

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

AND

IN THE MATTER OF A REVIEW UNDER SECTION 117

AND

IN THE MATTER OF ALLEGATIONS OF MISCONDUCT

AGAINST

CONSTABLE [REDACTED]

OF THE VANCOUVER POLICE DEPARTMENT

**NOTIFICATION OF MISCONDUCT AND NEXT STEPS PURSUANT TO
SECTION 117(7)**

- TO: Ms. [REDACTED] (Complainant)
- AND TO: Constable [REDACTED] (Member)
c/o Vancouver Police Department
Professional Standards Section
- AND TO: Mr. Clayton Pecknold (Commissioner)
- AND TO: Chief Constable Adam Palmer (Police Chief)
c/o Vancouver Police Department
Professional Standards Section
- AND TO: Inspector [REDACTED] (Discipline Authority)
c/o Vancouver Police Department
Professional Standards Section
- AND TO: Sergeant [REDACTED] (Investigator)
c/o Vancouver Police Department
Professional Standards Section

1. Overview and Timeline

[1] This is a Section 117 review of a decision of a discipline authority issued on July 13, 2021, pertaining to the conduct of Constable ██████████ of the Vancouver Police Department in an interaction with the complainant, ██████████, on June 25, 2019.

[2] Ms. ██████ filed a complaint on June 24, 2020 alleging conduct unbecoming a law enforcement officer, lack of courtesy, lack of professionalism, and rude, disrespectful behaviour. On August 13, 2020, the Police Complaint Commissioner ordered a *Police Act* investigation, resulting in a final investigation report delivered on June 28, 2021. On July 28, 2021, Ms. ██████ requested a review under Section 117. The Police Complaint Commissioner issued the Section 117 Notice of Appointment of Retired Judge on August 11, 2021. This review must be completed within 10 business days of my receipt of the applicable materials on August 12, 2021, therefore by August 26, 2021.

[3] The review process under Section 117 requires an independent determination of whether the investigator's report and the evidence and records referenced in it appear to substantiate misconduct and to require the taking of disciplinary or corrective measures. Although the review is preceded by a finding by the Commissioner that there is a reasonable basis to believe that the discipline authority's decision is incorrect, this is not a review of that decision or the reasoning behind it. It is a review of the information gathered by the investigator with a fresh determination of whether the evidence potentially discloses misconduct. Equally, this is not a determination of whether misconduct has been proven; rather a finding as to whether further action under the *Police Act* is justified.

[4] For the reasons that follow I have determined that the evidence appears sufficient to substantiate four allegations of misconduct under Section 77 of the

Police Act. The allegations are set out in Part 3. The requirements of Section 117(8) are addressed below under the applicable headings.

2. The Complaint and Conduct of Concern [Section 117(8)(a)]

[5] On [REDACTED] 29-year-old son, [REDACTED], who resided with her, left home and failed to return. Ms. [REDACTED] filed a missing person's report with the Missing Persons Unit [MPU] of the Vancouver Police Department on June 23, 2019, and the MPU commenced an investigation.

[6] On June 24, 2019, two MPU members attended Ms. [REDACTED] residence to [REDACTED]. It was not clear to her whether the note related to [REDACTED] disappearance. In it he referred to [REDACTED], and the MPU members assured Ms. [REDACTED] that there had been no incidents [REDACTED] involving [REDACTED]. No doubt this information gave Ms. [REDACTED] renewed hope that [REDACTED] would be found alive. Ms. [REDACTED] described the members of the MPU with whom she interacted as consistently professional, kind, gentle and compassionate.

[7] Unfortunately, [REDACTED] was not found alive. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[8] Ms. [REDACTED] complaint centres on the manner in which the news of [REDACTED] death was conveyed to her. Constables [REDACTED] and [REDACTED] were assigned by the MPU to provide the next-of-kin notification to Ms. [REDACTED] and to have a Victim Services worker present. They attended Ms. [REDACTED] residence and waited for the Victim Services worker, [REDACTED], to arrive. Constable [REDACTED] who was to do the notification, spoke with the MPU members about

the circumstances of [REDACTED] death. They advised her that Ms. [REDACTED] had made a missing person report, and was extremely worried and distraught.

[9] Ms. [REDACTED] was at her home with her [REDACTED], and Ms. [REDACTED], [REDACTED], when the officers knocked on the door. The three had seen the officers outside and knew that it was not likely to be good news. After the door was opened, each of the three family members describe Constable [REDACTED] as standing at the entry hallway to the apartment in a defensive, squared-off stance with her hands on her belt, and stating simply, "First of all, [REDACTED] is dead."

[10] Ms. [REDACTED] buckled at the knees, and Ms. [REDACTED] caught her. When she composed herself, she told Constable [REDACTED] that she needed to work on her delivery and that she should watch Grey's Anatomy to learn how to do it properly.

[11] The officers perceived that Ms. [REDACTED] had support from [REDACTED] and [REDACTED] and that the family did not want them to stay. After Ms. [REDACTED] provided some materials on grieving, they left.

[12] Ms. [REDACTED] waited some months before filing a complaint in order to reflect on the interaction at a time when she was less emotional. She decided to proceed because she did not want anyone else to have the same experience she had, on the worst day of her life. More detail regarding Ms. [REDACTED] complaint and the statements of those who were present is set out in the review of the evidence in Part 4.A.

3. Allegations Considered [Section 117(8)(c)]

[13] I have identified and considered the following potential allegations arising from the conduct of concern:

1. That on June 25, 2019, Constable ██████ committed discreditable conduct pursuant to section 77(3)(h), by conducting herself in a manner that the member knows, or ought to know, would be likely to bring discredit on the police department, by failing to meet professional standards in the delivery of a next-of-kin notification;
2. That on June 25, 2019, Constable ██████ committed neglect of duty pursuant to section 77(3)(m)(ii), by failing, without good or sufficient cause, to promptly and diligently prepare for, or review professional standards in relation to, the delivery of a next-of-kin notification;
3. That on June 25, 2019, Constable ██████ committed discourtesy pursuant to section 77(3)(g), by failing to behave with courtesy due in the circumstances towards a member of the public, ██████, in relation to the delivery of a next-of-kin notification; and
4. That on June 25, 2019, Constable ██████ committed abuse of authority, pursuant to section 77(3)(a), by performing her duties in a manner that tended to demean or show disrespect to a person, ██████, on the basis of that person's race, colour, or ancestry, or economic and social status.

4. Does the Evidence Appear Sufficient to Substantiate the Allegations? [Section 117(8)(d)(i)]

A. Review of the Evidence and Materials

[14] I will here review the evidence of the witnesses and members, with reference to related materials where relevant.

i. ██████

[15] In her complaint letter, Ms. ██████ described the interaction with Constable ██████ as follows:

...They all entered and were standing in the entrance hallway to my apartment. Constable ██████ was the first one to come in. Knowing she was there to tell me that my son had died, one might think she would

have some comprehension that this was going to be very emotional and uncomfortable. Her body language was very hostile and aggressive. Her hands were in her belt and in a defensive stance. There was no preface when she entered the room to inform me that that my son had died. She simply said:

“First of all, ██████ is dead.”

There were no consoling words or compassion in her delivery. It was so clinical, distant, curt, and antagonistic. It was as though she was just going through the motions. She was very detached and impersonal...

After regaining my composure, the initial shock when my knees gave out on me and I was completely traumatized by the news. I regained my faculties and told her that she needs to work on her delivery. Would Constable ██████ clear disrespect, tactless, inconsiderate, callous and insensitive delivery had been the same if I was Non-Indigenous, if ██████ had not had interactions with the police in the past and if ██████ death had not happened near the downtown eastside of Vancouver? (As written.)

[16] Ms. ██████ stated in her letter that both Constable ██████ and ██████ looked at Constable ██████ with disbelief when she delivered the news, and that ██████ was so surprised she asked Constable ██████ “what is second of all”. However, in his interview with the investigator discussed below, Constable ██████ denied that he was taken aback by the delivery, and in Ms. ██████ interview with the investigator, she clarified that her sister had thought that, but did not say it out loud.

[17] Ms. ██████ explained in her interview that her reference to Grey’s Anatomy when she responded to Constable ██████ arose from her having seen an episode entitled, “Meredith’s Speech to Interns”¹, in which Dr. Grey instructed interns on how to deliver information about a deceased loved one. She went back to watch it again after this experience.

¹ <https://www.youtube.com/watch?v=BF3mdTqhoR8>, May 26, 2018.

[18] In relation to her comment about how Constable ██████████ would have treated a non-Indigenous person, Ms. ██████ noted that the file materials she later received from the department included a notation that she was Indigenous. In fact the General Occurrence Report contains two entries to that effect, under “ethnicity” and “linkage factors.” She questioned whether Constable ██████████ would have provided the news in the same manner to a doctor in a West Vancouver home.

[19] Ms. ██████ felt that Constable ██████████ had treated the notification as an inconvenience and that she was just “checking a box” in relation to her duties before she got off shift.

[20] Ms. ██████ said she was traumatized by the experience and suffered from nightmares in which she hears that statement again and sees Constable ██████████ face. She saw Constable ██████████ ██████████ about 10 months after ██████████ death. She immediately recognized her and became distraught. A friend who was with her, ██████████, went to assist ██████████ ██████████ and described Constable ██████████ interaction with her as cold and aggressive.

[21] After her experience with Constable ██████████ Ms. ██████ reviewed the Vancouver Police Department Regulation and Procedure Manual². She believes Constable ██████████ did not uphold the specific standards in the Code of Ethics, Part 4.1.2, of preserving the dignity of all persons or striving to attain excellence in the performance of her duties. Ms. ██████ would like Constable ██████████ to be held accountable, and to receive discipline, counselling, and sensitivity and cultural awareness training.

² <https://vpd.ca/policies-strategies/vpd-regulations-procedures-manual/>

ii. ██████████

[22] Ms. ██████████ ██████████ ██████████, supported her version of the incident, that Constable ██████████ provided no introduction before stating, “First of all, ██████████ is dead,” while standing “hard core”, “like a prison guard,” in the hallway, two feet away from Ms. ██████████ without asking her to sit down. Ms. ██████████ thought this was the “worst way” she could have done it, and immediately wondered what could be second. She recalled Constable ██████████ and Ms. ██████████ being sympathetic, but Constable ██████████ just standing there, “void of emotion,” and saying nothing further. Ms. ██████████ said she was not aware of what the protocol would be in a situation like that, but imagined it was not that. She wondered what would have happened if Ms. ██████████ had been alone.

iii. ██████████

[23] Ms. ██████████ stated in her interview that she and Ms. ██████████ had gone to comfort Ms. ██████████ due to ██████████ disappearance, and that when they saw the police arrive with a “counselor” they knew it was not likely to be good news. She also recalled that Constable ██████████ had come in, stood in the hallway, and stated, “First of all, ██████████ is dead,” without saying, “I am sorry to inform you,” or asking Ms. ██████████ to sit down. Ms. ██████████ collapsed and Ms. ██████████ caught her. She described it as “very blunt”, and said a little compassion would have changed it completely. She said the delivery was the worst part of it, and she was concerned that it not happen to anyone else.

iv. ██████████

[24] Ms. ██████████ stated in her interview that she and Ms. ██████████ encountered Constable ██████████ at ██████████ that they came upon on their way home from work. They stopped to render aid, as Ms. ██████████ has her first aid certificate. While she was attending to ██████████, Constable ██████████ intervened to ask her what she was doing there. Ms. ██████████

described Constable [REDACTED] demeanor and the way she carried herself as “out of the ordinary.” She felt like the officer was turning the incident “into a drug bust,” that she had no sympathy, and was “dead cool.” She noticed that Ms. [REDACTED], and she found her at the back of Ms. [REDACTED] vehicle, distraught. Ms. [REDACTED] told her it was the officer who had told her about [REDACTED]

v. [REDACTED]

[25] Ms. [REDACTED] was interviewed on November 20, 2020. She recalled going to Ms. [REDACTED] home with a male and female officer to perform a next-of-kin notification. The female officer notified Ms. [REDACTED] and Ms. [REDACTED] remembered thinking that the way she did so “was very... it seemed, just the... way she delivered it was somewhat insensitive, just like kind of her... body language.” She did not remember what Constable [REDACTED] said specifically.

[26] Ms. [REDACTED] recalled that Ms. [REDACTED] was distraught and it seemed as if she knew why they were there. She did not remember her asking if her son was dead, but it looked like she knew. Ms. [REDACTED] was aware [REDACTED] had been reported missing. There were two women present with Ms. [REDACTED] and the apartment was somewhat claustrophobic. They were all just in the hallway. The two women wanted to take over care of Ms. [REDACTED] so Ms. [REDACTED] and the officers left.

[27] It appeared from her statement that Ms. [REDACTED] had not been asked to recall the interaction until shortly before her interview. She said she remembered going on a next-of-kin notification around that time, with an officer who fit the description, and that specifically she gave quite a callous notification that was very abrupt compared to what Ms. [REDACTED] was used to seeing. She conveyed no empathy on her face and she seemed, not aggressive; but insensitive, like she wanted to get it done and go. Ms. [REDACTED] made an assumption that it was that experience that was the subject of the complaint.

[28] In relation to Constable [REDACTED] body language, Ms. [REDACTED] did not remember exactly what she was doing with her hands, but she seemed very casual, almost. Ms. [REDACTED] is aware that officers need to stand with their hands near their gun and she assumed that was what she was doing. Her face was very blank and she was talking “cool and tough guy, kind of”.

[29] It appeared to Ms. [REDACTED] that Ms. [REDACTED] had a support system with the two women. She would have stayed but they said, “No, just go.” Ms. [REDACTED] left her card, and continued to have some contact with Ms. [REDACTED] after that. Ms. [REDACTED] did not have notes about Ms. [REDACTED] ever expressing displeasure but had noted that she asked to speak with a superior or the officers’ Sergeant, which is what she always writes if there is an issue about an officer. Constable [REDACTED] did not look nervous to Ms. [REDACTED] “just like hard core, intense, almost.”

[30] Ms. [REDACTED] notes reflected that they were at the residence for about 14 minutes and that she provided Ms. [REDACTED] or the group with some resource packages. Ms. [REDACTED] had quite a few subsequent conversations with Ms. [REDACTED] A colleague of hers had contact with her before her son was found.

[31] In relation to how Constable [REDACTED] delivery was abrupt, Ms. [REDACTED] said she was “pretty sure she just came out and said it without an introduction, very, just like, he’s dead or something like that.”

[32] Ms. [REDACTED] has attended a number of next-of-kin notifications, and in her experience most officers are quite compassionate with their delivery. Some are more skilled than others, but overall there seems to be quite a bit of skill with it. Most officers are mindful of their body language and facial expressions. They generally give the recipients time to process the information, while needing to be direct.

[33] Ms. [REDACTED] said that while there is something to be said for being direct in relation to the fact that the person has died and how they died, which she

expected was probably part of the training, there are different ways to say it. Her view is that it should be stated in a way that expresses understanding of the recipient's pain. The delivery can vary depending on culture and other factors. In her experience, generally, Vancouver Police officers seem to be skilled at that.

vi. Constable [REDACTED]

[34] Constable [REDACTED] told the investigator in her interview on November 6, 2020 that she had spoken to the MPU personnel before going to Ms. [REDACTED] door. They told her where [REDACTED] body was, how he had died, and that Ms. [REDACTED] had made a missing person report. They also advised her to have Victim Services present because Ms. [REDACTED] was extremely worried and distraught about where her son was. She and Constable [REDACTED] waited 30 to 40 minutes "at the scene" for Ms. [REDACTED] to arrive, during which time she reviewed the MPU file.

[35] Constable [REDACTED] and the other two then attended into the suite. She found Ms. [REDACTED] to be very anxious and a little hostile. Ms. [REDACTED] and her sister came into the hallway "demanding to know" information from them. Constable [REDACTED] felt very uncomfortable, and based on her training, she decided the best thing was to tell her the truth, so she told her that her son [REDACTED] was dead.

[36] Ms. [REDACTED] fell onto the floor and her sister consoled her. Ms. [REDACTED] "lit into" Constable [REDACTED] about Grey's Anatomy. Ms. [REDACTED] provided a booklet on grieving, and they left.

[37] Constable [REDACTED] described it as a short encounter and expressed regret that Ms. [REDACTED] felt she was not compassionate enough. She said that there were so many people present that she believed it best for them to leave. She believed Ms. [REDACTED] did not seem to want them there or want compassion or help. If Ms. [REDACTED] had been alone or seemed overwhelmed, or her family was unhelpful, she would have stayed longer. Because she had "4 or 5" people there, Constable [REDACTED] felt it would be inappropriate to stay longer.

[38] Constable ██████ did not deny that she had said, “First of all, ██████ is dead,” as described by Ms. ██████ and her family members. She did not recall her specific wording. She reiterated that Ms. ██████ was very anxious, and said she came up to her aggressively as if to say, “spit it out, tell me why you are here”. Ms. ██████ did not say these words, but Constable ██████ could feel tension in the room, and Ms. ██████ and her sister came close to her as if they really wanted to know why they were there.

[39] Constable ██████ said she felt it was important to provide the information. The suite was small, Ms. ██████ family were “sitting in all the seats”, and Ms. ██████ was “demanding to know” why they were there.

[40] Constable ██████ again stated that she was extremely saddened that Ms. ██████ interpreted the interaction as hostile or discriminatory as that was not at all what she was trying to achieve. She just felt like it was a bad situation. She was nervous, noting that she did not like giving next-of-kin notifications; no one does.

[41] In a follow-up email after the interview Constable ██████ said she had a day of next-of-kin training at the Justice Institute, during which officers are advised to use direct and clear language about the status of someone’s loved one. She said that unfortunately this verbiage can come off as harsh, but they are trained to be direct and tell someone that their loved one is “dead” or “deceased,” to prevent confusion.

[42] Constable ██████ confirmed she had no Cultural Awareness training. She has been a police officer since 2017. She has taken Trauma Informed Practice since the incident. She had done one next-of-kin notification prior to this one, and numerous others since. She said every situation was different. Sometimes if she attended the scene of a sudden death she would take personal belongings to the next of kin. Sometimes she would stay longer to answer

questions. This was a very unusual situation because she did not attend the scene of the death, she was given information by the Missing Person's Unit (which turned out to be false), and when she entered Ms. [REDACTED] apartment she was aggressive, confrontational and had a number of family members on scene.

[43] Constable [REDACTED] did not recall saying anything before or after the statement that was attributed to her, nor did she recall Ms. [REDACTED] or her family members saying anything, before that.

vii. Constable [REDACTED]

[44] Constable [REDACTED] was interviewed on December 1, 2020. He did not make notes of the interaction at Ms. [REDACTED] residence, but had a clear recollection of the event, which was a next-of-kin notification for a person who had been deceased for several days and had just been identified.

[45] He and Constable [REDACTED] attended Ms. [REDACTED] residence with Ms. [REDACTED]. They discussed the matter and the next-of-kin notification when they arrived, before they went in. It was Constable [REDACTED] role to deliver the news. Constable [REDACTED] and Ms. [REDACTED] attended as support.

[46] Constable [REDACTED] said they knocked on the door, and when it was answered they were surprised that there were several people in the small apartment, which he described as a confined space with a lot of clutter. The officers and the occupants were standing in the entryway, inside a small hallway. He observed that there was no place where it would be convenient to come in and sit down.

[47] Constable [REDACTED] said that only Constable [REDACTED] spoke throughout the interaction. He described her as very direct and to the point. She spoke clearly and did not use any euphemisms. She identified who was the deceased's mother, and said, "[REDACTED] is dead." Constable [REDACTED] differed with Ms. [REDACTED]

claim that he appeared to be in disbelief as to how Constable ██████ delivered the news.

[48] Constable ██████ observed that Ms. ██████ was very distraught, as were the other family members. He remembered that she told Constable ██████ she should watch Grey's Anatomy to learn how to deliver this kind of information. He said Ms. ██████ did not provide any more information, and it did not appear that Ms. ██████ had any interest in speaking further with them, so they promptly left.

[49] He and Constable ██████ discussed Ms. ██████ reaction as they left and agreed that the delivery was "textbook". Constable ██████ was direct and to the point. She did not go above and beyond what is expected in a next-of-kin notification. Officers were trained not to fluff it up, hug or offer physical support or tissues. He noted that even Ms. ██████ said she was fine with the way it was delivered.

[50] Constable ██████ said that he and Constable ██████ had been partnered regularly prior to this call although he had not done any prior next-of-kin notifications with her. He was not surprised by her delivery. All three of them agreed it was direct and to the point, but there was no sense that it was offside or inappropriate.

[51] Constable ██████ himself had delivered next-of-kin notifications prior to this one. His delivery would be similar, given that the environment was not conducive to a sit-down conversation. Because Ms. ██████ had known ██████ was missing, she was likely aware of why they were there before they spoke. The "ground was set", and there was no opportunity to sit down or deliver the news in another manner. When they arrived, as he recalled, Ms. ██████ was crying and being consoled by her family members.

[52] Constable ██████ vaguely recalled receiving training at the Justice Institute three years prior, and he recalled "exactly thinking" that the way

Constable ██████ did it was the way they were trained, to be direct and clear, not use euphemisms like “passed away”, take a victim services worker for support, and leave if the subject declined support.

[53] Constable ██████ was unaware of Ms. ██████ ethnicity but observed that she looked First Nations.

B. Analysis

[54] The test under Section 117 in relation to each of the allegations is whether the evidence appears sufficient to substantiate the particular misconduct. It may be differentiated from the test applied at a disciplinary proceeding, of whether the misconduct “is proven.” Given that a finding of potential misconduct under Section 117 results in a disciplinary proceeding before the Section 117 reviewer as discipline authority, it is clear that the threshold at this stage is somewhat lower. It is equally clear that the reviewer must not draw premature conclusions that misconduct has been proven.³

[55] With this in mind I turn to an assessment of each allegation.

i. Discreditable Conduct

[56] Section 77(3)(h) provides that discreditable conduct is “when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department.” It goes on to provide a list of specific kinds of discreditable conduct, without limitation of the prior wording.

[57] The investigator, in his analysis contained in the final investigation report, relied on the case of *Toy v. Edmonton Police Service*, 2014 ABCA 353, a leading

³ Scott v. British Columbia (The Police Complaint Commissioner), 2016 BCSC 1970, <https://canlii.ca/t/gvcbr>, paragraph 39.

authority on the nature of discreditable conduct in relation to police discipline.

The following passage from that case sets out the test that the Alberta Court of Appeal adopted:

[11] The Presiding Officer articulated what counsel agreed was an acceptable test for determining discreditable conduct. In sum, the test involves an objective evaluation as would be made by a dispassionate reasonable person fully apprised of the circumstances and with due regard for any applicable rules and regulations (or law) in force and with due regard to good faith considerations where the officer under scrutiny was required to exercise discretion under the circumstances...

[58] Some cases in BC have suggested that it is the viewpoint of a trained or experienced police officer from which the objective analysis should be made, at least, in cases dealing with whether an officer has acted reasonably.⁴

[59] In this matter, an objective informed assessment of the matter might be provided by the Victim Services worker, ██████████, who had considerable experience in observing next-of-kin notifications. Her perception of whether Constable ██████████ conduct met the basic professional standard might serve as an appropriate yardstick. Her evidence in relation to observing next-of-kin notifications supports a conclusion that most officers in the Vancouver Police exhibit a level of compassion appropriate to the circumstances. It also supports a conclusion that Constable ██████████ delivery stood in sufficiently marked contrast to those that it was memorable for Ms. ██████████

[60] Ms. ██████████ recollection of the event supports Ms. ██████████ assertion that nothing was said by either Ms. ██████████ or Constable ██████████ before Constable ██████████ stated that ██████████ was dead. Ms. ██████████ use of the words such as “insensitive”, “abrupt”, “callous,” “tough” and “hard core” could support a finding

⁴ See e.g. Tiwana Public Hearing, https://opcc.bc.ca/wp-content/uploads/2017/04/2014-02_Adjudicator_Baird_Ellan_Decision.pdf, at p. 16 and cases cited.

that Constable ██████ delivery departed markedly from the departmental standard, as exemplified by what by Ms. ██████ had observed in other cases.

[61] The question under this allegation is whether firstly, Constable ██████ knowingly departed from the departmental standard, and if so, whether she knew or ought to have known that doing so might tend to bring discredit on the department. Both questions are wrapped up in whether she had sufficient training or information available to her to know what the standard was, and deliberately or recklessly declined to follow it.

[62] In relation to professional standards, I note that the section of the Vancouver Police Regulation and Policy Manual on sudden death notifications is included in the materials gathered by the investigator. It provides as follows, in Section 1.6.38:

The identification of the deceased and notification of next-of-kin is the responsibility of the initial investigators and shall be completed in as timely a manner as practicable. The next-of-kin notification shall be conducted in person. An indirect notification (e.g. by phone) is not recommended and is only acceptable when no practical alternative exists.

[63] The section is remarkable in its brevity, and I would not think it fully represents either the departmental standard, or the sum total of the information available to Constable ██████ in considering how to perform her duty. In any event, neither Constable ██████ nor the investigator mentioned that they reviewed or relied on this passage; rather, the focus was on the nature of training that the officers received.

[64] If Constable ██████ training was inadequate to equip her to meet an accepted standard in next-of-kin notifications, a finding of good faith might be supported⁵. In this respect, Constable ██████ assessment of the delivery as

⁵ *Lowe v. Diebolt*, 2013 BCSC 1092, at para. 52, *Scott v. British Columbia (The Police Complaint Commissioner)*, op cit, footnote 3

“textbook” has relevance. However, it appears that neither Constable [REDACTED] nor Constable [REDACTED] articulated a recollection of the Justice Institute training sufficiently to demonstrate that this notification adhered to the instruction they received. Both recalled the requirement of being direct and using clear language, but neither mentioned nor seemed to recognize what appears, based on other officers’ approaches as observed by Ms. [REDACTED] and a cursory survey of publicly available resources on the topic of death notifications⁶, to be an overriding requirement for compassion.

[65] I find it unlikely that the training Constable [REDACTED] received omitted that significant requirement. I would think that the need for compassion as a priority in such matters must have found its way into both Vancouver Police standards, and Justice Institute training. If in fact Constable [REDACTED] had a good faith belief that the delivery in this case was “textbook” from a Justice Institute or BC policing perspective, to my mind, that assertion would need to be supported by further evidence.

[66] I am also concerned that both Constable [REDACTED] and Constable [REDACTED] evidence regarding their experience at the scene appeared to differ from that of the others who were present. In particular, the description of the actions of Ms. [REDACTED] Ms. [REDACTED] and Ms. [REDACTED] as aggressive, hostile, and confrontative before the news was delivered would appear to be at odds with the evidence of the other four persons who were present.

[67] In addition, Constable [REDACTED] was apparently unable to articulate any words that were spoken before she said [REDACTED] was dead, although she said she interpreted Ms. [REDACTED] and her family members as “demanding” to know why they were there. Further, both Constable [REDACTED] and Constable [REDACTED] suggested that there were numerous family members in the apartment,

⁶ See Appendix A

occupying the available seats, while it appeared, based on the family members' evidence and that of Ms. [REDACTED] that there were only three occupants of the apartment and that they all attended at the door. A reasonable conclusion would appear to be that any seats available in the apartment were unoccupied. This raises apparent issues of credibility regarding the two officers' description of the interaction and may reflect on Constable [REDACTED] level of good faith.

[68] The available conclusion that both officers designed a version of events that supported a "textbook" delivery may cast some doubt on the veracity of their recollection of the events. In addition, Constable [REDACTED] did not make notes of the interaction; he was regularly partnered with Constable [REDACTED] and he was aware, as he left the residence, that Ms. [REDACTED] was unhappy with the manner in which the news of [REDACTED] death was delivered. It might be natural for him to tend to recall the events in a manner favourable to his partner. Four other witnesses apparently saw it differently.

[69] I would add to this the apparent willingness of the officers to attribute responsibility to Ms. [REDACTED] for the requirement that the news be delivered as abruptly as it was. Ms. [REDACTED] approach, or apparent (but non-verbal) imploring of the officers to deliver the inevitable news, which she perhaps expected in the circumstances, would appear not to justify the clinical delivery that by all accounts ensued. If the officers' evidence is intended to suggest that it did, it would appear to raise further credibility issues and detract from Constable [REDACTED] assertions that she believed the notification adhered to appropriate standards or that she inadvertently departed from them.

[70] Constable [REDACTED] was in uniform and on duty, performing a duty that carried considerable responsibility toward a member of the public. Based on that there is evidence that would appear to substantiate a finding that she would recognize that the likely effect of failing to meet the departmental standard would be discredit to the department.

[71] My conclusion at this stage is that the evidence appears sufficient to substantiate a finding that the manner in which Constable ██████ delivered the news of ██████ death did not meet professional standards and that she knew or ought to have known that it would be likely to bring discredit on the department.

ii. Neglect of Duty

[72] Section 77(3)(m) of the *Police Act* defines the misconduct of neglect of duty as it relates to this matter as, “neglecting, without good or sufficient cause, to ... (ii) promptly and diligently do anything that it is one's duty as a member to do.”

[73] A recent case of the Ontario Civilian Police Commission⁷ approved the following summary of the legal test for neglect of duty:

[18] ... The charge of neglect of duty is a serious charge under the Code of Conduct. To be convicted of this charge, it must be shown that:

The member was required to perform a duty, and the member failed to perform this duty because of neglect, or did not perform the duty in a prompt and diligent manner.

Once proven, the member, to avoid discipline, must show that:

[The member] had a lawful excuse for not performing the duty in the prescribed manner.

...It is not an absolute offence...there must be either “wilfulness” or a degree of neglect which would make the matter cross the line from a mere performance consideration to a matter of misconduct”.

[74] It is clear that Constable ██████ had a duty to notify Ms. ██████ of her son's death, which she performed, and indeed, performed promptly. The issue, as I have characterized it in the second allegation, is whether Constable ██████ had a duty to promptly and diligently prepare for, or review

⁷ Neild v. Ontario Provincial Police, 2018 ONCPC 1 (CanLII), <https://canlii.ca/t/hpv6h>

professional standards in relation to, the delivery of the next-of-kin notification to Ms. [REDACTED] whether she exhibited a disciplinary level of neglect in failing to do so; and if so, whether she had good or sufficient cause. I will observe that to some extent, the issue of intent is wrapped up in the assessment of good or sufficient cause. As well, the analysis of neglect of duty overlaps somewhat with that of discreditable conduct.

[75] The question as I see it is whether Constable [REDACTED] used the time available to her, 30 to 40 minutes as she estimated it, to avail herself of information she might have used to prepare for the very significant notification that she was to make. I have already observed that there are ample online resources dealing with the topic. Whether or not sufficient training is provided in person at the Justice Institute, today's world is clearly one in which people take ready instruction from Google searches, as, apparently, did Ms. [REDACTED]. A period of that length might arguably have afforded an opportunity to review a considerable number of resources on how to deliver to a person possibly the worst news they were ever to receive.

[76] I am not aware from the materials what information is available to an officer sitting in a patrol car for that period of time, nor what training Vancouver Police receive in relation to preparing for a duty they are unfamiliar with.

[77] Ms. [REDACTED] in her complaint letter referred to a list of four guidelines she had identified in her research: location, language, body language and leave. She submitted that Constable [REDACTED] only complied with the first and the last of those. It is not clear whether that list is part of the training that police officers receive at the Justice Institute. However, as I have stated, it is clear that a cursory search of the topic easily reveals such statements as, "Remember: Your

presence and compassion are the most important resources you bring to death notification.”⁸

[78] The investigator in this matter, in reviewing the issue of neglect of duty, referred to the common law and statutory duties to uphold the law. He made no reference to specific duties or training in relation to a next-of-kin notification. The section of the Vancouver Police Regulation and Procedure Manual dealing with sudden death was included in the materials gathered by the investigator, but not referred to in his report, and there is no indication that Constable ██████████ reviewed it before the notification. In any event, as I have indicated, it is not particularly instructive.

[79] I have had reference to the Canadian Police Knowledge Network online course, *Death Notification*⁹, a two-hour course the purpose of which is described in the introduction as follows:

It teaches police officers, victim support workers, and other emergency services personnel the most current, proven, and compassionate approaches to death notification. It also provides learners with the skills necessary to lay their own apprehensions about death aside while they support the next of kin during the notification and help them cope with a death.

[80] It can be seen from this course that the emphasis from the outset is on compassion and support, not speed and brevity. I would be surprised to learn that the Justice Institute’s day-long course had a significantly different emphasis. If the CPKN course bears any similarity to the course Constable ██████████ received, it is difficult to understand how she so dramatically deviated from the trained approach. Far from “textbook,” in reviewing the readily available

⁸ <https://coronertalk.com/ct14>

⁹ <https://www.cpkn.ca/en/course/deathnotification/>

resources, the evidence would appear to substantiate a conclusion that Constable ██████ simply did not read the book.

[81] Notably, the CPKN course cites research as the first element of a notification, although this relates primarily to obtaining information about the deceased, which Constable ██████ appears to have done. The materials disclose that the notation in the MPU file about the location where ██████ body was found was erroneous, which was painful to Ms. ██████ but not attributable to a lack of research on Constable ██████ part.

[82] The course also recommends getting information about the cultural background and customs of the recipient. An example of the need for such information might be provided by the Australian Indigenous experience in which some communities' customs dictate that the deceased not be referred to by name.¹⁰ It appears on the evidence that Constable ██████ did not look into Ms. ██████ heritage, beyond identifying her as Indigenous from the file.

[83] In describing her practice now, having done several such notifications, Constable ██████ said she often brings personal items to the notification to give to the family. This is a practice that some available resources, including the CPKN course, specifically say not to do, as a deceased's family needs time to psychologically prepare before receiving those. I would expect, if this is a generally accepted guideline, that it was also part of the Justice Institute program. This would appear to support a conclusion that at the time of the interview Constable ██████ was still relying on her memory of her training, and apparently remembering the opposite of what she was trained to do.

¹⁰ <https://www.creativespirits.info/aboriginalculture/people/mourning-an-aboriginal-death>

[84] Contrary to what Constable ██████ recalled from the Justice Institute training not to “fluff it up, hug or offer physical support or tissues,” the CPKN course recommends showing emotion, stating, “words and behaviour work together to demonstrate the compassion that must be present when delivering this very difficult message.”

[85] In relation to the actual delivery of the news, the course states, “Preface your notification with, ‘I have some very bad/tragic news’, which starts the thought process and may soften the impact of the news.” This is the first point included in the training on how to deliver the news. Again I find it difficult to believe that it was not included in the Justice Institute training. If it was, however, it appears to be something that Constable ██████ either forgot or failed to review. The CPKN course then goes on to recommend that the officer be very straightforward and direct, using common vocabulary; a part of her training that Constable ██████ does appear to have recalled.

[86] I recognize that it was not open to Constable ██████ to “take a course” before she attended at Ms. ██████ residence. I am nonetheless concerned that despite the ready availability of online resources dealing with these basic principles, and the time available to her, the evidence appears to substantiate a conclusion that Constable ██████ did no preparation or research beyond the information she received from the MPU, before knocking on Ms. ██████ door.

[87] I expect it should have been evident to Constable ██████ that she had largely forgotten her training, given the basic steps she appears to have omitted. The evidence points to an inference that Constable ██████ failed to recognize the solemnity of the duty that had been entrusted to her, and cared little to ensure that she performed it carefully, in line with her training or departmental standards. Words like “callous” and “hard core” used by Ms. ██████ and Ms. ██████ family members portray an apparent mindset that appears to have

underpinned the officer's approach to the assignment, and would appear at this stage to satisfy the mental element of neglect.

[88] As for whether there might be good or sufficient cause for that neglect, I am concerned about Constable ██████ observation in her interview that Ms. ██████ didn't know her, and that the MPU "sent a random officer to go tell her this information." While I believe she was attempting to convey sympathy for Ms. ██████ she said this in the context of attributing responsibility to Ms. ██████ for her abrupt delivery of the news. In that context, the "random officer" observation might support a conclusion that Constable ██████ considered this assignment an imposition; something randomly or inappropriately assigned, and that she may have carried that attitude through to her preparation and subsequent delivery of the news.

[89] My view at this stage is that the evidence appears sufficient to substantiate a finding that Constable ██████ neglected or declined, without good and sufficient cause, to perform her duty in relation to the next-of-kin notification.

iii. Discourtesy

[90] Section 77(3)(g) defines as misconduct, "failing to behave with courtesy due in the circumstances towards a member of the public in the performance of duties as a member."

[91] The investigating officer referred to the case of *S.B. v. Horyski*¹¹, which contains the following passage in relation to the misconduct of discourtesy under the Manitoba *Law Enforcement Review Act*.

¹¹ [2008] MJ No. 476 (QL)

11 Discourteous conduct, in order to constitute a disciplinary default must reach a level equal to an abuse of authority. It must be more than merely being discourteous.

[92] The Manitoba *Act* is different from the BC legislation, however, it is clear that in BC, as well, mere discourtesy is not misconduct. It must be considered whether the officer adhered to the level of courtesy “due in the circumstances,” which clearly imports an element of intent and admits of lawful excuse arising from the context in which officers find themselves. In the *Horyski* case, the conduct of an officer who participated in a lengthy detention of a woman and her young child without offering them food, water or use of the bathroom, was found not to have reached a level of abuse of authority. The officer admitted that he “could have been more accommodating”¹².

[93] Relying on *Horyski*, the investigator concluded:

49. In the present complaint, there is no evidence of objective actual discourtesy – subjective offense alone is not sufficient, no matter how honestly held – so there is no opportunity to examine the evidence to assess whether it had sufficient seriousness or gravity to constitute professional disciplinary misconduct.

[94] The discipline authority found that Constable ██████ acted in good faith, and relying on Constable ██████ assessment of the delivery as “textbook,” expressed the view that Constable ██████ conduct did not cross the threshold into the misconduct of discourtesy.

[95] Ms. ██████ complaint as it relates to discourtesy is that Constable ██████ was rude and disrespectful, and treated her as if she was not human. She drew an inference that this was due to racial discrimination, which is

¹² Op cit., paragraph 12.

discussed in the next section. In relation to discourtesy under the *Police Act*, it is necessary to consider whether Constable ██████ failed to meet a standard of conduct that was due to Ms. ██████ in the circumstances. Clearly Ms. ██████ took offense, but the initial question is whether the conduct of the officer was objectively discourteous.

[96] The issue of discourtesy as a breach of duty in a healthcare labour relations context was considered in a case¹³ relating to long-term care residents. The following passage has some relevance:

191 In the end, each case must be judged on its specific facts. The board hesitates to pronounce any kind of definitive rule. In the present case, the essence of the grievor's misconduct was discourtesy. To distill the interaction in this fashion is not to minimize it. E.M. was fully entitled to courtesy. The grievor failed in her duty. Snapping at a co-worker, customer, friend or family member is unacceptable in ordinary social interaction but generally will be tolerated if it was momentary and minor. *Not so in care of the elderly and vulnerable where expectations are much higher.* The breach here was minor but still significant. (Emphasis added.)

[97] It will be seen from this passage that the standard of care in relation to vulnerable people is higher than that in relation to the general public. Ms. ██████ was clearly known to Constable ██████ to be a vulnerable position, in the circumstances. Simply by virtue of the nature of the call, she was due the courtesy of compassion, which Constable ██████ did not extend to her.

[98] In considering whether the delivery was objectively discourteous, the descriptions of the delivery by the four observers may assist. Ms. ██████ called

¹³ [Revera Long Term Care Inc \(cob Valleyview Care Centre\) v Manitoba Nurses' Union, Local 24 \(Central Park \(Brandon\) Nurses\) \(Marshall Grievance\), \[2010\] MGAD No 5, 101 CLAS 120, 2010 CarswellMan 851](#)

it hard core, like a prison guard, and the “worst way” it could have been delivered. Ms. ██████ said it was very blunt and that the delivery was the worst part of the experience. Ms. ██████ described it as insensitive, casual, abrupt, cool, and tough, and contrasted it with the manner of “most” other police officers.

[99] Certainly the appearance to those observers, as well as Ms. ██████ is that Constable ██████ was uncaring and devoid of compassion. My view is that the evidence substantiates that Constable ██████ apparent failure to extend or demonstrate any compassion constituted discourtesy, from an objective standpoint.

[100] I agree with the investigator that it is the mindset of the officer that determines whether misconduct is made out. As with other types of misconduct, the test I will apply is whether the officer intentionally or recklessly failed to extend the courtesy due in the circumstances, being a call to impart the tragic news of Ms. ██████ son’s death to her.

[101] If Constable ██████ acted this way knowing it did not amount to “due” courtesy, misconduct would be substantiated; however, in my view, the evidence falls short of apparently substantiating intentional discourtesy. The remaining question is whether Constable ██████ recklessly neglected to extend due courtesy to Ms. ██████

[102] I note, firstly, that Constable ██████ is not claiming inadvertence. Her evidence in the interview essentially denies that any greater courtesy was required by the circumstances. She goes further, and suggests that any shortcomings in the manner of delivery were due to Ms. ██████ behaviour. While she also expresses regret, it appears to be more about the perception of Ms. ██████ than about taking responsibility.

[103] In light of this evidence, there would seem to be no room for a suggestion of good faith or inadvertence. Taken with what I have already observed about

Constable ██████ apparent failure to prepare for the notification and her duty to know the standard of care, her subsequent attitude toward the incident appears to raise the conduct over the threshold of objective discourtesy into what might be considered a callous or cavalier disregard for Ms. ██████ sensibilities, and potentially substantiate a finding of recklessness.

iv. Abuse of Authority

[104] Abuse of authority under Section 77(3)(a) has been the subject of numerous decisions. The first part of the section defines abuse of authority as “oppressive conduct”. It goes on to provide specific examples of behaviour that would amount to abuse of process, “without limitation” of the earlier wording. In other words, other non-specified oppressive conduct may also be an abuse of authority.

[105] Two of the subparagraphs of Section 77(3)(a), paragraphs (i) and (ii), specify that in order to be established, the particular oppressive conduct must be accompanied by a mental state of intention or recklessness. Case law, most notably *Scott v. The Police Complaint Commissioner*¹⁴, has required proof of an element of blameworthiness in relation to other oppressive conduct that is not included in the types of misconduct specifically listed in the section. Similarly to the law relating to discourtesy, it is not every act of oppression that constitutes misconduct. The officer must have a mental state beyond inadvertence or honest mistake that raises the conduct into the realm of misconduct.

[106] The allegation under this paragraph, as I have identified it, relates to the type of oppressive conduct specified in paragraph (iii), which does not include a mental element in its wording:

¹⁴ *Scott v. British Columbia (The Police Complaint Commissioner)*, op cit, footnote 3.

(iii) when on duty, or off duty but in uniform, using profane, abusive or insulting language to any person including, without limitation, language that tends to demean or show disrespect to the person on the basis of that person's race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or economic and social status.

[107] Taking my instruction from the *Scott* case, in order to be misconduct under the *Police Act*, firstly, I conclude that the actions of the officer in using profane, abusive or insulting language must be intentional, reckless, or otherwise blameworthy. For instance, it would not be sufficient to use a word in one's own language that they did not know was insulting in another.

[108] Secondly, when one is considering specific language under the second part of the section, I would think that the officer must know or be reckless as to whether the language would tend to be demeaning or show disrespect.

[109] Finally, if the alleged misconduct relates to showing disrespect "on the basis of" one of the listed traits, I would expect the officer must know about that trait, and the potential effect of the words in relation to it. For instance, it seems unlikely that merely contravening a custom of an individual's heritage group without knowing they were a member of that group, or that it was a sign of disrespect, would be misconduct.

[110] I note that paragraph (iii) of Section 77(3)(a) specifically applies to the use of "profane, abusive or insulting language." The remainder of the paragraph, which imports the element of disrespect on the basis of the specific traits of the recipient, does not limit the words that precede it. Conversely, those subsequent passages relating to disrespect and particular traits do not expand on the prior words of the section, which appear to require that the misconduct be language-based.

[111] In my view, however, non-language-based abusive or insulting behaviour, particularly that which tended to disrespect a person on the basis of a listed trait, would be caught by the general wording in subsection (3)(a), as oppressive conduct amounting to abuse of authority. Whether or not it is the language that Constable ██████ used that caused offence, the question is whether her conduct tended to disrespect Ms. ██████ on the basis of her heritage, and whether Constable ██████ knew or was reckless as to its effect.

[112] Interestingly, two of the elements in the list of guidelines for death notifications that Ms. ██████ identified in her complaint letter are “language” and “body language.” I believe these were based on information from a friend of Ms. ██████ who was an RCMP officer, and it seems probable that these or something similar to them were identified as elements of a death notification in the Justice Institute training program. At very least I would think the importance of words and demeanour must have been emphasized, as in the CPKN course.

[113] It seems arguable that Constable ██████ use of terse words and cold or hard body language, in a situation where, as I have found, she would appear to have been trained to adhere to a standard of compassion, might support a finding of “insulting language” under this paragraph. Nonetheless, if it is not specifically insulting language, it would appear to be insulting behaviour, and therefore caught by the general part of the section. The evidence appears to substantiate that it was immediately perceived by Ms. ██████ and others present as demeaning and disrespectful.

[114] The meaning of the word, “insult” in relation to the defence of provocation for murder was described in the case of *Taylor v. The King*, [1947 CanLII 6 \(SCC\)](#), [1947] S.C.R. 462, 89 C.C.C. 209 at 223, as “injuriously contemptuous speech or behaviour; scornful utterance or action intended to wound self-respect; an affront; indignity”. It seems likely the test for a defence to murder has a higher threshold than that for a disciplinary matter.

[115] In a very recent police discipline case, *Biring v. Peel Regional Police Service*,¹⁵ the Ontario Civilian Police Commission upheld a finding of discreditable conduct under the Ontario legislation, by the use of “profane, abusive or insulting language.” A recruiting officer had made disparaging remarks about the South Asian community while interviewing a South Asian recruit.

[116] In considering whether the language was insulting, the Commission applied an objective standard, and specifically held that it need not be proven that the officer intended his words to be offensive, if they would be considered so by an objective informed observer. While the respondent sought to import an element of intent into the word “insulting” as distinguished from “offensive,” the Commission observed that the Oxford Canadian Dictionary includes “insulting” in the definition of “offensive”, and found that, in any event, in relation to discriminatory conduct, intent was irrelevant. The Commission applied the reasonable informed observer test only to the issue of whether the officer was aware his actions might bring disrepute to the department,¹⁶ a component not applicable under Section 77(3)(a).

[117] Ms. ██████ believed that Constable ██████ conduct was attributable to Ms. ██████ race, colour, and/or ancestry and to ██████ economic and social status. Constable ██████ knew of Ms. ██████ Indigenous status and knew that ██████ had died in circumstances that might suggest a certain social and economic status. I have observed that Constable ██████ did not apparently inquire into Ms. ██████ Indigenous heritage or ancestry.

[118] While I am unaware as to whether there is specific training or authority pertaining to death notification of Indigenous persons (except the Australian article mentioned above), there is most certainly copious material documenting

¹⁵ 2021 ONCPC 2 (CanLII), <<https://canlii.ca/t/jd18j>>

¹⁶ Op cit., paragraphs 27 to 30.

the likelihood of intergenerational trauma, in this province and the country. I would be most surprised if this was not a factor well-known to Vancouver Police officers. While one must be careful not to assume trauma simply based on knowledge of a person's Indigenous status, the fact of Ms. [REDACTED] Indigenous status, and the circumstances of [REDACTED] death, would appear to have heightened the need for research into Ms. [REDACTED] experience, or at very least highlighted the possibility of a need for greater, not less, compassion.

[119] I note that Constable [REDACTED] has had trauma training, now, but not yet any relating to cultural awareness. Although I do not find that the evidence substantiates a conclusion that Constable [REDACTED] callous delivery in this matter was consciously related to Ms. [REDACTED] heritage or [REDACTED] social status, in light of Constable [REDACTED] apparent lack of consideration of their background, or how a next-of-kin notification might best be delivered to a person of Indigenous ancestry, the evidence would appear to substantiate a finding that she was reckless about the effect of her actions on Ms. [REDACTED] specifically as an Indigenous person.

[120] Considered on the whole, and mindful of the test at this stage, the evidence appears sufficient to substantiate a finding that Constable [REDACTED] behaviour toward Ms. [REDACTED] was abuse of authority, within the meaning of Section 77(3)(a), and specifically, that it was demeaning to Ms. [REDACTED] on the basis of her race and ancestry.

5. Notification of Misconduct and Next Steps [Sections 117(7) & (8)(d)]

[121] I have determined that the evidence referenced in the report appears sufficient to substantiate the allegations set out in Part 3, and to require the taking of disciplinary or corrective measures.

[122] Assuming Constable [REDACTED] has no service record of discipline, the range of disciplinary or corrective measures I am considering includes:

- (a) pursuant to Section 126(1)(d), reassignment to the Missing Persons Unit for a period of three months;
- (b) pursuant to Section 126(1)(f), training or retraining relating to delivery of next-of-kin notifications, including retaking the Justice Institute of BC course as available and taking the CPKN Death Notification course;
- (c) pursuant to Section 126(a)(h), written confirmation of a review and completion of all of the materials provided in Appendix A to this decision;
- (d) pursuant to Section 126(1)(f), training or retraining relating to sensitivity and cultural awareness with an emphasis on Indigenous matters, as available;
- (e) pursuant to Section 126(1)(e), a requirement that the member not perform any next-of-kin notifications until after completion of the items in paragraphs (a) to (c) above and she thereafter work under close supervision when attending next-of-kin notifications and not perform any next-of-kin notifications until she has observed at least six next-of-kin notifications conducted by at least three different officers with greater experience in conducting them; and
- (f) pursuant to Section 126(1)(h), three written apologies, with full acknowledgement of the nature of the misconduct, approved by a member of the VPD Professional Standards Section, to Ms. ██████ Ms. ██████ and Ms. ██████ after completion of the training specified in paragraph (d) above.

[123] Within 10 days of receipt of this Notification Constable ██████ may file a request under Section 119 to call witnesses at a discipline proceeding. Depending on the date of receipt by Constable ██████ this date will be approximately September 13, 2021.

[124] Constable ██████ will be offered a prehearing conference under Section 120. If she declines a prehearing conference, a discipline proceeding must be convened within 40 business days from the date of this Notification, or by October 25, 2021. I ask that I be advised through the VPD Professional Standards Section whether Constable ██████ will accept the offer of a prehearing conference, within 5 business days of the later of:

(a) the expiry of the time for making a request for witnesses under Section 119(1) if no such request is made; or

(b) if a request is made, the date of a decision pursuant to Section 119(3)(a) rejecting a request to call witnesses.

[125] If Constable ██████ does not accept the offer of a prehearing conference within the time set out in the paragraph above, the offer is withdrawn and a discipline proceeding will be convened on or before October 25, 2021.

6. Complainant's Right to Make Submissions [Section 117(8)(b)]

[126] Ms. ██████ will receive a copy of this Notification. This section is directed toward notifying her of the next steps and her right to make submissions.

[127] Sections 113 and 120 of the *Police Act* together provide that:

(1) At any time after receiving a copy of the final investigation report in this matter but at least 10 business days before the date of any discipline proceeding, or, if a prehearing conference is to be held, within 10 business days after receiving notice under Section 120(6), the complainant may make written or oral submissions, or both, to the discipline authority or the prehearing conference authority, as the case may be, in relation to one or more of the following matters:

(a) the complaint;

- (b) the adequacy of the investigation;
- (c) the disciplinary or corrective measures that would be appropriate.

[128] For Ms. [REDACTED] benefit, the matter will either be resolved at a prehearing conference or it will proceed to a discipline proceeding. The interrelation of Sections 113 and 120 in this matter means that Ms. [REDACTED] may make submissions any time between her receipt of the final investigation report (which she should already have received) and the later of the deadline provided for by the prehearing conference authority under Section 120(6) and 10 business days prior to October 25, 2021, or October 8, 2021.

[129] The complainant should be aware that copies of any submissions she makes will be provided to Constable [REDACTED] the Police Complaint Commissioner, the investigating officer, the prehearing conference authority, and/or myself as the discipline authority pursuant to Section 117(9).

DATED at Sechelt, British Columbia, this 26th day of August, 2021.



Carol Baird Ellan
Retired Judge

Appendix A

Available Resources on Death Notification

1. <https://www.cpkn.ca/en/course/deathnotification/>
2. <https://coronertalk.com/ct14>
3. https://istss.org/ISTSS_Main/media/Documents/CSTS_FS_Notifying-Family-Members-After-Unexpected-Deaths.pdf
4. <https://madd.ca/pages/volunteering/training/>
5. <https://www.fbi.gov/news/stories/death-notification-with-compassion>
6. <https://www.officer.com/home/article/10249064/death-notification-breaking-the-bad-news>
7. <https://www.deathnotification.psu.edu/>
8. <https://www.creativespirits.info/aboriginalculture/people/mourning-an-aboriginal-death>
9. https://www.bccsu.ca/wp-content/uploads/2018/11/Grief_Handbook.pdf
10. <https://www.youtube.com/watch?v=BF3mdTqhoR8>