

CITATION: The Complaints Director v. Ontario Civilian Police Commission, 2025 ONSC 6123
DIVISIONAL COURT FILE NOS.: 694/24JR and 72/25JR
DATE: 20251031

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT**

Corbett, Varpio, and O'Brien JJ.

BETWEEN:)
)
THE COMPLAINTS DIRECTOR)
Appellant) *Colin Bourrier*, Counsel for the Appellant
The Complaints Director)
- and -)
)
ONTARIO CIVILIAN POLICE) *Selwyn Pieters and Hodine Williams*,
COMMISSION, TORONTO POLICE) Counsel for the Respondent, Amar Sodhi
SERVICE, CONSTABLE ALAIN)
ARAKAZA, AND AMAR SODHI)
Respondents) *Lawrence Gridin*, Counsel for Constable
Alain Arakaza)
)
) *Brandon Chung*, Counsel for Toronto Police
) Service)
)
) *Olivia Filetti*, Counsel for Ontario Civilian
) Police Commission)
)
) **HEARD in person in Toronto**
) **on June 4, 2025**
)
AND BETWEEN:)
)
KEVIN KUSI) *Atrisha Lewis, Natasha Daley, Meaza Damte*,
Appellant) Counsel for the Appellant
- and -)
)
ONTARIO CIVILIAN POLICE) *Brandon Chung*, Counsel for Toronto Police
COMMISSION, TORONTO POLICE) Service)
SERVICE, CONSTABLE ANDREA)
CHALMERS) *Philip Norton*, Counsel for Constable
Respondents) Andrea Chalmers)
)
) *Olivia Filetti*, Counsel for Ontario Civilian
) Police Commission)
)
) **HEARD in Toronto**
) **on June 4, 2025**

REASONS FOR DECISION

O'BRIEN J.

Overview

[1] These applications arise from two public complaints against police officers. Public complaints are first received by what was previously the Office of the Independent Police Review Director and is now the Law Enforcement Complaints Agency (LECA).¹ The Director determines whether complaints should be retained or referred to a police force for investigation. If a complaint is referred to a police force and, after investigation, the chief of police does not refer the matter to a hearing, the complainant has a right to seek a review of the decision by the Director. The Director then has remedial powers, including directing that a notice of hearing be served.

[2] The governing legislation requires that any notice of hearing in respect to a complaint be served on the subject police office within six months of the police force receiving the complaint for investigation.

[3] The complaints in these cases raised serious allegations. The complainants, Kevin Kusi and Amar Sodhi, are both Black men. Mr. Kusi was shot multiple times by two assailants. He alleges that because of Constable Andrea Chalmers' failure to disclose evidence, the court proceedings were stayed. Mr. Sodhi was arrested at a traffic stop. He alleges Constable Alain Arakaza, without having the required grounds, arrested him, pointed a firearm at him and placed him on the ground with a knee in his back.

[4] The Director referred both complaints to the Toronto Police Service (TPS) for investigation. The Chief of the TPS concluded that some or all of the conduct was substantiated but was not of a serious nature. The Director was not satisfied with these results. In the case of Mr. Kusi, after review, The Director directed the Chief to conduct a hearing because, in his view, the conduct *was* of a serious nature. In the case of Mr. Sodhi, the Director directed a second investigation by the TPS to assess the question of racial profiling and ultimately concluded that two allegations of serious misconduct were substantiated. He directed that a notice of hearing be issued.

[5] The question that arose from the administrative proceedings in these cases was whether the statutory six-month deadline applies if a complainant asks the Director to review a complaint and the Director decides a notice of hearing should be issued. The Director was of the view it did not and directed the Chief not to seek an extension of time under the available legislative process.

¹ The powers, duties and functions of the Independent Police Review Director are set out in the *Police Services Act*, R.S.O. 1990, c. P 15 (the PSA). On April 1, 2024, the PSA was repealed and replaced with the *Community Safety and Policing Act*, 2019, S.O. 2019 c 1, Sched 1 (the CSPA). The CSPA created the Law Enforcement Complaints Agency (LECA), which replaced the Office of the Independent Police Review Director. The Independent Police Review Director is now referred to as the Complaints Director. The Complaints Director exercises the powers and duties of the Independent Police Review Director in respect of complaints made under the PSA. The PSA continues to apply to these applications because the complaints relate to conduct that happened before the CSPA came into force. The Independent Police Review Director and Complaints Director will be referred to in these reasons as the Director. Because the current Director uses the pronouns he/him, those pronouns will be used in these reasons.

[6] But the administrative decision-makers found that the deadline still applied. On the plain wording of the statutory provision, they did not see an exception for the Director when he issued a notice of hearing. They considered the context and objectives of the legislation, but did not find a basis to read in an exception that did not appear in the plain wording. Their decisions are owed deference and must be upheld as long as they are reasonable, which, in my view, they are.

[7] I recognize that this outcome is substantively unsatisfactory. Anti-black racism is a reality in Canadian society, including in the criminal justice system. The Court of Appeal has said: “Anti-black racism must be acknowledged, confronted, mitigated and, ultimately, erased”: *R. v. Morris*, 2021 ONCA 680, at para. 1. The complainants were caught in the middle when the Director’s interpretation of the statute conflicted with the interpretation of the administrative decision makers. The existence of the statutory deadline meant the serious allegations against the police officers will not be heard on their merits. This outcome means not only that the complainants cannot pursue their allegations, but the public does not benefit from a full examination of police conduct in this case.

[8] The problem caused by the statutory deadline and its ability to effectively preclude disciplinary charges was sufficiently unsatisfactory that Tulloch J.A. (now Chief Justice Tulloch) specifically identified it in a 2017 report on policing; *Independent Police Oversight Review*. Tulloch J.A. recommended that the six-month deadline be eliminated. The problem has now been remedied by legislative amendment flowing from those recommendations. As a result of the legislative changes, the unfortunate result in these cases should not arise again.

Six-Month Time Period and Underlying Decisions

[9] The statutory provision at the centre of these applications is s. 83(17) of the PSA. It prevents the service of a notice of hearing on a police officer more than six months after the chief of police receives the complaint for investigation. An extension can be granted if the police services board or OPP Commissioner (depending on where the officer works) is of the opinion it was reasonable to delay the service of the notice of hearing. It provides:

83(17) If six months have elapsed since the day described in subsection (18), no notice of hearing shall be served unless the board, in the case of a municipal police officer, or the Commissioner, in the case of a member of the Ontario Provincial Police, is of the opinion that it was reasonable, under the circumstances, to delay serving the notice of hearing.

[10] The relevant date in s. 83(18) for the purpose of these applications is the day on which the Chief of the TPS received the complaint referred by the Director.

[11] By the time the Director completed his reviews in both cases, more than six months had elapsed since he initially referred the complaints to the Chief of the TPS for investigation. The Director was of the view that the time period in s. 83(17) did not apply to a notice of hearing that he directed be issued after reviewing a decision by the chief of police. He therefore directed the Chief of the TPS not to seek an extension of time from the police services board. He reasoned that the review process was a “separate and distinct process” from the chief’s investigation.

[12] In compliance with the Director's directions, the Chief of the TPS did not seek approval to serve the notice of hearing outside the six-month period from the Toronto Police Services Board (the Board). At the outset of the disciplinary hearings, Constables Chalmers and Arakaza, each brought motions to dismiss the charges. The hearing officers in both cases agreed that they did not have jurisdiction because s. 83(17) had not been complied with. The hearing officer's decision in the case against Constable Arakaza was rendered first and was appealed to the Ontario Civilian Police Commission.

[13] The Commission found the hearing officer's interpretation of the PSA to be correct and upheld the dismissal for lack of jurisdiction. In its view, a plain reading of subsections 83(17) and (18) conveys that the six-month timeline runs from the date the Director refers the complaint to the chief for investigation. The Commission did not see an express or implied exception in the legislation for cases where there had been a Director's review. According to the Commission, a purposive reading of s. 83(17) did not support the Director's position since the PSA is intended to encourage expeditious investigations. The Commission also rejected the submission that s 83(17) created overly narrow timelines for the Complaints Director since a process longer than six months could be approved by the police services board if the board considered the delay reasonable.

[14] Mr. Sodhi argued in the alternative that the Chief of the TPS erred in not bringing an application under s. 83(17) to the Board. The Commission found this issue was not properly before it because Mr. Sodhi had not sought or been granted leave to appeal the Chief's decision with respect to s. 83(17).

[15] The hearing officer in the case against Constable Chalmers similarly found s. 83(17) provided a clear timeline and process to address delay if the timeline had passed. In his view, a Director's review is not a separate and distinct process from the Chief's decision.

The hearing officer's decision in the case against Constable Chalmers never proceeded to the Commission because the Commission had already decided the issue in the Arakaza case. Mr. Kusi therefore sought judicial review of the hearing officer's decision. At the hearing in this court, the TPS abandoned its position that the application was premature. The court exercised its discretion to hear the application for judicial review of the hearing officer's decision.

Issues

[16] The central issue for the court is whether the decisions of the Commission and the hearing officer are reasonable. If they are reasonable, there is also a question as to remedy, which is whether it is too late for the Chief of the TPS to apply to the Board now for a finding that the delay was reasonable.

Standard of Review

[17] The parties agree that the standard of review for decisions of the Commission and hearing officer is reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at para. 23; *Correa v. Ontario Civilian Police Commission*, 2020 ONSC 133, at para. 22.

[18] A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and the law that constrain the decision maker: *Vavilov*, at paras. 85, 99.

[19] Where reasonableness is the applicable standard of review, a reviewing court does not undertake a *de novo* analysis on a question of statutory interpretation. The court's task is not to ask itself what the correct decision would have been, but to review the administrative decision as a whole, including the reasons provided and the outcome that was reached. However, reasonableness review takes into account the "modern principle" of statutory interpretation, where the words of the statute are read "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament": *Vavilov*, at para. 117, citing *Rizzo & Rizzo Shoes Ltd.*, [1998] 1 S.C.R. 27, at para. 121. Administrative decision makers are not required to engage in as formal an interpretive exercise as would a court in every case. But reasonableness review expects an administrative decision-maker to "interpret the contested provision in a manner consistent with the text, context and purpose, applying its particular insight to the statutory scheme at issue": *Vavilov*, at paras. 117-121.

Are the Decisions of the Commission and Hearing Officer Reasonable?

[20] I conclude the underlying decisions are reasonable. They applied the plain wording of the statutory provision. Their analysis accounted for the broader statutory scheme as it stood at the time and expressly addressed the role of a Director's review. In these circumstances, the court is not justified in interfering with the decisions. As I have said, although the wording at the time permitted the problematic outcome of this case, that has now been fixed by statutory amendment.

[21] The Commission in Mr. Sodhi's proceeding was well aware of the modern approach to statutory interpretation. It expressly stated at para. 25 of its reasons that it was required to interpret the provision, taking into account the context and the purpose of the PSA. It also relied on the principle that, where the words used are "precise and unequivocal," their ordinary meaning will usually play a more significant role in the interpretive exercise: *Vavilov*, at para. 120, citing *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54, [2005] 2 S.C.R. 601, at para. 10.

[22] Applying this principle, as stated by the Commission, on the plain wording of s. 83(17), there is no exception in the six-month time period for delay caused by a Director's review. Subsection 83(17) states that once six-months have elapsed since the date on which the chief of police receives the complaint "no notice of hearing shall be served" unless the police services board or OPP Commissioner believes the delay was reasonable. There is no reference to the Director or other wording in the provision to read a pause in the six months for a Director's review.

[23] The hearing officer in Mr. Kusi's proceeding reached the same conclusion. After conducting a similar review of the scheme, he found that it was "silent as to whether or not the six-month timeline under s. 83(17) is paused" and that s. 83(17) provided "a clear timeline and a process to address the delay if the timeline has passed".

Commission and hearing officer considered broader context and purpose

[24] The applicants do not point to any textual hook in the wording of the provision that would ground their analysis. They submit instead that the Commission and hearing officer failed to consider the broader purpose and context of the PSA, which they say is to enhance public confidence in policing by ensuring a more transparent and independent process for complaints against police. They emphasize the importance of the Director's independent oversight function and public interest mandate. The Director in particular points to sections 72 and 73 of the PSA, which require the other participants in the complaints process, such as the chief of police and the police services board, to deal with a complaint as the Director directs.

[25] The problem with these arguments is the Commission and hearing officer considered the legislative purposes the applicants rely on but also put weight on other objectives of the PSA. For example, the Commission emphasized the legislative purpose of expeditious investigations. It relied on jurisprudence from this court repeatedly underscoring the importance of the expeditious resolution of complaints: *Gough v. Peel Regional Police Service* (2009), 309 D.L.R. (4th) 439 (Div. Ct.), at para. 24; *Ramsay v. Toronto (City) Commissioners of Police* (1988), 66 O.R. (2d) 99 (Div. Ct.); *Izzett v. Chief of Police*, 2010 ONSC 2262, 262 O.A.C. 182 (Div. Ct.), at para. 12. The hearing officer in Mr. Kusi's proceeding highlighted the same precedent and directly referenced the Commission's decision as the issues in both cases were "strikingly similar".

[26] The Commission also accepted that another purpose of the PSA was enhancing public confidence in policing, including the processing of public complaints. However, it did not agree that this purpose mandated that the Director's review process be excluded from s. 83(17). The Commission found its interpretation did not undermine the Director's role, especially because s. 83(17) does not require that a notice of hearing be served within six months. It only states that, after six months, the police services board or OPP Commissioner must consider the delay to be reasonable.

[27] In short, it is not that the Commission or hearing officer ignored the applicants' concerns, but that the applicants would have liked them to put greater weight on the statutory objectives the applicants identified. Recognizing but putting less weight on a relevant consideration does not render the decisions unreasonable.

Commission and hearing officer's interpretation not absurd

[28] The applicants further submit that the Commission's interpretation of the Director's review process is incompatible with the Director's broad oversight powers and would lead to absurd consequences. The Director emphasizes the tight timelines for its review process and the concern that a "rogue" police force could intentionally delay an investigation so as to undermine the Director's powers on review. Mr. Kusi adds that it would be absurd to have a complainant successfully obtain a Director's review only to have the disciplinary process "time barred" by s. 83(17), especially when the complainant has no control over the timing of the review.

[29] These submissions merit careful consideration, but I ultimately reject them as a basis for finding the Commission and hearing officer's decisions unreasonable.

[30] I agree with the argument that the timelines for completing a Director's review are tight. Pursuant to s. 83(17), once the Director refers a matter for investigation, a chief of police has up to six months to complete the investigation and, if the conduct is found to be substantiated and of a serious nature, serve the notice of hearing.

[31] However, if, after the investigation, the chief of police finds the conduct to be unsubstantiated or not of a serious nature, under s. 71(1), the complainant has 30 days to seek a review of that decision. Under s. 71(2), the Complaints Director shall "endeavour" to complete the review within 30 days of receiving the request. If the Director decides to direct a hearing after the review, for the six-month timeline in s. 83(17) to be met, the chief of police would need to complete their investigation within four months and the Director's review would need to be completed within 30 days.

[32] There is an additional issue if the police force completes an inadequate investigation. Under s. 71(3), if the Director considers an investigation to be inadequate, he may, for example, take over the investigation of the complaint, or require the chief of police to take further steps. If the initial investigation takes four months or longer to complete and the Director requires that further steps be taken after his review, he will have no ability to subsequently meet the six-month timeline should he decide a notice of hearing needs to be issued.

[33] The facts of the case against Constable Arakaza demonstrate the possibility for delaying the Director's review beyond the six-month timeline. I note there is no evidence of the TPS intentionally delaying the investigation. But by the time the Director required the TPS to take further investigative steps, completed his review, and directed that a notice of hearing be issued, almost 14 months had elapsed from the initial referral for investigation.

[34] Although the structure and timelines raise a concern about a police force having the ability to undermine the Director's powers on review, I ultimately conclude this interpretation of the legislation is not absurd for two reasons.

[35] First, the Director has the power to control the conduct of the investigation. When referring the complaint to the chief of police, he may direct the chief to deal with the complaint as the Director specifies (PSA, s. 61(7)). Any time after he has referred the complaint to the chief of police, the Director also may continue to direct the chief to deal with the complaint as the Director specifies, or he may take over the investigation of the complaint, or he may take or require the chief of police to take any other action with respect to the complaint the Director considers necessary: PSA, s. 72(1). In these circumstances, the chief of police is mandated to "promptly" take the action directed by the Director: s. 73.

[36] This means the Director can, for example, require the chief of police to complete the investigation within four months. This is what happened in the investigation into the complaint against Constable Chalmers. When referring the complaint to the Chief of the TPS, the Director directed the Chief to, (1) within 45 days, report on the status of the investigation; and (2) complete the investigation within 120 days. In that case, the TPS completed the investigation just over three months after the referral letter.

[37] Second, the concern about undermining the Director’s remedial powers is mitigated by the ability to obtain an extension from the police services board or the OPP Commissioner. As the Commission stated at para. 37 of its reasons, “[t]he only effect of the pre-charge process taking longer than six months is that the delay is subject to an opinion on reasonableness by the Board prior to the issuance of a Notice of Hearing.” In *Forestall v. Toronto Police Services Board* (2007), 228 O.A.C. 202 (Div Ct.), at para. 44, the court held that the six-month period is not a limitation period because it is aimed at determining only whether the circumstances preceding the delivery of the notice of hearing reasonably warrant the delay. The ability to obtain an extension of the six-months if the delay is considered reasonable means a rogue police force would be limited in its ability to undermine the Director’s remedial powers.

[38] The Director submits that an application to the police services board does not solve the problem because the board does not have the statutory authority to usurp the role of the Director. According to the Director, the role of the police services board is limited to representing their communities. They do not have the same distinct public interest character as the Director.

[39] In its decision, the Commission dealt with this argument by stating that it was “arguably not ideal to have a police services board review the directives of the Director or apply the administrative law provisions and determine the reasonableness of the delay.” The Commission noted the Director’s reliance on the Tulloch report. However, the Commission went on to dismiss the argument, reasoning at para. 40 that it “must interpret the legislation that is at issue in this appeal... not the new legislation, nor prior recommendations.”

[40] I do not find the Commission’s decision unreasonable on this point. Tulloch J.A.’s review made recommendations for legislative amendments; it did not speak to the interpretation of the PSA. It was open to the Commission to rely on the plain wording of s. 83(17) for this point. Just as s. 83(17) does not include an exception for the six-month period, it does not exclude the Director for the process for an extension of time from the police services board. Indeed, the Commission’s decision reinforces Tulloch J.A.’s recommendations: these complaints should not have foundered because the Director took an incorrect view of the law on the operation of the six-month deadline. As a result of legislative amendments made flowing from Tulloch J.A.’s recommendations, this issue should not arise again.

[41] Police service boards are composed of civilian members and have some oversight over the complaint process. They include the head of the municipal council or another member of the council, at least one person appointed by resolution of the council and one person appointed by the Lieutenant Governor in Council: PSA, s. 27. Although police services boards do not oversee public complaints in the same manner as the Director, they do have a statutory role in managing the process for dealing with those complaints. Under s. 31(1)(i) of the PSA, each police services board establishes guidelines for dealing with complaints by its chief. Under s. 31(1)(j), it reviews the chief’s administration of the complaints system.

[42] In addition, the process for an application to a police services board for an extension to serve a notice of hearing is reasonably robust. It allows complainants to have standing and would enable the complainants to raise concerns about, for example, the seriousness of the allegations, the racial context, and the reasonableness of the delay if caused by a Director’s review. Although,

as the Commission stated, it is “arguably not ideal” for the police services board to be the decision-maker for extensions of time after a Director’s review, they are expressly granted the statutory authority to determine whether a delay was reasonable, with no express exception for the Director. Considering the statutory language and the nature of police service boards, it is not absurd to hold the Director to the six-month period with the ability to apply for an exception. The Commission’s interpretation was an available reading of the legislation.

[43] The Director also submits that the Commission’s interpretation was unreasonable because, in the case of a complaint against a member of the OPP, the OPP Commissioner is charged with both investigating the complaint and with determining whether the delay was reasonable.

[44] The complaints at issue in these applications did not pertain to the OPP and neither the Commission nor the hearing officer addressed this argument. It is not clear whether it was raised before them. In any event, I do not find this hypothetical sufficient to displace the Commission and hearing officer’s interpretation of the legislation. The presumption of regularity holds that “it must be presumed in the absence of any evidence to the contrary that public officers will act fairly and impartially in discharging their adjudicative responsibilities”: *Bui v. British Columbia (Superintendent of Motor Vehicles)*, 2018 BCCA 168, at para. 35, citing *University of British Columbia v. University of British Columbia Faculty Association*, 2007 BCCA 201, 278 D.L.R. (4th) 445, at para. 84. A Commissioner would be expected to consider the Director’s review in determining whether the delay was reasonable. Further, if a Commissioner acted unreasonably in this decision, he or she could be held to account by an application for judicial review.

Subsection 66(6) does not render the decisions unreasonable

[45] The Director submits the Commission failed to consider s. 66(6) of the PSA, which he says expressly mandates a pause in the police discipline process for the Director’s review. This argument is raised for the first time on judicial review and the Commission therefore did not have an opportunity to address it. In any event, s. 66(6) does not render the Commission’s decision unreasonable.

[46] Subsection 66(6) requires the chief of police to take no action to resolve a complaint informally until the 30-day period for the complainant to seek a review has expired or, if the complainant has requested a review, the Director has completed the review. The Director submits this provision mandates a pause to allow the Director’s review to be completed and provides further evidence that the Director’s review is separate and distinct from the investigation phase of the complaints process. It is accurate that s. 66(6) mandates a pause in informally resolving a complaint. It does not, on its wording, mandate a pause to the six-month period. It could equally be argued that s. 66(6) demonstrates that where the legislature intended a pause, it expressly stated so. Subsection 66(6) does not justify the court’s interference in the Commission’s decision.

Director’s Rules of Procedure do not change the analysis

[47] Mr. Kusi submits the hearing officer’s decision was unreasonable because it was inconsistent with and contradicted the Director’s governing procedural rules. The Director also made this argument in the *Sodhi* proceedings below but did not advance it on judicial review. The

Director's PSA Rules of Procedure provide that "if, at the completion of the review of a decision, the Director directs the chief of police to issue a notice of hearing, the chief of police shall not apply to the board pursuant to s. 83(17) of the Act."

[48] I agree with the TPS that this submission does not have merit. It is open to the Director to reach his own interpretation of the legislation to govern his office's functions. But his version does not constitute the authoritative interpretation of the PSA. It does not preclude the Commission or hearing officer from reasonably arriving at a different conclusion. As the Commission stated at para. 41, "the rule merely reiterates the Director's view of how s. 83(17) should be interpreted – it is not itself legislation."

Principles in s. 1 of the PSA do not make the decisions unreasonable

[49] Mr. Kusi and Mr. Sodhi submit the underlying decisions were unreasonable because they failed to advert to s. 1 of the PSA. The relevant part of s. 1 states that police services are to be provided in accordance with "the need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society." In their submission, this is part of the statutory context that the underlying decision-makers were required to take it into account. They submit the principle is particularly important in this case because the two complainants were Black men who ultimately were prevented from holding police to account even though the Director found the alleged misconduct required a hearing. In one case, the Director expressly raised concerns about racial profiling.

[50] Again, this submission was not raised in the underlying proceedings. The court therefore does not have the benefit of the administrative decision-makers' reasons on this issue. In any event, the principle that police services must be sensitive to the pluralistic, multiracial and multicultural character of society does not undermine the decision-makers' interpretation of the PSA.

[51] It is concerning that the complainants were deprived of a full hearing into their misconduct allegations through no fault of their own. But the decision-makers were engaged in the discrete task of interpreting whether a statutory time period applied to the Director. While the answer to that question requires considering the statute as a whole, it cannot depend on the racial or cultural background of the complainants. If that were the case, a different interpretation of the statute could be reached depending on a complainant's background. Racial and cultural background may well be relevant for other questions, such as, for example, on an application to the Board, whether the application should be permitted to proceed despite delay considering the seriousness of the alleged misconduct. It cannot change the interpretation of the six-month time period itself from case to case. Indeed, the statute says that "police services" must be provided in accordance with the enumerated principles, not that the statute must be interpreted in accordance with those principles. The principle found in s. 1 does not render the underlying decisions unreasonable.

Conclusion on reasonableness review

[52] Overall, the underlying decision-makers were entitled to reach the conclusion they did on the plain wording of the statute. There was no wording that expressly suggested a different interpretation. Their interpretation was not absurd, particularly considering the ability to apply for

a finding that the delay was reasonable. Because the interpretation they reached was available to them on the wording and context of the statute, the court must defer to it.

Can the Chief of the TPS apply now for an extension of time?

[53] Given my conclusion that the underlying decisions were reasonable, there is a question as to whether the Chief of the TPS could now make an application to the Board for a finding that the delay was reasonable in each case. I reluctantly conclude he cannot. Confining myself to the remedial options that were presented to the court, I accept the argument that the notices of hearing initiated proceedings that were ultimately dismissed.

[54] Again, this situation is unsatisfactory because it leaves potentially meritorious complaints that include serious allegations of anti-Black racism unresolved, through no fault of the complainants. The six-month deadline at the heart of the problem has now been eliminated under the CSPA so that the issue will not recur. Section 165 of the CSPA states only that the chief of police shall “endeavour” to ensure the investigation is concluded within 120 days. If it is not completed within 120 days, there are reporting requirements but there is no deadline for serving a notice of hearing nor need for a finding that the delay was unreasonable. However, under the legislation as it existed over the relevant period, the underlying decisions were reasonable.

[55] The applications are dismissed.

[56] No parties sought costs of the applications and none are ordered.

O’Brien J.

I agree: _____
D.L. Corbett, J

I agree: _____
Varpio, J.

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Corbett, Varpio, and O'Brien JJ.

BETWEEN:

THE COMPLAINTS DIRECTOR

Appellant

- and -

ONTARIO CIVILIAN POLICE
COMMISSION, TORONTO POLICE
SERVICE, CONSTABLE ALAIN
ARAKAZA, AND AMAR SODHI

Respondents

REASONS FOR DECISION

O'BRIEN, J

Released: October 31, 2025