OFFICE OF THE
POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

HYATT REASONS FOR DECISION

Brief Historical Background:

This file was one of the first major files with significant issues encountered by the Office of the Police Complaint Commissioner since the inception of the office in July 1998. On 8 December 1998 a large crowd of protestors gathered in the vicinity of the Hyatt Regency Hotel located at 655 Burrard St. in Vancouver B.C. at approximately 5:30 pm when Prime Minister Jean Chretien was scheduled to be the keynote speaker at a Liberal fundraising dinner.

In light of the fact that pre-event intelligence gathered by both the RCMP and the Vancouver Police Department rated the threat assessment of the event as "High", preparations for crowd control and the security of the Prime Minister were put into place. Although the VPD had designated an area as a protest zone intended to facilitate a peaceful protest, a restricted area was also designated to protect the security of the head of state, as well as to guard the perimeter of the hotel that was critical to the overall police management of the event.

Unfortunately, at one point in the demonstration, a group of protesters unexpectedly locked arms and breached the police restricted zone comprising the Burrard Street breezeway leading to the front doors of the hotel. The uniformed bicycle squad police officers designated to hold this line were overwhelmed by the actions of those protestors and that event changed the dynamics of the attempted crowd control. That event prompted the Field Commander to order the VPD Crowd Control Unit to regain control of the restricted zone. In so doing, the CCU engaged the protestors in an effort to force them back outside the restricted zone. During that brief engagement several protestors as well as police officers sustained injuries.

Complaints arising from the incident:

Shortly after the incident the Office of the Police Complaint Commissioner received a total of 21 complaints in writing from individuals, which in essence alleged police misconduct by the use of excessive force in the performance of their duties. The Internal Investigation Section of the VPD investigated the complaints and provided their report to the Discipline Authority in September 1999. No criminal charges were approved, nor were *Police Act* charges recommended.

Circumstances leading to the calling of a Public Hearing in 1999:

On 9 December 1999, a year after the incident, the VPD provided the Office of the Police Complaint Commissioner with a copy of the investigation report. The then Police Complaint Commissioner, Don Morrison, was dissatisfied with the investigation conducted by the VPD. Among other concerns, the Commissioner determined that the report was incomplete in that it did not address the question of whether the field commander was justified in calling out the Crowd Control Unit, nor did it address whether the Unit's level of force was justifiable. Of the two options available to him under the governing legislation, [to order an external re-investigation or to call a Public Hearing], Mr. Morrison chose to call a Public Hearing in order to attempt to address these two deficiencies. That decision resulted in an unanticipated series of events that caused significant delay in resolving this matter.

In fairness to Mr. Morrison, the legislation was in its infancy and legally untested. No one could have predicted the course of events that followed and the consequences they would have. At the time I may possibly have made the same decision as he did.

At the outset, in order to call a Public Hearing, the legislation requires that there be a named Respondent.[1][1] The investigation report had not named any of the police officers involved in the incident with the protestors and therefore the Commissioner did not have a Respondent to serve with the Notice of Hearing. Accordingly, on the basis of what is in essence the doctrine of command responsibility, on 17 December 1999, Commissioner Morrison ordered a Public Hearing and named Inspector Jones (the field commander) and Inspector Doern (commander of the Crowd Control Unit) as Respondents. That decision resulted in protracted legal proceedings with respect to the Commissioner's right to do so.

In July 2000 the Respondent Inspectors successfully brought a petition in BC Supreme Court quashing the Public Hearing.

In August 2000 the Office of the Police Complaint Commissioner appealed the Supreme Court decision. That appeal was heard in July 2001 and resulted in the

[1][1] See S. 60.1 of the *Police Act*

Court of Appeal overturning the Supreme Court Decision quashing the Public Hearing.

In October 2001 the Respondent Inspectors sought Leave to Appeal to the Supreme Court of Canada.

In late 2001 Inspector Doern retired resulting in the Notice of Public Hearing being withdrawn as against him.

On 14 March 2002 the Supreme Court of Canada granted leave to appeal to the remaining Respondent, Inspector Jones.

After the resignation of Mr. Morrison in May of 2002, Acting Police Complaint Commissioner Ben Casson, Q.C., deemed that proceeding with the current Public Hearing was no longer in the public interest and accordingly instructed Commission Counsel to withdraw the Notice of Public Hearing which was intended to end the Public Hearing into this matter. Acting Commissioner Casson had intended to instead order an external investigation with a specific mandate to address the two deficiencies in the initial VPD investigation (information regarding the decision to deploy the Crowd Control Unit and once deployed whether the level of use of force was justifiable in the circumstances).

But, as it turned out, even this apparently non-contentious option did not transpire without further legal complications. On 24 September, 2002, when Commission Counsel appeared before the Adjudicator to withdraw the Notice of Public Hearing, the Adjudicator, retired Mr. Justice K.C. Murphy, who had been appointed to preside over the Public Hearing, questioned the PCC's jurisdiction to withdraw the Notice.

The matter was adjourned to 3 October 2002 at which time Commission Counsel asserted jurisdiction to withdraw the Notice, but the Complainants opposed the submission. The Adjudicator reserved judgment.

On 28 October 2002 the Adjudicator ruled that the PCC did not have jurisdiction to unilaterally withdraw the Notice of Public Hearing when the complainants objected to such withdrawal. In effect, this ruling meant that the Public Hearing would be forced to proceed. In short, the Respondent Inspector Jones continued with his appeal to the Supreme Court of Canada with a hearing date ultimately set for 8 April 2003.

The Acting Police Commissioner, Ben Casson, Q.C., then instructed counsel to bring on an application before the British Columbia Supreme Court pursuant to the *Judicial Review Procedure Act* seeking to quash the decision of the Adjudicator, and in effect, prevent the Public Hearing from proceeding. That matter was argued before Mr. Justice Goepel on 16 and 17 of December 2002 with judgment reserved until 21 February 2003.

I was sworn in as the new Police Complaint Commissioner on 13 February 2003.

On 21 February, Goepel, J. ruled that as an independent officer of the Legislative Assembly, the PCC has been appointed to protect the public interest. It is also for the PCC, not the adjudicator, to determine the public interest. He accordingly ruled that the PCC has the necessary incidental power to withdraw a notice of Public Hearing once one has been issued.

Faced with those developments, I had a significant decision to make early on in my mandate. After reviewing the file, I concluded that Acting PCC Casson was correct in his assessment. To simply press on with an attempt to conduct a Public Hearing would undoubtedly result in yet further appeals, without coming any closer to the determination as to what happened in front of the Hyatt in December 1998. There were now two separate avenues of appeal open to various challengers to the decisions of the PCC. First and foremost, Inspector Jones' appeal to the SCC was still pending on the issue of the right of the PCC to name him as a Respondent. Second, the complainants also potentially could appeal to the BC Court of Appeal from Mr. Justice Goepel's decision to permit the withdrawal of the Public Hearing since they had now been granted formal standing as parties to the proceedings.

I concluded that following this course of action would unnecessarily delay proceedings still further and determined that it would not be in the public interest in all of the circumstances.

Accordingly, on 27 February 2003 I made two decisions designed to resolve the problem without incurring further unnecessary legal costs or delays. I therefore first of all made an Order for External Investigation to the New Westminster Police Service, to be conducted by Deputy Chief Constable Michael Judd. That investigation was to determine answers to the following questions:

1. Was the Field Commander justified when he deployed the Crowd Control Unit?

2. Once deployed, was the Crown Control Unit's use and level of force justifiable under the circumstances?

Secondly, I instructed counsel to bring on an application to the Supreme Court, advising them of my decision to not proceed with a Public Hearing naming Inspector Jones as the Respondent, and requesting that the Supreme Court of Canada quash the appeal from the Judgment of the BC Court of Appeal as the issue was now moot. On 5 May 2003, the Supreme Court of Canada agreed with our submission and decided that the appeal had become moot. That decision effectively ended the legal proceedings.

The external re-investigation:

Following the 27 February 2003 Order for external investigation, Deputy Chief Judd of the New Westminster Police Service assembled a team of investigators and entered into dialogue with our office seeking clarification of the scope of the investigation. On 7 April 2003, in addition to providing Deputy Chief Judd with specific instructions on issues raised by him, I stressed that although timeliness was important, thoroughness was paramount.

Deputy Chief Judd appears to have followed both the spirit and the letter of that instruction. During the course of the next year, our office received regular updates from Deputy Chief Judd regarding his investigation. It clearly was a massive undertaking. The external investigators sorted through approximately 20 boxes of file material and videos in preparation for their re-investigation.

All five complainants were given the opportunity of supplementing their original statements. Three of them agreed to be re-interviewed and two provided additional medical records. Deputy Chief Judd and his team (hereinafter police) attempted to contact and interview all other protesters who wrote letters of complaint and tried to locate other persons who would be potentially helpful witnesses. Of the forty-seven such persons identified, twenty-two were interviewed. The remainder were either unable to be located or were unwilling to participate.

Inspector Jones was re-interviewed as were five other senior police officers who occupied command level positions during the event. All Crowd Control Unit (CCU) members were identified and each was interviewed. Thirty-one of the forty-eight CCU members interviewed admitted to using some degree of force at the event. In accordance with my instructions to the police, each CCU member was promptly notified and treated as a Respondent. Additionally, documentation was obtained from the RCMP and Co-ordinated Law Enforcement Unit members who had been involved in some capacity at the event and they were interviewed.

Additionally, all available videotape evidence (approximately 30 videos) was collected and analyzed, frequently on a frame-by-frame basis. Expert opinion evidence was obtained from independent experts from both the Calgary Police Service and the Toronto Police Service. Previous reports on related subjects were reviewed (APEC Report, Stanley Cup Riot Report) and legal research was undertaken. In all, Deputy Chief Judd and his team provided me with approximately 6000 pages of material plus about 30 videos clips by way of an exhaustive and thorough investigation report on 24 February 2004. It has taken me a considerable amount of time to peruse this report and arrive at my decision.

Summary of the re-investigation report:

At about 6 pm on 8 December 1998 two uniform bicycle members tried to stop a white pickup truck attempting to enter Burrard Street where police had been blocking traffic as a result of the assembly of a large crowd in that area. A number of protestors ran to the pickup and were pushing the vehicle in the direction of the police officers trying to block it. Police advised the protestors to remove the sound equipment from the truck. Once that occurred, the crowd returned its attention to the Hyatt hotel.

At the northwest corner of the Hyatt about 12-20 demonstrators sat on the ground with their backs against the police officers who were securing the restricted zone with their bicycles. The protestors were pushing back against the police and the police had difficulty maintaining the line. During this altercation, it was determined that police members were being assaulted and Inspector Jones (the field commander) reported that the police line collapsed momentarily. He then ordered the deployment of the CCU, but the situation quickly calmed, the police re-established control of the restricted zone, and the CCU was cancelled prior to their actual deployment.

At about 7:10 pm the protestors who had been seated against the police line at that location, stood up, held hands and ran south on Burrard St., through the restricted zone police tape and entered the hotel breezeway restricted zone. This area had been lightly protected by police because the events at the northwest corner (Burrard and Melville) had required all extra resources to be deployed to that location. The protesters then ran toward the front doors of the Hyatt hotel.

Inspector Jones made an announcement of Unlawful Assembly over a loud hailer and ordered the deployment of the CCU to the hotel breezeway. The CCU members entered the breezeway from the hotel lobby and formed two lines across the breezeway, one behind the other. Some CCU members waved batons over their heads, other hit their shields with batons.

Some 44 seconds passed before the CCU moved forward. The advancement was a walk, while members hit their batons on their shields. Many CCU members indicated that there was an announcement to the crowd to “MOVE BACK”. This forward movement took at least 13 seconds before the CCU made contact with the crowd. Force was used, varying from shield pushes, baton jabs, overhand baton strikes and overhead baton strikes. The CCU pushed the crowd out of the breezeway and stopped, forming a line. The CCU made contact with the crowd for approximately 30 seconds in total. As a consequence of this contact, eleven people reported injuries.

The answers to the questions I posed:

Not only did Deputy Chief Judd's investigative team perform an exhaustive review of the evidence gathered to date, as well as perform an extensive and thorough re-investigation, his team also sought independent expert opinions from "use of force" experts from Calgary Police Services and Toronto Police Services.

In answer to the first question I submitted: **"Was the Field Commander justified when he deployed the CCU?"** Staff Inspector Wes Ryan of the Toronto Police Service concluded that the Field Commander's decision to deploy the CCU was consistent with the criteria detailed in the Operational Plan and the Vancouver Police Crowd Control Procedure. In his 22-page report, Inspector Ryan, who according to his resume had considerable experience in matters of crowd control, concluded that given all of the circumstances at the Hyatt at the time of the breach of the police line, the Field Commander had clear and compelling reasons to order the deployment of the CCU. He also found that the decision to deploy the CCU was consistent with the criteria detailed in the Operational Plan and the Vancouver Police Crowd Control Procedure. He also concluded that the deployment of the CCU was a justified action to restore order.

With respect to the second question: **"Once deployed, was the CCU's use and level of force justifiable under the circumstances?"** Inspector Ryan concluded that the force used by the CCU was reasonable, necessary, justified under the law, and in keeping with VPD policy.

A full copy of Inspector Ryan's report is available as an attachment. Inspector Ryan's Report

A second independent report concerning these two questions was requested from Inspector Bill Webb of the Calgary Police Service Public Order Unit. After providing a thorough analysis of both factual matters and a critical assessment of tactics adopted by the VPD, Inspector Webb concluded in response to the first question posed:

> *Given the escalating confrontational tempo of the crowd, coupled with the intelligence indicating a desire of some protesters to gain access to the Prime Minister and that desire manifested by the breaching of the perimeter, and the responsibility of the VPD to protect an Internationally Protected Person, the deployment of the Crowd Control Unit was, in the writer's opinion, fully warranted.*

With respect to the second question, he concluded:

> *…the use of force by the CCU, once deployed, was appropriate to restore the perimeter to the sidewalk in the form of verbal*

commands accompanied by pushes with the shields. In individual cases where CCU officers encountered assaultive high risk behaviour, an escalation of force in the form of kicks, jabs and baton strikes to non-critical body areas was warranted if that force was reasonable and the threat can be individually articulated.

He went on to conclude that the front line officers of the VPD conducted themselves in a very professional manner under very difficult circumstances.

It must also be mentioned that Inspector Webb's report noted some problems with the way in which the CCU conducted itself. His report made the following observations:

1. 1. *An incident Commander compromises command and control whenever he places himself too close to the stimulus of the actual event. In this case Inspector Jones' direct involvement in the front line was deemed to hinder his view of the incident from a strategic perspective. The recommendation included the suggestion that commanders on the ground should provide feedback to the Incident Commander so that he could make strategic decisions without the distraction of the noise and confusion of the incident*. (Nevertheless, the report concluded that Inspector Jones viewed the use of the CCU as a last resort and that he demonstrated good judgment and self-restraint from a command perspective.)

2. *2. Although the deployment of the CCU was fully warranted, the way in which it was done may have served to aggravate the situation. In particular:*

    a) *a) it appears that the bullhorn used to address the protestors was broken;*

    b) *b) the drumming of batons on shields may have been unnecessary at that stage;*

    c) *c) the CCU perhaps should have given the crowd a brief opportunity to retreat before immediately advancing upon them;*

    d) *d) each CCU member should have displayed an identification number on their helmet to re-enforce their accountability respecting their discretionary use of force; and finally,*

e) e) *police officers ought to be required to make comprehensive notes prior to completing their shift and retain the notes in a central location for future reference such as a public enquiry.*

3. 3. *Joint training of CCU members with other municipal police forces and the RCMP and other agencies to determine provincial CCU standards in future situations may be useful.*

An **edited** copy of Inspector Webb's Report is available as an attachment. Inspector Webb's Edited Report. The reason I have chosen not to publish the entire report is because it discusses in some detail particular components of the Operations Plan. In my view it is important to not disclose certain tactical or strategic operational plans for fear it may compromise future police operations.

I intend to follow up these observations with the Vancouver Police Department and the Vancouver Police Board in order to determine whether there should be amendments to the Policy or Service rules and regulations in keeping with the recommendations.

Decision by the Discipline Authority:

Chief Constable Jamie Graham of the Vancouver Police Department received the identical Report and supplementary material with respect to this matter as did the Office of the Police Complaint Commissioner. Chief Graham on 17 March 2004 issued a media release wherein he briefly recounted the historical progression of this file, culminating in the 6000 page re-investigation report from the New Westminster Police Service. At the same time, Chief Graham provided an executive summary of the report which can be viewed on the VPD website. After stating that the investigation determined that no disciplinary defaults occurred, he concluded his brief statement with the declaration that: "…I have concluded that there is no further action required on my part under the *Police Act*."

Requests for a Public Hearing:

Subsequent to Chief Graham's decision being made public, on 19 March 2004 Mr. Cameron Ward, counsel for a number of the original complainants, requested on behalf of his clients that I convene a Public Hearing pursuant to section 60(1) of the *Police Act*. Additionally, a number of requests were received from various complainants and other agencies for full disclosure of the entire report.

Considerations as to whether to call a Public Hearing:

At the outset, it is important to re-iterate when a Public Hearing should be called. Pursuant to section 60(5) of the *Police Act*:

> *60(5) In deciding whether a* Public Hearing *is necessary in the public interest, the* Police Complaint Commissioner *must consider all relevant factors including, without limitation, the following factors:*
>
> *(a) the seriousness of the complaint;*
>
> *(b) the seriousness of the harm alleged to have been suffered by the complainant;*
>
> *(c) whether there is a reasonable prospect that a* Public Hearing *would assist in ascertaining the truth;*
>
> *(d) whether an arguable case can be made that*
>
> *(i) there was a flaw in the investigation,*
>
> *(ii) the disciplinary or corrective measures proposed are inappropriate or inadequate, or*
>
> *(iii) the discipline authority's interpretation of the Code of Professional Conduct was incorrect;*
>
> *(e) whether a* Public Hearing *is necessary to preserve or restore public confidence in the complaint process or in the police.*

In addition to these legislated considerations, I must also take into account the fact that the complainants had their expectations raised when the previous Police Complaint Commissioner ordered a Public Hearing. When the Public Hearing was cancelled by the Acting PCC and I subsequently ordered a re-investigation of the matter, they rested their hopes on the possibility that a re-investigation would expose one or more disciplinary defaults having been committed. The re-investigation determined that no disciplinary defaults had been committed and now certain complainants renew their request for a Public Hearing.

It must be remembered that the Public Hearing was originally ordered by Mr. Morrison because he was dissatisfied with the investigation. He chose the Public Hearing route as a means to find the answers to the unanswered questions. That approach proved to be singularly unsuccessful.

I ordered a re-investigation as the alternative route to finding out the information in order to be able to make a fully-informed decision. I am satisfied that the re-investigation was complete, thorough and exhaustive, as well as being impartial, fair and independent. The use of external experts from Toronto and Calgary on the issue of use of force adds to the complete objectivity and independence of the final report.

I deem it necessary to mention that I specifically carefully reviewed all the individual complaints by the Complainants in these proceedings, as well as reports of individuals who were not complainants but who were identified by the re-investigation and reported a use of force of some kind against them by CCU. For the purposes of these Reasons for Decision, I choose to address specifically the complaints launched by Ms. D., Mr. B. G-S, and Ms. I.M. I do so because I am satisfied by the re-investigation report that each of these complainants sustained injuries during the course of the confrontation with the police.

Ms. D. sustained an injury behind her left ear which reportedly knocked her earring out of her ear and resulted in her glasses being knocked off her face. She attributes the injury to a baton strike wielded by a police officer. She reported her injury as a "small superficial" injury and a bruise. I am advised that she has made a full recovery.

The main difficulty with this incident is the lack of identification of the individual who applied force to her. Despite diligent efforts by the re-investigation team that included frame-by-frame analysis of video evidence, and interviews conducted of the complainant herself, independent civilian witnesses, and VPD officers, there was inconclusive evidence as to who struck Ms. D. Not only did the evidence not meet the "beyond a reasonable doubt" standard of proof, but in my view it did not meet the civil standard of proof on "a balance of probabilities". Although it is unfortunate that despite the best efforts of the re-investigation team, identity cannot be established, in my view a public hearing would not further assist in making that determination.

Mr. B. G-S. complained of receiving an unjustified police baton strike to the top of the head. I am satisfied that he indeed suffered a contusion and laceration to the top of his head that caused some bleeding and required seven stitches. Mr. B. G-S. was presented with a photo identification package containing the file pictures of all of the CCU members. Unfortunately, he was unable to identify any of the individuals in the photo lineup as his assailant. The re-investigation team conducted an in-depth analysis of all of the available video-tape and interviewed various individuals in an effort to determine how Mr. B. G-S. sustained his injury. Analysis of the video-tape shows Mr. B. G-S. at a time and location when there is heated interaction between members of the crowd and the CCU. Unidentified members of the crowd can be seen assaulting CCU officers, making repeated punching and grabbing motions, while the CCU members can be seen making striking actions with their batons. Unfortunately, the cause of the injury to Mr. B.

G-S. was not recorded on video. The complainant is unable to identify the police officer who caused his injury. The other available evidence does not assist. I am satisfied that a public hearing would likely not provide additional conclusive evidence.

Finally, Ms. I.M. reported a back and nose injury which she alleges resulted from being hit in the face by a police shield, causing her to fall backwards and land on her buttocks on the pavement. In this instance, identification of the officer who struck Ms. I.M. was made. Sgt. G. provided a statement in which he admitted to striking the complainant with his shield on the buttocks. By reviewing the various statements concerning this incident given by other witnesses to the re-investigation team, an assessment of her injuries, and by reviewing the analysis performed by Deputy Chief Judd, I am satisfied that he was likely facing her when he pushed Ms. I. M. firmly with his shield on one or more occasions during which time the shield struck her nose causing her to lose her balance and fall on her buttocks.

A further assessment of all of the evidence leads me to the conclusion that Ms. I.M. was not being compliant with Sgt. G's directions and was yelling at him during the confrontation and refused his direction to move out of the restricted zone. In these circumstances, some use of force was justified. The question then arises as to whether or not the amount of forced used to ensure her compliance was excessive. I am satisfied by the re-investigation report that the amount of force used, in light of the nature of her injury, was not excessive, a view that is consistent with the principles outlined in the expert "use of force" report authored by Inspector Webb of the Calgary Police Services. Again, I do not believe that calling a public hearing would further assist in this matter.

Decision:

After considerable reflection, I have come to the conclusion that a Public Hearing would not assist further in ascertaining the truth. I am completely satisfied with the re-investigation conducted by Deputy Chief Judd and his team. It answers both questions to my satisfaction. I do not believe that it could successfully be argued that there was a flaw in the re-investigation. Nor do I believe that a Public Hearing is necessary to preserve or restore public confidence in the complaint process or the police.

Mr. Justice Goepel of the British Columbia Supreme Court ruled on 23 February 2003[2][2] with respect to the power of a Police Complaint Commissioner to withdraw a Public Hearing once a Public Hearing had been called in this very case. In arriving at his conclusion Mr. Justice Goepel found *inter alia*:

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[2][2] *British Columbia (Police Complaint Commissioner) v. Vancouver (City) Police Department*, [2003] B.C.J. No. 399 (B.C.S.C.)

> *The PCC has been appointed to protect the public interest. He is an independent officer of the Legislative Assembly. Pursuant to the legislation, it is for the PCC to determine the public interest.*

2003 B.C.J. No. 399 B.C.S.C.

Applying that rationale, it is my determination that nothing further would be gained from having a Public Hearing after such a thorough re-investigation. I cannot conceive what additional benefit would be gleaned by calling a Public Hearing. As I have said, I am completely satisfied with the re-investigation. I am in a position to make a fully informed decision with respect to whether or not any of the officers committed a disciplinary default in dealing with the protestors on 8 December 1999.

The police in this case were faced with a very difficult situation. They were cognizant of the duty entrusted to them to protect the Prime Minister of Canada who was designated as an Internationally Protected Person. The evidence shows that they had reason to be concerned that certain elements of the crowd of protesters may have intended to cause actual harm. They could not dismiss lightly pre-intelligence reports of the threat assessment, nor placards and signs placed at various locations around the City of Vancouver urging protestors to bring weapons to what was billed to be the "Riot at the Hyatt". Indeed, had harm or injury been occasioned to the person they were by law required to protect, they would have been held negligent in the execution of their duty.

Additionally, it must be remembered that this group of protestors made an attempt to breach the protected zone, in effect making an assault on the police line. At one stage they appeared to be successful in that attempt. The police had no way of knowing what the protestor's intentions would be once they breached the line and entered the hotel. The police in my view were legally authorized to use as much force as was reasonably necessary to re-establish control and security. In so doing, the degree of force used should not be excessive, but neither can it in legal terms "be measured to a nicety". The Report establishes to my satisfaction that the force used in this particular situation was neither unnecessary, nor excessive.

Accordingly, I find that no disciplinary defaults can be proven to have taken place based on all the evidence provided to me. In my respectful view, since I have been legislatively mandated to determine the public interest in this matter, I believe that it would not be in the public interest to call a Public Hearing. This matter is now more than five years old. We know all the facts that we have a reasonable expectation of knowing. It is time to bring this matter to a close. **Accordingly, I hereby confirm the decision of the Discipline Authority that no disciplinary defaults have been substantiated, and I decline the request for a Public Hearing.**

Finally, in my view, the Office of the Police Complaint Commissioner as well as the citizens of the Province of British Columbia owe a debt of gratitude to Deputy Chief Judd and his team for having conducted such a thorough independent re-investigation. I want to personally thank Deputy Chief Judd and each member of his team, as well as Chief Zapotichny of the New Westminster Police Service for the co-operation provided to our office to prepare this Report. Our grateful thanks must also be extended to Inspector Ryan of the Toronto Police Department and to Inspector Webb of the Calgary Police Service. Finally, it should be noted that Chief Graham of the Vancouver Police Department co-operated fully with respect to this re-investigation, ensuring that the external investigators had access to all the information they sought, and also made a significant contribution to the ability to conduct such a massive re-investigation by agreeing to underwrite a substantial portion of the cost.

18 May 2004

Dirk Ryneveld Q.C.
Police Complaint Commissioner

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