

CONCLUSION OF PROCEEDINGS

Pursuant to s.120(16) of the *Police Act*, RSBC 1996, c.367

OPCC File: 2017 - 13143

December 29, 2017

To: [REDACTED] (Member)
c/o Vancouver Police Department
Professional Standards Section

And to: Chief Constable Adam Palmer (Discipline Authority)
c/o Vancouver Police Department
Professional Standards Section

And to: [REDACTED] (Prehearing Conference Authority)
New Westminster Police Department

And to: The Honourable Judge Carol Baird Ellan, (ret'd) (Retired Judge)
Retired Judge of the Provincial Court of British Columbia

On February 20, 2017, the Office of the Police Complaint Commissioner (OPCC) received information from the Vancouver Police Department (VPD) in relation to an incident which occurred on [REDACTED].

According to the Vancouver Police Department, from information contained in the police report, on [REDACTED], at [REDACTED], a member of the public contacted police to report the behavior of a suspicious male at the [REDACTED] located at [REDACTED] BC. [REDACTED] Constables [REDACTED] and [REDACTED] were dispatched to the location to investigate.

[REDACTED] officers located a male at this location fitting the description provided to police. Police observed that this male, later identified as off duty VPD member, [REDACTED], to be heavily intoxicated due to his slurred speech and the strong odour of liquor on his breath. [REDACTED] Constable [REDACTED] asked the male for his identification. This male pulled out a small badge wallet and flipped it open to a VPD badge, stating he was a police officer. It is reported that [REDACTED] dropped that wallet, along with his keys and another wallet onto the ground. [REDACTED] also pulled out a half bottle of Jim Beam from his jacket pocket. During their interaction with [REDACTED], police determined there were grounds to arrest [REDACTED] for Causing a Disturbance.

Constable 's supervisor attended the scene and it was determined that VPD would be driven home and placed in the care of his wife.

Vancouver Police Department Police Professional Standards investigator, , conducted an investigation into the ordered investigation and on September 1, 2017, he submitted the Final Investigation Report to the Discipline Authority.

In the report, identified the following allegation of misconduct:

1. That on , , 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.

Following the investigation conducted by , the Discipline Authority, , determined the evidence appeared to substantiate allegation #1 of *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* by .

From his review of the evidence provided in the Final Investigation Report, added a further allegation of *Discreditable Conduct* as follows:

2. That on , , 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, that while off duty, displayed his badge to Officers.

Following the investigation conducted by , the Discipline Authority determined the evidence did not appear to substantiate allegation #2 of *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* by .

A prehearing conference was offered to with regard to allegation #1 and was held on October 3, 2017, before as the Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of:

#1 - *Discreditable Conduct - 1-Day Suspension*

A report following the prehearing conference was received at our office on October 3, 2017. In reviewing the investigation conducted by and considering all the relevant factors in this case the issuance of the one-day suspension in this case was considered to be on the low end for the range of outcomes for the substantiated allegation; however, it appeared to be within the acceptable range of appropriate discipline/corrective measures with respect to the circumstances. The agreement reached at the prehearing conference in relation to Allegation #1 was approved on October 17, 2017, and the resolution with regard to Allegation #1 was deemed to be final and conclusive.

Pursuant to section 117(1) of the *Police Act*, after reviewing the allegations and the alleged conduct in its entirety, the Police Complaint Commissioner (PCC) considered that there was a reasonable basis to believe that the decision of the Discipline Authority was incorrect with respect to the allegation #2, *Discreditable Conduct*, pursuant to section 77(3)(h) of the *Police Act*.

Therefore, pursuant to section 117(4) of the *Police Act* and based on a recommendation from the Associate Chief Justice of the Supreme Court of British Columbia, the PCC appointed The Honourable Judge Carol Baird Ellan, retired Provincial Court Judge, to review this matter and arrive at her own decision based on the evidence.

Following her review of the investigation conducted by [REDACTED], the Adjudicator, Ms. Baird Ellan, determined the evidence appeared to substantiate the following two allegations in relation to the alleged badging incident captured in allegation #2:

1. *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* by [REDACTED].
2. *Corrupt Practice* pursuant to section 77 (3)(c)(iii) of the *Police Act* by [REDACTED].

The Adjudicator suggested a range of discipline from advice as to future conduct up to and including transferring or reassigning the member within the Municipal Police Department. The Adjudicator precluded dismissal, reduction in rank and suspension as available disciplinary or corrective measures.

A prehearing conference was offered to [REDACTED] and was held on December 15, 2017, before [REDACTED] as the Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of:

- #1 - *Discreditable Conduct* - written reprimand.
- #2 - *Corrupt Practice* - written reprimand.

A report following the prehearing conference was received at our office on December 18, 2017. In reviewing the investigation conducted by [REDACTED] and considering all the relevant factors in this case, the Prehearing Conference Authority has appropriately considered the aggravating and mitigating factors pursuant to section 126.

It is my view that the discipline is within the range of appropriate discipline based on the circumstances. In this case, [REDACTED] was asked for identification, produced his police badge alone, and advised the [REDACTED] officers that was all the identification they needed adding, four times, that he was a police officer. [REDACTED] has already admitted to drinking too much that night, and [REDACTED] arranged counselling on his own initiative. [REDACTED] received a one-day suspension for the initial discreditable conduct allegation for his behaviour. [REDACTED] has accepted full responsibility for his actions, and is apologetic, both to the [REDACTED] members that responded to the call, and to the civilian that called the police. The intent of the Act is to consider an approach that seeks to

correct and educate the member concerned as long as that approach does not bring the administration of police discipline into disrepute. I do not believe that the discipline imposed here for the badging allegations, while on the low end of acceptability, would bring the administration of police discipline into disrepute. I think it is globally sufficient to adequately correct and educate.

Therefore, the agreement reached at the prehearing conference is approved and the resolution is final and conclusive. Our file with respect to this matter will be concluded upon receipt of confirmation that in accordance with the *Police Act*, any disciplinary or corrective measure imposed in relation to, or agreed to by, a member or former member, has been completed, and that their service record of discipline has been updated.



Investigative Analyst

cc: [REDACTED], Vancouver Police Department