

In the Matter of the Public Hearing into the Conduct of Inspector John de Haas (#549)
of the Vancouver Police Department

Before: Adjudicator Carol Baird Ellan

SUBMISSIONS OF THE RESPONDENT, INSPECTOR JOHN DE HAAS

Madam Adjudicator after hearing the evidence presented in the hearing found the member committed discreditable conduct (i) by removing Constable G's hands from her pockets without consent; (ii) by slapping her on the buttock at the same time; and (iii) by sending the email of June 9 to his fellow inspectors regarding the incident.

As public hearing counsel and counsel for the OPCC have pointed out, Inspector De Haas has hitherto had a 40 year unblemished record of service with the Vancouver Police Department. He has served the public with integrity for 40 years – policing every corner of Vancouver, in many different roles and ranks. He does have *Police Act* expertise as he was the elected Vancouver Police Union president from 1988 to 1996 – where during that time he met with Wally Oppal on many occasions and was a major contributor in the crafting of the contemporary *Police Act*. He collaborated on what he thought was a process that provided a fair, objective, and reasonable review of police officers provision of services to the public and yet provided for matters not affecting the public to be dealt within the municipal force. It is because of his knowledge of the *Police Act* from its inception, the VPD internal processes and his knowledge of conflict management that he perceived there were other processes to deal with Constable G's issues with him which could have been utilized. This is not contempt for the OPCC process.

The *Act* states:

126 (1) After finding that the conduct of a member is misconduct and hearing submissions, if any, from the member or her or his agent or legal counsel, or from the complainant under section 113 [complainant's right to make submissions], the discipline authority must, subject to this section and sections 141 (10) [review on the record] and 143 (9) [public hearing], propose to take one or more of the following disciplinary or corrective measures in relation to the member:

- (a) dismiss the member;
- (b) reduce the member's rank;
- (c) suspend the member without pay for not more than 30 scheduled working days;
- (d) transfer or reassign the member within the municipal police department;

- (e) require the member to work under close supervision;
- (f) require the member to undertake specified training or retraining;
- (g) require the member to undertake specified counselling or treatment;
- (h) require the member to participate in a specified program or activity;
- (i) reprimand the member in writing;
- (j) reprimand the member verbally;
- (k) give the member advice as to her or his conduct.

(2) Aggravating and mitigating circumstances must be considered in determining just and appropriate disciplinary or corrective measures in relation to the misconduct of a member of a municipal police department, including, without limitation,

- (a) the seriousness of the misconduct,
- (b) the member's record of employment as a member, including, without limitation, her or his service record of discipline, if any, and any other current record concerning past misconduct,
- (c) the impact of proposed disciplinary or corrective measures on the member and on her or his family and career,
- (d) the likelihood of future misconduct by the member,
- (e) whether the member accepts responsibility for the misconduct and is willing to take steps to prevent its recurrence,
- (f) the degree to which the municipal police department's policies, standing orders or internal procedures, or the actions of the member's supervisor, contributed to the misconduct,
- (g) the range of disciplinary or corrective measures taken in similar circumstances, and
- (h) other aggravating or mitigating factors.

(3) If the discipline authority considers that one or more disciplinary or corrective measures are necessary, an approach that seeks to correct and educate the member concerned takes precedence, unless it is unworkable or would bring the administration of police discipline into disrepute.

The physical contact with Constable G was brief, certainly less than a minute and was disciplinary in nature and not sexual. It is ironic that in correcting what he perceived to be a lapse in the demeanour of the Special Constable that he perceived might reduce the perception of the Vancouver Police Department in the eyes of the public, that he himself committed an act(s) that did so.

Inspector De Haas is at the tail end of his career. He is 68 years of age. There is no likelihood of any recurrence on his part. Because he is at the tail end of his career the implication from Public Hearing Counsel and OPCC counsel submissions is that disciplinary or corrective measures that seek to correct and educate the member would be a waste of time. Inspector De Haas has suffered embarrassment as a result of your findings in this case. You found his version of the events to be self-serving and not believable. His reputation has been irretrievably tarnished. He will never have the opportunity to rehabilitate that reputation.

There are no precedent cases that I have been able to find and none referred to by other counsel that deal with the nature of the disciplinary faults in this case. The cases I did find that involved demotion in rank involved criminal breaches of the law and abuse of authority by police officers with a record of prior discipline issues. It is not necessary in our submission to deter other officers from similar conduct to impose such a sanction in this case.

The Notice of Public Hearing in this matter that was ordered on March 29, 2018 alleged that inspector De Haas inappropriately touched a female Special Constable, thereby committing a disciplinary default under s. 77 of the *Police Act*. The offence was particularized as:

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.

While the Notice of Public Hearing stated in para. 22 that the Public Hearing would not be limited to the evidence and issues that were before a Discipline Authority, It was only during the course of submissions by the Public Hearing and OPCC counsel that it was alleged that it was also a disciplinary default for Inspector de Haas to have sent the email of June 9, 2016. Due to that conduct, both the Public Hearing and OPCC counsel have submitted that a demotion in rank is required.

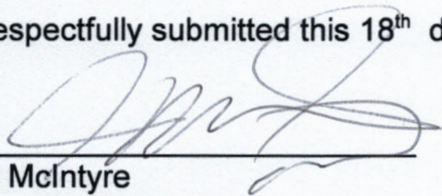
Inspector De Haas gave evidence regarding why he felt it necessary to be specific in his email of June 9, 2016 when he was seeking the approval of his union to take action and support him in his grievance. While you may have disbelieved his explanation of why it was necessary to name the complainant in that email, you should not disbelieve the necessity of providing sufficient information for the members of the Vancouver Police Officers Union to vote on whether to support Inspector De Haas in any grievance. Had there been notice of an intention to rely on the June 9, 2016 email as a disciplinary default, witnesses from his union could have been called to support that necessity. Consequently any demotion based on the June 9, email would in our submission be unfair.

Inspector De Haas regrets that his reaction to seeing Constable G with her hands in her pockets led to his acts of misconduct as you have found them. He never intended to cause Constable G discomfort or harm. He knew his touch, whether a tap or a smack, was to an area of her body where there could be concern and immediately apologized. He has never denied contact. He may have deluded himself as to the severity of the contact thinking it was a tap and not a smack but there was never anything sexual about that contact.

Given the nature of the disciplinary faults in this case as you have found them, it is our submission that the public interest can be met by the imposition of a suspension without

pay for up to 30 days.

Respectfully submitted this 18th day of September, 2018

A handwritten signature in black ink, appearing to read 'JJ McIntyre', written over a horizontal line.

JJ McIntyre
Counsel for Inspector De Haas