

December 6, 2022

IN THE MATTER OF THE *POLICE ACT*, R.S.B.C. 1996 C. 367

AND

IN THE MATTER OF A DISCIPLINE PROCEEDING UNDER SECTION 124

AND

IN THE MATTER OF AN ALLEGATION OF MISCONDUCT AGAINST CONSTABLE
[REDACTED] OF THE VANCOUVER POLICE DEPARTMENT

DISCIPLINE AUTHORITY'S FINDINGS AND REASONS UNDER SECTION 125(1)(b)

(Supplement to Form 3)

TO: Constable [REDACTED] Member

AND TO: [REDACTED] Counsel
Counsel for [REDACTED]

AND TO: [REDACTED] Counsel
Discipline Representative

AND TO: Clayton Pecknold Commissioner
Police Complaint Commissioner

I. Discipline Proceeding – the allegation of misconduct against the member.

1. This Discipline Proceeding pursuant to sections 123 to 125 of the Police Act pertains to an allegation of misconduct against Constable [REDACTED] [REDACTED]. The allegation, which is set out below, concerns whether the member intentionally or recklessly used unnecessary force on a person. The member, who is a Vancouver Police dog handler, deployed his police dog during the arrest of a suspected car thief. The dog bit the suspect causing injuries.

II. History of Proceedings

2. On September 14, 2020 the Office of the Police Complaint Commissioner received information from the Vancouver Police Department (VPD) pursuant to section 89 of the Police Act in relation to an incident that occurred on September 12, 2020. The VPD reported that a suspected car thief had been bitten and injured by a Police Service Dog. The dog's handler, Constable [REDACTED], the member, and other VPD constables located a stolen vehicle in the Downtown Eastside of Vancouver on September 12, 2020 around 09:00. The officers used their patrol cars to surround the suspect who was seated in the driver's seat of a stolen BMW. Constable [REDACTED] exited his police vehicle and approached the passenger side of the stolen vehicle. The passenger side window was partially down. He drew his firearm and identified himself as a police officer. He advised the suspect, later identified as [REDACTED] that he was under arrest and ordered him to get out of the vehicle. Mr. [REDACTED] would not get out despite the member repeatedly ordering him to do so. Mr. [REDACTED] was shaking his head and appeared to be acting erratically. Constable [REDACTED] then let his police dog out of his police vehicle and went to the passenger side window of the BMW. He again advised Mr.

██████ he was under arrest and warned him he would release the police dog if Mr. ██████ did not surrender. Constable ██████ reached in through the open window, unlocked the passenger door and ordered the dog to apprehend Mr. ██████. Mr. ██████ was bitten once on his upper right arm before he opened the driver's door and exited the vehicle. The dog jumped through the vehicle and bit Mr. ██████ left leg. Constable ██████ moved around the front of the BMW and took control of the police dog. Mr. ██████ was handcuffed and taken into custody by other officers. Mr. ██████ suffered cuts and puncture wounds to his arm and left leg. He was transported to hospital where he was treated for his injuries before being taken to jail.

3. The information provided to the Office of the Police Complaint Commissioner included a video of the incident recorded by a civilian. The Commissioner reviewed the information and concluded, "the apparent immediate deployment of force by a Police Service Dog without the opportunity for the affected person to surrender is concerning and worthy of investigation." The Commissioner was of the opinion that the conduct alleged against Constable ██████ if substantiated, would constitute misconduct and could potentially be defined as intentionally or recklessly using unnecessary force on any person contrary to section 77(3)(a)(ii)(A) of the Police Act.
4. On October 6, 2020 the Commissioner ordered that the alleged misconduct be investigated by an external police force, pursuant to section 93(1)(a) and section 93(1)(b)(ii) of the Police Act. The RCMP conducted the investigation and RCMP Corporal ██████ was assigned to investigate. The Commissioner also issued a Notice of Designation of External Discipline Authority pursuant to section 135(1) of the Police Act. ██████ ██████ of the Port Moody Police Department

became the Discipline Authority.

5. On March 31, 2021, Corporal [REDACTED] submitted his Final Investigation Report to the Discipline Authority. Corporal [REDACTED] concluded that the evidence did not prove on a balance of probabilities that Constable [REDACTED] committed the alleged misconduct.
6. On April 19, 2021, [REDACTED], as the Discipline Authority, issued her decision pursuant to section 112 of the Police Act. [REDACTED] determined that the evidence in the Final Investigation Report did not appear to substantiate the allegation pursuant to section 77(3)(a)(ii)(A) of the Police Act.
7. The Police Complaint Commissioner reviewed the allegation and the alleged conduct and considered that there was a reasonable basis to believe that the decision of the Discipline Authority was incorrect.
8. On May 17, 2021 the Police Complaint Commissioner appointed me to review the investigating officer's report, the evidence and the records pursuant to section 117 of the Police Act.
9. On June 7, 2021 I decided the evidence appeared sufficient to substantiate the allegation and a Discipline Proceeding was ordered.
10. The Discipline Proceeding convened on July 30, 2021 and was adjourned from time to time pursuant to section 123(10) of the Police Act. Constable [REDACTED] and [REDACTED] testified on April 20, 2022. Counsel's written submissions were delivered on September 14, November 6 and November 14, 2022. The matter was adjourned to November 23, 2022.

11. Pursuant to section 125(1) this decision is due by December 7, 2022.

III. Allegation and the Police Act

12. The allegation of misconduct pursuant to the Police Act that is relevant to this Discipline Proceeding is set out in Section 77 (1). "Misconduct" means:

(3) Subject to subsection (4), any conduct described in the following paragraphs constitute a disciplinary breach of public trust, when committed by a member:

(a) "abuse of authority", which is oppressive conduct towards a member of the public, including, without limitation,

(ii) in the performance, or purported performance, of duties, intentionally or recklessly

(A) using unnecessary force on any person

13. Section 125(1)(a) requires me as discipline authority to decide, in relation to the allegation of misconduct, whether the misconduct has been proven. Applicable case law establishes that the standard of proof is a balance of probabilities, and the question is whether there is clear, cogent and convincing evidence establishing that the actions of the officer amount to misconduct.

IV. Evidence

14. The records considered in this proceeding consist of the Final Investigation Report and accompanying documents. As well, I have considered the testimony of Constable [REDACTED] and Mr. [REDACTED] and the written submissions of counsel.

V. Discussion of the Evidence

15. In my section 117 decision (paragraph 16) I referred to the Final Investigation Report and I agreed with Cpl. [REDACTED] that most of the circumstances of the arrest of Mr. [REDACTED] were not in dispute. Having now completed a review of the Final Investigation Report and the records referenced in it and having considered the testimony of Constable [REDACTED] and Mr. [REDACTED] I am satisfied the evidence proves the following:

- a) On September 12, 2020 [REDACTED] was driving a BMW X4 that he had stolen that morning from a Vancouver automobile dealership. The VPD was investigating the theft and broadcast a GPS location for the stolen vehicle. Constable [REDACTED] was on duty in the area of the stolen vehicle. Constable [REDACTED] is a police dog handler and had police dog [REDACTED] in his patrol vehicle. The member located the BMW, followed it and with the assistance of other officers surrounded the BMW with their patrol vehicles.
- b) With the BMW pinned and boxed in, Constable [REDACTED] exited his vehicle and approached the BMW with his firearm pointed at the driver. I accept Constable [REDACTED] evidence that the driver appeared to be in some emotional distress, was flailing his arms, shaking his head, and yelling and screaming. In my section 117 decision I referred to the apparent discrepancies and contradictions in the various statements and recollections of Constable [REDACTED] and Mr. [REDACTED] that are contained in the Final Investigation Report. Having had the benefit of hearing the testimony of the member and Mr. [REDACTED] I am satisfied that

Constable [REDACTED] recollection of the events and his evidence is credible and reliable. Mr. [REDACTED] testified that he was diagnosed with a [REDACTED] ten years ago. He said he is [REDACTED] and takes [REDACTED] medication but had not been taking the medication for about three weeks before this incident. He agreed that his judgment was affected and that he was not thinking straight. He said, "my thinking was screwed up that is why I thought the police would let me keep the stolen car". Mr. [REDACTED] recollection of what occurred and his evidence is not reliable.

- c) The video that was recorded by a civilian does not show the initial contact Constable [REDACTED] had with the driver as he approached the BMW with his firearm pointed at Mr. [REDACTED]. However, I accept the member's testimony that he ordered Mr. [REDACTED] to surrender, to get out of the car with his hands up but Mr. [REDACTED] remained seated in the stolen vehicle. I accept Constable [REDACTED] evidence that Mr. [REDACTED] never made any physical gesture or verbal comment to indicate that he was surrendering. The member stated he decided to get [REDACTED] and show the dog to Mr. [REDACTED] because, in his experience, once a suspect sees a police dog they usually surrender.
- d) The 59 second video depicts what occurred following this initial contact. Constable [REDACTED] holsters his gun, returns to his patrol vehicle, gets police dog [REDACTED] out and goes back to the passenger side of the BMW holding [REDACTED] on a leash. In the Final Investigation Report Corporal [REDACTED] provides a second-by-second summary of the images captured on the video (see FIR page 8).

- e) There are other police officers seen on the video. Constable [REDACTED] and his partner Constable [REDACTED] approached the BMW. Constable [REDACTED] had her firearm drawn and took up a position on the passenger side of the BMW covering Constable [REDACTED] from behind. I am satisfied that Constable [REDACTED] was aware that other VPD officers were at the scene. Constable [REDACTED] was seen gesturing to Constable [REDACTED]. He was interviewed by Corporal [REDACTED] on December 8, 2020 and said, "Yeah. So eighteen seconds, I think you see me pointing to um, Constable [REDACTED] um, like as [REDACTED] enters the car [REDACTED] engages on his right arm. I immediately tell Constable [REDACTED] to go around um to get to the driver door and to assist in taking him into custody".
- f) I accept Constable [REDACTED] evidence that he gave further commands to the driver through the open passenger window. Although the commands are not audible, I accept the member made them. He ordered the driver to surrender and warned him that if he did not he would put [REDACTED] into the BMW and that the dog might bite him. When Mr. [REDACTED] did not comply, Constable [REDACTED] testified he opened the passenger door to show the dog to Mr. [REDACTED]. The video depicts that about 2 to 3 seconds elapsed between the member opening the car door and [REDACTED] jumping into the car. In that brief time, Constable [REDACTED] agreed he did not see any weapons nor did he see Mr. [REDACTED] feet near the brake or gas pedal. What he did see was Mr. [REDACTED] reaching his hand towards the centre console of the car. Constable [REDACTED] said he thought Mr. [REDACTED] could be reaching for a weapon or to put the car in motion. He said, "my honest belief was Mr. [REDACTED] was putting the car in motion". In an interview conducted on March 19, 2021, Constable [REDACTED] told Corporal [REDACTED], "my primary

concern, as I stated before and I'll state again uh, was that he had access to a vehicle which could be used as a deadly weapon for anyone in the area". Constable [REDACTED] testified and said "and so throughout this entire interaction my frame of mind was that that weapon, the weapon that we were trying to prevent being used was the motor vehicle" (transcript p. 195). Constable [REDACTED] testified that Mr. [REDACTED] was in control of the BMW, that the car was a weapon and that he had to prevent the car being driven away and potentially causing injury to himself, his dog, the other police officers and members of the public that were in the area. He "deployed" [REDACTED] which he explained was giving the dog a command to bite. He released the tension on [REDACTED] leash and the dog jumped into the passenger seat.

- g) I accept the evidence proves that [REDACTED] bit Mr. [REDACTED] on the upper right arm, that Mr. [REDACTED] threw a cup of water at the dog and then quickly exited the BMW through the driver's door. Constable [REDACTED] at this point, gave a second command to [REDACTED] to bite Mr. [REDACTED]
- h) I accept that Constable [REDACTED] released the tension on the dog leash as [REDACTED] chased Mr. [REDACTED] out the driver's door. The dog bit Mr. [REDACTED] on his leg within a second or two and Mr. [REDACTED] fell to the ground. Constable [REDACTED] explained that he could not crawl through the BMW so he let go of the leash and ran around the front of the BMW to where [REDACTED] had Mr. [REDACTED] on the ground biting and holding onto his left leg. The video shows Constable [REDACTED] gained control of [REDACTED] and it ends with the other police officers moving in to handcuff Mr. [REDACTED]

VI. The Law

16. I am satisfied the evidence proves that Constable [REDACTED] had reasonable and probable grounds to arrest Mr. [REDACTED] for theft and possession of stolen property. In OPCC File No. 2016-11867 Adjudicator Carol Baird Ellan reviews the test to be considered under section 25 of the Criminal Code. At paragraph 32 she states:

“The investigating officer considered the member’s actions from the point of view of whether the arrest complied with Section 25(1) of the Criminal Code. In the recent case of *Akintoye v White* 2017 BCSC 1094 Fleming J. considered the test under Section 25. She stated:

[97] Section 25(1) is not a source of extra police powers. Instead it operates to justify the use of force when a police officer’s conduct is permitted pursuant to a separate statutory or common law power.

[98] The defendants accept that under s. 25, they bear the onus of proving on a balance of probabilities, three requirements described in *Chartier v. Graves*. [2001] O.J. No. 634 at para. 54(S.C.), as follows:

1. the officer’s conduct was required or authorized by law in administering or enforcing the law;
2. he or she acted on reasonable grounds in using force: and
3. he or she did not use unnecessary force.

[99] The third requirement focuses on the level or degree of force used.

[100] In *R v. Nasogaluak*, 2010 SCC 6 (CanLII), the Supreme Court of Canada specified the degree of "allowable" force is constrained by the principles of proportionality, necessity and reasonableness, cautioning: "courts must guard against the illegitimate use of power by the police against members of our society, given its grave consequences" (at para. 32).

[101] A subjective-objective or modified objective test is applied to assess the reasonableness of a police officer's belief that the force used was necessary: he or she must subjectively believe the force used was necessary and that belief must be objectively reasonable in all the circumstances.

[102] Recognizing police officers often engage in dangerous and demanding work that requires them to react quickly, they are not expected to measure the level of force used "with exactitude". Put another way, they are not required to use the least amount of force necessary to achieve a valid law enforcement objective. Although entitled to be wrong in judging the degree of force required, an officer must act reasonably (*Crampton v. Walton*, 2005 ABCA 81 (CanLII) at para.22). The common law accepts that a range of use of force responses may be reasonable in a given set of circumstances (*Bencsetler v. Vancouver (City)*, 2015 BCSC 1422 (CanLII) at para. 153). The reasonableness, proportionality and necessity of the police conduct are assessed in light of those circumstances, not based on hindsight."

17. Section 125(1)(a) requires me as Discipline Authority to decide, in relation to the allegation of misconduct, whether the misconduct has been proven.

This Police Act hearing is a civil process. The applicable case law establishes that the standard of proof is a balance of probabilities, and the question is whether there is clear, cogent and convincing evidence establishing that the actions of the officer amount to misconduct. (F. H. McDougall (2008) SCC 53)

18. Counsel for the member relies on the decisions in *R. v. Nasogalauk*, *Anderson v. Smith*, *Breen v. Saunders* and *Levesque v. Zanibbi*. I have considered those authorities and I am satisfied that the legal principles expressed therein are applicable to this Discipline Proceeding. I agree the police should not be judged against a standard of perfection (*Nasogalauk*), that consideration must be given to the circumstances as they existed at the time (*Anderson v. Smith*) and that it is both unreasonable and unrealistic to impose an obligation on the police to employ only the least amount of force which might successfully achieve their objective (*Levesque v. Zanibbi*).
19. I am satisfied that, while the subjective beliefs of the member must be considered, the allegation of misconduct in section 77(3)(a)(ii)(A) must be assessed objectively to determine whether what the member believed and did was reasonable. In OPCC File No. 2016-11505 the Adjudicator discussed the meaning of recklessness in the context of the Police Act. He said:

I would add that the use in the Police Act of the word “reckless” (in both of the s. 77 subsections at issue here) is consistent with the fact the Police Act disciplinary matters involve an objective component. That is to say, the assessment of a misconduct allegation is not dictated by the individual officer’s personal intention of “good faith”, rather it also involves an objective

question as to the reasonableness of what the officer believed and did. While an officer's subjective belief will always be relevant, and may mitigate a misconduct allegation, the analysis does not start and end with the subjective component. It is necessary to assess objectively whether what the officer believed and did was reasonable.

20. In addition to the authorities referred to above I have considered the Provincial Police Standards and the Vancouver Police Regulations, which deal with the use of police service dogs and the obligations and responsibilities of the dog handlers. As well, I have considered counsels' submissions regarding the decisions in *Lowe v. Diebolt* and *Scott v. Police Complaint Commissioner* that establish that there must be serious blameworthy conduct and not simply a mistake of legal authority alone in order to prove misconduct. Ms. [REDACTED] and Mr. [REDACTED] also referred to several OPCC decisions regarding police dog bites. I agree with Ms. [REDACTED] that the summaries are often not detailed, are fact specific and distinguishable. However, Ms. [REDACTED] submits that the section 112 Police Act decision in OPCC 2013-8424 is helpful. I have reviewed the Discipline Authority's redacted decision as well as the summary of the Police Complaint Commissioner's review of that decision. With respect, I am satisfied that the Discipline Authority's approach in deciding the matter was incorrect. The Discipline Authority reviewed the written record, which included the Final Investigation Report and the Supplemental Investigation Report. At the conclusion of the review, which did not involve hearing testimony from any witnesses, the Discipline Authority found the allegation unsubstantiated. He stated, "the central question to be answered in this investigation is did Constable _____ abuse his authority by using excessive force in the arrest of Mr. _____." He arrived at his decision having relied on evidence that the Commissioner noted was

unsupported by the facts. The Commissioner also noted that the police officer and the male provided markedly different accounts of the police dog deployment, which would require an assessment of credibility and reliability. The Discipline Authority did not hear from the witnesses but nevertheless found “that Mr. _____ assertion that he was seated throughout the entire incident when the dog was deployed is not credible.” The Commissioner reviewed this decision and concluded that the evidence did not prove misconduct but he did so for other reasons than the Discipline Authority. In this Discipline Proceeding involving Constable [REDACTED] I have heard testimony from the witnesses allowing me to assess credibility and reliability. I find the decision in OPCC 2013-8424 is distinguishable.

VII. Analysis

21. I agree with Ms. [REDACTED] there is no real issue or dispute regarding the circumstances of the investigation Constable [REDACTED] was involved in on September 12, 2020. He was patrolling in the Downtown Eastside with his police service dog [REDACTED] when he located [REDACTED] driving a recently stolen BMW. Constable [REDACTED] with the assistance of other VPD members boxed and pinned the stolen vehicle. He exited his patrol car with his gun drawn and ordered Mr. [REDACTED] to get out of the BMW. When Mr. [REDACTED] did not comply, Constable [REDACTED] put his gun away, got [REDACTED] from the patrol car and approached the BMW. The member continued commanding Mr. [REDACTED] to surrender and warned him if he did not that [REDACTED] would bite him. Constable [REDACTED] opened the BMW passenger door and showed the dog to Mr. [REDACTED] believing that the appearance of the dog would convince Mr. [REDACTED] to give up. Mr. [REDACTED] instead reached his hand towards the console. Constable [REDACTED] thought Mr. [REDACTED] could be reaching for a weapon or was going to put

the vehicle in motion so he deployed [REDACTED] with the command to bite. Mr. [REDACTED] was bitten on the arm and quickly exited out of the driver's door. I am satisfied Mr. [REDACTED] was trying to get away from [REDACTED] Constable [REDACTED] gave [REDACTED] a second command to bite Mr. [REDACTED] Constable [REDACTED] let go of the tension on the leash and [REDACTED] followed Mr. [REDACTED] out the door and bit him on his leg. Constable [REDACTED] with the assistance of the other officers present, took Mr. [REDACTED] into custody. Ms. [REDACTED] submitted that Constable [REDACTED] subjective belief was that the situation posed an imminent risk of harm, and the resultant deployment of K9 [REDACTED] was objectively reasonable and in compliance with the applicable policies, standards and this K9 team's training. Counsel submitted that Constable [REDACTED] actions do not amount to intentional use of unnecessary force against Mr. [REDACTED]

22. Mr. [REDACTED] Discipline Representative counsel, submitted that Mr. [REDACTED] evidence proves that he had placed the stolen vehicle into park, had surrendered and that he had no intention of putting the vehicle in motion. The position of Mr. [REDACTED] is that having surrendered, he posed no risk which would justify the deployment of police service dog [REDACTED] with the bite commands while he was in or out of the car.
23. Ms. [REDACTED] counsel for Constable [REDACTED] in her written submission at paragraphs 63-66 states:

63. Cst. [REDACTED] was engaged in the lawful execution of his duty as a peace officer and intentionally used force on Mr. [REDACTED] via the deployment of K9 [REDACTED]

64. We respectfully submit that Cst. [REDACTED] acted in accordance with his training and the Policing Standards with respect to this deployment. The decision to deploy K9 [REDACTED] was reasonable and proportionate to the risks presented by Mr. [REDACTED]

65. In considering the objective reasonableness of Cst. [REDACTED] subjective belief, it may be tempting to engage in a hindsight second-by-second breakdown of all the circumstances facing Cst. [REDACTED] and K9 [REDACTED] – particularly as one views the video footage. However, such an approach is impermissible if it demands perfection from an officer.

66. Cst. [REDACTED] stands by the deployment of K9 [REDACTED] in this matter. However, if the Adjudicator ultimately concludes that the first deployment (bite on arm inside vehicle), or the second deployment (bite on leg outside vehicle), or both were not objectively reasonable and did constitute an error of lawful authority or judgment, there is no serious blameworthy conduct on the part of Cst. [REDACTED] which would support a finding of misconduct.

24. I agree with Ms. [REDACTED] submission that Constable [REDACTED] initial deployment of [REDACTED] into the stolen vehicle with a command to bite was necessary, reasonable and proportionate to the risk posed by Mr. [REDACTED]. The evidence proves on a balance of probabilities that Mr. [REDACTED] was in possession of a stolen vehicle and that Constable [REDACTED] had reasonable and probable grounds to arrest him. Mr. [REDACTED] was acting erratically, did not surrender either at gunpoint or after being warned that the police dog may bite him. Mr. [REDACTED] was in control of the stolen vehicle and he posed a risk to put the vehicle in motion potentially causing serious injuries to the officers and civilians present. I am satisfied that Constable [REDACTED] acted appropriately in deploying the dog into the vehicle with the command to bite Mr. [REDACTED].
25. However, I find that Constable [REDACTED] use of force in deploying [REDACTED] a second time after Mr. [REDACTED] exited the BMW was unnecessary. Constable [REDACTED] primary concern that Mr. [REDACTED] could put the vehicle in motion justified the first deployment of [REDACTED] but once Mr. [REDACTED] fled the vehicle he was no longer in care or control and posed no risk to the officers or the public. Mr. [REDACTED] was running from the dog. Constable [REDACTED] was standing by the driver's door, there were other

officers in the immediate vicinity and more officers are seen on the video responding to the incident. I am satisfied the police would have had no difficulty apprehending Mr. [REDACTED]. I find that the second deployment of [REDACTED] was not proportionate to the level of risk posed by Mr. [REDACTED] to the member, the suspect and the community at large and did not comply with the requirements and standards set out in the Provincial Policing Standards. In this matter there are two separate deployments of the police dog. Although the second deployment occurs within a few seconds of the first, once Mr. [REDACTED] was out of the vehicle and posing no risk to the officers or the public, Constable [REDACTED] was obliged to minimize as much as reasonably possible the likelihood that [REDACTED] would bite Mr. [REDACTED]. By restraining and controlling [REDACTED] Constable [REDACTED] would have prevented [REDACTED] from biting Mr. [REDACTED] possibly biting another officer or a bystander or running into traffic and getting hit by a car. I find that Constable [REDACTED] should have shortened the dog's leash so that [REDACTED] would not follow Mr. [REDACTED] out of the vehicle (see BCPPS 1.4 Police Service Dogs). There was no objective necessity for [REDACTED] to be deployed a second time given these exigent circumstances. To find that Constable [REDACTED] should have restrained [REDACTED] and not deployed [REDACTED] would not, I am satisfied, demand perfection from the member. The clear, cogent and convincing evidence proves on a balance of probabilities that Constable [REDACTED] intentionally used unnecessary force in arresting Mr. [REDACTED].

26. Ms. [REDACTED] argues that mere errors of law or judgement by a police officer, depending on the circumstances do not necessarily constitute misconduct unless the conduct rises to the level of being seriously blameworthy. While I agree that mere errors of law or judgement may not constitute misconduct, in this case, I agree with Mr. [REDACTED] argument that Constable [REDACTED] deliberate decision to deploy [REDACTED] after Mr.

█████ exited the vehicle knowing that █████ was an intermediate weapon capable of causing serious harm was not a mere error of law or judgement.

VIII. Conclusion

27. The evidence proves on a balance of probabilities that Constable █████ intentionally used unnecessary force. I find the allegation of misconduct has been proven.

IX. Next Steps

28. Pursuant to section 125 (1)(d) the member may make submissions regarding disciplinary or corrective measures. Pursuant to section 125 (2), those submissions must be made within 10 business days of the member being served a copy of the Form 3 in this matter.

David Pendleton

David Pendleton

Adjudicator

December 6, 2022