



Office of the  
Police Complaint Commissioner

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British Columbia, Canada

PH: 2025-02  
OPCC File: 2024-25281

**NOTICE OF PUBLIC HEARING**

Pursuant to section 138(1) *Police Act*, R.S.B.C. 1996, c.367

**In the matter of the Public Hearing into the Conduct of  
Constables John Leivdal and Meghan Hamel  
of the Abbotsford Police Department**

To: Constable John Leivdal (#551) (Members)  
Constable Meghan Hamel (#558)  
c/o Abbotsford Police Department  
Professional Standards Section

And to: Inspector Lynae Chodat (Discipline Authority)  
c/o Delta Police Department  
Professional Standards Section

And to: Chief Constable Colin Watson  
c/o Abbotsford Police Department  
Professional Standards Section

**SUMMARY**

1. In the evening on January 23, 2024, an Indigenous man with no fixed address ("Affected Person") was walking in an area of Abbotsford close to outreach services and shelters for those experiencing homelessness. Constables John Leivdal and Meghan Hamel (together, the "Members") of the Abbotsford Police Department ("APD") were on patrol in plainclothes. They were driving an unmarked car when they noticed the Affected Person crossing the street outside of a crosswalk while pushing or pulling a shopping cart and carrying a large stick. They reported having to brake when the Affected Person crossed and proceeded to stop him for crossing a street outside a crosswalk. The Affected Person did not drop the stick when directed to do so and Constable Hamel reportedly heard him say the Members were going to kill him.

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Police Complaint Commissioner

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2. Constable Hamel called for assistance while Constable Leivdal moved to arrest the Affected Person. Things escalated quickly from there. The Members say a struggle ensued and the Affected Person tried to run. As the interaction unfolded, two other APD officers arrived in response to the call for assistance. In the end, the Members and the two other officers used substantial force to subdue and arrest the Affected Person.
3. In total, the officers report deploying OC spray, drawing and aiming a pistol (a lethal force option), delivering punches and/or elbow strikes to the head, face and elsewhere, applying two contact cycles of a Conducted Energy Weapon (“CEW,” commonly known as a Taser), and using knee strikes and various physical controls. By the time he was put in handcuffs, the Affected Person suffered significant injuries. He sustained facial injuries including a laceration under his right eye and hematomas on his forehead and over his left eye. CCTV cameras captured some of the events. Criminal charges were filed against the Affected Person but later stayed by the BC Prosecution Service.
4. I have determined that it is necessary in the public interest to call a public hearing into allegations that the Members abused their authority during their interactions with the Affected Person. The Members’ interaction with a marginalized and apparently fearful Indigenous man rapidly escalated in ways that appear disproportionate to any initial concerns they may have had about someone crossing a street outside a crosswalk, or a perceived failure to immediately comply with verbal commands. This initial interaction set the tone for the entire police response. In essence, I am concerned with the proportionality, necessity and reasonableness of the force used in this case and the apparent lack of de-escalation.
5. For public confidence in policing to be maintained, full accounting is needed into why the Members approached the Affected Person the way they did, and why they quickly used substantial force options rather than take available opportunities to step back and try to de-escalate. A public hearing will allow a retired judge as an adjudicator to hear directly from witnesses about these matters and make any necessary findings or recommendations for changes to APD policies or practices. It is the fastest and most efficient way to bring this serious matter to a full and final resolution.

## **BACKGROUND**

### **The Ordered Investigation**

6. Section 89 of the *Police Act* (Act) requires the chief constable of a municipal police department to immediately report to the police complaint commissioner (“Commissioner”) if a person dies or suffers serious harm or a reportable injury as a result of the operations of the department.
7. On January 24, 2024, the Office of the Police Complaint Commissioner (“OPCC”) received information from the APD pursuant to s. 89 of the Act in relation to an incident which occurred on January 23, 2024. In brief, the APD reported that the Members had approached the Affected Person to detain him for failing to use a crosswalk, and the Affected Person was non-compliant and confrontational, punching Constable Leivdal before fleeing on foot. The APD further reported that additional officers attended, and the Affected Person continued to be assaultive but was eventually taken into custody and transported to cells, where he was seen by Emergency Health Services (EHS) and transported to hospital.
8. After receiving this information, the OPCC made initial follow-up inquiries regarding various matters, including the extent of the Affected Person’s injuries, and the availability of any relevant CCTV footage. It was eventually determined that some but not all the incident was captured on video without audio.

### **The OPCC Notifies the IIO**

9. Section 177.1 of the Act requires the OPCC to notify the Independent Investigations Office (“IIO”) if it receives a complaint or report that a member has, among other things, caused a person serious harm.
10. On May 9, 2024, the OPCC notified the IIO about the incident pursuant to s. 177.1 of the Act, expressing the view that photos of the Affected Person’s injuries showed significant facial trauma that could amount to serious harm.
11. On July 5, 2024, the IIO notified the OPCC that it would not be investigating and considered the matter to be suitable for a discipline investigation overseen by the OPCC. The IIO found the Affected Person did not experience scarring, disfigurement, or any other injury that would amount to serious harm within its understanding of that term.

### **The OPCC Orders an Investigation**

12. On August 16, 2024, I ordered an investigation under s. 93(1) of the Act into the conduct of the Members and the two additional APD officers who had also attended in response to a call for assistance. I expressed my view that each of the APD officers may have committed (i) *Abuse of Authority* contrary to s. 77(3)(a)(ii)(A) of the Act, including by intentionally or recklessly using unnecessary force, and/or (ii) *Neglect of Duty* contrary to s. 77(3)(m)(ii) of the Act, including by providing reports or statements of questionable accuracy, comprehensiveness, or detail, relative to one another and/or the available video.
13. In my order, I directed that the investigation be conducted by an investigator external to the APD ("External Investigator"). I also designated a discipline authority external to the APD ("External DA").

### **External Investigation and Final Investigation Report**

14. The External Investigator conducted an investigation into the incident. On June 27, 2025, the External Investigator submitted a Final Investigation Report (FIR) to the External DA.
15. Among other things, the FIR summarizes various reports and statements provided by the APD officers involved with the incident, as well as a civilian witness who saw the final stages of the arrest. The FIR also states that, in the company of an APD officer, the External Investigator approached the Affected Person in the community to obtain a statement about the matter. According to the FIR, the Affected Person said he did not want to talk to the External Investigator, did not recall the incident, and just wanted to leave to go to the park. Without a statement from the Affected Person, the Members provided the only evidence regarding portions of the incident that were not captured on video or witnessed by others.
16. According to information contained in the FIR:
- a) The Affected Person is an Indigenous man of no fixed address who had no outstanding warrants. Neither the Members nor the civilian witness identified the Affected Person as Indigenous at the time. The Members say they learned of his Indigeneity after he had been taken into custody, based on information about the Affected Person in police databases.
  - b) On the evening of January 23, 2024, the Affected Person was walking in Abbotsford. He was pushing or pulling a shopping cart full of sticks and also carrying a large stick. The size and shape of the stick cannot be confirmed as it does not appear to have been seized as evidence after the incidents that took place that evening, nor photographed.

- c) The Members had to brake when he crossed the street in front of them, outside of a crosswalk. They decided to stop him for a *Motor Vehicle Act* infraction. They also said they wanted to check him for outstanding warrants and/or had concerns about his mental health. There are no reports he had engaged in any threatening behaviour towards anyone.
- d) After crossing the street, the Affected Person proceeded down a laneway. The Members did not follow the Affected Person but rather came around and entered the laneway from the other direction. They parked their vehicle with the headlights directed at the Affected Person. Constable Leivdal approached the Affected Person and told him multiple times to drop the stick. Constable Hamel heard the Affected Person say they would kill him and he was not dropping the stick. The Members did not appear to reassess the situation given the Affected Person's apparent fear and, instead, Constable Hamel called for additional police support.
- e) Constable Leivdal approached the Affected Person and deployed OC spray to his face without warning. The Affected Person dropped the stick, covered his face with his hands and turned to walk away. Constable Leivdal reported that the Affected Person reached towards his waistband. Constable Leivdal then drew his pistol and aimed it at the Affected Person, ordering him to get on the ground.
- f) The Affected Person got on his knees with his hands raised but did not lie prone. Constable Leivdal holstered his pistol and approached with the intent of applying handcuffs. He used his foot to push the Affected Person to the ground. The Members report the Affected Person then stood back up and assumed an aggressive stance. Constable Leivdal says that, without warning, he began throwing punches to the Affected Person's face. The Affected Person attempted to block punches and is reported to have swung back once, hitting Constable Leivdal on the shoulder. The Affected Person then started to run away.
- g) Constable Leivdal broadcast that the Affected Person was running and was arrestable for assaulting a police officer. He did not advise of the force he had used before the Affected Person ran. The Members pursued the Affected Person, who eventually stopped running. Around this time, two additional APD officers separately arrived in response to the calls for assistance. A good portion of events from this point forward are captured on local CCTV footage and were partially witnessed by a civilian. The prior events were not captured on video and there were no independent witnesses.

- h) The video footage appears to show the Affected Person slowly backing into view, briefly lifting his arms then lowering them to his sides. Seconds later, Constable Leivdal enters the frame approaching the Affected Person and proceeds to strike him in the head. A melee ensues which is quickly joined by Constable Hamel and the other two officers. Based on the video, it appears the struggle lasts approximately 30 seconds.
- i) During this time, the Members and the other officers report using punches, elbow strikes to the face, strikes to the back, and various physical controls. The officers report that the Affected Person resisted and struggled, for example by tucking his hands under his chest. One of the officers utilized the stun feature of her CEW on the Affected Person's back, which is intended to cause significant pain to gain compliance. The Affected Person is said to have grabbed the CEW, which he let go of after being ordered to do so and subjected to further strikes. The officer then repositioned the CEW and ran it for a full cycle on the Affected Person's leg. The officers then handcuffed the Affected Person and took him into custody.
- j) A civilian witness says that APD officers were giving commands to the Affected Person before and throughout this melee, but he was not complying.
- k) After the Affected Person was handcuffed, one of the officers advised him that he was under arrest for obstruction, assaulting a police officer, and disarming a police officer. The Affected Person was taken to cells. He was released on an undertaking to appear. EHS attended and took him to hospital. He was placed in a waiting room but left before being seen by a doctor. An EHS report says he sustained a laceration below his right eye, a swollen nose with deviation to the left, and hematomas to his forehead and above his left eye. Photographs taken by EHS show the Affected Person with trauma to his face and blood on his face and clothes.
- l) Constable Hamel was the lead investigator responsible for compiling a Report to Crown Counsel regarding criminal charges against the Affected Person. While charges were laid, they were later stayed by the BC Prosecution Service.

### **Police Discipline Authority Finds No Appearance of Misconduct**

17. On July 28, 2025, the External DA released a decision under s. 112 of the Act. After reviewing the FIR and its attachments, the External DA found that the evidence did not support any findings of misconduct. According to the External DA, all the force used was proportionate, necessary, and reasonable in the circumstances. The External DA further

found that all the APD officers had fulfilled their duties to make accurate notes based on their subjective perceptions and recollections of a rapidly unfolding incident.

18. Section 112(5) of the Act says a discipline authority's decision under s. 112 is final and conclusive, unless the Commissioner sends it to a retired judge for review under s. 117 of the Act. If a s. 117 review is triggered, a retired judge conducts an independent review of a final investigation report and makes their own decision about whether the evidence gives rise to an appearance of misconduct under the Act. If the answer is yes, the retired judge takes over as a new discipline authority and the matter continues to be processed under the Act. The next steps could include a discipline proceeding where a member decides whether to testify and whether any other witnesses will be called. After a discipline proceeding, the Commissioner could still send the matter to a different retired judge for a public hearing or review on the record, if it was determined that either step was necessary in the public interest.
19. Separate and apart from s. 117, a new s. 138(2.1) was added to the Act in 2024. This provision says the Commissioner may arrange a public hearing on his own initiative "at any time after the Commissioner receives a final investigation report." In essence, this provision allows the Commissioner to bypass the discipline proceeding stage in appropriate cases and send matters to be resolved on their merits by retired judges acting as adjudicators.

## **A PUBLIC HEARING IS NECESSARY**

20. Section 138(1) of the *Police Act* requires the Commissioner to arrange a public hearing or review on the record if the Commissioner considers a hearing or review is necessary in the public interest, having regard for all relevant factors including those listed in s. 138(2) of the Act. As mentioned, s. 138(2.1) allows the Commissioner to send a matter to a public hearing at any time after an FIR has been delivered.
21. I have decided pursuant to s. 138 that a public hearing is necessary in this case, for the following reasons:
  - a) The alleged misconduct is serious in nature, involving a stop initiated by the Members involving an Indigenous man in marginalized circumstances who had reportedly expressed fear of police. While the Members have offered different explanations over time for their initial decision to stop the Affected Person, there appears to be agreement that his only observed offence before the stop was impeding traffic by walking across a street outside of a crosswalk. There do not

appear to be any reports that the Affected Person was acting in a threatening or dangerous manner before being stopped by police. Against this backdrop, the entire interaction including the rapidly escalating uses of force is a serious matter that warrants examination at a public hearing.

- b) Among other things, the adjudicator may need to consider what role, if any, the Affected Person's Indigeneity may have played in the Members' initial decisions to approach him and the ways their subsequent interactions unfolded. The adjudicator may also need to examine whether the Affected Person's Indigeneity and/or stated fear of police should have alerted the Members to a need to explore alternate methods of crisis intervention or de-escalation.
- c) The Affected Person appears to have suffered significant physical harm. The entire experience is also likely to have caused him serious emotional or psychological harm or stress.
- d) There is a reasonable prospect that a public hearing will assist in determining the truth of what happened on January 23, 2024.
  - i. While the Affected Person told the External Investigator that he did not recall the incident or want to talk, he had also expressed fear of the Members during the incident. Calling a public hearing will allow public hearing counsel to explore in a trauma-informed way whether the Affected Person can be located and if so, whether he has any relevant evidence to provide to the adjudicator. Any such evidence could be helpful in seeking the truth of what happened, especially with respect to the initial portions of the incident that are not captured on video.
  - ii. Regardless of whether the Affected Person can be located or provide relevant evidence, questions arise from the evidence of the Members and the other officers themselves. A public hearing will allow witnesses to be examined and cross-examined before a retired judge having authority to make final determinations about the issues. If the Members testify, this will allow a full exploration of their recollections relative to their own reports and statements, the reports and statements of other officers and the civilian witness, and the available video footage. This would include the different explanations for the Members' initial involvement and potential discrepancies in the four officers' reporting.



- e) There is an arguable case that the External DA's application of the Act was incorrect and produced an inadequate result regarding the appearance of misconduct. For example, even if the Members had a genuine subjective belief that their rapidly escalating use of force was necessary, there are considerable questions about whether the force applied was objectively reasonable. A public hearing will allow a retired judge as adjudicator to hear all the available evidence, including potential expert evidence, to reach their own conclusions regarding the application of the Act in all the circumstances. Going through this process will preserve public confidence in policing and the police discipline process.
- f) A public hearing in this matter is more appropriate than a s. 117 review by a retired judge. If a retired judge on a s. 117 review finds no appearance of misconduct, the result is final, subject to judicial review. But if a retired judge on a s. 117 review finds an appearance of misconduct, the result is not a final disposition of the allegations. The matter would then continue towards a discipline proceeding, where the Members would determine whether they testify or call any witnesses. That process would take additional time, and might not produce a final resolution if further adjudication is found to be necessary in the public interest after it concludes. In all the circumstances, proceeding now to a public hearing on the merits is the fastest and most efficient way to ensure that all relevant and available evidence is fully explored and a final determination made about the Abuse of Authority allegations against the Members.

## THE PUBLIC HEARING

- 22. This Notice records and communicates the reasons for my decision to arrange a public hearing and the appointment of a retired judge to act as adjudicator.
- 23. Section 143(2) of the Act states that a public hearing is a new hearing concerning the conduct that was the subject of an investigation or complaint. A public hearing is not limited to the evidence and issues that were before the investigator and discipline authority.
- 24. In my view, the public hearing should consider the following allegations:
  - a) *Abuse of Authority* pursuant to s. 77(3)(a)(ii)(A) of the *Police Act*, which is oppressive conduct towards a member of the public, including, without limitation, in the performance or purported performance, of duties, intentionally or recklessly using

unnecessary force on any person. Specifically, Constable Leivdal's conduct in the circumstances and towards the Affected Person, including his uses of force.

- b) *Abuse of Authority* pursuant to s. 77(3)(a)(ii)(A) of the *Police Act*, which is oppressive conduct towards a member of the public, including, without limitation, in the performance or purported performance, of duties, intentionally or recklessly using unnecessary force on any person. Specifically, Constable Hamel's conduct in the circumstances and towards the Affected Person, including her uses of force.

- 25. For clarity, I have determined it is not necessary in the public interest to send to a public hearing the allegations against the two APD officers who attended the scene in response to the Members' call for assistance. I accept that they believed their uses of force were objectively necessary based on what the Members had reported and what they saw happening between the Members and the Affected Person when they arrived on scene. While they will not be respondent members at the public hearing, they may be called as witnesses.
- 26. I have also determined that it is not necessary in the public interest to send to a public hearing the allegations that the Members neglected their duties to provide detailed, accurate, and comprehensive statements and reports regarding the incident. The External DA accepted they had fulfilled their duties in a manner that was objectively reasonable, given the nature of the rapidly evolving incident. While I am not referring these allegations, I anticipate the public hearing may involve a careful review of their statements and reports, including as against the available video footage.
- 27. Pursuant to s. 143(4) of the Act, public hearing counsel will present to the Adjudicator the case relative to each allegation of misconduct against the Members. The OPCC will provide disclosure in due course to the public hearing counsel, the Members or their agents or counsel, and Commission counsel.
- 28. Pursuant to s. 143(5) of the *Police Act*, public hearing counsel, the Members or their agents or legal counsel, and Commission counsel may:
  - a) call any witness who has relevant evidence to give, whether or not the witness was interviewed during the original investigation or called at a discipline proceeding;
  - b) examine or cross-examine witnesses;
  - c) introduce into evidence any record or report concerning the matter; and
  - d) make oral or written submissions, or both, after all of the evidence is called.

29. Pursuant to s. 144(1) of the Act, a person, other than public hearing counsel, the member and Commission counsel, may apply to be a participant at the public hearing by applying to the adjudicator in the manner and form the adjudicator requires.
30. Pursuant to s. 143(9) of the Act, the adjudicator presiding over the public hearing in this case must do the following:
  - a) decide whether any misconduct has been proven;
  - b) if misconduct has been proven, determine the appropriate disciplinary or corrective measures to be taken in accordance with s. 126 of the Act; and
  - c) recommend to the chief constable or the board of the APD any changes in policy or practice that the adjudicator considered advisable in respect of the matter.

## **APPOINTMENT OF RETIRED JUDGE**

31. Section 142(1) of the Act requires the Commissioner to appoint an adjudicator for a public hearing. An appointment under s. 142(1) of the Act must be made pursuant to s. 177.2 of the Act.
32. Section 177.2 of the Act, in turn, requires the Commissioner to request the Associate Chief Justice of the Supreme Court of British Columbia to consult with retired judges of the Provincial Court, Supreme Court, and Court of Appeal and recommend retired judges who the Commissioner may include on a list of potential adjudicators. Appointments under the Act are to be made in accordance with published procedures established under s. 177.2(3).
33. I have published on the OPCC website the appointment procedures under s. 177.2(3) of the Act (the "Appointment Procedures") and the list of retired judges who may be appointed for the purposes of, among other things, s. 142 of the Act.
34. In accordance with the Appointment Procedures, I have appointed Mr. David Pendleton, retired Judge of the BC Provincial Court, to preside as Adjudicator in these proceedings pursuant to ss. 142(1) and (2) of the Act. I have considered the factors as set out in the Appointment Procedures, namely:
  - a) the provision under which the appointment is being made;
  - b) the current workloads of the various retired judges;

- c) the complexity of the matter and any prior experience with the *Police Act*; and
  - d) any specific expertise or experience of a retired judge with respect to a particular issue or sensitivity associated with the matter.
35. Retired Judge Pendleton has confirmed his availability to preside over this matter and reported no conflicts.
36. Dates for the public hearing have not yet been determined. The public hearing will commence at the earliest practicable date.

Inquiries with respect to this matter may be directed to the Office of the Police Complaint Commissioner:

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DATED at the City of Victoria, in the Province of British Columbia, this 26<sup>th</sup> day of August 2025.



Prabhu Rajan  
Police Complaint Commissioner