



Office of the
Police Complaint Commissioner

British Columbia, Canada

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2023-25107

NOTICE OF PUBLIC HEARING

Pursuant to sections 138(1) and (2.1) of the *Police Act*, R.S.B.C. 1996, c.267

NOTICE OF DESIGNATION OF DISCIPLINE AUTHORITY

Pursuant to section 135(1) of the *Police Act*, R.S.B.C. 1996, c. 267

**In the matter of the Public Hearing into the Conduct of
Sergeant Keiron McConnell of the Vancouver Police Department**

To: Names Withheld (Complainants)

And to: Sergeant Keiron McConnell (Member)
c/o Vancouver Police Department
Professional Standards Section

And to: Sergeants Anton Schamberger and Trevor Gow (Investigating Officers)
c/o Vancouver Police Department
Professional Standards Section

And to: Chief Constable Norm Lipinski (Discipline Authority)
c/o Surrey Police Service
Professional Standards Section

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

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Police Complaint Commissioner

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Background

1. On March 1, 2022, the Office of the Police Complaint Commissioner (OPCC) received information from the Vancouver Police Department (VPD) in relation to the conduct of Sergeant Keiron McConnell. Sergeant McConnell is currently a member of the VPD with over 33 years of police service. He has been a sergeant for approximately 18 years and has worked in a supervisory capacity in gang-related policing units. He has also been an instructor at numerous higher educational institutions, as well as at the Justice Institute of British Columbia, where he has taught courses related to policing and criminal justice.
2. According to the VPD, on or around December 30, 2021, a photo of Sergeant McConnell with two senior VPD members was posted on social media. Unknown persons commented on the post alleging Sergeant McConnell was a “sexual predator” and had a “history of sexually assaulting his students” while employed as an instructor at Royal Roads University (RRU).
3. In early January 2022, upon becoming aware of the post and associated comments, a female colleague (Member A) of Sergeant McConnell provided a series of Facebook messages she had exchanged with Sergeant McConnell in 2018 to VPD’s Professional Standards Section.
4. Member A alleged the Facebook messages from Sergeant McConnell began as friendly but progressed to what she felt were inappropriate and sexual. Member A felt she could not report Sergeant McConnell’s conduct due to his rank and status within the VPD and believed there would be consequences for her at the VPD if she did.
5. On April 13, 2022, after reviewing the information provided by the VPD, former Police Complaint Commissioner Pecknold issued an Order for Investigation into the conduct of Sergeant McConnell pursuant to section 93(1) of the *Police Act*. The investigation was assigned to the VPD and VPD’s Professional Standards Section investigated the matter.
6. During the *Police Act* investigation, the OPCC received information that Sergeant McConnell had allegedly sent electronic messages of an inappropriate and/or sexual nature to three female individuals (Student A, Student B, and Student C) who had been enrolled in his courses at RRU between 2015 and 2017.
7. Student A alleged that, in November 2016, Sergeant McConnell invited her and fellow students out for drinks. While at the establishment, Student A became increasingly uncomfortable with Sergeant McConnell’s behaviour towards her. She decided to leave by taxi. Student A alleged that Sergeant McConnell unexpectedly and without invitation boarded the taxi she was occupying. Student A further alleged that when she attempted to exit the taxi upon arriving at her destination, Sergeant McConnell prevented her from

exiting the taxi and attempted to kiss her. She departed the taxi on her own and ran to her friend's house.

8. Student B alleged that, during one class in a course she was taking from Sergeant McConnell between September 2015 and January 2016, she received a message from him on her personal cell phone number, which she considered inappropriate. She did not know how he obtained her number. Sergeant McConnell continued to send Student B text messages to her personal cell phone, as well as emails to her from his personal email account. Student B reported that Sergeant McConnell's communications made her feel uncomfortable.
9. Student C alleged that, in 2017, she received a series of Facebook messages from Sergeant McConnell which included euphemisms for sexual terms. She reported that, as she aspired to become a police officer, she was concerned that Sergeant McConnell may speak negatively about her to recruiting personnel if she did not respond to his messages. Student C ultimately changed her mind about becoming a police officer, which she attributed to her experience with Sergeant McConnell.
10. This information from Student A, Student B and Student C supported the addition of further allegations of misconduct against Sergeant McConnell. On September 9, 2022, the Order for Investigation was amended accordingly.
11. The OPCC received additional information from another female student (Student D) who alleged that Sergeant McConnell had sent her sexually inappropriate messages in 2017 and 2018 while she was his student at Kwantlen Polytechnic University (KPU). Student D reported the messages concerned and upset her because Sergeant McConnell was well connected in the policing environment, and she did not want to offend him and jeopardize her academic status or a future career as a police officer. Student D further alleged that Sergeant McConnell sent her a sexually inappropriate message after she had graduated from KPU that she interpreted as him seeking a sexual act from her.
12. The OPCC also received information that Sergeant McConnell had allegedly been sexually inappropriate with two female subordinate officers (Member B and Member C).
13. Member B alleged that Sergeant McConnell made sexualized comments about her in person and through text messages between 2015 and 2018, and that he also made sexualized comments about other female officers.
14. Member C reported that, between 2017 and 2019, Sergeant McConnell made repeated sexualized and inappropriate comments to her. Member C specified that Sergeant McConnell would send these comments via social media direct message, often at night

when she was off duty, and that they included fantasies about her engaging in sexual acts with him at his desk. Member C indicated that she did not confront him about these comments as he was in a senior position, and she worried that if she said anything there would be negative career implications.

15. This information from Student D and Members B and C supported the addition of further allegations of misconduct against Sergeant McConnell. On April 6, 2023, the Order for Investigation was amended accordingly.
16. During the investigation, Sergeant McConnell admitted to sending some of the messages as alleged; however, he stated that, among other things, the communications were intended to be private and were exchanged between consenting adults. Sergeant McConnell maintained that, had the recipients of these communications told him to cease, he would have done so. Sergeant McConnell also disputed Student A's version of events in certain respects and, in general, denied that he had engaged in discreditable conduct with respect to the allegations made by the seven women.
17. On November 7, 2023, the Discipline Authority issued a direction for further investigative steps pursuant to section 98(9) of the *Police Act* to direct, in part, that each affected woman be canvassed as to whether they wished to file a registered complaint and be a complainant in this matter. The OPCC subsequently received registered complaints from Member A and Student D. Both complaints were determined to be admissible and were formally added to the record, and Member A and Student D were recognized as complainants. Member A and Student D were afforded all reporting and appeal rights as set out in Part 11 of the *Police Act*.
18. The allegations made by the seven women against Sergeant McConnell comprised a single investigation and were reviewed by the Discipline Authority.
19. On April 8, 2024, the assigned Investigator(s) from the VPD Professional Standards Section submitted the Final Investigation Report to the Discipline Authority recommending that allegations of *Discreditable Conduct* involving five of the seven women be substantiated.
20. On April 23, 2024, the Discipline Authority determined that allegations of *Discreditable Conduct* involving six of the seven women appeared to be substantiated. The Discipline Authority did not substantiate allegations involving Student B. The Discipline Authority concluded that, while it was clear the boundaries between student and teacher had been "blurred", the text messages and emails did not disclose any conduct that would constitute harassment or bullying. The Discipline Authority further noted that RRU did not have any policies in place at the time governing student-faculty relationships.

Decision

21. Section 138(1) of the *Police Act* requires the Commissioner to arrange a public hearing or review on the record if the Commissioner considers that such a hearing or review is necessary in the public interest. In doing so, the Commissioner must consider the relevant factors in section 138(2). I have considered these factors, including, but not limited to, the nature and seriousness of the complaint or alleged misconduct, whether the conduct has caused emotional or psychological harm to a person or violated their dignity, whether the conduct has undermined, or would be likely to undermine, public confidence in police, and whether there is a reasonable prospect that a public hearing or review on the record would assist in determining the truth.
22. Section 138(2.1) of the *Police Act* allows the Commissioner, on his own initiative, to determine whether a public hearing is necessary in the public interest at any time after the Commissioner receives a final investigation report.
23. I have determined that a public hearing is necessary in the public interest based on the following factors:
 - a) The nature of the alleged misconduct supports the need for a public hearing. Sexual harassment is both a human rights and workplace safety issue, especially where a power imbalance is implicitly or explicitly exploited. Sexual harassment in our places of work and education should not be tolerated. Inappropriate and unwelcome sexualized behaviour is demeaning and an affront to the dignity of the person to whom they are directed. In my view, addressing sexualized behaviour in work and educational settings is a critical issue in society and particularly in policing where the law grants police officers significant authority. In addition, sexual harassment and the implicit or explicit use of a power imbalance for a sexual purpose not only harms those directly affected, but also negatively impacts the integrity of, and the public's confidence in, policing in BC.
 - b) The alleged misconduct is serious; it involves sexualized actions and communications in circumstances where there appears to have been a power imbalance present between Sergeant McConnell and the recipient of the conduct. Sergeant McConnell is a police officer who holds a supervisory rank and leadership role within the VPD. The courts have repeatedly confirmed that police officers are held to a higher standard of conduct. At the relevant times and with respect to all the affected persons, Sergeant McConnell was in a position of trust, influence, and authority, both as a police sergeant and instructor at educational institutions. In my view, a public hearing is well

placed to consider the impact of any possible power imbalance that may have been present throughout Sergeant McConnell's interactions with the students, former students and members, regardless of their specific statuses at the time of each incident.

- c) The seriousness of these allegations of misconduct are further demonstrated in that they are alleged to have occurred over a period of approximately five years and, if proven, suggest an ongoing pattern of unwanted and inappropriate sexualized behaviour towards female officers, and his students and former students.
- d) The alleged misconduct has caused, or is likely to have caused, emotional and psychological harm. Several of the affected women reported experiencing fear and/or anxiety at the time of the incidents, with some reportedly experiencing lasting psychological impacts. Several of the affected women also expressed concern about negative career implications if they objected to his alleged behaviour.
- e) The misconduct is alleged to have occurred while Sergeant McConnell was engaged in his duties as a member of the VPD or when he was off duty acting in the role of instructor at RRU or KPU. The investigation materials indicate that while working for educational institutions, Sergeant McConnell emphasized his role as a member of the VPD. The courses he taught related to his experience in policing. Sergeant McConnell may have exploited, implicitly or explicitly, his inherent power as a police sergeant and an instructor with influence over grades and, potentially, future careers, for his own benefit. Sergeant McConnell's alleged sexualized conduct, if proven, would likely undermine public confidence in the police.
- f) A public hearing is well placed to assist in determining the truth, especially where there are differences in versions of important events. In this case, there are direct conflicts between the accounts of Sergeant McConnell and the affected women. At a public hearing, public hearing counsel, the member and commission counsel can call and question relevant witnesses and seek to introduce relevant evidence. An adjudicator can then conduct credibility assessments and resolve conflicts based on all relevant evidence. This may be contrasted with a discipline proceeding, in which the member largely controls what evidence is received by a discipline authority who, in a case like this, may not have the necessary tools to arrive at the truth.

24. Based on the above, I have concluded that it is necessary in the public interest to arrange a public hearing pursuant to sections 138(1) and (2.1) of the *Police Act*.
25. The particulars of the alleged misconduct are contained in the investigative materials, and the alleged misconduct is characterized as follows:
- a) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Member A.
 - b) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Student A.
 - c) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Student B.
 - d) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Student C.
 - e) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Student D.
 - f) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Member B.
 - g) *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act*, which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department. Specifically, Sergeant McConnell's conduct toward Member C.

26. Pursuant to section 143(3) of the *Police Act*, a public hearing is not limited to the evidence and issues that were before a Discipline Authority in a discipline proceeding. Public hearing counsel must present to the adjudicator the case relative to each allegation of misconduct against the member, pursuant to section 143(4) of the *Police Act*. Disclosure will be provided to public hearing counsel, the member or member's agent or legal counsel, and commission counsel in due course.
27. Pursuant to section 143(5) of the *Police Act*, public hearing counsel, the member or member's agent or legal counsel, or commission counsel may:
- a) call any witness who has relevant evidence to give, whether or not the witness was interviewed during the original investigation or called at the discipline proceeding;
 - b) examine or cross-examine witnesses;
 - c) introduce into evidence any record or report concerning the matter; and
 - d) make oral or written submissions, or both, after all of the evidence is called.
28. Pursuant to section 143(7) of the *Police Act*, the complainants or their agents or legal counsel, may make oral or written submissions, or both, after all of the evidence is called.
29. Pursuant to section 144(1) of the *Police Act*, a person, other than public hearing counsel, the member and commission counsel, may apply to be a participant at the public hearing by applying to the adjudicator in the required form.
30. Pursuant to section 143(9) of the *Police Act*, an adjudicator must do the following:
- a) decide whether any misconduct has been proven;
 - b) determine the appropriate disciplinary or corrective measures to be taken in relation to the member in accordance with section 126 of the *Police Act*; and
 - c) recommend to a chief constable or the board of the municipal police department concerned any changes in policy or practice that the adjudicator considers advisable in respect of the matter.
31. As this matter involves allegations of a sensitive nature, the names of the complainants and affected persons have been withheld from this Notice. I expect to instruct commission counsel, once appointed, to seek orders pursuant to sections 145(1) and 150(1) of the *Police Act* intending to protect the anonymity, safety, and confidentiality of the complainants and the other affected persons in this matter. I expect that the member and any other person privy to personal information through this process will not disclose such information until and unless explicitly authorized by the adjudicator.

Discipline Proceeding

32. A discipline proceeding pursuant to sections 123 and 124 of the *Police Act* regarding Sergeant McConnell's alleged misconduct is currently scheduled to commence on July 3, 2024.
33. On October 25, 2023, Chief Constable Adam Palmer of the Vancouver Police Department delegated the roles and responsibilities of a Discipline Authority to Deputy Chief Jennifer Hyland of the Surrey Police Service pursuant to section 134 of the *Police Act*.
34. On May 16, 2024, Deputy Chief Hyland advised that she could no longer act as Discipline Authority in relation to this matter. I therefore consider it necessary to designate a new Discipline Authority under section 135(1) of the *Police Act*. As such, in place of Deputy Chief Hyland, I am designating Chief Constable Norm Lipinski of the Surrey Police Service to exercise the powers and perform the duties of a Discipline Authority in relation to this matter.
35. If the Commissioner arranges a public hearing in respect of conduct that is the subject of a discipline proceeding, section 123(3) of the *Police Act* requires the Discipline Authority to cancel the proceeding. Given that I have now arranged a public hearing, the newly designated Discipline Authority must cancel the discipline proceeding involving the allegations against Sergeant McConnell.

Appointment of a Retired Judge

36. Section 142(1) of the *Police Act* requires the Commissioner to appoint a retired judge to preside over a public hearing as adjudicator. An appointment under section 142(1) must be made pursuant to section 177.2 of the *Police Act*.
37. Section 177.2 of the *Police Act*, in turn, requires the Commissioner to request the Associate Chief Justice of the Supreme Court of British Columbia to consult with retired judges of the Provincial Court, Supreme Court and Court of Appeal and recommend retired judges who the Commissioner may include on a list of potential adjudicators. Appointments under the *Police Act* are to be made in accordance with published procedures established under section 177.2(3).
38. On June 13, 2024, I published the OPCC's appointment procedures under section 177.2(3) of the *Police Act* (the "Appointment Procedures") and the list of retired judges who may be appointed for the purposes of sections 117, 135 and 142.

39. In accordance with the Appointment Procedures, I have appointed the Honourable Carol Baird Ellan, K.C., retired Provincial Court Judge, to preside as Adjudicator in these proceedings pursuant to sections 142(1) and (2) of the *Police Act*. I have considered the factors as set out in the Appointment Procedures, namely:
- a) the provision under which the appointment is being made;
 - b) the current workloads of the various retired judges;
 - c) the complexity of the matter and any prior experience with the *Police Act*; and
 - d) any specific expertise or experience of a retired judge with respect to a particular issue or sensitivity associated with the matter.
40. Retired Judge Baird Ellan has confirmed her availability to preside over this matter and reported no conflicts. She has significant experience with the provisions of Part 11 of the *Police Act*, including specific experience and expertise as an adjudicator appointed for the purposes of a public hearing and reviews on the record, and in examining issues of sexualized harassment in the workplace. She has experience as counsel prior to her appointment to the bench and as a presiding judge in dealing with sexual offences.
41. Dates for the public hearing have not yet been determined. The public hearing will commence at the earliest practicable date.

TAKE NOTICE that all inquiries with respect to this matter shall be directed to the Office of the Police Complaint Commissioner:

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DATED at the City of Victoria, in the Province of British Columbia, this 19 day of June, 2024.



Prabhu Rajan
Police Complaint Commissioner