

OTTAWA POLICE SERVICE DISCIPLINE HEARING

IN THE MATTER OF ONTARIO REGULATION 268/10

MADE UNDER THE *POLICE SERVICES ACT*, RSO 1990, c.P.15 as

THE AMENDMENTS THERETO.

THE OTTAWA POLICE SERVICE

AND

Sergeant Prasanth Tella, #1982

DECISION ON DISPOSITION AND SENTENCE

APPEARANCES:

Counsel for the Prosecution: Ms. Bonnie Cho.

Non-Legal Representation for the Defence: Grayson LaFoley.

BEFORE:

Superintendent Chris Rheaume

Ottawa Police Service

Hearing Officer

August 28th, 2024

Part I: Overview.

Background of Respondent Officer.

1. The subject officer, Sgt. Prasanth Tella (cadre #1982), is a sworn member of the Ottawa Police Service (“OPS”). Sgt. Tella has been a police officer with the OPS since May 26, 2008.
2. On May 16, 2023, the OPS’s Professional Standards Unit (“PSU”) received a letter from Supt. J.J. Hainey, Director of the Canadian Police Information Centre, dated May 2, 2023, regarding possible inappropriate use of the Canadian Police Information Centre system (“CPIC”) by an OPS Officer [Sgt. Tella].
3. On May 24, 2023, a Chief’s Complaint was initiated, and a PSU investigation was launched to determine if a CPIC data breach by Sgt. Tella occurred. The investigation involved two interviews, data systems searches, including CPIC, RMS, and MTO and a review of further documents.
4. The investigation revealed that while on duty, Sgt. Tella accessed CPIC and RMS, including the MTO, to query the license plates of two vehicles that were parked at an address on Acadian Gardens, in Orleans (Ottawa), on February 5, 2021.
5. Sgt. Tella was operating as a Patrol Sergeant that day and attended an address on Acadian Gardens during his shift. He attended Acadian Gardens to view a house that was listed for sale with his then partner J.T., who was also a realtor. While engaged in a WhatsApp private communication with his ex-partner, he provided the name associated with one of the license plates he had ran to her. The name provided for J.T. was of a fellow real estate agent already known to her from the real estate business. No other sensitive information, of any kind, was relayed to her about any other vehicle and/or person queried by him that day.

6. On June 7, 2023, Sgt. Tella attended a compelled interview with PSU. During this interview, he admitted that he was working as an Acting Sergeant on February 5, 2021, in a Uniform Capacity and his call sign was 3120D.
7. He admitted that he had signed OPS forms (i.e. CPIC, RMS, three forms relating to Information Technology, Account Request and Internet Access Request) and was aware of the policies pertaining to the forms. Sgt. Tella also admitted to arriving early for the showing of the house and he saw vehicles parked outside and queried them using RMS.
8. He indicated that he queried three license plates. Two (bearing Ontario license plates CPSF730 [2014 Jeep] and CPMB571 [2006 BMW]) were on cars that were parked outside the listed house for showing.

Allegations and Particulars of Misconduct.

9. Sgt. Tella is alleged to have committed one count of Discreditable Conduct in that on or about the 5th day of February 2021 he acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Ottawa Police Service by divulging a matter which was his duty to keep secret, by unlawfully disclosing to a member of the public, confidential information he obtained on CPIC, thereby constituting an offence against discipline as prescribed in section **2(1)(a)(xi)** of the Code of Conduct, Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Services Act*.
10. Sgt. Tella is alleged to have committed one count of Insubordination in that on or about the 5th day of February 2021 he without lawful excuse, disobeyed a lawful order by contravening the Ottawa Police Service's CPIC User Agreement by accessing the Canadian Police Information Centre database, thereby constituting an offence against discipline as prescribed in section **2(1)(b)(ii)** of the Code of Conduct, Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Services Act*.

11. Sgt Tella is alleged to have committed one count of Insubordination in that on or about February 5, 2021 he without lawful excuse, disobeyed a lawful order by contravening the Ottawa Police Service's Acceptable Use of Information and Technology Policy No. 2.23 and General Order Ex/ORD/2013-532 by accessing the Ottawa Police Records Management System, thereby constituting an offence against discipline as prescribed in section 2(1)(b)(ii) of the Code of Conduct, Ontario Regulation 268/10, as amended, and therefore contrary to section 80(1) of the *Police Services Act*.

Plea.

12. A hearing was held on May 15th, 2024, at 11:00 hrs, in which Sgt. Tella pled guilty to one count of Discreditable Conduct and two counts of Insubordination. I accepted the guilty plea on clear and convincing evidence.

13. As a result of this plea, a joint submission on penalty was submitted in which both parties agreed that the appropriate disposition for the finding of one count of Discreditable Conduct and of two counts of Insubordination would be as follows: *Sgt. Prasanth Tella will forfeit 60 hours (7.5 days) of pay in accordance with section 85(1)(f) of the Police Services Act, R.S.O. 1990, c. P.15, as amended.*

Part II: Summary of Misconduct.

Agreed statement of facts.

1. An agreed statement of facts (Exhibit #7) was read on record by the prosecutor, Ms. Bonnie Cho, on the 15th of May 2024 proceeding as follows:

The subject officer, Sergeant Prasanth Tella (cadre, #1982) is a sworn member of the Ottawa Police Service and has been a police officer with the OPS since May 26, 2008.

On May 16, 2023, the OPS's Professional Standards Unit ("PSU") received a letter from Supt. J.J. Hainey, Director of the Canadian Police Information Centre, dated May 2, 2023, regarding possible inappropriate use of the Canadian Police Information Centre system ("CPIC") by an OPS Officer [Sgt. Tella].

On May 24, 2023, a Chief's Complaint was initiated, and a PSU investigation was launched to determine if a CPIC data breach by Sgt. Tella occurred. The investigation involved two interviews, data systems searches, including CPIC, RMS, and MTO and a review of further documents.

The investigation revealed that while on duty Sgt. Tella accessed CPIC and RMS, including the MTO, to query the license plates of two vehicles that were parked at an address on Acadian Gardens, in Orleans (Ottawa), on February 5, 2021.

Sgt. Tella was operating as a Patrol Sergeant that day and attended an address on Acadian Gardens during his shift. He attended Acadian Gardens to view a house that was listed for sale with his then ex-partner J.T., who was also a realtor. While engaged in a WhatsApp private communication with his ex-partner, he provided the name associated with one of the license plates he had ran to her. The name provided to J.T. was of a fellow real estate agent already known to her from the real estate business. No other sensitive information, of any kind, was relayed to her about any other vehicle and or person queried by him that day.

On June 7, 2023, Sgt. Tella attended a compelled interview with PSU. During this interview, he admitted that he was working as an Acting Seargent on February 5, 2021, in a Uniform Capacity and his call sign was 3120D.

He admitted that he had signed OPS forms (i.e. CPIC, RMS, three forms relating to Information Technology, Account Request and Internet Access Request) and was aware of the policies pertaining to the forms. Sgt. Tella also admitted to arriving early for the showing of the house and he saw vehicles parked outside and queried them using RMS.

He indicated that he queried three license plates, two (bearing Ontario license plates CPSE730 [2014 Jeep] and CPMB571 [2006 BMW]) were on cars that were parked outside the listed house for showing.

Summary of Evidence and Exhibits.

1. As part of this hearing, the Prosecution presented the following exhibits and no witnesses:
 - Ottawa Police Service Hearing Officer Designation – Superintendent Chris Rheaume (Exhibit #1)
 - Ottawa Police Service Prosecutor Designation – Ms. Vanessa Stewart (Exhibit #2)
 - Notice of Disciplinary Hearing (Exhibit #3)
 - Notice of Hearing Service on Officer (Exhibit #4)
 - Ottawa Police Service Prosecutor Designation – Ms. Bonnie Cho (Exhibit #5)
 - Amended Notice of Notice of Disciplinary Hearing (Exhibit #6)
 - Agreed Statement of Facts (Exhibit #7)
 - Joint Submission on Penalty (Exhibit #8)
 - Book of Authorities (Exhibit # 9.1, 9.2, 9.3)
 - Sentencing Brief by Defence (Exhibit #10)

Part III: Analysis.

1. I will start my decision on penalty by first outlining the objectives of police discipline, which are to:
 - i) Correct unacceptable behaviour;
 - ii) Deter others from similar behaviour; and
 - iii) Assure the public that the police are under control.

2. To assist me in achieving these objectives, I am guided by the foundational principles that govern the determination of an appropriate disposition in police disciplinary proceedings. Those principles are described in the Annotated Police Services Act (Ceysens & Childs) as

follows:

The first principle is that the disposition should fully accord with the purposes of police discipline processes, which are as follows: the employer's interest in maintaining discipline in the workplace; the rights of a respondent officer suspected of misconduct being treated fairly; the public interest: ensuring a high standard of conduct in the constabulary, and public confidence in the constabulary; and where members of the public are involved the process should ensure that the interests of those individuals is protected.

The second principle, which flows from the move towards a more remedial philosophy, as noted above, dictates that a corrective disposition should take precedence over a punitive disposition, where possible.

The third principle is the presumption of the lowest disposition – that a respondent police officer is entitled to the most favourable disposition in the circumstances of the case, where possible.

The fourth principle is proportionality, requiring that the tribunal consider all applicable mitigating and aggravating considerations, and then weigh those applicable factors appropriately.

The fifth principle is that the law holds police conduct to a higher standard. Court and tribunal decisions have consistently embraced the concept that police officers should be held to a higher standard of behaviour compared to other employees or members of the public.

3. In *Legal Aspects of Policing*, Paul Ceysens outlines the steps that a decision-maker should follow to properly adhere to the proportionality principle:

It is a “fundamental proposition” that a disposition must be proportionate to the misconduct, “given due regards to those special considerations applicable to service in the police force. Proportionality is arguably the most complex of the five principles that govern

the process of crafting an appropriate disposition, and requires three decisions:

- First, a decision-maker must identify which disposition considerations are *relevant* to the matter in question.
 - Second, a decision-maker must determine whether the relevant disposition considerations are *mitigating, aggravating or neutral*.
 - Third, the decision-maker must *properly balance* (or appropriately “weigh”) the identified relevant considerations in accordance with the factual background of the matter, and the competing interests. Thus “a decision-maker must give proper weight to the relevant factors in a particular case,” and a “proper balance” is of “utmost importance.” In Ontario, although the Commission frequently cites various disposition considerations as “key factors”, it has stated that “there is no requirement that any one factor be given more weight than another,” while at the same time stating that a hearing officer need not give all the factors equal weight and one factor can support the highest penalties, if appropriate.
4. Mr. Ceyskens lists 15 factors which now routinely guide the proportionality analysis of police discipline adjudicators in Ontario. I will speak to seven of the established 15 disposition considerations: public interest; seriousness of the misconduct; recognition of the seriousness of the misconduct; employment history; deterrence; damage to the reputation of the police service; and consistency of disposition. I am satisfied that these factors sufficiently capture all the relevant issues and considerations in the present matter.

Public Interest.

1. The prosecution submitted the decision of Constable Wildeboer vs Toronto Police Service to support the notion that RCMP guidelines require that members comply with the CPIC policy prohibiting access for personal reasons or purposes unrelated to law enforcement. The assurance that police officers will not use CPIC or any other police database for their own personal use is essential to the public’s trust and confidence in policing. Police officers are given these tools for the purposes of solving crime and assisting them with their work; where

they are used for improper purposes, the character of the officer and the trust of the community are undermined.

2. From the evidence, Sgt. Tella was operating as a Patrol Sergeant that day and attended an address on Acadian Gardens during his shift. He attended Acadian Gardens to view a house that was listed for sale with his then partner J.T., who was also a realtor. While engaged in a WhatsApp private communication with his ex-partner, he provided the name associated with one of the license plates he had ran to her. The name provided for J.T. was of a fellow real estate agent already known to her from the real estate business. No other sensitive information, of any kind, was relayed to her about any other vehicle and or person queried by him that day. Sgt. Tella has eroded public trust by engaging in this type of behavior.
3. In determining an appropriate disposition in this matter, I consider the public interest in Sgt. Tella's actions to be an aggravating factor.

Seriousness of the Misconduct.

1. I concur with Ms. Cho's assertion that that the personal use of CPIC by Sgt. Tella rightfully falls within the classification of serious misconduct. It has consistently been the position of the Commission that unauthorized use of police databases constitutes serious misconduct.
2. In *Constable Wildeboer vs. Toronto Police Service, 2006*, the Hearing officer stated:

The use of CPIC must be solely reserved for official police business and must never be used for personal reasons.
3. The seriousness of the misconduct is further aggravated by the fact that Sgt. Tella has been a police officer in Ottawa for over eight (8) years. Sgt. Tella has experience in using CPIC throughout his career and he ought to have used better judgement when using these policing tools.
4. Considering the foregoing, I consider the seriousness of Sgt. Tella's misconduct to be an aggravating factor.

Recognition of the Seriousness of the Misconduct.

1. To the credit of Sgt. Tella, during his interview with Professional Standards, he told Sgt. Moodie that he had queried three license plates of vehicles that were parked outside the house. This house was listed for sale by his ex-partner, J.T., and she was showing it to be sold. Sgt. Tella told J.T. that one of the vehicles belonged to a fellow real estate agent. No other information was relayed to J.T. He was ashamed of what he did, and this demonstrates his appreciation and recognition of the seriousness of his misconduct.
2. I consider Sgt. Tella's recognition of the seriousness of his misconduct a mitigating factor for the purposes of determining a proportionate disposition.

Employment History.

1. As addressed above, Sgt. Tella has over 8 years of policing experience with the Ottawa Police Service. He has no previous discipline on his record. While Sgt. Tella's extensive experience as a police officer suggests that he should have known better than to misuse the RMS and CPIC systems for his own personal use, I consider Sgt. Tella's employment history a mitigating factor for the purposes of determining an appropriate disposition given his positive employment record and commendations.

Deterrence.

1. With respect to general deterrence, every sworn officer must know fully well that they are responsible for the proper and professional use of police databases, which foremost includes refraining from unauthorized personal use. The penalty imposed in this matter must impress upon all police officers the message that they cannot use CPIC, RMS, or any other police database or tool for personal reasons—and, if they do, that they will meet swift and significant disciplinary consequences.
2. In terms of specific deterrence, it is evident that Sgt. Tella now recognizes that his actions constitute a serious misuse of CPIC and there is no evidence before me to suggest that there is

a likelihood that he will reoffend in the future. However, misconduct must be met with serious consequences to ensure clear deterrence in the subject member.

3. Mindful of the objectives of police discipline enumerated at the beginning of this decision, I regard the need for effective general and specific deterrence to be an aggravating factor in the present matter.

Damage to the Reputation of the Police Service.

1. Through the evidence presented, I am left with no doubt that the actions of Sgt. Tella have strained the reputation of the Ottawa Police Service, particularly by the fact that Sgt. Tella committed insubordination by using CPIC and RMS for personal reasons. Police databases are made available to the police based on trust and confidence that they will be used for the sole purpose of official police work. Sgt. Tella breached this trust to the public by using this tool for his own personal reasons, thereby damaging the reputation of the Ottawa Police Service as well as police services generally.
2. I consider the damage to the reputation of the Ottawa Police Service to be a factor that aggravates the appropriate penalty for Sgt. Tella's misconduct.

Consistency of Disposition.

1. Consistency of disposition is particularly relevant to the determination of an appropriate penalty in the present circumstances. Ms. Cho presented case law to support her position that the joint submission on penalty constitutes a fair and reasonable sanction for Sgt. Tella.
2. Ms. Cho referred me to several police-related decisions that all, to varying degrees, address misconduct involving the misuse of CPIC. In *Constable Mikalachki vs Toronto Police Service* (May 28, 2004), Constable Mikalachki forfeited nine (9) days for using CPIC for personal reasons.
3. Ms. Cho referred me to another case in *Constable Cardi vs Peel Regional Police Service* (June 18, 2013); Constable Cardi forfeited five (5) days for misusing CPIC to perform a criminal

record check on his neighbor.

Summary of Findings.

1. I have taken into consideration several mitigating factors in reaching a disposition. Sgt. Prasanth Tella acknowledges and accepts his actions and the harm that they have caused to himself and the Service. His guilty plea is viewed as further acceptance. Furthermore, there is no previous history of discipline and Sgt. Tella possesses a positive employment history spanning the course of his career.
2. In determining an appropriate disposition in this matter, I have also assigned weight to various aggravating factors. The seriousness of the misconduct itself commands a disposition that will send a clear message of deterrence to all Ottawa Police Service officers that there must and will be consequences for officers that misuse CPIC and the Records Management System. The public interest and the loss of trust resulting from a police officer that misuses these systems for personal use has caused damage to the reputation of the Ottawa Police Service, which has had an aggravating effect on my determination of a proportionate disposition.
3. Finally, I am also mindful of the significant body of jurisprudence, within and beyond the realm of police discipline, which supports the notion that joint submissions should be accorded a high level of deference and are not to be disregarded unless there are good and cogent reasons for doing so.

Part IV: Disposition on Penalty

Disposition.

1. I have taken into thoughtful consideration the agreed statement of facts, the submissions of the parties, relevant case law, and the applicable principles of disposition to come to a fair and fitting decision. Breach of Conduct, and two counts of Insubordination have been proven on clear and convincing evidence. The joint submission on penalty has been of assistance in reaching a decision and I see no argument or sound reason to vary from the penalty agreed to

by the parties.

2. I order that Sergeant Prasanth Tella will forfeit 60 hours (7.5 days) of pay in accordance with section 85(1)(f) of the *Police Services Act*, R.S.O, 1990, c P.15, as amended.

Dated at Ottawa, this 28th day of August 2024.

Superintendent Chris Rheume

Hearing Officer.

Appendix A: Book of Authorities.

AUTHORITIES	TAB
<i>Constable Cardi v. Peel Regional Police Service</i> , June 18, 2013	1
<i>Constable Mikalachki v. Toronto Police Service</i> , May 28, 2004	2
<i>Constable Wildeboer v. Toronto Police Service</i> , October 16, 2006	3