

CONCLUSION OF PROCEEDINGS

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

OPCC File: 2017 - 13493
May 8, 2018

To: [REDACTED] (Complainant)

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

And to: The Honourable Judge Carole Lazar (Discipline Authority)
Retired Judge, BC Provincial Court

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

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

On June 1, 2017, the Office of the Police Complaint Commissioner (OPCC) received a registered complaint from [REDACTED] describing her concerns with members from the Vancouver Police Department.

[REDACTED] reported to our office that while she was in the rear lane, a vehicle was backing up towards her and her daughter, so she slapped the rear trunk of the vehicle to indicate her presence to the driver. The driver exited and [REDACTED] realized that it was a police officer. [REDACTED] self-disclosed to the member that she suffers from ADHD.

[REDACTED] tried to explain her perception of the situation and to inform the police members she suffers from ADHD. The members took custody of [REDACTED] and placed her in handcuffs. [REDACTED] stated that the members did not tell her why she was being arrested and she was subsequently transported to jail in a police wagon.

[REDACTED] was removed from the wagon at the jail and verbal words were exchanged between her and the VPD jail staff. [REDACTED]' biggest concern was the removal of her bra at the jail. She was wearing a white muscle shirt that was see-through. Jail staff advised her bra

was removed because she might be suicidal. [REDACTED] continued to advise the jail staff that she had ADHD. She reported that they told her not to use it as an excuse.

[REDACTED]' arm was sore because her arm was kept in the same position for a long time while wearing cuffs. The handcuffs were kept on while she was in a cell. [REDACTED] felt that the VPD jail staff might have been teaching her a lesson for being vocal and argumentative.

The allegations contained in [REDACTED]'s complaint were reviewed and the allegations concerning the arrest of [REDACTED], the use of handcuffs on [REDACTED] while she was incarcerated, the failure to inform [REDACTED] of the reason for her arrest, and the failure to provide medical assistance and adequate clothing to [REDACTED] were determined to be admissible and, accordingly, the complaint was forwarded to the Professional Standards Section of the Vancouver Police Department for investigation.

On January 15, 2018, [REDACTED], as the Discipline Authority, issued his decision pursuant to section 112. In his decision, [REDACTED] found all four allegations appeared to be unsubstantiated.

OPCC REVIEW

Pursuant to section 117(1) of the *Police Act*, the OPCC reviewed 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, in relation to the arrest of [REDACTED] by Constable [REDACTED] and Constable [REDACTED].

The allegations in relation to the use of handcuffs on [REDACTED] while she was incarcerated, the failure to inform [REDACTED] of the reason for her arrest, and the failure to provide medical assistance and adequate clothing to [REDACTED] were concluded, by way of a conclusion of proceedings, on March 9, 2018.

APPOINTMENT OF RETIRED JUDGE

On February 13, 2018, the PCC appointed a retired judge, to review the allegation of *Abuse of Authority* in relation to the arrest, pursuant to section 117(1) of the *Police Act* as he considered there was a reasonable basis to believe that the decision of the Discipline Authority was incorrect. 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, he appointed retired judge Carole Lazar to review this matter and arrive at her own decision based on the evidence.

On February 21, 2018, upon review of the report and the evidence and records referenced in it, retired judge Carole Lazar determined that the conduct of Constable [REDACTED] appeared to constitute misconduct. Subsequently, pursuant to section 117(9), retired judge Carole Lazar became the Discipline Authority in respect of this matter. Retired judge Carole Lazar offered a pre hearing conference to Constable [REDACTED], and the proposed disciplinary or correctives measures included advice to conduct up to and including a written reprimand.

The retired judge, the Honourable Carole Lazar, found that, on the evidence, it did not appear that Constable [REDACTED] was a party to the arrest. The Honourable Carole Lazar determined that the allegation of *Abuse of Authority* against her was not substantiated.

PREHEARING CONFERENCE

A prehearing conference was offered to Constable [REDACTED] and was held on April 24, 2018, before [REDACTED] as the Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of:

1 - *Abuse of Authority* - Advice to Future Conduct

A report following the prehearing conference was received at our office on April 25, 2018. 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. The disciplinary measure imposed at the prehearing conference is both correct and appropriate with respect to the circumstances.

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.

[REDACTED]

[REDACTED]
Investigative Analyst

cc. [REDACTED], Vancouver Police Department
[REDACTED], Vancouver Police Department