

<b>EXHIBIT 4</b>		
DAY 1	ENTERED BY OPCC McConnell	DATE April 9/25

PH: 24-01  
OPCC Files: 2022-21398  
2023-25106  
2023-25107

IN THE MATTER OF THE PUBLIC HEARING INTO THE CONDUCT OF SERGEANT KEIRON MCCONNELL OF THE VANCOUVER POLICE DEPARTMENT IN ACCORDANCE WITH THE  
*POLICE ACT, RSBC 1996, C. 367 AS AMENDED*

Note: There is a Section 150 Order in place that includes a publication ban on the names and other identifying information of the complainants and certain witnesses.

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## SUBMISSIONS OF PUBLIC HEARING COUNSEL

**Re Joint Submission on Misconduct and  
Disciplinary and Corrective Measures**

**Dated April 8, 2025**

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To: Carol Baird Ellan, KC  
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And to: Brian Smith  
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1. The Notice of Public Hearing herein addresses alleged discreditable conduct on the part of the Member, Sergeant Kerion McConnell, pursuant to s. 77(3)(h) of the *Police Act*.

2. Discreditable conduct is defined as a member conducting themselves in a manner, on-duty or off-duty, that the member knows, or ought to know, would be likely to bring discredit on the municipal police department.

3. Public Hearing Counsel, Commission Counsel, and Sergeant McConnell's counsel have agreed upon a joint resolution pertaining to five of the allegations of discreditable conduct. The proposed joint resolution incorporates a variety of the disciplinary and corrective measures described in s. 126(1) of the *Police Act*. Public Hearing Counsel submits that the resolution appropriately addresses the various factors in s. 126(2) of the *Police Act* that determine just and appropriate corrective or disciplinary measures.

4. In the written submissions herein Public Hearing Counsel will first review the Agreed Statement of Facts, which forms the basis of the allegations admitted to in the proposed joint resolution.

5. The discreditable conduct of Sergeant McConnell that forms the basis of the Agreed Statement of Facts relates to sexualized communications and/or conduct with five women who were either Members of the Vancouver Police Department ("VPD") or student or former students of the Member from his time teaching at British Columbia universities. The Agreed Statement of Facts is filed herein, and the contents are set out below.

**Agreed Facts, Member 1**

6. The misconduct in relation to Member 1 was identified in paragraph 25(f) of the *Notice of Public Hearing*. Sergeant McConnell's discreditable conduct towards Member 1, as set out in paragraphs 9 through 12 of the Agreed Statement of Facts, was as follows:

In September, 2016 Member 1 joined the GCU of the VPD, as a member of Team 2. In April, 2017 Member 1 was transferred to Team 1, which was led by the Member. (para. 9, ASF)

After Member 1 joined the GCU, the Member sent her electronic messages, some of which were sexual in nature. These messages of a sexual nature were unsolicited and unwelcome. Screenshots of the messages and some of Member 1's replies are attached as **Appendix 4**. (para. 10, ASF)

The Member's conduct caused Member 1 to feel degraded, and she suffered anxiety as a result. She was concerned about raising the issue with the Member because of his position in the VPD and the GCU. Eventually, Member 1 confronted the Member about his behaviour, and he apologized. Member 1 was satisfied at the time that they had dealt with the matter informally. (para. 11, ASF)

The Member acknowledges that at the relevant time he was senior to Member 1 in rank, and that he was in a position of authority at the VPD and in the GCU, generally. He understands that his behaviour was unwanted and inappropriate in the circumstances, and it amounts to discreditable conduct. (para. 12, ASF)

### **Agreed Facts, Member 2**

7. The misconduct in relation to Member 2 was identified in paragraph 25(g) of the *Notice of Public Hearing*. Sergeant McConnell's discreditable conduct towards Member 2, as set out in paragraphs 13 through 16 of the Agreed Statement of Facts, was as follows:

In 2017, Member 2 was assigned to a mentorship with the Member's GCU team. In March 2019, after the mentorship, she was successful in securing a spot with Team 2 of the GCU. (para. 13, ASF)

Between 2017 and March, 2019, the Member sent Member 2 electronic messages that included sexual content. The content included sexual remarks about her underwear, her sexual preferences, and his sexual fantasies. These messages were unsolicited and unwelcome. Screenshots of some but not all of the messages between Member 2 and the Member are attached as **Appendix 5**. (para. 14, ASF)

The Member's comments caused Member 2 to feel degraded, and she suffered anxiety as a result. She was concerned about raising the issue with him because of his position in the VPD. (para. 15, ASF)

The Member acknowledges that he was senior to Member 2 in rank, and that he was in a position of authority at the department and in the unit generally. He understands that because of this Member 2 felt that she could not raise the issue with him because of his position in the GCU and her desire to advance in the GCU. The Member acknowledges that his behaviour was unwanted and inappropriate in the circumstances, and it amounts to discreditable conduct. (para. 16, ASF)

#### **Agreed Facts, Student 1**

8. The misconduct in relation to Student 1 was identified in paragraph 25(b) of the *Notice of Public Hearing*. Sergeant McConnell's discreditable conduct towards Student 1, as set out in paragraphs 17 through 25 of the Agreed Statement of Facts, was as follows:

In the autumn of 2015 or the spring of 2016, Student 1 took two classes which were taught by the Member at a British Columbia university. (para. 17, ASF)

The following autumn, the Member invited some former students, including Student 1 to a social gathering at a pub. The social gathering occurred on November 8, 2016. Student 1 was 25 years old at the time. (para. 18, ASF)

On November 8, 2016 Student 1 attended the event at the pub. Several other students also attended. Student 1 joined the group and sat next to the Member. After the other students had left the pub, Student 1 remained, as did the Member, to watch the televised U.S. election coverage. (para. 19, ASF)

Later that evening, while one of the two was in the washroom and the other in the pub, Student 1 received a text message from the Member in which he inquired what colour underwear she was wearing. A follow-up message from him suggested different colours, such as white, pink and Irish green. (para. 20, ASF)

The Member and Student 1 then left the pub. Student 1 flagged a taxi. When the taxi arrived, they both got in. Once the taxi reached Student 1's destination, the Member leaned toward Student 1 and attempted to kiss her. She deflected him and got out of the taxi. (para. 21, ASF)

The Member contacted Student 1 the next day to apologize for his conduct. Student 1 did not respond. (para. 22, ASF)

Student 1 did not report this incident at the time to anyone at the university as she was afraid of the impact that reporting the Member could have on her career prospects. (para. 23, ASF)

Later in 2017, Student 1, along with Student 2, reported the Member's conduct to an official in the administration at the university. (para. 24, ASF)

As Student 1's former instructor, and a senior member in the policing world, the Member accepts that she viewed him as in a position of authority. He now understands Student 1's perspective about his ability to affect her career. He understands that his actions were unwanted and inappropriate in the circumstances. They amount to discreditable conduct. (para. 25, ASF)

### **Agreed Facts, Student 2**

9. The misconduct in relation to Student 2 was identified in paragraph 25(d) of the *Notice of Public Hearing*. Sergeant McConnell's discreditable conduct towards Student 2, as set out in paragraphs 26 through 30 of the Agreed Statement of Facts, was as follows:

Student 2 took a course taught by the member at a British Columbia university. In February, 2017, when the Member was no longer Student 2's instructor, she received a series of unsolicited Facebook messages from the Member. Student 2 was 23 years old in February 2017. (para. 26, ASF)

The messages from the Member to Student 2 included sexual content and innuendo. Student 2 told the Member that his communications made her uncomfortable, and asked that their relationship remain professional. The Member then sent her additional messages containing sexual content and innuendo. Screenshots of the electronic messages between the two are attached as **Appendix 6**. (para. 27, ASF)

At the time of the messages, Student 2 wanted to be a police officer. She was concerned that if she did not respond it would impact her future career options if the Member were to speak negatively about her to VPD personnel. Student 2 did not report this incident at the time to anyone at the university as she was afraid of the impact that reporting the Member would have on her career prospects. (para. 28, ASF)

Later in 2017, Student 2, along with Student 1, reported the Member's conduct to an official in the administration at the university. (para. 29, ASF)

As Student 2's former instructor, and a senior member in the policing world, the Member accepts that she viewed him as being in a position of authority. The Member acknowledges and understands Student 2's perspective about his ability to impact her future career and now recognizes his error. His

actions were unwanted and inappropriate in the circumstances. They amount to discreditable conduct. (para. 30, ASF)

### **Agreed Facts, Student 3**

10. The misconduct in relation to Student 3 was identified in paragraph 25 (e) of the *Notice of Public Hearing*. Sergeant McConnell's discreditable conduct towards Student 3, as set out in paragraphs 31 through 36 of the Agreed Statement of Facts, was as follows:

Between 2011 and 2018, Student 3 was a student at a British Columbia university and took courses taught by the Member. (para. 31, ASF)

Student 3 asked the Member whether he would be her honours supervisor. The Member agreed. (para. 32, ASF)

Student 3 and the Member communicated regularly outside of business hours due to the nature of her educational program. They met virtually over videoconferencing platforms and exchanged messages through Facebook messenger, text message, and WhatsApp. (para. 33, ASF)

During the time he was supervising her honours project, the Member sent messages to Student 3 that commented on her physical attractiveness. The messages were unsolicited and unwelcome. Student 3 was in her mid twenties at the time. Screenshots of the electronic messages are attached as **Appendix 7**. (para. 34, ASF)

At the time of the exchanges, Student 3 aspired to become a police officer. Student 3's experience with the Member was one factor in her decision not to pursue a career in policing. (para. 35, ASF)

As Student 3's instructor and supervisor, and a senior member in the policing world, the Member accepts that she viewed him as being in a position of authority. The Member now acknowledges that the messages

he sent to Student 3 about her physical appearance were entirely inappropriate, and not consensual. They amount to discreditable conduct.  
(para. 36, ASF)

### **The Proposed Resolution**

11. The resolution that is jointly proposed by Public Hearing Counsel, Commission Counsel, and the Member, is as follows:

- a. The Member's rank will be reduced to First Class Constable.
- b. The Member will not be assigned to any duties or shifts that would require working directly with Member 1 (as identified in the Agreed Statement of Facts). All reasonable steps will be taken to limit contact between them. However, in urgent or operationally necessary situations, such as officer safety incidents or emergency calls, some incidental interaction may be unavoidable.
- c. The Member will be assigned duties or schedules that are consistent with the VPD's obligation to provide a safe and healthy workplace for all employees
- d. During the first 12 months working at the new rank, the Member will:
  - i. not be assigned any supervisory responsibilities or act in any supervisory capacity;
  - ii. attend a minimum of six psychological counselling sessions with his current psychologist or another qualified mental health professional to discuss, among other things:
    1. his workplace interactions with women, whether at VPD or otherwise; and
    2. appropriate text and social media communications, cues, and boundaries;

- iii. attend VPD training on its respectful workplace policy; and
- iv. work under close supervision, which will entail the following:
  - 1. The Member's supervisor will be given the agreed statement of facts and admissions from the public hearing and the Adjudicator's ruling.
  - 2. The supervisor will monitor the Member's compliance with the order, including the continuation of his psychological counselling, his attendance at workplace training, and his overall reintegration into the workplace.
  - 3. The supervisor will meet with the Member biweekly to review his progress and will make and keep notes of those meetings.
  - 4. The supervisor will provide monthly reports to VPD HR regarding the Member's compliance with the order and overall progress reintegrating into the workplace.
- e. At the end of the 12-month period described in 4(d) (above), VPD shall assess the situation and may assign the Member the rank of sergeant if satisfied he meets the required qualifications and is fit to assume the associated responsibilities. If VPD in its sole discretion decides not to assign the Member the rank of sergeant at the 12-month mark, it will assess the Member again after a further six months, and every six months after that as needed.
- f. If the Member continues at the rank of First Class Constable after the expiry of the 12-month period described in 4(d) (above), VPD may at its sole discretion continue to require that the Member not be assigned supervisory responsibilities or act in a supervisory capacity and/or that he work under close supervision.

- g. The Member will not apply for promotion to Staff Sergeant until at least three years have passed since the date of the Adjudicator's ruling.
- h. The Member will repeat the VPD's respectful workplace policy training in the second and third years after the release of the Adjudicator's ruling.
- i. The Member will be suspended without pay for 20 days, which suspension will occur before the 12-month period described in clause 4 (above) commences.
- j. Commission counsel will ask the Adjudicator to recommend that VPD and the Vancouver Police Board work with qualified experts to create and deliver standalone mandatory training on sexual harassment to all members and civilians employed by the Vancouver Police Board.
- k. During the 12-month period described in 4(d) (above), the Member will meet with any of the seven women identified in the Notice of Public Hearing who wish to meet with him in person, by telephone, or virtually to hear them out and apologize. He understands that they may not wish to. If any of the seven women do wish to have such a meeting, they may request it during the 12-month period through their own counsel (if any) or through the OPCC.
- l. The Member may decide to offer written apologies to the seven women either at his own instigation or that of VPD. Any such written apologies would be sent first to the OPCC, which would then reach out to the intended recipient(s) or their counsel (if any) to determine if they wish to receive the written apology.
- m. For clarity, the Member is not being ordered to apologize, and none of the seven women are obliged to receive any form of apology from the Member unless they wish to.
- n. If requested by the OPCC at any time during the three years following the Adjudicator's ruling, VPD will provide written confirmation to the OPCC verifying whether there has been compliance by the Member with any or all of the above-noted measures.

12. Public Hearing Counsel submits that the proposed discipline and corrective measures have been carefully crafted in a manner that is responsive to the circumstances that gave rise to the misconduct. The relevant factors under s. 126(2) of the *Police Act* that inform that assessment are reviewed below.

### **Section 126(2) Aggravating and Mitigating Factors**

13. Section 126(2) of the *Police Act* sets out a number of aggravating and mitigating circumstances that must be considered in determining just and appropriate disciplinary and corrective measures in relation to Sergeant McConnell's misconduct.

#### ***s. 126(2)(a): The seriousness of the misconduct***

14. It is not contentious that Sergeant McConnell's misconduct was serious. His behaviour towards the five women was inappropriate and unwanted.

15. For the women who were members of the Vancouver Police Department, the Member's position of authority within the VPD and the Gang Crime Unit aggravated the situation and caused these women to feel degraded and anxious.

16. Regarding the student/former students, their view was because of his position of authority in the policing world, Sergeant McConnell had the ability to affect their careers. Some of them felt that Sergeant McConnell's behaviour was reflective of how senior police officers would treat women police officers, and this was a factor in them choosing not to pursue a career in policing.

17. Clearly, Sergeant McConnell's position of authority within the VPD and the policing world aggravated the circumstances surrounding the discreditable conduct.

***s. 126(2)(b): The member's record of employment as a member***

18. Sergeant McConnell has no other history of misconduct as a police officer. This is a mitigating factor.

***s. 126(2)(c): The impact of proposed disciplinary or corrective measures on the member and on her or his family and career***

19. The proposed disciplinary and corrective measures will have a significant impact on Sergeant McConnell and his career. Firstly, the reduction in rank from Sergeant to First Class Constable is substantial in terms of the authority the Member will have within the VPD. Further, he will not be assigned any supervisory responsibilities or act in any supervisory capacity for, at a minimum, the first 12 months at his new rank. He will also be suspended without pay for 20 days. These disciplinary measures will have a considerable career impact and financial impact on Sergeant McConnell.

20. Further, the proposed corrective measures will have a positive impact on Sergeant McConnell as the resolution contemplates continued counselling, additional workplace training, and, potentially, apologies. Thus, the terms of the proposed resolution will effectively require that Sergeant McConnell reflect upon his misconduct and take steps to better understand where he went wrong and why this behaviour was inappropriate and discreditable.

21. The impacts of the proposed measures on the Member are a factor supporting the proposed resolution.

***s. 126(2)(d): likelihood of future misconduct by the member***

22. Public Hearing Counsel concedes that there is a minimal likelihood of future misconduct on the part of Sergeant McConnell. The proposed joint resolution demonstrates his commitment to taking accountability for his actions and ensuring that this type of misconduct does not occur again. This factor supports the proposed resolution.

***s. 126(2)(e): whether the member accepts responsibility for the misconduct and is willing to take steps to prevent its recurrence***

23. Sergeant McConnell has accepted responsibility for his misconduct. The proposed resolution demonstrates his willingness to take substantial steps to prevent the recurrence of his past misconduct. Sergeant McConnell has agreed to a series of substantial monitoring mechanisms, as well as a reduction in rank, and a period of suspension. The disciplinary measures contained in the proposed resolution will assist with his reintegration back into the workplace in a way that very likely ensures that his past misconduct will not reoccur.

24. Notably, Sergeant McConnell began taking steps to prevent the recurrence of misconduct before the proposed resolution of this matter was finalized by attending psychological counselling to understand the root of his misconduct and to take steps to unlearn his negative behaviours.

25. Sergeant McConnell recognizes that his behaviour while in a position of authority had a significant impact on the five women. His willingness to accept a reduction in rank flows from him accepting responsibility for his actions, as is his acknowledgement that a supervisory role is not appropriate for him at this time.

26. The Member's acceptance of responsibility is a significant mitigating factor. That acceptance of responsibility also has the significant benefit of obviating the need for a contested 4-week hearing at which the complainants and witnesses would have had to testify.

***s. 126(2)(f): 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***

27. Although Sergeant McConnell takes accountability for his misconduct, it should be noted that the absence of a stand-alone sexual harassment policy at the Vancouver Police Department may possibly have contributed to a lack of awareness on the part of Sergeant

McConnell in regards to what constitutes appropriate workplace behaviour. For this reason, the proposed resolution includes Commission Counsel's request that the Adjudicator recommend that the VPD and the Vancouver Police Board work with qualified experts to create and deliver standalone mandatory training on sexual harassment to all members and civilians employed by the Vancouver Police Board. Public Hearing Counsel Supports this request. This systemic issue is to a minor degree a mitigating factor.

***s. 126(2)(g): the range of disciplinary or corrective measures taken in similar circumstances***

28. The disciplinary and corrective measures taken in the proposed joint resolution are extensive, and reflect the seriousness of the misconduct. The proposed joint resolution involves some terms similar to disciplinary or corrective measures that have been applied in similar circumstances, though precedents directly on point are not numerous. Commission Counsel will address this range in greater detail.

29. Balancing the s. 126(2) factors and the principles of correction and education described in s. 126(3), Public Hearing Counsel submits that the proposed resolution is appropriate as it would not be unworkable or bring the administration of police into disrepute.

**Principles in *R v. Anthony-Cook***

30. The proposed joint resolution is the product of careful negotiation and consideration involving Public Hearing Counsel, Commission Counsel, and Member's counsel. Public Hearing Counsel submits that Madam Adjudicator should accept the proposed resolution as it meets the public interest test articulated in the Supreme Court of Canada's decision in *R v. Anthony-Cook*, 2016 SCC 43 ("*Anthony-Cook*").

31. Public Hearing Counsel will briefly review the legal framework set forth in *Anthony-Cook*, which sets out the applicable public interest test. Public Hearing Counsel submits

that the *Anthony-Cook* framework is applicable in the administrative context of OPCC Public Hearing proceedings.

32. In *Anthony-Cook*, the Supreme Court established that the appropriate legal standard for assessing a joint sentencing submission is the “public interest” test. According to this test, a judge should only depart from the proposed sentence if accepting it would bring the administration of justice into disrepute, or otherwise be contrary to the public interest (*Anthony-Cook*, at para. 32).

33. More recently, in *R v. Nahanee*, 2022 SCC 37 the Supreme Court of Canada once again considered joint submissions in the criminal context. The Court held that sentencing judges should only reject a joint submission “where the proposed sentence would be viewed by a reasonable and informed persons as a breakdown of the proper functioning of the justice system.”

34. Given the benefits of joint resolutions, the procedure and principles outlined *Anthony-Cook* have been adopted in a variety of different regulatory regimes, including RCMP conduct hearings, Ontario Provincial Police discipline hearings, and the regulation of a variety of professions including lawyers, teachers, and accountants. Public Hearing Counsel will review some of these decisions.

35. *Anthony-Cook* has been applied in RCMP Conduct Hearings in which joint resolutions are proposed. In RCMP Conduct Hearing 2023 CAD 11, the Adjudicator noted as follows at paragraph 30:

The Supreme Court of Canada, in *R. v Anthony-Cook*, 2016 SCC 43, at paragraph 25, recognizes that joint submissions on criminal sanctions are not only an accepted and desirable practice, but they are “vitally important to the well-being of our criminal justice system, as well as our justice system at large”. The Court further notes that the majority of such agreements are “unexceptional” and readily approved by judges. However, judges are not obliged to follow these joint proposals for various reasons.

These notions are equally applicable to conduct adjudicators in the RCMP conduct regime.

36. In Ontario Provincial Police discipline hearings, the *Anthony-Cook* framework has been adopted. *P/C Van Den Diepstraten #8800 – Disposition with Reasons* and *Constable Erin Howard – Disposition* are two reported examples. These hearings are governed by Ontario's *Police Services Act*, which requires the decision-maker to consider mitigating and aggravating factors similar to those in s. 126(2) of the *Police Act*.

37. The Alberta Law Enforcement Review Board considered the applicability of *Anthony-Cook* in *Cardinal v. Edmonton (Police Service)*, 2021 ABLERB 8. The Review Board found the principles from *Anthony-Cook* to be relevant, though not binding, in police disciplinary proceedings. The Review Board noted that *Anthony-Cook* emphasizes that joint submissions in the criminal context should only be rejected if they undermine the administration of justice or the public interest. It found that disciplinary matters require a broader assessment. The Review Board applied the framework of analysis from *Amery v Young* ABLERB Dec No 007-93, which includes public interest as one of several factors to be assessed in determining a reasonable sanction. The Review Board concluded that the presiding officer who made the disciplinary decision below had reasonably accepted a joint submission, which aligned with the goals of fairness, deterrence, and remedial action.

38. In the realm of professional regulation apart from policing, it is noteworthy that the British Columbia Law Society disciplinary decisions that consider Rule 5-6.5 of the *Law Society Rules* reflect the principles in *Anthony-Cook*. As one example, in *Palmer (Re)*, 2024 LSBC 2 the decision panel determined that “a hearing panel is prohibited from imposing disciplinary action different from the specified disciplinary action to which the Law Society and the Respondent have agreed unless the proposed disciplinary action is contrary to the public interest in the administration of justice.”

39. In the context of the regulation of teachers, in *Ontario College of Teachers v. Merolle*, 2023 ONSC 3453 the Court reviewed a tribunal’s decision to reject a joint submission relating to professional discipline that was viewed by the tribunal as unduly harsh and contrary to the public interest. The Court outlined the process that it held should be followed by tribunals when assessing a joint submission, at paragraph 32:

When assessing a joint submission, the tribunal must consider factors beyond the typical sentencing principles and should not “reverse engineer” a joint submission by determining the sentence that it would have imposed. The analysis should begin with the basis for the joint submission, including the important benefits to the administration of justice and ask whether there is something apart from the length of the sentence that engages the public interest or repute of the justice system. Consideration of the fitness of the proposed penalty must be coupled with a “demonstrated consideration” of the benefits of the joint submission process.

40. Importantly, the *Anthony-Cook* framework was applied by Adjudicator Arnold-Bailey in a review on the record in OPCC File 2022-22450. In her decision, Adjudicator Arnold-Bailey found that the benefits to the public and the parties of joint submissions apply to *Police Act* proceedings. She found that this does not erode the final authority of an adjudicator to reject a joint submission in the event that the proposed disposition is found to be not in the public interest.

41. Adjudicator Arnold-Bailey considered the public interest in the context of the imposition of disciplinary or corrective measures for police officers who have engaged in misconduct, at paragraph 54 of her decision:

The test in *Nahanee*, by referring to “a breakdown in the proper functioning of the justice system”, casts much wider net, and requires that the broader and critically important aspects of the public interest in relation to policing be incorporated. To my mind, these include public respect for the police in the communities where they serve, the fundamentally important role the police play in engendering in the public a respect for the law and the fair and

proper administration of justice, confidence in the police members as persons who are trustworthy, honest, possess integrity, and law-abiding themselves.

42. In another review on the record, however, Adjudicator Frankel rejected a joint submission of counsel regarding the appropriate disciplinary and corrective measures (OPCC File 2022-22122). Adjudicator Frankel noted that the statutory language relating to reviews on the record in the context of the *Police Act* imposes a standard of correctness, and accordingly he found that *Anthony-Cook* principles were not applicable.

43. Although the applicability of *Anthony-Cook* is thus not settled in the context of reviews on the record under the *Police Act*, Public Hearing Counsel submits that the *Anthony-Cook* framework is applicable to public hearings under the *Police Act* as such hearings are not engaged in review functions, and hence Adjudicator Frankel's concerns do not arise. Importantly, other administrative tribunals which deal with police discipline matters have adopted *Anthony-Cook* as outlined above, and, furthermore, a public hearing is not subject to a standard of correctness, as is the case with reviews on the record.

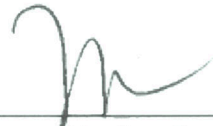
### **Conclusion**

44. Considerable effort has been made to ensure the proposed joint resolution is both disciplinary and corrective so as to focus on denouncing the misconduct of Sergeant McConnell while simultaneously recognizing the accountability he has taken for his misconduct, and that the resolution proposed involves significant monitoring of him in the future.

45. It is the submission of Public Hearing Counsel that Madam Adjudicator should adopt the framework set out in *Anthony-Cook* and accept the proposed joint resolution proposal as it meets the public interest test. Were Madam Adjudicator to find *Anthony-Cook* not binding, then Public Hearing Counsel submits that in any event the proposed resolution satisfies applicable principles.

46. Finally, Public Hearing Counsel advises that no evidence will be called in relation to the allegations in the *Notice of Public Hearing* identified in paragraphs 25 (a) and (c). Public Hearing counsel invites Madam Adjudicator to dismiss these two allegations of misconduct as no evidence has been led.

Date: April 8, 2025

A handwritten signature in black ink, appearing to be 'M. Sandford', written over a horizontal line.

Marilyn Sandford, KC  
Public Hearing Counsel

## **LIST OF AUTHORITIES**

### **Legislation**

1. *Police Act*, RSBC 1996, c. 367, ss. 77(3)(h), ss. 126(1), ss. 126(2), and ss. 126(3)

### **Court and Tribunal Decisions**

2. *Cardinal v. Edmonton (Police Service)*, 2021 ABLERB 8
3. *Constable Howard (Re)*, Durham Regional Police Service Discipline Hearing
4. *Constable Pietrzak (Re)*, RCMP Conduct Hearing 2023 CAD 11
5. *Constable Van Den Diepstraten #8800 (Re)*, Ontario Provincial Police Discipline Hearing
6. *Ontario College of Teachers v. Merolle*, 2023 ONSC 3453
7. *Palmer (Re)*, 2024 LSBC 2
8. *R v. Anthony Cook*, 2016 SCC 43
9. *R v. Nahanee*, 2022 SCC 37

### **Police Act Decisions**

10. *Constable Cheung (Re)*, Reasons for Decision (RR 2024-02) (OPCC File 2022-22122)
11. *Constable Thaper (Re)*, Ruling by the Adjudicator (RR 23-202) (OPCC File 2022-22450)

### **Other Sources**

12. Law Society of BC, *Law Society Rules*, Rule 5-6.5