

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

AND

**IN THE MATTER OF A REVIEW OF ALLEGATIONS  
OF MISCONDUCT AGAINST CONSTABLE [REDACTED]  
OF THE VANCOUVER POLICE DEPARTMENT**

TO: Constable [REDACTED]  
c/o Vancouver Police Department  
Professional Standards Section

AND TO: Chief Constable Adam Palmer  
c/o Vancouver Police Department  
Professional Standards Section

AND TO: Sergeant [REDACTED]  
c/o Vancouver Police Department  
Professional Standards Section

AND TO: [REDACTED], Analyst  
Office of the Police Complaint Commissioner

AND TO: Prabhu Rajan  
Police Complaint Commissioner

AND TO: [REDACTED] Acting Inspector  
c/o Vancouver Police Department  
Discipline Authority

AND TO: Ken Sim  
Vancouver Police Board

AND TO: [REDACTED], complainant  
[REDACTED], complainant  
[REDACTED], complainant

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**NOTICE OF SECTION 117 DECISION**

## **INTRODUCTION**

1. The circumstances which give rise to these proceedings took place on April 5, 2023 when members of the Vancouver Police Department (“**VPD**”) were involved in dismantling encampments from the downtown eastside of the City of Vancouver. Not surprisingly, the police involvement drew the attention of many members of the public. Constable ██████████ ██████████ was one of the officers involved. He was wearing a patch with the words “thin blue line”. It is not in dispute that by wearing the patch Constable ██████████ contravened VPD policy.

2. It is alleged that by doing so he committed an act of misconduct contrary to section 77(3)(m)(ii) of the *Police Act*, R.S.B.C. 1996, c. 367, as amended (the “**Act**”). This is a review, pursuant to section 117 of the Act. The section refers to “neglect, without good or sufficient cause, to promptly and diligently do anything that is one’s duty to do as a member.” In this review, it is my duty to determine whether based on the whole of the written material before me the conduct of Constable ██████████ appears to constitute misconduct within the meaning of the Act (emphasis added). The neglect refers to the wearing of an unauthorized patch and therefore neglected to follow VPD policy.

## **EVIDENCE**

3. The evidence is not in dispute. As well, there is no issue on credibility.

4. The patch on Constable ██████████ uniform drew the attention of at least three members of the public who then filed complaints with the Office of the Police Complaint Commissioner (“**OPCC**”). On April 6, 2023, ██████████ filed a registered complaint with the OPCC. In his complaint, he referred to a photo on Twitter from April 5, 2023 showing Constable ██████████ with a visible thin blue line patch on the front of his armoured police vest. In his complaint, Mr. ██████████ made reference to VPD policy which prohibited the wearing of the thin blue line patch as well. On the same day, ██████████ filed her complaint in which she stated:

...is incredibly inappropriate considering their purpose there today was to ‘defend; the city workers tearing people’s homes apart.

5. On April 14, 2023, ██████████ filed a similar complaint. He made particular reference to the tension in the downtown eastside as being high from the police removing people and their property from the street. He said that the patch was offensive to the public.

6. Prior to the incident of April 5, 2023, there had been considerable concern about VPD members wearing the thin blue line patch. On January 19, 2023, the VPD presented a report to the Vancouver Police Board. The report made reference to the historical background of the thin blue line. The report stated that the thin blue line is an adaptation of the term thin red line, which originated when the red coated members of the Scottish regiment of the British army stood their ground despite being outnumbered by their Russian foes in battle during the Crimean War in 1854. Subsequently, the term was adopted by the Los Angeles Police Department in the 1950s. The VPD report went on to state:

Police officers have embraced the thin blue line as a universal symbol by which they have identified themselves and their mission of protecting and serving the community. In addition, the symbol has taken on an even deeper meaning and became a sacred symbol for families of officers who have died in their line of duty. This is exemplified by the creation of the Police and Peace Officers' Memorial Ribbon Society in Canada which has been endorsed by the British Columbia Police Association, the British Columbia Association of Municipal Chiefs of Police, the Canadian Police Association and the Canadian Associations of Chiefs of Police and the RCMP.

7. In January 19, 2023, the VPD presented a report to the Vancouver Police Board. The relevant parts of that report reads as follows:

No unauthorized modifications to the member's issued uniforms or accessories are permitted unless otherwise authorized. The Thin Blue Line patch is not an authorized item.

8. The report to the Vancouver Police Board acknowledged that recent history "has been entangled in political tensions largely found in the U.S. between police and marginalized communities." The report further goes on to state:

This is highlighted with tensions between organized groups, such as Black Lives Matters ("BLM") protesting in debate about race and policing and the contrary movement of Blue Lives Matter, emerging as a response to the murder of two

NYPD officers. The thin blue line flag was created by a college student in the U.S. to show support for the police.

9. It is apparent that the thin blue line has become a symbol and source of pride to many police officers, it is also seen as divisive in that to some it represents a barrier between the police and the community that the police serve. A recent report by the Calgary Police Commission quite accurately states that the thin blue line has a “contentious history”.

## **THE COMPLAINTS**

10. The OPCC consolidated the complaints into one. In British Columbia, a complaint against a municipal police officer or department must be reviewed by the Police Complaint Commissioner to determine whether it is admissible. The Commissioner deemed the complaints to be admissible.

11. Pursuant to the provisions of the Act, Sergeant [REDACTED] was appointed to conduct an investigation and to prepare a report. Sergeant [REDACTED] contacted both Mr. [REDACTED] and Ms. [REDACTED] requesting interviews from each of them following their written complaints. Mr. [REDACTED] declined a further interview and stated:

I was not at the illegal decamping by police that was happening. I have nothing else to add. It is an obvious violation. I do not want to have any interview or give the police my number.

Similarly, Ms. [REDACTED] did not agree to an interview and declined to make a further statement.

12. Sergeant [REDACTED] then interviewed Constable [REDACTED]. Constable [REDACTED] stated that he had been a police officer for 22 years and he takes pride in what he does. He stated that he wears a patch to assist in the memory of those that had given their lives as police officers. He also stated that the patch helps his mental health and reminds him that he wants to go home safe at the end of his shift. He stated that the thin blue line patch is a symbol of pride and not a symbol of hate. When Sergeant [REDACTED] asked Constable [REDACTED] about the VPD policy regarding patches, Constable [REDACTED] stated that he was not aware of the issues regarding the patch. He said that he was not aware that it

ought not to be worn. He was aware of some “rumblings” within the VPD. He did recollect that there were some statements made by Chief Constable Palmer that he thought were in favour of the patch but he did not investigate any further. He had been wearing the thin blue line patch for approximately two years without any issues or concerns. He did remove the patch the day after the incident when his supervisor Sergeant ██████ requested that he not wear it. Again he stated that he was not aware of the fact that he was breaching policy by wearing it.

## **ANALYSIS**

13. As stated above, this is a review under section 117 of the Act. It is often been referred to as a paper-based review in that I do not hear any live witnesses nor consider any other evidence other than the written material before me. The review under section 117 is not an appeal from any previous finding or decision. That includes the Final Investigation Report (“FIR”).

14. The review under section 117 takes place after the Commissioner has had an opportunity to examine the FIR. In this case, Sergeant ██████ conclusion reads as follows:

In all circumstances, the evidence is not clear, convincing, and cogent to satisfy the balance of probabilities test against Constable ██████ Sergeant ██████ therefore recommends that this complaint be unsubstantiated.

15. It is apparent that the Commissioner disagreed with that conclusion, that there was no misconduct and appointed me under section 117 on the grounds that “there is a reasonable basis to believe that the decision is incorrect.”

16. I address the nature of a “neglect of duty” allegation in an earlier s. 117 decision I rendered (OPCC File No. 2022-22059, 07 March 2023), at para. 20:

The misconduct of “neglect of duty” is by definition a failure to pay attention, remain alert, and discharge one’s duties. Intention is not a necessary ingredient of neglect of duty. Whether an officer’s actions constitute neglect of duty does not require a deliberate or intentional act. It may be inadvertent. It may involve the failure to pay attention or a disregard of the circumstances.

## **ANALYSIS**

17. The policies of the Vancouver Police Department are not in dispute. It will be useful to make reference to the applicable policy which is set out in the *Vancouver Police Department Regulations and Procedures Manual*:

5.4.4(7) Members shall not make any modification to their issue uniform or accessories unless otherwise authorized.

5.5.4(4)(e) [Addressing body armour vests and attire]: members shall affix a VPD-issued "Vancouver Police" identifier tag and identification tag (with PIN or surname and first initial) to the EBAC [external body armour carrier]; no other patches, tags or placards may be affixed to the EBAC without approval of the Uniform Committee.

18. This is not a difficult case. Constable [REDACTED] wore the thin blue line patch while in uniform and on duty on April 5, 2023. He did not do so accidentally. In his statement to Sergeant [REDACTED] he said that he did not fully appreciate that VPD policy mandated that no patch was to be worn. He did however agree that there were some "rumblings" relating to the propriety of the patch. In determining whether the act of wearing the patch constituted misconduct there are two inferences one can draw from the facts. If Constable [REDACTED] wore the patch in defiance of the policy and was dishonest in stating that he did not know about the policy, it is an obvious failure to do one's duty in following directives and policies mandated by the department. Secondly, if he did not know that the patch was not permitted, his failure to be aware of the basic rules governing attire and the fixing of a patch may be a neglect of duty. There is no basis to conclude that he was untruthful in stating he did not know the policy. It is apparent that he chose to wear the patch without informing himself of the VPD policy on patches.

19. There is no doubt that the thin blue line is controversial. That must be apparent to any police officer who polices in modern Canada. As stated above, Constable [REDACTED] was aware of the "rumblings" in the VPD and knew of the disagreements over the meaning of the patch. In this case, he chose to wear the patch while working to take down a controversial encampment in the downtown eastside. He surely would have known or at the very least ought to have known that wearing the patch during a controversial police operation to dismantle tents and move people out of the area would appear to be hostile.

He surely had a duty to be aware of and follow the policy of the VPD governing what could or could not be worn while on duty. I accept his statement wherein he states that he wore it in respect of those officers in the past who gave their lives in the course of their duties.

## **CONCLUSION**

20. In reading my conclusion, I have relied entirely on the written material before me, including the FIR. Accordingly, I conclude that there appears to be misconduct contrary to section 77(3)(m)(ii) of the Act (neglect of duty). Having said that, the misconduct here does not appear to be major. It should be noted that Constable ██████ removed the patch once he was told to do so by a superior officer. In my view, this appears to be a minor instance of apparent neglect of duty.

21. Pursuant to sections 117(7) and (8), I am providing notice to the Member, the complainants, the Police Complaint Commissioner, and the investigating officer. The complainants have the right to make submissions pursuant to section 113 of the *Police Act*. I have determined that the evidence before me appears sufficient to substantiate the allegation of neglect of duty, and requires the taking of disciplinary or corrective measures. As a result, by virtue of section 117(9), I become the discipline authority in this case.

22. Although I have concluded that there appears to be misconduct, I view this situation as being at the lower end of the scale, and one in which it is entirely appropriate to offer a pre-hearing conference under section 120. The range of disciplinary or corrective measures that may be appropriate in this case includes:

- a) reprimanding the member verbally or in writing, pursuant to sections 126(1)(i) and (j); and
- b) giving the member advice as to his conduct, pursuant to section 126(1)(k).

23. As an addendum to this decision, I respectfully suggest that it would be wise for the VPD to communicate to all members, in crystal clear and unambiguous terms, that patches generally, and thin blue line patches in particular, are not allowed.

Dated at Vancouver, British Columbia, May 6, 2024.



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The Honourable Wally Oppal, O.B.C, K.C.