

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
RE: Appropriate Disciplinary or Corrective Measures

1. On August 27, 2018 this tribunal provided Reasons substantiating two allegations of discreditable conduct as against Inspector de Haas.
2. The Reasons were provided after the hearing of evidence on the Public Hearing on July 25, 26, 27 and 30, 2018 and after hearing submissions from Public Hearing Counsel, Commission Counsel and counsel for Inspector de Haas.
3. While the Notice of Public Hearing only enumerated one allegation of discreditable conduct, this Tribunal concluded, after hearing evidence and submissions that an additional allegation of misconduct was also substantiated.

[74] I find that the Member committed discreditable conduction under Section 77(3)(h) of the *Police Act* in physically disciplining the Complainant by removing her hands from her pockets, and also by smacking or slapping her on the buttocks, conduct which he knew or ought to have known would likely bring discredit on his department.

[75] I also find that the Member committed discreditable conduct by disseminating an email in which he identified and contradicted the Complainant when he knew there was a *Police Act* investigation pertaining to her complaint, conduct which he knew or ought to have known would likely bring discredit on his department.

4. The matter was then adjourned over to September 19, 2018 for the purpose of considering the appropriate disciplinary or corrective measures in accordance with s. 126 of the *Police Act*. This section of the Act makes reference to a number of possible disciplinary or corrective measures ranging from dismissal at the upper end all the way down to advice as to the Member's conduct at the lower end. S. 126(2) directs that there should be consideration given to both aggravating and mitigating circumstances in the determination of the appropriate disciplinary or corrective measures. These are enumerated (a) through (h) and, in my respectful submission, are of important consideration in a determination of the disposition of the substantiated allegations of misconduct in this case.

5. It is significant that this Tribunal not only concluded that the Complainant's version of events was to be completely accepted but that the Member's version of events was to be completely rejected. This Tribunal stated that the case clearly turned on credibility and concluded as follows:

The Member's version of events and subsequent characterizations of the incident are simply not credible. (Paragraph 64)

6. Furthermore, regarding the Member's change in his evidence with respect to his engaging in social conversation with the Complainant for several minutes after the incident, this Tribunal found as follows:

I am satisfied that his statements about the subsequent conversation were no more than self-serving contrivance. (Paragraph 63)

7. This is in reference to the change in his evidence about those portions of his statement where he relied on the subsequent conversation as the genesis for his version of events. It was only after he realized that those statements would not stand up in the face of all of the other witnesses' evidence that he abandoned that explanation which he had referenced on numerous occasions throughout his statements.
8. These are important factors when considering the purpose of s. 126(2) regarding aggravating and mitigating circumstances. The Member is an Inspector with 40 years' experience and, as such, there is an expectation that his conduct must be of a measured high standard. This is particularly so given the Member's own evidence that he served as a Discipline Authority on numerous *Police Act* proceedings. As such he should have a clear understanding of his duty of integrity not only to the investigation but to the process of the Public Hearing as well.
9. This Tribunal concluded that not only was the allegation of misconduct in the form of Inspector de Haas slapping the Complainant's buttocks made out, it also concluded that Inspector de Haas made untruthful and false statements in an attempt to avoid responsibility for those actions.

10. Furthermore, it is of even greater significance that this Tribunal substantiated a second allegation of discreditable conduct with respect to the Member sending out an email to all other Inspectors wherein he named the Complainant and placed his version of events within the content of that email.
11. In addition, it has been established that he invited all of the Inspectors to disseminate the contents of that email as they saw fit to the general Membership of the Vancouver Police Department as he did not want rumours to be circulating but wanted to get his version of events out as soon as possible.
12. This particular act is of an even more serious nature than the act of the physical discipline he administered to the Complainant.
13. The Member was advised on June 7, 2017 that an investigation had been ordered pursuant to the *Police Act* and was also advised of the contents of s. 86 of the *Police Act* which states as follows:

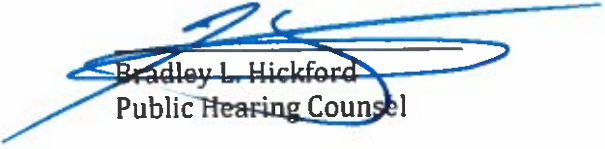
86(1) A person must not harass, coerce or intimidate any other person in relation to any complaint or report concerning the conduct of a Member or former Member under this Part.
14. Despite his past experience as a Discipline Authority in matters under the *Police Act* and the fact that his superiors had reminded him and warned him about s. 86 of the *Police Act*, the Member deliberately sent out the email on June 9, 2017 that is the subject of the second allegation of misconduct.
15. In my submissions regarding substantiation, I stated that this action on the part of the Member, if not an obstruction of justice, was very close to the line.
16. Certainly, given the fact that the Member was the Complainant's commanding officer and was providing a direct contradiction to her complaint in the form of that email, was something that he ought to have known would have a chilling effect on whether or not she would want to go forward with the complaint in a formal manner. In my respectful submission, this was calculated to interfere with the investigation.

17. In considering the enumerated aggravating and mitigating circumstances as set out in s. 126(2), it is my submission that while both allegations of misconduct are of a serious nature, the sending of the email is of a significantly more serious nature than the act of physical discipline.
18. Another factor that I ask this Tribunal to consider is s. 126(2)(e) which speaks to whether or not the Member has accepted responsibility for his misconduct and is willing to take steps to prevent its recurrence. In my respectful submission, it was clear throughout the process of this Public Hearing that Inspector de Haas had very little respect for either the investigation that was conducted under the *Police Act* or the actual Public Hearing that took place. He maintained, even at the time of his providing testimony, that this was a matter that should be not be dealt with under the *Police Act* but was something that should be dealt with through human resources as a labour issue.
19. I recognize that Inspector de Haas has been a Member of the Vancouver Police Department for 40 years and has a relatively unblemished service record. Were it not for that, I would be asking this Tribunal to consider his dismissal given the seriousness of the substantiated allegations of misconduct. I do, however, take the position that it would be appropriate to reduce the Member's rank, particularly given the substantiation of the second allegation of misconduct.
20. It must not be lost on this Tribunal that the Member is in a position of leadership and, as such, there is a high standard of integrity placed upon him. It would be inappropriate, in my respectful submission, for him to remain as an Inspector given this Tribunal's conclusions that he not only was less than truthful under oath, but that his testimony was contrived and of a self-serving nature. This speaks not only to his fitness to provide leadership by way of example but also to his moral blameworthiness. He used his position of authority in an effort to interfere with the investigation.
21. In my respectful submission it is important that the imposition of disciplinary or corrective measures in this particular case send a strong message that discreditable conduct such as that which has been substantiated in this case, will be taken most seriously and dealt with in a manner that demonstrates zero tolerance of such behaviour.

22. In conclusion, I submit that there should be a significant period of suspension with respect to the first substantiated allegation and that the Member's rank should be permanently reduced as a result of the second substantiated allegation.

All of which is respectfully submitted.

Dated this 11th day of September, 2018.



Bradley L. Hickford
Public Hearing Counsel