

Decisions Respecting:
A. Termination of Officers for Contravention of Employment Rules/Policies throughout Canada
B. Post Traumatic Stress Disorder

as of August 14, 2015
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A. Termination Cases

#	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
1.	<i>A v. Edmonton Police Service</i> , 2014 CanLII 11016 (AB LERB)	Alberta	Knowingly made a misstatement in an application for a warrant which was granted.	Alberta Law Enforcement Review Board	The officer made a misstatement in a warrant application which included falsified information about a confidential informant. The officer was charged and found guilty of deceit in the warrant application, in statements made to the Professional Standards Board and to the Chief. She was dismissed for knowingly making the fabricated statement.	The Board <u>upheld the dismissal</u> as reasonable.
2.	<i>Ahluwalia v. Toronto (Metro) Commissioners of Police</i> (1983), 4 C.H.R.R. D/1757 (Ont. Bd.Inq.)	Ontario	Inability to get along with fellow officers led to dismissal. Officer displayed poor driving, poor attitude and inability to take direction.	Ontario Board of Inquiry: Peter A. Cumming (Human Rights)	Officer claimed dismissal was due to racial discrimination and not his inability to get along with other officers. The evidence suggested that if the officer had shown more reliability and competence in his performance, he would have been accepted by his fellow officers. His problem was personal not racial. Evidence showed that the officer was a poor driver, had a poor attitude toward the public and could not accept direction from senior officers. The officer was subject to race-based name calling, but this was not operative in his difficulties with other officers and his dismissal.	The <u>dismissal was upheld</u> and the discrimination complaint was dismissed. However, Metropolitan Police Board of Commissioners of Police were ordered to take steps to eliminate racial name-calling between officers and establish a race relations sensitization program in cooperation with the Human Rights Commission.
3.	<i>Assn. des policiers provinciaux du Québec</i> , 2010 QCCA 2053	Quebec	Charged with assault and unauthorized use of a computer.	Quebec Court of Appeal: Birch J.C.A.	An officer was charged criminally with assault based on allegations by his former wife. He was also charged with unauthorized use of a computer for accessing confidential information by using his police computer and causing another officer to do so at his behest. The officer conducted six searches for his former wife and made three requests of others to make inquiries over a period of eight months. The information related to the whereabouts of his former wife and his son. The officer had a good record as a police officer for many years. An arbitrator annulled the dismissal and substituted a suspension without pay for 10 days. The Superior Court reinstated the dismissal and the QCCA upheld that decision.	The QCCA <u>upheld the dismissal</u> . The QCCA found the decision to set aside the dismissal was unreasonable. The Arbitrator gave disproportionate weight to the good service record and his domestic situation which did not justify his actions. The arbitrator minimized the gravity of the criminal offense.
4.	<i>Armstrong v. Peel Regional Police Services</i> , 2003 CarswellOnt 3331	Ontario	Harassment and sexual assault. The officer admitted to hugging and kissing the complainant. No criminal charges laid.	Ontario Superior Court of Justice (Divisional Court): Herold J., Linhares de Sousa J. and O'Driscoll J.	A complaint alleging harassment and sexual assault was made against an officer but no criminal charges were made. The officer was dismissed for discreditable conduct. The Hearing Officer had refused to admit a letter from the Attorney General declining to lay charges and refused to allow the officer to question the complainant's mother regarding the alleged sexual assault of the complainant by her uncle.	The <u>dismissal was upheld</u> . The penalty was within the acceptable range of discipline. The Hearing Officer did not err in refusing to admit the letter or refusing to allow questions regarding alleged prior assaults.
5.	<i>Bear v. Chief of Police of the File Hills</i> (7 April 2008)	Saskatchewan	Several incidents including failure to prepare reports on time, ignoring and disrespecting superiors, and falling asleep before responding to a 911 call.	Saskatchewan, Hearing Officer's Decision: Eileen Libby, Hearing Officer	The officer required advice for future conduct after her handling of a sexual assault and suicide investigation. The officer required a second phone call to ensure attendance at a 911 call because of falling asleep; failed to document a future court date resulting in serious charges being stayed; consistently disregarded and ignored superiors and showed an attitude of consistent disrespect toward her superior.	The <u>dismissal was upheld</u> . Her conduct rendered the officer unsuitable or incompetent for police service.

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6.	<i>Berube v. Edmonton (Police Service)</i> , 2014 ABLERB 032	Alberta	Left visitors unattended at the station; reacted offensively to officers during an incident; had open liquor while driving and made false statements about damages after a car accident. Allegation of mental illness as a mitigating factor.	Alberta Law Enforcement Review Board: Charlene Kilburn, Presiding Member; Colleen Ryan, Member	Officer found guilty by Presiding Officer of nine counts of discreditable conduct stemming from three separate disciplinary hearings. One charge related to deceit for statements made to an Internal Affairs investigator after leaving guests unsupervised at the police constables' lounge. Another charge related to an antagonistic and offensive response to fellow officers during an incident after the Stanley Cup playoff game and having open bottles of liquor in the vehicle while driving. The last charge related to a minor parking lot collision after which the officer made false statements about the value of the damages to his vehicle and made arrest threats against the other driver and her insurance agent. The Presiding Officer assessed a global penalty for the charges. The officer argued that his mental illness was a mitigating factor. He had medical evidence of a bipolar spectrum disorder but the psychiatrist could not confirm that the conduct was attributable to his mental illness.	The dismissal was upheld and was within the range of reasonable, acceptable outcomes.
7.	<i>Britton v. Royal Canadian Mounted Police</i> , 2012 FC 1325	Federal	Inappropriate texts and phone calls to a civilian RCMP employee during training.	Federal Court: Mary J.L. Geason J.	Corporal recommended that a cadet's training be ceased for failure to meet RCMP values. The cadet had been in a training contract before and received unacceptable ratings in two areas and was terminated. He was invited back to train in the areas in which he had failed. During training, the cadet became involved with a civilian employee at the RCMP. The employee's supervisor lodged a complaint about the cadet's behaviour. The investigation revealed that the female employee was not interested in a relationship with the cadet who was pursuing her. The cadet had sent inappropriate text messages calling her a "weak female" and had made inappropriate comments on the telephone with the employee. The RCMP values include integrity, professionalism and respect. The cadet did not provide a rebuttal to the corporal's recommendation but submitted his resignation. He had thirty days to bring an application for judicial review and after this time limit the cadet claimed that his resignation was forced and essentially a termination of his training.	Application for judicial review was dismissed. There was no creditable reason for the delay in bringing the application and it was without merit.
8.	<i>Buckle v. Provincial Police</i> (2006), 207 O.A.C. 268 (DC)	Ontario	Fraudulent misappropriation of money.	Ontario Superior Court: Divisional Court: Cunningham J.	A police officer was found guilty of four allegations of misconduct involving the fraudulent misappropriation of \$4,000 in several transactions over several months. The penalty imposed by the Hearing Officer was immediate dismissal. On appeal, the Ontario Civilian Commission on Police Reform found no grounds to interfere with the penalty.	The dismissal was upheld and the appeal was dismissed. The Hearing Officer and Commission fairly and impartially applied the appropriate principles. The Commission's decision not to interfere with a penalty that fell within the appropriate range for police officers was reasonable.
9.	<i>Canada (Attorney General) v. Tahmourpour (No. 1)</i> (2010), 71 C.H.R.R. D/150, 2010 FCA 192	Federal	Poor performance.	Federal Court of Appeal: Sharlow, Nadon and Layden-Sevenson JJ. A.	Officer claimed that he was terminated from the RCMP training program due to discrimination. The RCMP claimed that the officer's performance was weak. Evidence suggested that the training environment was such that derogatory comments about race were condoned, evaluations were unfairly skewed and being "politically incorrect" was bragged about. The Canadian Human Rights Tribunal found the RCMP had discriminated against the Officer and ordered that he be re-enrolled in the next training program.	The dismissal was overturned. The tribunal's decision was upheld. The RCMP's claim of poor performance was not credible. The officer was to be offered re-enrollment in the program and compensated for the lost wages and benefits.
10.	<i>Carlisle v. Fredericton (City)</i> , 1995 CarswellINB 447	New Brunswick	Chief opened bank account with city funds and used the account to acquire assets for the station and other purposes contrary to the budget instructions.	New Brunswick Court of Queen's Bench: McLellan J.	The bank account was opened in 1984 and maintained until 1995. The Chief was suspended and then a resolution was passed to terminate him for willful failure to comply with the city's policies and procedures. The Police Act required that before a suspension or dismissal could be made, proceedings must have been started under the Act (for conduct in breach of the code of discipline after 1986). The Act also required that an investigator be appointed when a complaint was made against the Chief but an approved investigator had not been appointed.	The dismissal was quashed. The conduct was, in pith and substance, about a breach of the code of discipline and any disciplinary action against an officer relating to misconduct after 1986 required that action be taken under the Police Act. The resolutions contravened the Act and were void.

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11.	<i>Daniels v. Hamilton-Wentworth (Regional Municipality) Police</i> , 1996 CarswellOnt 5649	Ontario	Probationary Officer began relationship with wife of attempted suicide victim – lied to supervisor about how they met. Fitness levels, misconduct and abuse of his position as a police officer. All led to unsatisfactory work performance.	Ontario Board of Inquiry: Knopf, Member (Human Rights)	A probationary police officer was terminated. The officer, who was black, alleged that termination was because of discrimination. The officer met a woman when responding to a work call of an attempted suicide and eventually began a relationship with this woman (who was the wife of the man who attempted suicide). The professional standards branch was notified of the concerns of the woman's father and the stories which he claimed the officer was telling his daughter. The woman was interviewed and an investigation ensued. A recommendation for dismissal was made as a result of a pattern of deteriorating conduct overall. The relationship was a concern because of the position of authority and trust of an officer. The Officer's performance reviews were acceptable.	The <u>dismissal was upheld</u> and the complaint was dismissed. The Board of inquiry must look to the evidence as a whole. There was no lack of objective basis for the decision and the officer was not treated differently than other probationary officers. There is no sustainable inference of racism.
12.	<i>EPS Officer AB v. Chief of Police</i> , 2013 CanLII 74399 AB LERB	Alberta	In relation to an investigation of links of police with motorcycle gangs; the officer shared information outside the police service, spoke with the media without authorization, failed to report as a witness, made false and misleading statements, attempted to cover up information, failed to notify police of possible contract on an officer's life and of information about a homicide.	Alberta Law Enforcement Review Board: Lynn Parish, Dave Rolfe	Officer was charged with breach of confidence, insubordination, neglect of duty, discreditable conduct, and deceit. The charges against the officer related to conduct while investigating police officers' links with outlaw gangs. The officer was dismissed.	Most of the charges were upheld. The Board would issue a penalty in a separate decision (unable to locate penalty decision online).
13.	<i>Fraternité des policiers de la Montréal (Communauté urbaine de Montreal Inc.) c. La Communité Urbaine de Montreal et al.</i> , 1985 CarswellQue 87, [1985] 2 SCR 74.	Canada (Quebec)	Shoplifting.	Supreme Court of Canada: Decision delivered by Chouinard J.	Officer was dismissed by the police discipline committee after being convicted and fined on a charge of shoplifting. The decision was grieved and a 13 month suspension without pay was substituted for the dismissal. At the Court of Appeal the decision of the Arbitrator was found to have exceeded his jurisdiction as the penalty was not one available to the initial committee.	The <u>dismissal was upheld</u> . The regulations of the discipline committee did not limit the authority of the arbitrator to impose the 13 month suspension.
14.	<i>Furlong v. Chief of Police</i> , 2013 CanLII 48817 (AB LERB)	Alberta	Urinated on another officer; confined the officer in his room; shoved the officer and disparaged him in front of other officers.	Alberta Law Enforcement Review Board: Loukidelis, QC, Chair; Smith, Member; Lawson, Member	The officer was dismissed from the service after a disciplinary hearing. During a training program the officer urinated on another officer; confined the officer in his room; shoved the officer and disparaged him in front of other officers. The Court of Appeal in <i>Furlong v. Chief of Police of Edmonton</i> , 2013 ABCA 121 overturned the Board's original decision and remitted the decision to the Board to reconsider applying the reasonableness standard of review. The Board found the dismissal was reasonable.	The <u>dismissal was upheld</u> as the penalty was reasonable.
15.	<i>Galassi v. Hamilton Police Service</i> , 2005 CarswellOnt 2362	Ontario	Criminal conviction for careless use of a firearm.	Ontario Superior Court of Justice (Divisional Court): O'Driscoll, Caputo, Swinton J.J.	The Constable had been with the service since 1981 and pleaded guilty to a criminal charge of careless use of a firearm. He received a suspended sentence with twelve months probation. The Constable, while on duty, was in the office loading his gun saying the names of officers with each bullet. On another occasions he had pointed his gun at other officers or put his gun in their backs. The Constable once threw his gun on the floor at the station. Most of these incidents were attempted jokes. The Constable was charged with discreditable conduct under the Police Services Act by being found guilty of a criminal offence. At the hearing he was also found guilty of two other counts of discreditable conduct. Based on the criminal charge the penalty was dismissal. This decision was upheld by the Commission.	The <u>dismissal was upheld</u> . The Commission acted reasonably in upholding the penalty, therefore the appeal failed.

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16.	<i>Gemmell and Kojima v. Vancouver Police</i> , BC Adj., 15 June and 27 June 2005	British Columbia	Charged with counts of assault.	British Columbia Adjudication: D.L. Clancy, Q.C.	The two officers, along with four other officers, arrested and subsequently assaulted three men. Constable Gemmell filed a General Occurrence Report. The officers were charged with and pleaded guilty to assault. Under disciplinary charges they admitted to abuse of authority and discreditable conduct. Constable Gemmell also admitted deceit for filing a false and misleading report. The Chief recommended the dismissal of the respondents and further sanctions on the other officers. The respondents requested a public hearing but it was refused.	The <u>officers were dismissed</u> . The officers admitted and the evidence showed that they had breached their regulations and policies.
17.	<i>Gordon v. Canada (Solicitor General)</i> , 2003 FC 1250	Federal	Sexual assault.	Federal Court: Campbell J.	The complainant had reported to the officer that she was sexually assaulted many years ago. She later visited the officer's home, where she alleges that the officer sexually assaulted her. He had been drinking alcohol at the time of the incident. The Adjudication Board found the officer's conduct was disgraceful and brought discredit to the RCMP. He was found to be no longer fit to perform his functions as an officer. The officer had previously been convicted criminally and disciplined for violations of the Code of Conduct involving incidents of unwanted sexual conduct. He had failed to address his problems with alcohol after being required to undergo treatment. He was ordered to resign or be terminated. The Commissioner dismissed the officer's appeal of the decision.	The <u>dismissal was upheld</u> on judicial review; the sanction of termination was not unduly harsh or irrational.
18.	<i>Gulick v. Ottawa Police Service</i> , 2012 ONSC 5536	Ontario	Assaulting four officers and fleeing while off duty. Questions of anger management, alcoholism and PTSD.	Ontario Superior Court of Justice (Divisional Court): Valin, Métivier and Aston JJ.	Officer failed his use of force test and was required to surrender his weapon. The officer became verbally abusive to the training staff. Later the same day four police officer attended at the officer's home in response to a 911 call from a neighbor. The officer became combative, kicking and punching the officers and uttering death threats and grabbing one officer's gun. He was subdued with a taser and taken to the hospital. He escaped from custody at the hospital and was taken into custody with the taser again. Officer had suffered from anger management problems in the past. He had consumed alcohol and taken a number of different medications on the day of the incident. The officer underwent treatment in a program for alcohol dependence and disclosed a history of binge drinking and addiction to prescription benzodiazepine. He then sought additional treatment and counseling and attended AA meetings. He also saw a psychologist and was diagnosed with PTSD resulting from event that had occurred during his 25 year police career. The officer was charged criminally with a number of offences due to the incident for which he pleaded guilty and received a suspended sentence. He also pleaded guilty to discreditable conduct. His psychologist testified that he was under a toxic psychosis on the day of the incident. A Hearing Officer sentenced him to resign within seven days or be dismissed which the Police Commission upheld. On judicial review the officer argued that his disability was not properly accommodated.	The <u>dismissal was upheld</u> . The Hearing Officer had acted reasonably in concluding that the officer failed to prove his difficulties rose to the level of a disability requiring accommodation. It was also reasonable to hold that the officer's inability to control his explosive anger rather than a toxic psychosis caused the behavior. It was also reasonable to uphold the decision that the evidence did not show that the applicant was able to return safely to policing.
19.	<i>Halifax Regional Police Service v. Wilms et al.</i> , (1999), 177 N.S.R. (2d) 320 (SC)	Nova Scotia	Assault under the Criminal Code	Nova Scotia Supreme Court: Wright J.	A police officer was found guilty of assaulting his wife and uttering a death threat. He was sentenced to a conditional discharge. The officer was subsequently dismissed from the police force for disciplinary default by engaging in discreditable conduct. The Nova Scotia Police Review Board held that the conduct was discreditable conduct but the appropriate sanction was a 30 day suspension without pay. The Board ordered that the officer be reimbursed for back pay. The Force sought an order of certiorari from the NSSC quashing the Board's decision to substitute a suspension for the dismissal.	The <u>officer was reinstated</u> . The Board's decision to substitute a suspension for the dismissal was not patently unreasonable. The Board erred in ordering that the officer be reimbursed for back pay.

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20.	<i>Hall v. Police Service</i> (2008), 245 O.A.C. 56 (DC)	Ontario	Purchased drugs while on duty and took drugs from suspects and the police depository box.	Ontario Superior Court: Divisional Court: Cunningham J.	The officer pleaded guilty to eight disciplinary offences under the Ontario Police Services Act. Some of the incidents occurred after the officer had received drug counseling. There was no evidence that he used cocaine while on duty. Following a discipline hearing, the sentencing order of the Hearing Officer required the officer to resign within seven days or be summarily dismissed. The decision was upheld by the Commission, but the officer appealed to the Ontario Superior Court on the basis that his drug use was a disability.	The <u>dismissal was upheld</u> . The decision of the Hearing Officer and Commission was reasonable with regards to the penalty. The officer's "egregious conduct" supported the conclusion that his utility as a police officer was spent.
21.	<i>Head v. Ontario Provincial Police Commissioner</i> , 1981 CarswellOnt 665	Ontario	Officer resigned following his arrest and interrogation for gross indecency.	Ontario Court of Appeal: Zuber, Wilson, Cory JJ.A.	An officer was arrested for gross indecency and during the four hour interrogation he resigned. The lesser charge of contributing to juvenile delinquency was eventually made in return for the officer's resignation. The officer claimed that the resignation was invalid.	The <u>resignation was upheld</u> . The resignation was valid. There officer did not demonstrate that he was under duress or coercion. There is nothing that requires that a resignation be free and voluntary in the way a confession must be in criminal law.
22.	<i>Heighton Re</i> , 2012 CanLII 19109 (NS PRB)	Nova Scotia	Wrote anonymous letter making various allegations of a libelous nature against members the local RCMP.	Nova Scotia Police Review Board: R. Lester Jesdason, Chair; Linda D. Garber, Vice-Chair; Dr. Daniel Paul, Member	The officer had never received a performance review and had served well as chief. There was no evidence of progressive discipline. During a disposition hearing, the Officer did not accept culpability for the anonymous letter which made allegations against the local RCMP. Had worked as an officer for 35 years.	The <u>dismissal was overturned</u> . The appropriate penalty would be a demotion.
23.	<i>Jaworski v. Canada (Attorney General)</i> , 1998 CarswellNat 1105	Federal	Masturbating on a public street.	Federal Court: Rothstein J.	The Officer was allegedly seen masturbating in public. The Adjudication Board found he conducted himself in a disgraceful manner and brought discredit to the RCMP. The Commissioner confirmed the order requiring that the officer resign or be dismissed. No criminal charges had been made against the officer.	The <u>dismissal was upheld</u> .
24.	<i>Kube (Re)</i> , 2013 CanLII 60845 (AB LERB)	Alberta	Charged with corrupt police practice for giving evidence of insurance for a motorcycle of a friend which he knew was cancelled.	Alberta Law Enforcement Review Board: David Loukidelis QC, Patricia Mackenzie and Archie Arcand	An Officer had sold his motorcycle and kept in touch with the buyers. He found them stopped by police while he was off duty and he showed his old insurance documents to the other officers suggesting that the motorcycle was insured. He had cancelled that insurance after selling the bike. He was charged with corrupt police practice and dismissed from the Edmonton Police Service.	The <u>dismissal was upheld</u> as reasonable.
25.	<i>Lavoie v. Greater Sudbury Police Service</i> (20 November 2014), OCPC 14-18	Ontario	Accessed the police records systems multiple times to search for the records of various people without a legitimate reason.	Ontario Civilian Police Commission: Gavise, Associate Chair; King, Member; Dhanani, Member	An officer accessed the police records systems multiple times to search for the records of various people without reason. He was found guilty of two counts of discreditable conduct and one count of neglect of duty in May 2011, followed by 29 counts of discreditable conduct and three counts of breach of confidence in December 2011 and one count of insubordination in March 2012. All counts were alleged under the Code of Conduct. The hearing officer imposed a penalty of immediate dismissal.	The appeal was dismissed and the <u>dismissal was upheld</u> . The hearing officer's decisions were reasonable and the penalty was consistent with similar misconduct.

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26.	<i>Lévis (Ville) v. Côté</i> , 2007 SCC 14	Canada (Quebec)	Several criminal offences including threatening to cause death or bodily harm, assault, three counts of storing a firearm in a careless manner and failing to comply with his undertaking not to communicate with his wife.	Supreme Court of Canada: Bastarache J. (for the majority)	An officer employed by the municipality pleaded guilty to several criminal offences. The offences were related to a violent argument the officer had with his wife. Following his release after being taken into custody he was released on the condition that he would not communicate with his wife. He failed to respect the condition within two hours of his release. A section of the <i>Cities and Towns Act</i> and a section of the <i>Police Act</i> applied to the charges. The officer was dismissed following an investigation. An arbitrator reinstated the officer. Under the <i>Police Act</i> there was an exception to the rule of dismissal under the <i>Cities and Towns Act</i> whereby the officer could maintain his employment if he showed certain specific circumstances. The Force appealed until the matter went before the Supreme Court of Canada.	The dismissal was upheld. The arbitrator's decision to reinstate the officer was unreasonable because he failed to properly account for the special role of a police officer in considering if there was "special circumstances."
27.	<i>MacDonald v. Marriott</i> , 1984 CarswellBC 90	British Columbia	Committing fraud.	British Columbia Supreme Court: McKenzie J.	Officer who pleaded guilty to fraud was sentenced to four months imprisonment. The Police Board commenced disciplinary proceedings but the officer sought to prohibit the proceedings under the Judicial Review Procedure Act which was dismissed. He then brought a new petition based on the argument that this was an effort to twice punish him on the fraud charge contrary to s. 11 of the Canadian Charter of Rights and Freedoms.	The petition was dismissed. The Discipline Code did not violate s. 11 of the Charter. Imposing a punishment once the charges were proven would not be punishing for the fraud conviction but would be imposing a punishment because the officer's criminal conviction rendered him unfit to perform his duties.
28.	<i>Markham v. Waterloo Regional Police Service</i> (13 February 2015) OCPC 15-03.	Ontario	Accessed system records for an acquaintance wondering about an arrest and emailed a copy of a report to the acquaintance. He visited the arrested man in custody and he informed another mutual acquaintance of the arrest.	Ontario Civilian Police Commission: Gavise, Associate Chair; Bedard, Member; Dhanani, Member	An officer was charged with two counts of insubordination, two counts of discreditable conduct and one count of breach of confidence. He was ordered to resign in seven days or be terminated. He received a criminal charge for Breach of Trust and was given a conditional discharge and 12 months probation. An investigation revealed that there were other incidents of the officer accessing police records without a legitimate reason. He refused to attend an interview at the Professional Standard's Branch and was dismissed.	The dismissal was upheld.
29.	<i>Manitoba First Nations Police Assn. v. Dakota Ojibway</i> , 2003 CarswellNat 6305	Federal	Charged and convicted with assault causing bodily harm.	Canada Arbitration: A.B. Graham	A constable was charged with assault causing bodily harm and pleaded guilty to common assault. The victim was his wife. He received a suspended sentence and was placed on supervised probation for two years. The officer's employment was terminated. Since the incident the officer had taken steps to rehabilitate himself. He had no history of similar behavior in the past.	Officer was ordered to be reinstated but was not to receive compensation or other benefits other than seniority accumulation.
30.	<i>Ontario Provincial Police v. Favretto</i> , 2004 CarswellOnt 4221	Ontario	Pointed a gun at a colleague while on duty.	Ontario Court of Appeal: Borins, Feldman JJ.A. McMurtry C.J.O.	Constable pointed his gun at a colleague during an office feud. He was found guilty of discreditable conduct and was dismissed. The Commission substituted the dismissal with a temporary demotion.	The officer was not dismissed. The temporary demotion penalty was upheld as reasonable.
31.	<i>Payne v. Peel (Regional Municipality) Police Services Board</i> , 2003 CarswellOnt 322	Ontario	Probationary police officer deliberately misled complaints officers about the conduct of another probationary officer.	Ontario Superior Court of Justice: Divisional Court: Matlow, J. MacDonald JJ.	This was an application for judicial review based on breach of procedural fairness. Board held hearing to provide officer with reasonable notice before termination. The probationary officer claimed that he had forgotten to relate his observations of the other officer's conduct because the complaints officer's conduct was abusive.	Application for Judicial review dismissed. The Board was not wrong in exercising discretion to not take evidence under oath or permit cross-examination of witnesses to determine issues of credibility. Board had written materials of all relevant information of the applicant and complaints officer that bore on the interview.

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32.	<i>Police Service v. Kelly</i> (2006), 209 O.A.C. 269 (DC)	Ontario	Charged criminally for possession of cocaine.	Ontario Superior Court of Justice: Divisional Court: Carnwath J.	<p>Officer served as an undercover officer on the "Drug Squad." In this role, he was required to assume the persona of a mid-level drug dealer. Officer pleaded guilty to two counts of possession of cocaine and received a suspended sentence. Constable Kelly admitted to addiction to cocaine and entered into treatment. He then pleaded guilty to two counts of discreditable conduct.</p> <p>A joint submission of penalty (JSP) was made which allowed the officer to continue to work subject to certain conditions. The hearing officer rejected the JSP and terminated Kelly.</p> <p>The Ontario Civilian Commission on Police Services allowed an appeal and varied the penalty to reflect the JSP and accommodate the officer's disability. Officer had suffered a number of traumatic personal events. He suffered from depression, post-traumatic stress and drug addiction but had completed treatment. He had a good service record.</p>	The officer <u>was not dismissed</u> . His continued employment but was subject to strict conditions.
33.	<i>Porter v. Tsewultun Police Service Board</i> , 2000 BCSC 967, 2000	British Columbia	Removing a logbook from a police vessel; failing to include a new Motor Vehicle Act section number on a traffic information she had written out; improperly taking master investigative files out of the office; neglecting to submit two files for statistical purposes by the end of the month; arranging a shift change without authority; improperly keeping records of a break and entry.	British Columbia Supreme Court: Shabbits J.	<p>Officer was offered and accepted employment at the police services board and relocated. The employment contract was signed after relocation and contained a clause allowing termination within sixty days' notice. The board had explained that the 60 day termination clause was only applicable if government funding ceased.</p> <p>A superior accused the officer of insubordination, refusal to follow policy and discreditable conduct. The Officer was dismissed and brought action for damages for wrongful dismissal. The employee was not given an opportunity to respond to allegations and was dismissed without regard to her right to be disciplined in accordance with governing legislation.</p> <p>Most of the events the officer denied or was able to explain. The officer also provided evidence that she was not attempting to undermine her superior's authority.</p>	Action was allowed in part. The employee was entitled to protections afforded by the disciplinary procedure. She was entitled to lost salary from date of termination but not capital loss from sale of home during relocation. The termination was done in callous and high-handed manner causing employee mental distress and loss of respect in community and aggravated and punitive damages were awarded. A statement made to the public was defamatory and damages were awarded to the officer.
34.	<i>Power v. Chief of Police of the Regina Police Service</i> (21 November 2014)	Saskatchewan	Charged with assault causing bodily harm – had lied about the events in his report. He was convicted of the charges but then successfully appealed.	Regina Hearing Officer's Decision: David M. Chow	<p>An officer encountered an intoxicated man while on duty and in a confrontation kicked the man who then hit his head and was taken to the hospital. The Officer reported that he had pushed the man but the video of the scene contradicted this report. The officer then admitted that he had lied.</p> <p>A deemed public complaint and investigation was initiated. The officer was placed on administrative duties and was charged with an assault causing bodily harm because of the incident. He was immediately relieved of duty with pay which was later extended by consent. He was then dismissed.</p> <p>The officer was convicted in Provincial Court and given a conditional discharge and one years' probation. He was then given an amended notice of dismissal including the guilty charge as a basis for the dismissal. The conviction was successfully appealed.</p>	The officer <u>was not dismissed</u> but reinstated. The misconduct was serious and warranted discipline but did not support the conclusion that the officer was unsuitable for continued service. The officer was to be reinstated but was not entitled to compensation for a period of just over a year. He was to be placed on probation for 18 months, during which he was to participate in ethics education and training and would be closely supervised.
35.	<i>Riabko v. Can.</i> (1999), 173 F.T.R. 239 (TD)	Federal	Contravention of the RCMP Code of Conduct.	Federal Court: Teitelbaum J.	Officer was discharged for contravening the code of conduct. These actions arose "from certain incidents in which the plaintiff was involved in and occurred in 1992". The officer stated the matter arose "from a single incident of consensual sex with a female." He filed a statement of claim alleging unjust dismissal. The Crown applied to strike the claim on the basis that it disclosed no reasonable cause of action.	Application allowed: Riabko was discharged according to the internal grievance procedure in the RCMP Act and Regulations. He failed to follow the procedure set out in the Act by choosing not to appeal.

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36.	<i>Read v. Canada (Attorney General)</i> , 2005 FC 798	Federal	Officer removed from an investigation for browbeating witnesses, lacking objectivity and leaping to conclusions. Refused to cooperate with his replacement, made a complaint to the public complaints commission and spoke to the media without authorization.	Federal Court: Harrington J.	An officer was removed from the investigation for browbeating witnesses, lacking objectivity and leaping to conclusions. He thought there was a situation of corruption which the Ministry was covering up. He did not cooperate with his replacement on the investigation and made a complaint to the public complaints commission. He also spoke to the media and disclosed classified documents. There was evidence that the cover-up allegations were not valid. The officer was found to have violated the Code of Conduct and was dismissed. The Assistant Commissioner upheld the dismissal.	The <u>dismissal was upheld</u> . The officer violated his duty of loyalty to the RCMP and, by losing his security clearance and trust of his fellow officers, was impaired in his ability to do his job.
37.	<i>Rendell v. Canada (Attorney General)</i> , 2001 FCT 710	Federal	Convicted of assault for an act of domestic violence.	Federal Court: Rouleau J.	An officer was convicted of assault for an act of domestic violence committed at a party. The officer admitted the allegations of misconduct made under the RCMP Act. The officer was ordered to resign or face dismissal and a fine. The Commissioner affirmed the decision of the Adjudication Board despite the review committee's recommendation that the decision be set aside. The Federal Court upheld the Commissioner's decision.	The <u>dismissal was upheld</u> .
38.	<i>Sawyer v. Woodstock</i> (1997), 195 N.B.R. (2d) 81 (TD)	New Brunswick	Casual Officer was subject to criminal charges for stealing.	New Brunswick Court of Queen's Bench: Clendening J.	Sawyer was hired as a casual part-time police officer. He was hired under the terms of a letter of intent attached to the collective agreement and executed between the Town and the union. Sawyer was subsequently suspended without pay because of a criminal investigation into allegations against him regarding a stolen wallet and money belonging to the estate of the late David Hamilton. He was later dismissed for "just cause". Sawyer applied for an order that the suspension and dismissal be rescinded and that he be reinstated. He argued that he was not on probation at the time of the firing and therefore the respondents were obligated to discipline him in accordance with the terms of the Police Act.	Application dismissed: A casual employee has no other rights except those conferred by the letter of intent and the provisions of the Police Act did not apply.
39.	<i>Shediac (Town) v. C.U.P.E., Local 2585</i> , 1991 CarswellNB 298	New Brunswick	An officer was in a fight with other officers at a club and as a result was charged with a criminal offence.	New Brunswick Arbitration: Robichaud, Bourque, Gautreau Arbitrator	An officer with a poor record was in a fight at a club with another officer. As a result of the fight he was charged criminally. He was suspended and after an investigation he was discharged. The Union grieved the suspension and discharge. Employee had not been counseled about his record.	The <u>dismissal was quashed</u> . The initial suspension was reasonable but the discharge was unjust. However, the arbitrator recognized that a high standard of conduct applies to officers.
40.	<i>SCPA v. Saskatoon Board of Police Commissioners</i> , 2014 SKQB 7, 2014 CarswellSask 33	Saskatchewan	Special Constable breached internal disciplinary rules.	Police Act - Saskatchewan Court of Queen's Bench: R.W. Danyliuk J.	Constable breached internal disciplinary rules. She agreed with the Board of Police to resign prior to her discipline hearing. The Board refused to give the bargaining agent any details of the agreement. The Association filed an unfair labour practice complaint with the Labour Relations Board. The LRB found it had no jurisdiction to hear the disciplinary issue. The Association applied for judicial review of that decision.	The effects of the constable's cessation of employment impacted her rights under the collective agreement but this was a result of the main dispute which was disciplinary in nature.
41.	<i>Senger and Hartwig (Re)</i> , (31 October 2006), Saskatchewan Hearing Officer	Saskatchewan	Two officers took a man into custody but reported that the man was "gone on arrival" and did not process the man in their custody. The officers made statements to the RCMP that the man was not in their custody when the man was later found dead.	Police Act – Saskatchewan Hearing Officer: Dirk Silversides	Two officers were dismissed from the Saskatoon Police Service. The officers had taken a man into custody for whom there was an arrest warrant. They did not report that they had had custody of the man but that he was "gone on arrival." They later gave statements to that effect to the RCMP who were investigating the death of the man in question a few days later. The man was found dead outside in the cold in a remote area. The officers appealed the decision.	The <u>dismissal was upheld</u> . The evidence suggested that the officers had taken the man into custody. Upon appeal to the Saskatchewan Police Commission, the dismissal was upheld again. See <i>Senger and Hartwig (Re)</i> , (28 July 2008), Saskatchewan Hearing Officer.
42.	<i>Siguenza v. Chief Cal Johnston, Chief of Police Regina Police Service</i> (30 July 2007).	Saskatchewan	Attempting to initiate contact with a girl he met during duties. Officer engaged in sexually graphic dialogue with an individual he believed was the girl and attempted to meet the individual in person.	Saskatchewan, Hearing Officer: Alma Wiebe, Q.C.	An officer took two girls into custody for shoplifting but did not charge them. He then attempted to make contact with one of the girls. He engaged in sexually graphic dialogue with an individual he believed was the girl he had contacted through online messaging. He exposed his naked chest and buttocks on the web camera. He attempted to arrange a physical meeting. These conversations took place over several days. An officer was posing as the girl online.	The <u>dismissal was upheld</u> .

#	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
43.	<i>Tait v. Chief of Police, Blood Tribe Police Service</i> , 2013 CanLII 69158 (AB LERB)	Alberta	Officer failed to report to scheduled shift and to sign in at the police offices daily at specified times.	Alberta Law Enforcement Review Board: David Loukidelis, QC, Joseph Arcand and Dale Fedorchuk, QC	The officer pleaded guilty for neglect of duty and insubordination for his failure to report to scheduled shift and to sign in at the police offices daily at specified times. He was dismissed from the service. The officer had been given verbal and written warnings for problems including failure to report from 2007 to 2011. The officer had two previous disciplinary convictions in 2012 relating to no-show and other factors such as improper use of a firearm, for which he had received the second-most severe discipline (reduced within rank and suspended for 40 hours of pay and ordered to attend a course of treatment). The officer had "self-described depression" and problems with alcohol.	The <u>dismissal was upheld</u> as a reasonable decision especially given the previous discipline.
44.	<i>Toronto (City) Police Service v. Blowes-Aybar</i> , 2004 CarswellOnt 1583	Ontario	An officer was accused of sexually assaulting a woman while in the Dominican Republic.	Ontario Superior Court of Justice (Divisional Court): MacFarland J., Swinton J and Wilson J.	A complaint was made to the police that an officer had sexually assaulted the complainant while on a trip to the Dominican Republic. The officer was charged with discreditable conduct. The Hearing Officer preferred the complainant's testimony and found the officer guilty of the discreditable conduct and ordered a dismissal. The Commission found that the charges were not proven on clear and convincing evidence.	The <u>dismissal was upheld</u> . The decision of the Hearing Officer was reasonable. The Commission erred in reviewing the decision by failing to respect the hearing officer's considerations on credibility.
45.	<i>Toronto Police Association v. Toronto Police Services Board</i> , (6 June 2003) 03-018	Ontario	Officer was in physical altercation with a youth offender.	Ontario Labour Arbitration: R.O MacDowell	A Court Services Officer was in a physical altercation with a youth offender who was being transferred to a correctional facility. The officer allegedly slapped and punched the offender as he was getting out of the vehicle. The officer argued that the incident was initiated by the offender and that he used an appropriate level of force. The officer was dismissed.	The <u>dismissal was upheld</u> and there was just cause for the discharge. The evidence suggested that the incident happened as described by the young offender.
46.	<i>Toronto Police Services Board v. Toronto Police Assn.</i> , 1998 CarswellOnt 6206	Ontario	Parking Enforcement officer for the Toronto Police Force stealing coins.	Ontario Labour Arbitration: Herman, Member	Parking Enforcement officer for the Toronto Police Force, claimed that he has been discharged without cause. The employer, the Toronto Police Services Board (the "Toronto Police Force") claims that he was stealing coins from parking meters during the performance of his duties. The evidence did not support the allegations of theft. The officer claimed he was trying to fix the meters. The Grievor knew that he ought not to be trying to fix the meters himself. His actions took place in public, where he could be seen using a bicycle spoke on parking meters, and at least once he picked a coin and kept it.	The <u>dismissal was quashed</u> . The discharge was too severe. A suspension without compensation, but without loss of seniority or benefits, for 2 weeks was the appropriate penalty.
47.	<i>Toronto Police Services Board v. Toronto Police Assn.</i> , 2006 CarswellOnt 8512	Ontario	Court Officer was arrested and charged with sexual assault and released on bail.	Ontario Labour Arbitration: Swan, Member	The Officer was good at his job and had been commended for his conduct. He was charged with sexual assault and released on bail. He was suspended and then terminated by the Police Board. His criminal charges were never determined on the merits as the case was stayed. The charges arose from off-duty conduct. The officer met a woman at a club and they went to a hotel together where she alleged that she was sexually assaulted by the officer.	The <u>dismissal was upheld</u> . The Arbitrator accepted the Employer's version of the events and that the <i>actus reus</i> and the <i>mens rea</i> of the assault were established. It was not disputed that if the Employer established these facts, a discharge was acceptable given the nature of the officer's employment.
48.	<i>Tortola (Re)</i> , 2014 CanLII 72767 (NS PRB)	Nova Scotia	Officer was subject of a complaint but he resigned before the complaint was heard.	Nova Scotia Police Review Board: McKenna, Chair; Thomas, Member; McPhee QC, Member	A complaint was made against an officer but before the board heard the complaint the officer tendered a letter of resignation. The officer claimed that the review board had no jurisdiction to continue to hear the complaint.	The Board had jurisdiction to hear the complaint. The complaint was made when the officer was a member of the service and the alleged conduct also occurred when he was a member.

#	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
49.	<i>Vancouver Police v. B.C. Police</i> (1999), 17 B.C.T.C. 137 (SC)	British Columbia	Probationary Officer went to a motorcycle gang's clubhouse and associated with gang members.	British Columbia Supreme Court: Kirkpatrick J.	A probationary constable with the Vancouver Police Department, while off duty, went to a nightclub, became intoxicated, and went with a friend to a clubhouse belonging to a motorcycle gang where she stayed most of the night. The constable told her supervisor what had happened and was charged with discreditable conduct under the Discipline Code of the Police Act. A dismissal was recommended. The decision was upheld by the Police Board. On further appeal, the Police commission allowed the appeal in part and substituted a five day suspension without pay. Chief Constable of the Vancouver Police Department applied for judicial review on the punishment decision.	Application dismissed: the Police Commission was not patently unreasonable, and did not exceed its jurisdiction in finding the penalty unreasonable in the circumstances of the case.
50.	<i>Veinot v. Saskatchewan Police Commission</i> , 1990 CarswellSask 359	Saskatchewan	Given a conditional discharge on assault charges.	Saskatchewan Court of Queen's Bench: Matheson J.	Applicant police officer was conditionally discharged after having been found guilty of assault. The Code distinguished between a conditional discharge and a conviction of an offence. Respondent required applicant's resignation from the police force as a result of applicant's discreditable conduct concerning the offence, the trial and "conviction" therefore.	The <u>dismissal was upheld</u> . Although respondent may not have fully appreciated the distinction between a conviction and a discharge, the focus of the complaint of discreditable conduct was not the "conviction" itself but rather the alleged assault and subsequent proof of that allegation. Respondent was therefore not without jurisdiction in rendering its decision.
51.	<i>Wiles v. Burham Regional Police Service</i> , (3 November 2014), OPR 14-15	Ontario	Forcefully entered a residence after pursuing a suspect on foot. He forcefully removed the man from the residence grounding him three times. The civilian suffered from schizophrenia.	Ontario Civilian Police Commission: Gavsie, Associate Chair; Castel, Member; Bedard, Member	An officer forcefully entered a residence after pursuing a suspect on foot. He forcefully removed the man from the residence grounding him three times. The man suffered from schizophrenia. The officer had two previous convictions under the Police Services Act and had been found guilty of a criminal offence for assaulting a female prisoner in custody for which he was given a conditional discharge. He had received a penalty of a demotion from First Class to Second Class Constable for 12 months for that incident. In another incident for unnecessary exercise of authority and neglect of duty he received a penalty of demotion to Second Class Constable for 15 months.	The <u>dismissal was upheld</u> . The decision on the penalty to order that the officer resign or be dismissed was acceptable.
52.	<i>Williams v. Ontario Provincial Police</i> (1995), 2 OPR 1047	Ontario	Observed a sexual assault taking place but did nothing to help and then gave misleading statements to investigators.	Ontario Civilian Commission on Police Services: Murry W. Chitra, Chair and Diana A. Jardine, Member	It was alleged that an officer was present and saw a sexual assault happening in a woman's apartment. The officer ran away doing nothing to help the woman being assaulted. He was interviewed in an investigation and gave misleading statements. Two of the men present that evening were convicted of sexual assault but the decision was being appealed. The officer otherwise had a good record of employment. Oral testimony was given before an Adjudicator for the disciplinary charges, but the Adjudicator became ill and a new one was assigned. It was agreed that he would use the transcripts of the hearing to make his decision. The Adjudicator found the officer guilty of the misconduct and directed that the officer resign or be dismissed. The officer appealed the decision based on the arguments that oral testimony should have been re-heard; transcripts from the criminal trial of the officer's testimony should not have been admitted and the Adjudicator failed to provide sufficient reasons and failed to take into account progressive discipline principles.	The <u>dismissal was upheld</u> . The penalty was appropriate: The officer was solely responsible for his actions; he failed to report the crime even long after it had occurred and his conduct would negatively impact the image of the police force to the public. The parties could agree to forego oral testimony. The transcripts from the officer's testimony were admissible (section 13 of the Charter did not bar them from the proceedings). The Adjudicator acted on the material before him and his reasons adequately explained his decision.
53.	<i>Winnipeg (City) v. Winnipeg Police Assn.</i> , 2000 CarswellMan 703	Manitoba	Theft of CDs from burglary victim.	Manitoba Labour Arbitration: Peltz, Member	Officer's ex-husband reported her for stealing CDs belonging to a burglary victim. Officer was charged with breach of trust and theft but acquitted. She was dismissed for discreditable conduct and neglect of duty. The officer grieved the dismissal and claimed that it was her ex-husband who stole the CDs.	The <u>dismissal was upheld</u> . Grievance of the dismissal was dismissed. The officer's evidence was not as credible as the ex-husband's evidence.

B. PTSD Decisions

	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
54.	<i>Aussant v. Canada (2000)</i> , 188 FTR 245 (TD)	Federal	Alleged failure to accommodate officer with PTSD. Officer left force and sued for constructive dismissal, etc.	Federal Court of Canada: Dawson J.	A former RCMP constable was injured while on duty and continued to suffer from, and receive treatment for, PTSD, Chronic Pain Syndrome, opioid dependence and chronic major depressive disorder. After leaving his employment, he sued the Federal Government for general damages for, breach of contract, negligent and intentional tortious conduct and constructive dismissal. The Government moved for summary judgment, asserting that according to the Crown Liability Act and the Pension Act the Crown could not be sued regarding any injury if a pension was paid regarding that injury.	Application for summary judgement to dismiss claim was rejected.
55.	<i>Calgary (City) and Calgary Police Assn., Re</i> , 1992 CarswellAlta 1176	Alberta	Constable shot and killed a person while on duty. He suffered from PTSD which deteriorated into a serious depression.	Alberta Labour Arbitration: D.P. Jones, McGown and Newman	Constable was dog handler in canine unit. Was forced to shoot and kill a person after his dog failed to respond to his command. He suffered from PTSD which deteriorated into a serious depression. He continued to work on some assignments but then stopped working. The issue was the officer's entitlement to coverage under the "supplementation of compensation" provision of the collective agreement which was potentially more generous than the long term disability plan benefits. The provision specified that the disability is "prolonged" only if it is determined that such disability is likely to be long, continued and of indefinite duration or is likely to result in death. The Employer agreed that the officer was disabled in the course of his employment. Experts testified that they were uncertain if the grievor would ever be able to return to work on a regular basis. But another report suggested he was "temporarily occupationally disabled."	The Grievor qualified for the "supplementation of compensation" plan. The evidence suggested that the disability was severe and prolonged. The evidence of the Grievor's doctors was found to be more helpful than the consultation report. The arbitrators suggested that subsequent changes in the Grievor's condition might change his status.
56.	<i>Fraser v. Royal Canadian Mounted Police</i> , 2013 CHRT 23, 2013 CarswellNat 3627	Federal	An officer suffering from PTSD alleged discrimination. The respondent requested an adjournment.	Canadian Human Rights Tribunal: Sophie Marchildon Admin.J.	Ruling on the respondent's request to adjourn a hearing into a complaint of discrimination in employment on the basis of disability. (Officer suffered from PTSD).	Request for adjournment denied.
57.	<i>Gardiner v. British Columbia (Attorney General)</i> (2003), 47 C.H.R.R. D/277, 2003 BCHRT 41	British Columbia	Corrections officer suffering from PTSD claimed that his employer failed to provide accommodation.	British Columbia Human Rights Tribunal: Ana R. Mohammed	The corrections officer suffered from PTSD following an incident with a violent inmate in 1992. In 1993 the employee was off work due to PTSD and alternative employment that he was willing to accept could not be identified. In 1994 he indicated that he was ready to return as a corrections officer and was placed at the Vancouver Pre-trial Services Centre until 1998 during which time he did not ask to be transferred because of his disability. In 1998 he experienced anxiety and went on leave. He was placed at the Surrey Pre-trial Service Centre but soon decided he was unable to work as a corrections officer and doctors confirmed the return of his symptoms. He was made a Parole Officer but because of re-organization and restrictions on the officer's ability to perform some work he was later sent to work as an Intersection Camera Safety Officer.	The Ministry of the Attorney General had accommodated the corrections officer to the point of undue hardship during his disability.

	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
58.	<i>Gulick v. Ottawa Police Service</i> , 2012 ONSC 5536	Ontario	Assaulting four officers and fleeing while off duty. Questions of anger management, alcoholism and PTSD.	Ontario Superior Court of Justice (Divisional Court): Valin, Métivier and Aston JJ.	<p>Officer failed his use of force test and was required to surrender his weapon. The officer became verbally abusive to the training staff. Later the same day four police officer attended at the officer's home in response to a 911 call from a neighbor. The officer became combative, kicking and punching the officers and uttering death threats and grabbing one officer's gun. He was subdued with a taser and taken to the hospital. He escaped from custody at the hospital and was taken into custody with the taser again.</p> <p>Officer had suffered from anger management problems in the past. He had consumed alcohol and taken a number of different medications on the day of the incident. The officer underwent treatment in a program for alcohol dependence and disclosed a history of binge drinking and addiction to prescription benzodiazepine. He then sought additional treatment and counseling and attended AA meetings. He also saw a psychologist and was diagnosed with PTSD resulting from event that had occurred during his 25 year police career. The officer was charged criminally with a number of offences due to the incident for which he pleaded guilty and received a suspended sentence. He also pleaded guilty to discreditable conduct. His psychologist testified that he was under a toxic psychosis on the day of the incident.</p> <p>A Hearing Officer sentenced him to resign within seven days or be dismissed which the Police Commission upheld. On judicial review the officer argued that his disability was not properly accommodated.</p>	The dismissal was upheld. The Hearing Officer had acted reasonably in concluding that the officer failed to prove his difficulties rose to the level of a disability requiring accommodation. It was also reasonable to hold that the officer's inability to control his explosive anger rather than a toxic psychosis caused the behavior. It was also reasonable to uphold the decision that the evidence did not show that the applicant was able to return safely to policing. The PTSD could amount to a disability but the onus was on the officer to prove the disability. There was no evidence that the PTSD rendered him unable to perform his job, indeed the officer simply sought a demotion.
59.	<i>Kift v. Canada (Attorney General)</i> , 2002 CarswellOnt 8593	Ontario	An officer suffered from PTSD and was eventually terminated from his position with the RCMP because of this medical condition.	Ontario Superior Court: Justice Glass	This officer suffered from PTSD following an incident where he saw his partner killed in a MVA while on the job. He was eventually terminated from his position because of his medical condition. He received a pension. He bought an action claiming damages because the RCMP negligently failed to transfer him from the police work he was doing and failed to provide support. The Crown Liability Act precluded a claim against the Crown where a pension or compensation has been paid out of the Consolidate Fund in respect to death, injury or a loss in respect of which the claim is made.	The claim was precluded by the Crown Liability Act. Every aspect of the claim flowed from the MVA that took the partner's life.
60.	<i>Krieger v. Toronto Police Services Board (No.3)</i> (2010) 70 C.H.R.R.D./405, 2010 HRTO 1361	Ontario	Officer severely overacted in an incident in a restaurant when he thought a customer was threatening him. He put the customer in a headlock and forced him outside.	Ontario Human Rights Tribunal: Naomi Overend	<p>The probationary officer was involved in a "life or death" struggle with a suspect carrying a handgun about five months into this probation. His partner fired a shot but no one was hurt. The officer thought he felt ok but several weeks later overreacted in a restaurant when he thought a customer was threatening him. Other officers at the incident believed he was out of control.</p> <p>Several days later he was suspended, brought up on disciplinary charges and terminated. Over that period of time he saw a therapist and a forensic psychiatrist who testified that the officer was suffering from PTSD but was amenable to treatment and unlikely to be violent in the future. His supervisors suspected he may have been suffering from PTSD caused by the earlier incident. When notified of the medical information, the Board did not consider returning the officer to service with accommodation.</p>	The Board had discriminated against the officer due to his disability and failed to accommodate the officer. He was ordered to be reinstated to his position and to be given \$35,000 as compensation for injury to his dignity.

	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
61.	<i>McLean v. Miramichi</i> (2011), 377 N.B.R.(2d) 245 (CA)	New Brunswick	Officer unable to return to work as a police officer due to PTSD, claim of dismissal without compliance with the Police Act	New Brunswick Court of Appeal: Robertson J.	A police officer suffered from PTSD after an August 2006 accident where he struck and killed a pedestrian while on duty. An inquiry found him not at fault. He received workers' compensation benefits. In March 2008, the Workplace Health, Safety and Compensation Committee advised the city that the officer was unable to return to work as a police officer. The officer took an occupational retraining program. The city maintained benefits for the officer while he was retraining, but also considered his employment terminated. As of December 2009, workers' compensation benefits ended and the city terminated his benefits under the collective agreement. The officer filed a complaint with the Police Commission that he was dismissed without compliance with the Police Act. The Chair of the Commission advised that they had no jurisdiction over the complaint. The officer applied under rule 69 to rescind his termination and for an order reinstating him as a police officer. The Court of Queen's bench dismissed the action for lack of jurisdiction.	The New Brunswick Court of Appeal allowed the appeal and ordered the officer's reinstatement. There was never a finding that the officer's incapacity or disability was permanent. Absence from work due to a 'temporary' illness is not just cause for summary dismissal, nor does it bring about the application of the frustration doctrine. There was evidence to support the officer's argument that his termination was not for frustration, but that it was "disguised discipline." The court noted that the city was not precluded from pursuing the termination and frustration issues under the Police Act process.
62.	<i>Mulholland v. Peel Regional Police Service</i> , (20 October 2014), 14-19, OCPC.	Ontario	Officer lied about taking time off to visit dying grandfather, tested positive for alcohol consumption after agreeing not to come to work with any alcohol in his system; was picked up by civilians after driving his car off the road and smelled of alcohol and failed to attend scheduled shifts.	Ontario Civilian Police Commission: Castel, Member; Dhanani, Member	Officer pleaded guilty to accusations of neglect of duty, deceit, insubordination and discreditable conduct under the Code of Conduct. Hearing Officer imposed penalty of demotion from first class constable to fourth class constable. The officer would progress to third class constable in six months and second class constable in another six months and after a year in that position would be made a first class constable again. The penalty also contained conditions for the on-going care of the officer's substance abuse and PTSD. The PTSD resulted from a trauma experienced as an officer. The Officer requested that the penalty be varied in view of his PTSD. The Officer had been employed as an officer for 25 years. He had experienced mental health issues since 1991. The officer was given opportunities to obtain treatment. The officer had attended several health centres for treatment and therapy and was only properly diagnosed with PTSD in 2010. The officer had a prior criminal conviction for impaired driving.	The penalty imposed was reasonable. The hearing officer gave clear reasons why he considered the conduct to be very serious. Considerable mitigating weight was given to the officer's PTSD and substance abuse. These conditions could not excuse the serious and multiple acts of misconduct particularly given that there was no evidence that these conditions caused the misconduct or precluded the officer from deciphering between right and wrong.
63.	<i>Niagara Commissioners of Police v. Niagara (Region) Police...</i> , 1975 CarswellOnt 1493	Ontario	Officer suffering from mental illness.	Ontario Labour Arbitration: K.P. Swan	The Commission made the officer take sick leave because of mental illness. The Commission had looked at the Officer's medical assessments.	While the Commission can require an officer to take sick leave if there is objective evidence of illness in this case the Commission made an incorrect assessment. The time was accredited to the officer's sick leave time.
64.	Ontario Provincial Police v. Purbrick, 2013 ONSC 2276	Ontario	Officer stole gasoline valued at \$243 and some office supplies from the police service.	Ontario Superior Court of Justice: Divisional Court: Molloy J., Hamby J., Herman J.	Officer stole gasoline valued at \$243 and some officer supplies from the police service. He was charged with theft and pleaded guilty and was absolutely discharged after making restitution to the police service. The officer allegedly suffered from PTSD. The hearing officer ordered that the officer be dismissed but on appeal the Commission found that penalty to be excessive and reinstated the officer with a demotion in rank and promotion pending satisfaction of certain conditions. The Commission was concerned about the Hearing Officer's focus on irrelevant medical issues such as the officer's PTSD and whether there was a cause and effect between the officer's PTSD, alcohol dependence and depression and the offences he committed.	The Commission's decision was reasonable. It was reasonable to have found that the Hearing officer erred by failing to take rehabilitative prospects and character evidence into account.

	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
65.	<i>Peel Regional Police Assn and Peel Regional Police Services Board, (6 April 2011), Ontario Arbitration</i>	Ontario	Officer was out on sick leave with a doctor's note and Board requested independent medical examination before allowing him to return to work.	Ontario Labour Arbitration: Arbitrator Laura Trachuk	<p>Officer went out of sick leave and later returned to work. The Association filed a grievance on the basis that the officer was not accommodated and was entitled to compensation for the period in which he was absent. The officer had been out on sick leave eight prior times after confrontations with supervisors and was accommodated by being placed under different supervisors.</p> <p>The officer's doctor note for the absence in question diagnosed him with symptoms compatible with PTSD and outlined psychological, cognitive and environmental restrictions.</p> <p>The Police Services requested clarification of the restrictions in regard to the duties of an officer and the duration of the restrictions. The Association sent a letter saying that the officer was ready to return to work with accommodation but the Board was awaiting the Doctor's response. The doctor's report stated that the officer's difficulties were related to disagreements with supervising officers and that the officer was able to return to working situation which was modified with respect to this restriction.</p> <p>The Board requested an independent medical exam which was refused. The Board did not feel that there was any unsupervised position available and that they could not accommodate the officer's restrictions.</p> <p>Another doctor reviewed the report and notes of the officer's doctor and disagreed with the PTSD diagnosis and restrictions. Subsequently, in an independent medical assessment, a doctor concluded that the officer was not suffering from PTSD although he had several PTSD like symptoms.</p>	The Grievance was dismissed. The Board had just cause to seek an independent medical assessment before it returned the officer to work and it did not exercise its managements rights unfairly.
66.	<i>Police Service v. Kelly (2006), 209 O.A.C. 269 (DC)</i>	Ontario	Charged criminally for possession of cocaine.	Ontario Superior Court of Justice: Divisional Court: Justice Carnwath	<p>Officer served as an undercover officer on the "Drug Squad." In this role, he was required to assume the persona of a mid-level drug dealer. Officer pleaded guilty to two counts of possession of cocaine and received a suspended sentence. Constable Kelly admitted to addiction to cocaine and entered into treatment. He then pleaded guilty to two counts of discreditable conduct.</p> <p>A joint submission of penalty (JSP) was made which allowed officer to continue to work subject to certain conditions. The hearing officer rejected the JSP and terminated Kelly.</p> <p>The Ontario Civilian Commission on Police Services allowed an appeal and varied the penalty to reflect the JSP and accommodate the officer's disability. Officer had suffered a number of traumatic personal events. He suffered from depression, post-traumatic stress and drug addiction but had completed treatment. He had a good service record.</p>	The officer <u>was not dismissed</u> . His continued employment but was subject to strict conditions.
67.	<i>Toronto Police Assn. v. Toronto Police Services Board, 2008 CarswellOnt 6464</i>	Ontario	Officer receiving benefits for illness was attending university.	Ontario Superior Court of Justice: Divisional Court: Carnwath, Echlin, Ray JJ.	Officer received benefits for PTSD after being assessed by a psychiatric facility. The Police Board sought repayment of the benefits when they found out that the employee had been attending school. An arbitrator (in <i>Toronto Police Services Board v. Toronto Police Assn.</i> , 2008 CarswellOnt 7127) ordered that all of the employee's psychiatric records and materials held by the facility be disclosed.	The production order was limited to documents created in the course of assessment and in responses to inquires from the Workplace Safety and the Insurance Board.

	Case Name/Citation & Date	Jurisdiction	Conduct	Decision Maker	Facts	Outcome
68.	<p><i>Toronto Police Services Board and Toronto Police Association, (11 August 2011), Ontario Arbitration.</i></p>	Ontario	<p>An officer claimed to be totally disabled by PTSD but attended and finished teacher's college while collecting benefits.</p>	<p>Ontario Labour Arbitration: Arbitrator O.B. Shime, Q.C.</p>	<p>Officer received benefits for PTSD from 2001. The Police Board sought repayment of the benefits when they found out that the employee had been attending school. In 2005 the former officer filed an assignment in bankruptcy and was discharged from bankruptcy in 2006. The former officer had suffered two car accidents while on duty and had a personal history which included an eating disorder, an abusive home, a shoplifting charge and being a victim of a sexual assault. She saw a psychologist in 1999 for stress problems at work and home. After a co-worker was in a car accident, the officer was more tired, emotional and overwhelmed. She was arrested for shoplifting again in 2000 and taken to hospital after her husband found her will a bottle of pills. She saw a psychiatrist who diagnosed her with severe depression. She was later diagnosed with major depression recurrent in type with anorexia nervosa" and "an obsessional personality." She was charged with shoplifting and also with a number of charges of discreditable conduct at work. In 2001 she was diagnosed with PTSD and her Association representative informed the service that, on the advice of her doctors, the officer would not be returning to work and requested approval for sick benefits. The next month she started taking university classes and in the fall of 2002 was accepted to Teachers' College. The Service alleged that she acted fraudulently and with deceit to receive the benefits. The WSIAT had made a decision which found that the officer's PTSD was minimal and that there was work available that she could have performed, and that the officer acted with a pattern of lying and deceit.</p>	<p>The officer's conduct, including overt acts and cunning silence and claim that she was totally disabled, constituted false pretences or fraudulent misrepresentation which induced an overpayment by the Toronto Police Services. Her bankruptcy did not discharge the debt. Periods of time where the officer was legitimately ill would be deducted from the amount owing.</p>