I have addressed two considerations together due to similar factors and relevance.

Public Interest

Damage to the Reputation of the Police Service

[113] I agree with the Prosecution's statement that public confidence is central to the Service's accountability and standing in the community.

[114] Drinking and driving has long been recognized as a serious risk to safety on our roadways. It is for this reason that police services allocate considerable resources and collaborate with community partners to raise awareness about the dangers of impaired driving. Public tolerance of such behaviour has been exhausted.

[115] Both the Prosecution and Defence noted the limited publicity related to this incident. Nonetheless, I bear in mind the aggravating factor that Constable LANCIA's vehicle struck a pedestrian. At minimum, this results in damage to the Service's reputation in the eyes of witnesses and the pedestrian's family and friends.

[116] Further, as with all discipline matters, this decision will be posted on the Service's website and therefore be available to the public.

Seriousness of the Misconduct

Recognition of the Seriousness of the Misconduct

Potential to Reform or Rehabilitate the Officer

[117] Police officers play a direct role in ensuring safety on roadways. They are also bound by the same laws that they are empowered to enforce. When an officer is charged with a drinking and driving of offence, they abdicate a degree of professional credibility. They also place additional onus on the Service to address this issue.

[118] With respect to the seriousness of this incident, I find both Constable LANCIA's breath sample results and that he struck a pedestrian as aggravating factors. Although I acknowledge that the pedestrian was fortunately not seriously injured, the penalty is rooted primarily in his misconduct as outlined by the Prosecution in paragraphs 48 – 51.

[119] The Defence conveyed Constable LANCIA's recognition of the seriousness of his actions along with his guilty plea in court. His remorse was recognized by the Internal Affairs investigators and the judge who presided over the criminal case. Further, I found his apology to the Tribunal to be sincere and clearly reflective of not only his remorse, but also his desire to move forward from this incident.

[120] I have considered Constable LANCIA's performance since this incident along with Mr. Gordon's overview of his appraisals, both of which I accept as mitigating. In my view, Constable LANCIA has clearly demonstrated his potential to be rehabilitated.

Employment History

[121] On the date of this incident, Constable LANCIA had approximately 8 ½ years of service with no prior discipline.

[122] I reviewed several commendations and letters of appreciation in Constable LANCIA's file.¹¹ Collectively, the documents outline his commitment, initiative and investigative skills both as a patrol officer and a training officer. He has consistently demonstrated his value to the Service and the community.

Specific and General Deterrence

[123] The Tribunal recognizes the importance of ensuring deterrence with respect to impaired driving.

[124] In light of the evidence presented in this matter, I am confident that specific deterrence has been substantially addressed.

[125] However, general deterrence remains a priority and must reinforce the Service's unbending position regarding impaired driving by its employees. I find that the joint position with respect to penalty in this case will help to achieve this goal.

Consistency of Disposition

[126] The Prosecution and Defence submitted several previous impaired driving cases involving members of the Service for the Tribunal's consideration.

[127] I have reviewed each case for guidance towards an appropriate penalty in this matter, including the following:

[128] Peel Regional Police and Constable John Lontoc (2022)¹²: where the officer was involved in a single vehicle accident while intoxicated, flipping his car after clipping a gate. Although his breath samples were taken hours after the incident, he registered high readings 170 mgs/100 mls & 150 mgs/100 mls. He had 12 years of employment history with no disciplinary record. He pled guilty in court and at the Tribunal, both at his first opportunity, and demonstrated clear remorse. He received an 18-month demotion.

[129] Peel Regional Police and Constable Lisa Rumley-Leo (2022)¹³: where the officer was intoxicated and rear-ended the vehicle in front of her, causing some damage. She had very high readings of 243 mgs/100 mls & 242mgs/100 mls. Mitigating personal circumstances

¹¹ Exhibit #9 – Defence Book of Materials

¹² Exhibit #8 – Prosecution Book of Authorities – Tab 2

¹³ Ibid – Tab 3

preceding the incident. She had over 20 years of employment history with no prior formal disciplinary findings, and some 38 honours & awards, including a PSB award. She pled guilty in court and at the Tribunal, both at early stages, and demonstrated clear remorse. She received an 18-month demotion.

[130] Peel Regional Police and Constable Terrence Bayley (2023)¹⁴: where the officer was involved in a single vehicle accident while intoxicated, driving into a light pole in the early morning hours. He had high readings of 190 mgs/100 mls and 176 mgs/100 mls. He pled guilty in court and at the Tribunal at his first appearance and demonstrated clear remorse. He had a good but relatively brief employment history. He received an 18-month demotion.

[131] Howard v. OPP (2016)¹⁵: where the officer consumed alcohol, exhibit signs of impairment and declined a ride home. He drove home and struck his residence. When a witness was using a phone to dial 9-1-1, he grabbed their wrist and hit the phone from their hand. The officer proceeded to enter his residence and consume additional alcohol before falling asleep. Police attended but did not lay criminal charges.

[132] The OCPC upheld a 20-month demotion imposed by the hearing officer.

[133] Kenney v. OPP (2004)¹⁶: where the officer was involved in a single vehicle collision in an unmarked police cruiser. Responding officers observed several beer cans in the vehicle. The officer showed signs of impairment, refused to provide a breath sample, and was confrontational with the arresting officers. He was ultimately charged with failing to provide a breath sample and impaired driving, later pleading guilty to both in criminal court.

[134] The officer had an exemplary 20 plus year employment record. The OCPC upheld the hearing officer's penalty of a 2-year demotion from the rank of Detective Sergeant to First Class Constable.

Conclusion

[135] The Tribunal acknowledges the parallel submission points by the Prosecution and the Defence, namely;

- That impaired driving remains a serious issue,
- Constable LANCIA was cooperative with Service investigators, demonstrated remorse and took responsibility for his actions,
- Constable LANCIA pled guilty both in the criminal and Tribunal proceedings and has worked to restore his reputation.

[136] In light of the above, I accept the Joint Position as to Penalty as an appropriate remedy in this case.

¹⁴ Ibid – Tab 4

¹⁵ Ibid – Tab 6

¹⁶ Ibid – Tab 8


PART IV: DISPOSITION

Penalty

[137] With the finding of guilt on one count of Discreditable Conduct, the penalty for Constable LANCIA imposed under Sec 85(1) of the *Police Services Act*, will be:

[138] A reduction in rank from 1st (first) Class Constable to 2nd (second) Class Constable for a period of two years, following which the officer will be returned to the rank of 1st (first) Class Constable, on the basis of satisfactory work performance, to be determined by the officer's Divisional Commander.

The demotion is effective on July 25, 2024.

A handwritten signature in black ink, consisting of a stylized 'D' shape with a vertical line through it, and the number '# 1796' written below it.

Superintendent Taufic Saliba #1796
Hearing Officer
Peel Regional Police