

Substantiated Allegations

Concluded between April 1, 2021 and March 31, 2022

Abbotsford Police Department

Ordered Investigation – Requested by Department (OPCC 2017-13521)

Upon request from the Abbotsford Police Department (APD), the OPCC ordered an investigation into the off-duty conduct of a member in relation to a number of incidents involving the officer's estranged spouse. These included assaulting his estranged spouse, placing a GPS tracker on the spouse's vehicle, following his estranged spouse and subjecting her to unwanted communication, identifying himself as a police officer in order to facilitate access to security video, and accessing a police database for non-duty related reasons and making inquiries in respect of his spouse.

The *Police Act* investigation was suspended pending the outcome of the criminal proceedings in which the member plead guilty to the criminal charge of *Assault* and received a conditional discharge.

Allegation 1

The member assaulted his estranged spouse.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: December 2016 – June 2017

DISCIPLINARY/CORRECTIVE MEASURE

15-day suspension without pay (consecutive)

Allegation 2

The member placed GPS tracking devices on his estranged spouse's vehicle on two separate occasions.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: December 2016 – June 2017

DISCIPLINARY/CORRECTIVE MEASURE

15-day suspension without pay (consecutive)

Allegation 3

The member followed his estranged spouse, subjected her to unwanted communications via texts, emails, notes, and telephone calls and entered her residence when she was not present.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: December 2016 – June 2017

DISCIPLINARY/CORRECTIVE MEASURE

15-day suspension without pay (consecutive)

Allegation 4

The member identified himself as a police officer while off-duty in order to facilitate access to a third party's security video and obtaining photographs of his estranged spouse from said video.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: December 2016 – June 2017

DISCIPLINARY/CORRECTIVE MEASURE

15-day suspension without pay (consecutive)

Allegation 5

The member accessed a police database for non-duty related reasons and made inquiries with respect to his estranged spouse in contravention of departmental policy.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: December 2016 – June 2017

DISCIPLINARY/CORRECTIVE MEASURE

15-day suspension without pay (consecutive)

Adjudicative Review – Review on the Record

Following a discipline proceeding, the Discipline Authority proposed several disciplinary and corrective measures totaling 16 days of suspension without pay. The officer did not request a review of the disciplinary decision.

The Commissioner determined that a Review on the Record was necessary as the disciplinary or corrective measures proposed by the Abbotsford police did not reflect the serious, sustained and deliberate nature of this behaviour which spanned a number of months. The Commissioner noted that while the Discipline Authority correctly underscored the seriousness of domestic violence and the public's expectation that those "sworn to protect the vulnerable from intimate partner violence must not engage in it themselves," those principles were not sufficiently reflected in the proposed penalties.

The Commissioner appointed retired BC Provincial Court Judge, David Pendleton, to preside as an Adjudicator in these proceedings.

After hearing submissions from the Commissioner and the member's counsel, the Adjudicator determined that the Abbotsford Discipline Authority correctly considered that the member accepted responsibility for the misconduct and was willing to take steps to prevent its recurrence. Adjudicator Pendleton noted that he found the "six-month period during which the member committed misconduct to be an anomaly" and that the misconduct occurred "during the member's marriage breakdown when he was experiencing a good deal of stress."

The Adjudicator agreed with the Discipline Authority that suspensions without pay were the appropriate penalty but that those suspensions should be for a longer period of time given a number of factors including, the seriousness of the misconduct, the need to denounce and to send a message to others, and to maintain public confidence.

The Adjudicator determined that "the member's misconduct involved intimate partner violence which occurred during the break up of his marriage. The assault of his wife was serious. The planned and sustained use of the GPS tracker and the unwanted communications, occurring after the member was placed on leave and warned by a superior officer and a lawyer, as well as his accessing the CCTV footage and police database are serious acts of misconduct."

Adjudicator Pendleton imposed disciplinary or corrective measures of a 15-day suspension, without pay, for each allegation of misconduct, to be served consecutively, resulting in a cumulative total of 75 days.

For further information on this decision, go to <https://opcc.bc.ca/decisions/reviews-on-the-record/>

Ordered Investigation – Requested by Department (OPCC 2020-17411)

Upon request from the Abbotsford Police Department (APD), the OPCC ordered an investigation into the off-duty conduct of a member who was reported to have been driving while impaired. According to the APD, a civilian complained of a possible impaired driver after observing the vehicle hit a curb and drive into oncoming traffic lanes. Police were able to identify that the vehicle was registered to an Abbotsford Police officer. Police attended the member's residence and found the member's vehicle parked a block away, unsecure and running. The member was located inside the residence.

The *Police Act* investigation was suspended pending the outcome of a criminal investigation. The matter was referred to the BC Prosecution Service and charges were approved. The criminal charges were ultimately stayed and the member pled guilty to the offence of *Driving without Due Care and Attention* under section 144(1)(a) of the *Motor Vehicle Act* and was sentenced to a \$1,000 fine and a six-month driving prohibition.

Allegation 1

The member, without a prescription, recklessly consumed prescription medication, rendering [member] intoxicated, and then drove while ability to do so was impaired, and was convicted in the B.C. Provincial Court of *Driving without Due Care and Attention* under section 144(1)(a) of the *Motor Vehicle Act*.

MISCONDUCT

Public Trust Offence
(Conviction for an offence under an enactment of Canada which discredits the reputation of the members department)

Date of Incident: January 2020

DISCIPLINARY/CORRECTIVE MEASURE

9-day suspension without pay

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the member appeared to have committed misconduct. A prehearing conference was offered and accepted by the member. The investigation revealed that the member mixed significant quantities of alcohol with prescription medication prior to driving. The Pre-hearing Conference Authority noted that the member was reckless in their behaviour and was lucky they did not hit oncoming vehicles or cause an accident. The Pre-hearing Conference Authority referenced a prior incident of mixing prescription drugs and alcohol and that it appeared based on the member's conduct on this occasion, the member had not learned from their previous behaviour. There were a number of mitigating factors considered as well in arriving at an appropriate discipline.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Police Complaint (OPCC 2020-18079)

The OPCC received a complaint describing concerns regarding an interaction with the Abbotsford police which the complainant had filmed with his cellphone. The complainant reported that after being arrested and then released by police, he noticed that videos of the incident that he had recorded were not on his cell phone. The complainant found out a member had deleted the videos.

The OPCC reviewed the complaint and determined that an investigation into the matter was required.

Allegation 1

The member purposefully deleted video files from the complainant's cell phone without his permission which depicted his interactions with police on that date.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: June 2020

DISCIPLINARY/CORRECTIVE MEASURE

5-day suspension without pay

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the member appeared to have committed misconduct. A prehearing conference was offered to the member; the member declined the offer and as a result, the matter proceeded to a discipline proceeding. The DA found that the member deleted the videos out of frustration, that accessing and searching the phone was not lawful in the circumstances, and that deleting the videos was purposeful and serious misconduct.

In arriving at the appropriate disciplinary or corrective measure, the DA noted that the member was junior, had immediately reported the incident to their supervisor and took responsibility for their actions, and had taken self-imposed initiatives to address the misconduct, including seeking therapy, actively pursuing mentorship from senior members, educating themselves on jurisprudence around cell phone searches, and completing courses on Search and Seizure and Tactical Surveillance.

Neither the member nor the complainant requested a review of the disciplinary decision.

The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

For more information about this matter, see the Case Study summary found on page 23.

Central Saanich Police Service

No substantiated misconduct in this reporting period.

CFSEU (Organized Crime Agency of BC)

No substantiated misconduct in this reporting period.

Delta Police Department

Ordered Investigation – Requested by Department (OPCC 2019-17197)

Upon request from the Delta Police Department (DPD), the OPCC ordered an investigation following an allegation of inappropriate sexual conduct between a recruit and a training officer. In addition, it was reported that the member may have contravened departmental policy by engaging in a personal relationship as a field trainer with their trainee and failed to report this conflict of interest to Human Resources.

The *Police Act* investigation was suspended pending the outcome of a criminal investigation. The matter was referred to the BC Prosecution Service but charges were not approved.

Allegation 1

The member engaged in inappropriate sexual conduct with a recruit.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2017

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay
Training – undergo approved Field Training Officer’s (FTO) course prior to any further FTO assignments (future FTO assignments at the discretion of the DPD)
Close supervision of next (if any) FTO assignments

Allegation 2

The member neglected to notify the Human Resources manager contrary to the provisions of DPD policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with departmental policy/regulations)
Date of Incident: June 2017

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Further Training Police Ethics

Disciplinary Process

A prehearing conference was offered and accepted by the member where it was noted that police recruits are in a “clearly disadvantaged position in that they do not enjoy the same job security as a first-class constable” and that a “significant power imbalance existed” between the two members at the time of the sexual encounter. In arriving a decision on discipline, the Prehearing Conference Authority found that the member took full responsibility for his actions and expressed sincere regret and that he has learned from his mistakes.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2020-18532)

Upon request from the Delta Police Department (DPD), the OPCC ordered an investigation into the off-duty conduct of a member who was reported to have been driving while impaired. According to the DPD, the RCMP responded to a civilian’s report of a

suspected impaired driver who was believed to be a police officer. The RCMP spoke to the off-duty member over the phone but was unable to locate the member for further investigation of the impaired driving.

Through analysis of CCTV video, witness evidence, and an expert opinion, it was determined through the *Police Act* investigation that the member operated a motor vehicle while under the influence of alcohol.

Allegation 1

The member operated a motor vehicle while impaired by alcohol.

MISCONDUCT
<i>Discreditable Conduct</i> (Impaired Operation of a Motor Vehicle)
Date of Incident: September 2020

DISCIPLINARY/CORRECTIVE MEASURE
4-day suspension without pay
Direction to speak with Human Resources regarding any underlying personal issues

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the member appeared to have committed misconduct. A prehearing conference was offered and accepted by the member. In arriving at the decision on discipline, the Prehearing Conference Authority considered that the member had also provided an unsolicited apology letter to the Chief Constable for their actions and that the member expressed genuine remorse. The Prehearing Conference Authority also considered that the member was well aware of the hazards associated with impaired driving and that “enforcement action related to impaired driving is a pillar of the police strategic planning to keep the public safe.”

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances

Internal Discipline (OPCC 2021-19698)

An internal investigation was initiated into the conduct of a Delta Police Department (DPD) member for a breach of Respectful Workplace Policy. According to the DPD, the member communicated with a civilian employee in a derogatory or degrading manner and engaged in a single instance of unwanted physical contact. During the course of the internal investigation, the member made a statement to the lead investigator that was false or misleading.

Allegation 1

The member made derogatory or degrading remarks towards another member that the person knew or reasonably ought to have known would cause the recipient to be humiliated or intimidated. In the course of making derogatory remarks, the member also engaged in unwanted physical contact.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with departmental policy/regulations)
Date of Incident: May 2021

DISCIPLINARY/CORRECTIVE MEASURE
1-day suspension without pay (consecutive)
Review of Departmental policy AC20 - Respectful Workplace with a supervisor, including demonstration of said policy
Enrollment and participation in the Department's Respectful Conduct in the Workplace online training

Allegation 2

The member made a false or misleading statement to the lead investigator when asked about what occurred in this incident.

MISCONDUCT

Deceit
(False or misleading oral or written statement)

Date of Incident: May 2021

DISCIPLINARY/CORRECTIVE MEASURE

3 -day suspension without pay (consecutive)

Metro Vancouver Transit Police

Internal Discipline (OPCC 2020-17313)

An internal investigation was initiated into the conduct of a Metro Vancouver Transit Police (MVTP) member. It was reported that the member was upset with a supervisor’s level of support provided to another officer. The member discussed their concerns with the supervisor and during this conversation allegedly commenced to swear, name-call, yell, and then hang up on the supervisor.

Allegation 1

The member breached the Respectful Workplace Policy during an interaction he had with a supervisor.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with departmental policy/regulations)
Date of Incident: January 2020

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
The member was directed to have no interactions with Transit Police employees in matters involving certain individuals of the department

Ordered Investigation – Requested by Department (OPCC 2020-18809)

Upon request from the Metro Vancouver Transit Police (MVTP), the OPCC ordered an investigation into the conduct of a member for *Discreditable Conduct*. According to the information received from the MVTP, the member, while acting in a supervisory capacity, approached another member and made inappropriate comments to her, including comments that were sexually demeaning. The member made these comments in front of witnesses.

Allegation 1

The member spoke to a female officer in a derogatory manner that contained sexual context, and referred to her in an inappropriate manner. Several other employees in the work area overheard these comments and actions.

MISCONDUCT
<i>Discreditable Conduct</i> (Workplace harassment / bullying / violation respectful workplace policy)
Date of Incident: November 2020

DISCIPLINARY/CORRECTIVE MEASURE
15-day suspension without pay
Must attend, and complete, training updates on workplace harassment policy and Equity Diversity and Inclusion, at the direction of the Manager Human Resources

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the member appeared to have committed one count of misconduct. No prehearing conference was offered to the member and, as a result, the matter proceeded directly to a discipline proceeding, at which time the member admitted the allegation. In arriving at a decision on discipline, the DA noted that the member had apologized for their actions and had taken training courses in advance of any measures being imposed. The DA also noted that the comments and actions of the member were “personal in nature, were extremely offensive, and were made in the presence of other members” and that the member was in the role of an acting supervisor at the time.

The DA also restricted the member’s ability to fill any acting supervisory positions for a period of five years.

The member did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2021-19272)

Upon request from the Metro Vancouver Transit Police (MVTP), the OPCC ordered an investigation into the conduct of a member for *Discreditable Conduct*. It was reported that on several occasions the member made derogatory comments and used inappropriate sexual language to a female member of his squad.

Allegation 1

The member made derogatory comments and used inappropriate sexual language to a female member.

MISCONDUCT
<i>Discreditable Conduct</i> (Workplace harassment / bullying / violation of respectful workplace policy)
Date of Incident: February 2021

DISCIPLINARY/CORRECTIVE MEASURE
15-day suspension without pay
Referral to a registered clinical psychologist to conduct an assessment and prescribe a treatment plan (if necessary), and completion of that treatment plan to the satisfaction of the psychologist
A letter of apology

Disciplinary Process

A prehearing conference was offered and accepted by the member. It was determined that the comments made were unacceptable in an inclusive and professional workplace.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Internal Discipline (OPCC 2021-20526)

An internal investigation was initiated into the conduct of a Metro Vancouver Transit Police (MVTP) member for a breach of Respectful Workplace Policy. According to the MVTP, the member, while off duty, sent an email to a civilian staff member that violated the Respectful Workplace Policy.

Allegation 1

The member sent an e-mail communication containing comments that were contrary to the Respectful Workplace policy.

MISCONDUCT
<i>Discreditable Conduct</i> (Workplace harassment / bullying / violation respectful workplace policy)
Date of Incident: September 2021

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Nelson Police Department

Ordered Investigation – Requested by Department (OPCC 2019-15946)

Upon request from the Nelson Police Department (NPD), the OPCC ordered an investigation into the conduct of a member for allegations that between 2016-17, the member sent text messages and comments to the complainant, which were demeaning, derogatory, intimidating and indicative of bullying and harassment type behaviour. Additionally, the member was alleged to have intentionally lied to the investigator during their Professional Standards Section (PSS) interview concerning the nature of their relationship with the complainant.

Allegation 1

The member sent text messages to and made comments about the complainant that could be considered demeaning, derogatory, intimidating and indicative of bullying and harassment type behavior.

MISCONDUCT

Discreditable Conduct
(Workplace harassment / bullying / violation respectful workplace policy)

Date of Incident: 2016-2017, and May 2019

DISCIPLINARY/CORRECTIVE MEASURE

1-day suspension without pay (concurrent)

Training or retraining in respectful workplace or workplace harassment

Allegation 2

The member intentionally lied to a Professional Standards Section investigator concerning the nature of their relationship with the complainant.

MISCONDUCT

Deceit
(False or misleading oral or written statement)

Date of Incident: 2016-2017, and May 2019

DISCIPLINARY/CORRECTIVE MEASURE

15-day suspension without pay (concurrent)

Disciplinary Process

Following an investigation, the matter proceeded directly to a discipline proceeding. The Discipline Authority found that the comments made by the member were clearly offensive and unacceptable and that the allegation of deceit was very serious. In arriving at an appropriate penalty, the DA noted that the member showed remorse and after reflection of the disciplinary process, accepted responsibility for the misconduct.

Neither the complainant nor the member requested a review of the disciplinary decision. The OPCC reviewed this matter and determined that there were insufficient grounds to arrange for a further review.

Police Complaint (OPCC 2020-18167)

The OPCC received complaints from multiple members of the public regarding a police officer who engaged in an argument with a prisoner who was secured in the back of a police cruiser. It was learned that a Nelson police officer was responding to back up other officers who were in a physical confrontation while attempting to arrest an individual. The member arrived on scene after the individual had been arrested by other officers and was secured inside the police vehicle. The member's interaction with the

subject in custody was determined to be aggressive in nature, resulting in a verbal confrontation; there was no evidence of any physical force used by the member.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation 1

The member inappropriately engaged in a verbal dispute with an in-custody individual secured in the back of a police vehicle.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department.)
Date of Incident: June 2020

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the member appeared to have committed misconduct. A prehearing conference was offered and accepted by the member. In arriving at a decision on discipline, the Prehearing Conference Authority noted that the member had taken full responsibility for these actions and regretted the impact on the reputation of both the department and the member personally.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2020-18865)

Upon request from the Nelson Police Department (NPD), the OPCC ordered an investigation into the conduct of a member for improperly disclosing information obtained through a police database. It was reported that a Special Municipal Constable (SMC) with the NPD queried a number of vehicle license plates on a police database in relation to a file. It appeared that the SMC inappropriately disclosed information obtained through the police database queries to a family member, who was a victim of a crime.

Allegation 1

The member inappropriately disclosed information obtained through CPIC¹ queries, in contravention of departmental policy.

MISCONDUCT
<i>Disclosure of Information</i> (Disclosing information acquired as police officer)
Date of Incident: November 2020

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was offered and accepted by the member. The Prehearing Conference Authority noted that the inappropriate disclosure and breach of policy was at the low end of what would be considered as private or personal information. The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

¹ The Canadian Police Information Centre (CPIC) is a national repository of police information.

New Westminster Police Department

Police Complaint (OPCC 2019-17229)

The OPCC received a complaint describing concerns regarding an investigation into the complainant's report of a sexual assault, which was conducted and concluded under the supervision of a Non-Commissioned Officer (NCO).

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

The New Westminster Police Department (NWPD) initiated an internal file review and their Specialized Investigations Unit was assigned to complete several investigative steps that were not completed in the initial criminal investigation. The *Police Act* investigation was suspended pending the outcome of the criminal investigation. The investigation into the complainant's report of a sexual assault was referred to the BC Prosecution Service but charges were not approved.

Allegation 1

The member neglected, to promptly and diligently supervise the investigation related to a report of sexual assault made by the complainant, which was their duty as a member to do.

MISCONDUCT

Neglect of Duty
(Inadequate investigation)

Date of Incident: November 2018 – January 2019

DISCIPLINARY/CORRECTIVE MEASURE

Verbal Reprimand

Disciplinary Process

At the conclusion of the investigation, a prehearing conference was offered to the member; the member declined the offer and as a result, the matter proceeded to a discipline proceeding. The Discipline Authority (DA) determined that the member appeared to have committed misconduct in relation to supervision of a sexual assault investigation by failing to ensure certain investigative steps were completed satisfactorily.

In arriving at the appropriate disciplinary or corrective measure, the DA noted that the member had learned from this experience and had taken steps to prevent its recurrence, including involvement in a number of training courses.

The DA also noted that this matter highlighted structural gaps in NWPD service delivery with regards to sexual assaults. As a result, a number of changes were made to NWPD policy, protocols and training, including:

1. Implementation of a Sexual Assault Review Committee to review all concluded sexual assault investigations on a monthly basis and ensure quality control over how the investigation was conducted, concluded, and categorized;
2. Implementation of mandatory training for all frontline officers:
 - a. Trauma Informed Practice Foundations;
 - b. Introduction to Trauma and Sexual Assault Investigations; and
 - c. Consent Law and Common Sexual Assault Myths;
3. Change in policy (approval pending) to eliminate the investigators ability to conclude investigations based on verbal conversations with Crown Counsel.

Neither the member nor the complainant requested a review of the disciplinary decision.

The OPCC reviewed this matter and determined that there were insufficient grounds to arrange for a further review, noting that the NWPD had proactively imposed changes to policy and training as a result of this complaint.

Oak Bay Police Department

Ordered Investigation – Requested by Department (OPCC 2020-18719)

Upon request from the Oak Bay Police Department (OBPD), the OPCC ordered an investigation in relation to a member's conduct that involved a former common-law partner of the member and included allegations of alcohol abuse both on and off-duty, abusive and intimidating behaviour to the partner and family members, erratic behaviour, an incident of physical violence, and the inappropriate use of a Conducted Energy Weapon (CEW).

The *Police Act* investigation was suspended pending the outcome of a criminal investigation regarding the incident of physical violence. No criminal charge was filed against the member and the suspension of the *Police Act* investigation was lifted.

Allegation 1

The member consumed alcoholic beverages at home while on-duty.

MISCONDUCT
<i>Misuse of Intoxicants</i>
Date of Incident: 2019 – 2020

DISCIPLINARY/CORRECTIVE MEASURES – FOR ALLEGATIONS #1 – 5
Reduction in rank from sergeant to first class constable
A prohibition on competing for promotion for a period of at least one year
Approval from the Chief Constable of the OBPD to compete for promotion

Allegation 2

The member was abusive and intimidating towards their partner and their family.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: 2019 – 2020

DISCIPLINARY/CORRECTIVE MEASURES
See Above

Allegation 3

The member deployed a CEW on two separate occasions on house guests, with their consent, but for a purpose unrelated to the performance of duties.

MISCONDUCT
<i>Corrupt Practice</i> (Unauthorized use of police equipment)
Date of Incident: 2019 – 2020

DISCIPLINARY/CORRECTIVE MEASURES
See Above

Allegation 4

The member was absent from work while on duty and disabled a police vehicle GPS to conceal their whereabouts while at home, and for sleeping on duty without notifying fellow officers, and being an inattentive supervisor.

MISCONDUCT
<i>Neglect of Duty</i> (Absent/Late for duty)
Date of Incident: 2020

DISCIPLINARY/CORRECTIVE MEASURES
See Above

Allegation 5

The member allowed their partner to drive home despite believing them to be impaired by alcohol contrary to the *Criminal Code*.

MISCONDUCT
<i>Neglect of Duty</i> (Inadequate investigation)
Date of Incident: 2020

DISCIPLINARY/CORRECTIVE MEASURES
See Above

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the member appeared to have committed five counts of misconduct. No prehearing conference was offered to the member and as a result, the matter proceeded to a discipline proceeding.

The DA found that the five allegations were substantiated and characterized the misconduct as serious. In arriving at a decision, the DA noted, in part, that “deploying a CEW as a party trick on two separate occasions, repeatedly napping on duty without informing their shift mates, disabling the GPS on a police vehicle to conceal their whereabouts at home, remaining at home for inappropriately long periods of time, and displaying an inattentive attitude while on duty...establish a pattern of behaviour inconsistent with the expectations that the public and fellow officers place on a higher ranking member.”

The member did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not in the public interest.

Port Moody Police Department

Internal Discipline (OPCC 2021-20777)

An internal investigation was initiated into the conduct of a Port Moody Police Department member for a breach of Respectful Workplace Policy. It was reported that, while in the presence of other subordinate officers, the member directed disrespectful comments towards a subordinate officer that were considered to be intimidating/humiliating in nature.

Allegation 1

The member directed comments towards a subordinate officer that were contrary to Respectful Workplace policy.

MISCONDUCT

Neglect of Duty
(Failure to comply with departmental policy/regulations)

Date of Incident: November 2021

DISCIPLINARY/CORRECTIVE MEASURE

Training/Re-Training: participate in 2-3 hours of one-on-one training with an expert in workplace conflict resolution and communication.

Saanich Police Department

Internal Discipline (OPCC 2018-15550)

An internal investigation was initiated into the conduct of a Saanich Police Department member for *Neglect of Duty*. It was alleged that the member displayed negative behaviours towards others including speaking ill behind people's backs, ignoring colleagues, unduly criticizing others for errors, and making sarcastic comments.

Allegation 1

The member spread rumours directed at another officer and was verbally derogatory towards civilian members and other officers of the department contrary to departmental policy.

MISCONDUCT

Neglect of Duty
(Failure to comply with departmental policy/regulations)

Date of Incident: November 2018

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Internal Discipline (OPCC 2020-18455)

An internal investigation was initiated into the conduct of a Saanich Police Department member for *Discreditable Conduct*. In mid-December, 2019, the member attended a work sanctioned Christmas party. During the evening the member inappropriately touched a female work colleague.

Allegation 1

During an off duty social gathering, the member inappropriately touched a female work colleague.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: December 2019

DISCIPLINARY/CORRECTIVE MEASURE

10-day suspension without pay

The completion of training regarding sexual assault, sexual harassment and workplace harassment as determined appropriate by the Staff Development Division

Internal Discipline (OPCC 2020-18892)

An internal investigation was initiated into the conduct of a Saanich Police Department member for *Damage to Police Property*. During a night shift in November, 2020, the member advised their Watch Commander that their departmentally issued wallet containing their badge and police identification was missing. The member was not certain when the wallet went missing but had not located it in their home or at work and believed it may have been stolen from their personal vehicle in late August, 2020. The investigation determined that the member discovered they were missing their wallet in late August or early September of 2020 and failed to report it to their supervisor or on-duty Watch Commander at the time.

Allegation 1

The member did not report their badge and wallet missing in a timely fashion as required by policy.

MISCONDUCT

Damage to Police Property
(Misusing / losing / damaging police property)

Date of Incident: November 2020

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Ordered Investigation – Requested by Department (OPCC 2021-19459)

Upon request from the Saanich Police Department (SPD), the OPCC ordered an investigation in relation to a member's conduct while the member was on duty and engaged in static surveillance. According to the SPD, a civilian reported that she had met the member via the use of a dating application and that the member engaged in a phone conversation and met with the civilian while on duty, conducting surveillance.

Allegation 1

The member met with an unknown civilian while engaged in surveillance duties.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: October 2020

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the member appeared to have committed misconduct. A prehearing conference was offered and accepted by the member. In arriving at a decision on discipline, the Prehearing Conference Authority noted that the member's lack of knowledge of the civilian and the member's disclosure that the member was involved in a drug investigation nearby could have resulted in the file being compromised. The Prehearing Conference Authority found that the member had a momentary lack of judgement and in hindsight, the member realized the meeting was not appropriate.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that the discipline imposed was appropriate in the circumstances.

Stl'atl'imx Tribal Police Service

No substantiated misconduct in this reporting period.

Surrey Police Service

No substantiated misconduct in this reporting period.

Vancouver Police Department

Ordered Investigation – Requested by Department (OPCC 2017-13059)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into a use of force incident at the VPD jail following concerns reported by Crown Counsel. It was reported that during the booking process, the affected person (AP) was going through a voluntary fingerprinting process and during this process, a verbal interaction occurred and the member physically took the AP to the ground. The AP was then returned to a jail cell. The verbal interaction continued in the cell, during which time the member pushed the AP against the cell wall, followed a short time later by the member removing the cell mattress from underneath the AP's body.

A criminal investigation into the conduct of the member resulted in the matter being referred to the BC Prosecution Service but no charges were approved.

Allegation 1

The member used unnecessary force on the AP when the member pushed the AP backwards in the jail cell and forcefully pulled the mattress out from underneath the AP.

MISCONDUCT

Abuse of Authority
(Excessive Force – Empty Hand)

Date of Incident: October 2016

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Take a VPD approved course(s), or refresher, in communication skills when interacting with persons suffering from apparent mental illness, situation assessment and de-escalation techniques

Review VPD policy and any directives related to voluntary fingerprinting and the provision or removal of a cell mattress.

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the member appeared to have committed misconduct. A prehearing conference was offered; however, the member declined the offer and as a result, the matter proceeded to a discipline proceeding.

The DA did not accept the member's reasons for re-entering the cell and found that the member intentionally or recklessly entered the jail cell to carry on the interaction with the AP. The DA found that there was no evidence that the AP posed a risk to themselves or others in a closed cell. The DA ultimately determined that the member's interaction with the AP while in the jail cell, including the push and the method of removing the mattress from underneath the AP met the threshold for misconduct. In arriving at a decision on discipline, the DA noted that the member made an error and that the conduct fell on the lower end of the spectrum of seriousness.

The member did not request a review of the disciplinary decision. The OPCC reviewed the findings and determined that further review was not in the public interest.

Police Complaint (OPCC 2017-13965)

The OPCC received a complaint describing concerns with a member of the Vancouver Police Department (VPD) while off-duty and in the context of a relationship that included a physical assault. The OPCC reviewed the complaint and determined that an investigation into the incident was required.

The *Police Act* investigation was suspended pending the outcome of a criminal investigation into the matter. No criminal charge was approved against the member.

Allegation 1

The member intentionally shattered the vehicle windshield while being driven by the complainant and assaulted the complainant on five occasions over several hours.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: September 2017

DISCIPLINARY/CORRECTIVE MEASURE

Dismissal

Disciplinary Process

A prehearing conference was offered and accepted by the member. The member agreed to the proposed discipline. After review, the Commissioner did not approve the disciplinary or corrective measures as they did not reflect the seriousness of the conduct. As a result, the matter proceeded to a Discipline Proceeding.

The Discipline Authority (DA) found that the allegation was substantiated but only in relation to the breaking of the windshield. The DA imposed a suspension for six days and treatment.

Adjudicative Review

Following the outcome of a Discipline Proceeding, the Complainant requested a review of this decision. The Commissioner reviewed the outcome and determined that there was a reasonable basis to disagree with the DA as it did not appear appropriate weight was afforded to the evidence provided by the complainant and that the decision of the DA appeared to be lack in an understanding and consideration of the impact of trauma and the dynamics of intimate partner violence.

The Commissioner appointed retired BC Provincial Court Judge, Brian Neal, K.C., to preside as an Adjudicator in these proceedings. Mr. Neal issued his decision where he determined that the allegation was substantiated. Mr. Neal found that “the member’s ability to honestly, objectively, consistently and forthrightly observe, recollect and report on the interactions with the Complainant raise[d] serious concerns as to the reliability and credibility of his evidence.” Mr. Neal ultimately determined that the officer committed Discreditable Conduct by shattering the front windshield of the vehicle and by repeatedly assaulting the Complainant. The member was dismissed from the VPD as a result.

For further information on this decision, go to <https://opcc.bc.ca/decisions/reviews-on-the-record/> or review the case study summary on page 21.

Police Complaint (OPCC 2017-14263)

The complainant reported he was arrested by Vancouver police officers and was taken to VPD cells, held for approximately two hours, then escorted to the booking counter and given a form to sign. The complainant expressed to the member behind the counter that he was upset by the way he had been treated. The complainant was told to take his effects and to sign the form.

As the complainant reviewed the form, a member behind the counter allegedly swore and told the complainant to sign the form. This member came around the corner and allegedly grabbed the complainant. The complainant reported that he was pushed against the wall with his arm twisted behind his back and was taken to the ground. The complainant was placed back in VPD cells. The complainant was subsequently released from custody a period of time later.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation 1

The member used unnecessary force on the complainant at the booking counter when he refused to sign the property form.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive Force - Empty Hand)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Allegation 2

The member swore at the complainant when he refused to sign the property report.

MISCONDUCT
<i>Discourtesy</i> (Discourteous conduct)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

At the discipline proceeding, the Discipline Authority (DA) found that the member did not commit misconduct when they used force on the complainant but did find that the member committed *Discourtesy* for swearing at the complainant.

Adjudicative Review – Review on the Record

The Commissioner reviewed the outcome of the discipline proceeding and determined there was a reasonable basis to disagree with the decision of the DA. In part, the Commissioner did not find that the actions of the complainant at the booking counter necessitated his return to cells and that the force used was not reasonable or necessary in the circumstances. The Commissioner appointed retired BC Supreme Court Justice, Ron McKinnon, to review the matter and arrive at his own decision based on the evidence.

Mr. McKinnon found that the member “resorted to using force against [the complainant] much too quickly and without adequate regard to whether it was warranted” and that the member “needlessly and precipitously escalated the situation.” Mr. McKinnon concluded that the member’s conduct “went beyond a mere mistake of legal authority; it was a rash and unreasonable use of force.” Mr. McKinnon also reaffirmed the finding that the member committed misconduct when he swore at the complainant during this interaction.

Mr. McKinnon determined that a written reprimand was “just and appropriate” in these circumstances for each allegation and that further training was not required as the member no longer had any contact with the public in a jail setting and was unlikely to have any such contact again soon.

For further information on this decision, go to <https://opcc.bc.ca/decisions/reviews-on-the-record/>

Ordered Investigation – Requested by Department (OPCC 2018-14312)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off duty conduct of a member in relation to their conduct with a store employee. It was reported that the member contacted the store to report that a dresser the member had purchased some time earlier had tipped over and trapped his young son’s leg. The member insisted that the dresser be removed from the member’s residence that day. The member was reported to have been aggressive, profane, hostile and threatening in their communications with store employees and to have repeatedly called. When the member was told police would be contacted, the member reportedly replied that the member “was the police.”

A criminal investigation was initiated into the conduct of the member. The member was found guilty for the criminal offence of Uttering Threats pursuant to the *Criminal Code of Canada* and was given a 12-month suspended sentence.

Allegation 1

The member uttered threats to the staff members who worked at the furniture store.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: January 2018

DISCIPLINARY/CORRECTIVE MEASURE
7-day suspension without pay (consecutive)

Allegation 2

The member inappropriately identified themselves as a police officer to staff members at the furniture store when communicating with them over the phone.

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: January 2018

DISCIPLINARY/CORRECTIVE MEASURE
3-day suspension without pay (consecutive)

Allegation 3

Criminal conviction on one count of uttering threats to the store manager.

MISCONDUCT
<i>Public Trust Offence</i> (Conviction for an offence under an enactment of Canada which discredits the reputation of the members department)
Date of Incident: January 2018

DISCIPLINARY/CORRECTIVE MEASURE
6-day suspension without pay (consecutive)

Disciplinary Process

A prehearing conference was offered and accepted by the member. The member accepted responsibility for their actions during the prehearing conference, and the prehearing conference authority imposed a suspension for each allegation. The discipline/corrective measure imposed amounted to 16 days of suspension for all three allegations. The member agreed to the proposed discipline/corrective measure.

The member did not request a review of the disciplinary decision.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2018-14547)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off duty conduct of a member following a report that the member was arrested in another country for an alleged sexual assault of a female high school student in that country.

The member was subsequently acquitted of any criminal offence. An investigation under the *Police Act* found that the officer committed misconduct in relation to their actions while abroad.

Allegation 1

The member did not take adequate steps or make adequate enquiries prior to engaging in sexual activity with a female high school student on a graduation trip to another country.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: March 2018

DISCIPLINARY/CORRECTIVE MEASURE

A reduction in rank, and pay, from First Class Constable to Second Class Constable.

- The reduction in rank is for a minimum of one-year;
- After one-year, the member will be eligible for promotion to First Class Constable in accordance with the policies, procedures, and processes as established by the VPD;
- The member must maintain a satisfactory work performance during this period of time;
- Any “unscheduled” absences from work, for greater than a combined thirty days, shall extend the reduction in rank for an equal period of time, that was in excess of the thirty days;
- The member must undertake additional training on police ethical behaviors.

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the member’s conduct appeared to constitute *Discreditable Conduct*. No prehearing conference was offered to the member and as a result, the matter proceeded to a discipline proceeding where the Discipline Authority found the allegation to be substantiated. In arriving at a decision, the DA noted that the sexual activity occurred between consenting individuals and that one of the primary concerns with the member’s conduct was that the member failed to take “any reasonable steps to determine the age and/or status of the individual, as a high school student.” In arriving a decision on penalty, the DA noted that the seriousness of the member’s action must be reflected in the measures imposed and that any measures imposed must also work to educate and correct the member’s behaviour.

The member did not request a review of the disciplinary decision. The OPCC reviewed the findings and determined that further review was not in the public interest.

Ordered Investigation – Initiated by PCC (OPCC 2018-14986)

The OPCC initiated an investigation into the conduct of two Sergeants at the Vancouver Police Department (VPD) following a review of injuries received by an affected person (AP) who was held in custody at the VPD Jail. It was reported that the AP was forcibly removed from the jail building following a use of force incident, where additional force was used outside by police. The

affected person was left on the sidewalk, bleeding for a period of time before another police officer came by and noticed the affected person was injured.

On request of the Commissioner, the Director of Police Services ordered the Independent Investigations Office (IIO) to conduct a "Special Investigation" into the conduct of the officers pursuant to section 44(1) of the *Police Act*. At the conclusion of the investigation, the IIO did not consider that any police officer had committed an offence under any enactment and did not refer this case to Crown Counsel for consideration of possible criminal charges. An investigation under the *Police Act* found that the officers committed misconduct in relation to their handling of the affected person,

Allegation 1

Failing to ensure that the affected person was promptly and diligently assessed for injury or re-injury following a use of force incident in VPD jail.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide assistance)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member A: Verbal Reprimand
Member B: Verbal Reprimand

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the members committed misconduct and a Prehearing Conference was offered to the members. The members declined the offer and the matter proceeded to a Discipline Proceeding. The Discipline Authority (DA) found that the Sergeants had a duty of care owed to the affected person and they were the ranking officers responsible for the oversight of the VPD Jail at the time of this incident, one of which directed the release of the AP. Both respondents were physically present for the takedown of the AP and were therefore aware that force had been used to take the AP to the ground. In addition, both acknowledged that they observed blood on the jail floor after the takedown of the affected person. The DA also found that a follow-up assessment of the AP by jail staff occurred some period of time later and was only as a result of another Sergeant coming across the AP outside the jail.

The DA acknowledged that the misconduct did not relate to the force used by other police officers, which was determined to be reasonable and lawful in the circumstances but rather was in relation to a failure to take timely steps to adequately assess the circumstances. The DA imposed a sanction of a verbal reprimand for both members.

Neither member requested a review of the disciplinary decision.

The OPCC reviewed these findings and determined that further review was not required in the public interest.

Ordered Investigation - Requested by Department (OPCC 2018-15047)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off-duty conduct of a member following a traffic stop by the RCMP for excessive speeding in a construction zone. It was reported that when the member was informed their vehicle would be impounded, the member self-identified as a member of the VPD, sought leniency and behaved in an unprofessional manner. During the investigation, additional allegations of misconduct were identified, including an instance where another member allegedly engaged in an inappropriate conversation with the RCMP member involved in the traffic stop.

Allegation 1 (Member A)

The member identified themselves as a police officer during a traffic stop with the intent of asking for leniency.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: July 2018

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay

Allegation 2 (Member B)

The member engaged in an inappropriate conversation regarding a traffic enforcement matter with an RCMP officer while a *Police Act* matter was underway.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: July 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that two members appeared to have committed misconduct. A prehearing conference was offered to the members; however, both declined and as a result, the matter proceeded to a discipline proceeding. The DA found that Member A “introduced their status as a police officer during the interaction with the RCMP member for the purpose of obtaining leniency” and in doing so, the member “pressed the matter using words to the effect that officers need to look out for each other.” The member also used language that could be interpreted as insulting, or at least disrespectful. In relation to Member B, the DA found that this matter was not the business of Member B and that the member “knew, or ought to have been aware of more appropriate ways to approach this situation, particularly knowing that *Motor Vehicle Act* enforcement had taken place and that a *Police Act* investigation was involved.”

The members did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not required in the public interest.

Serious Harm Investigation (OPCC 2018-15245)

The OPCC initiated an investigation following a review of injuries sustained by an affected person (AP). It was reported that a member of the VPD, assisted other officers with a “bait car” deployment at a local parkade. Shortly thereafter, the AP removed property from the bait car and left the area on a bicycle. The member, who was driving an unmarked police vehicle, followed the AP and, in the course of attempting to arrest the AP, used the police vehicle, without the assistance of any emergency equipment, to contact the back tire of the AP’s bicycle. This contact caused the AP to crash to the roadway.

The AP was transported to hospital where it was determined that he sustained a number of injuries including a laceration on the top of the AP’s head, a broken clavicle, fractured vertebra, and a cut to the ankle. These injuries constituted serious harm as defined under the *Police Act*.

Due to the serious nature of the injuries, the Independent Investigations Office (IIO) investigated this matter. In addition, the *Police Act* requires an investigation also be initiated by the OPCC whenever death or serious harm results from an incident involving municipal police officers. These investigations are separate and distinct from investigations by the IIO and are not restricted to evidence gathered by the IIO. Under the *Police Act*, officers may be compelled to provide statements, answer questions and otherwise account for their actions.

The IIO referred the matter to the BC Prosecution Service and charges for *Driving Without Due Care and Attention* contrary to Section 144(1)(a) of the *Motor Vehicle Act* were approved. The member ultimately pled guilty.

An investigation under the *Police Act* also found that the member committed misconduct.

Allegation 1

The member used unnecessary force when the member's police vehicle contacted the affected person's bicycle in the course of initiating an arrest.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive force - Police vehicle)
Date of Incident: September 2018

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay
Require the member to undertake the following specified training: <ul style="list-style-type: none"> Undertake a one-hour drive with a Use of Force Instructor for assessment, discussion, and feedback around spatial awareness while operating a police vehicle; and Undertake a one-hour meeting with a Use of Force Instructor to discuss the risks involved in utilizing a police vehicle as a force option and the limited instances when this would potentially be appropriate.

Disciplinary Process

The investigation determined that the force used by the member during this incident was not proportional, necessary, nor reasonable given the circumstances. A prehearing conference was offered and accepted by the member. The member accepted responsibility for their actions during the prehearing conference, and the prehearing conference authority imposed a suspension and training.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances. The OPCC noted that the member accepted full responsibility for this matter as evidenced by the guilty plea in Provincial Court, their full cooperation with the investigation, and their acknowledgement that there would have been "better ways" to complete the arrest of the affected person.

Ordered Investigation - Requested by Department (OPCC 2018-15276)

Upon request of the Vancouver Police Department (VPD), the OPCC initiated an investigation into members' attendance at a suite in a single room occupancy [SRO] building in Vancouver's downtown east side for the purpose of executing arrest warrants against one of the three occupants. While present at the door of the suite, members determined that they needed to check the wellbeing of a woman inside and a battering ram was used to attempt entry. As the ram was being deployed, officers outside the door of the suite perceived the presence of bear spray, which they believed had come from under the door. The door was then opened by the suite occupants. Two individuals were taken to the ground and handcuffed. A third individual was found inside the suite and also taken into custody. As a result of the arrest of the individual inside the suite, the affected person incurred significant injuries described in police records as a possible separated shoulder, a broken nose, a laceration to his scalp requiring 10 staples, and six stitches under his left eye.

The investigation examined whether the officers involved committed misconduct by unlawfully entering the suite, arresting the occupants without cause, using unnecessary force against them, or neglecting to sufficiently search one of the parties.

Allegation 1

The members unlawfully entered a residence.

MISCONDUCT
<i>Abuse of Authority</i> (Oppressive conduct)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member B: 1-day suspension without pay (concurrent)
Member C: 1-day suspension without pay (concurrent)

Allegation 2

The member Intentionally or recklessly arrested an affected person without good and sufficient cause

MISCONDUCT
<i>Abuse of Authority</i> (Unlawful Arrest)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member C: 1-day suspension without pay (concurrent)

Allegation 3

The members intentionally or recklessly used unnecessary force on an affected person.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive Force - Empty Hand)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member A: 2-day suspension without pay
Member C: 2-day suspension without pay (concurrent)
Member D: 1-day suspension without pay (concurrent)

Allegation 4

The members failed to conduct an adequate search of an individual under arrest, missing a knife and contraband which was later located.

MISCONDUCT
<i>Neglect of Duty</i> (Inadequate search)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member C: 1-day suspension without pay (concurrent)
Member D: 1-day suspension without pay (concurrent)

Allegation 5

The member intentionally or recklessly arrested an affected person without good and sufficient cause

MISCONDUCT
<i>Abuse of Authority</i> (Unlawful Arrest)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member B: 1-day suspension without pay (concurrent)

Allegation 6

The member intentionally or recklessly used unnecessary force on an affected person.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive Force - Empty Hand)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Member B: 1-day suspension without pay (concurrent)

Adjudicative Review – Section 117

The Discipline Authority determined none of the police officers involved committed misconduct. Upon review of the matter, the Commissioner determined there was a reasonable basis to disagree with the Discipline Authority. The Commissioner noted that although the members were acting in the performance of their common law duties, there were no reports to police that suggested violence in the suite and there was no information at the scene to suggest a potential emergency or imminent risk of harm to any of the occupants. Any reliance on a risk to the safety of the occupants was speculative. Therefore, the warrantless entry was not, in the Commissioner’s view, consistent with section 8 of the *Canadian Charter of Rights and Freedoms*.

As a result, the Commissioner appointed retired BC Provincial Court Judge, Carol Baird Ellan, to review the matter and arrive at her own decision based on the evidence. Ms. Baird Ellan found that all six allegations of misconduct appeared to be substantiated and as a result the matter proceeded to a disciplinary process.

Disciplinary Process – Section 117

A prehearing conference was offered to all four members but was not accepted by any of them. As a result, the matter proceeded to a discipline proceeding before Ms. Baird Ellan as the Discipline Authority (DA). Ms. Baird Ellan found that police committed six allegations of misconduct as it related to the entry of the residence, the arrest and force used by police and in relation to the adequacy of the search of one of the arrested individuals.

In arriving at her decision, the DA noted that in order for police to gain a warrantless entry into someone’s residence the circumstances must amount to exigency in order to justify interference with the occupants’ right of privacy. It is not enough to believe someone may possibly come to harm based on some past events. There must be an air of reality to the belief that harm is imminent. The DA distinguished the use of *R. v. Godoy*² to justify entry from a “wellbeing check” and noted that *Godoy* has consistently been interpreted to apply only in cases of exigency, in the sense of “requiring immediate aid or action.” The DA found that the use of the ram was “obtrusive, violent, and unjustified” and was “clearly an abuse of authority whether or not it was successful in breaking open the door.”

² [R. v. Godoy, \[1999\] 1 SCR 3 11](#)

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 all four of the members participate in training related to 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 noted 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. The DA also suggested that the department consider designing a training program that assists officers to practice making these types of decisions in stressful circumstances. In particular, the DA noted a need for 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."

For further information on this decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/>

Serious Harm Investigation (OPCC 2018-15476)

The OPCC initiated an investigation following notification from the Vancouver Police Department (VPD) of an injury to a member of the public. According to information provided by the VPD, police attempted to stop a suspected stolen vehicle. The police conducted a 'box and pin' maneuver of the vehicle, which resulted in the suspect's vehicle colliding with a police vehicle and a parked vehicle. The driver fled on foot and was taken into custody by police a short distance away. The driver of the stolen vehicle suffered serious injuries. The suspect and civilian vehicles were damaged beyond repair.

Due to the serious nature of the injuries, the Independent Investigations Office (IIO) investigated this matter. In addition, the *Police Act* requires an investigation also be initiated by the OPCC whenever death or serious harm results from an incident involving municipal police officers. These investigations are separate and distinct from investigations by the IIO and are not restricted to evidence gathered by the IIO. Under the *Police Act*, officers may be compelled to provide statements, answer questions and otherwise account for their actions.

At the conclusion of the investigation by the IIO, they did not consider that an officer committed an offence under any enactment and did not refer the matter to Crown Counsel for consideration of possible criminal charges.

An investigation under the *Police Act* determined that police had the lawful authority and duty to stop the suspected stolen vehicle but that the member committed misconduct by failing to follow departmental policy relating to box and pin maneuvers, specifically in consideration that a box and pin maneuver should only be conducted when a suspect's vehicle is stopped, or moving at a "very low speed."

Allegation 1

Failing to follow departmental policy, “Boxing, Pinning, Ramming and Other Methods of Stopping a Vehicle”, specifically stopping a suspect vehicle when the speed was not appropriate for a box and pin, and for failing to obtain authorization from a supervisor during a second attempt.

MISCONDUCT

Neglect of Duty
Failure to comply with departmental policy/regulations

Date of Incident: November 2018

DISCIPLINARY/CORRECTIVE MEASURE

Verbal Reprimand

Disciplinary Process

A prehearing conference was offered but not accepted by the member. As a result, the matter proceeded to a discipline proceeding. At the discipline proceeding the member accepted responsibility and admitted the allegation, noting that the member’s actions were as a result of a misunderstanding of the policy. The Discipline Authority (DA) noted that “it is important that a police organization is able to manage risk, ensure the safe and effective deployment of resources, and act in a manner that protects the public.” Based on a review of a number of mitigating and aggravating factors, the DA imposed a verbal reprimand.

The member did not request a review of the disciplinary decision. The OPCC reviewed and approved the proposed disciplinary/corrective measure, noting the respondent member had reviewed the policy with a senior Vancouver Police Department member prior to the discipline proceeding.

Serious Harm Investigation (OPCC 2018-15568)

The OPCC initiated an investigation following notification from the Vancouver Police Department (VPD) of injury to a member of the public. According to the VPD, a member operating a police vehicle stopped at a red light, activated their emergency lights to proceed through the intersection, and struck the cyclist. The cyclist was transported to hospital where it was originally believed that the cyclist received minor injuries.

The OPCC subsequently received further information indicating that the cyclist's injuries constituted serious harm. Due to the serious nature of the injuries, the Independent Investigations Office (IIO) investigated this matter. In addition, the *Police Act* requires an investigation also be initiated by the OPCC whenever death or serious harm results from an incident involving municipal police officers. These investigations are separate and distinct from investigations by the IIO and are not restricted to evidence gathered by the IIO. Under the *Police Act*, officers may be compelled to provide statements, answer questions and otherwise account for their actions.

The *Police Act* investigation was suspended pending the outcome of the IIO investigation. Following the investigation by the IIO, the matter was referred to the BC Prosecution Service and charges were approved. The member pled guilty to the offence of *Driving without Due Care and Attention* under s. 144(1)(a) of the *Motor Vehicle Act*, and was sentenced to a \$2,000 fine and a six-month driving prohibition.

An investigation under the *Police Act* also found that the member committed misconduct.

Allegation 1

The member failed to adhere to the provisions of Section 122 of the *Motor Vehicle Act*, Emergency Vehicle Driving Regulations, and Vancouver Police Department Regulations and Procedure Manual.

MISCONDUCT
<i>Neglect of Duty</i> (Operating a police vehicle in an unsafe manner)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training, including a review of the department policy and relevant manuals in relation to EVDR and Section 122 of the MVA and satisfy a supervisor designated by the department that the officer understands the intent and application of that information
Participate in a four-hour, one-on-one driver training program designed to evaluate a driver's on-road driving skills and to provide coaching on collision avoidance techniques

Disciplinary Process

A prehearing conference was offered and accepted by the member. After reviewing the prehearing conference report, the Commissioner did not approve the proposed disciplinary or corrective measures and as a result, the matter proceeded to a discipline proceeding. The Discipline Authority found that the member committed misconduct and imposed disciplinary measures which also included important training for the member to prevent a similar recurrence of behaviour. The member did not request a review of the disciplinary decision.

The OPCC reviewed the findings and determined that further review was not required as corrective measures were imposed which would assist in the preventing this type of misconduct from recurring.

Police Complaint (OPCC 2018-15600)

The OPCC received complaints from three complainants describing concerns with two members of the Vancouver Police Department (VPD) who approached them after jaywalking in the early morning hours. An altercation ensued, during which force was used to arrest the complainants, including the deployment of pepper spray.

The OPCC reviewed the complaints and determined that an investigation into the incident was required.

During the course of the investigation, additional issues arose with respect to one member. It was alleged that the member failed to provide fulsome information on a submitted Report to Crown Counsel (RTCC), provided contradictory oral and written evidence during the *Police Act* investigation, and failed to provide Charter Rights to one of the complainants.

Allegation 1

The member did not have the lawful authority to arrest of one of the complainants.

MISCONDUCT
<i>Abuse of Authority</i> (Unlawful arrest)
Date of Incident: April 2018

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay (consecutive)

Allegation 2

The member inappropriately deployed OC spray on one of the complainants.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive Force – Pepper Spray)
Date of Incident: April 2018

DISCIPLINARY/CORRECTIVE MEASURE
The member is required to undertake training or retraining in the areas of: <ul style="list-style-type: none"> • An officer's obligation under the Charter; • Arrest and detention powers; • Requirements for Reports to Crown Counsel and other police reports; • Use of force techniques, and de-escalation techniques; and • The proper use of OC spray.
2-day suspension without pay (consecutive)
The member will be required to work under close supervision for a period of 12 months

Allegation 3

The member failed to provide one of the complainants with his Section 10 Charter Rights following his arrest.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide Charter rights)
Date of Incident: April 2018

DISCIPLINARY/CORRECTIVE MEASURE
1-day suspension without pay (consecutive)

Allegation 4

The member did not provide fulsome information on a submitted RTCC regarding force used on an arrested subject.

MISCONDUCT
<i>Discreditable Conduct</i> (Failure to report info/evidence material to an alleged offence)
Date of Incident: April 2018

DISCIPLINARY/CORRECTIVE MEASURE
8-day suspension without pay (consecutive)
A requirement that every Occurrence Report and RTCC of the member be approved by a designated member of the Vancouver City Police Professional Standards Division before submission to Crown Counsel. This requirement is for a period of six months

Disciplinary Process

At the conclusion of the discipline proceeding, the Discipline Authority found that one member appeared to have committed two allegations of misconduct, *Discreditable Conduct* for failing to provide fulsome information on a submitted Report to Crown Counsel regarding force used on an arrested subject and *Deceit* for knowingly providing false and misleading information to investigators in relation to this matter.

Following the outcome of the discipline proceeding, the member requested that the Commissioner arrange a Review on the Record.

Adjudicative Review – Review on the Record

The Commissioner reviewed the outcome of the discipline proceeding, including the request of the member and determined that he would arrange a Review on the Record as the nature and seriousness of the misconduct included an allegation of *Deceit*, which is one of the most serious findings of misconduct under the *Police Act*, and also because the incident involved a significant use of force incident where there was the deployment of an intermediate weapon (i.e. OC spray).

The Commissioner appointed retired BC Provincial Court Judge, James Threlfall, to review the matter and arrive at his own decision based on the evidence.

In issuing his decision, Mr. Threlfall acknowledged that it was an evolving and dynamic situation that police were involved in; however, Mr. Threlfall noted a number of instances where the member had committed misconduct. Mr. Threlfall found that the member was reckless in not turning his mind to whether he had the ground to affect the arrest. Mr. Threlfall also found that there was a failure to provide one of the complainants with the reason for his arrest, and in particular his section 10 Charter Rights.

In relation to the force used, Mr. Threlfall found that the member “failed to undertake the necessary analysis of the situation, in particular, the options available to him, and how the situation could be de-escalated without resorting to the use of force. All of these considerations should have been entertained before discharging OC spray.”

In relation to the Report to Crown Counsel (RTCC), Mr. Threlfall found that the video of the incident indicated that the member’s comments in the RTCC “were clearly misleading and an apparent attempt to ensure that a charge of obstruction was laid with respect to [the complainant]”. In issuing his finding on this allegation, Mr. Threlfall emphasized how important it is to the administration of justice that Crown Counsel can rely upon and trust that the facts detailed in reports by police are accurate. Mr. Threlfall found there was no lawful excuse for these omissions.

Mr. Threlfall could not find that the member committed deceit when he provided a statement to the investigator as it was not clear that the member definitively knew what actually did happen with respect to the deployment of pepper spray on one of the complainants.

For further information on this decision, go to <https://opcc.bc.ca/decisions/reviews-on-the-record/>

Ordered Investigation – Initiated by OPCC (OPCC 2018-15690)

The OPCC received a complaint alleging that a senior Vancouver Police Department (VPD) member had consistently acted in a bullying and harassing manner towards other officers and civilian staff. Information contained in the complaint included specific allegations that the member made a civilian staff member quit due to constant bullying and harassment, which included asking inappropriate questions and making inappropriate jokes.

Allegation 1

The member made inappropriate remarks to two civilian staff members at the VPD.

MISCONDUCT

Discreditable Conduct
(Workplace harassment / bullying / violation respectful workplace policy)

Date of Incident: 2017 – 2018

DISCIPLINARY/CORRECTIVE MEASURE

3-day suspension without pay

The VPD Respectful Workplace eLearning Course

The Canadian Police Knowledge Network (CPKN) courses on Labour Management:

- Labour Process;
- Performance Management; and
- Ethical Leadership.

Disciplinary Process

This matter proceeded directly to a discipline proceeding where the Discipline Authority (DA) found that the member committed misconduct when they made a joke demeaning to persons with disabilities and engaged in inappropriate conversations about “indecent proposals.” It was determined that the member was in a supervisory position at the time of the conduct.

The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2019-16192)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off-duty conduct of a member for submitting fraudulent massage treatment claims for reimbursement. The *Police Act* investigation was suspended pending the outcome of a criminal investigation. The matter was referred to the BC Prosecution Service but charges were not approved.

The member resigned from the VPD prior to the conclusion of the investigation.

Allegation 1

The member knowingly submitted 16 fraudulent massage therapy claims over a period of ten months.

MISCONDUCT	DISCIPLINARY/CORRECTIVE MEASURE
<i>Discreditable Conduct</i> (Conduct that discredits the department)	Dismissal
Date of Incident: May 2018 – March 2019	

Disciplinary Process

Following the investigation, this matter proceeded directly to a discipline proceeding where the Discipline Authority (DA) found that the member committed misconduct. In arriving at the appropriate disciplinary measure, the DA noted that the circumstances of the misconduct were serious in nature and went to the “heart of the principles of trust, decision making, ethics, and integrity.” The former member did not request a review of the disciplinary decision.

The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances. Even though the member resigned prior to the conclusion of this matter, their service record of discipline will reflect that they were dismissed from the VPD.

Ordered Investigation – Requested by Department (OPCC 2019-16571)

Upon request from the Vancouver Police Department, the OPCC ordered an investigation into the conduct of a member for unwanted advances and inappropriate communications toward a female member.

Allegation 1

The member made unwanted advances and inappropriate communications toward another member.

MISCONDUCT
<i>Discreditable Conduct</i> (Workplace harassment/bullying/violating respectful workplace policy)
Date of Incident: 2018 – 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-training in respectful workplace or workplace harassment

Disciplinary Process

This matter proceeded to a discipline proceeding where the Discipline Authority (DA) found that the cumulative effect and progression of the member’s actions between 2018 and 2019 amounted to misconduct and that the member ought to have known that the behaviour towards the other officer would bring discredit to the VPD as the conduct was repetitive, unwanted and inappropriate. In imposing disciplinary or corrective measures, the DA noted that the evidence did not support that the member acted with malice or intent to harm in relation to the actions. The member did not request a review of the disciplinary decision.

The OPCC reviewed the findings and determined that further review was not required and that further review was not in the public interest.

Ordered Investigation – Requested by Department (OPCC 2019-16598)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the conduct of two members (Member A and Member B) for creating a video in which they appeared to ridicule and minimize the severity of sexual harassment investigations currently taking place within the VPD; it was later determined that the video was made using police facilities while the members were on duty, during a break, and in uniform. Additional allegations of misconduct were identified during the course of the investigation, including a member (Member C) who received the video and forwarded it to a fellow member, and a supervisor (Member D) who received the video and further forwarded it without taking any action to address or report it.

Members A & B:

Allegation 1

Taking part in creating and distributing a video that appeared to mock and minimize sexual harassment investigations/allegations at the department.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June – July 2019

DISCIPLINARY/CORRECTIVE MEASURE
Member A & B: 5-day suspension without pay
Member A & B: Requirement to review Respectful Workplace Policy with a supervisor and demonstrate understanding of said policy to that supervisor
Member A & B: Completion of the online course “VPD Respectful Places”

Allegation 2

Using an interview room in the Cambie Police building during a break, while on duty and in uniform, to create the above-mentioned video.

MISCONDUCT

Corrupt Practice
(Unauthorized use of police equipment)

Date of Incident: June – July 2019

DISCIPLINARY/CORRECTIVE MEASURE

Member A & B: Written Reprimand

Disciplinary Process

A prehearing conference was offered and accepted by Member A and Member B. After reviewing the prehearing conference report, Commissioner did not approve the disciplinary or corrective measures as they did not reflect the seriousness of the actions of the members and was not appropriate in the circumstances.

The matter proceeded to a discipline proceeding where the Discipline Authority (DA) found that the members committed misconduct and imposed disciplinary or corrective measures. In arriving at the appropriate disciplinary or corrective measures, the DA noted that, while the video was not directed at any particular person, societal expectations reflect that matters such as these be handled with “much greater scrutiny and more severe consequences in order to effect real change in the workplace.” Neither member requested a review of the disciplinary decision.

The OPCC reviewed the findings and determined that there were insufficient grounds to arrange for a further review in relation to Member A and Member B.

Member C:

Allegation 1

Forwarding a video that appeared to mock and minimize sexual harassment investigations/allegations at the VPD.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: June – July 2019

DISCIPLINARY/CORRECTIVE MEASURE

Member C: Written Reprimand

Disciplinary Process

A prehearing conference was offered and accepted by Member C. In arriving at the appropriate disciplinary or corrective measure, the Prehearing Conference Authority noted that Member C was unaware of any specific sexual harassment investigations that were occurring within VPD at the time the member received the video. The member also took full responsibility for their actions, was remorseful, and had taken the initiative to contact the VPD Training Section in order to access and review VPD training materials related to Respectful Workplace Policy.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required in relation to Member C and that the discipline imposed was appropriate in the circumstances.

Member D:

Allegation 1

Forwarding a video that appeared to mock and minimize sexual harassment investigations/allegations at the VPD.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June – July 2019

DISCIPLINARY/CORRECTIVE MEASURE
Member D: 1-day suspension without pay (concurrent)

Allegation 2

Not addressing the conduct of the constable under their supervision who forwarded the video.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with departmental policy/regulations)
Date of Incident: June – July 2019

DISCIPLINARY/CORRECTIVE MEASURE
Member D: 1-day suspension without pay (concurrent)

Disciplinary Process

A prehearing conference was offered and accepted by Member D. After reviewing the prehearing conference report, the Commissioner did not approve the disciplinary or corrective measures as they were not appropriate in the circumstances.

As a result, the matter proceeded to a discipline proceeding, where the Discipline Authority (DA) found that the member committed misconduct and imposed disciplinary or corrective measures. In arriving at the appropriate disciplinary or corrective measures, the DA noted that Member D had no role in the production of the video, did not have knowledge of the context or background of the video, and fully acknowledged that they erred in judgement in forwarding the video without considering its impact and that they should have addressed the conduct of the members under their supervision. The member did not request a review of the disciplinary decision.

The OPCC reviewed the findings and determined that there were insufficient grounds to arrange for a further review in relation to Member D.

OPCC Recommendations

Following a review of this matter, the Commissioner noted a concerning attitude amongst the officers involved where very troubling misogynistic behaviour was being explained as “black humor.” In addition, there was considerable dissemination of the video prior to it being brought to the attention of the VPD Executive or Professional Standards Section, despite the fact that the subject matter of the video was in relation to sexual harassment allegations within the VPD. As a result, there appeared to be a gap in workplace policies or broader cultural issues within the department that warranted further scrutiny. The Commissioner issued a recommendation to the Vancouver Police Board which included a recommendation to:

1. Either directly, or with the assistance of expertise external to the VPD, examine the facts and circumstances of this file in its entirety; and
2. Review VPD’s training, procedures, and policies with respect to respectful workplace behavior in light of the facts of this matter and, where necessary, develop or amend training and policies to ensure matters such as this are appropriately captured and addressed.

For further information on this recommendation, go to page 29 of the Annual Report.

Police Complaint (OPCC 2019-16763)

The complainant reported that police arrested him while at a hotel on East Hastings Street in Vancouver and that police used inappropriate force on him, including the use of a CEW and batons, and was kicked and punched and was ultimately hospitalized.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation 1

The force used by the member in discharging his CEW towards the complainant was unreasonable, premature, and reckless.

MISCONDUCT	DISCIPLINARY/CORRECTIVE MEASURE
<p><i>Abuse of Authority</i> (Excessive Force - Taser)</p>	<p>Written Reprimand</p>
<p>Date of Incident: February 2019</p>	<p>An order for re-education and re-training of the Member in:</p> <ul style="list-style-type: none"> Situational awareness; CID techniques; and Awareness of issues associated with individuals struggling with addiction and mental health challenges.

Adjudicative Review – Section 117

The Discipline Authority (DA) did not find that the member committed misconduct. The Commissioner reviewed this decision and determined there was a reasonable basis to disagree with the DA's decision as there were concerns in relation to the appropriate use of a CEW in these circumstances, particularly when the complainant appeared to be in distress and that the member did not appear to have exhausted communication efforts or attempts to de-escalate the matter.

The Commissioner appointed retired BC Provincial Court Judge, the Honourable Mr. Brian Neal, K.C., to review the matter and arrive at his own decision based on the evidence.

Mr. Neal issued his decision where he determined that it appeared that the display and discharge of the CEW by the member was unwarranted and that the member appeared to have intentionally used force against the complainant without lawful authority during the course of his arrest.

Disciplinary Process – Section 117

A prehearing conference was offered but not accepted by the member. As a result, the matter proceeded to a discipline proceeding where Mr. Neal, K.C., as the Discipline Authority found that the member “owed a duty of care to the complainant to properly assess the risk” and “also had a duty to properly consider the applicability of de-escalation techniques and reduced use of force options.” In arriving at a decision, Mr. Neal referenced the late Justice Braidwood's³ cautions that “real harm can result from the premature discharge and use of CEWs particularly in situations where mental health issues are likely in issue.” In arriving at a decision on appropriate disciplinary and corrective measures, Mr. Neal noted the extraordinary powers and authorities police have and the importance of training in developing appropriate decision making by police. The measures imposed in this case supported the need for further education to enhance and reinforce a number of important skills relating to situation awareness and de-escalation.

The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

³ Braidwood Commission on the Death of Robert Dziekanski, 2010, <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/inquiries/braidwoodphase2report.pdf>

Ordered Investigation – Requested by Department (OPCC 2019-16937)

Upon request by the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off-duty conduct of a member who had been arrested by the RCMP in relation to an investigation into alleged incidents of intimate partner violence. The member was released on an Undertaking to Appear (UTA) which included a condition to have no contact with the former partner.

The *Police Act* investigation was suspended pending the outcome of a criminal investigation. The matter was referred to the BC Prosecution Service; charges were approved in relation to an alleged assault and subsequent breaches by the member of an undertaking, but the charges were ultimately stayed.

The member resigned from the VPD prior to the conclusion of the investigation.

Allegation 1

In relation to the interactions between the former member and the former partner and the subsequent breach of an undertaking during an investigation into alleged incidents of intimate partner violence.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: October 2019

DISCIPLINARY/CORRECTIVE MEASURE

30-day suspension without pay

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the member appeared to have committed misconduct. No prehearing conference was offered to the former member and as a result, the matter proceeded to a discipline proceeding.

The DA found that the member committed misconduct in relation to breaching the undertaking. The DA found that “any dispassionate reasonable person fully apprised of the circumstances would expect a police officer to uphold the law, including abiding by any conditions imposed on them to protect the safety of a victim.” The DA also noted that “any breach of a UTA by a police officer in the context of a relationship breakdown is indeed very serious.” In arriving at the appropriate disciplinary measure, the DA noted that had the member been a more experienced officer, dismissal may have been the appropriate discipline imposed. In this case, the member was a probationary recruit constable at the time of the incident and had since resigned. The former member did not request a review of the disciplinary decision.

The OPCC reviewed the findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Even though the member resigned prior to the conclusion of this matter, his service record of discipline will reflect the discipline imposed.

Ordered Investigation – Requested by Department (OPCC 2020-17355)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation in relation to an incident which occurred in 2009, where an off-duty member was reported to have inappropriately touched a civilian co-worker at a social event. The *Police Act* investigation was suspended pending the outcome of a criminal investigation. Charges were forwarded to the BC Prosecution Service but were not approved.

Allegation 1

The member inappropriately touched the victim while out with colleagues at a social event at a licensed establishment.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: 2009

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) determined that the allegation appeared to be substantiated. As the proposed range of discipline included reduction in rank and dismissal, no prehearing conference was offered to the member and the matter proceeded to a discipline proceeding. The member had retired prior to the discipline proceeding and did not participate in the process.

In arriving at a decision on discipline, the DA considered the misconduct to be “serious in nature and [went] to the heart of the principles of trust, decision making, ethics’ and integrity; all of which are essential in policing.”

Even though the member retired prior to the conclusion of this matter, their service record of discipline reflects that they were dismissed from the VPD.

The member did not request a review of the disciplinary decision. The OPCC reviewed and approved the discipline imposed as appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2020-17796)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the conduct of a member who drew or partially removed the member’s duty pistol from the member’s holster without authority or justification on two occasions. These actions occurred in the presence of other members inside police buildings. It was reported that the member was a recent graduate and was on probation with the department.

Allegation 1

The member removed their firearm from its holster on two separate occasions under circumstances that would, if known by a reasonable and dispassionate member of the community, bring discredit to the VPD.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that Discredits the Department)
Date of Incident: February – April 2020

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 2

The member improperly used, and at one point drew, their firearm without legal cause, contrary to departmental policy and the *Criminal Code of Canada*.

MISCONDUCT

Improper Use of Firearms
(Failure to Use a Firearm in Accordance with the Law)

Date of Incident: February – April 2020

DISCIPLINARY/CORRECTIVE MEASURE

Dismissal

Disciplinary Process

At the conclusion of the investigation the Discipline Authority (DA) found that the member committed two counts of misconduct. No prehearing conference was offered to the member and as a result, the matter proceeded directly to a discipline proceeding. The DA determined that the actions of the member were “significant breaches of the *Police Act*” and that a “safety risk resulted which could have had serious consequences.”

The member did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Police Complaint (OPCC 2020-17875)

The OPCC received a complaint describing concerns with a member who detained and handcuffed the complainant for investigation of a drug offence. The complainant reported that the member conducted a ‘pat-down’ search, removed the complainant’s wallet from his pant pocket, removed the complainant’s identification from the wallet, and queried the complainant on a police computer. The complainant was allowed to proceed after approximately 15 minutes.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation 1

Intentionally or recklessly detaining the complainant without cause.

MISCONDUCT

Abuse of Authority
(Unlawful detention)

Date of Incident: May 2020

DISCIPLINARY/CORRECTIVE MEASURE

Training or retraining in police authority relating to arrest and detention

Allegation 2

Intentionally or recklessly using unnecessary force on the complainant.

MISCONDUCT

Abuse of Authority
(Excessive Force – handcuffs)

Date of Incident: May 2020

DISCIPLINARY/CORRECTIVE MEASURE

Training or retraining in police authority relating to the use of force

Allegation 3

Intentionally or recklessly searching the complainant without good or sufficient cause.

MISCONDUCT
<i>Abuse of Authority</i> (Unlawful search of a person)
Date of Incident: May 2020

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training or retraining in police authority relating to incidental search and seizure

Adjudicative Review – Section 117

At the conclusion of the investigation, the Discipline Authority (DA) found that the member did not commit misconduct. The Commissioner disagreed and was of the view that the detention and search of the complainant violated his Charter Rights against arbitrary detention and unreasonable search or seizure and that the conduct reached the threshold of misconduct. The Commissioner appointed retired BC Provincial Court Judge, Ms. Carol Baird Ellan, to review the matter and arrive at her own decision based on the evidence.

Ms. Baird Ellan issued her decision where she determined that the evidence appeared to substantiate three counts of misconduct in relation to the detention, handcuffing, and search of the complainant. Specifically, Ms. Baird Ellan found that police did not have grounds for the stop and the stop was done for the “ulterior purpose of identifying [the complainant].” Additionally, Ms. Baird Ellan found that it appeared, prior to the application of handcuffs, that there was “very little interaction of a type that would support officer safety concerns.” The DA further noted that the reason for removing the complainant’s wallet was not for officer safety, and found that removing the complainant’s identification to query him was “clearly outside the permissible scope of a search for officer safety.”

For further information on this decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/>

Disciplinary Process

A prehearing conference was offered and accepted by the member. In arriving at the disciplinary or corrective measures, the Prehearing Conference Authority noted that the nature of the alleged misconducts supported a need for specific training to address any gaps or deficiencies in knowledge.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Police Complaint (OPCC 2020-18195)

A complainant reported concerns with a police officer’s conduct during a vehicle stop. The complainant reported that he was arrested for obstruction for failing to produce his driver’s licence and his vehicle was unlawfully searched.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation 1

The member searched a vehicle incidental to arrest without valid grounds for the search.

MISCONDUCT
<i>Abuse of Authority</i> (Unlawful search - vehicle)
Date of Incident: April 2020

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Adjudicative Review – Section 117

At the conclusion of the investigation, the Discipline Authority (DA) found that the member did not commit misconduct. The Commissioner disagreed as it appeared the DA did not appropriately consider the scope and extent of the search. The Commissioner appointed retired BC Provincial Court Judge, Ms. Carole Lazar, to review the matter and arrive at her own decision based on the evidence.

Ms. Lazar issued her decision where she determined that there were no valid grounds for the member’s search of the vehicle incidental to the complainant’s arrest for Obstruction.

For further information on this decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/>

Disciplinary Process

A prehearing conference was offered and accepted by the member. In arriving at the disciplinary or corrective measure, the Prehearing Conference Authority noted that the member fully acknowledged the misconduct and had taken steps to educate himself about the law in this area to ensure this situation would not recur.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2020-18356)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off-duty conduct of a member for driving while affected by alcohol. According to the VPD, the off-duty member was stopped by an RCMP member for speeding and was issued a three-day Immediate Roadside Prohibition and their vehicle was impounded after the member provided a breath sample that registered a “warn” on an Approved Screening Device.

Allegation 1

The off-duty member was found operating a motor vehicle while affected by alcohol, and was served with a notice of three-day driving prohibition and vehicle impoundment in accordance with provisions of the BC *Motor Vehicle Act*.

MISCONDUCT
<i>Discreditable Conduct</i> (Immediate Roadside Prohibition)
Date of Incident: August 2020

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the member appeared to have committed misconduct. A prehearing conference was offered and accepted by the member.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Initiated by OPCC (OPCC 2020-18382)

The OPCC ordered an investigation after receiving information about the driving behaviour of a Vancouver Police Department (VPD) member following a collision with a bicycle which resulted in injuries. According to information provided by the VPD, police were travelling in plain clothes and in an unmarked police vehicle when they observed a male riding a bicycle on a sidewalk. The male’s bicycle did not have lights and he was not wearing a helmet. The male reportedly rode away quickly and as officers attempted to stop him, the police vehicle “made contact” with the male’s bicycle causing him to be knocked off to the ground. Police reported that a physical struggle ensued when they attempted to arrest the male. During the struggle, police used force which included the use of a CEW and punches to the head and body.

Allegation 1

The member failed to operate the police vehicle in a safe manner, resulting in a collision with the male on his bicycle.

MISCONDUCT
<i>Neglect of Duty</i> (Operating a police vehicle in an unsafe manner)
Date of Incident: August 2020

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Allegation 2

The member used unnecessary force against the male during his arrest by hitting him in the head with a closed fist.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive Force – empty hand)
Date of Incident: August 2020

DISCIPLINARY/CORRECTIVE MEASURE
1-day suspension without pay

Disciplinary Process

A prehearing conference was offered to, but not accepted, by the member. The matter proceeded to a Discipline Proceeding and the Discipline Authority (DA) determined that the member committed misconduct. The DA found that the member was in the lawful execution of their duties when stopping the male for possible infractions; however, the DA found that the member’s operation of the police vehicle was reckless, and likely caused injury to the male. In addition, the DA determined that the member’s final strike to the male’s head was not reasonable or proportionate to the level of resistance from the affected person and was not necessary to control, secure and arrest the affected person.

The member did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances. The OPCC noted that the member fully accepted the findings of the DA and that the member submitted that the conduct was out of character and that this experience will prevent any recurrence.

Ordered Investigation – Requested by Department (OPCC 2020-18439)

Upon request by the Vancouver Police Department (VPD), the OPCC ordered an investigation into the discharge of a duty issued firearm in a gun locker room at the VPD. It was learned that the member was on duty and dry firing a duty pistol in preparation for

a morning pistol qualification. After a conversation, the member removed the magazine but did not clear the chamber. The member continued to dry fire and discharged one round. There were no injuries as a result.

Allegation 1

The member failed to clear his pistol and negligently discharged one round.

MISCONDUCT
<i>Improper Use of Care of Firearms</i> (Accidental/Negligent Discharge of Firearm)
Date of Incident: August 2020

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

A prehearing conference was offered and accepted by the member. The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2020-18454)

Upon request by the Vancouver Police Department, the OPCC ordered an investigation in relation to a member conducting a query using police database for information unrelated to an investigation or duties as a police officer. Specifically, this incident occurred after the member had a conversation with a civilian while on patrol. At a later date, the member, while conducting patrols, observed a person whom the member believed to be the civilian the member conversed with prior and queried their vehicle to confirm the member’s observation.

Allegation 1

The member queried a police database (CPIC)⁴ for information unrelated to an investigation.

MISCONDUCT
<i>Corrupt Practice</i> (Unauthorized search of CPIC/PRIME)
Date of Incident: June 2020

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

A prehearing conference was offered and accepted by the member. Upon review, the Commissioner did not approve the disciplinary or corrective measures accepted by the member and approved by the prehearing conference authority.

The matter proceeded to a discipline proceeding, during which the member admitted to the misconduct. In arriving at the appropriate disciplinary or corrective measure, the Discipline Authority noted that the member queried the license plate once, did not open any other associated documentation, did not disclose or use this information for any other known purpose, and took full responsibility for their actions. The member did not request a review of the disciplinary decision.

The OPCC reviewed this matter and determined that there were insufficient grounds to arrange for a further review.

⁴ The Canadian Police Information Centre (CPIC) is a national repository of police information.

Ordered Investigation – Requested by Department (OPCC 2020-18782)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the conduct of a Special Municipal Constable (SMC). It was reported that during a pre-employment polygraph examination, that was a part of the selection process to become a regular VPD member, the SMC disclosed that on one occasion the SMC had queried a person on a police database for reasons unrelated to the SMC's duties.

Allegation 1

Querying the PRIME⁵ police database for information which unrelated to an investigation.

MISCONDUCT
<i>Corrupt Practice</i> (Unauthorized search of CPIC / PRIME)
Date of Incident: April 2020

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Disciplinary Process

Following an investigation, the Discipline Authority (DA) determined that the member committed misconduct and offered a pre-hearing conference. After reviewing the prehearing conference report, the Commissioner did not approve the proposed disciplinary or corrective measures, as a result the matter proceeded to a discipline proceeding. At the Discipline Proceeding, the DA noted that the SMC did not access the information for any nefarious or malicious purpose and admitted the misconduct.

The OPCC reviewed this matter and determined that there were insufficient grounds to arrange for a further review.

Ordered Investigation – Requested by Department (OPCC 2021-19215)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the off-duty conduct of a member for causing a disturbance at their residence which lead to another police agency detaining the member. It was reported that the member had an argument with their partner which lead to them breaking items and sustaining an injury. No criminal charges were recommended against the member.

During the course of the investigation, the member was dismissed in relation to another matter under the *Police Act*.

Allegation 1

While off-duty, causing a disturbance by yelling threatening challenges, damaging property, and disturbing the peace.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2021

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay
Counselling

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority (DA) found that the former member appeared to have committed misconduct. A prehearing conference was offered to the former member; however, it was not accepted and as a result the matter

⁵ Police Resource Information Management Environment (PRIME) is a multi-jurisdictional information management system used by police across British Columbia.

proceeded to a discipline proceeding. The DA found that the former member committed misconduct, noting that the actions of the member were serious in nature and went “to the heart of the principles of trust, decision making, ethics and integrity.”

The former member did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed, although on the low end of the spectrum, was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2021-19307)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation into the conduct of two VPD members following the posting of a video to social media. The video depicted an individual who appeared to be deceased. Member A could be seen and heard laughing and posing for what appears to be a photograph taken by Member B.

Allegation 1 – Member B

For taking pictures of another member who posed beside a deceased person on the beach.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2021

DISCIPLINARY/CORRECTIVE MEASURE
Member B: 5-day suspension without pay

Allegation 2 – Member A

Being photographed by another member while posing beside a deceased person on the beach.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2021

DISCIPLINARY/CORRECTIVE MEASURE
Member A: 5-day suspension without pay (consecutive)

Allegation 3

The member shared the photograph with other VPD members

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2021

DISCIPLINARY/CORRECTIVE MEASURE
Member A: 1-day suspension without pay (consecutive)

Disciplinary Process

Following an investigation, the Discipline Authority determined that the members committed misconduct and offered them a pre-hearing conference. In determining appropriate disciplinary/corrective measures, the Pre-Hearing Conference Authority highlighted the seriousness of the extremely poor judgement of the members, the violation of the department’s core values (notably “compassion”) and the ethical and professional standard expected of members.

The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances. The OPCC noted that both members accepted full responsibility for their actions and were both remorseful about their conduct.

Ordered Investigation – Requested by Department (OPCC 2021-19378)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation in relation to a member’s off-duty conduct while testifying in a case before the Supreme Court of British Columbia. According to the VPD, the case was in relation to two motor vehicle accidents the member had been in, where the member had sustained injuries and was seeking compensation. In his reasoning for judgement, the presiding Justice made adverse comments on the member’s credibility and reliability.

Allegation 1

The member, while off duty, knowingly gave false and/or misleading evidence during court testimony for personal financial gain.

MISCONDUCT	DISCIPLINARY/CORRECTIVE MEASURE
<i>Discreditable Conduct</i> (Conduct that discredits the department)	3-day suspension without pay
Date of Incident: March 2021	Attendance in a course on ethical conduct

Disciplinary Process

At the conclusion of the investigation, the Discipline Authority found that the member appeared to have committed misconduct. A prehearing conference was offered and accepted by the member.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2021-19515)

Upon request from the Vancouver Police Department (VPD), the OPCC ordered an investigation in relation to a video that was posted on social media which captured the actions of a member and comments he made to a member of the public. The member was working with three other police officers in the Downtown Eastside of Vancouver when police noticed a woman taking photos and/or recording the police on her cell phone. A conversation ensued where it was alleged that the member made inappropriate comments.

Allegation 1

The member failed to behave with courtesy to the affected person during their interaction.

MISCONDUCT	DISCIPLINARY/CORRECTIVE MEASURE
<i>Discourtesy</i> (Discourteous conduct)	Written Reprimand
Date of Incident: April 2021	Training /retraining on methods of deescalating verbal and physical confrontations

Adjudicative Review – Section 117

Following an investigation into the matter, the Discipline Authority did not find that the member committed misconduct. The Commissioner disagreed and determined, in part, that the DA failed to properly consider all the available evidence and assess it

against the expectations of a reasonable member of the community. The Commissioner appointed retired BC Supreme Court Justice, Elizabeth Arnold-Bailey, to review this matter and arrive at her own decision based on the evidence.

Ms. Arnold-Bailey issued her decision in which she determined that the allegation of *Discourtesy* appeared to be substantiated. She found that while the allegation that the member threatened to smack the individual did not “appear to be born out by the evidence”, at times the member’s interactions with the individual made the situation worse by being discourteous to them. Ms. Arnold Bailey noted that the member’s tone was at times sarcastic and lacking in respect. In particular, she found that the member’s comment that the individual “go back to dealing drugs was discourteous, rude, and uncivil, apparently without a basis in fact, and completely unnecessary.”

For further information on this decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/>.

Disciplinary Process

A prehearing conference was offered and accepted by the member.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances. The OPCC noted that, during the PHC, the member took responsibility for his actions and acknowledged that it was a mistake.

Ordered Investigation – Initiated by OPCC (OPCC 2021-19804)

The OPCC ordered an investigation after reviewing information and injuries following a collision of a Vancouver police cruiser and a bus. It was reported that the member was responding to a high priority call when the member crossed the dividing concrete median, entered oncoming traffic and collided with a transit bus head on which resulted in extensive vehicle damage, significant injuries to the officers, and minor injuries to those on the bus.

Allegation 1

The member failed to activate their emergency lights and siren while operating an emergency vehicle under the provisions of s. 122 of the *Motor Vehicle Act*, the *Emergency Vehicle Driving Regulation* and Vancouver Police Department Regulations and Procedures Manual Police Vehicles Code 3 Procedure Policy.

MISCONDUCT

Neglect of Duty
(Failure to Comply with Departmental Policy/Regulations)

Date of Incident: June 2021

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Training/Re-Training, including a review of departmental policy and relevant manuals in relation to EVDR and section 122 of the MVA with a training supervisor

Disciplinary Process

A prehearing conference was offered and accepted by the member. The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2021-19830)

Upon request from the Vancouver Police Department, the OPCC ordered an investigation into the conduct of a member for negligently discharging their firearm in the men’s locker room and for failing to use a designated loading/unloading station. It was determined that the member was dry firing the issued duty pistol, pulling the trigger of the firearm believing it did not contain any ammunition when one round was discharged from it. The actions caused minor property damage and no person was injured.

Allegation 1

The member failed to ensure their issued firearm was properly unloaded and negligently discharged a bullet when the member was inside the VPD change room, causing minor property damage.

MISCONDUCT

Improper Use or Care of Firearms
(Accidental/Negligent Discharge of Firearm)

Date of Incident: June 2021

DISCIPLINARY/CORRECTIVE MEASURE

1-day suspension without pay

Allegation 2

The member failed to use a designated loading/unloading station that was available in the locker room as mandated by VPD policy.

MISCONDUCT

Neglect of Duty
(Failure to Comply with Departmental
Policy/Regulations)

Date of Incident: June 2021

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Disciplinary Process

A prehearing conference was offered and accepted by the member. The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Victoria Police Department

Police Complaint (OPCC 2019-16684)

The OPCC received three complaints describing concerns with a member stopping them for carrying open alcohol. The complainants reported that the member made inappropriate comments and became aggressive in his language and tone.

The OPCC reviewed the complaint and determined that an investigation into the matter was required.

Allegation 1

The member used profane and aggressive language in the course of an interaction with the complainants.

MISCONDUCT
<i>Discourtesy</i> (Discourteous conduct)
Date of Incident: August 2019

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand
Attend and complete the "Police Ethics and Accountability" course

Adjudicative Review – Section 117

At the conclusion of the investigation, the Discipline Authority found that the member did not commit misconduct. The Commissioner was of the view that there was a reasonable basis to believe that the decision of the Discipline Authority was incorrect and appointed retired BC Provincial Court Judge, Mr. James Threlfall, to review the matter and arrive at his own decision based on the evidence.

Mr. Threlfall issued his decision where he determined that the member's conduct during the interaction, including his aggression and repeated use of profanity, appeared to constitute misconduct.

Disciplinary Process

A prehearing conference was offered to the member; the member declined the offer and as a result this matter proceeded to a discipline proceeding. Mr. Threlfall, as the Discipline Authority, found that the decision to stop the complainants was based upon members having observed one of the complainants with open alcohol. Mr. Threlfall further determined that during the course of the stop the member made numerous profane statements toward that same complainant, that the member was agitated and aggressive, that the member's profane statements taken together amounted to discourtesy, and that the member's use of profanity escalated a routine stop into a significant issue.

Neither the member nor the complainants requested a review of the disciplinary decision.

The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

For further information on this decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/>.

Police Complaint (OPCC 2019-16869)

The OPCC received a complaint describing concerns with a member of the Victoria Police Department conducting an inadequate investigation into a report of intimate partner violence by the complainant's former partner. The complainant also reported that the member treated her in a degrading, demeaning, and discourteous manner.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation 1

The member failed to complete a thorough evidence based, risk focused investigation, failed in his duties to investigate intimate partner violence matters, and failed in his duty to ensure the safety of the Complainant.

MISCONDUCT
<i>Neglect of Duty</i> (Inadequate investigation)
Date of Incident: August 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-Training: attend and complete the Facilitated Trauma Informed Practices Foundations course offered by the Justice Institute of BC

Allegation 2

The member made comments that appeared to have been sexist, dismissive and demeaning.

MISCONDUCT
<i>Discourtesy</i> (Discourteous conduct)
Date of Incident: August 2019

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay (concurrent)

Allegation 3

The member treated the Complainant in an oppressive manner by using profane or insulting language that tended to demean or disrespect the Complainant based on her sex during the exercise of his duties.

MISCONDUCT
<i>Abuse of Authority</i> (Profanity/Abusive/Insulting language)
Date of Incident: August 2019

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay (concurrent)

Adjudicative Review – Section 117

At the conclusion of the investigation, the Discipline Authority found that the member did not commit misconduct. The Commissioner disagreed with this finding and was of the view that the member did not adequately assess the risk posed by the suspect and that considering the context of a serious intimate-partner violence investigation, the DA did not employ a sufficiently high standard of care in his assessment of the member’s conduct. The Commissioner appointed retired BC Provincial Court Judge, Brian M. Neal, K.C., to review the matter and arrive at his own decision based on the evidence.

Mr. Neal issued his decision where he found that the member appeared to have committed three allegations of misconduct. Specifically, Mr. Neal determined that the member failed to complete a “thorough evidence based, risk focused investigation.” Additionally, Mr. Neal determined that the member “may have demonstrated discourteous behaviour towards the complainant” and that it appears the member “treated the complainant in an oppressive manner by using profane or insulting language that tended to demean or disrespect the complainant based on her sex.”

Disciplinary Process

A prehearing conference was offered and accepted by the member.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

For further information on this decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/>.

West Vancouver Police Department

Ordered Investigation – Requested by Department (OPCC 2018-14770)

Upon request from the West Vancouver Police Department (WVPD), the OPCC ordered an investigation into the off duty conduct of a member. According to the WVPD, while off duty, the member called the RCMP to report a theft from their personal vehicle. The theft included police property. The member advised that two males had stolen items from their vehicle before leaving the scene. The member was able to provide the vehicle's BC license plate.

After making the initial theft report, the member came upon RCMP officers. One of the RCMP officers viewed the theft call on his Mobile Data Terminal and the member was able to view the address of the registered owner of the suspect vehicle. The member subsequently attended the address associated with the registered owner of the vehicle and self-identified as a police officer, in an effort to retrieve the missing property. The registered owner contacted the person who had borrowed the vehicle and the member arranged to meet with them to retrieve the belongings. The member met the suspect at the arranged location and subsequently placed the suspect under arrest. RCMP officers arrived and took the suspect into custody.

Allegation 1

The member involved themselves in an RCMP police investigation of theft, which could have jeopardized the subsequent prosecution and potentially put themselves and others at risk.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Allegation 2

The member left their vehicle unlocked allowing two thieves to steal sensitive police information, an access card and dangerous police equipment.

MISCONDUCT

Neglect of Duty
(Failure to comply with departmental policy/regulations)

Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Adjudicative Review – Section 117

Following the investigation, the Discipline Authority determined that the member did not commit misconduct. The Commissioner disagreed as the evidence appeared to demonstrate that the member used information the member obtained from the police of jurisdiction to investigate and ultimately arrest the suspect in a criminal matter in which the member was the victim. The member did this while the police of jurisdiction were actively investigating the incident and the actions had the potential to jeopardize the criminal investigation/prosecution. In addition, the Commissioner was of the view that the member's conduct in relation to leaving the police notebook, magazine, and ammunition insecure in the vehicle was not a temporary oversight but rather a pattern of carelessness for an item that posed a significant risk to the public.

The Commissioner appointed retired BC Provincial Court Judge, Mr. David Pendleton, to review this matter and arrive at his own decision on the evidence.

Mr. Pendleton issued his decision where he determined that the *Discreditable Conduct* and *Neglect of Duty* allegations appeared to be substantiated.

Disciplinary Process

A prehearing conference was offered but was declined by the member. As a result, the matter proceeded to a discipline proceeding where Mr. Pendleton, as the Discipline Authority, found the evidence proved that the member left the vehicle unlocked, allowing two thieves to steal sensitive police information, an access card and dangerous police equipment. He also found the member then involved themselves in an RCMP police investigation of the theft, which could have jeopardized the subsequent prosecution, and potentially put themselves and others at risk.

In arriving at an appropriate disciplinary or corrective measure, Mr. Pendleton noted, in part, "It is, in my view, sufficient to provide [the member] with the advice that [the member] follow appropriate police practices and procedures which would include not investigating or take any steps as a police officer in a case where [the member] is a victim, that, when circumstances permit, [the member] consult with [the member's] superior officers if [the member] has questions or concerns as to how to proceed and that [the member] not involve [themselves] in any police matter whether on or off duty without [the member's] police department knowing where and what [the member] was doing."

The member did not request a review of the disciplinary decision. The OPCC reviewed these findings and determined that further review was not required and that the discipline imposed was appropriate in the circumstances.

Ordered Investigation - Initiated by OPCC (OPCC 2021-19711)

The OPCC ordered an investigation into the conduct of a member in relation to a motor vehicle incident. It was report that while responding to a police operation, a police officer driving an unmarked police vehicle activated their emergency lights and entered the oncoming lane to pass a vehicle stopped at an intersection. Upon entering the intersection on a red light, the police vehicle collided with a civilian vehicle that was travelling in the intersection. There were no injuries.

Allegation 1

Neglecting to follow the provisions of the *Motor Vehicle Act* in order to proceed against a red light and travel through an intersection when it is safe to do so.

MISCONDUCT

Neglect of Duty
(Operating a police vehicle in an unsafe manner)

Date of Incident: February 2021

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Disciplinary Process

A prehearing conference was offered and accepted by the member. The Pre-hearing Conference Authority noted that the collision was low impact and did not result in injuries to those involved.

The OPCC reviewed the proposed disciplinary/corrective measures and determined that further review was not required and that the discipline imposed was appropriate in the circumstances. The OPCC noted that the member accepted responsibility for their actions, apologized and accepted the disciplinary/corrective measures. Furthermore, the member reviewed and updated all Emergency Vehicle Operation (EVO) training materials that they created and taught during in-house EVO training lessons.