

**In the matter of the Review on the Record into the Ordered Investigation
against former member Keiron McConnell of the Vancouver Police Department
pursuant to the *Police Act*, RSBC 1996, c. 367, as amended**

REASONS FOR SECTION 150 ORDER

Commission Counsel	Brian Smith
Counsel for the Former Member	Anila Srivastava
Date of Order	November 5, 2025
Date of Reasons	November 13, 2025

Overview

[1] On September 10, 2025, the Police Complaint Commissioner (“PCC”) issued a Notice ordering a review on the record in relation to two allegations of discreditable conduct and one allegation of corrupt practice against a former VPD member, Keiron McConnell (the “Former Member”). The allegations arose from interactions between the Former Member and an individual who is referred to in the Notice as the “Affected Person.” The review pertains to the adequacy of disciplinary or corrective measures imposed on the Former Member by the discipline authority at a disciplinary proceeding concluded in June 2025.

[2] The Notice outlines the nature of the interactions and the history of the proceeding. It also contains the following paragraph:

48. As this matter involves allegations of a serious and sensitive nature, the Affected Person’s name and other identifying information has been withheld in this Notice. I expect to instruct commission counsel, once appointed, to seek an order pursuant to s. 150 of the Act to protect the Affected Person’s anonymity and safety.

[3] Commission Counsel, Mr. Brian Smith, filed an application on October 29, 2025, seeking terms pursuant to Section 150 of the *Act* which are now encompassed in the Order made in this matter on November 5, 2025, which is filed on the OPCC website¹. In his Submissions, Mr. Smith described the requested order as follows:

¹ <https://opcc.bc.ca/wp-content/uploads/2025/09/22761-RR25-01-2025-11-05-Section-150-Order-.pdf>

5. ...In general terms, the Commissioner seeks an order that (i) restricts publication of the Affected Person's name as well as other information that would tend to identify her, (ii) maintains confidentiality over the record of disciplinary decision that has been disclosed to the Adjudicator and Former Member, (iii) establishes a process for vetting materials to be posted to the OPCC website, and (iv) establishes a process for making any appropriate redactions if persons other than authorized participants at the Review seek access to materials before the Adjudicator.

[4] Counsel for the Member, Ms. Anila Srivastava, confirmed her consent to the terms of the Order before it was published. These reasons will provide the legal basis for the Order and justification for its breadth.

Section 150

[5] The relevant portion of Section 150 reads as follows:

Power to prohibit or limit attendance or access

150 (1) An adjudicator may, by order, prohibit or restrict a person or a class of persons, or the public, from attending all or part of a public hearing or review on the record, or from accessing all or part of any information provided to or held by the adjudicator of a public hearing or review on the record,

...

(b) for any reason for which information must or may be excepted from disclosure by the head of a public body under Division 2 of Part 2 of the *Freedom of Information and Protection of Privacy Act*, or

...

(2) In making an order under subsection (1), an adjudicator must not unduly prejudice the rights and interests of any person against whom a finding of misconduct, or a report alleging misconduct, may be made.

[6] Mr. Smith points out that the wording of Section 150(1)(b) imports Division 2 of Part 2 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), Section 22(1) of which² requires a public body to withhold personal information where its disclosure would be an "unreasonable invasion of privacy." Schedule 1 of FIPPA defines "personal information" to mean "recorded information about an identifiable individual other than contact information."³ I will here add that application of the common law principles in relation to the protection of witnesses' interests in my view dictates an extension of the definition for the purposes of Section 150 to include authority to withhold contact information.

[7] I have previously observed⁴ that Section 150(1)(b) permits restrictions on the public's access to information "provided to or held by the adjudicator," and that the powers under this section encompass a spectrum from orders restricting the dissemination of pieces of information to orders prohibiting any public access to the proceedings. Counsel in this matter agree that the application of FIPPA considerations includes a *Charter of Rights* analysis of whether, or the extent to which, the withholding of personal information that may constitute an unreasonable invasion of privacy will impair the public interest in an open adjudicative process.

² https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96165_02#section22

³ FIPPA, [Schedule 1](#), definition of "personal information".

⁴ <https://opcc.bc.ca/wp-content/uploads/2024/06/2025-03-24-Adjudicator-Baird-Ellan-Reasons-for-Section-150-Order.pdf>, at para. 7

[8] Case law such as *Ferrier*⁵ and *Fedeli v. Brown*⁶ assists in the weighing process entailed in the analysis. It is now established law that a complainant's name in a matter involving criminal sexual transgressions is properly the subject of a ban on publication to avoid re-traumatization and reluctance to participate in the process. It flows from that reasoning that any information that may tend to identify the complainant must also be withheld.

[9] Counsel agree in this matter that the nature of the allegations require that the Affected Person's name be withheld, even though it is not contemplated that the Affected Person will testify in the proceeding. I have previously elaborated on reasons for imposing this type of ban⁷ and given that Counsel have consented here, I do not propose to go into a full-depth analysis. I adopt Mr. Smith's able submissions in relation to the principles at stake as well as my prior reasons in the public hearing matter against this Former Member.⁸

[10] In relation to the breadth of the Order, as Mr. Smith points out, prior OPCC cases⁹ have included similar bans on publication of witnesses' names and identifying information. Those cases provide illustrations as to the nature and breadth of the terms that are deemed necessary to safeguard witnesses' privacy. My view is that the breadth of an order under Section 150 needs to be tailored to the circumstances of the particular case.

[11] Orders of this nature are generally made at the outset of the proceedings, when the evidence has been disclosed to the participants but not yet explicated in either a live hearing or submissions on the merits. The participants will need to remain vigilant throughout the proceeding to whether details contained in the evidence or submissions; for example, a date combined with the location of an incident, should be excluded. That vigilance of necessity imports a requirement of vetting, approval and potential redaction before information is published on the OPCC website or disclosed to non-participants. It may also require that the Order be revisited and adapted as the evidence unfolds, if a particular detail comes out that might tend to identify the Affected Person and it has not been specifically engaged by the terms already included in the Order. Any such detail will easily be incorporated into the ban without offending the open process principle, in my view.

[12] The terms of the Order posted on November 5, 2025 are in my view what is required at this time to sufficiently protect the privacy interests of the Affected Person without unduly impairing the public interest in an open adjudicative process. These terms will be revisited during the proceeding as need be, to ensure that those privacy interests continue to be safeguarded.

[13] Mr. Smith pointed out in his submissions that there may be media interest in this proceeding. In the prior matter involving the Former Member, accredited members of the media applied at the outset of the hearing for permission to record the proceedings under terms similar to those applicable to BC Supreme Court proceedings, and the Section 150 order was amended to accommodate that.¹⁰ This matter has not yet been set for an oral hearing, but it is anticipated that there will be oral submissions (not evidence), similarly to the prior proceeding.

[14] I will state here that I anticipate no resistance to my making an order similar to that made in the public hearing matter, permitting the use of recordings subject to specified restrictions. Given that I have not yet heard

⁵ *Canadian Broadcasting Corporation v. Ferrier*, 2019 ONCA 1025

⁶ *Fedeli v. Brown*, 2020 ONSC 994.

⁷ <https://opcc.bc.ca/wp-content/uploads/2024/06/2025-03-24-Adjudicator-Baird-Ellan-Reasons-for-Section-150-Order.pdf>

⁸ *Supra*, at footnote 7

⁹ *De Haas Public Hearing*, PH 18-01; *Keleher Public Hearing*, PH 20-01; *Name Withheld*, RR 24-01, *Sandhu Review on the Record*, PH 20-03

¹⁰ <https://opcc.bc.ca/wp-content/uploads/2024/06/2025-05-05-FINAL-REVISED-SECTION-150-ORDER.pdf>

Counsel's views on this and no hearing date has been confirmed, I will defer that order until those things have occurred. It is however my view that the issue of recording devices should be addressed in advance of any hearing date that is ultimately set.

Dated this 13th day of November, 2025.

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

Carol Baird Ellan, Retired Judge
Adjudicator