



Office of the
Police Complaint Commissioner

British Columbia, Canada

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 Registered Complaint against
Constable Neil Logan of the Vancouver Police Department**

OPCC File: 2017-13965
June 1, 2020

To: Ms. Alyssa LeBlevec (Complainant)

And to: Constable Neil Logan, #2787 (Member)
c/o Vancouver Police Department
Professional Standards Section

And to: Superintendent Steve Eely (Discipline Authority)
c/o Vancouver Police Department
Professional Standards Section

And to: Chief Constable Adam Palmer
c/o Vancouver Police Department
Professional Standards Section

WHEREAS:

Investigation

1. On September 29, 2017, the Office of the Police Complaint Commissioner (OPCC) received a registered complaint from Ms. Alyssa LeBlevec describing her concerns with a member from the Vancouver Police Department (VPD) related to incidents occurring on September 23 and 24, 2017.
2. Ms. LeBlevec reported that she went on a trip to Seaside, Oregon, USA with her then boyfriend, Constable Neil Logan. On September 23, 2017, Ms. LeBlevec and Constable Logan met up with another off duty VPD officer and visited two licensed premises in Cannon Beach, Oregon. Ms. LeBlevec described the alcohol consumption of Constable Logan and advised that he had become intoxicated to the degree that he could not operate a motor vehicle.

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3. Ms. LeBlevec stated that upon leaving the last establishment to return to their hotel, Constable Logan required assistance to get into the vehicle. With Ms. LeBlevec driving, an argument took place and Constable Logan reportedly became angry and broke the windshield of the vehicle. Ms. LeBlevec also reported that Constable Logan struck her on the side of her face with a backhand slap. She pulled the car over, where the argument continued at the roadside outside of the vehicle. The complainant reported that upon approaching her, Constable Logan struck her across her face and she began pushing him away as he was attempting to hold her in a bear hug despite her telling him to stop.
4. While continuing the drive back to their motel, Ms. LeBlevec reported that Constable Logan began punching the windshield again. Once they were at the motel, they were sitting on the couch talking, when Constable Logan had “jumped back into the same rants as earlier.” Ms. LeBlevec reported that when she cut Constable Logan off, he reached out and struck her on the side of the face. Ms. LeBlevec reported that she remained in the motel room throughout the night during which time Constable Logan had physically taken hold of her, placing her into bear hugs, despite her telling him not to.
5. The alleged conduct contained in Ms. LeBlevec’s complaint was reviewed and an allegation of *Discreditable Conduct* was determined to be admissible and, accordingly, the complaint was forwarded to the Professional Standards Section of the VPD for investigation. Ms. LeBlevec reported the incident to the local police department in Seaside, Oregon, who conducted a criminal investigation. This investigation did not result in any charges filed against Constable Logan.
6. Vancouver Police Professional Standards investigator, Sergeant Justin Leung, conducted an investigation into this matter and on April 23, 2019, he submitted the Final Investigation Report (FIR) to the Discipline Authority.
7. On May 7, 2019, following his review of the FIR, the Discipline Authority determined that the evidence appeared to support a finding of misconduct by Constable Logan. The Discipline Authority offered Constable Logan a Prehearing Conference.
8. A Prehearing Conference was held on June 11, 2019, and disciplinary/corrective measures consisting of a fifteen (15) day suspension without pay were agreed to.
9. On June 17, 2019, I rejected the Prehearing Conference agreement and the matter proceeded to a Discipline Proceeding.

Discipline Proceeding and Proposed Discipline

10. On April 6, 2020, following the Discipline Proceeding, and after considering the available evidence and submissions, the Discipline Authority, Superintendent Steve Eely, made the following determinations in relation to the allegation:

That on September 23, 2017, Constable Neil Logan, committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* regarding the circumstances by which damage was caused to the front windshield of Constable Logan's vehicle.

Proposed Disciplinary Measure:

- Suspension without pay for 6 working days; and
- Attend emotional regulation sessions with a psychologist for a minimum of 12 sessions and then at the discretion of the treating psychologist

The Complainant's request

11. Ms. LeBlevec and Constable Logan were provided a copy of Superintendent Eely's findings in relation to the allegation of misconduct and determinations on appropriate disciplinary or corrective measures at the Discipline Proceeding. Ms. LeBlevec and Constable Logan were informed that if they were aggrieved by either the findings or determinations they could file a written request for a Public Hearing or Review on the Record.
12. On April 7, 2020, the OPCC received correspondence from Ms. LeBlevec outlining her concerns with the decision of the Discipline Authority and her request for a Public Hearing. Ms. LeBlevec noted in her request that she disagreed with the decision of the Discipline Authority and advised that she was concerned that her version of the events, which in her opinion has been consistent, had not been fully considered and presented. Ms. LeBlevec also indicated that she wants an opportunity to provide her own defense to Constable Logan's version of events. Considering the seriousness of domestic violence, Ms. LeBlevec regards a Public Hearing as the appropriate opportunity to defend herself and her consistent account of the events.

Decision

13. 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, if the Commissioner considers that a Public Hearing is necessary in the public interest.
14. Having reviewed the investigation, the Discipline Proceeding, and associated determinations, pursuant to section 138(1)(c)(i) of the *Police Act*, I have determined that there is a reasonable basis to believe that the Disciplinary Authority's findings under section 125(1) are incorrect.
15. In arriving at this determination, I note that the Discipline Authority substantiated the aspect of Constable Logan's conduct related to the smashing of the windshield but found that there was a lack of clear, convincing and cogent evidence to support that Constable Logan used physical force on Ms. LeBlevec as she alleged. In his decision, the Discipline Authority preferred and accepted Constable Logan's assertion that he did not strike Ms.

LeBlevec. In my view, this was without proper consideration of the totality of the evidence before him including corroborating evidence.

16. The evidence supports a serious level of violence in Constable Logan's actions. It is not disputed that there was a heated argument between Constable Logan and Ms. LeBlevec. The Discipline Authority determined, based on the evidence, that the damage to the windshield was deliberate, and that "significant, intentional force was required" to cause the damage noted to the windshield. In addition, the evidence supports that Constable Logan was intoxicated during this incident.
17. Appropriate weight was not afforded to the evidence provided by Ms. LeBlevec. She provided messages she sent to a friend shortly after the incident occurred corroborating that Constable Logan had used physical force on her. The evidence is also consistent that Ms. LeBlevec was in a state of sobriety and would therefore not have her memory impugned by intoxication. The evidence from Ms. LeBlevec has been consistent both with what she reported in her complaint to the OPCC and subsequent interview by the investigating officer.
18. In addition, I find the decision of the Discipline Authority to be lacking in understanding and consideration of the impact of trauma and the dynamics of intimate partner violence in his assessment of Ms. LeBlevec's evidence. The Discipline Authority makes passing reference to the "dynamics related to domestic violence" but does not conduct a full assessment of those dynamics. The Discipline Authority notes that Ms. LeBlevec could have left after the alleged assault roadside and upon returning to the hotel but failed to do so. He further suggests that Ms. LeBlevec brought forward allegations of assault because she discovered an alternate love interest involving Constable Logan. The Discipline Authority has placed much weight on these factors and referred to Constable Logan's submissions that "these were not the actions of someone who legitimately feared for her life." Those assumptions are inconsistent with well understood dynamics of trauma in the context of relationship violence.
19. In further consideration of my determination, the Discipline Authority considered, and appears to have placed considerable weight on, the submissions made by Constable Logan. Ms. LeBlevec also provided submissions during the *Police Act* process; however, reference to those submissions is absent from the Discipline Authority's decision and it would therefore appear they were not given appropriate consideration.
20. In light of the foregoing, it is my view that the Discipline Authority's findings are incorrect. I further consider that a Public Hearing or Review on the Record is necessary in the public interest.
21. In determining that a Public Hearing or 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 nature and seriousness of the complaint or alleged misconduct;

- b) The conduct has caused, or would be likely to cause, physical, emotional or psychological harm or financial loss to a person;
 - c) The conduct has violated or would be likely to violate, a person's dignity, privacy or other rights recognized by law;
 - d) The conduct has undermined, or would be likely to undermine, public confidence in the police, the handling of complaints or disciplinary process; and
 - e) There is a reasonable prospect that a Public Hearing or Review will assist in determining the truth.
22. I have further determined that a Public Hearing is not necessary in this particular matter. In this matter the investigative record is thorough and complete. The member submitted a written statement regarding his involvement as well as participated in an interview. The complainant submitted a detailed written statement/complaint in the first instance and also participated in an interview. All other relevant material witnesses were also interviewed. Results of the Seaside, Oregon police investigation were obtained as were text message conversations and photographic evidence.
23. In light of the thorough and complete investigation, the available material evidence, I am of the view that the record of disciplinary decision is good and sufficient such that a Review on the Record is appropriate in all of the circumstances.
24. In my view, examination or cross-examination of witnesses is not necessary in this matter as the adjudicator may independently weigh all the available evidence and it is possible for conflicts in the accounts to be resolved by consideration of inherent believability of the witnesses' statements, the consistency of the statements with the other witnesses and consistency within the evidentiary record itself.
25. I have therefore determined that a Public Hearing is not necessary or required in this particular matter. While I acknowledge the Complainant's request to be heard and have an opportunity to provide her own defence, in my view, this can be achieved by way of a Review on the Record. A Public Hearing is not required to preserve or restore public confidence in the investigation of misconduct and the administration of police discipline.
26. In arriving at his determination, I have considered that the Adjudicator has the ability to receive submissions from both the member and the complainant and may receive evidence if they consider that there are special circumstances and it is necessary and appropriate to do so.
27. Accordingly, pursuant to sections 138(1) and 141 of the *Police Act*, I am arranging a Review on the Record.
28. 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.

29. Pursuant to section 141(5) of the *Police Act*, Constable Logan, or his agent or legal counsel, may make submissions concerning the matters under review.
30. Pursuant to section 141(6) of the *Police Act*, the Police Complaint Commissioner or his commission counsel may make submissions concerning the matters under review.
31. Pursuant to section 141(7)(a) and (b) of the *Police Act*, the Adjudicator may permit the complainant, or agent or legal counsel, and the Discipline Authority to make oral or written submissions concerning the matters under review.
32. It is therefore alleged that Constable Logan committed the following disciplinary default, pursuant to section 77 of the *Police Act*:
 - (i) That on September 23, 2017, Constable Logan committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* when he was belligerent and/or obnoxious in public due to intoxication; damaged his car windshield; had verbal arguments with Ms. LeBlevec that raised public alarm; and used physical force on Ms. LeBlevec.

THEREFORE:

33. A Review on the Record is arranged pursuant to sections 138(1) and 141 of the *Police Act*.
34. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, the Honorable Brian Neal, Q.C., 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 1st day of June, 2020.



Clayton Pecknold
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