



Office of the
Police Complaint Commissioner

British Columbia, Canada

OPCC File: 2015-11249
June 6, 2018

NOTICE OF REVIEW ON THE RECORD

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

**In the matter of the Review on the Record into the Ordered Investigation against Constable
Geoffrey Young of the Delta Police Department**

- To: Constable Geoffrey Young #2605 (Member)
c/o Delta Police Department
Professional Standards Section
- And to: Chief Constable Len Goerke (Discipline Authority)
c/o West Vancouver Police Department
Professional Standards Section
- And to: Chief Constable Neil Dubord (Previous Discipline Authority)
c/o Delta Police Department
Professional Standards Section

WHEREAS:

Investigation

1. On November 9, 2015, the Office of the Police Complaint Commissioner (OPCC) received information from the Delta Police Department in relation to an incident which occurred on November 8, 2015.
2. According to the Delta Police Department, on November 8, 2015, Constable Geoffrey Young received a prescription from the Peace Arch Hospital for Hydromorphone, a pain medication, and attended a Safeway Pharmacy to have it filled. The pharmacist faxed a copy of the prescription to the Peace Arch Hospital for verification. A nurse at Peace Arch Hospital contacted the prescribing doctor who confirmed that the original prescription had been written for six tablets. The prescription faxed from the Safeway

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Pharmacy was for 60 tablets. The matter was reported to the Surrey RCMP. Constable Young left the pharmacy upon being told the prescription was being verified.

3. Later that same day, members of the RCMP attended Peace Arch Hospital to begin conducting a prescription fraud investigation and noted that Constable Young had returned seeking a new prescription, claiming that the original had been lost. The RCMP members advised Constable Young that his prescription had been used fraudulently at a pharmacy and that police were trying to determine who had done it. Constable Young stated that he had lost his prescription and had not attended any pharmacies that day or evening.
4. Video footage from the Safeway Pharmacy, dated November 8, 2015, appeared to show Constable Young uttering a forged document while passing an altered prescription to the pharmacist.
5. Based on a review of this information, on December 4, 2015, I ordered an investigation into the conduct of Constable Young. It was determined that the conduct alleged against Constable Young, if substantiated, would constitute misconduct:
 - a) *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, in relation to the allegation that on April 30, 2015, Constable Young falsified a prescription.
 - b) *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 in relation to the allegation that on November 8, 2015, Constable Young falsified a prescription.
 - c) *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 in relation to the allegation that on November 8, 2015, Constable Young provided false information to members of the RCMP during a criminal investigation.
6. On February 3, 2016, the OPCC suspended the *Police Act* investigation pending the conclusion of the criminal investigation being conducted by the Surrey RCMP. Their investigation resulted in two criminal charges being laid against Constable Young; forgery contrary to section 366(1)(b) of the Criminal Code of Canada; and causing or attempting to cause a person to use a forged document contrary to section 368(1)(b) of the Criminal Code of Canada. Those matters were concluded May 30th, 2016, by way of an Adult Alternative Measures Agreement.

7. On May 12, 2016, following the conclusion of criminal proceedings, the OPCC lifted the suspension of the *Police Act* investigation and Acting Staff Sergeant Kevin Jones of the Delta Police Department was assigned to conduct an investigation.
8. On September 21, 2016, the OPCC received a Delegation of the Role of Discipline Authority from Chief Constable Dubord of the Delta Police Department, delegating Chief Constable Len Goerke of the West Vancouver Police Department as Discipline Authority in relation to this matter.
9. On November 16, 2016, the OPCC received a request to amend the Order for Investigation from Acting Staff Sergeant Kevin Jones of the Delta Police Department. In this request, Acting Staff Sergeant Jones advised that there were eight instances other than those noted in the original order, in which there was information that Constable Young had altered prescriptions. Based on the information received, this conduct, if substantiated, could constitute misconduct, specifically:
 - a) *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 in relation to the allegation that on April 3, 2015, Constable Young falsified a prescription.
 - b) *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 in relation to the allegation that on April 17, 2015, Constable Young falsified a prescription.
 - c) *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 in relation to the allegation that on April 24, 2015, Constable Young falsified a prescription.
 - d) *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 in relation to the allegation that on May 1, 2015, Constable Young falsified a prescription.
 - e) *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 in relation to the allegation that on May 12, 2015, Constable Young falsified a prescription.

- f) *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 in relation to the allegation that on May 21, 2015, Constable Young falsified a prescription.
 - g) *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 in relation to the allegation that on May 26, 2015, Constable Young falsified a prescription.
 - h) *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 in relation to the allegation that on July 6, 2015, Constable Young falsified a prescription.
10. Accordingly, I ordered the investigation to include the conduct described above involving Constable Young, and to include any other potential misconduct, or attempted misconduct, as defined in section 77 of the *Police Act* that may have occurred in relation to this incident.
11. Delta Police Department Professional Standards Investigator, acting Staff Sergeant Kevin Jones conducted the investigation into this matter and on January 12, 2017, submitted the Final Investigation Report (FIR) to the Discipline Authority.
12. On January 26, 2017, following his review of the FIR, Chief Constable Len Goerke, as the Discipline Authority substantiated the eleven allegations of Discreditable Conduct, pursuant to section 77(3)(h) of the *Police Act*. Based on the totality of the evidence for the 11 allegations of Discreditable Conduct for falsifying a prescription for medication and lying to members of the RCMP during a criminal investigation, Chief Constable Goerke set out a proposed range of discipline from close supervision to dismissal.

Discipline Proceeding and Proposed Discipline

13. On December 14 and 15, 2017, a discipline proceeding was held where Constable Young denied the 11 allegations of misconduct.
14. On April 9, 2018, Chief Constable Goerke made a finding that the 11 allegations of misconduct by Constable Young were substantiated.
15. On April 27, 2018, after considering the available evidence and submissions, Chief Constable Goerke made the following determinations in relation to the allegations:

- (i) That from April 3, 2015 to November 8, 2015 Constable Geoffrey Young, committed eleven disciplinary defaults 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 Constable Geoffrey Young from April 3, 2015 to November 8, 2015 altered ten prescriptions for medication and on November 8, 2015 provided false information to members of the RCMP during a criminal investigation.

Proposed Disciplinary Measure – for each of the 10 allegations of altering a prescription:

- a) Written Reprimand
 - b) Ongoing participation in the program of 3rd party monitoring until January 2019, as outlined in the Supplementary Investigation Report and to report his status as directed to the Officer in Charge of the Human Resources Branch or designate.
 - c) In consultation with the department's Human Resources Branch, take reasonable steps to maintain himself in stable abstinent remission by participating in a treatment regime or program specific to his addiction.
 - d) Take such medical, psychological, or other treatment or medication specific to his addiction as recommended or prescribed, except that he is not required to submit to any treatment or medication to which he does not consent.
 - e) If Constable Young does not consent to the medical treatment or medication which is recommended or prescribed, he will forthwith report his non-consent to the Officer in Charge of the Human Resources Branch or designate.
 - f) Forthwith after all statutory appeals, reviews, or Public Hearings have been concluded, or the periods for commencing them have passed, for a period of two years, Constable Young will provide all treatment providers, including but not limited to his family physician, addiction specialist, treatment centres, monitoring agencies, peer-group sponsors and his spouse, with a copy of these conditions and the name and contact information of the Officer in Charge of the Human Resources Branch or designate. He shall instruct those persons or entities to advise the Officer in Charge of the Human Resources Branch or designate of any refusal of treatment, failure to keep appointments, failure to attend meetings, or failure to complete any monitoring task or test.
16. In arriving at these disciplinary measures, Chief Constable Goerke found that Constable Young's addiction to hydromorphone was a significant mitigating factor to the *Discreditable Conduct* of altering prescriptions.

Proposed Disciplinary Measure – for providing false information to the RCMP:

a) Four-day suspension (4 x 10 hours) suspension.

In arriving at a four-day suspension for this allegation, Chief Constable Goerke did not consider Constable Young's addiction as a significant mitigating factor for lying to the RCMP members in the performance of their duties. He did however accept that Constable Young's addiction to hydromorphone affected his judgement and therefore his response to the RCMP members who were investigating the prescription alteration on November 8, 2015.

17. Constable Young was provided a copy of Chief Constable Goerke's findings in relation to the allegations of misconduct and determinations on appropriate disciplinary and/or corrective measures at the discipline proceeding. Constable Young was informed that if he was aggrieved by either the findings or determinations, he could file a written request with the Police Complaint Commissioner ("the Commissioner") to arrange a Public Hearing or Review on the Record.
18. To date, the OPCC has not received a request for Public Hearing or Review on the Record from Constable Young.
19. Pursuant to section 138(1) of the *Police Act*, the Commissioner must arrange a Public Hearing or Review on the Record if the Commissioner considers that there is a reasonable basis to believe: that the Disciplinary Authority's findings under section 125(1) are incorrect; the Discipline Authority has incorrectly applied section 126 in proposing disciplinary or corrective measures under section 128(1); or, otherwise considers that a Public Hearing or Review on the Record is necessary in the public interest.

Decision

20. I have reviewed the record of the disciplinary decision, and the associated determinations, pursuant to section 138 of the *Police Act*, I have determined that there is not a reasonable basis to believe that the Discipline Authority's determination as to whether the misconducts have been proven are incorrect pursuant to section 125(1) of the *Police Act*.
21. I am of the view, however, that the Discipline Authority's application of section 126 of the *Police Act* was incorrect. In particular, I am of the respectful view that Chief Constable Goerke erred in his determination that the 10 allegations of falsifying a prescription and one allegation of providing false information to the RCMP were mitigated to such a degree by virtue of Constable Young's addiction to Hydromorphone.

22. I have also determined that a Review on the Record is necessary in the public interest. In determining that a Review on the Record 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 allegations involve a significant breach of the public trust;
 - b) The conduct has undermined, or would be likely to undermine, public confidence in the police, the handling of complaints, or the disciplinary process;
 - c) The Discipline Authority's interpretation or application of this Part or any other enactment was incorrect;
 - d) The disciplinary or corrective measures proposed are inappropriate or inadequate.
23. I have determined that at this time, a Public Hearing is not necessary in this particular matter. I'm satisfied that it will not be necessary to examine witnesses or receive evidence that is not currently part of the record of disciplinary decision. Further, I'm satisfied that a Public Hearing is not required to preserve or restore public confidence in the investigation of misconduct and the administration of police discipline. I have determined that a Review on the Record is a more effective and efficient means of adjudicative review in these circumstances.
24. Accordingly, pursuant to section 137(2) and 141 of the *Police Act*, I am arranging a Review on the Record. Pursuant to section 141(2) of the Act, the Review on the Record will consist of a review of the disciplinary decision as defined by section 141(3) of the Act, unless pursuant to section 141(4) of the Act, the Adjudicator considers that there are special circumstances and it is necessary and appropriate to receive evidence that is not part of the record of disciplinary decision or the service record of the member.
25. Pursuant to section 141(5) of the *Police Act*, Constable Young, or his agent, or legal counsel may make submissions concerning the matter under review.
26. Pursuant to section 141(6) of the *Police Act*, the Police Complaint Commissioner or his commission counsel may make submissions concerning the matter under review.
27. Pursuant to section 141(7) (b) of the *Police Act*, the Adjudicator may permit the Discipline Authority to make submissions concerning the matter under review.
28. It is therefore alleged that Constable Young committed the following disciplinary default, pursuant to section 77 of the *Police Act*:
- a) *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, in relation to the allegation that on April 30, 2015, Constable Young falsified a prescription.

- b) *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, in relation to the allegation that on November 8, 2015, Constable Young falsified a prescription.
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- e) *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, in relation to the allegation that on April 17, 2015, Constable Young falsified a prescription.
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- g) *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, in relation to the allegation that on May 1, 2015, Constable Young falsified a prescription.
- h) *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, in relation to the allegation that on May 12, 2015, Constable Young falsified a prescription.

- 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, in relation to the allegation that on May 21, 2015, Constable Young falsified a prescription.
- j) *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, in relation to the allegation that on May 26, 2015, Constable Young falsified a prescription.
- k) *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 in relation to the allegation that on July 6, 2015, Constable Young falsified a prescription.

THEREFORE:

- 29. A Review on the Record is arranged pursuant to section 137(2) and 141 of the *Police Act*.
- 30. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, the Honorable Carole Lazar Retired Provincial Court Judge, is appointed to preside as Adjudicator in these proceedings, pursuant to section 142(2) of the *Police Act*.

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 6th day of June, 2018.



Stan T. Lowe
Police Complaint Commissioner

Office of the
Police Complaint Commissioner