



VANCOUVER POLICE BOARD

PROVIDING INDEPENDENT CIVILIAN OVERSIGHT, GOVERNANCE, AND STRATEGIC LEADERSHIP TO THE VANCOUVER POLICE DEPARTMENT, REFLECTING THE NEEDS, VALUES AND DIVERSITY OF VANCOUVER'S COMMUNITIES.

Meeting Date: October 21, 2021
Report #2110C03

COVER REPORT

TO: The Vancouver Police Board Service or Policy Complaints Review Committee
FROM: Stephanie Johanssen, Executive Director
SUBJECT: Service or Policy Complaint report back - BMO– 2020-001

RECOMMENDATION:

THAT the Board review the information outlined both in this report, and the attached report-back provided by the VPD in response to this complaint, to determine if further action is required, or if sufficient action has been taken in response to the complaint, to conclude the Board's review of the file.

BACKGROUND:

In January of 2020, the Board received a service or policy complaint related to an incident where an Indigenous man and his 12 year old grand-daughter, who were later determined to have not been involved in any criminal activity, were handcuffed.

Service or policy complaints are not reviewed just in the context of a specific incident, individual, or officer, and are rather considered with respect to:

- a) The general direction and management or operation of a municipal police department, or
- b) The inadequacy or inappropriateness of any of the following in respect of a municipal police department:
 - a. Its staffing or resource allocation;
 - b. Its training programs or resources;
 - c. Its standing orders or policies;
 - d. Its ability to respond to requests for assistance;
 - e. Its internal procedures.

It is important to consider that when reviewing actions taken in response to this service or policy complaint, the Board is not deciding on any matters related to the conduct of the members, or whether or not there was a role of racial profiling in the treatment of the complainants, as this is subject to a separate process under the jurisdiction of the Office of the Police Complaints Commissioner (OPCC), and is also currently before the BC Human Rights Tribunal (BCHRT).

The service or policy complaint outlined concerns related to the following matters:

- The use of handcuffs;
- The use of handcuffs on a 12-year old;
- The role of racial profiling in their treatment;
- The lack of training and understanding regarding Indigenous persons; and,
- Police Chief Palmer's comments following the incident, including advising that the officers followed standard operating procedure.

The Board first considered this particular complaint prior to automatically requesting an investigation from the Chief Constable, and decided to move forward with an extensive policy and training review, including but not limited to the VPD's Indigenous Cultural Competency training, which includes recruit level, in-service and cycle training, as well as a complete review of the VPD's *Use-of-Force Restraint Devices* policy, and the notification process with respect to inadvertent arrests.

The VPD was requested to report back on the internal review regarding these matters, and this report is attached (APPENDIX A) for the Board's consideration.

In addition to this, the Board externally and independently reviewed the components of this complaint with respect to the proposed revised *Use of Handcuffs* policy, and the process for representatives of the Board or VPD making public comments on the actions or conduct of members regarding any matter that may result in *Police Act* or other legal proceedings.

The Board initially determined that the outcome of these reviews would come back for the Board's consideration following the outcome of the conduct investigation under the jurisdiction of the OPCC, to ensure a fulsome approach that considered any potential policy or training recommendations from the OPCC that may stem from the outcome of that investigation.

The Board has now reconsidered that approach, as the conduct investigation remains ongoing, and the matter is now before the BCHRT. In addition to this, the Board received a second service or policy complaint related to handcuffing and detention. It was therefore decided to approve an interim handcuffing policy, and bring the results of BMO service or policy complaint review forward at the same time.

Although the complaint initially came forward in January 2020, and the report backs are just now coming forward, this does not mean that remedial action has been delayed. Remedial action was immediately taken upon receipt of the complaint, and the Board has received consistent progress updates from the VPD with respect to the training review, and relevant initiatives. The matter before the Board today is a summary of the steps that have been taken to respond to the complaint since January of 2020.

SUMMARY

This summary will outline the action taken with respect to each aspect of the service or policy complaint.

The use of handcuffs/the use of handcuffs on a 12 year old girl

The VPD began the process of revising their *Use of Handcuffs* policy, immediately upon receipt of the BMO service or policy complaint. Initially the Board had intended to await the outcome of the BMO conduct investigation prior to approving a policy, however for the reasons outlined above, an interim policy is now

set to be approved at the October 21 Board meeting. The Board underwent an external independent review of the proposed policy prior to approval.

The Board will finalize the *Use of Handcuffs* policy, pending the outcome of the conduct investigation and the resolution of the BC Human Rights Tribunal Case related to the BMO incident, as there may be recommendations stemming from these processes that will need to be taken into consideration.

The process regarding the VPD's development of the policy, and the subsequent external review is outlined in more detail in Report #2110V05 'Independent Review and Approval of Interim VPD *Use of Handcuffs* policy', as well as in the attached report-back from the VPD.

The role of racial profiling in the treatment of the complainants

Allegations of racial profiling by the officers is a matter of conduct, and not in the jurisdiction of the Board. This matter is under review through the conduct process under the jurisdiction of the OPCC, and is currently before the BCHRT.

On June 30, 2021 the Board approved a Resolution on Structural Racism. One of the resolutions was to not oppose the Union of BC Indian Chiefs application to intervene in this BC human rights case against the VPD and Board. The Board has submitted its position on the matter via the appropriate legal channels.

The lack of training and understanding regarding Indigenous persons

In response to this component of the complaint, the Board initiated an extensive internal review of the VPD's past, present, and future training on the topics of anti-racism, cultural competency, fair and impartial policing, trauma-informed practice, crisis intervention and de-escalation and other training related to Indigenous, vulnerable or racialized populations.

The Board has been receiving consistent progress updates with respect to this review, and relevant initiatives including an Equity, Diversity and Inclusion review of all internal processes and policy to ensure the language is inclusive and the procedures do not contribute to any barriers, biases, or discriminatory practices.

More information on the VPD's Indigenous Cultural Awareness Training is outlined in the attached report-back from the VPD. The Board will continue to review and assess the efficacy of these measures, and will also review any potential training recommendations stemming from the OPCC BMO investigation.

The Board itself participated in a 'Fair and Impartial Policing' Community Training session, which explored implicit bias, and how bias can manifest in law enforcement professionals and community members. This training also explored the skills for reducing and managing bias, along with how to promote fair and impartial policing within the department. This training was organized through the Board, and separate from that available to VPD members, and the Board will continue to pursue ongoing training with respect to anti-racism and anti-bias.

On July 30, 2021, the Minister of Public Safety and Solicitor General approved *BC Provincial Policing Standards* on the promotion of unbiased policing, to be implemented by 2023/2024. The Board has requested, and received updates on this from the VPD. The VPD has been well engaged with police services on the development of the Standard, which covers many of the issues and concerns that were

raised by community members and the police community. It is a common goal that everyone receives unbiased and equitable policing. The implementation of these standards at the VPD is already well underway, and the standards that are specifically directed at the boards have been referred to the VPB's Governance Committee for review.

Police Chief Palmer's comments following the incident, including advising that the officers followed standard operating procedure

The attached report-back from the VPD includes information and context with respect to the comments made by Chief Palmer following the incident.

In addition to this, the matter of any representative of the Board or VPD making public comments on the actions or conduct of members regarding any matter that may result in *Police Act* or other legal proceedings was reviewed independently through legal counsel. It was determined that the Board should consider enacting or amending policy to limit or prohibit representatives of the Board or Department from commenting on any matter that may result in *Police Act* proceedings.

The Board is currently undergoing a complete review of its Policy and Procedure (Governance) Manual, through an external consultant, independent of the VPD. This review includes consideration of the Board's existing communications policy, and Terms of Reference for the Chief Constable. The opinion regarding public comments will be reviewed and included as part of this manual update.

The OPCC also recommended that as part of this review, the Board may consider certain mandatory training for the Chief Constable or other executive members related to cultural competency. This matter was addressed through the overall training review, and the Chief Constable also joined board members in the 'Fair and Impartial Policing' Community Training session.

CONCLUSION:

Taking the following into consideration, the Board must review the initial complaint, and determine if further action is required, or if sufficient action has been taken to conclude the review of the file:

- An Interim *Use of Handcuffs* policy has been externally reviewed, and is to be approved publicly at the October 21 Board meeting. The Board will finalize the *Use of Handcuffs* policy, pending the outcome of the conduct investigation and the resolution of the BC Human Rights Tribunal Case related to the BMO incident, as there may be recommendations stemming from these processes that will need to be taken into consideration.
- The Board has extensively reviewed the VPD's past, present, and future training on the topics of anti-racism, cultural competency, fair and impartial policing, trauma-informed practice, crisis intervention and de-escalation and other training related to Indigenous, vulnerable or racialized populations, and acknowledges that this work is ongoing, and training must always evolve and adapt based on the needs of the community.
- The Board has passed a resolution to not oppose the Union of BC Indian Chiefs application to intervene in the BC human rights case against the VPD and Board with respect to this incident. The Board has submitted its position on the matter via the appropriate legal channels.
- The Board is undergoing a complete review of its Governance Manual, and will be taking into consideration the counsel regarding enacting or amending policy to limit or prohibit representatives of the Board or Department from commenting on any matter that may result in *Police Act* proceedings.

APPENDIX - VPD REPORT BACK



VANCOUVER POLICE DEPARTMENT

REPORT TO THE VANCOUVER POLICE BOARD

REPORT DATE: October 1, 2021
BOARD MEETING DATE: October 21, 2021
BOARD REPORT # 2110C03
Regular

TO: Vancouver Police Board Service and Policy Complaint Review Committee
FROM: Drazen Manojlovic, Director, Planning, Research, and Audit Section
SUBJECT: Service or Policy Complaint #2020-01 re Bank of Montreal Arrest

RECOMMENDATION:

THAT the Vancouver Police Board (VPB) Service and Policy Complaint Review Committee (Committee) considers the information provided in this report as it prepares its response to the service or policy complaint.

SUMMARY:

On December 20, 2019, the Vancouver Police Department (VPD) responded to an in-progress fraud call at a Bank of Montreal (BMO) branch where BMO staff reported two suspects still on-scene. A man and his grand-daughter were taken into custody and both were handcuffed. Unfortunately the officers initially received inaccurate information as they were being dispatched to the bank. Upon further investigation while on-scene, they determined that the man and his grand-daughter were not involved in any criminal activity and they were released.

This incident resulted in a conduct investigation, a service or policy complaint, and a human rights complaint. The final resolution of the conduct investigation is on-going and as such this report will not comment on the conduct of the officers, rather this report will address the service or policy complaint by discussing the following three themes:

1) Revisions to the VPD's Handcuffing Policy

The VPD undertook a review of its policy for the use of restraints (e.g., handcuffs) and it was deemed that improvements and expansion of the policy was required. A member must have lawful authority to handcuff someone who is under arrest, detained, or apprehended and the draft policy provides a list of considerations that are supported in law. Officers have discretion on whether to apply restraints even when the lawful authority to apply restraints exists. The policy lists the following factors that officers should consider in exercising their discretion in accordance with the principles of equity, diversity, inclusion, and dignity.

The proposed interim policy was provided to the VPB who, in turn, obtained a consultant that was independent of the VPD and the VPB. The consultant determined that the proposed interim policy goes a long way towards addressing concerns that arose from the BMO incident and that many of the concerns regarding the application of handcuffs by members have also been addressed appropriately. The consultant recommended four revisions to strengthen the policy and they were incorporated.

2) VPD Indigenous Cultural Awareness Training

The VPD committed to reviewing the training members have received, both past and present, specific to Indigenous cultural awareness. Indigenous cultural awareness has had a place in VPD training for more than a decade. From 2010 to 2019 the VPD delivered six training courses specific to Indigenous cultural awareness and the provincially required Fair and Impartial Policing course. In September 2020, VPD cycle-training included Trauma Informed Policing Practices and, in December 2020, the course 'Community Awareness: Indigenous Culturally Safe Practices' was delivered to all front-line officers. This course was developed by the VPD's Education and Training Unit, in collaboration with the VPD Diversity, Inclusion, and Indigenous Relations Section, Ske'lep reconciliation, Kairos Canada, and the Indigenous Advisory Committee.

Moving forward, the VPD is planning to facilitate delivery of the Kairos Blanket Exercise to approximately 800 front-line officers (once pandemic safety considerations permit). Also, in the final cycle-training of 2021, the course 'Anti-Racism Awareness' will be delivered to all front-line officers. Lesson topics include historical and current knowledge on racism, systemic racism, trauma informed approaches, Canadian and BC context within the criminal justice system, hate crimes, trauma-informed practice, and culturally sensitive training.

3) The Chief Constable's Public Statements after the Incident

On Friday, January 10, 2021, the VPD hosted a ceremony to swear-in new recruits. A news agency asked for an opportunity to speak with the Chief. The reporter asked questions about the BMO incident and the Chief provided answers based on his initial knowledge of the incident. Relevant excerpts of the Chief's answers are provided beginning on page 9. The Chief was attempting to provide context and explain, in general, how police officers respond to emerging and dynamic incidents. The Chief also did apologize for the incident.

It is important to note that the priority for senior management, after learning of the incident, was to make contact with the man and his grand-daughter and to apologize directly and personally. Numerous attempts were made to reach out to apologize.

The VPD acknowledges, understands, and respects the public concern in this matter. The situation is deeply unfortunate and the man and his grand-daughter were completely innocent. The Chief also apologized on behalf of the VPD in this interview, and, in this report, the VPD sincerely apologizes to the man and his grand-daughter.

The VPD recommends that the Committee considers the information provided in this report as it prepares its response to the service or policy complaint.

BACKGROUND:

On December 20, 2019, the VPD responded to an in-progress fraud call at a BMO branch in Vancouver and BMO staff reported two suspects were still on-scene. After the responding VPD

members arrived and gathered initial information, a man and his grand-daughter were taken into custody and both were handcuffed. Unfortunately, the officers initially received inaccurate information as they were being dispatched to the bank, including incorrect descriptions and information about their age. Upon further investigation while on-scene, they determined that the man and his grand-daughter were not involved in any criminal activity and they were released.

This incident resulted in a conduct investigation, a service or policy complaint, a human rights complaint, and received much public attention. The final resolution of the conduct investigation is on-going and as such this report will not comment on the conduct of the officers, rather this report will address the service or policy complaint by:

- 1) Proposing significant revisions to the VPD's current policy and procedure on handcuffing;
- 2) Describing the VPD's past and future training specific to Indigenous culture, anti-racism, and fair and impartial policing; and
- 3) Explaining the context of public comments made by the VPD Chief Constable a few weeks after the incident.

It should be noted that it was the initial approach by the VPB to respond to the service or policy complaint after the conclusion of the conduct investigation, because the findings of the conduct investigation would inform the service or policy complaint response and any changes to policy and/or training that the VPB would approve. However, given the fact that the final resolution of the conduct investigation is on-going, it is necessary to bring the service or policy complaint report forward.

DISCUSSION:

1) Proposed Revisions to the VPD's Handcuffing Policy

In light of the arrest of the man and his granddaughter, the VPD undertook a review of its policy for the use of restraints (e.g., handcuffs). The current policy is brief (Regulations and Procedures Manual (RPM) Section 1.2.3 *Use of Force - Restraint Devices*) and, in its entirety, it states the following:

When an officer arrests or detains a person, or when a person is restrained for officer safety and is transported by police wagon, police vehicle or on foot, the officer must consider their lawful authority for applying any restraint device(s), e.g. handcuffs, to the prisoner. The safety of the prisoner and the safety of the officer are two lawful reasons why restraint devices may be applied; however, an officer must articulate in each circumstance the reasons why they applied a particular restraint device(s) to the prisoner.

Handcuffs and plastic straps are two common approved devices used by members to restrain a person. When a member believes that a person is using, or is about to use their legs/feet to injure themselves or others, damage property, cause a disturbance, or escape, the member may, where appropriate and reasonable to do so, restrain the person by using a Modified Restraint Device (Hobble), Body Cuff™, Emergency Restraint Chair, or other approved device, in addition to applying handcuffs/plastic straps to the person.

The current policy required a review of current court decisions and the law surrounding the use of restraints. This review deemed that improvements and expansion of the policy, specific to the use and documentation of handcuffs and disposable hand restraints, was required.

The interim policy (see Appendix) was developed after an exhaustive process that included (but not limited to):

- An in-depth legal research and analysis of relevant criminal and civil case law;
- A cross-Canada review of comparable policing jurisdictions' policies;
- A literature review of current handcuffing issues in countries where common-law is foundational;
- Comprehensive feedback from operational and legal subject matter experts; and
- A review to ensure the policy meets Provincial Policing Standards regarding the use of restraints.

The following summarizes the strategic improvements to the interim policy:

1) The policy clearly states “a member who uses force in the course of their duties is legally responsible for the force so applied and cannot rely on an administrative direction or order issued by the VPD or any officer or supervisor within it to protect the member from legal responsibility.” A member cannot view handcuffing someone who is under arrest, detained, or apprehended as a routine action, and they must have lawful authority that is:

- Objectively reasonable in all of the circumstances;
- Proportionate to the potential risk or harm the member seeks to prevent;
- Necessary to the fulfilment of a legitimate policing objective; and
- Subjectively believed by the member that the application of the handcuff is necessary in all of the circumstances.

2) Because members must have the lawful authority to restrain someone (as summarized above), the draft policy provides a list of considerations that are supported in law, and would reasonably formulate this lawful authority. These considerations are to:

- Protect the member(s), the public, or the person from harm;
- Prevent the person from attempting to leave;
- Locate and preserve evidence related to the reason for the person's arrest; or
- Where the law permits, facilitate the search of a detained or apprehended person.

3) Officers have discretion on whether to restrain even when the lawful authority to restrain exists. The policy lists the following factors that officers should consider in exercising their discretion in accordance with the principles of equity, diversity, inclusion, and dignity:

- Age;
- A person with disabilities;
- A person with a medical condition;
- A person with an injury;
- The size of the person; and
- People who are Indigenous, racialized, or part of other equity deserving groups.

Amongst other details, the interim policy also provides direction on documentation and the safe application of handcuffs. In summary, the proposed policy is based on the current law regarding the use of restraints and is an improvement to existing policy because: it specifies that officers must have the lawful authority to use a restraint; it provides legal considerations that would result in that lawful authority, and; it entrenches an officer's ability to exercise discretion.

The interim policy was provided to the VPB who, in turn, obtained a consultant that was independent of the VPD and the VPB. The independent review recommended four minor revisions to the interim policy and they have been incorporated. The independent review determined that the interim policy goes a long way towards addressing concerns that arose from the BMO incident and that many of the concerns regarding the application of handcuffs by members have also been addressed appropriately.

Upon VPB approval, the interim policy will be incorporated into training for front-line members beginning on November 1 and concluding on December 20, 2021. During the delivery of the training, the interim policy will be sent to all VPD sworn members via PowerDMS, which is a software program that electronically distributes important training and/or policy material. PowerDMS also provides an efficient auditing application in order to determine how many, if any, members have not reviewed the interim policy.

2) VPD Indigenous Cultural Awareness Training

The VPD committed to reviewing training members have received, both past and present, specific to Indigenous cultural awareness. As the following will describe, much training has been provided since 2010.

Past Training

Indigenous cultural awareness has had a place in VPD training for more than a decade. Since 2010, the VPD has been providing staff with training courses that are designed to increase knowledge, enhance awareness, and strengthen the skills of those who work both directly and indirectly with Indigenous people. Such training was first formalized with the creation of the Aboriginal Cultural Competency (ACC) course introduced in 2010. This training was funded by a grant from the Civil Forfeiture Office, developed by the Diversity, Inclusion & Indigenous Relations Section (DIIRS), and has been offered intermittently over the years. The ACC included guest speakers who were residential school survivors, and taught officers a wide range of content including: experiences of Indigenous police officers, Indigenous experiences in today's society, unique history of Indigenous culture and tools for effective communication and relationship building with Indigenous communities. The ACC was one of the first Indigenous cultural training courses for police in BC and set the way for continued improvement and growth.

When the Missing Women Commission of Inquiry (MWCI) recommendations were released in December 2012, a VPD working group was formed to provide an environmental scan of BC policing policy, procedures, and practices as they related to the MWCI recommendations. The working group not only supported training which was already in place, but also ensured that new training was implemented. This training enhanced the ability of officers to develop and maintain community relationships, particularly with vulnerable members of the community who are often at risk of being treated unequally in the delivery of public services. The working group also ensured that VPD officers would be required to undergo mandatory and ongoing experiential and interactive training concerning vulnerable community members.

In 2014, the ACC was updated to reflect on new knowledge of effective training and to address the MWCI recommendations. The ACC now contained interactive activities through which participants examined culture, stereotyping, and the consequences and legacies of colonization. Participants were introduced to tools for developing more effective communication and relationship building skills. The ACC was also added as a mandatory part of the Special Municipal Constable (SMC) training curriculum and the video "The Spirit has no Colour" was introduced to

the SMC program. The learning outcomes were updated to include a familiarity with the role of police in the enforcement of the laws of Canada that today are deemed to have been damaging to Indigenous peoples and destructive to their culture, language, and spiritual values. Furthermore the training discussed practices and laws which were based on the belief that Indigenous peoples are culturally inferior. A demonstration of an understanding of the consequences of generations of children being taken from their families and placed into the residential schools of this country, thus systematically destroying family systems and any possible learning of family practices and parenting skills. The SMCs also gained the ability to demonstrate an understanding of the connection between drug and alcohol abuse, family disintegration, and the loss of cultural identity to the sexual, psychological, physical, and other abuse that was common in residential schools.

The success of the updated ACC curriculum and the video 'The Spirit has no Colour' grew into the VPD including it in a 2015 cycle of training for the entire Operations Division. Over the course of two months, 650 members received the ACC training, which was expanded to include overcoming bias and the child welfare system (amongst other topics). This training also featured residential school survivors as guest speakers who spoke of the ongoing effects of residential schools as well as the history and status of Aboriginal peoples.

In 2016 the e-learning course 'Aboriginal and First Nations Awareness' was created to offer this training to new VPD exempt members who would have missed the previous ACC training. For police and other law enforcement personnel, understanding the unique history and culture of Indigenous populations is an important part of effective communication and interaction with the Indigenous peoples and other communities they serve. Aboriginal and First Nations Awareness provides basic knowledge of the history and geography of Indigenous peoples as the foundation to the contemporary issues pertaining to Indigenous lands, cultures, and communities.

In 2018, a pilot project funded and led by the BC Ministry of Public Safety and Solicitor General (PSSG), Policing and Security Branch (PSB), in partnership with the Victoria Police Department led to the development of the Fair and Impartial Policing (FIP) program. The project goal was to customize the US-based FIP program to ensure this information was relevant for BC police, as a provincial response to the police training related recommendations of the MWCI. During this training session participants were able to explore the science of implicit bias and how it applies to their everyday decision-making. By the end of the training, they were able to use a set of fair and impartial policing skills in order to enhance their ability to police more effectively, justly, and safely. The FIP program was delivered in a cycle of training to 650 VPD officers. Topics included; all people, even well intentioned people, have biases; having biases is normal to human functioning; biases are often unconscious or "implicit," thus influencing choices and actions without conscious thinking or decision-making, and; policing based on stereotypes can be unsafe, ineffective, and unjust.

In September 2016, the Canadian government initiated the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG). The federal government and the 13 provincial and territorial governments mandated that this inquiry report on systemic causes of all forms of violence, which has contributed to violence and vulnerabilities of Indigenous women and girls. In addition, the MMIWG recommended institutional policies and practices be implemented in response to violence experienced by Indigenous women and girls in Canada, including the identification and examination of practices that have been effective in reducing violence and increasing safety.

The MMIWG inquiry identified 28 calls for action from police services, which the VPD examined in a November 2019 report titled *Learning from Lost Lives*. An additional 6 calls for justice, outside of those specific to police services, yet nonetheless important for police to review, were also addressed in the report. As a result, the VPD instituted new training for its members in order to address the recommendations and calls for justice from the two inquiries. A review of the training offered by the VPD will provide information as to how the VPD has prepared its staff to better understand and serve Indigenous as well as 2SLGBTQQIA (Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual) people, and how it will address training in the future. Courses such as Foundational Principles of Major Case Management, The Fundamentals of File Coordination, and Major Crime Investigation Techniques all include components of the MMIWG report within their content design.

In 2019 the VPD Executive and Senior Management took part in the Kairos Blanket Exercise. The Kairos Blanket Exercise is an experiential teaching tool based on participatory education methodologies and employs Indigenous practices to build awareness and understanding of our shared history as Indigenous and non-Indigenous peoples in Canada. In the exercise, blankets are arranged on the floor to represent land. Participants are then invited to step into the roles of First Nations, Inuit, and Métis peoples. The exercise explores Canada's relationships between Indigenous and non-Indigenous people. At the completion of the exercise, participants move into facilitated groups to speak about their experience and what they could do as an ally for Indigenous peoples.

Just as Indigenous cultural awareness training is important to the highest level of management, it is important for new police officers as well. In their Block 1 training at the Justice Institute of BC (JIBC), recruits learn about Indigenous history including the residential school system. This is further underscored with participation in a Circle of Understanding, a day spent with members of the Indigenous community, including elders, to learn about the history of the Indigenous peoples and hear the experiences of residential school survivors. This session is held in conjunction with the Vancouver Aboriginal Community Policing Centre Society and is facilitated by a police officer. Recruits also receive the "Spirit has no Colour" video and training program. Both the video and the workshop strive to expose recruits to the experience of colonization and the residential school system on Indigenous people in Canada. Additionally recruits are instructed in Crisis Intervention and De-escalation training.

The training the JIBC Police Academy provides to municipal police recruits in BC includes anti-racism and bias-free training and elements designed to promote understanding of diverse groups, whether based on cultural and ethnic backgrounds, faiths, sexual orientation or gender. This emphasis on anti-racism and bias-free training is integrated throughout the training program.

In September 2020, VPD cycle-training included Trauma Informed Policing Practices, which is a federal Department of Justice (DOJ) funded project. The project was developed by various stakeholders including representatives from Crown, police, corrections, victim services, violence against women programs, private bar, and the provincial court. This eLearning course includes components on core principles of trauma-informed practice, trauma and diversity, intergenerational trauma of Indigenous peoples, trauma and gender, trauma and the brain (survival response, memory, neurobiology), preventing re-traumatization, and vicarious trauma.

In December 2020 the course 'Community Awareness: Indigenous Culturally Safe Practices' was delivered to all front-line officers. This course was developed by the VPD's Learning and Development Unit, in collaboration with the VPD Diversity, Inclusion, and Indigenous Relations Section, Ske'lep Reconciliation, Kairos Canada, and the Indigenous Advisory Committee. This

eLearning course consisted of an animated eLearning module of the Kairos Blanket Exercise. In addition the course explored: the relationships between Indigenous and non-Indigenous peoples in Canada, (pre-contact, contact, and present day); how federal policies and programs impact the lives of Indigenous peoples in Canada; information about residential schools; the 60's scoop; loss of status and missing and murdered Indigenous women, and; identify what Indigenous peoples and their allies are doing to bring about positive change. This course includes aspects of cultural humility where learners self-reflect to understand personal and systemic biases and how they can develop and maintain respectful processes and relationships based on mutual trust. It also incorporates aspects of Indigenous and colonial worldviews, power, privilege, stereotypes, and prejudice; a review of unconscious biases, and; going forward with aspects of authentic consultation.

As of January 2021, (class 164) the Justice Institute of British Columbia in conjunction with the British Columbia San'yas Cultural Safety Program to deliver the San'yas Anti-racism Indigenous Cultural Safety Justice Course. The course, which is specifically built for anyone who works in the justice system, explores topics in relation to colonization in Canada; Racism, discrimination and stereotyping, and their impacts on Indigenous peoples in the context of justice system; Inequities experienced by Indigenous people across the justice continuum; Ways that Indigenous people experience marginalization and violence, and; Taking action: Enhancing cultural safety in the justice system.

In addition to the above described training specific to Indigenous cultural awareness and anti-racism, these courses have also been provided:

2012: Geriatric Mental Health

2014: Homelessness Awareness

2014: Sex Trade Worker Awareness

2014: Youth At Risk

2017: LGBTQ2S Cultural Competency

Current and Future Training

Moving forward, the VPD is planning to facilitate delivery of the Kairos Blanket Exercise to approximately 800 front-line officers (once pandemic safety considerations permit). Also, in the final cycle-training of 2021, the course 'Anti-Racism Awareness' will be delivered to all front-line officers. Lesson topics include historical and current knowledge on racism, systemic racism, trauma informed approaches, Canadian and BC context within the criminal justice system, hate crimes, trauma-informed practice, and culturally sensitive training.

The VPD has embraced and delivered Indigenous cultural awareness training for all levels of personnel for more than a decade and further training is planned for and also will be imminently delivered.

3) The Chief Constable's Public Statements after the Incident

This incident was first brought to the attention of the VPD's Media Relation Unit through an inquiry from a news agency on Friday, January 3, 2020. The Media Relations Unit provided a response on Monday, January 6, 2020. After the news story was published, the Media Relations Unit received several follow up inquiries from news media. There was high media and public interest in the incident.

On Friday, January 10, 2020, the VPD hosted a ceremony to swear-in new recruits. Per the normal process (which occurred prior to the COVID-19 pandemic), the Media Relations Unit invited media to the recruit swearing-in ceremony and distributed a media advisory about the ceremony and indicated that the Chief would be swearing-in the new recruits.

At the end of the ceremony, the reporter asked for an opportunity to speak with the Chief. Per the normal process, the Chief made himself available to do an interview. The reporter asked questions about the BMO incident and the Chief provided answers and general context based on his initial knowledge of the incident.

On January 15, 2020, the VPB received a letter from the OPCC that stated that the OPCC “has received complaints outlining concerns related to the VPD’s handling of an incident involving the detention and arrest of an Indigenous man and his 12-year-old grand-daughter at a Vancouver Branch of the Bank of Montreal.” As a result, the OPCC ordered an investigation into the conduct of the individual officers that responded to the incident.

The OPCC also ordered a service and policy review based on public statements made by the Chief. Specifically, the OPCC raised concerns related: “to the adequacy of the apologies issued by the Chief Constable and statements about the incident. The Chief Constable refers publicly to this incident as being consistent with accepted Canadian standard police procedures “anywhere in Canada” and is a “Canadian standard in policing.”

The following is an excerpt from the transcript of the Chief’s interview where he apologizes for the incident (<https://www.cbc.ca/news/canada/british-columbia/girl-grandfather-handcuffed-bank-account-police-respond-1.5423411>). [Near the beginning of the interview]

Chief: *Unfortunately, the world that we live in, as police officers we’re responding to things in real time and we have to take the facts as we have them. When things get investigated and we realize that wasn’t the situation, and of course we found out that this young girl was only 12 years old, the handcuffs were taken off, and they were taken off the gentleman, and the situation was resolved. And I understand the impact that it has on people. It’s a terrible thing for anybody to go through and to be arrested under circumstances when they’ve done nothing wrong. But by the same token, I just want people to realize that our officers were acting in good faith and responding to solid information that they felt was coming from the bank, who is a legitimate reportee.*

[At the end of the interview]

Reporter: *Ok, would you like to say anything to the gentlemen and his granddaughter involved in this unfortunate situation?*

Chief: *Well, it’s a very unfortunate situation and we’re very sorry the way that this all played out, and nobody wants to see a young girl in handcuffs, or anybody in handcuffs, when we know now after doing the investigation that there was no crime. But I also want people to know that there was a reason that this happened, the way this played out. But of course it’s not a nice situation for anybody involved.*

Below is the excerpt from the transcript where the Chief discusses general policing practices relevant to the incident:

So our officers received a 911 call to the BMO down at the Bentall Centre on Burrard Street. The information that came in that call was that it was a fraud in progress, and the information described to the officers through the 911 call is that there were two suspects. One was a 50-year-old South Asian male, and the second one was a 16-year-old South Asian female.

So that was the information that the officers had when they responded to the bank. And I think it's important for your listeners to realize that when police officers are responding to calls like that, of a crime in progress, we take it seriously. And you also have to think about the credibility of the reporting. This is not somebody calling in that's some stranger on the street. This is somebody that is a chartered bank. So they would know the issues of fraud and the elements of an offence probably better than anybody.

So when we're responding to that call, we know in the officers' minds that we're responding to crime in progress with a 16-year-old and a 50-year-old as described to us. The two officers arrived at the bank. Upon arriving, the two suspects were pointed out. And standard police procedure anywhere in Canada — this is not unique to Vancouver or anywhere else, you know just in this city, this is a Canadian standard in policing — when you're responding to a crime in process, the first thing you do is go in and take charge and calm down the situation.

So we had two suspects. The officers very politely took them into custody, placed handcuffs on both the people, at that time still believing that we were dealing with a 16-year-old girl and a 50-year-old man.

The bank was adamant that a fraud had been committed and they were providing information that led our officers to believe that. And then of course, over time we start sorting it out, we're getting the information. And the officers have to be separated at that point, don't forget, as well. Because one officer looks after the two people that are the subject of the investigation; the other officer has to go off and talk to the bank employees to find out what the situation is. So you've got one officer with two people that are, allegedly have committed a fraud.

Of course, now we know when the officers did a thorough investigation that there was in fact no fraud, and everything was above board and it was totally legitimate. Unfortunately, the world that we live in, as police officers we're responding to things in real time and we have to take the facts as we have them.

In the above comments, the Chief describes the general approach taken by the responding officers. His comments were based on his initial knowledge of the incident and he was attempting to provide context and explain, in general, how police officers respond to emerging and dynamic incidents, where the priority is to take charge of any public and officer safety concerns by dealing with the suspects first.

It is important to note that the priority for senior management, after learning of the incident, was to make contact with the man and his grand-daughter and to apologize directly and personally. Numerous attempts were made to reach out to apologize.

Once the conduct investigation was ordered by the OPCC, there was a limited opportunity for the Chief to clarify his comments or apologize further. The Chief did not participate in any interviews

about the incident in the following days once an OPCC investigation was announced. As a matter of practice, the VPD does not provide any new information via news media or on social media about a particular incident if an OPCC investigation is underway in order to respect the investigative process.

The VPD acknowledges, understands, and respects the public concern in this matter. The situation is deeply unfortunate and the man and his grand-daughter were completely innocent. The Chief's first and only public comments were an attempt to provide context and generally explain the operational and investigative steps that officers consider as they enter a dynamic and emergent incident. The Chief did apologize on behalf of the VPD in this interview, and, in this report, the VPD sincerely apologizes to the man and his grand-daughter.

CONCLUSION:

As previously stated the arrest and handcuffing of the man and his grand-daughter is a deeply regrettable action and the VPD sincerely apologizes to him and his grand-daughter.

This report: explains the interim policy on the Use of Handcuffs; describes in detail the past, current, and future training the VPD has provided (or will provide) on Indigenous cultural awareness and other similar training, and; explains the public statements the Chief made and in the full context he apologized when interviewed in early 2020.

The VPD recommends that the Committee considers the information provided in this report as it prepares its response to the service or policy complaint.

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Date: October 1, 2021

Submitting Executive Member:

DCC Howard Chow

Date: October 8, 2021

APPENDIX

INTERIM POLICY

1.2.3(iii) Use of Handcuffs

POLICY

The use of handcuffs or other restraints to restrain a person is a use of force. A member who uses force in the course of their duties is legally responsible for the force so applied and cannot rely on an administrative direction or order issued by the VPD or any officer or supervisor within it to protect the member from legal responsibility. The arrest of a person does not always provide the grounds to handcuff. The use of handcuffs to restrain a person must be:

- objectively reasonable in all circumstances;
- proportionate to the potential risk or harm the member seeks to prevent;
- necessary to fulfill a legitimate policing objective; and
- subjectively believed by the member that the application of the handcuff is necessary in all of the circumstances.

Being placed in handcuffs by a police officer can be a deeply stressful event. Members should, where practicable, seek to maintain the dignity of the arrested, detained, or apprehended person and take such steps as are reasonable in the circumstances. Where safe to do so, such steps may include: advising the person that the member will be placing them in handcuffs; verbally describing each step to the person; escorting the person in custody in a manner that minimizes visibility to the public, and; any other step the member deems appropriate in the circumstances.

DEFINITION

Disposable Restraints: Designed to be a back-up to handcuffs and a fast means of securing people in a mass arrest situation. These one-time use handcuffs can be made from various materials and are disposable after one use as they must be cut from the person's wrists using an appropriate cutting tool.

PROCEDURE

Authorization and Use

1. In order to use handcuffs, the member must have received instructional training approved by the Training & Education Unit. Members must be qualified on the use of handcuffs every three years as required by the BC Provincial Policing Standards (See [RPM Section 2.4.1 Qualifying Standards - General](#)).
2. Members must be able to articulate the specific circumstance necessitating the use of handcuffs to restrain a person. Relevant considerations provided by statute and common law are, the objectively reasonable need to:
 - a. protect the member(s), the public, or the person from harm;
 - b. prevent the person from attempting to leave;
 - c. locate and preserve evidence related to the reason for the person's arrest; or
 - d. where the law permits, facilitate the search of a detained or apprehended person.
3. In the absence of 2(a) through (d) above, a member's knowledge of past behavior alone is not sufficient to justify the use of handcuffs.

4. Absent a compelling justification (e.g., a clearly articulable safety concern) members shall not place a person in handcuffs who has been detained solely for an investigative detention.
5. In arriving at a decision to handcuff an arrested, detained or apprehended person, members should consider (in conjunction with (2) above) factors relevant to their lawful exercise of discretion, such as:
 - a. the seriousness of the offence or reason for the detention (e.g., an impaired investigation) or apprehension (e.g., pursuant to the *Mental Health Act, RSBC*);
 - b. factors unique to the person, having regard to principals of equity, diversity, inclusion, and dignity, including:
 - i. age (e.g., older adults);
 - ii. disabilities (physical or mental);
 - iii. medical condition (e.g., pregnancy);
 - iv. injury;
 - v. size (e.g., extreme obesity); and
 - vi. Indigenous, racialized, and other equity deserving groups.
 - c. any other consideration the member believes is subjectively relevant and objectively reasonable to their handcuffing decision (e.g., such as a decision to handcuff the person with their hands in front).
6. Members shall not handcuff a child who is apparently under the age of 12 unless:
 - a. all other options have been exhausted or assessed by the member as inappropriate (e.g., verbal communication, de-escalation strategies); and
 - b. the member reasonably believes that the child must be restrained in order to prevent immediate harm to the child or others.
7. Members are responsible for an ongoing assessment of whether it is necessary or appropriate to continue a person's restraint with handcuffs.
8. Where a member has lawfully restrained a person and then determines that it is no longer necessary and/or appropriate to continue to apply the handcuffs, the member shall promptly release the handcuffs and advise a supervisor in the following circumstances:
 - a. instances of an apparent mistaken identity;
 - b. a mistaken belief about the restrained person's involvement in an offence; or
 - c. a mistaken belief as to the commission of an offence (e.g., no offence was committed).
9. Where a supervisor has been notified as per (8) above, the supervisor shall advise the Duty Officer as soon as reasonably practicable.
10. Upon notification as per (9) above, the Duty Officer shall:
 - a. note the circumstances of the event in the Duty Officer Log Book and determine whether any other steps should be undertaken, such as:
 - i. escalate to the Superintendent of North or South Command;
 - ii. notify the Director of Public Affairs;
 - iii. notify the Executive via the Duty Officer Serious Incident Distribution List; or
 - iv. any other steps the Duty Officer deems necessary or appropriate in the circumstances.
11. Unless it is unsafe to do so, the member applying handcuffs to a person shall ensure:
 - a. there is sufficient space between the handcuffs and the person's wrists;
 - b. that the handcuffs are double locked; and

- c. that they respond promptly to a complaint about the handcuffs with a physical and visual inspection.
- 12. Members shall only use departmentally approved handcuffs unless exigent circumstances (e.g., an unplanned mass arrest) require alternative restraints such as departmentally approved disposable restraints. When disposable restraints are used, at least one member who is present must have a tool suitable for cutting and removing the disposable restraints.
- 13. Absent exigent circumstances (e.g., mass arrests) a member shall not handcuff a person to a fixed object or another person.
- 14. Members are responsible for the person's safety and owe them a duty of care while in police custody. Accordingly, the arresting member shall:
 - a. maintain visual continuity over the person they have handcuffed until they are released or the member has relinquished care of the person to the safekeeping of another member (e.g., to the wagon driver for transport); and
 - b. be aware of the length of time the person remains in handcuffs and be responsive to the potential need to remove the handcuffs when appropriate.
- 15. Upon taking custody of a person; the wagon driver shall, unless unsafe to do so, ;
 - a. confirm there is sufficient space between the handcuffs and the person's wrists;
 - b. confirm that the handcuffs are double locked; and
 - c. respond promptly to a complaint about the handcuffs with a physical and visual inspection.

Replacement of Handcuffs

- 16. The wagon driver will supply the arresting member with a replacement pair of clean and functional handcuffs and shall transport the person in the handcuffs of the arresting member (see Handcuff Cleaning and Functionality below).
- 17. Wagon drivers will receive one replacement pair of handcuffs from the Jail upon production of the Jail Arrest Report (VPD602) and Jail NCO authorization is required where additional handcuffs are requested.

Wagon drivers should ensure that their wagon has a supply of disposable restraints to manage unforeseen circumstances and/or if they should be required by members.

Documentation

- 18. The need to document the use of restraints is important and members must be mindful of this requirement in order to fully understand the framework of this entire procedure. Members shall record the use of handcuffs to restrain a person in a General Occurrence Report (GO), or their issued notebook, or on the Jail Arrest Report (VPD 602).
 - a. Documentation should include;
 - i. the reason for the handcuff use;
 - ii. the manner in which the handcuffs were applied (i.e., behind the person's back or in front of their torso, and if the person was standing, seated, or on the ground at the time of handcuffing);
 - iii. a notation that the handcuffs were checked for tightness;
 - iv. double locked; and

- v. the response if a complaint was made that the handcuffs were too tight (i.e., a visual and physical inspection), or the reason why such an inspection was unsafe to conduct.
19. Where the handcuffing required a reportable level of force as described in RPM Section 1.16.8 *Subject Behaviour Officer Response Reporting (SBORR)* members shall complete, within 48 hours, an SBORR template and associated General Occurrence (GO) report (Unless there are exceptional circumstances that warrant an extension of time by the Duty Officer (designated by the Chief Constable). See also: [RPM Section 1.16.8 Subject Behaviour Officer Response Reporting \(SBORR\)](#) and [RPM Section 1.16.7 B.C. Police Act - Reportable Incidents - Injuries or Death](#)).
20. The wagon driver shall document their actions in 15, above, on the Vancouver Jail Arrest Report (VPD 602).

Handcuff Cleaning and Functionality

21. Prior to placing handcuffs received by the Vancouver Jail (Jail) into circulation for use by members, the Jail NCO or designate shall ensure that all handcuffs are:
- a. clean and lubricated as necessary (using department issued supplies only);
 - b. inspected visually for damage; and
 - c. functioning properly (in accordance with training provided by the Training & Education Unit).
22. Members are responsible for handcuffs in their possession and absent exigent circumstances (e.g. an urgent officer safety concern) shall ensure that prior to each use, the handcuffs are:
- a. clean and lubricated as necessary (using department issued supplies only);
 - b. inspected visually for damage; and
 - c. functioning properly (in accordance with training provided by the Training & Education Unit).