

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

**Submissions of Public Hearing Counsel, Bradley Hickford**

1. The allegations against Inspector de Haas are set out as follows:
  - (i) that on April 4, 2017, Inspector de Haas, committed discreditable conduct pursuant to s. 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.
  
2. The Public Hearing commenced on July 25, 2018 and continued for the additional dates of July 26, 27 and 30, 2018. There was testimony provided by eight witnesses. This tribunal made an order for a ban on publication of the names of all of the officers who were presented by Public Hearing Counsel to provide evidence. The witnesses presented by Public Hearing Counsel were as follows:
  - (i) Constable A;
  - (ii) Constable B;
  - (iii) Constable C;
  - (iv) Constable D;
  - (v) Constable E;
  - (vi) Constable F;
  - (vii) Constable G.
  
3. In addition, Inspector de Haas chose to testify and was called by his counsel, Mr. McIntyre, to provide evidence.
  
4. There were 11 exhibits that were entered throughout the course of the proceedings which included Exhibit 8 which is a book of documents that contains all of the information that was authored by, or related, to each of the witnesses that testified. This included their duty statements as well as a transcription of their interviews which were conducted by the

investigating officer, Constable E. Also included are copies of text messages that passed between Constable A and Constable G as well as texts between Constable Stamatakis and Constable G. Included in the materials related to Inspector de Haas, in Exhibit 8 are copies of an email he sent to all Inspectors in the Vancouver Police Department on June 9, 2017.

5. The balance of the exhibits were photographs. The first set of photographs were of the atrium which hosted the graduation ceremony where the incident occurred on April 4, 2017. Each of the witnesses was shown this series of six photographs and asked questions about where people were located when the incident took place. There was also another set of photos filed by counsel for Inspector de Haas, Mr. McIntyre, which were official photographs that were taken at the graduation ceremony of April 4, 2017.
6. The legal test for determination as to whether or not the allegation has been proven is, of course, on the balance of probabilities. In my respectful submission, the issues of both credibility and reliability are important factors to be considered. In addition, the issue of motive is of particular importance in consideration of both of those principles.
7. It is my respectful submission, that when careful consideration of the evidence is given, keeping those concepts in mind, you should have no hesitation in concluding that Inspector de Haas did commit the disciplinary default alleged, as described by Constable G and confirmed by much of the other surrounding evidence that came in the form of the testimony of the other witnesses. Inspector de Haas' version of the events, simply put, is not supported by any of the evidence that was provided by the other witnesses.
8. Normally I would have called the complainant, Constable G, as the first witness. However, she ended up being the last witness that was called by Public Hearing Counsel due to scheduling issues; having said that, I will begin by referencing her evidence first.
9. Constable G was a [REDACTED] who had worked in the Vancouver Police Department jail under the command of Inspector de Haas for approximately five years as of April 4, 2017. She was in the process of making application to become a regular Constable with the Vancouver Police Department and was very close to learning whether or not she was going to be accepted within the Police Department as a regular Constable. She was in attendance at a graduation ceremony on a volunteer basis assisting in the setting up of

tables and chairs and the setting out of food for guests, graduates, and other police members who were in attendance for the ceremony. While it is not clear as to the exact time these events took place, I think it is safe to say that it was during the early evening hours of April 4, 2017 and Constable G's participation and attendance would have been over a two to three hour period of time.

10. Constable G testified that after she and other Special Constables had set up the tables and chairs, they were standing in a group talking. She testified that she was standing with Special Constable B and Constable C but did not remember seeing Constable E there.
11. Constable G stated that while standing within that group chatting, she had inadvertently placed her hands in her pockets. She testified that somebody came up behind her and pulled her hands out of her pockets by grasping her forearms, lifting her hands out and placing them by her side. She said at that same time she heard a voice saying, "We don't put our hands in our pockets." She recognized that voice as being Inspector de Haas who was her Commanding Officer. She testified that at the same time as Inspector de Haas was saying that, he slapped her on her right buttock with the open palm of his right hand. She was shocked by this and turned and looked at him. She stated that Inspector de Haas said, "I probably shouldn't have done that" and that she replied, "No, probably not." He then said, "Sorry" and she said, "Okay, I'm going to ignore you now." She testified that she wasn't sure if he heard her last comment.
12. Constable G told this tribunal that she was upset by this and that she asked both Constables B and C as to whether they had seen what had just occurred. Constable B indicated that he did and Constable C did not see what had happened.
13. Constable G testified that as she was upset she left the group, attended to the cloak room where they had left their personal belongings and retrieved her cell phone wherein she sent a text to Constable A who was both her direct supervisor and her friend, stating that Inspector de Haas had just slapped her on the ass. There was a series of comments to and from her and Constable A referring to the incident with some comments that were of a humorous nature.

14. Constable G testified that the period of time she was in the cloakroom, exchanging texts was approximately five minutes and that she then attended back to her duties at the ceremony. The last text that is depicted in the attached materials in Exhibit 8 is confirmatory of her description as to the texts that were sent and the time frame when she returned to her volunteer duties.
15. She testified that the ceremony began a short time later and that at the conclusion of it, she was standing with a group of people. Those people were the same peers she was standing with earlier but in addition Constable D, who is another supervisor, was present.
16. Constable G stated that Inspector de Haas came up to their group to say goodbye to Constable D and made some comment in the nature of "Did Constable G tell you that we almost had a sexual harassment issue?"
17. Constable G's testimony also outlines the struggle that she had in deciding what she should do about the incident. While she did not consider it to be sexual in nature, she thought it to be highly inappropriate and upsetting. She testified that it was as if she had received a spanking from Inspector de Haas because she had been bad.
18. Constable G did not discuss the incident with numerous people that she worked with but confined her discussion of it to her immediate supervisor, Constable A and three other Sergeants that she knew in a supervisory capacity. In addition, she of course, discussed it with her husband.
19. Ultimately, she was put into contact with Constable Tom Stamatakis who is the union agent for the Vancouver Police Department. He discussed with her what her options were and she testified that essentially she had two options. The matter could be dealt with informally and would not be documented or it could proceed in a formal manner wherein in which it would be documented and there would be a record of it.
20. Constable G testified that even though she was concerned that going forward in the formal manner might affect the probability of whether or not she was hired and might even affect her progression through her career, she believed that it needed to be dealt with in a formal way so that it was documented with the hope that others would not be placed in the same position.

21. In my respectful submission, Constable G was a very believable witness who testified in a forthright and honest manner. She did not have any motive whatsoever, to make up any aspects of what occurred during the incident. She was unshaken in cross-examination and was clear and consistent in her evidence no matter how many times she was asked about the particular aspects of what had occurred. It is also important to remember that she testified that four days after the incident happened she decided to make notes of exactly what had occurred and exactly what had been said. Those notes are provided within Exhibit 8 attached to the materials that related to her. It was ultimately from those notes that she provided her duty statement at the direction of Constable F.
  
22. None of the other witnesses made any notes or written description of this matter which occurred on April 4, 2017 until they were directed to provide a duty report by Constable F on July 17, 2017. It is therefore not surprising that their recollection and description of events is not as detailed and accurate as Constable G's. Additionally, it is also explanatory of the fact that there are some differences in their recall and description of the events. These differences include somewhat different locations as to where the group was standing when the incident occurred, a somewhat different version of the events as to when Constable G asked them if they had seen what just occurred, and different recollections as to whether or not the guests had been brought into the atrium yet.
  
23. It is my respectful submissions that these differences are of a very little moment. They are not significant in any sense of discrediting or discounting the reliability or credibility of Constable G's evidence. The crux of all the testimony of the witnesses clearly support that the incident occurred as Constable G described it. Even though Constable C did not see anything happening, he did hear something and turn to look at Constable G and notice a shocked look on her face. Constable B was very clear that he had seen the event occur. While he testified that the conversation where Constable G asked the group if they had seen what had just occurred happened at a different location than the atrium, there is nothing to suggest that his evidence regarding his observations of the actual incident is in any way compromised. He was certain that he had seen the incident as described by Constable G and even told her he would provide a statement setting out what he had seen.

24. Constable G did not recall seeing Constable E there. Constable E told this tribunal that she did observe Inspector de Haas come up behind Constable G and pull her hands out of her pockets and place them by her side. She did not see Inspector de Haas slap Constable G on her right buttock but testified that Constable G was in between her and Inspector de Haas, that she was some 60 feet away and that she only briefly saw the action of Inspector de Haas removing Constable G's hands from her pockets and then had her attention drawn away. Cst. E also testified that Constable G appeared upset.
25. Constable D testified that after the ceremony was over, Constable G told her what had happened. She testified that Constable G was upset and that when Constable G told her what Inspector de Haas had done, that the others in the group, being Constables B, C and E, all looked at Constable D and demonstrated confirmatory body language that the event as described by Constable G had indeed occurred.
26. While Constable D did not recall Inspector de Haas saying anything about almost having a sexual harassment or H/R incident, she testified that she had a very limited recall of the events on the night in question. Once again, she did not make any notes and did not provide a duty statement until she was directed to do so by Constable F on July 17, 2017.
27. Constable B did recall Inspector de Haas making a comment of a similar nature to that described by Constable G regarding almost having a sexual harassment or H/R incident.
28. It is of significant importance that all of the witnesses that I have just referred to did not have any motive or reason to lie, exaggerate, or enhance their evidence. All of those witnesses were very credible in the giving of their testimony and while an argument could be made with respect to some aspects of reliability, it is very clear that they were all aware that Constable G had a shocked and startled look on her face as a result of whatever Inspector de Haas had done to her. They are also clear that almost immediately after the incident occurred, Constable G told them exactly what Inspector de Haas had done and asked them if they had seen the incident. It is of significant importance that the text messages that have been placed before this tribunal within Exhibit 8 are confirmatory of the

testimony of Constable G that she was upset by the incident and, as such, left the atrium, went into the cloakroom and sent a text to her immediate supervisor and friend, stating that "de Haas just slapped my ass."

29. Constable F testified. He was assigned by Chief Constable Jones of the New Westminster Police Department to investigate this allegation of misconduct. There had been an External Investigation ordered by the OPCC on June 6, 2017. Constable F completed his Final Investigation Report ("FIR") and that report is also contained within Exhibit 8. Constable F took this tribunal, chronologically through the investigative steps that he took in ensuring that there was a complete and full investigation conducted in this matter. As can be seen in the index at the outset of his FIR, the times and dates of when he directed police members to provide duty statements and conducted the interviews are set out.
30. Constable F also provided as an attachment to the FIR, the notes of Deputy Chief Chow of June 7, 2017 which reference the fact that Inspector de Haas was told that an External Investigation had been ordered and was provided with copies of those documents.
31. Inspector de Haas testified. It is my respectful submission that this tribunal should have serious concerns with respect to both his credibility and the reliability of his testimony.
32. Inspector de Haas made it clear in his testimony that he has very little respect for this process and demonstrated, in my respectful submission, apparent disdain for the whole process of the investigation, from the time when the order for External Investigation was made on June 6, 2017, right up through the present Public Hearing. His insistence that even if Cst. G's testimony was both truthful and correct, that this still is not a matter of misconduct that should be dealt with under the *Police Act* is troubling. Inspector de Haas' level of arrogance was palpable, almost to the point of demonstrating that he believes that he is not accountable to this tribunal.
33. His belief that this matter is an issue properly dealt with as a labour issue shows his lack of regard for the level of seriousness of his actions.
34. Inspector de Haas' version of events places him as coming into the atrium and seeing Constable G standing with her hands in her pockets. He testified that he saw this as

an act of disrespect for the importance of department and representation of the VPD. As such, he became so irritated that he was compelled to approach Constable G and, in his words, "I got behind her and squared myself up". He then testified that he then removed her hands from her pockets, placed them by her side and that she turned her head to look at him. He said he looked back at her, smiling and told her "We don't put our hands in our pockets" and tapped her on the right hip which he demonstrated from the witness box as using one finger in a tapping motion.

35. Inspector de Haas testified that he immediately recognized that the tap may have been taken out of context and so he spoke the words, "I probably shouldn't have done that." He testified that he did not see Constable G and Constable D later, and utter words to the effect that "we almost had a sexual harassment issue."
36. Inspector de Haas was cross-examined at length both by myself, as Public Hearing Counsel, and Mr. Underhill as Commission Counsel. In my respectful submissions, both of those cross-examinations amply demonstrate both his willingness to alter his evidence to support his version of events and also show that he clearly has a motive to be less than truthful. At the outset of my cross-examination I put to Inspector de Haas that he could have simply walked up to Constable G and told her to remove her hands from her pockets. His explanation as to why he did not do that but rather chose to walk up behind her and pull her hands out of her pockets and place them by her sides and then tap her, was less than satisfactory. He viewed what he did as less of a "big deal" than just telling her to take her hands out of her pockets. In my respectful submission, even if Inspector de Haas had not completed the second act of either tapping Constable G on the hip or slapping her on the right buttocks, it was not acceptable for him to approach her from behind and remove her hands from her pockets and place them by her side as he did.
37. One of the most troubling aspects of Inspector de Haas' testimony was the major shift in his evidence with respect to the 5 to 10 minute social conversation he described occurred in his in his transcribed statement of November 9, 2017. In that statement, he referenced that conversation as occurring with Constable G immediately after the physical actions of the incident were complete. He testified in this hearing that, while he had earlier thought that this occurred, he now realized that it was not Constable G he was having this 5 to 10 minute social chat with, but somebody else whose name he could not remember. Under cross-examination by myself, I referred him to at least a half a dozen locations within



the transcript of that statement wherein he said that it was as a result of him having the 5 to 10 minute social conversation with Constable G that he was assured that she had not taken any offence with his actions. As such, he did not feel the need to apologize. If you read the transcript of Constable de Haas' interview of November 9, 2017 which is contained within Exhibit 8, it becomes apparent that his whole explanation of the event and the fact that it could not have happened the way Constable G describes it, is based on his repeated reference to the 5 to 10 minute social conversation that occurred between he and Constable G immediately after the incident. He references that conversation throughout his statement as the genesis for his explanation of innocence. At this hearing he now says this conversation never occurred. This is a clear demonstration of why his evidence is not either credible or reliable.

38. It is also troubling that when I cross-examined him on the reasons that he had for making the comments about Constable A being gay when asked about the text references to ██████ that occurred between Constable A and Constable G, he told this tribunal that what he meant was that it was Constable A putting her own fantasy thoughts towards ██████ forward. Ultimately, when I suggested to him that those comments were simply a visceral reaction to the texts, he agreed. In my submission, that is telling because the evidence also establishes the same sort of visceral reaction that Inspector de Haas had when he saw Constable G standing with her hands in her pockets and approached her from behind, doing the actions that she testified he did. He simply couldn't help himself and touched her in the manner she described.
39. It was also apparent that when being cross-examined by Commission Counsel, Mr. Underhill, Inspector de Haas' evidence establishes that he does have a motive to be less than truthful and deny the one part of the incident that would be most damaging to his 40 year legacy as a Vancouver Police officer.
40. Section 101 of the *Police Act* clearly requires that a member must fully cooperate with an Investigating Officer who is conducting an investigation under the *Act*. One of those requirements is to provide the investigating officer with a written statement in respect of matters relevant to the investigation when directed to do so. Section 101(5) also clearly states that such a request must be complied with within five business days after it is made. Constable F testified that he made that request on July 17, 2017 but did not receive that document until three months later. Constable F took this tribunal

through the chronology of events wherein he made repeated requests that the duty statement be provided to him.

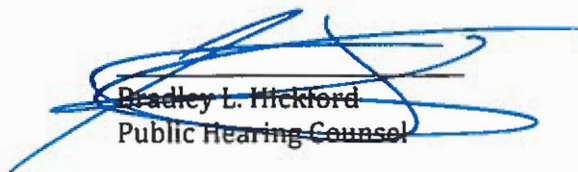
41. Inspector de Haas testified that as a result of stress and his efforts in obtaining legal counsel, he did not provide the document in a timely manner. It is significant to note that when you read the duty statement that he finally provided by email on October 17, 2017, it is an apparent cut and paste from the email that he sent to all Vancouver Police Department Inspectors on June 9, 2017 describing his version of the events. Both of those documents are contained in Exhibit 8. In my respectful submission his explanation is less than satisfactory and further demonstrates his lack of respect for the whole process.
42. The sending of that email, a copy of which is contained in Exhibit 8, also demonstrates Inspector de Haas' lack of respect for the investigation. Inspector de Haas was cross-examined on the fact that he knew that the External Investigation had been ordered and that he nevertheless sent that email to all 27 Inspectors within the Vancouver Police Department inviting them to disseminate it amongst all members of the police force. In my respectful submission, my cross-examination of Inspector de Haas as to whether or not he was concerned that this might be an obstruction of justice or interference with the investigation demonstrates his level of arrogance and belief that he should not be accountable to this tribunal. All police officers have a high standard in relation to providing information with the context of legal proceedings. Certainly the providing of a false statement in an administrative investigation would be a serious matter. One would expect that this standard is of an even more significant nature when dealing with an Inspector who testified that he has acted as a Discipline Authority under the *Police Act* in the past on 120 occasions. It is also my submission that Inspector de Haas had a duty of integrity with respect to these investigative proceedings and that he has effectively thumbed his nose at them.
43. The sending of that email by Inspector de Haas could well have, and in my respectful submission, should have resulted in a second allegation of misconduct. Constable F told this tribunal that when he became aware of the email he was concerned that the integrity of his investigation could be compromised.
44. Inspector de Haas sent that email as a deliberate action with the intention of getting his version of events circulating within the Vancouver Police Department community as soon as

he learned that an External Investigation had been ordered by the Police Complaints Commissioner.

45. He told this tribunal that on June 7, 2017 when he was pulled from his job site and directed to attend to the office of his superiors and told about the order, he considered the matter to be a serious allegation of a sexual nature.
46. In my submission, if the sending of the email was not an attempt of obstructing justice, it was very close. It certainly had the potential to interfere with and compromise the investigation which clearly forms part of these legal proceedings.
47. The act of sending that email casts dark a pall over any evidence offered by Inspector de Haas, and as such, leaves very little weight to be attached to the reliability or credibility of his testimony.
48. In my respectful submission, both the manner in which Inspector de Haas testified and the changes demonstrated in his evidence through cross-examination, further reflect on both the level of credibility and reliability that this tribunal should assign to his testimony.
49. Where Inspector de Haas' evidence conflicts with the evidence of Constable G his version of events should be rejected and Constable G's version accepted. I make this submission based on the fact that Constable G's version of events is largely corroborated by the other witnesses and that she had no motive to fabricate anything. Inspector de Haas, on the other hand, has a strong motive to be less than truthful.
50. Both the changes in Inspector de Haas' evidence and his demonstrated lack of respect for these proceedings support your determining that the allegation of misconduct has been proven on a balance of probabilities.

All of which is respectfully submitted.

Dated this 2<sup>nd</sup> day of August, 2018.

  
Bradley L. Hickford  
Public Hearing Counsel