

## FORM 3

### FINDINGS OF DISCIPLINE AUTHORITY

[Section 125(1) Police Act]

OPCC File 2019-17122.

Police department: Victoria Police Department

Respondent: [REDACTED] Constable ([REDACTED])

Date of discipline proceeding: 23<sup>rd</sup> of November 2020

In relation to each disciplinary default alleged against the respondent in the Notice of Discipline Proceeding, my findings are as follows:

Discipline default: *Neglect of Duty* pursuant to s. 77(m)(ii) of the Police Act, which is neglecting, without good or sufficient cause, to promptly and diligently do anything that it is one's duty as a member to do, namely failing to make proper notes.

On September 8<sup>th</sup>, 2020 I gave notice of the decision I had arrived at after conducting a Section 117 review on this matter. In that decision I found that the evidence provided appeared to substantiate a finding that Constable [REDACTED] had neglected his duty to make proper notes of his interaction with [REDACTED], a driver who he had ticketed while working on a police roadblock. This allegation was not one of those set out in the Notification of Admissibility but rather arose during the investigation. Because it was not enumerated as one of the allegations being investigated, [REDACTED] did not provide an explanation of how the actual ticket and supporting information could be used to assist in the prosecution of the ticket were it to be disputed. On the face of the documents that were filed, it did not appear that he would be able to identify the driver. Since an officer has a duty to make notes sufficient to allow him to prove the essential elements of the offence, this would have amounted to Neglect of Duty.

On November 23<sup>rd</sup>, 2020, [REDACTED] elected to give evidence at the Discipline Hearing. He explained the procedure he used when filling out the ticket and the narrative text that accompanied it. In my original decision, I had commented on the fact that he had not verified the likeness on the licence that had been produced. Nor did it appear to me that


he had made any effort to corroborate the identification evidence that would have provided.

In his evidence, ██████ directed my attention to the first page of the violation ticket where he had entered a B.C. drivers licence number and the letter “Y” in the box where he was required to note whether or not it had been produced. He explained that upon receiving ██████’s Chinese driver’s licence and the translation that accompanied it, he satisfied himself that the picture on the licence was a likeness of the driver. Had there been any doubt about whether this was a photo of ██████, he says he would have noted that on the form. Once he had checked the licence produced, ██████ returned to his police cruiser where he entered the name that had been provided into CPIC. (Canadian Police Information Centre.) It was through that query that he discovered that no BC Licence had been issued. The number on the ticket he entered in the space designated for a BC drivers Licence number, was taken from a client stub. He noted this on page four of his narrative text where he also noted that there was no number provided for a licence from another jurisdiction. ██████ explained that from those notes he could tell that ██████ had not yet applied for a BC licence and that the client stub was probably created when he applied for BC Medical coverage though his information would be shared with ICBC. (Insurance Corporation of British Columbia.) The client stub provided the particulars that he entered on the same page in regards to the driver’s residential address. He says he would have verified this with ██████. (This is confirmed since both ██████ and ██████ recall him asking for their address.) ██████ also queried the plate number of the vehicle ██████ was driving and the information provided associated that plate with the same residential address.

Given that ██████ was involved in a roadblock where numerous vehicles were checked and where several violation tickets were issued, it is unlikely that any officer would be able to identify drivers by viewing them in the court room months later. The challenges of this type of situation along with the other steps that can be taken to confirm identity were dealt with in the decision of *R.v Schryvers* [1962] BCJ No 68. Having heard ██████’ evidence, I am satisfied that the documents he prepared were sufficient to allow him to give evidence that would meet this standard.

The only other omission identified in the final investigative report was that there was

nothing to explain why [REDACTED] might have exercised his discretion and allowed [REDACTED] to drive home even though, at the time, he believed he was an unlicensed driver. This was another allegation of misconduct that had not been included on the Notification of Admissibility and [REDACTED] does not believe that he gave [REDACTED] permission to drive home. He says he would have had no reason to include in his notes an explanation of the instructions he gave with respect to how the driver and his family were to get home. This information would not be relevant to the prosecution of this case nor could the officer have anticipated that it would be raised in later discipline proceedings. In the circumstances I find that this was not a material omission and that the allegation that [REDACTED] neglected his duty by failing to make adequate notes is not substantiated.

Signature of discipline authority:  Date: 25/November/2020  
Carole Lazar,  
Discipline Authority

---

I acknowledge service of this notice:

Signature of respondent: ..... Date: ..... [day/month/year]