



## Office of the Police Complaint Commissioner

### Report on Complaint Dispositions

### Pursuant to s. 50 of the *Police Act*

### July to December 1999

#### Introduction

The police complaint commissioner is required by section 50 of the *Police Act* to regularly prepare reports of the complaint dispositions made or reached during the reporting period.

This report contains summaries of citizen complaints that resulted in corrective measures during the period of July 1 to December 31 of 1999. The Police Complaint Commissioner has previously reported complaint dispositions for the period of July 1 to December 31 1998 in his first *Annual Report*. The commissioner reports additional cases in his *Report on Complaint Dispositions* for the period of January to June 1999. These reports are available on the commissioner's website at [www.opcc.bc.ca](http://www.opcc.bc.ca) or from the Office of the Police Complaint Commissioner.

#### Case Summaries

**OPCC0115**

**Improper Off-Duty Conduct**

**Closed: September 14, 1999**

*A RCMP officer brought to the attention of the Chief Constable details of two occasions on which RCMP officers had stopped the constable for both Motor Vehicle Act and Liquor Control Act offences. On both occasions, the constable was in the company of persons who have criminal records. The RCMP officers felt that the constable had used police identification to impress civilians and to avoid prosecution. Further, the constable was unprofessional and confrontational when questioned by the RCMP officers.*

The Chief Constable found the disciplinary default of improper off-duty conduct on two occasions  
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proven. The constable had acted in a manner likely to discredit the reputation of the department. The Chief suspended the constable for three eight-hour days without pay. The mitigating and aggravating factors considered by the Chief Constable included:

- The officer's record of employment;
- The constable's conduct was likely to have brought discredit to the reputation of the department in the eyes of the public and the RCMP officers who dealt with him on the two occasions;
- The likelihood of future breaches of the *Police Act* by the officer; and
- The officer's recognition that he had a significant alcohol related problem to be addressed through counselling.

**OPCC149**

**Discreditable Conduct**

**Closed: August 23, 1999**

*The constable attended at a store where a break and enter had been reported by the storeowner. A citizen and the constable had a verbal exchange during which both got extremely upset with one another. Because of this interaction, the citizen complained that the constable had yelled at him and had implied he was being less than honest in his report of stolen goods. The argument stemmed from misunderstood or misinterpreted remarks made by both. The constable and the citizen had had prior contact during a shoplifting investigation.*

The Chief Constable considered the officer's service record, the seriousness of the breach, the prior unhappy history between the citizen and the officer, his willingness to accept responsibility for his actions and the likelihood of future breaches. The Chief Constable did not impose any corrective measures. He advised the officer about how citizens judge the entire police profession on one officer's actions.

**OPCC134**

**Discreditable Conduct**

**Closed: September 14, 1999**

*Police officers responded to a complaint of a Break and Enter in progress at a suburban residence. The constable blocked the complainant's vehicle into the curb using his cruiser. The constable had his firearm drawn at the ready position when he ordered two fourteen-year-old boys to raise their hands and slowly exit the vehicle. When the complainant exited the vehicle, the constable pointed his firearm at her and ordered her to stay in the vehicle. The constable failed to observe a five-year-old child seated in the car. The complainant was the mother of two of the boys. The incident occurred in front of the other boy's home. He had forgotten the key to his house and had tried to enter through a window when a neighbour saw and reported his suspicious behaviour.*

The Chief Constable confirmed the investigator's finding that constable had not committed discreditable conduct. He had acted in the honest belief that he was apprehending two suspects in a stolen vehicle. The investigator's corollary findings of a breach of the department's policy for the constable's failure to see who the vehicle driver was or assess the risk she may have posed was substantiated. The Chief Constable was of the view that disciplinary measures were not required. However, the constable received advice as to his future conduct and was required to take training in the use of firearms, force options theory, vehicle stops and officer investigation and safety tactics in

vehicle stop situations. The complainant received an apology from the department. The Chief Constable considered the following factors:

- The constable's 11 year service record with another department and his four-year record with the department;
- The constable's belief that the vehicle was stolen and his observations when he arrived on the scene.

**OPCC166                      Abuse of Authority and Neglect                      Closed: August 4, 1999**  
**of Duty**

*The constable executed a Canada-wide warrant and arrested the complainant for being unlawfully at large. At the time of his arrest, the complainant possessed \$415 in cash and a quantity of drugs. The constable seized the money and the drugs. The complainant alleged that the constable threatened to charge him if he did not admit that the money was the proceeds of crime. He alleged also that the constable did not give him a receipt and wrongfully seized his money, as it was not proceeds of crime. The constable failed to submit a federal Form 5.2A Report to a Justice of the Peace.*

The Chief Constable confirmed the investigator's finding that the allegation of abuse of authority was unsubstantiated. The investigator's corollary finding of a breach of a federal regulation and the department's policies for the constable's failure to submit a Form 5.2A Report was substantiated. The Chief Constable was of the view that corrective measures were not required. Instead, the constable received management advice from a senior officer as to his future conduct in regards to the completion of legal forms required for seized property. The complainant received his \$415 from the department.

**OPCC239                      Discreditable Conduct                      Closed: September 9, 1999**

*Two police officers used unprofessional language to a citizen during a roadside stop of the citizen's motor vehicle. The citizen filed a formal complaint that the police complaint commissioner confirmed, as a public trust complaint.*

The Chief Constable declined to discipline the police constables. Instead, each received advice as to future conduct about the use of unprofessional language. The factors considered by the Chief Constable included:

- The incident was minor in nature; and
- The constables had no previous disciplinary record.

**OPCC247                      Discreditable Conduct                      Closed: August 23, 1999**

*A police constable was assigned to investigate a report of sexual assault. The alleged victim of the*

*assault was not co-operative in the investigation and an eyewitness had provided inconclusive evidence to the constable. The constable closed the file two months after commencing the investigation. The alleged victim filed a victim statement four weeks after the constable had closed the file. The constable did not re-open the file. The citizen filed a formal complaint, alleging that the investigating constable had not sufficiently pursued the investigation. The citizen also complained about certain things the constable had said to her and to the alleged suspect. The police complaint commissioner confirmed the complaint, as a public trust complaint.*

The Chief Constable declined to discipline the police constable although the constable had acted improperly in failing to re-open the file and submit a report to Crown Counsel. However, the constable received advice as to the handling of similar investigations in the future. The factors considered by the Chief Constable included:

- When the complaint was brought to the constable's attention, the constable completed the investigation thoroughly and promptly and submitted a report to Crown Counsel;
- The complainant refused to accept delivery of any mail from the department about her complaint and informed the investigator that she had lost interest in the matter; and
- The constable had no previous disciplinary record.

**OPCC277****Neglect of Duty****Closed: September 21, 1999**

*A police constable was involved in a vehicle pursuit. A senior officer filed a formal complaint, alleging that the constable had disregarded several sections of the department's regulations and procedures manual about "Police Vehicle – Pursuit Policy" and that the constable's report to Crown Counsel and his internal report were inconsistent. The police complaint commissioner confirmed the complaint, as a public trust complaint.*

The Chief Constable declined to discipline the police constable although the constable had acted improperly in failing to adhere to department policy and failed to file consistent reports internally and to Crown Counsel. However, the constable received advice as to the handling of similar vehicle pursuits in the future and the necessity of adhering to department policy about vehicle pursuits. The factors considered by the Chief Constable included:

- The incident occurred over a year before it was brought to the attention of the Internal Investigation Section;
- Two officers had previously conducted reviews of the incident and the chief constable concurred in principle with their findings and recommendations;
- That due to the time delay in Internal Investigations receiving the file, discipline under the Police Act was inappropriate;
- The constable had no previous disciplinary record.

**OPCC302****Discreditable Conduct****Closed: August 23, 1999**

*A police constable responded to a 9-1-1- call from a person who reported two people engaging in*

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*indecent acts in a public place. Upon arriving at the scene, the constable approached the pair, spoke to them and instructed them to stop their behaviour. The constable chartered and cautioned the pair about the offence of "indecent act" and followed other appropriate procedure. The constable allowed the pair to leave without charging them with an offence. The constable later learned that one of the pair had bragged about the incident to a police constable. The constable then disclosed the incident to the person's employer, who discussed it with the person. The person filed a formal complaint. The police complaint commissioner confirmed the complaint, as a public trust complaint.*

The Chief Constable declined to discipline the police constable although the constable had improperly disclosed information about a police matter. However, the constable received advice as to the handling of similar situations in the future. The factors considered by the Chief Constable included:

- The constable had acted completely professionally at the scene of the incident;
- The constable did not use sensitive sources available to police to obtain the information about the person's employer;
- The constable was motivated by a sense of duty following learning that the person had misled the constable at the scene and was minimizing the seriousness of his actions;
- There was no department policy prohibiting a constable from contacting the employer in the course of police duty; and
- The constable had no previous disciplinary record.

**Note:** *The police complaint commissioner obtained the opinion of an ethicist, Dr. E. Kluge. Chair of the Department of Philosophy at the University of Victoria, about the ethics of the constable's conduct in this scenario. Dr. Kluge's opinion is available on the commissioner's website at [www.opcc.bc.ca](http://www.opcc.bc.ca).*

**OPCC327**

**Discreditable Conduct and  
Improper Off-Duty Conduct**

**Closed: August 23, 1999**

*A police recruit was found to have cheated on a quiz during a police recruit training program. The recruit constable later lied when questioned by a senior officer about the matter. Subsequent investigation established that he had tried to convince another recruit to lie about the matter also. The police complaint commissioner confirmed the complaint by a senior police officer, as a public trust complaint.*

The Chief Constable disciplined the police constable. He received a three-day suspension without pay for cheating on an exam (discreditable conduct) and dismissal from the police department for trying to convince another constable to lie about the incident (improper off-duty conduct). The factors considered by the Chief Constable included:

- The constable was immediately suspended pending the outcome of the internal investigation into the incident;
- The seriousness of the constable's conduct; and
- The constable's conduct constituted a serious breach of training academy policy, and

department policy about ethical conduct, and his oath of allegiance.

**OPCC238**

**Discreditable Conduct and  
Abuse of Authority**

**Closed: October 27, 1999**

*A youth allegedly made a hand gesture toward a passing marked police vehicle. The patrol officers parked the vehicle alongside the youth. A constable exited the vehicle, grabbed the youth and a physical assault occurred. The constable's partner did not intervene to prevent or stop the assault. The constable had seriously and permanently injured the youth's left eye during the assault. The constable later plead guilty to a criminal charge of common assault. The police complaint commissioner confirmed the complaint by the youth, as a public trust complaint.*

The Chief Constable disciplined the police constables. The constable ("Constable A") who assaulted the youth received a three-day suspension without pay for abuse of authority. The other officer ("Constable B") was not disciplined but received advice as to future conduct for failing to intervene to prevent the assault on the youth. The factors considered by the Chief Constable in disciplining **Constable A** included:

- The constable was charged and plead guilty to common assault;
- The constable admitted that his conduct was excessive but that he did not intend the harm to the youth;
- The seriousness of the constable's conduct and the harm caused to the youth;
- The youth had had a cornea transplant in his left eye three years prior to the incident and his eye was "fragile";
- The constable's use of force was unnecessary and excessive;
- The constable had no previous disciplinary record; and
- The constable is a first class constable and has been a police constable for 12 years.

The factors considered by the Chief Constable in his decision not to discipline **Constable B** were not disclosed to the Police Complaint Commissioner.

**OPCC376**

**Discreditable Conduct**

**Closed: August 26, 1999**

*A police officer directed a youth to pull her vehicle over to the roadside and then proceeded to write a motor vehicle offence ticket for the youth's failure to renew her driving license. The officer did not explain the reason for his actions to the youth before issuing the ticket or calling a tow truck. The youth lived nearby but the officer did not give her an opportunity to call a relative to drive her and the vehicle home. The officer had the car towed away. The youth filed a formal complaint, alleging that the officer had spoken to her rudely and not explained what was going on to her at the scene. The police complaint commissioner confirmed the citizen's complaint, as a public trust complaint.*

The Chief Constable declined to discipline the police officer. The complainant and the officer mutually agreed to an informal resolution. The officer received advice from a senior officer about the manner in which he dealt with the youth and as to the handling of similar situations in the future.

**OPCC437****Neglect of Duty****Closed: October 21, 1999**

*A police constable failed to attend court for a trial in which he was a witness, although Federal Crown Counsel had notified the constable of the court date. A senior officer of the constable's department filed a formal complaint, alleging that the officer had neglected his duty. The police complaint commissioner confirmed the officer's complaint, as a public trust complaint.*

The Chief Constable disciplined the police constable by giving him a verbal reprimand for his neglect of duty. The factors considered by the Chief Constable in his decision are:

- The constable was an 18-year veteran of the department with a reputation as a capable drug investigator;
- According to the Crown prosecutor who initiated the complaint, for this constable to miss a court date was "a rarity;"
- The constable had immediately admitted to his error when it was brought to his attention and accepted full responsibility for forgetting the court date; and
- The Chief Constable was satisfied that a verbal reprimand was a sufficient measure to ensure that the constable would not miss a court date again.

**OPCC379****Neglect of Duty****Closed: December 2, 1999**

*A police officer failed to attend court on two occasions. A senior officer of the constable's department filed a formal complaint, alleging that the officer had neglected his duty. The police complaint commissioner confirmed the officer's complaint, as a public trust complaint. The internal investigator established that Crown counsel had notified the officer of the court date. The officer's family member had received a telephone message from a woman to the effect that the officer was not needed as a witness in court. The officer had not received a court de-notification slip from Crown counsel. The investigator could not prove that, on the second occasion, the officer had been notified of the court date.*

The Chief Constable disciplined the police officer by giving him a verbal reprimand for his neglect of duty. The factors considered by the Chief Constable in his decision were:

- The officer was an 18-year veteran of the department who, until these incidents, had given exemplary service to the department;
- The officer had admitted to his error, in regards to the first court date, when it was brought to his attention that he had failed to verify that the telephone message was accurate;
- The investigator concluded that there was no proof that the officer had been notified of the second court date; and
- The Chief Constable was satisfied that a verbal reprimand was a sufficient measure to ensure that the constable would not miss a court date again.
- The police department has instituted policy and procedure to ensure proper notification of officers for pending court appearances and cancellation of court appearances.

OPCC015

**Neglect of Duty And  
Discreditable Conduct****Closed: July 26, 1999**

*The constable was dispatched to investigate a report of a prowler. The constable failed to secure the scene and call in the identification team to obtain fingerprints and shoe imprints. He did not interview the victim and failed to interview another witness in a timely manner. The constable later proposed a deal to the suspect in an attempt to obtain a confession.*

The Chief Constable gave the constable a written reprimand that included the department's expected standards of investigation. The factors considered by the Chief Constable included:

- The constable's 20 years of service with no prior complaints or disciplinary action;
- The constable's forthrightness and acceptance of full responsibility;
- The seriousness of the combination of substantiated allegations;
- If made public, the behaviour would have an eroding effect on public confidence in the department; and
- The impact of the constable's conduct on the complainants.

OPCC029

**Discreditable Conduct****Closed: July 26, 1999**

*A school principal complained about the conduct of a school liaison officer after receiving reports of inappropriate conduct during school events. The complainant listed thirteen allegations, all of which were substantiated by the investigator. The constable was removed from school liaison duties and received disciplinary measures.*

The Chief Constable gave the constable a written reprimand. The factors considered by the Chief Constable included:

- The constable was a school liaison officer interacting with young students at the time of the incidents and the impact of the constable's conduct on the students;
- The constable voluntarily requested a transfer from the school liaison department;
- The constable's acknowledgement that he had exercised poor judgement; and
- The constable had no previous disciplinary record.

OPCC251

**Improper Use and Care of a  
Firearm****Closed: July 15, 1999**

Several police officers responded to a break and enter in progress. One of the suspects, while attempting to flee the scene in a vehicle, tried to run over a constable in his path of escape. The constable and another officer opened fire with their handguns in order to stop the suspect from injuring the constable. The constable fired two additional shots after the vehicle as the suspect drove off. A senior police officer filed a formal complaint that the police complaint commissioner confirmed,

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as a public trust complaint.

The Chief Constable disciplined the police constable by imposing a written reprimand for improper use of his firearm by continuing to fire at a fleeing vehicle after a deadly threat no longer existed, contrary to the department's use of force policy. The factors considered by the Chief Constable included:

- The incident occurred while the constable was under extreme circumstances and was not premeditated;
- The constable's conduct was contrary to department use of force policy;
- The seriousness of the conduct and potential harm to anyone hit by a stray bullet that deflected off the vehicle
- No one was injured by the constable's conduct;
- The police constable admitted the allegation and accepted full responsibility; and
- The constable had an exemplary work record and no previous disciplinary record.

**OPCC479**

**Neglect of Duty**

**Closed: December 15, 1999**

*Two police constables, while investigating charges against a youth suspected of assault with a weapon, formally arrested the suspect at his home without first contacting his parents. One of the constables failed to interview and take a statement from a witness who later provided an alibi for the suspect at the time of the alleged crime. One of the constables also failed to interview another witness, the victim's friend, who could have provided critical evidence. The youth's parents filed a formal complaint with the police complaint commissioner, that he confirmed as a public trust complaint.*

The Chief Constable disciplined the police constable by imposing a written reprimand for neglect of duty, for failing to report to Crown Counsel that an independent witness may exist and that another witness existed that may provide an alibi for the suspect. The factors considered by the Chief Constable included:

- The constable had been a member of the department for 2.5 years including recruit training;
- The constable had an unblemished record; and
- The constable had not been trained in dealing with mentally handicapped persons, and this was a large factor in this matter.
- The Chief Constable did not discipline the other police constable for the manner in which the constable arrested the suspect. The constable received advice as to future conduct as to arrest procedures, under the circumstances of this matter:
- The parents previous cooperation with the investigators prior to the youth's arrest;
- The time lapse since the offense with no untoward contact with the victim; and
- The youth's mental handicap.

**OPCC070**

**Improper Disclosure of  
Information and Abuse of  
Authority**

**Closed: December 21, 1999**

*The B.C. Civil Liberties Association filed a third-party complaint with the police complaint commissioner after viewing video footage and news commentary aired on national television over a number of days. The footage showed several officers of a police department engaged in an operation directed at suspected drug dealers. The news media, with video cameras and tape recorders rolling, accompanied the police on duty, visiting private dwellings of suspected drug dealers and interviewing suspects on the streets. The Association viewed unreleased video footage and read a transcript of a CBC interview with the police department's media liaison officer before lodging its complaint. The police complaint commissioner confirmed the matter as a public trust complaint.*

The Chief Constable disciplined two officers by imposing a verbal reprimand for improper disclosure of information, for their handling of, and dealings with, the news media. Another officer received a written reprimand for abuse of authority, for his interview targeting one suspect, and this in front of news media.

**OPCC521****Neglect of Duty****Closed: December 21, 1999**

*A police constable was dispatched at 0752 hours to investigate a report of a vehicle possibly down an embankment. The constable failed to respond to the dispatch for twenty minutes after receiving the dispatcher's call. The constable later reported that there was no vehicle in the ravine and the public works crew would not be needed to repair the damage until the next day as the damage to the broken barrier appeared to be old. The next day a citizen called to report that he had located a dead male in a vehicle at the bottom of the ravine. Investigators later concluded that the male driver had driven through the barrier at a high rate of speed and traveled about 150 feet through air before hitting the ground. The vehicle left no debris at the point of impact and no obvious signs that it had traveled through the bush to the ravine bottom. The driver had died almost instantly of a broken neck, the result of the vehicle's impact. The citizen filed a formal complaint with the police complaint commissioner, that the constable should have searched the ravine area more thoroughly. The Commissioner confirmed the complaint as a public trust complaint.*

The Chief Constable disciplined the police constable by imposing a written reprimand for neglect of duty, for failing to continue to the bottom of the ravine to search for the vehicle and for his time delay in responding to the call. The constable accepted the discipline at a pre-hearing conference.

**OPCC0100****Improper Off-Duty Conduct****Closed: July 7, 1999**

*A police recruit was involved in a fight in a restaurant. The investigation revealed the recruit was engaged in improper off-duty conduct. A registered clinical psychologist concluded that the recruit was capable of managing his anger but suggested that the recruit would benefit from a mentor relationship with a more experienced officer.*

Disciplinary measures included: a written reprimand, written apologies to two police officers who were present at the incident, and a psychological assessment to assess the recruit's ability to manage anger.

The recruit's willingness to accept responsibility and the positive psychological evaluation were mitigating factors in the imposition of discipline on him.

**OPCC0270**

**Improper Use and Care of  
Firearms**

**Closed: July 9, 1999**

*An off-duty constable left his unloaded service pistol and 62 rounds of ammunition in his private vehicle. The bag containing the pistol and the ammunition was placed in the rear of the vehicle under a tarp. The constable left the vehicle unattended for 10-15 minutes to make a phone call during which time the vehicle was broken into and the gun and ammunition were stolen.*

The constable received a written reprimand for failing to follow required departmental procedures regarding the safe storage of a firearm and ammunition. The mitigating and aggravating factors considered by the Chief Constable were:

- the officer's thirteen year (13) exemplary service record;
- the officer's acceptance of full responsibility for his actions; and
- the officer's failure to adhere to required departmental procedures as to the safe storage of firearms and ammunition.

### **Additional Information**

Additional information about the role and work of the Police Complaint Commissioner is available in other quarterly and annual publications. Contact the Office of the Police Complaint Commissioner at (604) 660-2385, through its website at [www.opcc.bc.ca](http://www.opcc.bc.ca), or write to #900-1111 Melville Street, Vancouver, BC, V6E 3V6.