

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

AND

IN THE MATTER OF A DISCIPLINE PROCEEDING

AND

IN THE MATTER OF ALLEGATIONS OF MISCONDUCT

AGAINST

CONSTABLE ██████████

OF THE VANCOUVER POLICE DEPARTMENT

---

DISCIPLINE AUTHORITY'S REASONS  
FOR PROPOSED DISCIPLINARY OR CORRECTIVE MEASURES

Section 128(1)  
(Supplement to Form 4)

---

TO: Constable ██████████ (Member)  
c/o Vancouver Police Department  
Professional Standards Section

AND TO: Mr. Kevin Westell (Member's Counsel)

AND TO: Mr. Clayton Pecknold (Commissioner)

**1. Overview and Context**

[1] These are my reasons provided under Section 128(1) of the *Police Act* for proposed corrective or disciplinary measures following a finding of misconduct at a discipline proceeding

against Constable ██████████ of the Vancouver Police Department. These reasons accompany a Form 4 Disciplinary Disposition Record and will accompany my report under Section 133.

[2] On November 27, 2023, following the discipline proceeding, I found proven a single allegation of neglect of duty relating to the manner in which the member conducted a next-of-kin notification. I found the member recklessly failed to adhere to police standards requiring compassion as an element of the notification. The recipient of the complaint, the mother of the deceased, described the effect on her of the manner of delivery in her complaint. The reasons on the discipline proceeding contain a full description of the elements of the misconduct. I will refer here only to the facts that pertain to the assessment of the appropriate corrective measures.

[3] Section 126(1) contains a list of the available disciplinary and corrective measures. I will consider them in sequence in Part 2 below, under the applicable headings. As an overriding factor, Section 126(3) of the *Act* states that if the discipline authority considers that one or more disciplinary or corrective measures are necessary, an approach that seeks to correct and educate the member takes precedence, unless it is unworkable or would bring the administration of police discipline into disrepute.

[4] In the Section 117 Notification in relation to this matter, I outlined a range of disciplinary or corrective measures I was considering at that stage, as follows:

- (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 [the complainant, her sister, and her niece], after completion of the training specified in paragraph (d) above.

[5] The Section 117 Notification was delivered on August 26, 2021, over two years ago. After a review at the BC Supreme Court, the matter returned to a discipline proceeding before me in late March 2023. During the discipline proceeding I sought and received a Section 132 further investigation report to acquire the training materials in relation to the delivery of next-of-kin notifications provided to the member during her training at the Justice Institute. After receiving that report, I re-offered the member a prehearing conference, suggesting that if the member accepted responsibility, the measures contained in paragraphs (b), (d) and (f) above would be sufficient.

[6] The member declined the offer of a prehearing conference and the discipline proceeding continued. After the finding of misconduct, counsel for the member, Mr. [REDACTED] filed written submissions on December 11, 2023, in which he submitted that the member had undertaken training since the Section 117 recommendation, and that the only necessary and appropriate measure would be a letter of apology as outlined in paragraph (h).

[7] The complainant filed her submission under Section 113 in relation to corrective and disciplinary measures on October 8, 2021. She refiled a submission at a later stage of the proceedings, but I will consider only the first one. If the second is different or she disagrees with the outcome here, there will be an opportunity for her to request a review following receipt of the package she will receive under Section 133.

[8] In her submission, the complainant stated as follows:

In the beginning of my complaint it was not my intention to make an example of [the member]. I had hoped that my experience would encourage her to want to be a better police officer. It is evident that she has the professional attitude needed to be a police officer of the VPD.

I do not have faith that [the member] understands how her actions have affected me. It has been nearly 839 days since my son died. I am still haunted by the words; "FIRST OF ALL, [REDACTED] IS DEAD".

Under the circumstance of her inability to still accept responsibility or accountability for her actions I do not believe the disciplinary or corrective measures listed above suffices based on the alleged charges.

I propose to take one or more of the following disciplinary or corrective measures in relation to the member from both the examples below.

**Appropriate Discipline Measure**

- (1) dismiss the member;
- (2) reduce the member's rank;
- (3) suspend the member without pay for not more than 30 scheduled working days.

**Mandatory Measures of Discipline**

- (1) transfer or reassign the member within the municipal police department;
- (2) require the member to work under close supervision;
- (3) require the member to undertake specified training or retraining;
- (4) require the member to undertake specified counselling or treatment;
- (5) require the member to participate in a specified program or activity

[9] I will refer in more depth to the complainant's impassioned submissions as I consider the factors relevant to the outcome here. I will say at this point that while I accept her submissions in entirety, it is my view that those upper penalties are not available or appropriate measures in this matter, for the reasons expressed below.

## 2. Section 126(2) Factors

### (a) The seriousness of the misconduct

[10] In relation to the finding of misconduct at the discipline proceeding, I found that the member failed to fulfill the duty that was outlined to her in her training and in the materials supplied to her, and that there was ample material made available to her with respect to the scope of her duty, which she neglected to reference<sup>1</sup>. I also stated as follows:

[103] I note the member's observation in her interview with the investigator that the complainant didn't know her, and that the [Missing Persons Unit] "sent a random officer to go tell her this information." While I would like to believe she was attempting to convey sympathy for the complainant in making this remark, she said it in the context of assigning responsibility to the complainant for her abrupt delivery of the news. Considered in that context, the "random officer" observation might suggest that the member considered this assignment an imposition; something randomly or inappropriately assigned, and that she may have carried that attitude through to her preparation, or lack thereof, and to her subsequent delivery of the news. This aspect of the evidence points toward a more intentional neglect of duty and a predisposition to get the task done without the level of preparation prescribed by the training materials, because the member was of a view that it was not reasonably assigned to her. That would elevate the intent beyond recklessness if it were the case.

[11] I stopped short of a finding that the member's mindset was intentionality, but the nature of the misconduct would appear to be somewhat higher than simple neglect. In his submissions, Mr. ██████ said that the member accepted that she had lacked compassion in her delivery of the notification and had proceeded to the discipline proceeding only for the purpose of dispelling the allegations that her misconduct "was rooted in either intentional or reckless racial or socio-economic discrimination". As pointed out by Mr. ██████ she was successful in this regard, given that I found only the allegation of neglect of duty proven.

---

<sup>1</sup> Section 125 Reasons, paragraphs 100 & 101.

[12] The reasons for that finding are contained in the discipline proceeding decision. I will here observe, however, that the impact on the complainant, in light of her race and her son's socioeconomic status, cannot be disregarded. It is true that I did not find the misconduct to be motivated by bias. The member's lack of preparation occurred before the notification, and I found that it was the circumstances of the assignment rather than the identity of the recipient that underlay the officer's motivation and neglect. However, the existence of those factors is most certainly a consideration in relation to the seriousness of the conduct.

[13] In relation to the impact on her, the complainant stated as follows:

**Complaint**

Fourteen minutes is all it took for [the member] to change my life forever. Fourteen minutes to leave her car, enter my home, to tell me "FIRST OF ALL [REDACTED] IS DEAD", then go back to her car.

Fourteen minutes to have caused me for the past 839 days unimaginable pain and suffering.

[The VPD investigator and discipline authority] determined that a proper Next of Kin (NOK) was delivered in fourteen minutes without any misconduct or abuse of authority.

[The member] spent 30-45 minutes waiting for Victim Services outside my home. In this time she could have made sure the information she was providing about my son's death was correct. It was twice the amount of time of fourteen minutes that she took to deliver the NOK notification to me.

In fourteen minutes [the member] felt it was inappropriate to stay longer and it was best to leave because so many people were present and the apartment was small.

In fourteen minutes [the member] was more concerned about her level of being uncomfortable over the devastation she brought to me at that moment.

Those fourteen minutes [the member] took to give the NOK notification she still does not see any wrongdoing in her actions. *She has not taken responsibility for her behavior. She shows no accountability.*

Rather she deflects and blames me for her behavior for those fourteen minutes. Stating that I was aggressive, confrontational and hostile upon entry to my home. Giving her

reason to tell the truth in her words “FIRST OF ALL, ██████ IS DEAD”. She claimed I was demanding to know why they were there.

In fourteen minutes my world was changed forever. My heart was shattered and I was told that my only child had died in the most abrasive manner “FIRST OF ALL, ██████ IS DEAD”

It has been 839 days since those fourteen minutes made my world crash around me.

[My emphasis.]

[14] I pause to note that these comments were made in October 2021, after the Section 117 notification, but before the discipline proceeding. The complainant’s impression of the member’s attitude came from her statements to the investigator during the departmental investigation.

[15] The complainant also provided submissions on the adequacy of the investigation, as she is invited by Section 113 to do. Those are comments that I expect the department and the OPCC will consider, but they are not factors pertaining to the seriousness of the misconduct.

[16] The following section of the complainant’s submissions are relevant to the issue here:

Understanding Indigenous People, Culture and History

Indigenous peoples have been subjected to assimilation policies and practices that have created collective and individual intergenerational trauma resulting in negative impacts for many. Cultural alienation and intergenerational trauma caused by policies such as the residential school system, removal of Indigenous children from their families during the 60s scoop and ongoing child welfare practices, have affected relationships and contributed to the erosion of familial and community ties. This has had complex and tragic results, with ongoing consequences for many, such as high rates of serious physical health problems, issues with mental health and cognitive impairment, suicide, physical and sexual abuse, alcohol and drug abuse, interpersonal violence, family breakdown, and involvement both as victims/survivors and accused/convicted persons in the criminal justice system.

I suggest that Indigenous Sensitivity Training be mandatory for all members of the Vancouver Police Department. It is far too often Indigenous People face systemic racism

by the police and society. The intergenerational trauma and the treatment we have faced since colonization is important to understand and acknowledge. *As public servants that work in an area where overrepresentation of Indigenous people is uncontested it is important to be educated on cultural awareness.* [My emphasis.]

[17] These remarks serve as a needed reminder that in conducting their daily duties, police officers must be aware of the fact that their level of preparation and manner of approach needs to anticipate that a large proportion of the people they encounter will be suffering from intergenerational trauma, and that the impact of callousness in the conduct of their duties may well trigger or retraumatize such individuals.

[18] That is not to say that the member failed to prepare *because* she knew she might be dealing with an Indigenous person or because the death had occurred on the downtown east side. I found that the elements of abuse of authority were not fully established on the evidence, which would have required intentional or recklessly abusive treatment “on the basis of” race or economic or social status. That finding does not detract from the greater impact that the member’s lack of preparation might have and the fact that she failed to anticipate that this potential, or probable, additional vulnerability called for a higher level of preparation, not a lower one.

[19] In relation to the allegation of abuse of authority, I stated as follows:

[121]... the fact of the complainant’s Indigenous status, and the circumstances of her son’s death, would in my view at very least have underscored the need for greater, not less, compassion. These are factors for consideration in relation to the seriousness of the misconduct, but they are unlikely, in my view, to provide a foundation for a finding of abusive conduct attributable to heritage or social status.

[20] To be clear, I found that the misconduct fell short of abuse of authority because the member was recklessly ignorant of the requirement of compassion in her delivery and because it was not established that she was aware of the requirement and motivated by bias in failing to extend it. I also observed that there was as yet no standard requiring a tailored approach to



death notifications. It nonetheless needs to be recognized that the member may have been acting out of implicit or unconscious bias, and in any event, the greater impact here needs to be acknowledged and addressed.

[21] The fact that bias, whether conscious or implicit, continues to be endemic as a human trait may perhaps be sadly illustrated by the comments of two of the witnesses interviewed by the investigator, both of whom made an unfortunate comparison of the member herself to a [named] war criminal. Those overt ethnic references found their way into the final investigation report and will no doubt have been offensive to the member. They do not figure into the disposition of this matter except to underscore the fact that more work needs to be done.

[22] I will add that although I found only one allegation needed to be entered on the member's record, the fact that the conduct overlapped somewhat into other types of allegations should not be disregarded.

[23] In terms of mitigating features, I recognize that the member had done only one prior death notification, was a relatively junior member at the time, and has since received training in Indigenous issues, death notifications, and trauma-informed practice, as discussed below.

**(b) the member's record of employment as a member, including, without limitation, her or his service record of discipline, if any, and any other current record concerning past misconduct**

[24] The member has no service record of discipline and has in fact received commendations and positive performance appraisals during her policing career, which started in 2017, and a greater part of which has therefore now occurred after the incident date than before. Copies of such entries have kindly been provided by her counsel, and I am satisfied that she is of generally good character, conscientious, and proficient at her job.

**(c) the impact of proposed disciplinary or corrective measures on the member and on her or his family and career**

[25] Counsel says the member anticipates that none of the proposed measures would significantly prejudice or harm the member.

**(d) the likelihood of future misconduct by the member**

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

[26] These factors address the aspects of acknowledgement of responsibility and accountability that concern the complainant, highlighted in her submissions above. It is my practice to consider these two factors together.

[27] Counsel indicates that there is no evidence to suggest that the member will repeat her behaviour now that she has experienced a finding of misconduct. She “remains willing to improve herself and inspire the confidence” of others that similar conduct will not occur again.

[28] The materials filed on her behalf indicate that the member voluntarily completed one of the programs recommended to her in the Section 117 Notification, the CPKN online course on Death Notification, in July 2023, prior to the finding of misconduct on the discipline proceeding. She has also completed Indigenous Canada [U of Alta – August 23, 2023]; Crisis Intervention and De-escalation [CPKN – December 2022], and Trauma-Informed Practice Foundations [CPKN - October 2020]. The materials also indicate that she has more recently been accepting and excelling in field training of junior members and other mentorship opportunities.

[29] The course, Indigenous Canada<sup>2</sup>, appears to be an in-depth 20+ hour program, likely arising out of the Truth and Reconciliation Commission Calls to Action, which hopefully goes some way toward addressing the issue of conscious and unconscious bias against Indigenous peoples that persists in Canadian society. It is a sad commentary that these measures are only recently being implemented but a hopeful sign that the TRC Calls to Action will be taken seriously and in time, professionals who interact with Indigenous people will begin to recognize

---

<sup>2</sup> <https://www.ualberta.ca/admissions-programs/online-courses/indigenous-canada/index.html>

the need for informed and culturally competent approaches. I would hope that in due course, police departments will also develop a tailored and informed approach to death notifications.

[30] The education that the member has undertaken since the incident is a good step toward developing a better approach to death notifications herself, and addressing the issues that arose out of this incident. I am not aware however of how many further death notifications she has performed since the incident, nor the extent to which her approach has improved as a result of the additional training, which is for the most part very recent.

**(f) the degree to which the municipal police department's policies, standing orders or internal procedures, or the actions of the member's supervisor, contributed to the misconduct**

[31] The member's counsel submits that the departmental policy regarding compassion as an element of a death notification is not explicitly articulated in policy documents, and that had it been more directly drawn out for the member, it would have made her conduct more serious.

[32] In the reasons on the discipline proceeding, I agreed that the manual could be considered deficient: "Certainly, it appears that the VPD RPM could stand some elaboration on the topic, and perhaps the Pocket Guide and VOCC Letter should be imported into it, if they have not been by now." The latter two references are to items contained in the member's training materials at the Justice Institute and provided with the Section 132 report.

[33] While I found that the VPD manual was arguably lacking detail in relation to next-of-kin notifications, I also found that there was no basis on which the member could reasonably have concluded that its failure to reference compassion negated the standard she was taught at the academy. In considering this aspect, I noted that the VPD manual mentions the word

compassion only 3 times, which is particularly curious in light of the fact that compassion is one of the core values listed on the VPD website homepage.<sup>3</sup>

[34] I agree with member's counsel that the lack of emphasis on this component of a next-of-kin notification in the VPD manual might be considered a relevant factor in terms of the seriousness of the misconduct, or at least that if the manual contained more detail or incorporated the materials provided by the Justice Institute, the misconduct could perhaps be considered more serious. It might also be the case that the department did not foster sufficient field training or mentorship in relation to death notifications. In my view, however, these are primarily matters relating to policy recommendations, as discussed below.

**(g) the range of disciplinary or corrective measures taken in similar circumstances**

[35] I have reviewed decision summaries contained in recent OPCC Annual Reports pertaining to misconduct in relation to neglect of duty and other analogous types of misconduct. I will note that the only electronically searchable reports appear to be the two most recent ones, but I have also visually scanned and pulled out some results contained in a few of the earlier ones.

[36] In the next section, I set out summaries of all the entries relating to neglect of duty from the 2022-2023 Annual Report, to illustrate the range of conduct and outcomes that fall under this type of misconduct. In the summaries for following years, I have included only the results of incidents that bear resemblance to the conduct in this matter.

**i. 2022-2023 Annual Report:**

- OPCC 2021-19808 – Abbotsford – failure by three members to follow standards in relation to discontinuing vehicle pursuit – verbal reprimand, advice as to conduct, training.

---

<sup>3</sup> <https://vpd.ca/policies-strategies/vpd-regulations-procedures-manual/>

- 
- OPCC 2021-20735 – Abbotsford – failure to account for knife seized from suspect – advice as to conduct.
  - 2022-21726 – Abbotsford – failure to follow safe firearm procedures – advice as to conduct.
  - 2021-20726 – Delta – failure to follow standards in relation to storage of firearm – advice as to conduct.
  - 2022-21882 – Delta – failure to follow standards in relation to operation of a police vehicle through an intersection resulting in collision and minor injuries to two persons – one-day suspension, training.
  - 2021-20131 – Metro Van Transit – inadequate investigation – written reprimand.
  - 2022-22123 – Metro Van Transit - Member disposed of knife found on suspect in cells – four-day suspension.
  - 2021-20712 – Oak Bay – failure to follow standards in relation to length of breaks – written reprimand, training [ethics].
  - 2022-21564 – Port Moody – inadequate investigation of prohibited driving allegation – 2-day suspension.
  - 2022-22417 – Saanich – failure to adhere to standards related to firearms by taking service weapon on vacation – 3-day suspension.
  - 2019-15742 – Vancouver – inadequate documentation of serious harm incident – advice as to conduct.
  - 2021-20328 – Vancouver – failure to adhere to respectful workplace policy – written reprimand, training.
  - 2021-20757 – Vancouver – failure to adhere to respectful workplace policy by unwanted touching – 7-day suspension without pay, training.
  - OPCC 2022-21117 – Vancouver Police – failure to follow standards in relation to operation of a police vehicle – training and written reprimand.
  - OPCC 2022-21219 – Vancouver – member failed to complete a use of force [SBOR] report in connection with use of force during arrest of robbery suspect – advice as to conduct.
  - OPCC 2022-21306 – Vancouver – failure to comply with standards relating to email and conflict of interest by sending political communication – verbal reprimand, training.
  - OPCC 2022-21618 – Vancouver – inadequate documentation of use of force – written reprimand.

- OPCC 2022-22673 – Vancouver – failure to comply with respectful workplace policy by unwanted attention and physical contact – advice as to conduct.
- 2022-22917 – Vancouver – failure to adhere to respectful workplace policy in connection with hiring and treatment of applicant – written reprimand, transfer, training.
- 2018-15338 – Victoria – failure to control police dog and properly document incident – transfer, written reprimand.
- 2021-19193 – Victoria – failure to complete scheduled work shift without approval – written reprimand.
- 2021-20377 – Victoria – failure to adhere to respectful workplace standards by unwanted physical contact and directed sexualized comments to a junior officer – reassignment, training, written reprimand.
- 2022-21932 – Victoria – negligent discharge of armed firearm – written reprimand.
- 2021-19566 – West Van – failure to follow respectful workplace standards by bullying and unfair treatment – training, reassignment and restrictions on promotion pending completion of training, no instructor duties for 2 years.
- 2022-21734 – West Van – failure to follow standards re operation of firearms by accidental discharge during training exercise – written reprimand.

**ii. 2021-2022 Annual Report:**

- 2018-14986 – Vancouver Police – failure to promptly and diligently ensure that an injured person was properly assessed for injuries sustained in a use of force incident in the jail – written reprimand.
- 2018-15276 – Vancouver Police – inadequate search resulting in weapon and contraband found later by medical personnel [accompanied finding of unnecessary force in arrest] – one-day suspension.
- 2018-15476 – Vancouver – Serious Harm Investigation - Failing to follow departmental policy, “Boxing, Pinning, Ramming and Other Methods of Stopping a Vehicle”, specifically stopping a suspect vehicle when the speed was not appropriate for a box and pin, and for failing to obtain authorization from a supervisor during a second attempt, resulting in serious injury to suspect – verbal reprimand.
- 2018-15568 – Vancouver – Serious Harm Investigation - Failing to follow the provisions of Section 122 of the Motor Vehicle Act, Emergency Vehicle Driving Regulations, and Vancouver Police Department Regulations and Procedure Manual – written reprimand, training.

- 2019-16572 – Vancouver – unnecessary force by deployment of beanbag shotgun – advice as to future conduct.
- 2019-16869 - Victoria - failure to complete a thorough evidence based, risk focused investigation, failure to investigate intimate partner violence matters, and failure to ensure the safety of the Complainant – written reprimand, training.
- 2021-19804 – Vancouver - failure to follow policy relating to activating emergency lights and siren – written reprimand, training.

**iii. 2020-2021 Annual Report:**

- 2020-17551 – Vancouver – failing to appropriately communicate with a person reporting a sexual assault, by interrupting and asking questions that appeared to blame the victim – training in Trauma and Sexual Assault Investigation, Consent Law and Sexual Assault Myths.

[37] On the whole, fewer of the neglect of duty cases appear to arise from direct interactions with members of the public than from workplace or employment interactions. The ways in which neglect of duty might arise from a failure to follow policy in performing duties owed to members of the public likely vary widely, and there is likely considerable overlap with other types of misconduct, as there is in this case. This case might best be compared with neglect of duty resulting in injury (here, amplified trauma) such as the vehicle cases, jail injuries, and the mistreatment of a complainant in a sexual assault allegation.

[38] In light of the seriousness factors discussed in Part (a) above, it is also appropriate to consider abuse of authority cases, in my view. The most prevalent of those involve unnecessary force, and this case may in my view clearly be analogized to that, despite the fact that I did not find it to amount to abuse of authority. It clearly resulted in impact to the complainant that may be compared with physical trauma.

[39] Having conducted a survey of cases involving unnecessary force, I find that similarly to neglect of duty, the outcomes range from advice as to conduct through to short suspensions without pay. The latter generally occur in cases involving significant injury, but one perhaps

analogous case reported in 2022-2023<sup>4</sup> involved the unnecessary handcuffing of an Indigenous grandfather and granddaughter at a bank. The members in that matter received two- and three-day suspensions with extensive training and supervision requirements. That decision is available on the OPCC website<sup>5</sup>. I consider it to have sufficient relevance to this matter that I was led to consider whether suspension might be appropriate here, as suggested by the complainant. For the reasons articulated below, however, I have persuaded myself that is not the case.

**(h) other aggravating or mitigating factors**

[40] I will here observe that it has been a further two years since the complainant's remarks were submitted. I suspect that the loss of her son has not become any easier for her, and it is unfortunate that the actions, or failures, of the member, and the length of time this matter has taken to complete, have exacerbated the unfathomable pain that resulted from it. I will say more about the relevance of the delay in the section below.

**3. Analysis and Conclusion**

[41] At the outset, I need to be mindful of the overriding provision in Section 126(3) that corrective or educational measures are to be favoured if the public interest does not demand otherwise. As I interpret that provision, measures lower on the list set out in Section 126(1) should be considered (and rejected) before those that are higher on it.

[42] I will add that the purpose of a discipline proceeding is not to provide redress or compensation for the injury caused by a member, although that clearly needs to be recognized as a factor. As dictated by Section 126(3), the first aim of measures under Section 126 is to assess the need for and propriety of corrective action or education, in order for the member to improve their delivery of service to the public. Only if corrective action is unworkable or would

---

<sup>4</sup> 2020-17317 – Vancouver – p. 26 of Annual Report

<sup>5</sup> [17317 2022-03-17 Discipline Authority's Reasons on Disciplinary or Corrective Measures.pdf \(opcc.bc.ca\)](#)



bring the administration of police discipline into disrepute may disciplinary measures be taken, and they are nevertheless unlikely to be proportionate to the impact on a complainant.

[43] In light of the findings on the discipline proceeding and the above factors, I agree with the submissions of the member's counsel that an apology is appropriate; however, I do not agree that is sufficient to address the need for corrective action and education.

[44] I am mindful of the complainant's submissions and have seriously considered whether it would be appropriate to impose a suspension, despite that measure not being included in those proposed in the Section 117 decision. The complainant's focus on the taking of responsibility and accountability is in my view not misplaced.

[45] I am careful here, however, not to draw conclusions about the member's attitude toward the misconduct based on procedural steps that she took or did not take within the disciplinary process, likely in reliance on the advice of counsel or her advisors. While the complainant highlighted the passage of time in her submissions made over two years ago, now a further two years, I do not believe it is open to me to draw any conclusions about the member's attitude toward the misconduct arising from many of the steps that contributed to delay. Some may have relevance, however, as I will discuss shortly.

[46] I agree with the complainant's opening statement in which she expressed a belief that the member has the professional attitude needed to be a police officer of the VPD, and I do not believe that aptitude has been diminished by the passage of time engendered by the member's decisions to take steps within the disciplinary process that it was open to her to take.

[47] What there is here, however, is the absence of an early acceptance of responsibility. The member rejected two offers of a prehearing conference. She did not testify at the discipline proceeding or the hearing pertaining to appropriate measures. While in her counsel's submission, she now agrees that she did not exhibit compassion, that admission was not made until after the discipline proceeding. I will add that the fact that the member was offered lesser

measures at a prehearing conference is not something I consider to be binding or relevant at this stage of the proceedings.

[48] I therefore tend to agree with the complainant that there is still a need for acceptance of responsibility and accountability in this case. I recognize that the member has more service since the incident than before, and that she has taken courses addressing the issues that arose in the incident. I nonetheless consider that, in light of all the circumstances, there is a further need for corrective measures, in order to move the member toward recognition of the need for diligence in relation to her duties to vulnerable members of the public.

[49] I have concluded, however, after some reflection, that suspension is not a necessary or appropriate measure in this matter. I am mindful of the aspect of procedural fairness, and the fact that the member has not had an opportunity to address that measure. That could have been rectified by an adjournment for further submissions, had I been of the view that it was a measure I was seriously considering. I have come to the view, however, that the nature of the misconduct here can be addressed by further correction and education; that suspension would be disproportionate to the seriousness of the misconduct; and a failure to impose it would not bring the administration of police discipline into disrepute.

[50] In particular, I am mindful that the member was a junior officer at the time of the incident, the misconduct did not involve an overt application of force, the department may have had a role in the member's misconduct, the member has taken recent steps to address the misconduct through pertinent education, and she has no prior (or presumably subsequent) discipline entries on her service record. Finally, as a matter of fairness I do not believe it is open to me to go higher than the range proposed at the Section 117 stage. If I am in error in that or the measures I impose here are considered insufficient, there are remedies for that in the *Act*.

[51] I therefore now propose the following measures. The time periods specified are from the date of the Section 133 report which will be delivered 10 business days after this decision:

- (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), retake the Justice Institute of BC training on next-of-kin notifications within the next year and provide written confirmation to me of its completion;
- (c) pursuant to Section 126(a)(h), complete a review of all of the materials provided in Appendix A to this decision within three months, and provide written confirmation to me of completion;
- (d) pursuant to Section 126(1)(f), complete at least two further courses, including online training, in sensitivity and cultural awareness with an emphasis on Indigenous matters, within the next two years, with written confirmation to me of the courses completed;
- (e) pursuant to Section 126(1)(e), not perform any next-of-kin notifications until after confirmation of completion of the items in paragraphs (a) to (c) above (except as may occur under supervision while assigned to the Missing Persons Unit), and until after you have observed at least six next-of-kin notifications conducted by at least three different officers with greater experience in conducting them; thereafter work under close supervision in conducting next-of-kin notifications until you have conducted six such notifications; with written confirmation to me of the completion of each of these requirements; and
- (f) pursuant to Section 126(1)(h), provide three written apologies, with full acknowledgement of the nature of the misconduct, in a form approved by me, to the complainant, her sister, and her niece, within three months.

[52] In the past, I have made recommendations regarding policy at this stage, as invited by the wording of Section 133(2)(a)(ii), “any policy changes being considered by the discipline authority in respect of the complaint.”

[53] As I have alluded to above, I recommend that the VPD incorporate the next-of-kin Pocket Guide into the Regulations and Procedures Manual. I also recommend that new VPD members be provided with the Guide and a copy of the VOCC letter contained in the exhibits on the discipline proceeding, and be reminded to review the related sections in their recruit manual or materials, when they join the department. I further recommend that consideration be given to field training, mentorship, or supervision of new members in the conduct of next-of-

kin notifications. Finally, I recommend that consideration be given to guidelines for the conduct of death notifications tailored to Indigenous people.

DATED this 27<sup>th</sup> day of December 2023.

A handwritten signature in black ink, appearing to read 'C Baird Ellan', followed by a period.

Carol Baird Ellan, KC, Ret'd PCJ  
Discipline Authority

Appendix A follows on next page.

## 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](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](https://www.bccsu.ca/wp-content/uploads/2018/11/Grief_Handbook.pdf)
10. <https://www.youtube.com/watch?v=BF3mdTqhoR8>