

**TORONTO POLICE SERVICE DISCIPLINE HEARING**

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

**AND IN THE MATTER OF**

**THE TORONTO POLICE SERVICE  
AND  
CONSTABLE DOUGLAS HOLMES (10301) (He/Him)**

**Charges:**

**Discreditable Conduct - Six Counts  
Insubordination - Three Counts**

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**DECISION**

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Hearing Officer: Inspector Susan Gomes (She/Her); Toronto Police Service  
Prosecutor: Inspector Lisabet Benoit (She/Her), Toronto Police Service  
Defence Counsel: Mr. David Butt (He/Him)  
Case Numbers: 19/2019, 31/2019, 38/2022, 55/2022  
Hearing Date: 2022.11.21  
Decision Date: 2023.02.21

Before commencing my decision in this matter, I would like to thank Mr. David Butt, Defence Counsel, and Inspector Lisabet Benoit, the Toronto Police Service Prosecutor, for their efficiency as it has assisted in my decision being reached.

This decision is divided into four parts:

PART I: OVERVIEW;

PART II: THE HEARING, ANALYSIS AND FINDINGS FOR DECISION; and

PART III: DECISION

## **PART I: OVERVIEW**

### **Background**

Constable Douglas Holmes 10301 (PC Holmes) commenced his employment with the Toronto Police Service (TPS) in 2008. This matter is comprised of four Notices of Hearing totalling nine counts of misconduct; six for Discreditable Conduct and three for Insubordination. PC Holmes presently holds the rank of First Class Constable. Since at least 2017, he has been assigned to uniform duties in 52 Division although since 2020 PC Holmes has been absent from work on sick leave.

### **Allegations of Misconduct**

1. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did use profane, abusive or insulting language or were otherwise uncivil to a member of the public, contrary to Section 2 (1) (a) (v) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O.

1990, as amended. The particulars of the allegations (Case 19 – 2019) are:

- a. Being a member of the Toronto Police Service, it is alleged that on Wednesday, August 29, 2018, you were off duty operating a black Corvette exiting a parking lot on the west side of Simcoe Street. At this time the complainant, G.C., was riding his bicycle southbound on Simcoe Street. G.C. was riding his bicycle the wrong way on the street which prompted a reaction from you as you had to stop abruptly to avoid colliding with G.C. You demanded that G.C. stop and walk back towards you.
- b. When G.C. approached you, there was a verbal interaction regarding the manner in which G.C. was operating his bicycle. In his interview with Professional Standards, G.C. described you as a "complete asshole" and "hyper masculine". G.C. also felt that you made insulting comments about "millennials" and that you were berating his "whole generation for being dicks."
- c. The interaction was witnessed by a civilian, A.B., who called 9-1-1 to report a dispute after observing the altercation between yourself and G.C. A.B. advised that the interaction was intense, that he came outside twice to monitor the situation, and ultimately called 9-1-1 because yourself and G.C. were "screaming at each other." A.B. advised that you were yelling "you are not above the law" and described you as letting G.C. "have it".
- d. As a police officer, you have an obligation and responsibility to control your emotions and de-escalate situations.
- e. During the course of your interaction with G.C., you used insulting language and were uncivil towards G.C. In so doing, you did not act in accordance with Toronto Police Service Standards of Conduct, Service Governance, or the

Police Services Act.

- f. In doing so, you committed misconduct in that you did use profane, abusive or insulting language or were otherwise uncivil to a member of the public.

2. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you are guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction, contrary to Section 2 (1) (a) (ix) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended. The particulars of the allegations (Case 31 – 2019) are:

- a. Being a member of the Toronto Police Service, assigned to 52 Division, you were attached to the Community Response Unit.
- b. On October 10, 2017, you were working in a uniform capacity. You attended the area of Queens Quay near the Westin Harbour Castle Hotel for the purpose of monitoring a union protest. While there, you observed some bicycles going through the Yonge intersection on a red light.
- c. You witnessed a bicyclist, O.S., proceed through the intersection on a red light and you stopped him and requested identification. O.S. refused to produce identification and asked what would happen if he did not provide identification. You advised he would be arrested. Shortly thereafter, you arrested O.S. and started to handcuff his right hand as he stood straddling his bicycle. You walked behind O.S. to secure his left hand in handcuffs and in the process of the arrest, you pushed O.S. to the ground. O.S. landed on the pavement on his left side, with his bike helmet hitting the brick. O.S.

attended St. Michael's Hospital where he was diagnosed with a broken left clavicle and right big toe.

- d. O.S. reported this incident to the Office of the Independent Police Review Director and the Special Investigations Unit invoked their mandate. You were charged criminally with Assault Causing Bodily Harm. Following a two day trial, on February 15, 2019, the Honourable Justice Susan Chapman found that you used excessive force and were guilty of the offence of assault causing bodily harm. She found your evidence to be evasive and cavalier.
  - e. In her decision, Justice Chapman stated that she found "beyond a reasonable doubt that you used more force to effect the arrest of O.S. than was reasonable, necessary and/or proportionate to the circumstances".
  - f. On April 1, 2019, you received a suspended sentence and a one year probation.
  - g. In doing so, you committed misconduct in that you are guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction.
3. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member, contrary to Section 2 (1) (a) (xi) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended.
- The particulars of the allegations (Case 38 – 2022 Count 1) are:
- a. Being a member of the Toronto Police Service, you were attached to 52

Division. You were off on sick leave at the time of this incident.

b. On December 22, 2021, you sent disparaging and insulting text messages to another member of the Toronto Police Service.

c. In so doing, you committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Toronto Police Service.

4. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you were insubordinate by word, act or demeanour, contrary to Section 2 (1) (b) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended. The particulars of the allegations (Case 38 – 2022 Count 2) are:

a. Being a member of the Toronto Police Service, you were attached to 52 Division. You were off on sick leave at the time of this incident.

b. On December 22, 2021, you sent three text messages to a supervisor from 52 Division that were inappropriate and insulting.

c. In so doing, you committed misconduct in that you used inappropriate and insulting language to a supervisor from the Toronto Police Service.

5. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member, contrary to Section 2 (1) (a) (xi) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore,

contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended.

The particulars of the allegations (Case 38 – 2022 Count 3) are:

- a. Being a member of the Toronto Police Service, you were attached to 52 Division. You were off on sick leave at the time of this incident.
- b. On December 30, 2021, you sent an inappropriate and rude email to another member of the Toronto Police Service.
- c. In so doing, you committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Toronto Police Service.

6. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you were insubordinate by word, act or demeanour, contrary to Section 2 (1) (b) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended. The particulars of the allegations (Case 38 – 2022 Count 4) are:

- a. Being a member of the Toronto Police Service, you were attached to 52 Division. You were off on sick leave at the time of this incident.
- b. On December 22, 2021, you sent an email to your Unit Commander at 52 Division that was inappropriate and rude.
- c. In so doing, you committed misconduct in that you used inappropriate and rude language to a supervisor from the Toronto Police Service.

7. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did act in a disorderly

manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member, contrary to Section 2 (1) (a) (xi) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended.

The particulars of the allegations (Case 55 – 2022 Count 1) are:

- a. Being a member of the Toronto Police Service, you were attached to 52 Division. You were off on sick leave at the time of this incident.
  - b. On March 22, 2022, you sent a disparaging and insulting email to another member of the Toronto Police Service.
  - c. In so doing, you committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Toronto Police Service.
8. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you were insubordinate by word, act or demeanour, contrary to Section 2 (1) (b) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended. The particulars of the allegations (Case 55 – 2022 Count 2) are:
- a. Being a member of the Toronto Police Service, you were attached to 52 Division. You were off on sick leave at the time of this incident.
  - b. On March 22, 2022, you sent an email to a supervisor from Professional Standards that was inappropriate and insulting.
  - c. In so doing, you committed misconduct in that you used inappropriate and insulting language to a supervisor from the Toronto Police Service.



9. Constable Douglas Holmes 10301, being a member of the Toronto Police Service, you are alleged to have committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member, contrary to Section 2 (1) (a) (xi) of the Schedule Code of Conduct of Ontario Regulation 268/10 and therefore, contrary to Section 80(1) (a) of the Police Services Act, R.S.O. 1990, as amended.

The particulars of the allegations (Case 55 – 2022 Count 3) are:

- a. Being a member of the Toronto Police Service, you were attached to 52 Division. You were off on sick leave at the time of this incident.
- b. On March 20, 2022, you sent an inappropriate and rude text message to a retired member of the Toronto Police Service.
- c. In so doing, you committed misconduct in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Toronto Police Service.

### **Plea and Representation**

In this matter, Counsel Mr. David Butt represented Constable Douglas Holmes 10301 and Prosecutor Inspector Lisabet Benoit represented the Toronto Police Service. On November 21, 2022 Constable Douglas Holmes, pleaded not guilty to count 1 and guilty to counts 2 through 9. Constable Douglas Holmes did not appear however his pleas were entered by his counsel Mr. Butt.

### **Hearing held in Absentia**

The Prosecutor, Inspector Benoit began her motion that the hearing be held in absentia

given PC Holmes' continued absence and "choosing not to attend". In doing so she submitted a series of exhibits and stated that at no time had medical records supporting absences ever been produced.

The first exhibit (Exhibit 7) was submitted as a list of fifteen appearance dates with the last date being December 12, 2021, all of which PC Holmes did not attend. A Book of Evidence (Exhibit 9) was submitted with several affidavits. The Affidavit at Tab 5 was from Stacey Found, Trial Preparation Assistant, Prosecution Services. In this affidavit Stacey Found stated that between the dates of March 1, 2022 and November 15, 2022 she communicated with and received confirmation from Counsel Mr. Butt acknowledging and accepting service on behalf of PC Holmes of four Notices of Hearing.

Inspector Benoit also entered a Book of Authorities (Exhibit 10) outlining five cases relevant to proceeding in absentia making specific reference to Tab 1, *Mauro v. Thunder Bay Police Service, 2013 ONCPC9*, where a finding of guilt was made in absentia. And finally adding that legislative authority is given to proceed in their absence via the *Statutory Powers Procedure Act (SPPA) section 7 (1) which states; Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.*

Inspector Benoit also made reference to this notice forming part of the Affidavit of Service within each of the Notices of Hearing.

Defence Counsel Mr. Butt did not contest to the hearing proceeding in absentia. He reminded the tribunal that he was present and acting as Counsel to PC Holmes, he agreed to proceed with the hearing, that the SPPA gives the authority to proceed and that all preconditions for proceeding in absence of PC Holmes had been met.

With the Prosecution's submission, Defence's agreement and the legislative authority of

the SPPA section 7 (1), I was satisfied to grant the hearing commence in absentia.

## **Decision**

Following my analysis of the evidence, review of the Notices of Hearing and the consideration for each plea entered by Constable Douglas Holmes, I find Constable Douglas Holmes guilty of 8 counts of misconduct (6 counts of Discreditable Conduct and 2 counts of Insubordination). My reasons for this follow;

## **PART II: THE HEARING, ANALYSIS AND FINDINGS FOR DECISION**

### **Exhibits**

The exhibits for this matter are listed in Appendix 'A', attached hereto. To avoid repetition, all exhibits will be referred to by number without the preface of Appendix 'A'.

### **Evidence and Submissions**

#### **Count 1 - Discreditable Conduct**

Summary of allegation: It is alleged that Police Constable Douglas Holmes did use profane, abusive or insulting language or was otherwise uncivil to a member of the public.

#### Evidence:

Prosecutor Inspector Benoit submitted a vetted transcript (Exhibit 11) from affirmed testimony of Guriqbal Chouhan; a member of the public, earlier in this matter before Hearing Officer Superintendent R. Hussein on January 11, 2022. The following is a summary of the transcript capturing a few quotes surrounding the specifics of the allegations;

- This incident occurred August 29, 2018

- Chouhan was riding his bicycle to work
- He travelled passed the building of 52 Division in the same manner as he has seen other police officers do
- He saw a black Corvette come out of the parking lot just as he was passing, without regard to the posted stop sign
- The Corvette was on the sidewalk
- He stopped, looked at the driver and made eye contact
- He thought the driver had acknowledged he was on his bicycle and he would stop
- He proceeded and the driver did not stop, rolling forward, which caused Chouhan to maneuver his bicycle to avoid the car
- The driver said "*come here you idiot*"
- He approached the driver and asked what the problem was
- The driver said "*hey buddy I'm a police officer*"
- The driver briefly showed a white card
- The driver said "*all millennials are dicks and this is a whole generation of fuck-ups*"
- He did not know the driver was a police officer; there was no uniform or badge that would assist in identifying him as such
- He requested a uniform police officer to attend of which he could identify himself to
- The driver continued to call him "*a bunch of different names*"
- A uniform officer attended and the driver let go of him
- He called 911
- A number of uniform police officers attended
- The driver was still fuming, pacing and did not speak to him further
- He provided his driver's licence as identification to uniform officers
- He attended the 52 Division building to retrieve his driver's licence
- The driver was at 52 Division and issued two (2) tickets to Chouhan; one for riding his bicycle the wrong way and the other for not identifying himself
- He identified the driver as Constable Douglas Holmes given the signature on the tickets and that he provided the tickets to him; "*it was Douglas Holmes who handed me the ticket and then he actually said, I quote, um that if you got a problem with me, file a complaint*"
- He had also spoken to an officer of whom he thought was a supervising officer to

state that police should not speak to members of the public in a “*derogatory manner*”, where he was further directed to complain to the O.I.P.R.D.

- He subsequently complained to the O.I.P.R.D. and was interviewed by police officers in relation to the complaint

Defence Counsel Mr. Butt was in agreement with the submission of the transcript and advised that the vetted portion of the transcript was mutually agreed upon between himself and the Prosecution. No additional evidence was presented by Counsel Mr. Butt.

In my review of the only evidence produced; Mr. Chouhan’s affirmed testimony, it is clear that Constable Holmes did use profane, abusive, insulting language and was otherwise uncivil to a member of the public. To have referred to Mr. Chauhan as an “idiot” in directing him to approach and to further state that “all millennials are dicks and this is a whole generation of fuck-ups” leaves no room for misinterpretation of the words spoken by Constable Holmes, regardless of the event of what brought the two together in their interactions.

Based on the standard of clear and convincing evidence, I find that Constable Douglas Holmes is guilty of discreditable conduct in using profane, abusive or insulting language or was otherwise uncivil to a member of the public.

## **Count 2 - Discreditable Conduct**

Summary of allegation: It is alleged that Police Constable Douglas Holmes was found guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction.

### Evidence:

Prosecutor Inspector Benoit submitted Exhibit 12; certified copies of a Criminal Information and Judgement by the Honourable Justice Susan Chapman of a conviction on Police Constable Douglas Holmes for assault causing bodily harm in relation to an injury he caused to an arrestee during an on-duty arrest. Conviction was recorded as being rendered on February 15, 2019 and further sentencing on April 1, 2019 to a suspended sentence, 12 months probation and a DNA order. In addition a Superior Court of Justice Summary

Conviction Appeal, appealing both conviction and sentence was dismissed, dated December 17, 2019 by the Honourable Justice Gillian Roberts.

Defence Counsel Mr. Butt was in agreement with the submission of the certified copies and did not produce additional evidence.

In my review of the only evidence produced and consideration of the guilty plea entered by PC Holmes, it is clear that Constable Holmes was found guilty of assault causing bodily harm which in turn substantiates discreditable conduct.

Based on the standard of clear and convincing evidence, I find that Constable Douglas Holmes is guilty of discreditable conduct in being found guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction.

### **Count 3 - Discreditable Conduct**

Summary of allegation: It is alleged that Police Constable Douglas Holmes acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member.

### **Count 4 – Insubordination**

Summary of allegation: It is alleged that Police Constable Douglas Holmes committed misconduct in that you were insubordinate by word, act or demeanour.

#### Evidence:

Prosecutor Inspector Benoit submitted Exhibit 9, Tab 3; Sworn Affidavit dated November, 2022 of Detective (Det.) Richard Petrie (2232). With the Affidavit were further exhibits “A” and “B”. Exhibit “A” was a copy of an email message sent from Det. Petrie to PC Holmes. Exhibit “B” was a text message sent to Det. Petrie from PC Holmes. The following is a summary of the affidavit, email and text message;

- Det. Petrie is a member of 52 Division and was tasked to serve Notice of Hearing (NOH) notices on P.C. Holmes for January 11 and 12 2022.

- On December 10, 2021 he telephoned and spoke with PC Holmes to make arrangements for physical service of the NOH notices. In that same conversation PC Holmes provided his email address and made arrangements to reconnect on December 13, 2021 as he was out of town
- He telephoned PC Holmes on December 13 and 14, 2021 and left a voicemail message reiterating the contents of the NOH notice
- On December 14, he attended the home of PC Holmes and left hard copies of the NOH at his door as there was no answer and followed up with sending copy of the same NOH electronically (Exhibit "A") to his previously provided email address;

*From: Rich Petrie*

*Sent: Tuesday December 14, 2021 14:43*

*To:*

*Subject: FW: Service of documents*

*Hi Doug*

*Please see attached documents regarding your upcoming Tribunal on January 11th and 12th, 2022. Please accept this as service of the attached documents - notice of Tribunal and Affidavit of Service.*

*Note - I left a copy in an envelope at your backdoor.*

*Please feel free to contact me if you have any questions.*

*Thanks*

*Rich Petrie*

*Detective #2232*

*52 Division*

*Toronto Police Service*

*Phone: (416)-808-5280*

- On December 22, 2021 Det. Petrie received a text message (Exhibit "B") from PC Holmes;

*Dude you are pathetic and a dummy. I was very ill on that Monday I was suppose to talk to you and took meds that kept me asleep until later that day and again took them to go to bed.*

*I didn't get up until late afternoon when you jumped the gun and were trespassing in my backyard.*

*I was going to cooperate with you but since you are a puppet and acted like an idiot I'm going to put a complaint against you.*

*Fyi I let the people know at 52 you are not to be trusted and are a piece of shit.*

*Thought you would be decent since your brother was such a fuck up  
And apparently you were not liked by your old mcu ... so that means you are a bitch*

Defence Counsel Mr. Butt was in agreement with the submission of Exhibit 9, Tab 3 and did not produce additional evidence.

Although both counts 3 and 4 stem from the same action in that a text message was sent directly to Detective Petrie of the Toronto Police Service from PC Holmes I found that in each count discernable elements were present that speak to each count of misconduct independently.

Although not submitted in Exhibit 10 Book of Authorities, I am familiar with additional decisions as they relate to discreditable conduct.

In *Toy v. Edmonton (Police Service), 2014, ABCA 353 paragraph 11*, the test for discreditable conduct is laid out;

the test involves an objective evaluation as would be made by a dispassionate reasonable person fully apprised of the circumstances and with due regard for any applicable rules and regulations (or law) in force and with due regard to good faith considerations where the officer under scrutiny was required to exercise discretion under the circumstances

In *Mulville and Azaryev and York Regional Police Service, 2017, 2017 CanLII 19496 (ON CPC) paragraph 45*, the test is further defined as;

the objective test would require that the Hearing Officer place a dispassionate reasonable citizen fully apprised of the same facts and circumstances, aware of the applicable rules and regulations, in the same situation to assess whether the officer's language was discreditable

In the decision of *Stevenson v. Bryson, Green and Durham Regional Police Service, 2020, ON CPC 8 paragraph 32* it defines the test even further stating;



the test must be read in conjunction with section 2(1)(a)(xi) of the *Code of Conduct*, which sets out the Discreditable Conduct occurs when an officer “acts in a disorderly manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which the officer is a member”

Finally in *TAPP v. Ontario Provincial Police 2018 OCPC 16* not only does it enhance the definition more so it also speaks to the misconduct occurring off duty.

In paragraph 23;

In *Constable W.D. Silverman v. Ontario Provincial Police, 1997 CanLII 22046 (ON CPC)* the Commission wrote:

...the jurisdiction of the Police Services Act is not limited to on-duty activities and any officer whose activities off-duty bring discredit upon the reputation of the Police Service is subject to discipline by the Service. The measure used to determine whether conduct has been discreditable is the extent of the potential damage to the reputation and image of the Service should the action become public knowledge

And in paragraph 24;

In the case of *Susan Mancini and Constable Martin Courage of the Niagara Regional Police Service, 2004 CanLII 76810 (ON CPC)* the Commission wrote:

The concept of discreditable conduct covers a wide range of potential behaviours. The test to be applied is primarily an objective one. The conduct in question must be measured against the reasonable expectation of the community. It is not necessary to establish actual discredit.

In count 3, Discreditable Conduct I find that the test has been met. The text message sent by PC Holmes to Detective Petrie is written in a language that is foul, offensive, and completely inappropriate. If this correspondence was made known to the public/community at large it would not meet their reasonable expectation of the community regarding the behaviour of an expected professional Police Officer and simply put, it would discredit the reputation of the Toronto Police Service given the abusive content of the text message and the unprofessional discourteous treatment of another member/colleague of the Service.

Count 4 speaks to Insubordination as PC Holmes was insubordinate by words, actions or demeanour in sending an inappropriate text message to a superior officer; Detective Petrie. Detective Petrie is a superior officer in relation to PC Holmes. In this instance there is evidence that PC Holmes understood that the intended receiver of the message was that of a superior rank to his own. In Detective Petrie's affidavit he outlines that he telephoned PC Holmes advising him of his Notice of Hearing four times. In addition there was the email message contained in the affidavit that introduced the supervisory position held by Detective Petrie in his signature. PC Holmes texts Detective Petrie in response to attending his home and serving him the Notice of Hearing. PC Holmes' selection of words are blatantly disrespectful and defiant in the authority of Detective Petrie's lawful service (TPS Procedure 13-03) of the Notice of Hearing directing PC Holmes to attend. He raises the level of insubordination in that he resorts to calling Detective Petrie "*dummy*", "*puppet*" and "*idiot*" and then further sabotages his professional reputation by stating "*I let the people know at 52 you are not to be trusted and are a piece of shit*" and "*apparently you were not liked by our old mcu...so that means you are a bitch*" indicating he has had conversation with other members of the Toronto Police Service in the same vein of the text message.

With my analysis and review of the only evidence produced; Detective Petrie's Affidavit, and the consideration of the guilty pleas entered by PC Holmes I find Constable Holmes guilty of misconduct on both counts 3 and 4; he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member and was insubordinate by word, act or demeanour. While the Notice of Hearing Statement of Particulars for count 4 indicated there were three (3) text messages, I was satisfied that the essential elements of the misconduct were met within the one (1) text message that was provided as evidence in Exhibit 9, Tab 3.

### **Count 5 - Discreditable Conduct**

Summary of allegation: It is alleged that Police Constable Douglas Holmes acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member.

#### Evidence:

Prosecutor Inspector Benoit submitted Exhibit 9, Tab 1; Sworn Affidavit dated November,

2022 of Superintendent (Supt.) Greg Cole (4851). With the Affidavit was a further exhibit "A" which was a copy of an email message sent on December 30, 2021 to Supt. Cole from PC Holmes. The following is a summary of the affidavit and email message;

- In December 2021 Superintendent Cole was the Unit Commander of 52 Division
- He did not directly supervise PC Holmes nor had he ever met him
- On December 29, 2021 he directed uniform supervisors to attend and serve two separate Tribunal Notices for two separate matters on PC Holmes at his home
- On December 30 2021, he received an email from PC Holmes;

*From: Jason Holmes*

*Date: December 30, 2021 at 4:28:31 PM EST*

*Subject: Document service*

*To: Greg Cole <Greg.Cole@torontopolice.on.ca>*

*Hi Greg,*

*I think we met once and I'm sure you are familiar with my name by now.*

*It's really petty that you are sending sgts to my house trying to serve documents that I wont accept. I'm on medical leave and the service is not paying me to go to the tribunal.*

*Sgts are not happy with the detail and I'm pretty sure the resources could be utilized elsewhere.*

*Now, for the ass hat called Petrie. I want him charged with trespassing. I have video evidence of him in my backyard.*

*How disrespectful is that to hound a guy on ptsd trying to serve papers.*

*Petrie was lucking he didn't get hurt for trespassing.*

*Next time a Tps member gets caught trespassing on my property they will not leave as they entered.*

*Funny how the service virus signals about mental health, but you act like petulant children.*

*Jason Holmes.*

Defence Counsel Mr. Butt was in agreement with the submission of Exhibit 9, Tab 1 and did not produce additional evidence.

In my analysis of Count 5, I find that the test for Discreditable Conduct as outlined in Count 3 has been met. The email message sent by PC Holmes to Superintendent Cole, a member of the Toronto Police Service, is written in a language that is disrespectful, condescending and inappropriate. This email, if made known to the public/community, would not meet the reasonable expectation of the community regarding the behaviour of an expected professional Police Officer and it would discredit the reputation of the Toronto Police Service given the abusive content of the email message and the unprofessional discourteous treatment of another member/colleague of the Service especially with threatening comments "*Petrie was lucking he didn't get hurt for trespassing* " and "*Next time a Tps member gets caught trespassing on my property they will not leave as they entered*".

With my analysis and review of the only evidence produced; Superintendent Cole's Affidavit, and the consideration of guilty plea entered by PC Holmes I find Constable Holmes guilty of misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member.

### **Count 6 – Insubordination**

Summary of allegation: It is alleged that Police Constable Douglas Holmes committed misconduct in that you were insubordinate by word, act or demeanour.

#### Evidence:

Prosecutor Inspector Benoit submitted Exhibit 9, Tab 1; Sworn Affidavit dated November, 2022 of Superintendent (Supt.) Greg Cole (4851). With the Affidavit was a further exhibit "A" which was a copy of an email message sent on December 30, 2021 to Supt. Cole from PC Holmes. In comparing this Affidavit and corresponding email I am unable to locate any evidence that relates to this particular count that occurred on December 22, 2021 as indicated in the associated Notice of Hearing in that a corresponding email message with the same date of December 22, 2021 was not submitted as evidence.

Although PC Holmes entered a plea of guilty I am unable to accept the plea given there is no evidence before the Tribunal that outlines the essential elements of misconduct as alleged in the Notice of Hearing that states that the misconduct occurred on December 22,

2021.

I find Constable Holmes not guilty of misconduct as it relates to Count 6 – Insubordination.

### **Count 7 - Discreditable Conduct**

Summary of allegation: It is alleged that Police Constable Douglas Holmes acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member.

### **Count 8 – Insubordination**

Summary of allegation: It is alleged that Police Constable Douglas Holmes committed misconduct in that you were insubordinate by word, act or demeanour.

### Evidence:

Prosecutor Inspector Benoit submitted Exhibit 9, Tab 2; Sworn Affidavit dated November 16, 2022 of Detective Sergeant (D/Sgt.) Katharine Washington 89280. With the Affidavit was a further exhibit “A” which was a copy of an email message sent to D/Sgt. Washington from PC Holmes. The following is a summary of the affidavit and email message;

- D/Sgt. Washington is an investigator in the Professional Standard Unit, Criminal Investigation Unit
- She was assigned a file (2023.INT-0429) to investigate PC Holmes
- On occasion through out the investigation she corresponded with PC Holmes through email messaging
- She substantiated misconduct against PC Holmes
- On March 22, 2022 she received this email message from PC Holmes;

*From: Jason Holmes*

*Sent: Tuesday March 22, 2022 00:06*

*To: Katharine Washington <Katharine.Washington@torontopolice.on.ca>*

*Subject: Disgrace*

*Katherine,*

*You are a terrible person and karma will catch up to you. I would ask how*

*you sleep at night, but I already know. You have no conscience!*  
*I've filed a private information on the person you should have charged, which you neglected.*  
*Also you did nothing on my complaints about the officers that attended and didn't do their job appropriately. That is called neglect!*  
*Further I saw your synopsis of the situation. You omitted the facts in issue and wrote a biased synopsis. That is called deceit! I will be forwarding this information above your head.*  
*I have to say I've arrested criminals that have more ethics than yourself. Funny thing is, you are trying to charge me on my mental health issues (yelling and swearing) which is why I'm off work. That is considered harassment which I will be pursuing.*  
*You are a low life and it will catch up to you! You make every female officer look bad as you got promoted without any intelligence.*  
*FYI you can charge me all you want and won't make a difference because I'm permanently restricted from returning in TPS in ANY capacity.*  
*Take care, you cunt!*

Defence Counsel Mr. Butt was in agreement with the submission of Exhibit 9, Tab 2 and did not produce additional evidence.

Similarly as in counts 3 and 4, I find that in counts 7 and 8 there are distinguishing elements separating the two (2) counts from one another even though they are from the same action of PC Holmes sending an email message directly to D/Sgt. Washington.

For count 7, I find that the test for Discreditable Conduct as outlined in count 3 has been met. The email message sent by PC Holmes to D/Sgt. Washington is written in a language that is distasteful, vulgar and inappropriate. If this correspondence was made known to the public/community at large it would not meet their reasonable expectation of the behaviour of an expected professional Police Officer and would discredit the reputation of the Toronto Police Service given the abusive content of the text message and the unprofessional discourteous treatment of another member/colleague of the Service in addition to threatening comments “*You are a terrible person and karma will catch up to*

*you” and “You are a low life and it will catch up to you! “.*

In count 8, I find PC Holmes was insubordinate by words or actions in sending the inappropriate email message to a superior officer; D/Sgt. Washington. D/Sgt. Washington is a superior officer in relation to PC Holmes. As stated in her Affidavit she was assigned to investigate the alleged misconduct of PC Holmes. Throughout her investigation she had occasion to correspond with PC Holmes through email. Upon conclusion of her investigation she substantiated the misconduct and notified Prosecution Services. After substantiating the misconduct PC Holmes sent the email message to D/Sgt. Washington. The Subject line stated “*Disgrace*”. In the email he makes reference to her superior rank to his confirming his understanding of who she is, “*You make every female officer look bad as you got promoted without any intelligence*”. In the email it is clear he is upset and defiant of her lawful action in substantiating the misconduct; “*I’ve filed a private information on the person you should have charged, which you neglected*”, “*Further I saw your synopsis of the situation. You omitted the facts in issue and wrote a biased synopsis*”, “*I’ve arrested criminals that have more ethics than yourself*”, “*FYI you can charge me all you want and won’t make a difference*”. PC Holmes further threatens to tarnish D/Sgt.’s reputation by stating, “*I will be forwarding this information above your head*” in reference to the biased synopsis. And finally as he is signing off the email message he elevates the insubordination by name calling; “*Take care, you cunt!* “

With my analysis and my review of the only evidence produced; Detective Sergeant Washington’s Affidavit, and the guilty pleas entered by PC Holmes I find Constable Holmes guilty of misconduct on both counts 7 and 8; he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member and was insubordinate by word, act or demeanour.

### **Count 9 - Discreditable Conduct**

Summary of allegation: It is alleged that Police Constable Douglas Holmes acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which you are a member.

Evidence:

Prosecutor Inspector Benoit submitted Exhibit 9, Tab 4; Sworn Affidavit dated November 18, 2022 of retired Sergeant (Sgt.) Trevor Searles (6363). With the Affidavit was a further exhibit "A" which was a copy of a text message sent to Sgt. Searles from PC Holmes. The following is a summary of the affidavit and text message;

- Sgt. Searles retired in March of 2021
- In 2017 he supervised PC Holmes at 52 Division and since that time he has not communicated with PC Holmes until March 20, 2022
- On March 20 2022, he received this text message from PC Holmes;
  - *You were once of the laziest supervisors I've ever witnessed. You didn't address important issues and tried to sweep things under the rug. You continued to let the shitty cops be shitty cops and put the bulk of work on the good ones without doing anything to the people who didn't contribute. You were not a leader and got promoted because of your colour and connections not because of your meritocracy. You were a snake in the grass and karma will catch up to you. You kept putting more on me while you let others continue to slack and you are partial to blame for my PTSD. I can also say you are a coward and witness first hand when you asked for help in the entertainment district and I responded with Variant. You left me fighting with a psycho by my self, while you sat there and watched. You were a terrible supervisor and the laziest person I've met. You should be ashamed of yourself.*
- Sgt. Searles thought the text was a joke and called PC Holmes where he did not answer
- PC Holmes called Sgt. Searles back and accused him of being responsible for his current issues, that he gave him a poor review and that he negatively impacted his court case.

Defence Counsel Mr. Butt was in agreement with the submission of Exhibit 9, Tab 4 and did not produce additional evidence.

In my analysis of Count 9, I find that the test for Discreditable Conduct as outlined in Count 3 has been met. The text message sent by PC Holmes to retired Sgt. Searles, a retired member of the Toronto Police Service and now a citizen, is written in a language that is



disparaging, derogatory and inappropriate. In it, PC Holmes calls retired Sgt. Searles; “*coward*”, “*terrible supervisor*”, “*not a leader*” and “*snake in the grass*” as he outlines his discontent for his supervisory abilities as well as puts blame on him for his “*PTSD*”. This text message if made known to the public/community at large would not meet the reasonable expectation of the public/community regarding the behaviour of an expected professional Police Officer and it would discredit the reputation of the Toronto Police Service given the belligerent content of the email message and the unprofessional discourteous treatment of a retired member of the Service of whom was once PC Holmes’ direct supervisor.

With my analysis and my review of the only evidence produced; Retired Sergeant Trevor Searles’ Affidavit, and the guilty plea entered by PC Holmes I find Constable Holmes guilty of misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which he is a member.

**PART III: DECISION**

Following my analysis of the evidence and related case law, review of the Notices of Hearing and the consideration for each plea entered by Constable Douglas Holmes, I find Constable Douglas Holmes guilty of 8 counts of misconduct (6 counts of Discreditable Conduct and 2 counts of Insubordination) based on the standard of clear and convincing evidence. The findings are listed as follows;

- Count 1 - Discreditable Conduct Guilty
- Count 2 - Discreditable Conduct Guilty
- Count 3 - Discreditable Conduct Guilty
- Count 4 - Insubordination Guilty
- Count 5 - Discreditable Conduct Guilty
- Count 6 – Insubordination Not Guilty
- Count 7 - Discreditable Conduct Guilty
- Count 8 – Insubordination Guilty
- Count 9 - Discreditable Conduct Guilty

Susan Gomes - Inspector  
Hearing Officer  
February 21, 2023

## **Appendix 'A'**

### **List of Exhibits 19/2019, 31/2019, 38/2022, 55/2022- PC Douglas Holmes (10301)**

- Exhibit 1a: Letter of Designation Hearing Officer Superintendent R. Hussein
- Exhibit 1b: Letter of Designation Hearing Officer Superintendent R. Hussein
- Exhibit 2: Letter of Designation Prosecutor Inspector L. Benoit
- Exhibit 3: Motion Application – Remove Counsel from the Record – Norton
- Exhibit 4: List of Appearance Dates up to January 11, 2022
- Exhibit 5: Affidavit of Detective Rich Petrie
- Exhibit 6: Book of Authorities - Prosecution
- Exhibit 7: List of Appearance Dates up to November 21, 2022
- Exhibit 8: Letter of Designation Hearing Officer Inspector S. Gomes
- Exhibit 9: Book of Evidence - Prosecution
- Exhibit 10: Book of Authorities – Order for in Absentia Hearing - Prosecution
- Exhibit 11: Transcript of Public Complainant Guriqbal Chouhan
- Exhibit 12: Certified Copies of Criminal Conviction, Information and Superior Court  
Appeal Dismissal