



Office of the
Police Complaint Commissioner

British Columbia, Canada

NOTICE OF REVIEW ON THE RECORD

Pursuant to section 137(2) *Police Act*, R.S.B.C. 1996, c.267

**In the matter of the Review on the Record into the Ordered Investigation of
Corporal Trish McLaughlin of the West Vancouver Police Department**

OPCC File: 2015-11200
October 26, 2016

To: Corporal Trish McLaughlin, #170 (Member)
c/o West Vancouver Police Department
Professional Standards Section

And to: Chief Constable Len Goerke (Discipline Authority)
c/o West Vancouver Police Department
Professional Standards Section

WHEREAS:

Investigation

1. On October 13, 2015, the Office of the Police Complaint Commissioner (OPCC) received information from the West Vancouver Police Department in relation to an incident which occurred on October 11, 2015, involving Corporal McLaughlin at a check stop for sobriety.
2. Based on a review of this information, on October 16, 2015, I ordered an investigation into the conduct of Corporal McLaughlin. It was determined that the conduct alleged against Corporal McLaughlin, if substantiated, would constitute misconduct.
3. On December 17, 2015, this office received information from Chief Constable Len Goerke advising that Deputy Chief Shane Barber may be a witness in this investigation which precludes him from remaining as the Discipline Authority. Further, Chief Constable Len Goerke advised that he is also unable to fulfill the duties of the Discipline Authority as he was present at the police board's handling of Corporal McLaughlin's suspension

Stan T. Lowe
Police Complaint Commissioner

5th Floor, 947 Fort Street
PO Box 9895 Stn Prov Govt
Victoria, British Columbia V8W 9T8
Tel: (250) 356-7458 Fax: (250) 356-6503

Toll Free 1 877-999-8707 # Website: www.opcc.bc.ca

proceedings. For these reasons, Chief Constable Len Goerke requested that our office consider appointing an external discipline authority pursuant to section 135.

4. Pursuant to section 135(1) of the *Police Act*, I appointed Inspector Brian MacDonald of the South Coast British Columbia Transportation Authority Police Service to exercise the powers and perform the duties of a Discipline Authority in relation to this matter.
5. On January 5, 2016, the OPCC received a request to amend the Order for Investigation from Sergeant Anne Mason Young of the West Vancouver Police Department. In this request, Sergeant Mason Young advised that during the investigation information had come to light that Corporal McLaughlin had identified herself as a police officer and asked if a tow-truck could be called to deal with the issue.
6. On January 6, 2016, I issued an Amended Order for Investigation and Notice of Designation of New Discipline Authority to include the new allegation and to appoint Inspector MacDonald as the new Discipline Authority.
7. West Vancouver Police Professional Standards investigator, Sergeant Mason-Young, conducted an investigation and on March 22, 2016, she submitted the Final Investigation Report to the Discipline Authority.
8. On April 1, 2016, following his review of the FIR, the Discipline Authority notified Corporal McLaughlin that a Discipline Proceeding would be held in relation to the substantiated allegations, namely:
 - 1) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, it is alleged that Corporal McLaughlin committed the misconduct of discreditable conduct when off duty she drove her personal vehicle while her ability was impaired by alcohol in contravention of the *BC Motor Vehicle Act*.
 - 2) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, it is alleged that Corporal McLaughlin committed the misconduct of discreditable conduct when off duty she identified herself as a police officer to the officer conducting an impaired driving investigation and asked for preferential treatment.

Discipline Proceeding and Proposed Discipline

9. On August 8, 2016, following the Discipline Proceeding, and on September 21, 2016, following the Discipline Disposition Record, after considering the available evidence and submissions, the Discipline Authority made the following determinations in relation to the allegations:

- 1) That Corporal McLaughlin committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, it is alleged that Corporal McLaughlin committed the misconduct of discreditable conduct when she failed to pass the Approved Screening Device test for alcohol consumption on October 11, 2015.
- 2) That Corporal McLaughlin committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, it is alleged that Corporal McLaughlin committed the misconduct of discreditable conduct when off duty she identified herself as a police officer to the officer conducting an impaired driving investigation and asked for preferential treatment.

10. The Discipline Authority made the following findings with respect to proposed discipline:

Allegation #1: *Discreditable Conduct*: Dismissal.

Allegation #2: *Discreditable Conduct*: Two day suspension without pay.

Corporal McLaughlin request for a Public Hearing

11. Pursuant to section 137 of the *Police Act*, where a Discipline Authority proposes a disciplinary measure of dismissal or reduction in rank, upon written request from the police member, the Commissioner must promptly arrange a Public Hearing or Review on the Record.
12. On September 26, 2016, I received a request from Corporal McLaughlin's counsel, Mr. Kevin Woodall, for a public hearing into the matter.

Decision

13. I have reviewed the record of the disciplinary decision and the associated determinations. In my view, it will not be necessary to examine witnesses or receive evidence that is not currently part of the record of disciplinary decision. Furthermore, I am satisfied that a Public Hearing is not required to preserve or restore public

Office of the
Police Complaint Commissioner

confidence in the investigation of misconduct and the administration of police discipline.

14. Accordingly, pursuant to section 137(2) of the *Police Act*, I am arranging a Review on the Record. Pursuant to section 141(2) of the Act, the Review on the Record will consist of a review of the disciplinary decision as defined by section 141(3) of the Act, unless, pursuant to section 141(4) of the Act, the Adjudicator considers that there are special circumstances and it is necessary and appropriate to receive evidence that is not part of the record of disciplinary decision or the service record of the member or former member involved.
15. It is, therefore, alleged that Corporal McLaughlin committed the following disciplinary defaults, pursuant to section 77 of the *Police Act*:
 - 1) That Corporal McLaughlin committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, it is alleged that Corporal McLaughlin committed the misconduct of discreditable conduct when she failed to pass the Approved Screening Device test for alcohol consumption on October 11, 2015.
 - 2) That Corporal McLaughlin committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, it is alleged that Corporal McLaughlin committed the misconduct of discreditable conduct when off duty she identified herself as a police officer to the officer conducting an impaired driving investigation and asked for preferential treatment.

THEREFORE:

16. A Review on the Record is arranged pursuant to section 137(2) and 141 of the *Police Act*. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, the Honourable Carol Baird Ellan, retired British Columbia Provincial Court Justice, has been appointed to preside as Adjudicator in these proceedings, pursuant to section 142(2) of the *Police Act*.

TAKE NOTICE that all inquiries with respect to this matter shall be directed to the Office of the Police Complaint Commissioner:

501 - 947 Fort Street, PO Box 9895 Stn Prov Govt, Victoria, BC V8W 9T8
Telephone: 250-356-7458 • Toll Free: 1-877-999-8707 • Facsimile: 250-356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 26th day of October, 2016.

A handwritten signature in black ink, appearing to read "Stan T. Lowe", enclosed in a thin black rectangular border.

Stan T. Lowe
Police Complaint Commissioner