



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 THE
PEEL REGIONAL POLICE
AND
CONSTABLE TREVOR LAU #4127

ALLEGATIONS:

Count 1: *(Withdrawn)*
Count 2: Discreditable Conduct

DECISION

Hearing Officer: Superintendent Taufic Saliba #1796
Peel Regional Police

Prosecutor: Ms. Sharon Wilmot
Prosecutor Counsel

Inspector R. Berrigan #1999
Co-Prosecutor

Defence Counsel: Mr. Bill McKenzie
Counsel

Case Number: 2024-PRS104

Date of Hearing: December 6, 2024

Date of Decision: February 19, 2025

This decision is divided into four parts:

PART I: OVERVIEW

PART II: THE HEARING

PART III: ANALYSIS AND FINDINGS FOR DISPOSITION

PART IV: DISPOSITION

PART I – OVERVIEW

Background

- [1] Constable Trevor LAU #4127 commenced his employment with Peel Regional Police in December 2016. He presently holds the rank of First Class Constable.

Allegations of Misconduct

- [2] It is alleged that Constable Trevor LAU #4127, a member of Peel Regional Police, committed the following misconduct:

Count One: (*Withdrawn*)

- [3] **Count Two: Discreditable Conduct**

It is alleged that Constable LAU committed Discreditable Conduct in that on March 21, 2024 he was found guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction, namely Assault contrary to section 266 of the *Criminal Code of Canada* in relation to an incident which occurred on or about February 8, 2023 constituting an offence against discipline as prescribed in section 2(1)(a)(ix) of the Code of Conduct, Ontario Regulation 268/10, as amended.

- [4] Constable LAU appeared before me on September 18, 2024, in answer to a Notice of Hearing¹ that was served on him by Peel Regional Police Superintendent Shelley Thompson #1997 on September 16, 2024.

Plea

- [5] On December 6, 2024, during an in-person appearance, Constable LAU entered a plea of Guilty to one count of Discreditable Conduct. 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 misconduct was registered.

¹ Exhibit #5 - Notice of Hearing

Joint Position as to Penalty²

- [6] A Reduction in rank from 1st (first) Class Constable to 2nd (second) Class Constable for a period of 18 (eighteen) months 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; and
- [7] Training pertaining to de-escalation in mental health apprehensions.

Decision

- [8] 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 LAU will be:
- [9] for Discreditable Conduct:
- [10] A Reduction in rank from 1st (first) Class Constable to 2nd (second) Class Constable for a period of 18 (eighteen) months 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; and
- [11] Training pertaining to de-escalation in mental health apprehensions.
- [12] The above penalty is under the authority of Sec 85(1)(c) and Sec 85(7)(b) of the *Police Services Act*.

PART II: THE HEARING

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 #1997)
Exhibit #5 Notice of Hearing
Exhibit #6 Statement of Particulars
Exhibit #7 Agreed Statement of Facts (ASF)
Exhibit #8 Joint Submission as to Penalty
Exhibit #9 Prosecution - Book of Authorities
Exhibit #10 P.C. Lau #4127 Performance Appraisal - 2021
Exhibit #11 P.C. Lau #4127 Performance Appraisal - 2023
Exhibit #12 Recognition Documents

² Exhibit #8

Participants

- [14] The Prosecution was represented by Ms. Sharon Wilmot (General Counsel) and Inspector Ryan Berrigan #1999 (Co-Prosecutor). The Defence was represented by Mr. Bill McKenzie (Counsel).

Agreed Statement of Facts³

- [15] The facts in this matter are substantially agreed upon by the parties to this Tribunal. The *Agreed Statement of Facts* was signed by the parties on December 6, 2024, and states:
- [16] Constable Trevor LAU #4127 has been a member of Peel Regional Police (PRP) since December 2016. At the time of the incident, he was assigned to 22 Division.

COUNT ONE – DISCREDITABLE CONDUCT (*Count #2 on N.O.H.*)

- [17] On February 8, 2023, Constable Trevor Lau, #4127, who at the time was assigned as an Acting Sergeant (“A/Sgt. Lau”), responded to a disturbance call for service at [REDACTED], Brampton (“PR230045741”).
- [18] The call for service was initially received by Peel Regional Police on the emergency line at 11:48 p.m. The caller communicated that her son, Peter Campbell (“Mr. Campbell”) had “lost his mind” and she needed police immediately. A disturbance could be heard in the background.
- [19] Further information was received that Mr. Campbell may be suffering mental health issues and / or may have consumed drugs and was possibly in possession of a knife.
- [20] A/Sgt. Lau was the first to arrive at the scene. Upon arrival, Mr. Campbell was observed partially exiting the doorway of the residence with a knife in his hand but returned inside upon seeing police presence.
- [21] A/Sgt. Lau proceeded into the residence with his firearm drawn and observed Mr. Campbell at the top of a small flight of stairs on a landing area wearing only boxer shorts. He did not observe the knife at that time and holstered his firearm as a result. Mr. Campbell was not in possession of a knife at any other time throughout the interaction.
- [22] Upon attendance in the residence, A/Sgt. Lau was met by Mr. Campbell’s sister who further communicated that Mr. Campbell was high and said, “please don’t hurt him”.
- [23] A/Sgt. Lau believed that Mr. Campbell may have been in a drug-induced psychosis and determined that he was a danger to himself and needed to be apprehended.

³ Exhibit #7 - Agreed Statement of Facts

- [24] A/Sgt. Lau followed Mr. Campbell into the residence and observed him fall to the floor and begin to pick up random items and threw them haphazardly. At one point, Mr. Campbell stood up and began walking toward A/Sgt. Lau.
- [25] A/Sgt. Lau deployed both of his CEW cartridges, but they were ineffective. He did not attempt to utilize a three-point contact on Mr. Campbell, as per his training. He did not attempt to use hands-on physical techniques to gain control of Mr. Campbell.
- [26] A/Sgt. Lau instead retreated outside to draw his ASP baton, in order to create time and distance. When he returned, Mr. Campbell was on all fours and his sister was speaking to him and guiding him to comply with A/Sgt. Lau's instructions.
- [27] A/Sgt. Lau continued to give verbal commands to Mr. Campbell, which he continued to be unresponsive to. In the meantime, Mr. Campbell was able to crawl to the kitchen, which provided him the opportunity to access items off the floor and from the cupboards.
- [28] Constable Sandhu (#4437) and Constable Kalsi (#4416) arrived, and A/Sgt. Lau directed them to "taze him". Constable Sandhu deployed his CEW, subsequently, Constable Kalsi deployed his CEW, both were ineffective, although the deployment by Constable Kalsi was ultimately effective in causing Mr. Campbell to drop an object that was in his hand.
- [29] A/Sgt. Lau articulated that he believed that Mr. Campbell was experiencing an agitated chaotic event (ACE) or drug induced psychosis, which would have been a medical emergency, however Mr. Campbell continued to throw items and be non-compliant. A/Sgt. Lau continued to respond with intermediate weapons.
- [30] During the ensuing interaction, A/Sgt. Lau issued approximately 29 baton strikes to Mr. Campbell, including 2 unintentional strikes to his head. This was not in accordance with Peel Regional Police training.
- [31] Several other officers arrived and deployed CEWs, but no officer attempted to gain physical control of Mr. Campbell.
- [32] After several minutes of ineffective baton strikes, CEW and OC spray deployments and verbal commands, Constable Cesarone (#4463) and Constable Phillips (#4750) intervened and secured Mr. Campbell's hands and placed him in handcuffs to the front.
- [33] A/Sgt. Lau then instructed the officers to take him outside and place him in the snow "to help sober him up". He was covered in blood and wearing only underwear. He was kept outside in the snow for almost 10 minutes prior to the ambulance arriving and providing medical assessment and assistance.
- [34] While handcuffed and outside in the snow, A/Sgt. Lau delivered another foot strike to Mr. Campbell's chest to stop him from flailing his legs.

- [35] Mr. Campbell was transported to Brampton Civic Hospital where he was assessed to have sustained two broken bones along with multiple contusions, which required stitches and staples.
- [36] The Special Investigations Unit (“SIU”) invoked their mandated, and on November 2, 2023, charged A/Sgt. Lau with one count of Assault Causing Bodily Harm and one count of Assault with a Weapon.
- [37] On March 21, 2024, A/Sgt. Lau pleaded guilty to one count of Assault pursuant to s. 266 of the Criminal Code, in relation to the incident occurring on February 8-9, 2023.
- [38] The following facts were agreed to in support of the guilty plea:
- [39] On February the 8th, 2023, at 11:48 p.m., Peel Regional Police Communications received multiple 911 calls originating from the residence at [REDACTED], Brampton. Within the residence, family members of the victim, Mr. Peter Campbell, described his erratic behaviour, and indicated he was experiencing mental health crisis. Mr. Campbell was throwing items around, knocking on bedroom doors and hallucinating, yelling, screaming, and the sounds of a disturbance could be heard in the background as family tried to control him.
- [40] At 11:56 p.m., Trevor Lau was the first police officer to arrive and was met by Mr. Campbell crouched at the threshold of the front door holding a knife. Mr. Campbell retreated inside the residence followed by the defendant. Mr. Campbell ran to the kitchen where he lost his footing and fell to the ground. He was flailing about and throwing packaged food and other accessible kitchen items towards or in the direction of the defendant. Mr. Campbell was non-communicative, acting irrationally and appeared disassociated with the surroundings and the events taking place. Mr. Campbell was repeatedly told to roll onto his stomach and stop his behaviour which he failed to do so.
- [41] The defendant deployed a conducted energy weapon, CEW, and Oleoresin capsicum OC spray, both of which proved ineffective.
- [42] The defendant then armed himself with an expandable ASP baton and repeatedly struck Mr. Campbell about the arms, legs and head while continuing to shout at him to comply with his direction. Other police officers arrived, and also deployed their CEW's to varying degrees of effectiveness. Mr. Campbell, throughout the entirety of the incident, was laying on his back or side and although not compliant was generally not assaultive towards the defendant or the police officers. He did, at certain instances, attempted to throw kitchen supplies at the police. After an estimated 7½ minute interaction in an estimated 29 ASP baton strikes by the defendant, including two unintentional strikes to his head, Mr. Campbell grew tired and was taken into custody.
- [43] As a result of the repeated baton strikes by the defendant, Mr. Campbell sustained a fracture to his left forearm and left hand which required a hospital attendance and treatment.

- [44] Mr. Campbell is now deceased because of circumstances unrelated to this incident.
- [45] A/Sgt. Lau received a suspended sentence with six (6) months' probation as a result of his guilty plea.
- [46] The actions of A/Sgt. Lau constitute Discreditable Conduct, pursuant to section 2(1)(a)(ix) of the prescribed Code of Conduct.

PART III: SUBMISSIONS

Submissions by the Prosecution

Ms. Sharon Wilmot - General Counsel

- [47] The Prosecution commenced submissions by referring to the contents of the ASF, including Constable LAU's guilty plea in criminal court. With respect to this discipline hearing, Ms. Wilmot suggested that the jointly proposed penalty is both appropriate and reasonable.
- [48] In referencing *Krug and Ottawa Police Service*⁴, Ms. Wilmot identified the following factors as relevant to this case:
- Seriousness of the misconduct;
 - Public Interest;
 - Damage to the reputation of the police service;
 - Recognition of the seriousness of the misconduct;
 - Employment history;
 - Need for deterrence;
 - Ability to reform or rehabilitate the officer.

Seriousness of the Misconduct

- [49] In light of the facts outlined in the ASF, which were captured by body worn camera, there is no question that the conduct was unacceptable, not in accordance with training and of the most serious form of on-duty misconduct.
- [50] There is no doubt that the excessive force was clear and was sufficient to result in a criminal finding of Assault following an in-depth investigation by the Special Investigations Unit.
- [51] It is sufficiently aggravating that the conduct in question consisted of multiple (29) strikes with a baton – with no perceivable effort to use alternative techniques to de-escalate and take control of the victim without the use of intermediate weapons.

⁴ Exhibit #9 - Tab 1

- [52] Of note, this was not a dynamic criminal arrest. Rather, the victim's family called police for assistance in a mental health crisis. The officer was tasked with attending and helping him get medical care, but instead caused him serious injuries.
- [53] This was further aggravated by the conduct that followed the apprehension and the protracted 7 ½ minute incident during which the victim was repeatedly struck. Once he was placed in custody by two junior officers, Constable LAU directed the officers to take him outside in the snow in his underwear "to try to sober him up". The victim continued to flail while handcuffed at which time Constable LAU administered a further kick to him.
- [54] There is no doubt this was both excessive and egregious conduct that further endangered the victim who was suffering from a mental health crisis.
- [55] Ms. Wilmot stated that in full fairness to the officer, this was a chaotic situation where the victim was displaying disruptive and erratic behaviour. He was non-compliant or able to follow direction. He was throwing items from the kitchen and was no doubt non-compliant throughout the interaction.
- [56] This was also a dynamic situation: Constable LAU did report seeing a knife upon arrival. He responded appropriately in the circumstances and when the knife was relinquished, he did holster his firearm. However, it should be stressed that at no point throughout the remainder of the incident was the victim seen to have a knife in his hand nor did he threaten officers with a knife at any other point in the interaction.
- [57] During the Ontario Court of Justice sentencing, the judge acknowledged that:
- "Police officers are often placed by the public between the public and those who would seek to harm society. Often police officers are called upon to attend at calls that test their ability to manage and to diffuse a dangerous situation."*
- [58] There is no question that Constable LAU did not display the ability to manage the situation. His inability to do so was clearly aggravated by his intentional conduct with respect to how the victim was treated.
- [59] As a result, Constable LAU was granted a suspended sentence. During sentencing in the criminal matter, Justice Pugsley noted:
- [60] *"Uniquely, police are authorized by law to use appropriate force in some circumstances to enforce the law and affect an arrest. With that authority comes the balancing duty to not exceed the force required to accomplish their legal arrest of a suspect."*
- [61] Peel Regional Police are striving to build a culture and reputation of professionalism in order to maintain the trust and confidence of the public, particularly in circumstances such as this where there are significant and serious issues at play.

[62] Constable LAU's actions fell below the standards expected of our members and served to undermine the goals of the organization. Any criminal conviction against a police officer serves to undermine public trust and confidence.

[63] Therefore, the seriousness of this offence is a significantly aggravating factor.

Public Interest

Damage to the Reputation of PRP

[64] Constable LAU's conduct involved a member of the public and was witnessed by family members. It can be presumed that his actions caused damage to the reputation of the Service.

[65] Further, Cst. LAU's actions were captured on video which became subject of an investigation by the SIU, followed by a criminal proceeding. The charges were reported on by the media, however the reports were not extensive.

[66] Most compelling was the victim impact statement by the victim's sister in court, where she stated the following:

[67] *"Your Honour, prior to this incident, I believed in the inherent goodness of law enforcement officers, understanding their duty to protect and serve, however this terrible incident shattered my trust and left me questioning the system that is supposed to uphold justice. The officer who was supposed to be a guardian of the law, instead became an aggressor and violated the sacred bond of trust that should exist between law enforcement and the community. This incident has left me emotionally scarred and filled with unrelenting fears for my safety and the safety of those around me."*

[68] Given the Service's ongoing efforts to continue establishing trust in the community, this is a setback and undoubtedly affected the Reputation of the service.

[69] This is considered an aggravating factor.

Employment History

[70] Constable LAU has been a member of the member of the Service for approximately 7 years with no formal disciplinary history. It appears that this behaviour is out of character for this officer.

[71] This mitigating factor contributed to a proposed penalty out of the termination range.

Rehabilitative Potential

- [72] The Service recognizes Constable LAU's rehabilitative potential due to his acceptance of responsibility, guilty plea both in criminal court and at this Tribunal, and his employment history.
- [73] Constable LAU has taken responsibility for his actions and after pleading guilty in court, he issued an apology which Justice Pugsley found to be a "*sincere sign of his acceptance of responsibility and of his contrition.*"
- [74] The guilty pleas in both venues are considered significant mitigating factors.
- [75] Furthermore, given the officer's employment history, this conduct should not be characterized as a "fundamental character flaw".
- [76] Ms. Wilmot stated there is no indication that Constable LAU will repeat this conduct. His performance prior to this incident suggests that he is able to learn from this experience, take remedial training and approach these situations with a different mindset.
- [77] The case law refers to a "single act of human frailty" occurring in the heat of the moment. The Prosecution suggests this is a mitigating factor.

Deterrence

- [78] The proposed penalty must act as a reminder to Constable LAU of the seriousness of this incident and the gravity of his actions. This will serve as a reminder that he is always bound by his duties as an officer.
- [79] It is also important for other officers to understand that any criminal charge or allegation of excessive force will be taken seriously.
- [80] Police officers are afforded significant powers to enforce the law, and Constable LAU should be reminded by this penalty of the requirement to exercise those powers responsibly in order to maintain public trust and confidence.
- [81] The joint penalty is significant and sends the appropriate message regarding the Service's response to criminal findings against its officers. It also allows officers to learn from their mistakes and proceed in a more productive manner going forward.

Consistency of Disposition

- [82] The Prosecution filed a Brief of Authorities with cases for the Tribunal's consideration.
- [83] Constable N. Groot and Peel Regional Police (2002)⁵: where the officer had an intoxicated male in his custody with his hands cuffed behind his back, at which time he applied some level of force causing the accused to fall and strike his head on a desk – causing deep lacerations to his face and the need for stitches.
- [84] Throughout the criminal and PSA process, the officer maintained that the event was merely an accident and that the accused had tripped, injuring himself.
- [85] Constable Groot was initially convicted of Assault Bodily Harm. This was later set aside and he was ultimately found guilty of Assault simpliciter and received a sentence of three days based on time served plus 18 months' probation.
- [86] As a result of the criminal finding, Constable Groot was charged with Discreditable Conduct under the PSA. A trial was held after which Constable Groot was ordered dismissed.
- [87] On appeal, the Commission noted that excessive use of force was one of the most serious forms of misconduct. It upheld the penalty, noting the officer's brief and undistinguished employment history, his continued lack of acknowledgement regarding the misconduct, negative credibility findings by the Judge and the damage to the reputation of the Service.
- [88] The prosecution suggested that the assault in the *Groot* case could be seen as similar, however it was aggravated by the fact that *Groot* did not acknowledge wrongdoing. Constable LAU however, pled guilty and recognized his misconduct.
- [89] Constable G. Turpin and Durham Regional Police (2016)⁶: which was also a dismissal case. The officer was initially convicted of Assault Bodily Harm in criminal court. This was later set aside and he was ultimately found guilty of uttering threats for stating "I am going to punch your teeth right through the back of your head." At Tribunal, the officer was found guilty of two counts of Discreditable Conduct and one count of Unnecessary Exercise of Authority for the unnecessary grounding of an intoxicated suspect. The penalty of dismissal was upheld by the Commission which found that a single incident was sufficient to justify this penalty.
- [90] Sergeant B. Webber and Peel Regional Police (2016)⁷: which involved an off-duty assault. He pled guilty to two counts of Discreditable Conduct. He had a lengthy employment history and was an excellent officer with no prior discipline. He accepted guilt and expressed genuine remorse. However, the Tribunal found there was significant public interest, reputational concerns and the need for deterrence. The penalty was a 2-year demotion.

⁵ Exhibit #9 - Tab #2

⁶ Ibid - Tab 3

⁷ Ibid - Tab 4

- [91] Constable Roman Marchyshyn and Peel Regional Police (2023) and Constable Sunny Mukhi and Peel Regional Police (2022): involve the same incident where both officers were in a lengthy foot pursuit of a person who drove dangerously after stealing a car. The officers arrested the male in a citizen's back yard. They kicked and tasered him while he was confined under a BBQ. Following a criminal trial, both officers were found guilty of assault. Constable Marchyshyn received a conditional discharge with 20-months' probation, followed by a 12-month demotion at Tribunal.
- [92] The hearing officer noted; "*Community concerns stemming from the excessive misuse of force by police weighs this factor heavily. The public places a great deal of trust in the police to decide, in a non-arbitrary good faith fashion, the quantity of force applied. And then the ongoing analysis of a situation to then assess that application of force on a sliding scale in consideration of the severity of the event. This is based on an ongoing and dynamic assessment of the impact on officer and public safety. This is not a right or privilege that is afforded to the general public and should not be taken lightly and should absolutely not be abused. This is an aggravating factor.*"
- [93] Constable Mukhi, whose conduct was deemed less serious in criminal court, received a conditional discharge of three months and at Tribunal received a 6-month demotion. His conduct was found to have consisted of "*unnecessarily shoving the subject in the back with the side of his boot.*"
- [94] Sergeant B. Kaushal and Peel Regional Police (2024)⁸: where the officer was charged with two counts of Assault and one count of Assault with a Weapon. He pled guilty to one count of Assault and received a suspended sentence and 12-months' probation and conditions. At Tribunal, he received a penalty of a 2-year demotion. This case, as in Constable LAU, both officers were in a supervisory role with junior and impressionable officers being directed to participate in the conduct.

Closing

- [95] After conducting a review of the relevant facts and circumstances of this case and benchmark it against factually comparable cases, it is submitted that the range for comparable cases is anywhere from a brief demotion up to dismissal.
- [96] The Prosecution has considered the mitigating factors in this case, particularly Constable LAU's acceptance of responsibility and clean employment history. As such, the Prosecution proposed a mid-range demotion of 18-months along with training as an appropriate penalty.

⁸ Ibid - Tab 7

Submissions by the Defence

Mr. Bill McKenzie - Counsel

- [97] The Defence commenced by acknowledging that they did not take issue with the Prosecution's submissions and that additional training in dealing with persons in mental health crisis would serve everyone well, including Constable LAU.
- [99] This case commenced 22 months ago and resulted in criminal charges laid by the SIU in November, 2023. Constable LAU wanted this matter to be resolve quickly and pled guilty to one count of Assault in March 2024. He received a suspended sentence and probation. Mr. McKenzie did not dispute Ms. Wilmot's description of the seriousness of the misconduct as it was captured on body worn camera.
- [99] The Prosecution stated that the Crown Attorney in the criminal matter accepted a plea to Assault due to the difficulty that Constable LAU and other officers faced during the crisis that the victim was experiencing. He continued to throw objects including a glass jar at the officers. Some of the victim's behaviour could have been viewed as assaultive towards the officers.
- [100] The Prosecution agreed to proceed on the Discreditable Conduct count and Constable LAU's instructions to Mr. McKenzie, as in the criminal proceeding, was to move the matter forward.
- [101] Mr. McKenzie stated that the Prosecution's position on the proposed penalty is founded on the fact that Constable LAU accepted responsibility in this matter. Absent this, the Service's position would have been more extreme and potentially included dismissal. Nonetheless, an 18-month demotion is a serious penalty that will have a financial impact on Constable LAU.
- [102] Constable LAU demonstrated his remorse by pleading guilty in criminal court and at this Tribunal. The Tribunal heard that on the night of the incident, the victim was experiencing a mental health crisis. Mr. McKenzie suggested that he clearly appeared to be impervious to pain. The taser applications were ultimately futile as the victim was able to pull them out of his body. The victim appeared to be in a state of what used to be referred to as "excited delirium", where a person may exhibit inhuman strength. This creates a very difficult situation for police officers.
- [103] When Constable LAU arrived, he could see the victim at the front door with the knife, although it is unknown where it subsequently ended up. Constable LAU, although he was the only officer on scene at the moment, recognized that there were a sister and mother in the home, entered the home by himself to address any potential threat to them.
- [104] Had the victim come out of the house with the knife and posed a threat to Constable LAU or others, the outcome would have been different. By going into the house, Constable LAU was able to engage the victim, including the attempts to taser him.
- [105] Constable LAU issued an apology in criminal court, to which the victim's sister responded by shaking Constable LAU's hand and thanked him for his apology.

[106] The Defence submitted Constable LAU's performance evaluations for 2021⁹ and 2023¹⁰.

[107] Mr. McKenzie read an excerpt from the 2021 performance evaluation where Sgt. Sheamus Neher stated;

[108] *“Constable Lau has completed five years of policing and currently is assigned to 22 Division...observed to be reliable, dedicated, intelligent, engaged and dependable. He has been relied on to train recruits regularly and I observed him to fulfil that function confidently and reliably.*

[109] *Constable Lau is respectful of his colleagues and is always willing to assist them, and works great in a team environment. He is respectful of his NCO's and displays responsible and good judgement.*

[110] *A review of Constable Lau's performance indicators shows him to have been the officer in charge of 92 criminal charges and assisted on another 264. This is far above the Divisional average for the same 12-month period.*

[111] *Constable Lau has also demonstrated a keen interest in investigations and has expanded his capacity as an investigator by authoring production orders, a search warrant and several ride-a-longs with CIB to further his skills.*

[112] *Constable Lau regularly trains our recruits, his statistics far exceed those of the shift and divisional averages. I am continuously impressed by Constable Lau's performance and the manner in which he approaches tasks, solves problems, identifies and implements a course of action to achieve the desired results. Constable Lau has also demonstrated an exemplary proficiency at articulating his actions and the decisions he has made ensuring they are necessary, risk effective and acceptable both legally and publicly.”*

[113] Mr. McKenzie then read from Constable LAU's 2023 performance evaluation, in which Sgt. Mike Vertolli stated;

[114] *“Constable Lau has been a dedicated member of the organization for 8 years consistently demonstrating a high level of professionalism and commitment to duty. Throughout this period, Constable Lau has exhibited exceptional skills in law enforcement, particularly in community policing and crime prevention. His ability to remain calm under pressure and make quick, sound decisions in critical situations has been commendable.”*

[115] This Supervisor's observations recognize Constable LAU's ability to make quick and sound decisions under pressure, which were commendable.

⁹ Exhibit #10 - Defence - P.C. Lau #4127 Evaluation - 2021

¹⁰ Exhibit #11 - Defence - P.C. Lau #4127 Evaluation - 2023

[116] Sgt. Vertolli further stated;

[117] *“Constable Lau’s record shows a strong work ethic, evidenced by his punctuality, reliability and willingness to take on additional responsibilities when required. His investigative skills have led to the successful resolution of numerous case, earning him respect from colleagues and the community alike. Furthermore, Constable Lau has shown a continuous desire for professional development, attending various training programs to enhance his knowledge and skills and someday would like to be a successful candidate in the Tactical Unit.*

[118] *In conclusion, Constable Lau is a valuable asset to the organization. With continued professional development and focus on the highlighted areas for improvement, he is poised to achieve even greater success in his law enforcement career.”*

[119] These two relatively excellent evaluations speak to Constable LAU’s overall work. Mr. McKenzie then referenced seven (7) formal commendations and two (2) Challenge Coins contained within Constable LAU’s file¹¹. He also highlighted that Constable LAU was recognized for perfect attendance in 2017 and 2018.

[120] The Defence acknowledged the Prosecution’s submissions with respect to the sentencing principles. This includes the six (6) cases¹² that present a penalty range. This incident does not represent a fundamental character flaw in Constable LAU given his lack of discipline history and positive performance evaluations.

[121] The incident involving the victim’s mental health crisis, including the attempts to apprehend him were frustrating.

[122] The Defence feels that the proposed penalty is consistent, progressive and appropriate.

Opportunity to Address the Tribunal

[123] Constable LAU accepted the opportunity to address the Tribunal and stated;

[124] *“Good morning Sir, thank you for the time. Firstly, as echoed to the judge and Mr. Campbell’s family in criminal court, I am a proud employee of Peel Regional Police. I love the job. I take individual accountability also very seriously. On the date of the incident, I was working on duty in good faith and am apologetic for any negative view of Peel Police, especially to the public that my actions created. Within a week of the incident, I took it upon myself on my own time and my own money to pursue further training which I continue in an effort to...with any future similar incidents.”*

¹¹ Exhibit #12 - Defence - Recognition Documents

¹² Exhibit #9 - Prosecution - Brief of Authorities

PART IV: ANALYSIS AND FINDINGS

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

[126] As the Adjudicator for this matter, I must make an objective, dispassionate assessment of the evidence presented during this Tribunal with respect to the appropriate penalty. This ensures procedural fairness to the officer and the Service's accountability to the public.

[127] Discipline in police misconduct matters should take into account and balance the interests of;

- the public,
- the employee,
- the Service, and
- the involved member of the public (when applicable).

[128] Another primary consideration in the discipline process is the officer's culpability as it relates to an incident. As such, the penalty must reflect the unique circumstances of the case surrounding the misconduct.

[129] The principle of proportionality is key to arriving at a fair and effective disposition. It provides considerations that are referenced in almost every police discipline proceeding, some of which were touched on to varying degrees in the Prosecution's and Defence's respective submissions. The considerations that I find relevant to focus on in assessing Constable LAU's misconduct are:

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

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

Public Interest
Damage to the Reputation of the Police Service

- [131] It is accepted by both the Service and the public that police officers are held to a higher standard. They have considerable responsibilities and as such are provided with specialized training and tools to do their job effectively.
- [132] The public expect that officers will use those tools as required and in accordance with governing policies and rules. Any breach of these is both concerning and negatively impacts the reputation of the Service. This is clearly reflected in the victim's sister's impact statement (Para 67).
- [133] Further, public interest is heightened when an officer's misconduct undermines confidence in the police. It must then be reestablished through the discipline process.
- [134] The Prosecution noted that Constable LAU's criminal charges were reported by the media, albeit to a limited degree. Although this can be considered somewhat mitigating, I am cognizant of other factors that directly and negatively impact the Service's reputation. Any case that draws an investigation by an oversight body is inherently of high public interest. Further, the misconduct occurred in the presence of the male's family and clearly departed from the Service's guidelines.
- [135] I find these factors aggravating and that Constable LAU's conduct did damage the reputation of the Service.

Seriousness of the Misconduct

- [136] Constable LAU's conduct was captured on body-worn camera. The Prosecution clearly articulated the misconduct and how it breached Service policy. A review by the Special Investigations Unit led to criminal charges.
- [137] The Defence concurred that Constable LAU's misconduct was serious.
- [138] All police officers receive the requisite training to deal with this type of situation, including Constable LAU who at the time of this incident was an Acting Sergeant with over 6 years of service.
- [139] The victim was experiencing a mental health crisis that caused his family to call police for help. I accept the submission that the officers arrived to find the victim holding a knife during a chaotic and dynamic call. The victim's behaviour was unpredictable and prone to changing quickly, making it one of the most challenging situations that an officer can enter. It is for this reason that officers must constantly reassess the risk to themselves and others, as well as any alternative options to calm the situation and safely control the victim. This view was shared by the Justice in Constable LAU's criminal proceeding.
- [140] It is clear that once the knife was no longer a factor, Constable LAU failed to apply his training and adjust his response. Rather, he relied on the use of oleoresin capsicum spray, a conducted

energy weapon and a baton. There is no evidence that Constable LAU paused to assess the effects of these instruments throughout this incident.

[141] Further, Constable LAU decided to sit the victim outside in the snow, an action that cannot be considered effective to any degree in helping him sober up.

[142] The victim then continued flailing, at which time he was kicked. He was transported to the hospital where it was determined that he had broken bones and contusions.

[143] Each of the above actions is troubling on its own. Collectively, they clearly warrant a penalty which recognizes the seriousness of Constable LAU's conduct.

***Recognition of the Seriousness of the Misconduct
Potential to Reform or Rehabilitate the Police Officer***

[144] As the Adjudicator, I must carefully assess Constable LAU's recognition of his actions and the impact that this incident had on him.

[145] The Defence articulated Constable LAU's desire to resolve this matter expeditiously both in criminal court and at the Tribunal. Constable LAU's guilty pleas and apologies in both venues demonstrate his recognition of the seriousness of the misconduct. The victim's sister acknowledged the apology that he delivered in court.

[146] In his statement to the Tribunal, Constable LAU acknowledged the importance of accountability along with the effect that this incident had on the Service's reputation.

[147] Further, Constable LAU has agreed to completing additional training pertaining to de-escalation in mental health apprehensions.

[148] I find these factors overall to be mitigating.

Employment History

[149] Under this factor, I must consider the totality of Constable LAU's career by reviewing documentation that was submitted during the hearing.

[150] As presented in evidence, Constable LAU has not been subject to any previous discipline throughout his 7-year career. I reviewed Defence exhibits for additional context and found that in his 2021 performance evaluation, Constable LAU was rated as "*Meets Expectations*" in four categories and "*Exceeds Expectations*" in two categories¹³.

¹³ Exhibit #10 - P.C. Lau #4127 PA - 2021

[151] Constable LAU was named in several commendations and letters¹⁴ between 2019 and 2022 for his involvement in:

- an investigation into drug trafficking at a local hotel which resulted in the arrest of a suspect and the seizure of drugs,
- an investigation into a drug trafficker which resulted in the arrest of a suspect and the seizure of a firearm and various drugs,
- a home invasion investigation which resulted in the arrest of the suspect,
- an armed individual at a residence where the situation was deescalated and the male apprehended,
- responding to a located vehicle that was previously involved in a fail to remain. He was able to safely apprehend the two occupants of the vehicle,
- paying tribute to the death of a Halton Regional Police officer,
- locating a human trafficking victim and arresting two suspects,
- locating and arresting a suspect in a weapons dangerous call,
- assisting to ensure the safety and support of a victim of intimate partner violence,
- assisting in the annual Toys for Tots Campaign, and
- participating in McDonald's McHappy Day.

[152] Constable LAU has displayed a strong work ethic throughout his career and performed in a manner that has drawn positive attention from his supervisors. This, along with no history of discipline does entitle him to call upon his record as a mitigating factor.

[153] Overall, I accept Constable LAU's employment history to be positive.

Specific and General Deterrence

[154] I have carefully considered the Prosecution's and the Defence's submissions with respect to deterrence.

[155] I will address specific deterrence first. As a result of his misconduct, Constable LAU was held accountable in criminal court and at this Tribunal. Both processes scrutinized his actions and resulted in both legal and employment consequences. This should serve as a reminder that his actions must always comply with his training.

[156] General deterrence in this matter is equally important. The Service provides a high level of training upon hire and throughout an officer's career. Every officer must understand the gravity of using their use of force options, and that improper use directly erodes the Service's credibility in the eyes of the public.

[157] The penalty in this matter will appropriately reinforce the Service's clear policies and procedures regarding this issue.

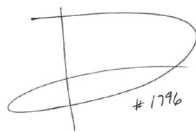
¹⁴ Exhibit #12 - Defence - Recognition Documents

Consistency of the Disposition

- [158] The joint position regarding penalty for Constable LAU is an 18 (eighteen) month demotion from 1st Class Constable to 2nd Class Constable along with training pertaining to de-escalation in mental health apprehensions.
- [159] Determining a fair and effective disposition in this matter requires careful consideration of previous discipline cases.
- [160] I reviewed the six cases that were submitted by the Prosecution and found that each provides a measure of guidance towards assessing an appropriate penalty.
- [161] In weighing the aggravating and mitigating factors that were presented in this matter, I find that the proposed penalty satisfies the principle of parity.

Penalty

- [162] For Discreditable Conduct, in that on March 21, 2024 he was found guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction, namely Assault contrary to section 266 of the *Criminal Code of Canada* in relation to an incident which occurred on or about February 8, 2023 constituting an offence against discipline as prescribed in section 2(1)(a)(ix) of the Code of Conduct, Ontario Regulation 268/10, as amended;
- [163] A Reduction in rank from 1st (first) Class Constable to 2nd (second) Class Constable for a period of 18 (eighteen) months 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; and
- [164] Training pertaining to de-escalation in mental health apprehensions.
- [165] The above penalty is under the authority of Sec 85(1)(c) and Sec 85(7)(b) of the *Police Services Act* and is effective February 19, 2025.



Superintendent Taufic Saliba #1796
Hearing Officer
Peel Regional Police