



Office of the
Police Complaint Commissioner

British Columbia, Canada

OPCC File: 2019-15996
May 14, 2020

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 Ordered Investigation
into the Conduct of Constable Brad Meyer of the Victoria Police Department**

To: Constable Brad Meyer (#82) (Member)
c/o Mr. Kevin Woodall
Cristine Woodall, Barristers and Solicitors

And to: Inspector Colin Brown (Discipline Authority)
c/o Victoria Police Department
Professional Standards Section

And to: Chief Constable Del Manak
c/o Victoria Police Department
Professional Standards Section

WHEREAS:

Investigation

1. On March 29, 2019, the Office of the Police Complaint Commissioner (OPCC) received information from the Victoria Police Department in relation to an incident which occurred on February 13, 2019. According to the Victoria Police Department, reports were received of a male, later identified as Constable Brad Meyer, throwing snow into oncoming traffic and swearing at passing vehicles. According to the Victoria Police Department, Constable Meyer was verbally hostile and confrontational towards two RCMP officers who attended the call for service. He was also reported to have identified himself as a police officer and made disparaging remarks about one of the officers and the RCMP in general. On the basis of the information provided, the OPCC identified two potential allegations of *Discreditable Conduct*.

Clayton Pecknold
Police Complaint Commissioner

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2. On April 5, 2019, after reviewing the information forwarded by Victoria Police Department, I ordered an investigation into the conduct of Constable Meyer pursuant to section 93(1) of the *Police Act*. Victoria Police Department Professional Standards investigator, Sergeant Mike Niederlinski, conducted an investigation into this matter and on November 5, 2019, he submitted the Final Investigation Report to the Discipline Authority.
3. On December 3, 2019, following his review of the FIR, the Discipline Authority notified Constable Meyer that a Discipline Proceeding would be held in relation to the substantiated allegation, namely:

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 department.

Discipline Proceeding and Proposed Discipline

4. On March 18, 2020, following the Discipline Proceeding, and after considering the available evidence and submissions, the Discipline Authority made the following determination in relation to the allegation:

- (i) *That on February 13, 2019, Constable Brad Meyer, committed Discreditable Conduct pursuant to section 77(3)(h) of the Police Act for recklessly shovelling a significant amount of snow onto the roadway in the path of oncoming traffic so as to constitute a hazard; for acting in an angry and profane manner while shovelling said snow; for speaking rudely to ██████████; for threatening and swearing at ██████████ for acting verbally hostile and confrontational with the RCMP officers; for making disparaging comments about ██████████ in particular; and for making disparaging comments about the RCMP in general.*

Proposed Disciplinary Measure – Dismissal

Constable Meyer's Request for Public Hearing or Review on the Record

5. Pursuant to section 137 of the *Police Act*, where a Discipline Authority proposes a disciplinary measure of dismissal or reduction in rank, upon written request from the police member, the Commissioner must promptly arrange a Public Hearing, but may arrange a Review on the Record instead of a Public Hearing if satisfied that it is unnecessary to either examine or cross-examine witnesses, or receive evidence that is not part of the record of the disciplinary decision or the service record of the member, and a public hearing is not required to preserve or restore public confidence in the investigation of misconduct and the administration of police discipline.
6. On April 21, 2020, the Police Complaint Commissioner received a request from Constable Meyer's lawyer, Mr. Kevin Woodall, for a Public Hearing. In earlier correspondence on April 10, 2020, Mr. Woodall also requested that I consider my discretion to arrange a Review on the Record in lieu of a Public Hearing.

Decision

7. I have reviewed the record of the disciplinary decision and the associated determinations. I note that at the Disciplinary Proceeding, Constable Meyer called no evidence and accepted the facts and findings contained in the Discipline Authority's decision pursuant to s.112 of the *Police Act*. In his letter of April 10, 2020, Mr. Woodall confirmed that the sole issue is whether the penalty of dismissal was reasonable.
8. Based on the limited scope of this review as outlined herein, I am therefore satisfied that it is not necessary to cross examine witnesses or receive new evidence, and that a public hearing is not required to preserve or restore public confidence in the investigation of misconduct and the administration of police discipline.
9. Accordingly, pursuant to sections 137(2) and 141, I am arranging a review on the record. As there is no dispute by the member or his counsel regarding the Discipline Authority's finding of misconduct pursuant to section 125 of the *Police Act*, the scope of this review will be limited to a determination of the appropriate disciplinary or corrective measure with respect to the proven allegation.
10. Pursuant to section 141(2) of the Act, the review on the record will consist of a review of the disciplinary decision as defined by section 141(3) of the Act, unless pursuant to section 141(4) of the Act, the Adjudicator considers that there are special circumstances and it is necessary and appropriate to receive evidence that is not part of the record of disciplinary decision or the service record of the member.
11. Pursuant to section 141(5) of the Police Act, Constable Meyer, or his agent, or legal counsel, may make submissions concerning the matter under review.
12. Pursuant to section 141(6) of the Police Act, the Police Complaint Commissioner or his commission counsel may make submissions concerning the matter under review.
13. Pursuant to section 141(7)(b) of the Police Act, the Adjudicator may permit the Discipline Authority to make submissions concerning the matter under review.
14. It is therefore alleged that Constable Meyer committed the following disciplinary defaults, pursuant to section 77 of the *Police Act*:
 - (a) That on February 13, 2019, Constable Brad Meyer, committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* for recklessly shovelling a significant amount of snow onto the roadway in the path of oncoming traffic so as to constitute a hazard; for acting in an angry and profane manner while shovelling said snow; for speaking rudely to ██████████; for threatening and swearing at ██████████; for acting verbally hostile and confrontational with the RCMP officers; for making disparaging comments about ██████████ in particular; and for making disparaging comments about the RCMP in general.

THEREFORE:

15. A Review on the Record is arranged pursuant to section 137(2) 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 Provincial Court Judge, is 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 14th day of May, 2020.



Clayton Pecknold
Police Complaint Commissioner