

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

AND

In the matter of certain  
Registered Complaints  
concerning

Constables [REDACTED] and [REDACTED]  
of the Vancouver Police Department

REASONS FOR DECISION:  
DISCIPLINARY OR CORRECTIVE MEASURES  
SECTION 126 OF THE POLICE ACT

To: Constable [REDACTED], Vancouver Police Department ( "Cst. [REDACTED]" )

And to: Constable [REDACTED] Vancouver Police Department ( "Cst. [REDACTED]" )

And to: [REDACTED] Counsel for the Members ( "Counsel for the Members" )

And to: [REDACTED] ( "Complainant A" )

And to: [REDACTED], ( "Complainant B" )

(Collectively, the "Complainants")

And to: C. Pecknold, Police Complaint Commissioner (the "Commissioner")

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## **I Overview :**

- (1) On January 28, 2022, I delivered copies of my decision arising from the Discipline Proceeding involving both Csts. ■ and ■ in accordance with section 125 of the *Police Act* ( the “Discipline Decision”).
- (2) The Discipline Decision substantiated two allegations of misconduct against both officers;
  - (i) Recklessly arresting the Complainants without good and sufficient cause; and
  - (ii) Recklessly using unnecessary force on the Complainants by applying handcuffs to the parties on arrest without good and sufficient cause.

(the “Substantiated Misconduct”)
- (3) Both elements of the Substantiated Misconduct were found to evidence serious blameworthy conduct on behalf of both Members.
- (4) What follows are my reasons under s. 126 of the *Police Act* in relation to proposed disciplinary or corrective measures to be applied in connection with the Substantiated Misconduct of the Members.
- (5) This decision takes into consideration all aggravating and mitigating circumstances relevant to each Member, including those specifically detailed in subsection 126(2).

## **II History of Proceedings:**

- (6) The Discipline Decision details the prior history of these proceedings. Defined terms in the Discipline Decision have been utilized in this decision.
- (7) This next stage of the process requires consideration of the appropriate disciplinary or corrective measures in accordance with section 126 of the *Police Act*.
- (8) Subsequent to the delivery of the Discipline Decision, proceedings were adjourned to receive submissions from Counsel for the Members on appropriate disciplinary and corrective measures. Delays in receiving those written submissions and completing oral arguments were largely attributable to issues associated with the COVID virus.
- (9) Written submissions on behalf of the Complainants were received earlier in the discipline process.
- (10) Written submissions on behalf of the Members were received from Counsel for the Members on March 7, 2022 ( the “Members’ Submissions”).

- (11) Oral submissions from Counsel for the Members were heard March 10, 2022. My decision on the sanctions issues was reserved pending receipt of supplemental material from Counsel for the Members which have been entered, by consent, as Exhibits # 10 & 11.

### **III Legislative Framework:**

- (12) The key legislative framework governing disciplinary or corrective measures is found in s. 126 of the *Police Act*. That section provides as follows:

#### ***Imposition of disciplinary or corrective measures in relation to members***

*126 (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 s. 113 [complainant's right to make submissions], the discipline authority must, subject to this s. and s.s 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.*

- (13) In completing my analysis, I am required to consider the aggravating and mitigating circumstances relevant to each Member in order to determine the just and appropriate disciplinary or corrective measures in relation to the Substantiated Misconduct of the Members.
- (14) If I determine that one or more disciplinary or corrective measures are necessary, s. 126(3) of the *Police Act* provides that *“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”*.

## **V Nature of the Misconduct**

- (15) The key findings of fact relating to the Substantiated Misconduct concerning the Member as set out in the Discipline Decision are summarized as follows:
- (a) The Members responded to a complaint from BMO management. Following a brief discussion with the Branch Manager, the Members removed the Complainants from the Bank to a busy outside street; and
  - (b) Without lawful grounds or authority, the Members immediately arrested and handcuffed the Complainants, including Complainant B then 12 years old;
- (16) I have found that both Cst. ■ and Cst. ■ acted oppressively in their dealings with the Complainants.
- (17) Specifically, I have found that the officers’ actions in arresting and handcuffing the parties was undertaken without reasonable and probable grounds.
- (18) I have also found that no reasonable police officer standing in the shoes of the two officers could support such actions based on suspicion alone.
- (19) As noted above, I have found that the misconduct of both Members demonstrated serious, blameworthy conduct contrary to section 77 of the *Police Act*.

## VII Submissions of Counsel for the Member

- (20) The key submissions of Counsel for the Member on sanctions can be summarized as follows:
- (a) Counsel submits that the appropriate range of sanction for each Member is a one or two day unpaid suspension, immersive training in the area of Indigenous history, culture and cultural safety as well as a written apology to the Complainants and Mr. [REDACTED];
  - (b) Counsel notes that both Members have limited policing experience having commenced service with the VPD in 2016;
  - (c) Counsel submits that the seriousness of the misconduct is found primarily in the lasting negative impacts on the Complainants arising from how they were made to feel as a result of the Members' actions. However, Counsel also submits that *"in terms of the degree of force used, and any breaches of Charter rights, this case does not sit high on the spectrum of seriousness"*;
  - (d) Counsel submits that neither Member has a record of prior disciplinary defaults, and both have received positive performance reviews;
  - (e) In terms of the impact of the proposed sanctions, Counsel submits that the publicity associated with the Complaint, the length of time taken to conclude the Police Act processes and the stress of other proceedings relating to these matters have all combined to have a significant negative effect of the Members;
  - (f) In terms of the likelihood of future misconduct and acceptance of responsibility for the substantiated misconduct, Counsel submits that the prospect of any future similar misconduct is very low;
  - (g) However, Counsel's submission is that neither Member has in fact accepted the findings as to their misconduct and in particular, their lack of reasonable and probable grounds to arrest and handcuff the Complainants as detailed in the Discipline Decision;
  - (h) Counsel submits that both Members offered apologies to the Complainants on scene and regret how their decisions and actions negatively affected the Complainants;
  - (i) Counsel submitted a range of prior discipline summaries that, it is argued, support a range of sanction from a reprimand to a two day suspension without pay;
  - (j) Counsel notes that both Members have, on their own volition, commenced indigenous cultural training through the Indigenous Perspectives Society in Vancouver and plan to continue with that programming;
  - (k) Counsel submits that since the incident, both Members have acknowledged *"new insights into Indigenous cultural safety issues"* and committed to further training in that area; and

- (l) It is submitted that the Members are prepared to provide a more fulsome written or in person apology to the Complainants, including members of the [REDACTED] [REDACTED]. However, given the outstanding proceedings before the BC Human Rights Tribunal, it is Counsel's submission that the completion of such measures be delayed until the hearing in question has concluded.

## **VIII Submissions of the Complainants**

- (21) Counsel for the Complainants provided extensive submissions both in terms of the facts establishing Member misconduct and as well disciplinary and corrective measures.
- (22) Much of the Complainants' submission has been addressed in the Discipline Decision.
- (23) What remains are submissions on disciplinary and corrective measures. The key points raised in submissions are as follows:

*28. In this case, the circumstances do not disclose merely a lapse of judgment by members that led to oppressive conduct. Rather, they give rise to a (very reasonable) inference, especially by members of Indigenous communities, that the police officers used unnecessary force recklessly, without good and sufficient cause, because the complainants were people of colour – specifically Indigenous in appearance as well as in fact – and therefore likely guilty. In other words, the chain of actions and omissions by the members reinforces the (very reasonable) perception that the members were thinking about and viewing the Indigenous Complainants differently than they would have viewed white bank customers, and this led the Members to unsupportable conclusions, and in turn, to oppressive conduct.*

*29. Respectfully, the disciplinary authority should not merely conclude that the Members engaged in oppressive conduct, but further infer that they would not have engaged in such oppressive conduct with white bank customers. In other words, the conduct of the Members was more likely than not tainted by stereotyped and discriminatory assumptions...(quote from section 117 decision)*

*..In these circumstances, it is difficult to conceive how the conduct of the members was not grounded in their racial profiling of the complainants.*

- (24) Counsel further argues as follows:

*32. While the Police Act does not authorize oppressive conduct against anyone, special concerns arise with respect to how authorities should correct improper conduct that has impacted Indigenous peoples, so that the measures properly address (among other things) the damage to the confidence of Indigenous peoples that they will receive fair treatment by the police.*

*On an individual level, and as observed in the Notice,*

*“[93] ... it appears evident that the arrests, and the manner in which they took place, had a profound negative effect on both Complainants which appears to further bolster the evidence of serious blameworthy conduct.”*

*Furthermore, the conduct has impacted the dignity of Indigenous peoples in Vancouver generally and the Complainants’ [REDACTED] community specifically, by reinforcing the idea that Indigenous people do not receive, and are not entitled to, the same levels of courtesy, prudence, or presumed innocence that the police will accord to other (non-Indigenous) citizens.*

*33. The Human Rights Tribunal has recently highlighted, in Campbell, the need for police to be equipped to understand the “unique needs and circumstances” of Indigenous individuals when policing: Campbell, cited above, at para 141. As that tribunal noted,*

*“[113] ...many Indigenous people have cause to fear any state intervention involving their children. For over 100 years, Indigenous people had their children forcibly removed, 9 often by a police officer, and taken to residential schools where they suffered physical, sexual, and emotional abuse. [...] Indigenous parents have good reason to be fearful when they perceive their children at risk of harm at the hands of the state.” In this case, Mr. [REDACTED] has highlighted how this experience brought back memories of the forcible removal of [REDACTED] children to residential schools.*

*34. The laws of British Columbia, and thus the setting of disciplinary and corrective measures pursuant to statute, must be consistent with UNDRIP, as required by section 3 of the Declaration Act. UNDRIP affirms, in its preamble, that Indigenous peoples “have suffered from historic injustices,” and goes on to set out the specific rights of Indigenous peoples against discrimination. Article 2 provides that, Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity. (emphasis added) Article 15(2) provides that, States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society. (emphasis added) Article 22(2) provides, in relation to Indigenous women and children, States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination. (emphasis added) Under Article 44, UNDRIP rights*

*are "minimum standards for the survival, dignity and well-being of the indigenous peoples..." And, as recognized by section 4(a) of the federal version of DRIPA (the United Nations Declaration on the Rights of Indigenous Peoples Act, S.C. 2021, c. 14 ("UNDRIPA")), UNDRIP is "a universal human rights instrument with application in Canadian law..."*

(25) Counsel for the Complainants further submits general support for the range of disciplinary and corrective sanctions highlighted in the Section 117 Decision:

- (a) a suspension from service without pay for both Members for a duration to be determined on consideration of section 126(2) Police Act factors (Section 126(1)(c));
- (b) requiring the Members to engage in and complete training, or retraining, in de-escalation techniques, indigenous cultural awareness and risk assessment skills (Section 126(1)(f)); and
- (c) requiring the Members to provide the Complainants with a written apology in a form satisfactory to myself as Adjudicator (Section 126(1)(h).)

(26) Counsel notes that:

*"The Complainants wish to ensure that and proposed training (or retraining) on Indigenous cultural awareness be sufficient to address root causes of behaviour.*

*37. The Complainants seek, first, substantial educational training that may include one or more longer-term programs, such as • cultural perspectives training by the Indigenous Perspectives Society – a four week course which combines live and self-guided learning, and that focuses on increasing cultural competence and covers such topics as the legacy of colonization, intergenerational trauma, and key concepts of colonization, • privilege and stereotyping training (<https://ipsociety.ca/training/culturalperspectives/cultural-perspectives-training/>).*

*38. Second, the Members should also be required to engage with the Indigenous community directly, with the Complainants and with representatives of [REDACTED] [REDACTED]. For example, [REDACTED] may provide an education session that will educate the members on the history of government conduct towards Indigenous peoples, and [REDACTED] specifically (including police-Indigenous relations and residential schools), the impacts of the misconduct on the complainants, and cultural competency guidance for policing work. That may also include the members participating in a [REDACTED] gathering to address healing and the impacts of the specific conduct on the complainants and the community.*



39. A key feature of what the Complainants propose, in terms of educational training, is training that is face-to-face, interactive training, and not merely self-guided training. 40. The Complainants thank the tribunal for considering these submissions. The behaviour of the Members has impacted not only the Complainants, but every member of ██████ Nation”

## **VI Aggravating and Mitigating Circumstances**

(27) I will now turn an analysis of the relevant factors set out in s. 126 of the *Police Act*.

### **(i) Seriousness of the Misconduct s. 126(2)(a)**

(28) Without doubt, the misconduct of the Members is serious. The precipitous actions of the Members in arresting and handcuffing the Complainants, two vulnerable persons of indigenous heritage, was undertaken in circumstances evidencing no meaningful exercise of judgment.

(29) The arrest and handcuffing of Complainant B, a twelve year old child, was inexcusable. No effort was made to consider the apparent age of this child, nor the effect a public, swift arrest and handcuffing would have on that person.

(30) Seriousness is accentuated when the Indigenous heritage of Complainant B is considered. As Counsel for the Complainants has noted, and as the Supreme Court of Canada has observed, far too many young indigenous people have had profoundly negative experiences in their interactions with the Justice System and police.

(31) Neither Member gave any consideration to the indigenous status of either complainant prior to their arrest, nor to the unique cultural safety needs and circumstances of such persons.

(32) As a result, the fact that a precipitous arrest might have triggered disturbing residential school memories for Complainant A, and further confirmed concerns over police actions involving indigenous peoples was not considered by either Member.

(33) As noted in the Discipline Decision, as a result of the Members’ actions, two vulnerable persons of indigenous heritage were exposed to unnecessary trauma and fear, and left with a serious perception of unfairness in their treatment at the hands of police.

(34) I cannot agree with the submission of Counsel for the Members that the seriousness in this case “*does not sit high on the spectrum of seriousness*”. I acknowledge that the force used by the Members was not excessive. However, the precipitous actions of the Members directed to two vulnerable indigenous persons has had profound negative effects on them both. Those consequences are serious indeed.

(35) I find, therefore, that the seriousness of the Members' misconduct is an important aggravating factor.

(ii) Record of Employment s. 126(2)(b)

(36) The information made available to these proceedings concerning the Members' records of employment confirms that :

(a) Cst. ■ has been a VPD Member since 2016, His record of employment contains positive reviews of his performance as police officer, including a recognition that the Member *"has displayed sensitivity to the needs of different cultures and persons with special needs"*.

(b) Cst. ■ has also been a VPD officer since 2016 with similar positive performance reviews. Cst. ■ received an Inspector's Citation recognizing his exceptional efforts to rescue a person who had attempted suicide. As with Cst. ■ Cst. ■ was acknowledged *"to respond with sensitivity to the needs of different cultures and persons with special needs"*.

(37) Counsel for the Members submits that at the time of the incident involving the Complainants, there were no substantiated allegations of misconduct on either Members' Service Record of Discipline.

(38) The positive performance reviews of each Member and the absence of any prior record of discipline relating to the Members is an important mitigating factor.

(iii) Impact of Proposed Measures on Members, their Families and Career s(s. 126(2)(c)

(39) Counsel for the Members submits that combined effect of the publicity associated with the Complaint and the disciplinary process itself have both had significant negative impacts on the Members and their families.

(40) As well, the Members note the fact that a BC Human Rights Tribunal proceeding relating to the Complainants and involving the Members is scheduled to commence in November of this year.

(41) Although not directly related to the proposed sanctions referenced in the Section 117 Decision, in all of the circumstances, I find that the impact of the above noted matters are properly raised as a relevant factor in this proceeding.

(42) I am less satisfied that the possible sanctions referenced in the Section 117 Decision would have a significant negative impact on the Members or their families.

(iv) The Likelihood of Future Misconduct by the Members (s.126(2)(d) & Whether the Members Accept Responsibility for the Misconduct and are willing to take steps to prevent its recurrence (s. 126(2)(e)

- (43) As noted above, Counsel for the Members submits that as the Members have no prior substantiated misconduct, and have expressed regret for the incident giving rise to the Complaint, the likelihood of future misconduct is low.
- (44) As well, while the Members “*acknowledge and appreciate*” the Discipline Decision, they have not accepted the findings, particularly in relation to whether or not reasonable and probable grounds had been established prior to the arrest of the Complainants.
- (45) The lack of a prior record of disciplinary sanctions for both Members and positive performance reviews are strong indicators of a low risk of further similar misconduct.
- (46) However, the Members failure to accept the Discipline Decision findings on the core issue of the existence of reasonable and probable grounds raises a serious concern.
- (47) The concern is that although the Members may genuinely regret how their actions impacted the Complainants, and may be prepared to apologize for their conduct, if there is still uncertainty in the Members’ minds as to why their actions were improper, the prospect for future similar misconduct remains.
- (48) While there is, of course, no law requiring the Members to accept the Discipline Decision findings, a failure to do so puts at risk the effectiveness of any ordered re-training or education. It raises the real concern that the Members may not have a genuine understanding as to the basis of their misconduct.
- (49) As such, considering both of the factors under section 126 (d) and (e), I must conclude that there is real risk of further misconduct until the Members come to terms with the details of the Discipline Decision, complete appropriate re-training and adopt such training into their normal policing activities.
- (50) Such a risk is an important aggravating factor in the consideration of appropriate sanctions for both Members.

(v) 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 (s. 126(2)(f))

(51) I have not found that the Members' misconduct was influenced by any relevant VPD policies, standing orders, internal procedures or actions of the Members' Supervisor.

(52) I note that the VPD handcuffing policy in effect at the time of the Complaint was written, but limited in content and directions to VPD members.

(53) As a result of submissions from Counsel for the Members, I am also aware that a draft revised interim policy was advanced by VPD subsequent to the Complaint.

(54) That revised policy addressed, in part, more detailed handcuffing considerations for VPD members, including factors relevant to the possible handcuffing of apparent young persons. It also detailed requirements for increased awareness of circumstances that might raise indigenous cultural safety issues.

(55) I am also aware that although not finalized, the Heilstuck First Nation has taken issue with a number of issues in the development of the draft policy.

(vii) The Range of Disciplinary or Corrective Measures Taken in Similar Circumstances s. 126(2)(g)

(56) A review of the range of disciplinary or corrective measures taken in similar circumstances is important to ensure that some degree of parity is applied to members dealing with misconduct sanctions in similar circumstances.

(57) Counsel for the Members has submitted several case summaries highlighting a range of sanctions from reprimands to a two day suspension without pay.

(58) None of the case summaries appear to rest on the same factual foundation as that relating to the Members' misconduct. As such, although of some relevance, the applicability to the current circumstances is limited.

(viii) Other Aggravating or Mitigating Factors

(59) I am satisfied that all other aggravating and mitigating circumstances have been considered in my review of the other factors.

## **IX Analysis**

- (60) As noted above, section 126(3) of the *Police Act* provides that if I consider that one or more disciplinary or corrective measures are necessary, I should prioritize an approach that seeks to correct and educate the Members, unless it is unworkable or would bring the administration of police discipline into disrepute. And, of course, the circumstances of each Member must be separately evaluated and determined.
- (61) Having considered all of the foregoing, including the aggravating and mitigating factors noted above, I am satisfied that the focus of this decision must be to correct or educate the Members.
- (62) I am also satisfied that such an approach would not bring the administration of police discipline into disrepute. It would not do so because such an approach can provide the appropriate denunciation of the Members' actions, while also educating them on critical issues affecting indigenous persons.
- (63) The hope, of course, is that appropriate measures will lead to improved policing on the part of the Members, and improved relations between the Members, the Complainants and members of their extended community.

## **X Conclusion and Orders**

- (64) Both Members acted without lawful authority or due consideration of the circumstances of the Complainants as persons with indigenous heritage, including a failure to consider their cultural safety needs. Such actions must be denounced and the Members sanctioned accordingly.
- (65) However, between the two Members, there are slightly differing degrees of accountability reflecting a need to impose differing sanctions.
- (66) Given the foregoing aggravating and mitigating circumstances I have determined, pursuant to section 126 of the *Police Act*, that the following orders will be made.
- (67) Cst. ■ would have been suspended from service without pay for three days. However, given the mitigating actions taken by the Member since the initiation of the Complaint, I am satisfied that a two day suspension is the appropriate order. I am also satisfied that this sanction is appropriate given Cst. ■ role as cover officer to Cst. ■
- (68) This suspension is appropriate because Cst. ■ made no effort to exercise appropriate judgment in using his powers as a police officer, particularly in relation to the age of Complainant B and the indigenous cultural safety needs of both Complainants.



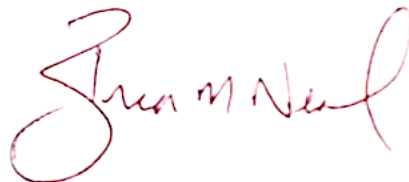
- (75) Finally, there is the issue of an appropriate apology to the Complainants and their extended community. As noted in the Discipline Decision, I am satisfied that bridging the gap between the Members and the Complainants is a critical component in establishing confidence in policing interactions with indigenous persons.
- (76) As Counsel for the Complainants has correctly noted, the Province of BC has adopted the principles of the United Nations Declaration on the Rights of Indigenous Peoples. Although the specific implementation of these important international principles of fairness and equity will take some years to implement, the goal is clear: The unique needs and issues of indigenous persons must be considered in all decision making to address historic injustices and to promote equity, understanding and tolerance.
- (77) Counsel for the Members has acknowledged the importance of these principles on behalf of the Members. Both on scene and during the Discipline Proceeding process, the Members themselves have apologized for their actions and confirmed their regret for the impact that the arrests have had on the Complainants.
- (78) On their own initiative the Members have each commenced cultural training offered by the Indigenous Perspectives Society to bridge gaps in their understanding of indigenous issues and to improve their decision making as police officers.
- (79) All of these factors are important mitigating considerations. Since the release of the Complainants outside the BMO, both Members have made genuine efforts to better understand the concerns of the Complainants and to re-evaluate their actions as police officers.
- (80) The challenge, however, is that from the Complainants' perspectives, the underlying suspicions and concerns over policing standards relating to indigenous persons remains a serious concern.
- (81) I am satisfied that the Complainants' concerns may be addressed, in part, by considering the Discipline Decision, including the submissions of the Members, and the further material set out in this decision on sanctions. However, the written words themselves are not likely to be sufficient.
- (82) I believe it is important for the Members to hear from the Complainants themselves as to how the arrests and handcuffing that took place have impacted their wellbeing and confidence in the administration of justice.
- (83) It would also be very useful for the Members to have an opportunity to address the Complainants themselves to convey both their newfound understanding of the unique issues confronting indigenous persons, and the regret for the actions that took place.

(84) Ideally, all of the foregoing would take place in person as soon as possible, however, remaining concerns over COVID-19 infections, the outstanding BCHRT proceedings and the need for the completion of the above note training by the Members may well require a different approach.

(85) As well, although the Members have expressed a willingness to meet in person with the Complainants to convey their apologies, this decision cannot, of course, compel the Complainants to do so.

(86) In light of the foregoing, I am ordering each Member prepare and deliver a written apology to the Complainants within 60 days. The apologies must be in a form and content approved by myself and:

- (a) Reflect the general findings of the Discipline Decision on the issues of misconduct;
- (b) Convey the tenor of the apologies provided by the Members in their submissions and testimony during these proceedings; and
- (c) Convey the Members' offer to meet with the Complainants to listen to their concerns and hear the oral apologies of the Members in relation to the Complaint, at a time and in a manner agreeable to the parties.



Brian M. Neal Q.C. (rt)  
Retired Judge  
Victoria, B.C.