



OFFICE OF THE
POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

MEDIA RELEASE

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OPCC 2017-14017

No Public Hearing for Dismissed Senior Vancouver Police Officer

Victoria - The Police Complaint Commissioner has completed a review of the disciplinary decision dismissing a senior Vancouver Police Department Sergeant for misconduct occurring during an inappropriate relationship with a junior Vancouver Police Officer. The Commissioner has determined it is in the public interest that information be disclosed in this matter.

Police officers facing dismissal have an automatic right to request the decision be reviewed by a retired judge through a Public Hearing. The member did not request a Public Hearing. In addition, the Police Complaint Commissioner may on his own initiative order a Public Hearing if he considers it in the public interest to do so. Upon careful consideration, the Commissioner has determined that there will *not* be a Public Hearing. As a result, the service record of discipline for the member will reflect that he was dismissed from the Vancouver Police Department.

Background

On April 24, 2018, upon request from the Vancouver Police Department (VPD), former Police Complaint Commissioner Lowe initiated an investigation into Sergeant Dave Van Patten relating to his conduct while working in the Human Resources Section of the VPD. Commissioner Lowe appointed the New Westminster Police Department to carry out this investigation and Chief Dave Jones of the Transit Police was designated as the Discipline Authority in this matter. The OPCC oversaw the investigation to ensure it was thorough and impartial.

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The investigation was completed on December 12, 2018, and the matter was remitted to a discipline proceeding before Chief Jones who granted further investigation and the calling of witnesses during this hearing. Chief Jones issued his disciplinary decision on January 2, 2020, determining that Sergeant Van Patten committed misconduct and imposed penalties which included an order that Sergeant Van Patten be dismissed from the VPD.

Among his findings Chief Jones determined that Sergeant Van Patten entered into an inappropriate relationship with Constable Chan who was under his supervision. According to Chief Jones,

“The allegations facing Sergeant Van Patten [were] extremely serious. He not only maintained a relationship with an individual who was junior in rank and service, but who was experiencing mental health related issues. He sought to maintain privacy, of their relationship to the detriment of both of them, and the Vancouver Police Department as a whole.”

That,

“Sergeant Van Patten had entered into an agreement with Constable Chan that they would never tell anyone about their relationship, which included not disclosing their relationship to medical professionals who were treating Constable Chan for mental health related matters.”

And that,

“The real, or apparent, power imbalance of a person in a supervisory position, over a subordinate, is challenging regardless of whether the individuals work within the same unit or area. In this instance with the member not revealing their relationship Sergeant Van Patten was in a position, within the Human Resources Section to have some knowledge, and even withhold information that may have had an impact on decisions affecting Constable Chan.”

Chief Jones also found that Sergeant Van Patten obtained access to the phone belonging to another member through false pretenses, copied communications from the device and then used that information in a threatening manner towards Constable Chan.

OPCC Review

Upon careful review and consideration of all the facts in this case, the Police Complaint Commissioner has decided *not* to exercise his discretion to call a Public Hearing. The investigation was thorough and impartial and the discipline proceedings were conducted appropriately and fairly. Sergeant Van Patten was at all times represented by legal counsel who

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made thorough submissions before the Discipline Authority. No Public Hearing was requested and one is not required in the public interest.

In consideration of recommendations related to the prevention of future misconduct, the OPCC carefully examined the investigation and the discipline process for this member. The OPCC also considered the result of a separate investigation into the conduct of a second senior Sergeant who was disciplined for an inappropriate relationship with Constable Chan in November 2018. Both matters, when considered together, raise concerns regarding the sufficiency of policies and programs governing workplace relationships at the Vancouver Police Department, in particular those involving persons in supervisory or leadership positions such as these two Sergeants.

Police boards are the employer and governing body of municipal police departments. They are responsible to ensure the systems, policies and functions of the municipal police department adhere to regulatory requirements and are accountable to the public. This includes ensuring the organisational culture is reflective of community values and that vulnerable employees are protected. Boards must actively take preventive measures where necessary to prevent future misconduct and ensure a safe work environment free from the exploitation of power imbalances.

Section 28 of the *Police Act* places a mandatory obligation on a municipal police board to ensure, among other matters, that it has sufficient standards, guidelines and policies for the administration of the department to prevent neglect and abuse by police officers. In light of all of the considerations, the Police Complaint Commissioner has made the following recommendations:

1. That pursuant to section 177(4)(c) of the *Police Act* the Vancouver Police Board promptly engage an independent third-party expert (s) in human resource management, unaffiliated with any police agency in Canada, to assist the Vancouver Police Board in reviewing and considering Vancouver Police Department policies and procedures related to workplace relationships involving power dynamics, supervisory and leadership functions, and vulnerable employees. Further, that subject to applicable privacy legislation, the Vancouver Police Board makes the findings of the review public.
2. That pursuant to section 177(4)(d) of the *Police Act*, if the Vancouver Police Board declines to promptly act upon all or part of the foregoing recommendation, the Director of Police Services undertake an independent audit of the Vancouver Police human resource policies and programs related to workplace relationships involving power dynamics, supervisory and leadership functions, and vulnerable employees.

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Further, that subject to applicable privacy legislation, the findings of that audit be made public.

Quotes:

“Both sworn and civilian police personnel face many stressors and are exposed to significant potential for vulnerability at various points during their careers. Like all employees they are entitled to work in an environment free from the exploitation of power imbalances and where the leadership culture supports them. Police boards, as their employer, have both the authority and responsibility to objectively review existing programs and policies to ensure this support happens and to take steps to prevent recurrence when it does not.”

Clayton Pecknold, Police Complaint Commissioner

Key Facts:

- The Police Complaint Commissioner is a civilian, independent Officer of the Legislature overseeing complaints, investigations and discipline involving municipal police in British Columbia.
- Discipline Authorities are generally senior ranking police officers who are required under the *Police Act* to make determinations regarding the investigation and discipline of police officers alleged to have committed misconduct.
- The Police Complaint Commissioner may order investigations by external police departments and designate external Discipline Authorities if it is in the public interest.
- The *Police Act* was revised in 2010 to ensure accountability if a respondent member resigns or retires and does not participate. Discipline hearings may proceed in the members' absence and findings entered. The member's service record of discipline is updated to include substantiated allegations and corresponding discipline/corrective measures.
- The Police Complaint Commissioner may also refer matters to Crown Counsel for consideration of prosecution; make recommendations to Police Boards or to government regarding policies, practices or systemic issues that may contribute to the misconduct.

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- In November 2019 a Special Committee of the Legislature recommended the Police Complaint Commissioner be given enhanced authorities to conduct self-initiated systemic reviews. The OPCC is awaiting government response to the recommendations.
- Municipal Police Boards are civilian bodies appointed by the provincial government to govern municipal police departments. They are the employers of sworn and civilian police personnel.

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