

July 10, 2025

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 DECISION ON DISCIPLINE

OR CORRECTIVE MEASURES

(Supplement to Form 4)

TO: Constable [REDACTED]

AND TO: Claire Hatcher
Counsel for [REDACTED]

AND TO: Prabhu Rajan
Police Complaint Commissioner

I. Introduction

1. On June 23, 2025, I delivered my Findings and Reasons under Section 125(1)(b) of the Police Act. I found Constable [REDACTED] committed misconduct.

II. The Misconduct

2. The misconduct alleged was that the member committed a disciplinary breach of public trust contrary to Section 77 (3)(a)(ii)(A) of the Police Act on November 24, 2022.
3. In my reasons I found the evidence proved on a balance of probabilities Constable [REDACTED] intentionally used unnecessary force on a person.
4. At paragraphs 27-32 of the decision I said:
 27. Having considered the evidence and the testimony of Constable [REDACTED] I am satisfied the member subjectively believed [REDACTED] needed to use force - deploy PSD [REDACTED] - because [REDACTED] assessed Mr. [REDACTED] behavior met the threshold as outlined in the provincial and VPD regulations to deploy [REDACTED] police dog. The issue is whether, viewed objectively, the member intentionally used unnecessary force.
 28. Section 25 of the Criminal Code authorized Constable [REDACTED] when acting within the lawful execution of [REDACTED] duties to use force provided [REDACTED] acted on reasonable grounds and the force [REDACTED] used was necessary for that purpose. I am satisfied the evidence proves Constable [REDACTED] was acting in the lawful execution of [REDACTED] duties on November 24, 2022.

■■■ arrived on the scene with PSD ■■■ to provide whatever assistance might be necessary in arresting Mr. ■■■ Constable ■■■ is an experienced police dog trainer and handler. I find the evidence proves ■■■ training and understanding of the National Use of Force Model would lead ■■■ to conclude Mr. ■■■ behavior was actively resistant after he stepped out of the taxi and became assaultive when he moved toward the open taxi door. Constable ■■■ understood the provincial and VPD policies and regulations regarding the use and deployment of police dogs. ■■■ testified:

A The standards are reviewed minimally every year when we have to do our provincial validations. Every time I deploy my dog the standards are in the back of my mind.

Q Okay.

A It is literally how we dictate our deployments. It's literally how we dictate our work. It's how I respond to a call. Every time a police -- like, a police dog is essentially a patrol resource or a specially sectioned resource. We do a lot of proactive policing, but our bread and butter is we are asked for as a tool. When someone asks for a canine unit over the air, as such, I make sure I get an entire rundown and be educated on the call and who I'm dealing with as a subject. And in that assessment I take all those facts and I figure out where I fit in, as far as the regulations and procedures, based on VPD and provincial standards.

Q Okay. With respect to the threshold of using or deploying PSD ■■■ and this is, I'm at page 74 of the FIR, under 1.4.2, "Threshold and Circumstances of Police Dog Use", it says in Part 1, "Prohibit..." so this is a restriction:

"Prohibit police dog handlers from permitting a police dog to bite a person, and prohibit dog handlers from permitting a police dog to continue to be deployed if it would reasonably be expected that the police dog would bite a person, unless:

(a) The person is causing bodily harm to an officer, a third party or the police dog;

(b) The police dog handler is satisfied, on reasonable grounds, that the person's behaviour will imminently cause bodily harm to an officer, a third party, or the police dog; or

(c) The person is fleeing or hiding and there are reasonable grounds for their immediate apprehension by a police dog bite."

So having heard those three, what sub-category would you say applied to this call?

A I would say, first, there's two that apply. So at first it would be the noncompliance is a direct indication of further harm or potential further harm that could be so grievous to a member of the public or police. Secondly, the propensity to flee, because he had the opportunity to get into a vehicle that we didn't know if it was on, off, the keys were still in it. Given the nature of his likelihood and past history of flight from police, that was definitely a possibility.

Q Okay. Subsection (2) speaks to dog handlers considering the following prior to and during each deployment. That you must conclude on reasonable grounds that of bite is justified. So, you must consider, "(a) Whether there is lawful authority to arrest..." You have earlier testified that you satisfied yourself there was.

A Yes.

Q "(b) That no lesser use of force would be appropriate or effective..." Can you speak to that?

A We went through the entire use of force spectrum, up until this point, including using, for what we're using as a common term, beanbag shotgun. Not only once but four deployments of that beanbag shotgun with what I feel, and what I know other officers who I've since heard from feel, was of no success in changing the behaviour, the subject behaviour.

Q Okay.

A At that point, in my mind, there is literally no other option.

Q Okay. What about just the pod going hands on Mr. [REDACTED] Just approaching him and going hands on?

A Like I said before, the problem with that, and given Mr. [REDACTED] is that there was still a very high-risk space that we did not have control over, which was the back of that cab, which he spent an exorbitant, unnatural amount of time in. Being able to calculate whatever he could in that space. The likelihood of him being armed and dangerous. I think everybody -- it's not an unreasonable or irrational frame of mind to think that if he had a weapon and it was not necessarily on his person, that it could be in that area that we didn't have control over. He had access to that way quicker than we had access to him. We would have to travel approximately a car length and a half, approximately two car lengths to get to him to put hands on. He would have six inches to get back into that cab. Reaction time and all the rest of it, that essentially

would be an officer parti- -- I don't know. Like an officer precipitated interaction that could end up lethal, if that were the case.

Q Okay.

A Beyond that, you have to take Mr. [REDACTED] statue into account. He is 6'4", 300 and something pounds. Multiple officers would have to be hands-on with him in order to make that subject, put him into handcuffs if he was non-compliant. And he was clearly displaying that he was non-compliant. In fact, active if not assaultive. In my experience as a police officer, if you are going hands-on with a subject of that size, with that volition and that intention, you're breaking bones.

Q Is that -- would that be -- to go hands-on at that point, would that be in compliance with police training?

A No. The reason why he's listed as Code 5 is so that officers don't go hands-on with him, essentially. They give him a reactionary distance. He has proven to us in past interactions that you cannot safely go hands-on with him. You have to, essentially, first have presence, then communication and an attempt to negotiate, and then possibly have -- be able to have the reactionary distance to use less-lethal force on him if he becomes combative. Which in this case he was. Prior interactions with him have proven that if you go hands-on with him right away, it will not result well for either Mr. [REDACTED] or a police officer or the public.

29. The evidence proves Constable [REDACTED] subjectively believed Mr. [REDACTED] was intentionally non-compliant, that as he moved towards the open taxi door the police quickly needed to apprehend him because he may have access to a weapon or may try to flee, that there were no further options to deescalate, that Constable [REDACTED] use of the beanbag shotgun appeared to [REDACTED] to be ineffective in getting Mr. [REDACTED] to comply and that it was reasonable and necessary to deploy PSD [REDACTED] to end the incident and safely take Mr. [REDACTED] into custody. [REDACTED] testified [REDACTED] could not see his left hand as he sat up and, at that moment, [REDACTED] assessed his behavior met the threshold to deploy PSD [REDACTED] because it appeared to [REDACTED] he was trying or could try to access the taxi or a weapon and flee and that he posed an imminent threat of harm.
30. However, when the evidence, including the video evidence, is viewed objectively I am satisfied on a balance of probabilities the member's decision to permit the dog to bite Mr. [REDACTED] was unreasonable and unnecessary. Mr. [REDACTED] had been struck four times by beanbag rounds causing him to lose motor function. I am satisfied the evidence proves that the beanbag rounds were effective, that Mr. [REDACTED] was incapacitated and physically could not re-enter the taxi. Constable [REDACTED] stated in his General Occurrence report:

A/Sgt [REDACTED] [REDACTED] delivered less-lethal bean bag shotgun rounds (Please see evidence of A/Sgt [REDACTED] [REDACTED] These rounds were effective in preventing [REDACTED] from re-entering the taxi.

Constable [REDACTED] stated in his General Occurrence report:

-A/SGT [REDACTED] then aimed at the thigh of [REDACTED] and delivered a series of beanbag rounds which were ultimately effective in stopping

██████████ from re-entering the taxi.

There were several police officers present and Mr. ██████████ could not escape. In the last 5 seconds of the video Constable ██████████ and PSD ██████████ are seen moving towards Mr. ██████████ who is sitting up, leaning against the tire of the taxi. ██████████ would have seen that Mr. ██████████ hands were visible, empty and that he appears to be giving up or surrendering. Constable ██████████ was obliged, even in those brief 5 seconds, to continue assessing whether to deploy PSD ██████████ ██████████ testified she was constantly reassessing and ██████████ said, “up until a fraction of a second before this I did not want him to bite”. The evidence proves ██████████ proceeded and did not restrain PSD ██████████ who was under her control and on a leash. ██████████ permitted the dog to bite Mr. ██████████ despite the requirement ██████████ not deploy nor allow the dog to bite unless she determined that one or more of the three considerations set out in the Provincial Policing Standards (see Section 1.4.2) was applicable. I am satisfied none of those options apply in this case when ██████████ decided to deploy ██████████ dog. As ██████████ moved forward it was apparent Mr. ██████████ had lost control of his motor functions and was sitting on the pavement. He was not causing anyone bodily harm, he physically could not flee and he did not pose an imminent threat of harm. The footage captured in the last 10 seconds does not support Ms. Hatcher’s contention that Constable ██████████ needed to deploy PSD ██████████ Ms. Hatcher submitted that Sergeant ██████████ who was described as an experienced use of force expert, agreed Constable ██████████ decision to deploy ██████████ police dog was necessary because, as he said, “Mr. ██████████ displayed grievous bodily harm or death behavior”. I am satisfied the video evidence does not support Sergeant ██████████ opinion regarding Mr. ██████████ behaviour.

31. I find the deployment of PSD ██████████ was not proportionate to the level of risk posed by Mr. ██████████ to the members, the police and the

community and the deployment did not comply with the requirements and standards set out in the VPD and Provincial Policing Standards. Constable [REDACTED] was obliged to minimize as much as reasonably possible the likelihood that PSD [REDACTED] would bite Mr. [REDACTED]. By holding onto the dog's leash, Constable [REDACTED] would have prevented the dog from biting Mr. [REDACTED] (see BCPPS 1.4 Police Service Dogs). There was no objective necessity for PSD [REDACTED] to be deployed given the exigent circumstances. To find that Constable [REDACTED] should not have deployed PSD [REDACTED] and should have restrained [REDACTED] would not amount to judging the member on a standard of perfection. The clear, cogent and convincing evidence proves on a balance of probabilities that Constable [REDACTED] intentionally used unnecessary force.

32. Ms. Hatcher 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 mere errors of law or judgement may not constitute misconduct, in this case, I find Constable [REDACTED] deliberate decision to deploy PSD [REDACTED] knowing the dog was an intermediate weapon capable of causing serious harm was not a mere error of law or judgement given that Mr. [REDACTED] was out of the taxi, was unable to flee and did not pose an imminent threat.
5. The evidence referred to above proves that Constable [REDACTED] intentionally used unnecessary force on a person. The discipline proceeding was adjourned to July 8, 2025 to receive submissions from counsel as to the appropriate discipline or corrective measures.

III. Discipline Hearing

6. Ms. Hatcher, counsel for the member, provided her written submission on July 4, 2025. The material filed on behalf of Constable ██████ included commendations, letters and emails attesting to ██████ professional policing duties, ██████ good character and strong work ethic.

IV. Position of Counsel

7. Ms. Hatcher submits the appropriate corrective measure is to provide a written reprimand to Constable ██████. She submits her client understands the importance of the Police Act investigation of ██████ conduct. She says the finding of misconduct has had a significant impact on Constable ██████ and there is no reason to expect any future misconduct.

V. Section 126

8. Section 126 of the Police Act governs discipline and corrective measures that the discipline authority must propose when misconduct has been proven. It states:

(1) After finding that the conduct of a member is misconduct and hearing submissions, if any, from the member or her or his agent or legal counsel, or from the complainant under section 113 [complainant's right to make submissions], the discipline authority must, subject to this section and sections 141 (10) [review on the record] and 143 (9) [public hearing], propose to take one or more of the following disciplinary or corrective measures in relation to the member:

- (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 her or his conduct.
- (2) Aggravating and mitigating circumstances must be considered in determining just and appropriate disciplinary or corrective measures in relation to the misconduct of a member of a municipal police department, including, without limitation,
- (a) the seriousness of the misconduct,
 - (b) the member's record of employment as a member, including, without limitation, her or his 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 her or his 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.

(3) If the discipline authority considers that one or more disciplinary or corrective measures are necessary, an approach that seeks to correct and educate the member concerned takes precedence, unless it is unworkable or would bring the administration of police discipline into disrepute.

VI. Section 126(3) Considerations

9. In imposing the appropriate discipline or corrective measures in this case I must adopt the approach set out in section 126(3) and consider the aggravating and mitigating circumstances in section 126(2). The appropriate outcome should correct and educate the member unless it is unworkable or would bring the administration of police discipline into disrepute.

VII. The Aggravating and Mitigating Circumstances Considered

Seriousness of the misconduct

10. The misconduct of abuse of authority that has been proven in this matter is serious. Constable ██████ deployment of ██████ police dog was unnecessary and caused an injury to a member of the public. However, I do agree with Ms. Hatcher's comment:

“unlike many cases of abuse of authority, this was not a case where the officer used unnecessary force *after* detaining or arresting a subject without the requisite legal authority. Here, there were sufficient grounds for police to arrest J.J. and to take steps to effect that arrest using force. This factor decreases the overall seriousness of the

misconduct in our respectful submission.”

The member’s record of employment

11. Constable ██████ has no service record of discipline. ██████ has been a police officer for 18 years and a dog handler since 2018. The material filed on ██████ behalf proves ██████ is a highly motivated, diligent and dedicated police officer. ██████ is a valued member of the VPD Police Dog team.
12. Constable ██████ has received numerous accolades including a Chief Constable citation during ██████ eighteen years working as a police officer. The evidence proves ██████ superior officers support her. I find that Constable ██████ record of employment is a significant mitigating consideration.

The impact of the proposed disciplinary or corrective measures on the member and on the member’s family and career

13. In my section 117 decision I said the range of discipline or corrective measures being considered for Constable ██████ included a suspension without pay for up to 30 days and a requirement ██████ undertake specified training or retraining. The misconduct in this matter is serious; however, because Constable ██████ has no prior service record of discipline I am satisfied suspending ██████ without pay is an unnecessary disciplinary measure and would be an unreasonable financial hardship for the member. Ms. Hatcher submits that to require Constable ██████ to retrain is unnecessary. The evidence establishes Constable ██████ has trained 3 puppies to become working K9 members of the VPD Canine Unit. ██████ has worked in outreach programs in the schools showcasing ██████ dogs. Sgt. ██████ a sergeant with the VPD Canine Unit, described Constable ██████ as a hard worker who follows the use of force rules and performs

extra training with [REDACTED] dog outside of the VPD training program. The evidence and the testimony of Constable [REDACTED] proves [REDACTED] understands the requirements and regulations set out in the VPD Policy and the Provincial Policing Standards regarding the use of police dogs. I am satisfied that to require Constable [REDACTED] undertake specified training or retraining is not a necessary corrective measure.

Whether the member accepts responsibility for the misconduct and is willing to take steps to prevent its recurrence

14. Constable [REDACTED] advised [REDACTED] counsel [REDACTED] has reviewed my decision with [REDACTED] colleagues and [REDACTED] supervisor. [REDACTED] was an impressive witness, well prepared and gave credible and straightforward answers. [REDACTED] clearly understood the importance of the Police Act investigation. Constable [REDACTED] has indicated [REDACTED] accepts responsibility for Mr. [REDACTED] injuries. I am satisfied [REDACTED] will take steps to prevent a recurrence of the misconduct.

The likelihood of future misconduct

15. Ms. Hatcher submits there is no reason to expect any future misconduct on Constable [REDACTED] part. She says Constable [REDACTED] is concerned that the finding of misconduct may impact [REDACTED] career and [REDACTED] reputation and I accept these proceedings have had a significant effect on [REDACTED]. The material filed in support of Constable [REDACTED] proves [REDACTED] good character, [REDACTED] dedication to [REDACTED] work and a commitment to serve and protect the public. The misconduct appears to be an isolated incident and I am satisfied it is unlikely Constable [REDACTED] will misconduct herself in the future.

Whether the Vancouver Police Department contributed to the misconduct

16. I do not find this to be a relevant consideration.

The range of disciplinary or corrective measures taken in similar circumstances

17. I have reviewed the authorities cited in Ms. Hatcher's written submission. The misconduct referred to in those cases involved police dogs biting and injuring members of the public. In those incidents the officers failed to follow the appropriate procedures and regulations regarding the use of their police service dogs. In three of the five cases (OPCC 2011-6835, OPCC 2009-4706 and OPCC 2018-14475) the details and the circumstances of the misconduct are difficult to determine. In OPCC 2009-4718 the circumstances of the misconduct appear to be more serious than the misconduct of Constable [REDACTED]. In that case, the conclusion was that it was unnecessary for the member to immediately deploy the police dog to gain compliance or arrest the suspect. I am satisfied the circumstances involving Constable [REDACTED] deployment of PSD [REDACTED] are distinguishable. Constable [REDACTED] did not immediately deploy [REDACTED] dog. Mr. [REDACTED] was given several opportunities to surrender, he continued to be non compliant, was actively resistant and assaultive and was warned by Constable [REDACTED]. It was only after he was shot four times by Constable [REDACTED] that Constable [REDACTED] decided to deploy [REDACTED] dog. Ms. Hatcher also referred to the decision in OPCC 2020-18524. In that case the member's dog bit a suspect twice. The first deployment did not amount to misconduct. The second deployment did result in a finding of misconduct because the suspect no longer posed a threat to the police or the public and the member failed to control his dog and prevent it from biting the suspect a second time. The circumstances in OPCC 2020-18524 are similar to the situation faced by Constable [REDACTED]. In both cases the officers had to make the decision to deploy their dogs in a matter of a few seconds but failed to control and prevent the dogs from biting the suspects. I am satisfied that Constable [REDACTED] misconduct is no

more serious than the authorities referred to above. The decision of the Discipline Authority in each of those cases was to propose a written reprimand to the member. I agree with Ms. Hatcher a written reprimand is within the range of appropriate discipline or corrective measures for Constable [REDACTED]

Other aggravating and mitigating circumstances

18. There are no other aggravating circumstances apart from the seriousness of the misconduct.
19. The significant mitigating circumstances are the member's record of employment, [REDACTED] contributions to the community and [REDACTED] dedication to [REDACTED] police duties. As well, the misconduct of Constable [REDACTED] appears to be an isolated incident and out of character. It is unlikely the member will misconduct [REDACTED] in the future.

VIII. Conclusion

20. Section 126(3) requires me to give precedence to an approach that seeks to correct and educate unless it is unworkable or would bring the administration of police discipline into disrepute.
21. Ms. Hatcher submits an approach that seeks to correct and educate the member should take precedence and that I should impose a written reprimand.
22. After considering the material filed on behalf of Constable [REDACTED] and having regard to the factors set out in section 126(2), I am satisfied it is appropriate to correct and educate Constable [REDACTED] and to do so would be

workable and would not bring the administration of police discipline into disrepute. I am satisfied it is not necessary to suspend Constable [REDACTED] nor is it necessary to impose specified training or retraining. I propose the following sanction:

- a) Reprimand the member in writing.

July 10, 2025.

David Pendleton

David Pendleton

Adjudicator