



Office of the
Police Complaint Commissioner

British Columbia, Canada

NOTICE OF REVIEW ON THE RECORD

Pursuant to section 138(1) *Police Act*, R.S.B.C. 1996, c.267

**In the matter of the Review on the Record into the Complaint against
Constable Gabriel of the Vancouver Police Department**

OPCC File: 2015-10950
September 22, 2016

To: Complainant

And to: Constable Geoff Gabriel (#1599) (Member)
c/o Vancouver Police Department
Professional Standards Section

And to: Chief Constable Len Goerke (External Investigating Agency)
c/o West Vancouver Police Department
Professional Standards Section

And to: Chief Constable Adam Palmer (Discipline Authority)
c/o Vancouver Police Department
Professional Standards Section

WHEREAS:

Investigation

1. On July 20, 2015, the Office of the Police Complaint Commissioner (OPCC) received a copy of a registered complaint describing concerns with a member of the Vancouver Police Department (VPD) in 2012 and 2013. Briefly, the complainant described that in 2012/2013 she was accepted into the VPD recruitment process. The process included taking a polygraph test, which was conducted by Constable Geoff Gabriel. The complainant reported that after the test Constable Gabriel provided her with his personal cell number and advised her he could help her out with the process. Shortly thereafter, the complainant advised that Constable Gabriel told her that the civilian coordinator in charge of the recruitment process purposely set up the polygraph test with Constable Gabriel because she thought they would make a good couple. The complainant reported that she met with Constable Gabriel a couple of times but was not interested in him in the way he wanted her to be. Constable

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Gabriel became upset at this and showed signs of anger that led to angry and explicit texts to her. In one message Constable Gabriel stated she should have just “gone along with the plan,” as he was “tight” with her recruitment officer, who would get her in. The complainant described that she retained the explicit pornographic pictures and sexually explicit messages sent to her by Constable Gabriel. The complainant also advised that Constable Gabriel supplied her with a confidential DVD of his interrogation with a sex offender.

2. The allegations contained in the registered complaint were reviewed and the allegations concerning Constable Gabriel using his position to encourage a relationship with the complainant, the inappropriate text messaging and the improper disclosure of evidence were determined to be admissible and, accordingly, the complaint was forwarded to the Professional Standards Section of the West Vancouver Police Department for an external investigation. West Vancouver Police Professional Standards investigator, Staff Sergeant Scurrah, conducted an investigation into this matter and, on February 22, 2016, he submitted the Final Investigation Report (FIR) to the Discipline Authority.
3. On March 3, 2016, following his review of the FIR, the Discipline Authority offered to Constable Gabriel a Prehearing Conference.
4. On April 7, 2016, before Inspector Earl Andersen, as the Prehearing Conference Authority, an agreement was reached with respect to the proposed discipline.
5. On April 8, 2016, a report following the Prehearing Conference was received at the OPCC.
6. On April 19, 2016, after consideration of all the relevant factors in this case, the Police Complaint Commissioner did not approve the discipline agreed to at the Prehearing Conference as it seemed not appropriate to the circumstances. Accordingly, a Discipline Proceeding was convened.

Discipline Proceeding and Proposed Discipline

7. On July 12, 2016, following the Discipline Proceeding, and after considering the available evidence and submissions, the Discipline Authority made the following determinations in relation to the Constable Gabriel’s admitted allegations:
 - (1) That Constable Gabriel, committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* 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, attempting to use his position as a police officer to encourage the complainant to enter into a relationship with him and sending inappropriate sexual and pornographic texts messages to her.

Proposed Disciplinary Measure:

- a) Suspension without pay for 12 scheduled working days;
 - b) Require the member to take ethics-based training, specifically related to power imbalances.
- (2) That Constable Gabriel committed *Improper Disclosure of Information* pursuant to section 77(3)(i)(i) of the *Police Act* for providing the complainant with a DVD of an interview Gabriel had conducted with a sex assault suspect in the course of his duties as a VPD member.

Proposed Disciplinary Measure:

- a) Written reprimand;
 - b) Require the member to take specific training related to VPD disclosure of information policies.
8. The complainant and Constable Gabriel were provided a copy of Superintendent Eely's findings in relation to substantiation for each allegation of misconduct and his determinations on appropriate disciplinary or corrective measures. The complainant and Constable Gabriel were informed that if they were aggrieved by either the findings of substantiation or the disciplinary/corrective measures, they could file a written request with the Police Complaint Commissioner (PCC) to arrange a Public Hearing or Review on the Record.
9. To date, the OPCC has not received a request for a Public Hearing or Review on the Record from either the complainant or Constable Gabriel.
10. Pursuant to section 138(1) of the *Police Act*, the Police Complaint Commissioner must arrange a Public Hearing or Review on the Record if the Police Complaint Commissioner considers that there is a reasonable basis to believe: that the Disciplinary Authority's findings under section 125(1) are incorrect; the Discipline Authority has incorrectly applied section 126 in proposing disciplinary or corrective measures under section 128(1); or, if the Police Complaint Commissioner considers that a Public Hearing or Review on the Record is necessary in the public interest.

Decision

11. Having reviewed the investigation, the Discipline Proceeding and associated determinations, pursuant to section 138 of the *Police Act*, I have determined that a Review on the Record is necessary in the public interest. In determining that a Review on the Record is necessary in the public interest, I have considered several relevant factors, including, but not limited to, the following:

- a) The complaint is serious in nature as the allegations involve a significant breach of the public trust;
 - b) The disciplinary or corrective measures proposed are inappropriate and/or inadequate; and
 - c) A Review on the Record is required to preserve or restore public confidence in the administration of police discipline.
12. Pursuant to section 141(5) the *Police Act*, Constable Gabriel, or his agent or legal counsel, may make submissions concerning the matter under review.
 13. Pursuant to section 141(6) the *Police Act*, the Police Complaint Commissioner, or his commission counsel, may also make submissions concerning the matters under review.
 14. Pursuant to section 141(7) the *Police Act*, the Adjudicator may permit the Discipline Authority to make submissions concerning the matters under review.

THEREFORE:

15. A Review on the Record is arranged pursuant to section 138(1) and 141 of the *Police Act*.
16. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, the Honourable Carole Lazar, retired British Columbia Provincial Court Judge, has been appointed to preside as Adjudicator in these proceedings, pursuant to section 142(2) of the *Police Act*.

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 22nd day of September, 2016.



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Police Complaint Commissioner

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