

## CONCLUSION OF PROCEEDINGS

Pursuant to section 133(6) of the *Police Act*, RSBC 1996 c.367

OPCC File 2018-15276

June 22, 2021

To: Constable ██████████ #2741 (Members)  
Constable ██████████ #2612  
Constable ██████████ #3104  
Constable ██████████ #2960  
c/o Vancouver Police Department  
Professional Standards Section

And to: The Honourable Judge Carol Baird-Ellan (ret'd) (Discipline Authority)  
Retired Judge of the Provincial Court of British Columbia

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

The Office of the Police Complaint Commissioner (OPCC) completed its review of the decision issued by the Discipline Authority pursuant to section 133 of the *Police Act* in this matter. The following allegations were substantiated.

1. In relation to Constables ██████████ and ██████████ *Abuse of Authority*, pursuant to section 77(3)(a) of the *Police Act*; which is oppressive conduct towards a member of the public, by unlawful entry of a residence.

Discipline Proposed – Constable ██████████ – 1-day suspension without pay – concurrent;  
Constable ██████████ – 1-day suspension without pay – concurrent.

2. In relation to Constable ██████████ *Abuse of Authority*, pursuant to section 77(3)(a)(i) of the *Police Act*, which is oppressive conduct towards a member of the public, including, without limitation, intentionally or recklessly making an arrest without good and sufficient cause; to wit, of ██████████.

Discipline Proposed - Constable ██████████ - 1-day suspension without pay – concurrent.

3. In relation to Constables ██████████, ██████████ and ██████████ *Abuse of Authority*, pursuant to section 77(3)(a)(ii)(A) of the *Police Act*, which is oppressive conduct towards a member of the

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public, including, without limitation, in the performance, or purported performance, of duties, intentionally or recklessly using unnecessary force on any person; to wit, [REDACTED]  
[REDACTED]

Discipline Proposed – Constable [REDACTED] - 2-day suspension without pay;  
Constable [REDACTED] - 2-day suspension without pay – concurrent;  
Constable [REDACTED] - 1-day suspension without pay – concurrent.

4. In relation to Constables [REDACTED] and [REDACTED] *Neglect of Duty*, pursuant to section 77(3)(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, in relation to the arrest of [REDACTED].

Discipline Proposed - Constable [REDACTED] - 1-day suspension without pay – concurrent;  
Constable [REDACTED] - 1-day suspension without pay – concurrent.

5. In relation to Constable [REDACTED] *Abuse of Authority*, pursuant to section 77(3)(a)(i) of the *Police Act*, which is oppressive conduct towards a member of the public, including, without limitation, intentionally or recklessly making an arrest without good and sufficient cause; to wit, of [REDACTED] and;

Discipline Proposed - Constable [REDACTED] - 1-day suspension without pay – concurrent.

6. In relation to Constable [REDACTED] *Abuse of Authority*, pursuant to section 77(3)(a)(ii)(A) of the *Police Act*, which is oppressive conduct towards a member of the public, including, without limitation, in the performance, or purported performance, of duties, by intentionally or recklessly using unnecessary force on any person; to wit, [REDACTED].

Discipline Proposed - Constable [REDACTED] - 1-day suspension without pay – concurrent.

In addition, the Discipline Authority noted that all four members could benefit from skills-based practical training in exercising sound judgement under stress. The Discipline Authority recommended that, if that type of training is available, all four of the members participate in the training. Specifically, in the following areas:

- (1) grounds for exigent entry as distinguished from well-being checks;
- (2) grounds for arrest as distinguished from investigative detention and the authority and appropriate level of intervention that flows from each;
- (3) alternatives, such as verbal requests or commands, to the use of escalating force in obtaining compliance in cases of apparent non-compliance;
- (4) assessment and re-assessment of the need to escalate force when faced with non-compliance during arrest; and
- (5) search incidental to investigative detention and arrest in cases of an injured suspect.

The Discipline Authority went on to note that, in the absence of available practical skills training in all or any of the five areas listed above, that the members each have training or retraining in exigent entry and wellbeing checks, arrest and investigative detention, use of force and de-escalation techniques, and search incidental to arrest and detention.

Based on a review of the discipline proceeding, we have determined that there is not a reasonable basis to believe the decision of the Discipline Authority is incorrect and that a Public Hearing or Review on the Record is not necessary in the public interest.

Therefore, there are insufficient grounds to arrange a public hearing or review on the record in the circumstances. The decision to conclude this matter is final and this office will take no further action.

The OPCC noted that the Discipline Authority pondered policy changes, under s133(1)(a)(ii) - noting she does not believe that she can make them, but recommends, if the training/retraining she has suggested is not available, that she suggests that the department consider designing a training program that assists officers to practice making these types of decisions in stressful circumstances. In particular, skills-based training in the five areas enumerated above, "with role-playing scenarios, perhaps derived from disciplinary decisions, that are designed to enable members to make appropriate assessments and re-assessments as to the extent of their authority under stress and in evolving circumstances."

In relation to the substantiated allegations, the disciplinary or corrective measures imposed are approved. Our file with respect to this matter will be concluded upon receipt of confirmation that in accordance with *Police Act*, any disciplinary or corrective measure imposed in relation to, or agreed to by, a member or former member, has been completed, and that their service record of discipline has been updated.

[REDACTED]

[REDACTED]

Investigative Analyst

cc: Inspector [REDACTED] Vancouver Police Department  
Sergeant [REDACTED], Vancouver Police Department