

## CONCLUSION OF PROCEEDINGS

Pursuant to s.133(6) of the *Police Act*, RSBC 1996 c.367

OPCC File 2022-21993  
February 15, 2024

To: Mr. [REDACTED] (Complainant)  
c/o [REDACTED]

And to: Sergeant [REDACTED] (Member)  
c/o Nelson Police Department  
Professional Standards Section

And to: The Honourable Judge Brian Neal, KC (Discipline Authority)  
Retired Judge of the Provincial Court of British Columbia

And to: Chief Constable Donovan Fisher  
c/o Nelson Police Department  
Professional Standards Section

The Office of the Police Complaint Commissioner (OPCC) completed its review of the decision issued by the Discipline Authority pursuant to section 133 of the *Police Act* in this matter.

Mr. [REDACTED] and Sergeant [REDACTED] were provided a copy of retired judge Brian Neal's findings in relation to each allegation of misconduct. Mr. [REDACTED] and Sergeant [REDACTED] were informed that if they were aggrieved by either the findings or determinations they could file a written request with the Police Complaint Commissioner to arrange a Public Hearing or Review on the Record. Pursuant to section 136(1) of the *Police Act*, such a request must be filed within 20 business days of receipt of the review of discipline proceedings.

On January 17, 2024, our Office received a request from [REDACTED] on behalf of Mr. [REDACTED] requesting that the Police Complaint Commissioner exercise his authority to arrange a Public Hearing or Review on the Record pursuant to the *Police Act*.

Based on a review of the discipline proceeding, we have determined that there is not a reasonable basis to believe the decision of the Discipline Authority is incorrect and that a Public Hearing or Review on the Record is not necessary in the public interest.

Specifically, our Office is satisfied that Mr. Neal's determination that the misconduct allegation has not been substantiated is a determination that was open to him to make, based on the available evidence and the applicable jurisprudence. As such, there is not a reasonable basis to believe that his finding was incorrect.

Additionally, while we recognize that Mr. [REDACTED] suffered significant injuries as a result of force applied by Sergeant [REDACTED] during the arrest, we also note that this matter was investigated by an external police department (Vancouver Police Department) and has been carefully reviewed by a retired judge who operates at arm's length from this office. We further note that Mr. Neal's decision was rendered with the benefit of having heard in-person evidence from both Mr. [REDACTED] and Sergeant [REDACTED] during the Discipline Proceeding. Mr. Neal also received submissions from a discipline representative appointed pursuant to section 121(1)(a) of the *Police Act*. In light of these facts, we do not consider it would be in the public interest for this matter to be the subject of further review.

Therefore, there are insufficient grounds to arrange a public hearing or review on the record. This assessment has been reviewed by the Police Complaint Commissioner who agrees with the determination in this matter.

The decision to conclude this matter is final and this office will take no further action.



Investigative Analyst

cc: Sergeant [REDACTED], VPD