OPCC File: 2022-23004

REVIEW ON THE RECORD
DECISION

PURSUANT TO SECTION 141 POLICE ACT, R.S.B.C. 1996, c. 267

In the matter of a Review on the Record into
an ordered investigation concerning

Sgt. Ryan Buhrig
Surrey Police Service

To: Sgt. Ryan Buhrig, #62 ("Sgt. B")
Surrey Police Service ("SPS")
C/O Claire Hatcher and Greg Cavouras
Jointly, as Counsel to Sgt. B

And to: The Police Complaint Commissioner,
P. Rajan (the "Commissioner")
C/O Kate Phipps & Emma Ronsley,
Jointly Counsel to the Commissioner
("Counsel to the Commissioner")

And to: Insp. S. Meaden, Discipline Authority,
Metro Vancouver Transit Police ("MVTP")
(the "Discipline Authority")

Review hearing date: March 18, 2025, Vancouver B.C.
Decision date: April 4, 2025
Place: Victoria, B.C

Executive Summary

This Review has concluded that the decision of the Discipline Authority dated July 18, 2024 was incorrect. The decision was incorrect in assessing the evidence in the record with respect to the actions of Sgt. B in the context of section 77 (3)(i)(i) of the *Police Act*.

The review finds that Sgt. B committed two disciplinary breaches of trust by intentionally disclosing information acquired by the Member in the course of his duties as a police officer, contrary to section 77 (3)(i)(i) of the *Police Act*.

Submissions have been requested with respect to appropriate disciplinary sanctions or corrective measures.

REASONS FOR DECISION

Part I Overview

(1) This is a Review on the Record concerning certain alleged acts of misconduct by Sgt. B.

(2) Sgt. B is a police officer of the SPS appointed to that position in June of 2021. Prior to serving SPS, Sgt. B began his service as a police officer in 2015 with the RCMP and subsequently moved to the Port Moody Police Department.

(3) Upon joining the SPS, Sgt. B was elected as Treasurer of the Surrey Police Union ("SPU"). Sgt. B reports that as part of his duties as an executive member of the SPU he was responsible for all media and social media communications as spokesperson.

(4) The allegations of misconduct relating to Sgt. B appear to have arisen in the context of a tumultuous transition from the RCMP to the SPS. It is alleged that Sgt. B committed misconduct by way of two improper disclosures of information contrary to section 77(3)(i)(i) of the *Police Act* (the "Misconduct Allegation")

(5) The focus of this review are the findings of the Discipline Authority under section 125 (1) (a) of the *Police Act* concerning Sgt. B. My task, in general terms, is to review the record and determine whether or not the decisions of the Discipline Authority were correct.

(6) I will review the specific applicable provisions of the *Police Act* in greater detail further in this decision, however, the key issues to be considered in this Review are whether or not the Discipline Authority correctly assessed the misconduct allegations relating to Sgt. B.

Part II History of Proceedings

(7) The history of proceedings relating to this Review is complex and warrants a detailed summary of developments as they took place.

(8) Proceedings under the *Police Act* were commenced as a result of information received by the Office of the Police Complaint Commissioner ("OPCC") from the SPS December 21, 2022. The report detailed allegations that an unknown member, or members, captured a screenshot of a police mobile data terminal message ("MDT Message") which was subsequently tweeted to the public by the SPU unvetted and without approval from the relevant police authority.

(9) It was submitted that the information disclosed violated the Privacy Act and certain related RCMP security policies.

(10) The former Police Complaint Commissioner reviewed the information received and ordered an external investigation into the allegations made pursuant to section 93(1) of the *Police Act*. MVTP was ordered to conduct the investigation. Sgt. R. Manning was assigned the role of investigator (the "Investigator").

(11) In the course of the investigation, Sgt. B and two other SPS members were identified as respondent members.

(12) On February 22, 2024 the initial Discipline Authority, Inspector C. Mullin of the MVTP, delivered his decision pursuant to section 112 of the *Police Act*. In that decision, Inspector Mullin determined that the evidence did appear to substantiate an allegation of improper disclosure of information contrary to section77(3)(i)(i) of the *Police Act* with respect to Sgt. B.

(13) The Initial Discipline Authority also determined that the allegations relating to the other two identified members did not appear to be substantiated.

(14) Sgt. B did not accept the offer of a pre-hearing conference.

(15) On July 18, 2024 following a Discipline Proceeding the Discipline Authority found that Sgt. B did not commit misconduct by improper disclosure contrary to section 77(3) (i)(i) of the *Police Act* (the "Discipline Decision").

(16) The decision of the Discipline Authority was reviewed by the Commissioner and it was determined that the decision raised a number of issues requiring review, including:

(a)The application of professional responsibilities under the *Police Act* to members who act in union roles and any immunity for members who act in those roles;

(b)The relevance of legal advice sought by a member in determining whether the member's conduct is misconduct under the *Police Act*; and
(c)The proper use of opinion evidence from the Chief Constable of the subject member's police department in determining whether a member's actions are misconduct under the *Police Act*.

(17) The Commissioner further commented that the alleged disclosure by Sgt. B, if substantiated, could have had potentially harmful implications for trust and cooperation between the Surrey RCMP and SPS, as well as an important impact on public confidence in policing.

(18) The Commissioner subsequently ordered a Review on the Record pursuant to sections 138(1), 141 142 of the *Police Act*, resulting in my appointment as Adjudicator.

(19) Submissions from both Counsel for Sgt. B and the Commissioner were requested and received. An oral hearing of further submissions was held and concluded on March 18, 2025.

Part III Standard of Review, Documents Reviewed and Police Act definitions of Misconduct

(20) S. 141 (9) of the *Police Act* confirms that the standard to be applied in my review of the Disciplinary Decision is correctness. That standard was defined by the Supreme Court of Canada in *Dunsmuir v. New Brunswick*, 2008 SCC 9, at para. 50 as follows:

> *50. As important as it is that courts have a proper understanding of reasonableness review as a deferential standard, it is also without question that the standard of correctness must be maintained in respect of jurisdictional and some other questions of law. This promotes just decisions and avoids inconsistent and unauthorized application of law. When applying the correctness standard, a reviewing court will not show deference to the decision maker's reasoning process; it will rather undertake its own analysis of the question. The analysis will bring the court to decide whether it agrees with the determination of the of the decision maker; if not, the court will substitute its own view and provide the correct answer. From the outset, the court must ask whether the tribunal's decision was correct.*

(21) The documents reviewed, as disclosed by the OPCC, include a flash drive and hard copies of the Final Investigation Report (the "FIR"), attachments to that report, submissions of parties in relation to the Discipline Proceeding, as well as Forms 3 and 4 (the "Record").

(22) The disciplinary breach of trust alleged to apply to Sgt. B's actions are "*improper disclosure of information*" contrary to section 77(3) (i) (i) of the *Police Act* which specifically provides as follows:

> *77(3) Subject to subsection (4), any of the conduct described in the following paragraphs constitutes a disciplinary breach of public trust, when committed by a member:*
>
> *(i)"improper disclosure of information", which is intentionally or recklessly*
>
> *(i)disclosing, or attempting to disclose, information that is acquired by the member in the performance of duties as a member.*

Part IV Facts

(23) The majority of the facts relating the alleged misconduct are not in dispute. The key facts as agreed by Counsel are as follows:

A Surrey Policing Transition

(a) The RCMP is the provincial police force in British Columbia pursuant to an agreement under s. 14 of the *Police Act*. A municipality may provide law enforcement services within its jurisdiction through the provincial police force (the RCMP) instead of a municipal police department pursuant to an agreement under s. 3(2)(b) of the *Police Act.* The RCMP had provided municipal policing services in Surrey under such an agreement;
(b) In November 2018, Surrey City Council passed a motion to initiate the process of ending the contract with the RCMP and creating a municipal police department ;
(c) The events in question took place during the ongoing transition from the Surrey RCMP to the SPS;
(d) At the relevant time, the RCMP continued to be the police of jurisdiction in Surrey. However, a 2021 Assignment Agreement allowed for the phased deployment of SPS members to Surrey RCMP detachments. These SPS members served under RCMP command;
(e) SPS members deployed under the Assignment Agreement had access to the RCMP MDT which allowed police officers to, among other things, receive communications from the RCMP Operational Command Centre (" OCC");
(f) SPS members deployed under the Assignment Agreement also had access to police information databases including the Police Records information Management Environment ("PRIME"). SPS members deployed under the Assignment Agreement were required to review and acknowledge RCMP policies;
(g) Sgt. B was not deployed under the Assignment Agreement. At the relevant time, Sgt. B did not have access to PRIME or MDT. He reviewed SPS policies when he was hired by the SPS, including social media and confidentiality policies. However, Sgt. B did not review or

acknowledge any RCMP policies because he was not deployed under the Assignment Agreement;

B Events Leading up to Disclosures

(h) On the evening of November 22, 2022, the OCC sent the MDT Message to deployed SPS and RCMP police officers in Surrey, advising in part:

"WE ARE NOW SHUTTING NON EMERG DOWN AS WE ONLY HAVE 2 CALLTAKERS. ONLY IN PROGRESS OR 911 MATTERS"

(i) Cst. [redacted] received the MDT Message. At that time, he was deployed under the command of the RCMP pursuant to the Assignment Agreement;

(j) Cst. [redacted] took a photograph of the MDT Message with his cell phone, and sent it to other SPS officers using a messaging app called Signal. The group who received the message included SPS police officers on Cst. [redacted] Watch, "B Squad", who were on duty that evening. It did not include any civilian employees of the SPS;

(k) Cst.. [redacted] did not intend, nor would he have consented, to the MDT Message being distributed to civilians or to the public. He was not consulted prior to the subsequent release of the MDT Message to the media;

(l) Sgt. [redacted] was one of the SPS members who received the MDT Message from Cst. [redacted] He in turn forwarded the MDT Message to another Signal chat group comprised of members of the SPU executive, including Sgt. B;

(m) Sgt. B is a member of the SPS. He is also the elected Treasurer for the Union and the Union's official spokesperson. In that capacity, Sgt. B is responsible for the Union's media and social media communications and frequently communicates with reporters;

(n) As noted, Sgt. B received the MDT Message from Sgt. [redacted] via a Signal group chat. This group chat was set up to allow SPS members to relay information to the Union executive about health and safety concerns arising during their shifts;

(o) Officers' health and safety was one of the Union's major areas of advocacy. The SPU had started a campaign regarding their concerns about unsafe work conditions for SPS members. The Union was documenting and tracking members' reports of unsafe working conditions. The MDT Message formed part of that documentation;

C Disclosures by Sgt. B

(p) In late October or November 2022, the SPU put together a press release with information they had gathered regarding concerns about occupational health and safety, including short staffing at the OCC and "issues around [...], the OCC not being able to take both non-emergency calls or provide proper Dispatch services to [SPS] members";

(q) Sgt. B issued a press release regarding these matters on behalf of the Union. He subsequently received a call from Catherine Urquhart, a reporter at Global News. Ms. Urquhart asked Sgt. B if he had anything to substantiate the claims in the press release;
(r) In response to Ms. Urquhart's inquiry, Sgt. B reviewed information collected by the union from SPS members. Sgt. B explained that he was aware "things like Watch Reports and whatnot are confidential so [he] could not release those";
(s) However, in reviewing the information provided by members in the Signal chat, Sgt. B came across the MDT Message and "thought that that might be something" he could release given that, in his assessment, it did not contain confidential information;
(t) Sgt. B subsequently telephoned the Union's lawyer and discussed the potential disclosure of the MDT Message. The conversation was less than five minutes;
(u) Sgt. B stated that the lawyer reviewed the MDT Message and provided an opinion that "it would be proper for [Sgt. B] to [...], send that to Global given the serious concerns that [the Union] had around occupational health and safety and otherwise";
(v) As noted, the lawyer provided this opinion verbally during a brief phone call. Approximately one year later on January 11, 2024, the lawyer provided a letter confirming that he provided "summary legal advice" about the MDT Message "on or about November and December 2022" to Sgt. B "in his role as the Union's official spokesperson";
(w) After speaking with the Union's lawyer, Sgt. B sent the MDT Message to Ms. Urquhart;
(x) Prior to doing so, however, Sgt. B removed the call sign from the MDT Message because he was concerned that it would allow the RCMP to identify the member who took the photograph of the MDT Message;
(y) Sgt. B stated that he was worried the RCMP may impose workplace retribution if they could identify which member took the photograph. He also believed the call sign was confidential;
(z) On November 29, 2022, Global News ran a news story on television that included the photograph of the MDT Message with the call sign redacted. The photograph of the MDT Message that appeared in the news clip is found on p. 15 of the FIR;
(aa) A few weeks later, the SPU was putting together certain graphics to publish on social media with the assistance of a communications consulting company;
(bb) The graphic designer hired by the union had seen the MDT Message on Global News and suggested it could be converted into a graphic for a social media post;
(cc) Sgt. B sent the photograph of the MDT Message to the graphic designer so that it could be converted into a graphic. In doing so, he did not remove the call sign;
(dd) On December 7, 2022, Sgt. B directed a media consultant to post the unredacted MDT Message to the union's social media account. The social media post is found on page 16 of the FIR;
(ee) Shortly afterwards, a member called Sgt. B and advised him that the call sign was not redacted in the version of the MDT Message posted to social media. Sgt. B immediately took the graphic down, and then reposted it with the call sign blurred. This social media post is found on page 17 of the FIR;

D. Events following the posting of the unredacted MDT Message

(ff) The MDT Message graphic was posted to the SPU's social media account by the SPU's communications consultant, not Sgt. B, however at Sgt. B's direction;

(gg) The unredacted MDT Message that was posted to the SPU's social media account includes the following characters in the "to" field: [redacted] Cst. [redacted] call sign is [redacted];

(hh) The unredacted MDT Message was posted on the SPU's social media account for a very limited time. Sgt. B estimates this time to be approximately 10- 15 minutes;

(ii) Either the same day the unredacted MDT Message was posted, or the day after, Sgt. B called Cst. [redacted] to apologize for the fact that his call sign could be identified in the MDT Message that had been posted. Sgt. B was concerned that Cst. [redacted] would face retaliation or retribution in the workplace as an SPS member working with the RCMP;

(jj) On December 9, 2022, Acting Commissioner Edwards sent two letters to SPS Chief Constable Norm Lipinski, alleging that the posting of the MDT Message constituted a "security breach". Among other things, Acting Commissioner Edwards alleged that the MDT Message contained "police protected information", and that its disclosure contravened the *Privacy Act* and the RCMP's policy. Acting Commissioner Edwards characterized it as a "serious nature of RCMP security breaches" and requested that the SPS investigate;

(kk) On December 23, 2022, Chief Constable Lipinski responded to Acting Commissioner Edwards. Chief Constable Lipinski stated that the distribution of the MDT Message did not appear to violate the *Privacy Act* or the RCMP Security Manual;

(ll) Acting Commissioner Edwards did not make a complaint about Sgt. B, or the underlying events, to the former Police Complaint Commissioner. No member of the public made a complaint about Sgt. B, or the underlying events, to the former Police Complaint Commissioner, or to the SPS; and

(mm) The proceedings in this case were initiated by an order made by the former Police Complaint Commissioner under section 93 of the *Police Act* in the absence of a complaint.

Part V Decision of the Discipline Authority

(24) On July 18, 2024 the Discipline Authority delivered notice of his decision, the Discipline Decision, which ultimately did not substantiate the Misconduct Allegation with respect to the conduct of Sgt. B.

(25) The Discipline Authority addressed the following issues in coming to his decision:

(a) Was the MDT Message published was not "police protected information;
(b) Was the information from the vetted or unvetted MDT screenshot readily available to the public elsewhere?

(c) Was {Sgt.] B's disclosure of this information intentional or reckless?
(d) Was there good and sufficient cause for the disclosure?

(26) With respect to these matters, and others, the Discipline Authority stated that:

> *"I agree with Sgt Manning that [Cst.} B's disclosure of the "MDT information was intentional"*
> *"{Cst.} B advised that the release of the "MDT Screenshot" was due to "Public Safety" concerns as a result of staffing shortages"*
> *"[Cst.]B …"felt like we had exhausted all the available options.."*
> *"[Cst.] B stated he then sought legal advice from the SPU 's legal counsel in regards to potentially releasing the screenshot of the MDT Message to the media"*
> *Page 12, Discipline Decision.*

(27) The Discipline Authority's findings are limited and as follows:

> *"In considering the totality of the circumstances relevant to the alleged misconduct of Improper Disclosure of Information, I am satisfied, on a balance of probabilities there is insufficient clear, cogent and convincing evidence to support substantiation. Therefore I find the allegation against {Cst.] B to be: unsubstantiated."*
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> *Discipline Decision, page 14.*

(28) There are no other discernable findings of fact or law in the Discipline Decision.

Part VI Substantive Submissions of Counsel to the Commissioner on the Misconduct Allegations

(29) The written submissions of Counsel to the Commissioner in this Review and can be summarized as follows:

(a) The Discipline Authority found that sharing the MDT Message with Global News and posting it on social media did not amount to *Improper Disclosure* under s. 77(3)(i)(i) of the *Police Act*;
(b) In the Commissioner's submission, the Discipline Authority erred in his interpretation and application of the test for *Improper Disclosure*;
(c) Furthermore, it is submitted that the Discipline Authority introduced several elements which do not appear in s. 77(3)(i)(i), and embarked on lines of analysis untethered from the clear statutory language of the provision;
(d) The Legislature has defined *Improper Disclosure* unambiguously in s. 77(3)(i)(i) of the *Police Act.* When read in conjunction with s. 77(4), it requires proof of four elements:

(1) the member acquired information in the performance of duties as a member;

(2) the member disclosed or attempted to disclose the information;

(3) the disclosure was intentional or reckless; and

(4) the disclosure was not necessary in the proper performance of authorized police work.

(e) In this case, it is not in dispute that Sgt. B acquired the MDT Message in the course of his duties, intentionally shared it with Global News, and intentionally caused it to be published on social media;

(f) The question is whether the disclosures were necessary in the proper performance of authorized police work under s. 77(4) of the *Police Act*;

(g) Sgt. B has emphasized that the disclosures in this case were not made on behalf, or at the direction of the SPS. Rather, they were part of a strategic advocacy "campaign" on behalf of the Surrey Police Union . These activities – which are separate from the work of the SPS – cannot be considered "authorized police work" within the meaning of s. 77(4);

(h) Further, to the extent that Sgt. B believed the information about the OCC staffing shortage contained in the MDT Message was pertinent to officer or public safety, that does not establish that the disclosures were necessary for authorized police work as required by s. 77(4);

(i) While police have a duty to issue warnings to individuals about foreseeable risks to their safety in narrow circumstances, there is no general duty (or power) for police officers to disclose police records and information simply because they are connected to officer or public safety;

(j) Further, it is clear the disclosures in this case were not necessary to protect officer or public safety, and Sgt. B's own evidence undermines any suggestion that he believed otherwise; and

(k) Counsel submits that, contrary to the submissions of Sgt. B:

(i) the Legislature has not left it to the discretion of individual discipline authorities or adjudicators to define for themselves what standards of conduct are necessary to maintain public trust in the competence and integrity of police officers;

(ii) the MDT Message was not in the public domain prior to the disclosure to Global TV; and

(iii) Neither the RCMP, SPS or the SPS Union had the authority to "resolve" the disclosure issues amoungst themselves. The issues arising as a result of the disclosures made by Sgt. B are misconduct issues governed by the processes of the *Police Act*.

(30) Counsel further submits that in the context of s. 77(3)(i), the mental element (intention or recklessness) applies to the act of the disclosure. The question is whether the disclosure itself was intentional or reckless, as opposed to simply inadvertent.

(31) Counsel further submits that this is different from other provisions of the *Police Act* that include additional elements – beyond the member's physical conduct – to which the mental element can attach. For example, in s. 77(3)(a)(i) *Abuse of Authority (unlawful arrest),* the mental element of intention or recklessness applies not only to the physical act of the arrest but also to the absence of "good and sufficient cause". Counsel notes that the statutory definition of *Improper Disclosure* contains no comparable element for the intention or recklessness to attach to.

(32) Counsel submits that once it is established that the disclosure was intentional or reckless, there is no additional requirement to persuade the discipline authority or adjudicator that the disclosure was "seriously blameworthy" and further, that "malice" and "bad faith" have no relevance to the misconduct analysis.

(33) Counsel invites a reconsideration of the analysis in OPCC file 2020-17317 with respect to the application of a "serious blameworthy conduct" analysis for improper disclosures alleged to have taken place by Sgt. B. Specifically, Counsel submits that such analysis has no application to the facts of this case and that in any event, the facts of the noted decision were clearly distinguishable.

(34) On the interpretation of the word "improper" in section 77(3)(i), Counsel submits that the term does imply an additional element or threshold beyond the express definition of the term. It is further submitted that a "bright line" of prohibition for the intentional or reckless disclosure of any information arising from police duties attaches to section 77(3)(i). Furthermore it is argued that such prohibition does not unduly hamper normal police duties given the saving provision found in section 77(4), and the Commissioner's ability to dispense with misconduct allegations that are frivolous or vexatious. Counsel submits that contrary to the position advanced by Sgt. B, section 77(3)(i) does not create an "absolute liability" category or misconduct.

(33) Counsel notes that the Discipline Authority considered whether the disclosures noted above by Sgt. B contravened the federal *Privacy Act* or RCMP policy. It is submitted that it is not necessary to prove the disclosure contravened departmental policy in order to establish *Improper Disclosure* under s. 77(3)(i).

(34) Counsel submits that section 77(3)(i) imposes a statutory obligation on police not to disclose, or attempt to disclose, police information except where doing so is necessary for authorized police work. That statutory obligation does not vary based on each police department's particular policies.

(35) Similarly, Counsel submits that it is not necessary to establish that the information or record at issue contained personal information as that term is defined in freedom of information and protection of privacy legislation. The rule against disclosure in s. 77(3)(i) is not limited to personal information.

(36) In this case, Counsel notes that the Discipline Authority appears to have concluded that s. 77(3)(i) requires proof that the member lacked "good and sufficient cause" for disclosing the information in question. Counsel submits that this is incorrect.

(37) Counsel further submits that the absence of "good and sufficient cause is not an element of Improper Disclosure under section 77(3)(i). In particular Counsel submits that In this case, the Discipline Authority appears to have concluded that s. 77(3)(i) requires proof that the member lacked "good and sufficient cause" for disclosing the information in question. It is submitted that this is incorrect.

(38) Counsel notes that the concept of "good and sufficient cause" appears in other provisions of the *Police Act,* including s. 77(3)(a)(i) and (ii), which define *Abuse of Authority* for making an arrest without good and sufficient cause, or detaining or searching a person without good and sufficient cause. It also appears in the definition of *Neglect of Duty* in s. 77(3)(m). However, the Legislature did not include an absence of "good and sufficient cause" in the statutory definition of *Improper Disclosure* in s. 77(3)(i).

(39) Counsel argues that if the Legislature intended the concept of "good and sufficient cause" to form part of the analysis under s. 77(3)(i), it would have referred to that requirement expressly, as it did in other provisions of the *Police Act.* Counsel submits that while the Adjudicator must consider whether the disclosure was necessary in the proper performance of authorized police work (s. 77(4)), it is an error to consider the presence or absence of some other "good and sufficient" cause under s. 77(3)(i).

(40) Counsel relies on the recent Supreme Court of Canada decision, *Quebec (Commission des droits de la personne et des droits de la Jeunesse) v. Directrice de la protection de la Jeunesse du CISSS A*, 2024 SCC 43. In that decision, the Court considered the principles of statutory interpretation that must be applied to a review of legislation. The Court found, in part, at paragraph 24, as follows:

> *[24] In this case, it is important to highlight a few principles that guide the interpretation of s. 91 para. 4 of the YPA. First, the YPA must be given a large and liberal interpretation that will ensure the attainment of its object and the carrying out of its provisions according to their true intent, meaning and spirit (see Interpretation Act, CQLR, c. I-16, s. 41; Protection de la jeunesse – 123979, at para. 21). However, just as the text must be considered in light of the context and*

> *object, the object of a statute and that of a provision must be considered with close attention always being paid to the text of the statute, which remains the anchor of the interpretive exercise. The text specifies, among other things, the means chosen by the legislature to achieve its purposes.*

(41) With respect to the issue of possible immunity that might apply to members, such as Sgt. B, who hold Union positions, Counsel agrees that in the general labour relations context, union officials are entitled to a limited immunity from discipline by their employer for actions taken in the discharge of their union duties. Counsel acknowledges that union official immunity "is a principle that limits just and reasonable cause" in the labour context.

(42) Counsel submits, however, that even in the labour relations context, this immunity is not absolute. It does not extend to actions of union officials that go beyond the bounds of lawful union activity and is detrimental to the employer's interests. It is specifically submitted that police officers serving as representatives of unions, remain subject to professional regulation under the provisions of the *Police Act*.

(43) Counsel for the Commissioner submits that they are not aware of any authority for the proposition that the limited immunity against employer reprisal in the labour relations context can be used to exempt police officers serving as union officials from the professional obligations and disciplinary processes under the *Police Act.* In their submission, any such suggestion cannot be sustained.

(44) It is submitted that it is settled law that principles developed in the labour context cannot be directly imported into the *Police Act* regime. The law on this point is summarized in *Legal Aspects of Policing* as follows:

> 1. *Unless legislation imports labour law principles, the law is settled that principles of employment law and labour law do not directly transfer to the police complaint and discipline process, since police officers have "dual status": they are not mere employees, but office-holders also. Chief Justice Laskin reasoned as follows in Nicholson v Haldimand-Norfolk Regional Board of Commissioners of Police, [1979 1 S.C.R. 311] referring to the common law status of police officers and their status under Ontario legislation then in force:*
>
> > *... the scheme of The Police Act and the involvement of statutory agencies, whether Boards of Commissioners of Police or Municipal Councils, has created an entirely different frame of reference, and what is preserved of the common law is merely the fact that a constable may still be considered as the holder of an office and not simply an employee of a Board or of a Municipality which, for many purposes, he certainly is.*
>
> *2. Principles of employment law and labour law do not directly transfer to the police complainant and discipline process for other reasons: the threshold rule against opting out of the statutory (Police Act) process, and the uniqueness of the police workplace.*

3. Various courts of appeal have addressed the issue, including the Alberta Court of Appeal in Edmonton Police Service v Furlong .

Paul Ceyssens, Legal Aspects of Policing, 5-119/120 paras 1-2

(45) Further, Counsel notes that the BC Supreme Court similarly explained in *Kyle v. Stewart*, 2017 BCSC 522 that misconduct proceedings, which pertain to public trust defaults, are distinct from internal disciplinary matters, and must be governed exclusively by Part II of the *Police Act*. Labour relations principles cannot modify express obligations in the *Police Act*.

(46) Finally, on the issue of union executive consultation, Counsel submits that approval for a course of action discussed with such executive cannot shield a member from finding of misconduct. Counsel does acknowledge, however, that such consultation may be relevant to a determination of disciplinary or corrective measures.

(47) With respect to the evidence considered by the Discipline Authority in relation to the legal advice sought by Sgt. B, Counsel argues that the receipt of legal advice *may* be a relevant consideration to particular forms of professional misconduct – for instance, where the type of misconduct requires an assessment of whether the person acted without due diligence or failed to make reasonable inquiries.

(48) Counsel also agrees that the receipt of legal advice may also be relevant as a mitigating factor in determining disciplinary or corrective measures under the *Police Act*. However, Counsel argues that such legal advice cannot override statutory obligations or prohibitions such as those set out in the *Police Act*.

(49) Counsel for the Commissioner submits that contrary to Cst. B's submission the MDT message was not in the public domain prior to being shared with Global News. Counsel submits that the public was not aware of the particular information in the MDT Message or the fact that the message had been sent exclusively to police officers.

(50) In summary, Counsel submits that:

(a) The disclosures made by Sgt. B were not necessary for the performance of authorized police work;

(b) Union media campaigns are not authorized police work;

(c) Sgt. B did not have a duty to share the MDT message with the Media;

(d) Advice from a union lawyer cannot transform the disclosure to Global News and social media post into "authorized police work" ; and

(e) The Discipline Authority's reference to and apparent reliance on opinions of the Chief Constable of the SPS is not appropriate and independent analysis of the misconduct allegations concerning Sgt. B.

(51) Finally, Counsel submits that the elements of *Improper Disclosure* are clear on the face of s. 77(3)(i)(i), and proven in this case noting that:

(a) Sgt. B admits to intentionally disclosing information obtained in the course of his duties as a police officer to the media, and causing posting it to be posted on social media;

(b) The disclosures were not necessary to the proper performance of authorized police work, and had the potential to harm trust and cooperation between the RCMP and the SPS;

(c) A finding of misconduct in this case is consistent with the Legislature's intention, clearly expressed in s. 77(3)(i)(i), that police information may only be disclosed for the purpose of carrying out authorized police work, and may not be used in pursuit of other interests; and

(d) Sgt. B's assertion in submissions that the Legislature only intended "very serious offences to be captured by the defined misconduct is incorrect.

(52) With respect to the authorities proffered by Counsel for Sgt. B, Counsel for the Commissioner submits that:

(a) Cases submitted that raise a distinction between alleged Charter breaches and Professional Misconduct are not relevant to the facts of this case;

(b) Bad Faith or Malice are not elements of any consideration of misconduct allegations under section 77(3)(i)(i) of the *Police Act*;

(c) The test of a "marked departure" standard arising under the *Legal Professions Act* has no application to issues arising under section 77(3) of the *Police Act*;

(53) With respect to the definition of the word "disclosure", Counsel for the Commissioner submits that the term does require proof that information was "secret" or "new". Counsel submits that the phrase simply requires the ordinary definition of the word "disclose" which is to provide information to another.

(54) Counsel disagrees with the submission that section 77(3)(i) creates an "absolute liability offence". What is required, Counsel submits, is proof of a disclosure of defined information made intentionally, or recklessly.

(55) With respect to submissions made by Counsel for Sgt. B that the application of professional standards to police officers who act in union roles would have a "chilling effect" on police unions, Counsel for the Commissioner disagrees. It is submitted that Sgt. B had not submitted a single case to support that contention. Furthermore, Counsel for the Commissioner submits that the Supreme Court of Canada has clearly confirmed that the provisions of the Police Act are a complete code for the resolution of disciplinary matters: *Thandi v The Police Complaint Commissioner of BC 2022 BCSC 77 para 144 and Regina Police Assn. Inc. v Regina (City) Board of Police Commissioners 2000, SCC 14 para 31.*

Part VII Submissions of Counsel to Sgt. B

(56) Counsel to Sgt. B takes the position that the Discipline Authority's decision that misconduct was not substantiated was correct.

(57) Specifically, the submissions of Counsel to Sgt. B are as follows:

(a) A finding of misconduct for a "disciplinary breach of public trust", contrary to the Commissioner's submissions, must require an element of seriousness or blame-worthiness. This premise underlies all of Sgt. B's submissions;

(b) In particular, it cannot be that *any* disclosure of *any* information by a police officer in *any* circumstances constitutes misconduct. In Sgt. B's case, the information that was disclosed was already available to any member of the public, and the disclosure came only after he received legal advice and the approval of the SPU executive;

(c) The Commissioner's submissions mischaracterize the Discipline Authority's analysis in the Discipline Decision, and do not establish that the Decision was incorrect;

(d) A careful read of the Discipline Decision indicates that the Discipline Authority considered the circumstances around the disclosure of the MDT Message in reaching his conclusion as to whether Sgt. B had committed a disciplinary breach of public trust;

(e) Considering these circumstances is not equivalent to introducing "new" elements into the *Police Act;*

(f) Considering these circumstances was appropriate and necessary to assess Sgt. B's conduct against the serious allegations he was charged with;

(g) The Discipline Authority was required to, and properly did, consider the question of union immunity for Sgt. B's actions as a member of the SPU executive;

(h) In any event, correctness is focused on the outcome. Even if the OPCC were correct about the analysis conducted by the Discipline Authority in the Discipline Decision, that does not change the outcome in Sgt. B's case; and

(i) While the OPCC may quibble with the wording of the Discipline Authority's analysis, the Discipline Authority reached the correct result. On a proper consideration of the circumstances, Sgt. B's conduct simply does not rise to the level of a "disciplinary breach of public trust".

A- A "disciplinary breach of public trust" requires an element of seriousness or blameworthiness

(58) Counsel for Sgt. B submits that the Commissioner's interpretation of the law would create a regime of absolute liability in which blameless conduct must automatically result in very serious findings of misconduct against police officers. It is submitted that such an outcome is inconsistent with the *Police Act*, earlier decisions under the Act, and other professional regulatory bodies in BC.

(59) Counsel further submits that the wording of the *Police Act*, and the characterization of some misconduct as a "disciplinary breach of public trust" makes clear that there is a degree of severity and impact required. It is submitted that this is not a new requirement, but emerges from the words chosen in the *Police Act* and the jurisprudence applying it.

(60) Counsel notes that in *Scott* v*. Police Complaint Commissioner***,** 2016 BCSC 1970, the Adjudicator held that in order to find misconduct, there must be a serious blameworthy element and not simply a mistake of legal authority alone. A "blameworthy element" would be some form of bad faith; that is, where a police officer conducts a search or detention for some ulterior purposes (perhaps in the opportunistic hope of getting evidence for another investigation or out of malice for a colleague or SOC).

(61) Counsel submits that these principles were summarized succinctly by the Honourable Ian McKinnon QC, sitting as Adjudicator in *Lobel and Hoang***,** OPCC File No. 2016-1766. It is submitted that the Adjudicator summarized the requisite mental element for misconduct as follows:

> 32. *Accordingly, even if I conclude that the Members exceeded their lawful authority in the course of their detention and search of Mr. McDonald, I must go on to consider whether they did so in an intentional or reckless manner such that their conduct has a serious blameworthy element and did not simply result from a mistake of legal authority**.** In this respect I agree with the submission by the Members' counsel that a finding of misconduct in these circumstances requires a conclusion that the Members exercised powers of detention and/or search either knowing they had no lawful authority or not caring whether they did.*

(62) Counsel also references OPCC 2020-17317 as authority for the proposition that an analysis of "serious blameworthy conduct" must take place in considering a disciplinary breach of trust allegation. In that case, acting as Discipline Authority, I found that the member in question had not intentionally or recklessly disclosed police information contrary to section 77(3)(i)(i) of the *Police Act*. Counsel notes that as part of the analysis of the member's conduct, consideration was given to serious blameworthy conduct in the context of possible reckless acts taken.

B - Other arguments regarding the test to be applied

(63) Counsel for Sgt. B has also provided analysis from other policing jurisprudence. In particular, Counsel notes passages from Ceyssens, Legal Aspects of Policing, pages 276 and 279 as follows:

> "*Because a finding of misconduct against a police officer is so serious, it is well- established that the decision-maker must carefully consider whether the conduct rises to a level that supports such a finding. It has been said that a decision-maker must assess each element of the particular discipline offence, but also whether the evidence demonstrates the* ***requisite level of gravity*** *to found a misconduct finding".* *(Pp 5-276)*
>
> *"The requirement of gravity/seriousness emerges from the wording of the legislation, but there is also a general threshold principle that not every error constitutes professional misconduct, "given the 'stigma and sanctions' attendant upon a finding of misconduct". (Pp 5-279)*

(64) Reference is also made by Counsel to authorities from other jurisdictions with different regulatory regimes and police discipline legislation as noted in submissions. Those arguments are set out fully in submissions.

C- The errors asserted by the Commissioner do not establish that the Discipline Authority's decision is incorrect

(65) With respect to the issue of the standard of review, Counsel for Sgt. B agrees that the correct standard is correctness. However, Counsel submits that it is the ultimate outcome that must be assessed for correctness, not the outcome and analysis of the Discipline Authority leading to that decision.

(66) Specifically on this issue, Counsel submits that It does not appear that the Discipline Authority considered the factors arising under the misconduct allegation as separate "elements" of a "charge" – rather, the Discipline Decision clearly states that in reaching his conclusion the Discipline Authority considered the "totality of the circumstances relevant to the alleged misconduct of Improper Disclosure of Information".

(67) Counsel further submits that this approach is correct and necessary in that while not individually determinative, the circumstances considered by the Discipline Authority are valid

and relevant in assessing the conduct in question. In particular, Counsel argues that the following facts were relevant considerations of the Discipline Authority:

1. The inapplicability or absence of departmental policies and privacy legislation;
2. The question of whether there was a "good and sufficient cause";
3. The involvement/participation of the SPU; and
4. The act of seeking legal advice.

D- Labour Law principles and union immunity – The involvement of the SPU and Sgt. B

(68) One of the key arguments advanced by Counsel for Sgt. B is that the misconduct allegations must be subject to principles of union immunity.

(69) Counsel notes that at paragraph 18 of the "Notice of Review on the Record", the Commissioner noted a number of legal issues requiring review, including "the application of professional responsibilities under the *Police Act* to members who act in union roles and any attendant immunity that might apply to members engaged in such roles.

(70) Counsel's specific submissions on this issue found at page 17 of filed submissions and thereafter are as follows:

> *78. At all material times, Sgt. B was acting in his capacity as an executive officer of the Surrey Police Union, and not as an employee of the Surrey Police Board or as a police officer.*
>
> *79. Sgt. B submits that it is entirely appropriate, and indeed necessary, to interpret and apply disciplinary standards under the Police Act in accordance with labour law principles applicable in British Columbia, including any mitigating or exonerating principles, such as the concept of "union immunity." Further, Sgt. B submits that, in the circumstances of this case where he was at all material times acting on behalf of the SPU in his capacity as SPU executive, the labour relations defence of 'union immunity' applies to remove the alleged misconduct from the scope of proper discipline.*
>
> *80. Sgt. B submits that the Police Act is properly interpreted in a manner that is consistent with, and does not dilute, rights afforded to employees and unions pursuant to British Columbia labour law. The Police Act should not be interpreted in a manner that would result in police officers being afforded lesser rights than other unionized British Columbia employees, and should not be interpreted in a manner that would result in a chilling effect on police unions.*
>
> *81. The modern approach to statutory interpretation considers the interplay between statutes that address the same subjects. Statutes enacted by a legislature that deal with the same subject are presumed to be drafted with one another in mind so as to offer a coherent and consistent treatment of the subject.*
>
> *Highlands District Community Assn. v. British Columbia (Attorney General), 2021 BCCA 232 at para 42.*
>
> *82. It follows that, where a body of law has developed pursuant to and under authority of a statutory scheme, that body of law will be relevant to another statutory scheme that addresses the same subject.*

83. *In this case, there is a body of labour and employment law that has developed under authority of the British Columbia Labour Relations Code, including with respect to discipline of unionized employees. Sgt. B submits that, to the extent that the Police Act also deals with discipline of police officers as unionized employees, that body of law must be considered as an implied part of the statutory scheme absent any express intention otherwise.*
84. *The Police Act is not exclusively a piece of professional standards legislation. Rather, as has been recognized by British Columbia courts, Part 11 of the Police Act is "highly specialized labour relations legislation dealing with the employment of police officers and the protection of the public by means of the disciplinary tools provided by the statute."*

Meneray v. British Columbia Society for the Prevention of Cruelty to Animals, 2023 BCSC 442 at para 105

85. *The Police Act operates in tandem with labour law to regulate the employment of police officers – for example, section 26(3) of the Police Act stipulates that, subject to a collective agreement as defined in the Labour Relations Code, "every constable and employee of a municipal police department must be employees of the municipal police board." Section 179(1)(b) of the Police Act stipulates that nothing in the Police Act or its regulations prohibits proceedings under the Labour Relations Code as to the interpretation, application or operation of a collective agreement, which, pursuant to section 84 of the Labour Relations Code, is deemed to include a provision prohibiting an employer from dismissing or disciplining an employee except for just and reasonable cause.*
86. *Disciplinary penalties available under section 126(1) of the Police Act are directed toward police officers' employment status, including dismissal, demotion, suspension, transfer, and reprimands. The range of disciplinary outcomes do not include penalties that are separately punitive in nature, such as fines or incarceration. It is clear that Police Act discipline cannot be separated from a police officer's employment, which is intertwined with the legal principles applicable under the Labour Relations Code and associated jurisprudence from collective agreement arbitration.*
87. *There is no express provision of the Police Act that excludes the application of labour law principles to Part 11 discipline. Rather, the scheme of the Police Act clearly contemplates harmonization with British Columbia labour law.*
88. *This makes good policy sense to ensure that police officers have meaningful access to union representation, and that police unions composed of police officers may exercise their exclusive bargaining agency on behalf of their membership without fear of reprisal, including by engaging in public advocacy.*
89. *As recognized throughout the Police Act, all municipal police officers employed by a municipal police board in British Columbia are members of police unions which hold exclusive bargaining agency on behalf of police officers pursuant to the Labour Relations Code. Like all other employees in British Columbia, section 4(1) of the Labour Relations Code guarantees police officers' rights to be members of a trade union and to participate in its lawful activities. This is consistent with police officers' constitutional rights as Canadians pursuant to section 2(d) of the Canadian Charter of Rights and Freedoms.*
90. *A trade union's lawful activities include matters beyond the narrow scope of collective bargaining and collective agreement enforcement. Trade unions also play an important role in advocating on behalf of their members, including by communicating to the public, in order to secure or garner public support for matters affecting their membership.*

Re Canada Post Corp and Canadian Union of Postal Workers (1990), 12 L.A.C. (4^{th}) at pp. 345 – 346.

91. *The Supreme Court of Canada has also acknowledged the critical importance of free expression in the labour context, including the important role unions play in societal debate and the importance to democracy of allowing unions and their members free flow of expression to bring the debate on labour conditions into the public realm.*

    Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd., 2002 SCC 8 at paras 33 – 35.

92. *It is for this reason that labour arbitrators have recognized that "considerable leeway" must be given to employees in performing their proper union responsibilities, and that such employees "are entitled to be sheltered from discipline and discharge for their acts and conduct", including protection from discipline in connection with statements made to the press unless the speech or conduct is malicious or reckless.*

    National Steel Car Ltd. v. United Steelworkers of America, Local 7135, [2001] O.L.A.A. No. 748 [National Steel] at paras 20 – 21.

93. *This carve-out to an employee's liability for discipline when acting in an official union capacity is often referred to as "union official immunity" or "union immunity".*
94. *The threat of disciplinary consequences for engaging in essential union functions would create a chilling effect on police unions that does not apply to unions in other industries and would undermine the careful balance struck by the Labour Relations Code and arbitral jurisprudence developed thereunder.*
95. *Interpreting the Police Act to allow discipline in circumstances that would normally be protected by union immunity would severely curtail the efficacy of police unions and their ability to represent and advocate for their membership, putting police unions on unequal footing with all other British Columbia trade unions. Absent express language to the contrary, such an intention cannot be ascribed to the legislature.*
96. *Respectfully, the PCC's submissions on this point fail to appreciate the important role of police unions operating under the Labour Relations Code, which creates a statutory regime applicable to unions and their executive members. The Labour Relations Code itself ousts the common law and replaces it with a statutory scheme. To that extent, with respect, the PCC's reliance on Edmonton Police Service v. Furlong, 2013 ABCA 121, which deals with the intersection between common law and "private contractual" relationships, is misplaced.*
97. *The principle of union immunity does not arise pursuant to the common law of contract. Rather, it is a principle that has been recognized pursuant to statutory labour relations legislation. Accordingly, the reasoning in Edmonton Police Services does not assist in resolving the interpretive issue under the Police Act, which, as submitted above, must be analyzed in light of the application of the Labour Relations Code. In any event, this Alberta decision is not binding law in British Columbia.*
98. *Similarly, while Kyle v. Stewart, 2017 BCSC 522 does state that "employment and labour relations policies" do not modify a mandatory statutory obligation to participate in an investigation, that case does not state that the Police Act otherwise completely removes any consideration of labour relations principles such as union immunity when determining whether misconduct has occurred. The analysis and reasoning in Stewart is limited to a perfunctory statement about the extent to which the member, as an employee and police officer, was required to participate in a Part 11 investigation.*
99. *While Sgt. B does not necessarily agree with the court's finding in Stewart on that point, we submit that the reasoning does not in any event the proper interpretation of the Police Act as specialized labour relations legislation within the context of the law developed under the Labour Relations Code. A failure to consider those principles would result in a chilling effect on union participation among police officers that does not apply to other industries. Sgt. B submits that, given the important role of*

unions generally and police unions particularly, such an outcome cannot have been intended by the legislature.

100. Accordingly, it must follow that a Discipline Authority may, and indeed must, consider the application of labour relations principles such as union immunity in determining whether a subject member has engaged in misconduct under the Police Act. It was entirely proper for the Discipline Authority to consider and apply labour relations principles, including the principle of 'union immunity', to the circumstances of Sgt. B's alleged misconduct.

E- Sgt. B's conduct is protected for discipline by application of union immunity

(71) Counsel for Sgt. B submits that the application of principles of union immunity clearly apply to the misconduct allegations relating to Sgt. B. Counsel argues that the purpose of union immunity as outlined in the argument set out above, is to protect a union's ability to successfully carry out its role as bargaining agent for its members.

(72) Counsel's specific arguments at pages 22 and 23 of filed submissions on this point are as follows:

101. Where an employee engages in conduct in the course of their official duties on behalf of a trade union, discipline may only be imposed where there is proof of conduct that is both beyond the bounds of lawful union activity and detrimental to the interests of the employer. Absent some evidence of impairment to the interests of the employer and, consequently to the employment relationship, there is no basis upon which to justify discipline. Richmond Lions Long Term Care Society, BCLRB No. B375/94 at p. 9.

102. In respect of public comments made by union officials, such employees acting in their capacity as union official are generally immune from discipline unless the public comments are reckless or malicious. National Steel, supra at paras 20 – 21.

103. Sgt. B holds the position of Treasurer on the Surrey Police Union's executive board. As an executive member of the union, Sgt. B is responsible, inter alia, for advocating on behalf of police officers employed by the Surrey Police Board, all of whom are in the SPU bargaining unit.

104. As set out in this submission, Sgt. B provided an image of the MDT Message to Ms. Urquhart for the purpose of facilitating a communication by SPU to the public on an important and contentious matter that directly affected SPU membership. Further, the decision to have a communications consultant post the MDT Message to SPU's social media account was made after a review by the SPU executive, and not by Sgt. B acting alone in his capacity as a police officer.

105. In other words, it was SPU that is responsible for the MDT Message being made publicly available via the media story and SPU's social media. In so doing, SPU, via its executive officers including Sgt. B, was exercising its statutory right to advocate on behalf of its membership.

106. In this case, Sgt. B, and the SPU, were clearly acting within the bounds of lawful union activity as they were advocating on behalf of their membership in respect of a matter of public importance. Further, there is no impairment to the interests of Surrey Police Board as employer – indeed, Chief Lipinski opined that Sgt. B's and Surrey Police Union's conduct in this case did not appear to violate the Privacy Act or RCMP policy, and that the disclosed image in fact raised legitimate and well-known concerns about police officer and public safety due to short staffing issues in the OCC. The public comments were rooted in fact and were not made recklessly or maliciously. They also did not reveal information that was not already known and available.

107. Sgt. B is accordingly protected from discipline in the circumstances of this case by application of union immunity.

108. Even if the Adjudicator does not accept Sgt. B's submissions regarding union immunity:

a. There must be some space for the SPU to engage in public discourse about a matter of its members' safety, particularly when SPU members' safety, and the safety of the community is being jeopardized by decisions of the RCMP, and where the RCMP is publicly stating that the SPU has fabricated its concerns; and

b. The history and involvement of the SPU is no doubt a relevant circumstance when assessing Sgt. B's conduct, and whether it rises to the level of misconduct under the Police Act.

F- The Nature of the Information Shared is a relevant circumstance in considering Misconduct

(73) Counsel for Sgt. B submits that the information contained in the MDT Message was not unique or confidential. Counsel argues that there must be some limit on when disclosure of public information will constitute misconduct.

(74) As well, Counsel for Sgt. B submits that it was not the MDT Message itself that was publicly available, but rather the information in the message.

(75) Counsel for Sgt. B further submits that any suggestion that disclosing information which is not confidential, personal or otherwise protected constitutes misconduct must be considered with great caution.

(76) Counsel further argues that the identification by the Commissioner of such *possible* "heightened" concerns that might apply in a hypothetical case with different facts (*e.g*. where "unique" or "confidential" operational information was disclosed) only underlines the need to consider the specific circumstances of *this* case before reaching a conclusion about whether Sgt. B committed misconduct.

G- The Degree of diligence exercised by Sgt. B is a relevant factor

(77) Counsel for Sgt. B submits that the member acted in good faith and with diligence throughout the time frame in question. Counsel maintains that Sgt. B had an objectively reasonable basis to believe that he was not acting inappropriately.

(78) Counsel notes that even after the communications consultant inadvertently posted the MDT Message without redactions, Sgt. B acted with diligence. He immediately removed the unredacted MDT Message immediately after learning that it had been mistakenly posted the SPU communications consultant.

(79) It is submitted that Sgt. B's consideration of his obligations before, during, and after the disclosure of the MDT Message paints a clear picture of a police officer who is acting in good

faith and with diligence. If indeed his conduct constitutes improper disclosure, which is contested, he honestly held a reasonable belief that it did not.

(80) Furthermore, Counsel submits that there is no evidence that the disclosure alleged harmed any person or police operations, and as a result, is a relevant consideration in these proceedings.

(81) Finally, it is submitted by Counsel that In this case, Sgt. B acted in good faith after completing significant due diligence. He disclosed information that was already available to the public because he honestly believed it would generate a response to the SPU's serious public safety concerns.

(82) Counsel acknowledges that the wisdom and effectiveness of Sgt. B's actions can be the subject of reasonable debate. However, it is submitted that careful consideration of all the circumstances and context here must lead to the conclusion that Sgt. B's conduct does not rise to the level of a disciplinary breach of public trust.

H - Communications and Disclosure

(83) It is submitted that the concerns of the SPS union executive and Sgt. B related to chronic understaffing affecting officer safety and potentially, public safety. Reference is made in submissions to statements made by the RCMP and the Surrey Mayor on staffing and other related issues. The submission of Counsel is that the information provided to Global TV and later published on social media was intended to address concerns of great interest to the public that appeared to be in issue factually.

(84) Counsel further submits that "disclosure" must mean a release of confidential information not previously available to the recipient. Specifically. It is submitted that a member does not "make information available" when it is already known or "available", and a member does not "release" information that the recipient already has access to.

I - Charter and Other Decisions

(85) Counsel submits that professional misconduct and Charter of Rights and Freedoms decisions have direct application to the facts of this case.

(86) In particular, Counsel makes reference to professional misconduct cases touching on the test for a "marked departure" from professional conduct.

(87) Counsel submits that there is no "compartmentalization" of police misconduct which limits a contextual analysis to cases only involving Charter breaches.

Part VIII Analysis of Collateral Issues

(88) The circumstances of this review have raised a number of issues collateral to the assessment of possible misconduct by Sgt. B, and the correctness of the Discipline Decision.

(89) I will address each of the key collateral issues raised before focusing on the issue of possible misconduct under section 77(3)(i)(i).

A Material disclosed in the MDT Message was already public – the nature of "disclosure"

(90) Having considered the substantive submissions of all Counsel and the Record, I am satisfied that the MDT Message noted above was not in the public domain before release by Sgt. B's actions.

(91) General information relating to police staffing issues may well have been in the community at the time of Sgt. B's actions, but the focus of section 77(3)(i)(i) is on the disclosure of information acquired by Sgt. B in the performance of his duties. It is irrelevant to an analysis of possible misconduct under section 77(3)(i)(i) that some elements of police staffing issues, or other disputes of concern to the SPS union, may have been known to some members of the public.

(92) It is also not relevant to that analysis that senior management at Surrey, the SPS or the RCMP may have been engaged in public dialogue concerning staffing and other issues affecting policing and the SPS union. The focus in this case is on the specific disclosure of the MDT Message allegedly released to the public by Sgt. B, acquired as a direct result of Sgt. B's role as a police officer, and consideration of the key factors defining misconduct under section 77(3)(i)(i).

(93) Counsel for Sgt. B further submits that the information disclosed was neither personal information, nor disclosed in contravention of any specific departmental policy. I find that it is not necessary to establish that the information or record at issue contained personal information to consider a section 77(3)(i)(i) . Nor is it necessary to establish a specific department policy breach to consider a members actions in the context of section 77(3)(i)(i). There is no evidence of any such policy other than the provisions of section 77 of the Police Act.

(94) The rule against disclosure in s. 77(3)(i) is not limited to personal information or departmental policies. The provision stands alone in setting a standard for conduct under section 77 of the *Police Act* in the absence of any policies that might be created under section 77(4) of the *Police Act*.

(95) In a related argument, Counsel for Sgt. B submits that there must be some reasonable limits on sanctions by way of misconduct findings for disclosure of information incidental to policing, depending in the nature of the information disclosed.

(96) I find that Sgt. B's submissions on this point are, in part, addressed by the exception set out in section 77(4) and the discretion set out in section 82(2)(c) of the Police Act to screen out frivolous or vexatious claims. They may also be addressed by policy under section 77(4) of the *Police Act* as noted later in this decision.

B Good faith, due diligence and the absence of harm with respect to the disclosure in issue

(97) Whether or not Sgt. B acted in good faith or with diligence is not relevant to the issue of alleged misconduct by "*improper disclosure*" under section 77(3)(i)(i) of the *Police Act*.

(98) As will be clarified below, the analysis of misconduct and the correctness of the Discipline Decision does not engage such considerations.

(99) Similarly with respect to the submission that no "harm" resulted from the disclosure in issue, section 77(3)(i)(i) of the *Police Act* does not require proof of harm in order to make a finding of misconduct.

C Union Immunity Issue

(100) A key element of submissions advanced on behalf of Sgt. B relates to the need for the member to afforded immunity for any possible acts of misconduct in recognition of actions taken as a senior SPS union representative.

(101) Union representation and advocacy is key to the creation and protection of member rights. However, I have been unable to find any authority for the proposition advanced by Sgt. B that such representation responsibilities triggers any form of immunity from alleged misconduct arising under section 77 of the *Police Act* on the facts of this case.

(102) It is acknowledged that in a general labour relations context, union officials are entitled to a limited immunity from discipline by their employer for actions taken in the discharge of their union duties. Such immunity is a principle that limits just and reasonable cause in the labour context and fundamental to ensure fair and appropriate union representation of members.

(103) However, discipline immunity does not extend to consideration of misconduct under section 77 of the *Police Act* on the facts before me in this proceeding.

(104) I am satisfied that there is nothing in the *Police Act* addressing immunity for members such as Sgt. B serving as police union representatives, nor any mention of possible union immunity in the *Police Act* itself. Furthermore, there are no facts which would support an argument for common law discipline immunity in relation to Sgt. B in relation to the alleged acts of misconduct in this case. It is clear that such principles exist to protect union representatives from discipline centered on insubordination to an employer. Here the focus is not employer discipline, but rather a review of possible misconduct with respect duties owed to the public under section 77 of the *Police Act.* In such circumstances, common law principles of union immunity cannot apply.

(105) I am also satisfied that, as noted above, both the Supreme Court of Canada and the Supreme Court of BC have confirmed that the *Police Act* is intended to act as comprehensive code with respect to police discipline issues. *Regina Police Assn Inc v Regina (City) Board of Police Commissioners, 2000 SCC 14, para 31 and Thandi v the Police Complaint Commissioner of BC 20222 BCSC 77 para 144.*

(106) I am satisfied that if the Legislature had intended that any form of immunity extend to members serving as union representatives, the appropriate legislative provisions would have been created. They have not.

(107) The law in British Columbia is clear that Sgt. B is first, and foremost, a police officer. The Member's conduct is comprehensively regulated under the provisions of the *Police Act*, and in particular, Part II of that Act.

(108) While there can be no doubt as to the importance of union representation for police officers such as Sgt. B, any additional responsibilities assumed outside his duties as a police officer, such as serving as an elected union representative, are collateral to the member's core policing role.

(109) Nothing on the facts of this case with respect to the role of Sgt. B as a union representative provides any form of immunity for allegations of misconduct arising under Part II of the *Police Act*.

(110) Counsel for Sgt. B further submits that even if immunity does not extend to the member, his role with the SPU must be a relevant consideration in assessing possible misconduct. With respect, I cannot agree with that assertion. Nothing in the *Police Act* requires consideration of such circumstances in assessing possible findings of misconduct.

(111) Counsel for Sgt. B may choose to advance such an argument under section 126 proceedings. However, even in that context, characterizing Sgt. B's role as a union representative would require proof of a relevant mitigating circumstance.

D Diligence exercised by Sgt. B prior to disclosure - Consulting Legal Counsel & SPS Union Executive

(112) The submission of Counsel for Sgt. B is that the Sgt. acted in good faith and with diligence throughout the disclosure process. This included the efforts made by the Sgt. to consult legal counsel before making the disclosures of the MDT Message.

(113) I cannot find that good faith, due diligence or honestly held reasonable belief in the legality of the disclosures made has any relevance to the interpretation of section 77(3)(i)(i) of the *Police Act*. Nor does any effort to secure legal advice or Union Executive approval prior to making a disclosure. Such consultation is not relevant to a determination of individual responsibility as police officer under section 77 of the *Police Act*.

(114) There are many examples in section 77 of qualifications or conditions attached to the definition of specific misconduct. The examples include:

(a) Section 77 (1)(a)(i) – abuse of authority without good and sufficient cause;

(b) Section 77(1)(c)(i) - corrupt practice without lawful excuse;

(c) Section 77(1)(f) – deceit in making statements that to the member's knowledge are false and misleading; and

(d) Section 77(1)(m) – neglect of duty without good or sufficient cause.

(115) I cannot find that any such qualifications apply to section 77(3)(i)(i), other than the overall saving provision in section 77(4) of the *Police Act*.

(116) Again, Sgt. B's submissions on these points may have more relevance to section 126 considerations if it can be established that the matters in question are mitigating circumstances.

E Sgt. B directing a consultant to post MDT Message

(117) It has been argued by Counsel for Sgt. B that it was in fact a consultant directed by Sgt. B that posted the MDT Message in issue to the SPU Twitter account. It has further been argued that in such circumstances Sgt. B is not responsible for an improper disclosure as he did not make the disclosure.

(118) There can be no doubt that Sgt. B gave the direction to post the MDT Message. The fact that such posting took place through a consultant directed by Sgt. B is not relevant to the consideration of misconduct. Sgt. B intentionally made the initial disclosure to Global TV and also caused the publication of the unredacted MDT Message by giving directions to do so.

F Correspondence between RCMP and SPU

(119) Any communication between the Surrey RCMP and SPU concerning disclosure issues is only relevant to the assessment of possible misconduct by Sgt. B if it touches on the key elements set out in section 77(3)(i)(i) of the Police Act. I find that it does not.

(120) I cannot find that the referenced communications, if actually noted in the Record, has any relevance to a determination of possible misconduct with respect to Sgt. B under section 77(3)(i)(i) of the *Police Act*.

(121) Again, contextual background may have relevance in a section 126 hearing on proven misconduct, but even in those circumstances, submissions would be required to bring any information within the scope of the section 126(2) factors.

G Standard of review of Discipline Authority's decision

(122) Counsel for the Commissioner has highlighted a number of possible errors in the analysis of the Discipline Authority that resulted in the Discipline Decision.

(123) As noted above, individual decisions taken, or not taken, by the Discipline Authority are not part of my review of the Discipline Decision. Rather, my role, as noted above, is to consider the entirety of the evidence set out in the Record and to determine if misconduct has been proven, and if the decision on that outcome in the Discipline Decision is correct.

H Other Police Discipline Jurisprudence and Regulatory Regimes

(124) Reference has been made by Counsel to Sgt. B to jurisprudence from other professional organizations and jurisdictions, including decisions from outside of this Province, in developing arguments to support the conclusion that Sgt. B did not commit misconduct under section 77 (3)(i)(i).

(125) I cannot find that any of the cited authorities have relevance to this case as the statutory regimes governing those cases all differ from those in this Province governing police misconduct issues.

(126) As well, the *Police Act* provisions governing disciplinary proceedings make no reference to other standards or tests. I find that the *Police Act* in Part II is a code and the principles of statutory interpretation noted above do not require consideration of authorities or tests for misconduct arising outside that code.

I Serious Blameworthy conduct and section 77(3)(i)(i)

(127) As noted above, a key element of Sgt. B's submissions relates to the application of the concept of "serious blameworthy" conduct in relation to alleged misconduct pursuant to section 77(3)(i)(i) of the *Police Act*.

(128) Counsel for Sgt. B made reference to OPCC file 2020-17317 ("File 17317") in support of the conclusion that the principles of serious blameworthy conduct must be included in an analysis of possible misconduct under section 77(3)(i)(i).

(129) Counsel for the Commissioner notes that the concept of serious blameworthy conduct has no application to an intentional disclosure, such as that alleged with respect to Sgt. B. In particular, Counsel for the Commissioner relies on the decision of Adjudicator Baird Ellan in OPCC file PH 2019-01 at paragraphs 125 to 127:

> [125*] Members' Counsel in their Submissions took the position that this passage requires a finding of bad faith, malice, or ulterior motive. Considering the passage in context, I do not accept that interpretation. As I read Scott, which dealt with an allegation of unlawful entry to a residence, Justice Affleck meant only that the mental element for that allegation, which is not specified in Section 77(3), was the same or similar to that for the types of misconduct specified in Section 77(3)(a)(ii). Justice Affleck was discussing what he found to be a failure by the adjudicator to distinguish between the issues. of lack of authority and abuse of authority. He found that it is not enough for an officer to have made a decision for which he lacked authority, there must be an additional analysis of his mental state.*
>
> *[126] That finding is consistent with another authority considering the issue of knew she lacked authority or ought to have known was rejected as a sufficient basis for a finding of misconduct. The court stated:*
>
> > [*42] ...The question of misconduct is different from whether a Charter breach occurred, and also from whether evidence obtained from an illegal search should be excluded. That is clear from the definition of the charged misconduct, which requires recklessness or intent. The "intent" cannot refer to the physical act of the search, because it is virtually impossible to conduct a physical search non-intentionally. It must refer to the mens rea, or state of mind of the officer. Recklessness must be interpreted in the same manner. The fact that an officer is ignorant of the law related to searches does not, by itself, indicate intent or recklessness. It is more in line with negligence, or, for that matter, poor training.*
>
> *[127] I agree with Commission Counsel that a finding of serious blameworthiness will be subsumed in a finding of recklessness and that Scott does not add an additional layer of analysis to the issue that arises here. As with unlawful arrest and unnecessary force where the mental element is specified, the analysis of blameworthy conduct in relation to a decision to enter a residence unlawfully will depend on whether the decision was made deliberately despite knowledge of a lack of authority, or with recklessness as to whether that authority existed in the circumstances.*

(130) I find that the facts of File 17317 are clearly distinguishable from the circumstances of Sgt. B. In File 17317 the alleged misconduct focused on the possible reckless actions of the member in question in making a disclosure. The conclusion reached in that decision implicitly

considered serious blameworthy conduct as part of the analysis of recklessness on the part of the Member, but did not find that recklessness had been proven.

(131) Such is not the case with Sgt. B. The two disclosures made by Sgt. B were both intentional and, as such, an analysis of serious blameworthy conduct is neither required by explicit legislative provisions, nor at law.

J The broad scope of section 77(3)(i)(i) and implications for Members

(132) A final collateral matter relates to submissions from Counsel on behalf of Sgt. B that the inevitable conclusion of the Commissioner's submissions results in an unfair duty to members with respect to disclosure obligations of members under section 77(3)(i)(i) of the *Police Act*.

(133) The specific submission made on behalf of Sgt. B is that there must be some reasonable limits as to when public disclosure of information will constitute misconduct. Counsel's submissions on this point are as follows:

> *38. To further address this argument in the PCC's Reply, one can imagine many instances where records of a police agency may be intentionally but innocently disclosed that may not be "necessary in the proper performance of authorized police work." For example, officers' performance evaluations or commendations detailing their work on operations for prospective secondary or future employment, information about health and dental benefits to a practitioner, training materials or information included in a presentation to an external individual, such as presenting to high school students, detailing workplace or critical incident details to a counsellor, etc. Complying with the strict wording of this provision under the Act, these might all be deemed "disciplinary breaches of public trust", whether blameworthy or not.*

(134) Counsel for the Commissioner has submitted that section 77(3)(i)(i) establishes a "*clear bright line*" prohibiting the disclosure of any information obtained by a member in the course of performing professional duties, subject to section 77(4).

(135) During oral argument, the parties were asked to consider whether or not disclosure to a member of the public about a weather report provided by central dispatch would be caught by section 77(3)(i)(i) disclosure.

(136) Counsel for the Commissioner submits that the minor disclosure of a weather report would clearly result in a screened out complaint of misconduct as frivolous or vexatious.

(137) Counsel for Sgt. B submits that such a conclusion cannot be assured, and that any misconduct must be carefully considered within the framework of serious and blameworthy conduct.

(138) The parties were also asked to consider whether the descriptor "Improper" in section 77(3)(i)(i) had relevance in limiting the duty of nondisclosure.

(139) Counsel to the Commissioner submitted that the term "improper" did not define or limit disclosure duties arising under section 77(3)(i)(i).

(140) Counsel for Sgt. B suggests that the term "improper" must be given meaning and furthermore, that some reasonable policy limits to nondisclosure duties must be examined in the context of "serious blameworthy conduct".

(141) In considering these submissions, I must focus on the principles of statutory interpretation noted above. In particular, I note that the Legislature made different choices in section 77 of the *Police Act* as it defined differing types of police misconduct.

(142) As noted above, in some subsections, subjective considerations such as "good and sufficient cause" are clearly applicable. The legislative intent for such matters is obviously to afford some degree of flexibility in defining police misconduct where an appropriate explanation for action taken might exist.

(143) However, in section 77(3)(i)(i), there are no such qualifications. Only section 77(4) stands as a possible restriction on the broad rule established by section 77(3)(i)(i).

(144) I infer, therefore, that the text drafted was intended to craft a sharp line of demarcation on disclosure. The lack of qualifications or exceptions strongly supports the conclusion that the Legislature intended that police disclosure of information acquired by a member in the course of duties was to be strictly controlled.

(145) I further infer that any qualifications to that line of demarcation would only come as departments enacted policy, or specific direction to members on disclosure issues as part of "necessary authorized police work" under section 77(4) of the Police Act. Such policies could address the concerns raised by Sgt. B's submissions on these points.

(146) In many of the examples raised by Counsel for Sgt. B, and the weather information example canvassed during oral argument, the solution can be found in written department policy clearly approving the disclosure of certain information as "necessary for authorized police work" under section 77(4) of the Police Act.

(148) However, no such considerations apply to the circumstances of this case as there is no evidence of such clear policy or direction relating to the disclosure that took place by Sgt. B.

IX Analysis - Section 77(3)(i)(i) of the Police Act

(149) The *Police Act* often provides challenges with respect to statutory interpretation. Such is the case with the misconduct provision set out in section 77(3)(i)(i). Is it all disclosures of defined information by a member that are sanctioned, subject to the exception in section 77(4)? Or only improper disclosure of such information?

(150) I have carefully considered the detailed and comprehensive submissions of Counsel with respect to this matter. Clarity in terms of defining the scope of misconduct by way of an alleged breach of public trust under section 77(3)(i)(i) of the *Police Act* is critical to a fair assessment of the actions of Sgt. B.

(151) I find that as a starting point in my analysis, applying the modern approach to statutory interpretation, section 77(3)(i)(i) must be read with a view to harmonizing the provision with the overall text of the *Police Act*, the context set out in Part II of that Act and the purpose of that Act, which relates to the governance of police discipline.

(152) The Interpretation Act, RSBC 1996 c. 238, section 8, provides as follows:

> 8. *Every enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.*

(153) I find that a plain reading of the *Police Act*, Part 11, establishes:

(a) Defined acts of misconduct applicable to all members;
(b) A process to either submit complaints concerning alleged misconduct, or the opportunity for the Commissioner to review such facts and initiate an investigation;
(c) A process for the examination of complaints and allegation of misconduct;
(d) Provisions for the dismissal of complaints of misconduct if frivolous or vexatious;
(e) Processes for the investigation of misconduct allegations;
(f) Processes for the review of investigation reports to determine if misconduct allegations appear to be substantiated;
(g) An oversight second look at preliminary reviews by a retired judge in appropriate circumstances;
(h) A discipline proceeding to hear and consider evidence of possible misconduct facilitating member and complainant submissions;
(i) A review of those decisions by a retired judge in the context of a review on the record or public hearing in appropriate circumstances; and
(j) The imposition of disciplinary or corrective measures if required.

(154) Paul Ceyssens, author of *Legal Aspects of Policing,* notes at pp. 5-279 that the disciplinary process is intended to be serious given the stigma and sanctions that may be attendant upon a finding of misconduct.

(155) Section 126 of the *Police Act* provides that If a 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.

(156) As such, it is clear that frivolous or vexatious matters are generally not to be engaged in the discipline process. Furthermore, Adjudicators have a duty to focus any sanctions arising from substantiated misconduct by approaches that will correct or educate members unless unworkable or inappropriate.

(157) As noted in the submissions of Counsel to the Commissioner, the Supreme Court of Canada has recently provided direction with respect to one aspect of statutory interpretation in the decision *Quebec (Commission des droits de la personne et des droits de la Jeunesse) v. Directrice de la protection de la Jeunesse du CISSS A*, 2024 SCC 43. In that decision, the Court considered the principles of statutory interpretation that must be applied to a review of legislation. The Court found, in part, at paragraph 24, as follows:

> [*24] In this case, it is important to highlight a few principles that guide the interpretation of s. 91 para. 4 of the YPA. First, the YPA must be given a large and liberal interpretation that will ensure the attainment of its object and the carrying out of its provisions according to their true intent, meaning and spirit (see Interpretation Act, CQLR, c. I-16, s. 41; Protection de la jeunesse – 123979, at para. 21). However, just as the text must be considered in light of the context and object, the object of a statute and that of a provision must be considered with close attention always being paid to the text o of the statute, which remains the anchor of the interpretive exercise. The text specifies, among other things, the means chosen by the legislature to achieve its purposes.*

(158) I take from the foregoing, that the text of section 77(3)(i)(i) of the *Police Act* must be considered in light of the context and objective of the *Police Act*. Furthermore, any focus on the legislative intent with respect to consideration of misconduct matters arising under section 77(3)(i)(i) must closely consider the text itself as the best guide to the legislative purpose of the provision.

(159) With that the foregoing principles in mind, I find that with respect to section 77(3)(i)(i), the legislative intent is:

(a) To establish a clear and unequivocal duty not to disclose any information received by a member in the course of that member's duties, unless disclosure of such information is necessary for the proper performance of authorized police work;
(b) To establish that duty without exemptions or qualifications, other than section 77(4);
(c) To allow Police Department management, as opposed to members, to define authorized police work by policy and procedures established within the relevant Department;
(d) Not to include consideration of serious or blameworthy conduct in the analysis of possible disclosure misconduct by a member; and

(d) Not to authorize consideration of good and sufficient cause, good faith, lawful excuse, necessity or reasonableness as factors in assessing misconduct allegations.

(160) With respect to paragraphs (d) and (e) above, I note that the Legislature clearly had the option of including any, or all, of those qualifications or limitations on a member's duty with respect to disclosure of information acquired by a member in the performance of their duties, but did not do so.

Part X Misconduct Analysis of actions taken by Sgt. B

(161) The Legislature has defined *Improper Disclosure* unambiguously in s. 77(3)(i)(i) of the *Police Act.* When read in conjunction with s. 77(4), it requires proof of four elements:

(1) the member acquired information in the performance of duties as a member;

(2) the member disclosed or attempted to disclose the information;

(3) the disclosure was intentional or reckless; and

(4) the disclosure was not necessary in the proper performance of authorized police work.

(162) Considering the foregoing, the Record and submissions of Counsel, I find that Sgt. B:

(a) Acquired the MDT Message as a result of his duties as a SPS member while performing his role as a SPS Union representative;

(b) Disclosed the MDT Message to a member of the public and subsequently directed the public posting of the MDT Message between November and December of 2022; and

(c) Made both disclosures intentionally.

(163) With respect to the last issue, there is no evidence that these disclosures were made as a result of a legal duty imposed on Sgt. B and no broad based public policy that would exempt such disclosures from the accountability of section 77 of the *Police Act*.

(164) I am satisfied that Sgt. B and his colleagues at the SPS Union believed it important for the MDT to be made public. However, that disclosure was made for the purposes of meeting union objectives, not necessary for authorized police work.

(165) As such, I cannot find that the disclosures made by Sgt. B are protected by section 77(4) of the *Police Act.*

(166) I therefore find that Sgt. B has committed a disciplinary breach of public trust by intentionally making two improper public disclosures of information (the MDT Message) which had been acquired by Sgt. B in the course of his duties as an officer with SPS, contrary to section 77(3)(i)(i) of the *Police Act*.

(167) I therefore find that the Discipline Decision was incorrect in both the analysis of Sgt. B's actions, and the application of section 77(3)(i)(i) of the *Police Act* to those actions, for the reasons noted above.

Part XI Next Steps – Disciplinary or Corrective Measures

(168) In order to determine what disciplinary or corrective measures are appropriate, I require further submissions from the parties based on the findings set out in this decision.

(169) I am therefore ordering that any submissions to be made by:

(a) Counsel to the Commissioner be provided in writing on or before April 17, 2025; and
(b) Counsel for Sgt. B to be provided in writing on or before May 2, 2025.

(170) The parties will ensure that copies of their written submissions are delivered to the Registrar, and copied to the other parties.

(171) The Registrar will convene a telephone conference call with Counsel at a time convenient to the parties to review the section 126 process.

Brian M Neal

Brian M. Neal K.C. (rt)

April 4, 2025