



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH: 2018-01
OPCC File: 2017-13492

NOTICE OF PUBLIC HEARING

Pursuant to section 138(1) *Police Act*, R.S.B.C. 1996, c.267

**In the matter of the Public Hearing into the Conduct of
Inspector John de Haas of the Vancouver Police Department**

To: Inspector John de Haas (#549) (Member)
c/o Vancouver Police Department
Professional Standards Section

And to: Chief Constable Dave Jones (External Discipline Authority)
c/o New Westminster Police Department
Professional Standards Section

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

WHEREAS:

Investigation

1. On June 1, 2017, the Office of the Police Complaint Commissioner (OPCC) received information from the Vancouver Police Department in relation to an incident which occurred on April 4, 2017.
2. According to the Vancouver Police Department (VPD), on April 4, 2017, a female Special Constable was volunteering, in uniform, at a graduation ceremony for new Special Constables at the Vancouver Police Department's 3585 Graveley Street location.
3. After escorting guests to the ceremony, the Special Constable stood in the atrium speaking with other Special Constables. She reported that Inspector John de Haas, who was also in uniform at the time, walked up behind her, pulled her hands out of her pockets by her forearms, said words to the effect of "Don't put your hands in your pockets" and then slapped her on the right buttock with an open palm.

Stan T. Lowe
Police Complaint Commissioner

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4. She advised that Inspector de Haas acknowledged that he should have not done what he did and that he offered an apology. She further recounted that later in the evening, she was speaking with another Special Constable, the Training Supervisor at the Vancouver Jail, when Inspector de Haas approached to say goodbye to that Special Constable. She reported that Inspector de Haas made a comment along the lines of “we almost had a sexual harassment issue.” She had already informed the other Special Constable about the incident involving Inspector de Haas.
5. On June 6, 2017, after reviewing the information provided by Deputy Chief Constable Steve Rai of the Vancouver Police, I was of the opinion that the conduct alleged against Inspector John de Haas, if substantiated, would constitute misconduct. Specifically, the misconduct alleged was as follows:
 - i) *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 Inspector de Haas slapped a female Special Constable on the right buttock with an open palm at an official Vancouver Police Department event.
6. In addition, I was of the opinion that it was necessary in the public interest that the alleged misconduct as described above be investigated by an external police force, pursuant to section 93(1)(a) and section 93(1)(b)(ii) of the *Police Act*. I confirmed that the New Westminster Police Department would conduct the external *Police Act* investigation, and that Chief Constable Dave Jones would appoint an investigating officer to conduct the investigation.
7. Furthermore, pursuant to section 135(1) of the *Police Act*, any time after an investigation has been initiated into the conduct of a member or former member of a municipal police department, the Police Complaint Commissioner may designate a senior officer of another municipal police department to exercise the powers and duties of an external Discipline Authority, if the Commissioner considers it necessary in the public interest.
8. Based on a review of the information received by this office, I considered it necessary in the public interest that a person other than the Chief Constable of the Vancouver Police Department or their delegate be the Discipline Authority in relation to this matter.
9. Therefore, pursuant to section 135(1) of the *Police Act*, in substitution, I designated Chief Constable Dave Jones of the New Westminster Police Department to exercise the powers and perform the duties of a Discipline Authority in relation to this matter.
10. New Westminster Police Professional Standards investigator, Inspector Todd Matsumoto, conducted an investigation into this matter and on December 6, 2017, he submitted the Final Investigation Report to the Discipline Authority.

11. On December 12, 2017, following his review of the FIR, the Discipline Authority notified Inspector de Haas that a discipline proceeding would be held in relation to the substantiated allegation, namely *Discreditable Conduct*.
12. On February 21, 2018, following the discipline proceeding, and after considering the available evidence and submissions, the Discipline Authority made the following determinations in relation to the allegations:
 - (i) That on April 4, 2017, Inspector John de Haas, committed the disciplinary default of *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 a municipal police department. Specifically, that Inspector de Haas slapped a female Special Constable on the buttock with an open palm at an official VPD event.

Proposed Disciplinary Measure – five (5) days suspension from duty, without pay, based on an 8 hour working schedule; and undertake refresher training in respectful conduct in the workplace practice.
13. Inspector de Haas was provided a copy of Chief Constable Jones' finding in relation to the allegation of misconduct at the discipline proceeding. Inspector de Haas was informed that if he was aggrieved by the finding, he could file a written request with the Police Complaint Commissioner (PCC) to arrange a Public Hearing or Review on the Record.
14. On March 1, 2018, our office received a request from Inspector de Haas that the Police Complaint Commissioner exercise his authority to arrange a Review on the Record pursuant to the *Police Act*. Within the request, Inspector de Haas raised concerns with respect to the adequacy of the investigation and bias on behalf of the Discipline Authority. It is noted that Inspector de Haas did not raise these concerns earlier in the proceedings.
15. After reviewing the proceedings, the only witness who has provided testimony was Inspector de Haas. The Discipline Authority did not have the benefit of hearing evidence from other material witnesses, including the SMC directly affected. Pursuant to the *Police Act*, unless the member whose conduct is the subject of the proceeding initiates a request to call witnesses to testify in the proceeding, there is no other mechanism to allow for the participation of material witnesses. In this case, Inspector de Haas did not exercise his right to request permission to question witnesses.
16. In my view, accountability of the disciplinary process and the ability to search for the truth have been hampered. In addition, as the member's request indicates that the record is inadequate, a Review on the Record is not the appropriate form of adjudicative review for this matter but rather a Public Hearing. During a Public Hearing, Inspector de Haas can introduce evidence, examine/cross-examine witnesses and make submissions, which will allow him the opportunity to address his concerns with the prior proceedings.

17. Pursuant to section 138(1) of the *Police Act*, the Police Complaint Commissioner must arrange a Public Hearing if the Police Complaint Commissioner considers there is a reasonable basis to believe that the Discipline Authority's findings under section 125(1) of the *Police Act* are incorrect or if the Police Complaint Commissioner considers that a Public Hearing is necessary in the public interest.

Decision

18. Having reviewed the investigation, the discipline proceeding and associated determinations, pursuant to section 138 of the *Police Act* I have determined that a Public Hearing is necessary in the public interest. In determining that a Public Hearing is necessary in the public interest, I have considered several relevant factors, including but not limited to the following:
 - a) The complaint is serious in nature as the allegation involves a significant breach of the public trust;
 - b) The conduct has violated, or would be likely to violate a person's dignity, privacy, or other rights recognized by law;
 - c) There is a reasonable prospect that a Public Hearing will assist in determining the truth;
 - d) There is an arguable case that can be made that the discipline or corrective measures proposed are inappropriate or inadequate;
 - e) A Public Hearing is required to reserve or restore public confidence in the investigation of misconduct and the administration of police discipline.
19. Accordingly, pursuant to sections 137(1) and 143(1) of the *Police Act*, I am arranging a Public Hearing. Pursuant to section 143(2) and (3) of the Act, the Public Hearing is a new hearing concerning the conduct of Inspector de Haas and is not limited to the evidence and issues that were before the Discipline Authority in the discipline proceeding. Public Hearing Counsel must present to the adjudicator the case relative to each allegation of misconduct against Inspector de Haas.
20. The information from the investigation provides the foundation for an allegation that Inspector de Haas inappropriately touched a female Special Constable. It is therefore alleged that Inspector de Haas committed the following disciplinary default, pursuant to section 77 of the *Police Act*:
 - (i) That on April 4, 2017, Inspector de Haas, 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.

21. Pursuant to section 143(5) of the *Police Act*, Public Hearing Counsel, Inspector de Haas, or his legal counsel and commission counsel may:

- a) call any witness who has relevant evidence to give, whether or not the witness was interviewed during the original investigation or called at the discipline proceeding;
- b) examine or cross-examine witnesses;
- c) introduce into evidence any record or report concerning the matter; and
- d) make oral or written submissions, or both, after all of the evidence is called.

22. Pursuant to section 143(3) of the *Police Act*, a Public Hearing is not limited to the evidence and issues that were before a Discipline Authority in a discipline proceeding.

THEREFORE:

23. A Public Hearing is arranged pursuant to section 137(1) and 143(1) of the *Police Act*.

24. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, the Honorable Carol Baird Ellan, retired Provincial Court Judge, is appointed to preside as adjudicator in these proceedings, pursuant to section 142(2) of the *Police Act*. Dates for the Public Hearing have not yet been determined. The Public Hearing will commence at the earliest practicable date.

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

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DATED at the City of Victoria, in the Province of British Columbia, this 29th day of March, 2018.



Stan T. Lowe
Police Complaint Commissioner