

**IN THE OFFICE OF THE
POLICE COMPLAINT COMMISSIONER**

Date: 20170403

**IN THE MATTER OF
CONSTABLE GEOFF GABRIEL**

Before: Adjudicator Oppal

Review on the Record

Oral Reasons for Judgment

Counsel for Commissioner:

M. Tammen

No other appearances

Place and Date of Review:

Vancouver, B.C.
April 3, 2017

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[1] **THE COURT:** This is a review on the record pursuant to s. 138 of the *Police Act* RSBC 1996, c.267 relating to the conduct of Constable Geoff Gabriel of the Vancouver Police Department. The review relates to the appropriate remedies or dispositions imposed by a discipline authority.

[2] Constable Gabriel was alleged to have violated two provisions of the *Police Act*. The first relates to a complaint of discreditable misconduct under s. 77(3)(h), that is, he used his position as a police officer inappropriately by conveying inappropriate messages to the complainant. The second relates to inappropriate disclosure of information contrary to s. 77(3)(1)(i) by disclosing a DVD relating to an interview involving another alleged offence that had nothing at all to do with any of the issues that were involved in the interview with the complainant.

[3] Constable Gabriel admitted to both violations.

[4] The background of this matter is as follows. The complainant made an application for a position of a Community Service Program Officer with the Vancouver Police Department. Constable Gabriel conducted the interview. He was also assigned to administer a polygraph test on the complainant. At the conclusion of the interview Constable Gabriel gave the complainant his personal cell number. It was clear that he wanted to establish a personal relationship with her.

[5] There is no doubt that thereafter he carried on an inappropriate relationship with her. He met her on at least four occasions. On one occasion he had dinner with her. He referred to that as a "date-like" dinner. He kissed her after dinner. He said some inappropriate things to her by way of text message. She had made it clear throughout their dealings that she was not at all interested in establishing that type of a relationship with Constable Gabriel.

[6] I will make reference to some of the text messages that he sent to her. After she resisted his overtures, he said, "I'd rather you just sleep with me, but okay." He went on to say, "Why can't you just fuck me then?" He then sent her a photo of a

naked female with a large tattoo on her buttocks. He then exchanged text messages with her.

[7] At some point, his text messages and communications fell into the hands of a third party, he then became angry. He became upset at the complainant for disclosing the nature of their communications to the third party. He went on to berate her because she did not, according to him "stick with the plan". [REDACTED]

[8] Constable Gabriel admitted conveying text messages to the complainant. He said that they were exchanging messages, and that the messages were sexual and flirtatious. He stated that at one time, she sent him a photograph of herself in lingerie. She categorically denied sending any photographs to Constable Gabriel.

[9] As stated earlier, Constable Gabriel sent her a DVD relating to another investigation. The DVD depicted a police interview of another party who was alleged to have committed sexual assaults. That was clearly inappropriate because it violated the privacy of a third party who was a subject of the investigation. Moreover, it was completely unrelated to any interview that Constable Gabriel was conducting with the complainant.

[10] In any event, after a complaint was made, the investigation was conducted by West Vancouver Police. The matter then went to a Disciplinary Authority, Superintendent Eely of the Vancouver Police Department, who imposed the following disposition. On the first count, he proposed that there be a suspension without pay for 12 scheduled working days, and that the Constable be required to take ethics based training, specifically relating to power imbalances. On the second offence, that is improper disclosure of information, unfortunately Superintendent Eely categorized the offence as being somewhat minimal, and the proposed disciplinary measures there as follows: (1) a written reprimand and (2) that the member be required to take specific training relating to VPD disclosure of information policies.

[11] In this review under s. 138, it is agreed that the standard of review is one of correctness, and the issue of deference ought not to be relevant. Mr. Tammen, Commission Counsel, submitted that the appropriate penalty ought to be a period of suspension in the range of 15 to 18 days on the first count; and secondly, on the second one, there must be more detail and particularized methods of training, and I fully agree, that the disposition made by the Disciplinary Authority was inadequate because it was not specific enough. On the second offence, Commission counsel, Mr. Tammen has argued, and I fully agree, that the harm of disclosure was not minimal, and that the showing of photographs, and the showing of graphic details in the interview on the DVD violated the privacy of the victims, and the provisions ought to have been taken more seriously.

[12] Mr. Tammen's suggestion is that the penalties should be as follows: that the range of suspension should be in the range of 15 to 18 days. I agree that at the top end of the scale, the appropriate remedy would be 18 days. I also agree that the second disposition ought to be consecutive to the first, because they represent separate and distinct offences, and therefore should be a consecutive sentence of five days. As well, any retraining ought to be much more specific than it was in this instance.

[13] I pause here to note that I view these offences as egregious. The first offence borders on dismissal. I say that because the officer was in a position of trust. There was clearly a power imbalance and he clearly led the complainant to believe that had she cooperated with him in his illicit proposals, she could have been a member of the Vancouver Police Department in the area that she sought. That is extremely serious, and in my view that borders on dismissal. As well, the second offence of disclosing private communications is again extremely serious. One would expect that in an investigation conducted by any police authority, there is an expectation of privacy, at least during the investigative stage. That expectation was clearly breached.

[14] Mr. Woodall, counsel for Constable Gabriel, filed a written argument even though he did not appear. In his argument, he was clearly aware of the position that was being taken by Commission Counsel. In the circumstances, it would be inappropriate for me to impose any disciplinary measures that would exceed those that Commission Counsel has suggested. Thus, it would be inappropriate to entertain the option of dismissal here.

[15] Accordingly on the first offence, the disposition should be a suspension of 18 days. On the second one, there should be a suspension of five days, consecutive one with the other, and the retraining ought to be in the area suggested by the Disciplinary Authority, however, it should be in much more detail that refers specifically to the offences that were committed.

A handwritten signature in blue ink, appearing to read 'Wally Oppal', is centered on the page.

ADJUDICATOR THE HONOURABLE WALLY OPPAL, Q.C.