

**IN THE MATTER OF THE POLICE ACT R.S.B.C. 1996, C. 367 AS AMENDED
AND IN THE MATTER OF A REVIEW ON THE RECORD ORDERED WITH RESPECT
TO CONSTABLE BRAD MEYER OF THE VICTORIA POLICE DEPARTMENT**

NOTICE OF ADJUDICATORS DECISION

TO: Constable Brad Meyer

AND TO: Mr. Kevin Woodall, Counsel for Constable Meyer

AND TO: Mr. Trevor Martin, Commission Counsel

AND TO: Inspector Colin Brown, Discipline Authority

AND TO: Mr. Clayton Pecknold, Police Complaint Commissioner

Background:

On May 14th, 2020 the Police Complaint Commissioner ordered a review on the record limited to the disciplinary and corrective measures that had been imposed on Constable Meyer as a result of a finding that he had 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 department.

The misconduct, which Constable Meyer has admitted, occurred on February 13, 2019. There had been a significant snowfall and his wife's car had been buried by the snowplough. Meyer was clearing the snow off the car and as he did so, he was throwing it onto the travelled section of the road. Several witnesses were of the view that this growing strip of snow on a road that had been ploughed and was otherwise free of snow was a hazard. When they tried to raise this point with Meyer, they say that he resorted to yelling and swearing at them.

On April 5, 2019, the Police Complaint Commissioner issued an order for investigation of this complaint pursuant to Division 3 of the *Police Act*. On November 5th, 2019, Sergeant Niederlinski, who had been assigned to investigate the incident, submitted his Final Investigative Report. After reviewing this report, Inspector Brown, the Discipline Authority, substantiated a single count of misconduct. He reviewed what he considered

to be the aggravating or mitigating factors and the disciplinary and corrective measures that had been imposed on Meyer as a result of previous findings of misconduct. He concluded by recommending dismissal.

Upon receiving this decision, Meyer exercised his right pursuant to Section 136 and 137 of the *Police Act* and requested a public hearing. The Commissioner having noted that it was not the finding of misconduct but only the discipline imposed that was in issue considered the factors set forth in Section 137(2)(a) and (b) and determined that the matter could be dealt with by way of a Review on the Record. On May 14, 2020 I was appointed to conduct the review.

Section 141(4) application:

In arriving at his conclusion that the appropriate disciplinary and corrective measure in this case was dismissal, Brown, the Discipline Authority, considered Meyer's history but did not reference a finding of neglect of duty dating back to 2008 since he was of the view that those records would be expunged pursuant to section 180(8) of the *Police Act*. Neither did he consider two incidents where, while off duty, Meyer exhibited angry behaviour resulting in complaints being filed in 2015 and 2016. On November 10th, 2020, however, Brown filed an application under section 141(4)(a) seeking to admit particulars of these allegations as new evidence. The special circumstance referenced in the application was the Discipline Authority's understanding that the member's counsel would be attributing the three misconduct allegations that arose between September 2018 and February 2019 to Meyer's [REDACTED]. Since Meyer's WorkSafe BC claim was backdated to May 2018, Brown tendered the incidents of 2015 and 2016 to rebut the suggestion that the recent displays of bad temper arose as a result of some triggering event that occasioned an injury at that time. I adjourned Brown's application since it seemed better dealt with at a point where more information about the [REDACTED] was available. Having now had a chance to read Dr. [REDACTED] assessment which outlines the stressors Meyer has encountered and says that he would have met the [REDACTED] by 2005, it is evident that the incidents referred to in the Discipline Authority's application

postdate [REDACTED] and would not be helpfully included on this review. That portion of his application is dismissed.

[REDACTED] and Active WorkSafe B.C. claim:

Meyer was placed on administrative leave on [REDACTED] [REDACTED] [REDACTED] as a result of an incident that occurred that day. Shortly thereafter, he applied for WorkSafe BC benefits and underwent [REDACTED] which resulted in a finding that he was suffering from [REDACTED]

[REDACTED] This designation was backdated to May 4th, 2018.

Meyer was not represented by counsel at the discipline hearing and although Sergeant Plater, the union representative who appeared on his behalf, tried to deal with this designation in his submissions he was only able to provide general information about how [REDACTED]. The Discipline Authority was never privy to any information regarding the underlying factors that led to this diagnosis nor was he provided with any evidence about if or how this illness might have contributed to Meyer's behaviour on February 13th, 2019. Since it seemed likely that WorkSafe BC would have relevant evidence about Meyer's [REDACTED] on July 20th, 2020 I made an order pursuant to Section 141(4) admitting, as part of the record, those items in Meyer's WorkSafe BC file that might be pertinent to this inquiry as well as a letter from the [REDACTED] that they had referred him to. Pursuant to that order the letter and [REDACTED] have been admitted as part of the record.

Dr. [REDACTED] [REDACTED] submitted a brief [REDACTED] report on February 25th 2019. She found that Meyer suffered from [REDACTED]. It was her view that he had probably met the criteria for [REDACTED] since 2005. On January 27th, 2020 Dr. [REDACTED] [REDACTED] did a more thorough assessment [REDACTED] [REDACTED] report which canvassed the issues facing Meyer in more detail.

Dr. [REDACTED] reported that in her interview with Meyer, he explained that he had been

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]. He completed school with no difficulty and attended three years of post secondary education.

Dr. [REDACTED] administered a [REDACTED] [REDACTED]
[REDACTED] Her testing also confirmed the finding that Meyer [REDACTED]
[REDACTED] These limitations predate his claim but the [REDACTED] [REDACTED] [REDACTED] incident wherein he was in attendance on a case involving a young person's fatal overdose. This seems to have been a "last straw" and to have negatively impacted his ability to cope wit [REDACTED]
[REDACTED].

Based on her assessment, Dr. [REDACTED] identified temporary limitations that resulted from [REDACTED] [REDACTED] and which are relevant to his job performance. She said that as a result of [REDACTED] he might well have difficulty completing meeting timelines and completing tasks in a timely manner. She said that in relation to [REDACTED] he would experience difficulty in responding appropriately to [REDACTED] and increased [REDACTED] with others because of his irritability. She concluded by saying that Meyer should be temporarily restricted from working in situations where there is a high probability of conflict or in emergency situations. She recommended that Meyer attend [REDACTED]
[REDACTED] since it relies less on the [REDACTED]
[REDACTED]s that he has not found helpful. She also recommended the [REDACTED] run by Dr [REDACTED]

Aggravating and mitigating circumstances:

Section 126 lists the range of disciplinary and corrective measures that can be imposed as a result of an officer's misconduct. Section 126(2) says that aggravating and mitigating circumstances must be considered and sets forth a number of factors that might be relevant.

- a) *the seriousness of the misconduct*

With respect to the initial complaint, had Meyer engaged in a reasonable conversation with the attending officers and then remedied the situation there would have been no further repercussions. Cst. ██████ said there had been a “*huge snowstorm that weekend*” and everybody had been shoveling their driveways. For that reason, he thought the call was likely a minor matter of someone shoveling their driveway, like everyone else was. In fact, this was only one of three such reports of residents shovelling snow onto the road that he was setting out to deal with when he stopped to speak to Meyer. He said that he expected to simply say “hey, let’s stop doing this, get the snow off (the road).” Had Meyer complied, ██████ would have moved on. In the unlikely event that the behaviour had ever been brought to the attention of his department, I do not believe a discipline authority would substantiate a finding of misconduct. Meyer said when he began excavating his wife’s car from the snowbank that had been created by the plough, he believed that the snow he was throwing on the road would melt. Weather records for February 13th, 2019 show that the temperatures in Victoria that day ranged from 0° to 3° so this may not have been an unreasonable assumption. That being said, the three civilian witnesses were of the view that the snow that Meyer had spread would not melt in a timely manner and that while it remained on the road, it created a hazard for passing traffic.

Cst. ██████ said the main concern she had was that there were chunks of ice mixed with the snow that Meyer was distributing on the road. She said that she and ██████ worried that these might damage the tires of passing vehicles and cause an accident. They would have been satisfied if Meyer had cleared away these chunks. Meyer did, eventually, clear the roadway but not before creating a dramatic scene. It was his unreasonably angry response throughout the whole incident that resulted in it being reported to his department and which gave rise to the present disciplinary hearing.

██████ ██████ spoke to him about his concerns and described Meyer’s response as indifferent and gruff ██████ who was house sitting at the residence next door to Meyers said he thought Meyer was, “*a little pissed off*”, he waved his

shovel and yelled “*fuckin asshole*” at one of the speeding cars.” ██████ said that she observed Meyer swearing at cars and telling them to slow down. He used the word “fuck” a lot. At one point, a red or burgundy minivan was stopped, the occupant of the minivan and the male were yelling at one another. There was “a lot of swearing, a lot of fingering” and the male’s behaviour went on for a “*prolonged period of time*” and “*wasn’t ceasing*”. She therefore called police to see if they could conduct a wellness check on him.

██████ was probably the driver of the va ██████ referred to. He reported that he was driving home with his wife but that he stopped his vehicle and told Meyer he should not be throwing snow on the road, that he might cause an accident, Meyer told him to fuck off. The two men exchanged profanities. ██████ later said he could not remember who had started that. There was also an exchange of middle finger gestures and he reported that Meyer said “*hey buddy why don’t you get out of your car and come say that to my face.*” ██████ ██████ said she believes her husband said “*fuck you*” and then they drove away. The ██████ vehicle was on the opposite side of the road from Meyer so this angry trading of insults would have been heard by others in the area.

██████ attended the scene in response to the civilian complaints. Things got off to a bad start since he told Meyer that he had received three calls reporting that he had been throwing snow at passing vehicles. Meyer responded with a spirited denial and accused ██████ of lying and making this up. (Sgt. Niedrelinski, as part of his investigation, listened to the recordings of the complainants’ calls and none of them had said that. He concluded that there had been an error in the notes of the call taker who had entered the information onto the computer assisted dispatch system.) ██████ said that Meyer continued his attack and accused him of making up “bullshit.” ██████ told him he could be arrested for mischief and creating a disturbance at which point Meyer began casting aspersion on his competence as an officer and on the RCMP in general. He said that ██████ was the one that was creating a hazard because his cruiser was blocking one of the lanes on the roadway and he had not activated his emergency lights. Another motorist approached ██████ with the same complaint but ██████ said he did not

return to the cruiser to remedy the matter because it was contrary to training “*when someone is yelling at you.*” Eventually Meyer started clearing the snow off the road.

██████ next observations are significant given the defence position that Meyer’s ██████ was a factor that contributed to his angry behaviour that day. He said,

I found Meyer’s behaviour to be outside the norm. Usually when you approach people, they let you speak, they give an explanation. The aggression and swearing displayed by Cst. Meyer was not normal. Most of the angry people I have dealt with in the past vent and once they’ve got that anger out, they calm down, they take a breath.... He was not calming down... he was into full aggression and anger and that didn’t stop. That just continued throughout the entire experience... nothing I was doing... from identifying myself to giving him options of how we can deal with this problem and giving him solutions, giving him information that he wanted or threatening him with charges was working. Nothing was changing his behaviour.

██████ arrived on the scene when ██████ who had been going to meet her after checking out the three snow spreading complaints, did not rejoin her as quickly as she had expected. Meyer and ██████ were ten feet from the spot where she parked her police vehicle. She said she could hear Meyer screaming while she was inside her car with the engine running and the windows rolled up.

██████ was trying to resolve and calm the situation so the police could leave. However, Meyer would talk over ██████ not answer any questions and refuse to acknowledge what ██████ was saying.

██████ asked him, “*Why are you talking too loudly? Can we just calm down? You can explain what’s going on and we can sort this out.*” She advised that the entire time she was there Meyer was talking in a very raised voice, “*if not screaming*”. Meyer stated that was just how he talked that he’s just loud.

██████ stated that Meyer was very verbally hostile and confrontational. She advised this was not the behaviour she would expect when coming to a scene regarding shoveling snow. Meyer did not seem like a normal, rational person. For his part, Meyer, who was interviewed some seven months later did not recall speaking to anyone other than the police officers that day.

Taking into account the evidence of all of the witnesses, I find on a balance of probabilities that the Meyer did swear, yell and gesture rudely at members of the public, passing cars and attending members of the RCMP. But for the [REDACTED] [REDACTED] identified in the [REDACTED] which have now been obtained from WorkSafe BC, I would find that the misconduct was serious.

b) the member's record of employment as a member including, without limitation, his service record of discipline, if any, and any other current record of past misconduct.

A review of Meyer's record of employment shows that he has had difficulty for many years in completing files in a timely manner. Performance reviews going back to 2006 and up to and including 2016 mention this deficiency. (I note that Dr. [REDACTED] identifies difficulty in meeting timelines and completing tasks in a timely manner as one of the likely consequences of Meyer's [REDACTED] [REDACTED] More relevant to the misconduct in this case is a comment on Meyer's 2016 performance assessment in which his supervisor noted that at times, Meyer reflected a negative attitude onto the shift and conveyed transmissions found to be rude by dispatch staff.

It is Meyer's service record of discipline that the Discipline Authority found to be the most aggravating factor since this was the third finding of misconduct against Meyer in a five-month period. In each of these cases, his bad-tempered outbursts were a significant part of the complaint. Particulars of these disciplinary proceedings are as follows:

- On [REDACTED], Meyer was involved in a verbal altercation with [REDACTED] [REDACTED] This took place at a [REDACTED] that was being held at the [REDACTED]. Witnesses reported that had other members not intervened, they were of the view that blows might have been exchanged. Meyer stormed out of the [REDACTED] and in doing so [REDACTED] [REDACTED] [REDACTED] [REDACTED] The disciplinary process this gave rise to was not completed until May 30th, 2019. Inspector Brown, at that time, accepted that Meyer's [REDACTED]

and [REDACTED] [REDACTED] were mitigating factors. He ordered the member to undertake specified counselling or treatment.

- On [REDACTED] Meyer, who was off duty at the time, was stopped and investigated by an RCMP officer for excessive speeding. It was Meyer's view that though he may have been speeding he had not been travelling 40km per hour over the posted speed limit and that the officer was overreaching. The officer did not ticket him but instead registered a conduct complaint against him alleging, in addition to the named offence, an allegation that Meyer had acted in an angry and profane manner. The matter was investigated and the Discipline Authority ruled that the excessive speeding amounted to misconduct. The angry and profane manner did not rise to the level of misconduct but was taken into account as an aggravating circumstance.

This allegation was finally disposed of on February 6, 2020 when Meyer received a one-day suspension.

It is Mr. Woodall's submission on behalf of the member, that a leap from a one-day suspension to termination is not consistent with the principle of progressive discipline. This principle, which in British Columbia is often called the step-principle, was discussed in *R v Bush* (D.F), 2006 BCCA 350 (CanLII), where Ryan JA, described it at paragraph 9 as "the principle that is often used to describe the philosophy that sentences should usually increase in moderate steps since a sudden, large increase in the length of a sentence may interfere with the goal of rehabilitation, if that is the focus of the sentence." This line of reasoning is premised on the assumption that if an offender is convicted of a similar or identical offence to one he has been convicted and sentenced for in the past, it can be concluded that the prior sentence was not sufficiently deterrent and so the sentence for the new offence should be increased to focus on specific deterrence. The first requirement when considering the application of the principle then is a finding that the offender has been sentenced for a similar offence in the past. Since the disposition of both of Meyer's cases postdated the misconduct under review here, this principle does not apply.

3) The next consideration is the impact of any proposed disciplinary or corrective measures on the member and his family and career. If Meyer is dismissed, his career as a police officer is probably over. It seems unlikely that another police department would entertain an application for employment. Meyer has no significant employment history in other occupations and might well have difficulty finding work, particularly work that generated the kind of income he has made as a police officer. He still has [REDACTED] so the reduction in income that would likely result from a dismissal would cause hardship for the whole family. Mrs. Meyer has also called the detachment on several occasions expressing concern about the impact that two years of being under investigation has already had on Meyer's [REDACTED] and by extension, on his family. (Though no details were provided, it seems likely that Meyer's irritability and bad temper affect his domestic relations as well as his interactions at work and in the community.) Loss of his job would at best, likely lead to a continuation of this stressful situation and the resulting symptoms. It might well make it worse.

d) the likelihood of future misconduct by the member

The Discipline Authority was concerned that in this *Police Act* matter and in the two previous cases which have been referred to, Meyer demonstrated an inability to control his anger. He noted Meyer's lack of contrition, the fact that he showed no insight into how his behaviour impacted others, his failure to acknowledge the potential risk that he created to the public, and the fact that he failed to demonstrate any steps that he had taken to prevent the recurrence of misconduct related to his [REDACTED]. He concluded that the likelihood for future misconduct on behalf of Constable Meyer, particularly conduct which includes anger, to be high.

[REDACTED] in the [REDACTED] she did for WorkSafe BC, framed this issue in slightly different terms. Since the [REDACTED] and its [REDACTED] [REDACTED] are the reason that Meyer is not considered capable of returning to work at this time, she had been asked to do a [REDACTED] report. If Meyer's [REDACTED] and the resulting [REDACTED] cannot be resolved, this would be classified as a permanent disability and retraining or compensation would be provided. She was then, assessing the likelihood that treatment would result in improved functioning such that he could successfully return to his job as a police officer. This would include learning to cope with the stress of the position

without being overwhelmed by [REDACTED] [REDACTED] which I find have contributed to the three recent incidents of misconduct.

She explained that Meyer's scores indicated that he was experiencing [REDACTED] [REDACTED]. They also suggested that he was [REDACTED] in his interaction with others. He appeared to be [REDACTED] and to have strong feelings of [REDACTED]. Test results indicated that he is [REDACTED] [REDACTED] Dr. [REDACTED] says that others likely perceive him as being [REDACTED]. She goes on to comment on his prognosis if offered treatment. She says:

With respect to treatment, Mr. Meyer's responses on the [REDACTED] [REDACTED] indicated him to have [REDACTED] [REDACTED]. Specifically, negative factors for him included (a) [REDACTED] (b) he [REDACTED], (c) [REDACTED] [REDACTED] (d) [REDACTED] [REDACTED], and (e) he [REDACTED] [REDACTED]

Dr. [REDACTED] goes on to say that the extent and degree of Mr. Meyer's [REDACTED] [REDACTED] will be a barrier to vocational rehabilitation although she opines that [REDACTED] could mitigate barriers to participation. Although his condition had not appeared to improve since Dr. [REDACTED] assessment of February 2019, she says he has not received adequate treatment and it would be premature to indicate that maximal clinical recovery (MCR) has been reached.

From [REDACTED] report I was not able to determine what WorkSafe BC was doing with respect to providing services to Meyer. It looked to me like he had good reason for saying they were inconsistent. In addition to [REDACTED] and [REDACTED] who did the assessments that have been referred to, he was referred to [REDACTED] [REDACTED] t. Dr. [REDACTED] appears to have done yet another assessment and then offered two sessions of treatment. Meyer attended only one Dr. [REDACTED] appears to have done an assessment too. He recommended that Meyer participate in the [REDACTED] [REDACTED] Dr. [REDACTED] provided [REDACTED] over

four sessions. Again, attendance was an issue. ██████ reported that Meyer made some progress but said his progress would have improved had his attendance been better. Ms. ██████, an ██████ provided another assessment. Meyer reported that he had trouble establishing rapport which is not surprising given the number of professionals involved and the extremely short period that they were engaged. After ██████ assessment, Meyer was referred for ██████ ██████. Between February 6th and May 7th, 2020 Meyer attended all of the 12 sessions that WorkSafe BC had authorized. ██████ reported that Meyer appeared to be engaged ██████ and motivated to continue long term. ██████ was of the view that his recovery would likely have been a lengthy process and that he would benefit from additional ██████ moving forward. He noted that Meyer's recovery was complicated by his ongoing dispute with his employer.

As previously noted, Meyer's emotional state deteriorated after he was placed on administrative leave and discipline proceedings were initiated. I think that it is reasonable to expect that the culmination of these three investigations will result in a significant relief for him and that this will be reflected in his mood. I also note that there have been recommendations for ██████. Those services have been severely limited for the last nine months because of the Covid-19 restrictions. It is reported that a vaccination for this virus will soon be available which should mean that the member will eventually be able to access this form of treatment.

Despite his feeling that he has been treated in a discriminatory and non-supportive manner by his superiors and some of his colleagues, Meyer is very anxious to return to work. This should motivate him to take advantage of ██████ which are recommended.

For these reasons, I find that if and when WorkSafe BC deems that he is able to return to work, Meyer will present a moderate to low risk of being involved in further misconduct. Were he to undertake continuing treatment after the resolution of his WorkSafe BC claim so that he had professional support when stressed, that would probably result in even a lower likelihood of further ██████.

e) whether the member accepts responsibility for the misconduct and is willing to take steps to prevent its recurrence

It is not easy to come up with a conclusive answer to this question. A guilty plea, or in this case, the admission of an allegation of misconduct, is generally construed as an indication that the person takes responsibility for the misdeed. In this case and in the other two investigations involving him, however, Meyer entered a formal admission but then denied particulars raised as part of the allegations. The application he made to WorkSafe BC after the first of these incidents of misconduct, suggests to me that he had identified the fact that he has a problem. I find that since he often seems to blame others for the conflicts he becomes involved in, that application represented progress. There is nothing that a discipline proceeding can do to change the behaviour or attitude of those who come in contact with Meyer so it is imperative that he get help to assist him in dealing with situations that are bound to arise from time to time. He has successfully completed [REDACTED] [REDACTED] orkSafe BC and though more treatment is recommended this is a step in the right direction.

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

There was no evidence to suggest that the policies, standing orders or internal procedures of the Victoria Police Department or the actions of Meyer's supervisor contributed to the misconduct.

g) The range of discipline and corrective measures taken in similar circumstances

Since I find that shovelling snow onto the road was unlikely, on its own, to ever have been the subject of an investigation or discipline proceedings, it is the uncontrolled anger that must be the focus of any disciplinary or corrective measures to be imposed. A review of other decisions under the *Act* demonstrates that the disciplinary or corrective measures that have been imposed for this type of behaviour range from a verbal reprimand up to a two-day suspension.

OPCC File 2017-14184 An off-duty member lost his temper when delayed in a police check stop. He yelled profanities and derogatory comment at the members who were conducting the check stop. He received a verbal reprimand.

OPCC File 2019-15763 While off duty, a police officer became involved in a dispute with his spouse which lasted for several hours. During that time, he gave her the finger in a public setting, threw laminate floor boards, underlay, a picture frame and a coat rack out their front door. He later punched two holes in their bedroom wall. When she asked him to leave, he did but then broke the door trying to get in again to retrieve some clothing. His spouse called 911. The member received specified counselling and a written reprimand for discreditable conduct.

OPCC File 2018-14899 While off duty, a police officer was intoxicated and engaged in a verbal exchange with a neighbour that turned into a physical encounter where he pushed the female neighbor at least twice in the chest area. The disciplinary/corrective measure imposed was a 2-day suspension.

h) other aggravating or mitigating factors:

- The fact that this is the third substantiated incident of misconduct in a very short period of time is an aggravating factor.

- Meyer's [REDACTED] are mitigating factors. While they do not excuse his behaviour, they do reduce his moral culpability. Meyer [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Policing is a high stress occupation. His unfortunate [REDACTED] may well make Meyer less resilient than some in the face of the kind of exposure that is common in this line of work.

During his career as a police officer, Meyer has attended suicide calls, fatal motor vehicle accidents and violent assaults which have resulted in loss of life or severe injuries. He still experiences intrusive trauma memories and nightmares arising from these exposures. In [REDACTED] he attended at a domestic dispute where the female partner

[REDACTED]

[REDACTED] She died at the scene.

Meyer was required to contain the site for the next eight hours. He is still bothered by memories of this incident.

██████████ and ██████████ share the view that Meyer likely met th ██████████ ██████████ ██████████ as early as 2005. The upset for him at that time seemed more related to what he perceived as bullying, harassment and intimidation in the workplace than it did to traumatic exposure encountered in the community. He experienced an improvement in symptomology in 2009 with a new supervisor whom he felt he could trust. Meyer reported that the workplace issues made it harder for him to manage his reactions to traumatic incidents. Although no details were provided, this improvement in his work situation seems to have been short lived. While expressing the view that Meyer’s symptomology dated back a decade or more, ██████████ and ██████████ agreed that a more recent incident where he was called to deal with a ██████████ ██████████ was probably a “last straw” for him. He remained at the scene for some time and then had to report the death to the deceased’s parents This occurred on May 4th, 2018. The WorkSafe BC claim which he filed in September was backdated to this date.

██████████ explained that limitations that Meyer would likely experience as a result of his ██████████ as follows:

- ██████████
- ██████████
- ██████████
- ██████████
- ██████████

She itemized the likely limitations he would experience as a result of his ██████████ as:

- ██████████
- ██████████
- ██████████
- ██████████

I find that the irritability and increased interpersonal conflict predicted as a consequence o ██████████ was a significant factor in Meyer’s bad-tempered behaviour on February 13th, 2009. It was evident from witness statements that his behaviour was so “over the

top” that it was not viewed as normal. When ██████ called the police, she requested a wellness check. ██████ reported:

I found Meyer’s behaviour to be outside the norm. Usually when you approach people, they let you speak, they give an explanation. The aggression and swearing displayed by Cst. Meyer was not normal.

██████ shared this view, and when interviewed said, “Meyer did not seem like a normal, rational person.”

The administrative leave that was imposed on Meyer on ██████ ██████ as a result of his altercation with a ██████ and the resulting ██████ exacerbated his symptoms significantly. Police discipline proceedings are complex and lengthy. It was 8 months before he knew the outcome of the investigation of that allegation of misconduct. By that time, he had two further incidents that were being investigated. He has been under the pall of these disciplinary proceedings now for over two years. The impact on him has been profound. He describes feelin ██████ ██████. He is uncertain about his future in policing and this causes anxiety. It is likely that the stigma and pressure resulting from being under investigation for misconduct relating to the ██████ incident exacerbated his ██████ and resulted in an increase in his level of irritability which may well provide at least a partial explanation for why two further incidents followed within the next five months.

Section 126(3) of the *Act* provides that 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.

Meyer’s supervisor, ██████ ██████ has advised that he is unable to accommodate Meyer in any capacity as a police officer. He believes that Meyer shows a long-standing inability to manage his anger toward both civilians and other police officers which is incompatible with the expectations that the public has for police officers. There are few who would dispute that assessment ██████ like the Discipline Authority, did not have access to the ██████ that were filed on this review. Neither of them had basis on which to include the possibility of successful treatment in their assessment.

WorkSafe BC, like ██████ has concluded that Meyer is not fit to return to the job at this

time. They are continuing services, however, because as ██████ explains, Meyer has not reached the point where they must conclude that no further progress is likely.

The case of *R. v. Collins*, [1987] 1 S.C.R. 265 sets forth the standard which should be applied when trying to determine whether a decision will bring the administration of justice into disrepute. It is equally applicable to the question of whether a given disposition will bring the administration of police discipline into disrepute.

In the *Collins* case, Dickson C.J. said:

Since the concept of disrepute involves some element of community views, the test should be put figuratively in terms of the reasonable person: would the admission of the evidence bring the administration of justice into disrepute in the eyes of the reasonable person, dispassionate and fully apprised of the circumstances of the case.

Were a reasonable member of the public to be made aware of Meyer's ██████ ██████ and the fact that he is currently accessing treatment, it is likely that they would conclude that a dismissal would be premature.

Section 141(9) of the *Act* states that the standard of review under this section is correctness. The Supreme Court of Canada in *Dunsmuir v. New Brunswick*, 2008 SCC 9, at para. 50 offered guidance in this regard. When applying the correctness standard, a reviewing court will not show deference to the decision maker's reasoning process; it will rather undertake its own analysis of the question. The analysis will bring the court to decide whether it agrees with the determination of the of the decision maker; if not, the court will substitute its own view and provide the correct answer. From the outset, the court must ask whether the tribunal's decision was correct.

As previously explained, assessments and reports that had not been available to the Discipline Authority were received into evidence on this review. Having had the advantage of viewing that evidence, I have applied this standard as set out in the *Dunsmuir* case and find that the decision of the Discipline Authority is incorrect.

Having undertaken my own analysis of the question raised on this review I find that the following disciplinary and corrective measures acknowledge the seriousness of the offence and are likely to assure that the conduct does not occur again.

a) the member is to be suspended for two days without pay,

b) the member shall be required to participate in all counselling recommended and arranged by WorkSafe BC.

c) If approved by WorkSafe BC for return to work, the member shall be required to take reasonable steps to assure that he has support in dealing with the stresses of his job and in particular shall be required to attend for ongoing supportive counselling with a qualified practitioner or with a [REDACTED] of his choosing provided that this individual or group must be approved by his Department's Human Resources Branch.

Dated at Surrey, British Columbia this 11th Day of December, 2020.



Carole Lazar, Adjudicator