

**IN THE MATTER OF THE
PUBLIC HEARING INTO THE COMPLAINT AGAINST
SERGEANT RON KIRKWOOD
A MEMBER
OF THE VICTORIA POLICE DEPARTMENT**

Public Hearing Counsel -	Bradley Hickford
Agent for Sergeant Ron Kirkwood -	Kevin Woodall
Counsel for the Commissioner -	Christopher Considine, K.C.
Counsel for the Adjudicator -	Patrick M. McGowan, K.C.
The Rauch Family (Complainants)	
Dates of Hearing -	April 15, 16, 17, 18, 29, 30, May 1, 2, 3, 8, July 9, 10, September 9, 10, 11, 12, 2024, May 23, June 6, 2025
Date of Decision -	June 12, 2025

Decision on Disciplinary and Corrective Action

INTRODUCTION

1. On May 23, 2025, following a lengthy public hearing, I found that the allegation of Abuse of Authority set out in the Notice of Public Hearing was proven. Specifically, I found that Sgt. Kirkwood's deployment of the ARWEN in the circumstances was reckless and unnecessary.

2. It is now my duty to determine the disciplinary and/or corrective measures that are appropriate in the circumstances of this case.
3. In reaching my decision, I have considered the whole of the evidence, the written material filed on behalf of Sgt. Kirkwood, including the many letters of support, and the arguments of counsel.
4. A review of the evidence led during the public hearing and my findings regarding the misconduct allegations can be found in my Decision delivered on May 23, 2025. Accordingly, I will not repeat the evidence except where it is necessary to my findings on disposition.

THE LAW

5. Section 126(1) of the *Police Act* sets out the available disciplinary and corrective measures:

- (a) dismiss the member;
- (b) reduce the member's rank;
- (c) suspend the member without pay for not more than 30 scheduled working days;
- (d) transfer or reassign the member within the municipal police department;
- (e) require the member to work under close supervision;
- (f) require the member to undertake specified training or retraining;
- (g) require the member to undertake specified counselling or treatment;
- (h) require the member to participate in a specified program or activity;
- (i) reprimand the member in writing;
- (j) reprimand the member verbally;
- (k) give the member advice as to the member's conduct.

6. Section 126(2) of the *Police Act* requires that I consider aggravating and mitigating factors and provides the following non-exhaustive list:

- (a) the seriousness of the misconduct,
- (b) the member's record of employment as a member, including, without limitation, the member's service record of discipline, if any, and any other current record concerning past misconduct,

- (c) the impact of proposed disciplinary or corrective measures on the member and on the member's family and career,
- (d) the likelihood of future misconduct by the member,
- (e) whether the member accepts responsibility for the misconduct and is willing to take steps to prevent its recurrence,
- (f) the degree to which the municipal police department's policies, standing orders or internal procedures, or the actions of the member's supervisor, contributed to the misconduct,
- (g) the range of disciplinary or corrective measures taken in similar circumstances, and
- (h) other aggravating or mitigating factors.

7. Section 126(3) requires that an approach that seeks to correct and educate the member takes precedence unless it is unworkable or would bring the administration of police discipline into disrepute. The underlying philosophical basis of the act is that it ought to be interpreted as remedial as opposed to punitive.

DISCUSSION

Sgt. Kirkwood's Personal Circumstances

8. Sgt. Kirkwood is 44 years old. He was born in Ontario. He is married with three children. Following a brief career as a customs broker, he joined the Royal Canadian Air Force where he served for four and a half years.

9. Following his retirement from the Air Force, Sgt. Kirkwood attended the Police Academy at the Justice Institute of British Columbia. He joined the Victoria Police Department in 2009.

Seriousness of the Misconduct

10. The tragic outcome of this call could not be more serious. This tragic outcome must not, however, overwhelm the consideration of the nature of the misconduct committed by Sgt. Kirkwood.

11. I have found that Sgt. Kirkwood's decision to deploy the ARWEN was reckless and unnecessary, given the circumstances he faced, the substantially obscured

visibility, and the potential lethal nature of the weapon, especially with target areas above the clavicle.

12. I accept that Sgt. Kirkwood did not intend to target Ms. Rauch's head. The intention of the police was to remove Ms. Rauch from her unit. It needs to be said that at that time, Ms. Rauch was seated on a sofa with her back to the police. There was no evidence to conclude that she posed an immediate risk. In the circumstances, his decision to deploy the weapon when visibility was so obscured that reliable target identification was impossible was unreasonable.

13. Sgt. Kirkwood's actions cannot be considered in isolation. In assessing the seriousness of Sgt. Kirkwood's conduct, I am mindful of the challenging nature of this call. A fire had been set. With firefighters and police officers at the scene, the circumstances were chaotic.

14. As Sgt. Kirkwood's agent and Public Hearing counsel point out, unreasonable actions on the part of an officer that amount to misconduct fall on a continuum from patently unreasonable decisions approaching willful blindness to well-intentioned or good faith errors in judgment. I am satisfied that Sgt. Kirkwood's conduct falls closer to the latter, less serious end of that spectrum.

15. His misconduct can best be described as a serious, but not malicious, error in judgment committed in the context of a dynamic and challenging call.

Sgt. Kirkwood's Record of Employment

16. Sgt. Kirkwood has an exemplary record of service. He has served with the Victoria Police Department since 2009. His service has included the following assignments:

- Patrol: 2009 – 2015
- Greater Victoria Emergency Response Team: 2015 – 2020
- HR Training Unit: Firearms Coordinator: 2020 – 2022
- Frontline Supervisor, Patrol Division: 2022 – Present

17. Sgt. Kirkwood has no record of prior discipline.

18. Sgt. Kirkwood has twice been recognized for valour in the line of duty. He received the British Columbia Medal for Valorous Service for his role in an incident in June 2022, where gunmen took hostages at a bank and fired on the attending officers, injuring a number of them.

19. Sgt. Kirkwood also received the Royal Canadian Humane Association Bronze Medal for Bravery for repeatedly entering a burning apartment complex to assist occupants out of the building.

20. Sgt. Kirkwood is clearly a very valuable member of the Victoria Police Department. He is well-liked and respected by his colleagues, many of whom have prepared and submitted thoughtful and detailed letters of support. These letters speak to a member who is respected for his commitment to duty, generally sound judgment, reliability and integrity. Senior management within the force strongly supports Sgt. Kirkwood and has highlighted in letters of support the valuable contribution Sgt. Kirkwood has made during his many years on the force.

Sgt. Kirkwood's Acceptance of Responsibility

21. I have no difficulty in accepting as genuine Sgt. Kirkwood's expression of remorse about the tragic outcome his actions caused. Many of the letters filed, including the letter from his psychologist, speak to this remorse.

Department Policies and Supervisor's Actions

22. This is not a case where a department policy or lack of policy contributed to the misconduct. At the time of the incident, the Victoria Police Department's Use of Force Policy provided as follows:

- (1) Members shall only use force within the course of their duties that is proportionate, necessary and reasonable within the meaning of the law based on the totality of the circumstances.

23. The section of the Use of Force Policy respecting Extended Range Impact Weapons contained the following direction:

Members must make due consideration in selecting an appropriate target based on balancing the urgency of incapacitation with the potential for injury; and

24. The misconduct in the present matter was not the product of a problem with the force's policy, but of a failure to adhere to it.

25. I do note that a relatively short time before Sgt. Kirkwood deployed the ARWEN, Insp. Robertson told Sgt. Kirkwood words to the effect of "I want you to target her with the ARWEN as soon as you see her". While the decision to deploy the ARWEN was Sgt. Kirkwood's, and it was his responsibility as the operator to reassess the urgency versus risk as circumstances developed, I do accept that Insp. Robertson's

communication may have played some role in Sgt. Kirkwood's decision to deploy the weapon when he did.

Impact of the Incident and the Process on Sgt. Kirkwood

26. I have no doubt that Sgt. Kirkwood's involvement in this incident and the knowledge that his conduct caused the death of Ms. Rauch have had a profound impact on Sgt. Kirkwood and his family. He is seeking the assistance of a psychologist to address the PTSD he is suffering as a result of this incident. Sgt. Kirkwood has missed significant time from work owing to the medical leave he has taken because of his psychological symptoms. The many letters filed in support of Sgt. Kirkwood speak to the significant impact this incident has had on him.

27. Sgt. Kirkwood's agent points to the impact the finding that he has committed professional misconduct, which led to the death of Ms. Rauch, has had on Sgt. Kirkwood and suggests that, in the context of this case, the finding itself amounts to a significant punishment and correction.

Appropriate Disciplinary and Corrective Measures

28. I am satisfied that no further training or other corrective measures are required. Sgt. Kirkwood is a highly trained and experienced police officer, who has been relied on by his force to mentor junior officers. Throughout his career, he has demonstrated himself to be a capable and dedicated officer who typically exercises good judgment. To the extent the requirement to constantly reassess circumstances to determine the reasonableness and necessity of the deployment of a force option needed to be emphasized to Sgt. Kirkwood, I am satisfied that this process and my findings have accomplished that.

29. Sgt. Kirkwood's agent submits that Sgt. Kirkwood's misconduct does not justify a disciplinary action at the more serious end, and that, while a suspension is within the range, a reprimand would be sufficient. Public hearing counsel submits a reprimand would not serve the public interest, and that a suspension without pay would be an appropriate response to the misconduct found. Commission Counsel, on behalf of the Police Complaint Commissioner, submits that, given the dynamic nature of the call, disciplinary action towards the lower end of the spectrum is appropriate.

30. As I note above, Sgt. Kirkwood's misconduct can perhaps best be described as a serious but not malicious error in judgment, committed in the context of a challenging call. Based on the material filed on Sgt. Kirkwood's behalf, I am satisfied that his error in judgment was an isolated one. Sgt. Kirkwood is a good police officer who had a bad moment, which unfortunately led to catastrophic consequences.

31. I am satisfied that the nature of his misconduct, in the context of the other relevant factors, does not justify dismissal, demotion or a lengthy suspension.

32. While I am satisfied that Sgt. Kirkwood has already suffered greatly, and that he is very unlikely to repeat his misconduct, I am of the view, given the serious nature of Sgt. Kirkwood's error in judgment, that the public interest requires the imposition of a suspension. Noting that Sgt. Kirkwood is a valuable member of the force, and that he has already missed work because of medical leave following this incident, I am of the view that a suspension of seven days without pay is appropriate.

Decision on Disciplinary and Corrective Measures delivered at Victoria, British Columbia, this 12 day of June, 2025.

A handwritten signature in black ink, appearing to read 'Wally Oppal', is positioned above a horizontal line.

The Honourable Wally Oppal K.C. – Adjudicator