

NOVA SCOTIA POLICE REVIEW BOARD

IN THE MATTER OF: *The Police Act, R.S.N.S. 1989, Chapter 348 and the Regulations made pursuant thereto*

- and -

IN THE MATTER OF: A Notice of Review, in Form 13, filed by **DELVINA BERNARD**, Complainant, against **CONSTABLE ANDRE THOMPSON** initiating a review before the Nova Scotia Police Review Board of a decision by Deputy Chief Robert Barss of the Halifax Regional Police Service.

BEFORE: Brian Creighton - Chair
Jean McKenna - Alt Chair
Linda Fraser - Member

COUNSEL: Mr. Patrick Duncan - Solicitor on behalf of Constable Andre Thompson
Mr. B.A. "Rocky" Jones - Solicitor for the Complainant

HEARING DATE: January 24, 25, 26, 28, March 21, 22, 23, 2000

PLACE Hearing Room of the Utility & Review Board, 1601 Lower Water Street, Suite 300, Halifax, Nova Scotia

DECISION DATE: Written Decision Dated: March 7, 2001

DECISION: Majority Decision Unfounded
Minority Founded in part

On the 19th day of May, 1998, the Complainant Delvina Bernard filed a complaint in Form 5 against Constables Andre Thompson, Kevin Hovey and Nancy Rudback of the Halifax Regional Police. The complaints against Constables Hovey and Rudback were withdrawn by Ms. Bernard by notice to the Nova Scotia Police Commission by way of Form 6 (Withdrawal of Complaint) dated June 11, 1998. Constable Thompson was notified of the complaint by way of Form 8 (Notice of Allegation) also dated June 11, 1998.

The complaint against Constable Thompson proceeded and on September 15, 1998, Halifax Regional Police Deputy Chief Robert Barss, made a decision that Constable Thompson had not committed a disciplinary default. The disposition of proceedings was recorded on a Form 12 (Disposition of Internal Disciplinary Proceedings) dated that same day.

Delvina Bernard filed a Notice of Review (Form 13) appealing Deputy Chief Barss' decision with the Nova Scotia Police Commission on the 28th day of September, 1998. The hearing of Ms. Bernard's request for a review was referred to this Board by the Commission's Investigator.

The substance of Ms. Bernard's allegations against Constable Thompson are contained in the following two paragraphs of Ms. Bernard's complaint against Constable Thompson, as follows:

“It is herein submitted that Constable Thompson, an officer of the Halifax Regional Municipal Police Department, maliciously and illegally detained and arrested Delvina Bernard without just cause. Furthermore, the said officer assaulted Ms. Bernard, which resulted in her requiring medical attention. Additionally, Constable Thompson charged Ms. Bernard with failing to provide a sample of her breath or blood, under S. 254 of the Criminal Code and with being impaired contrary to S. 253 of the Criminal Code, without giving Ms. Bernard an opportunity, or demand, to provide a sample, and without conducting any tests whatsoever to determine her level of impairment. Constable Thompson’s lack of professionalism cannot be separated from the Department’s responsibility to treat citizens with respect and dignity while offering unbiased service.

Constable Thompson transported Ms. Bernard to the police station and when he was finished with his illegal actions, he aggressively insisted that Ms. Bernard leave the safety of the police station through a back door into the dark alley at the back of the police station at approximately 4:30 a.m. Ms. Bernard attempted to explain to the constable that a woman alone should not be placed in high risk situations which would endanger her safety. The constable stated that he did not care but told her to leave the station immediately. When Ms. Bernard refused to go out into the alley unaccompanied, another police officer who witnessed this fiasco intervened and requested the assistance of a female officer to accompany Ms. Bernard to the front of the police station where she was able to wait in the presence of a Commissionaire for a lift back to the location where she had been taken from by the police.”

These complaints were signed by Ms. Bernard and her solicitor, Bernley A. (Rocky)

Jones.

In a commentary attached to the Form 5, Ms. Bernard detailed her version of the facts as related that evening. The Board quotes from the commentary as follows:

“Thompson concentrated on showing power, and authority by not following protocol, by displaying poor etiquette in conducting a routine check. He placed me under arrest to further flaunt his power and control in the face of my sister and husband, and to show the White officer that he had some license to brutalize Black people and by being Black himself.”

Ms. Bernard in her evidence, and also Mr. Jones in his final argument, put forward the argument that Constable Thompson was racially motivated. Delvina Bernard and two of her witnesses, her husband, Dr. Harvey Miller and her sister, Kim Bernard, are all black. Constable Thompson is black and Constable Hovey is white. Mr. Jones and Ms. Bernard argued that Constable Thompson’s alleged wrongful conduct flowed from the fact that he was part of a white power structure in the police department, was beholden to that white power structure, and brutalized Delvina Bernard in order to flaunt his power over other black people.

Ms. Bernard’s first witness was her sister, Kim Bernard, presently of Atlanta, Georgia. Kim is a professional social worker, registered in both Nova Scotia and in Georgia. On April 18, 1998, she was living and working in Nova Scotia.

Kim Bernard testified that on the 18th day of April, 1998, she had attended the Atlantic Canadian Association for African Researchers conference at St. Mary’s University. Her sister, Delvina Bernard, was also at this conference. After the conference ended (between 4:30 and 5:00 p.m.) Kim left for her home on Edinburgh Street in Fairview. Kim Bernard lived alone. Between 9:30 and 10:00 p.m. she picked up her friend, Monica Sparks, who also lived in Fairview,

and they went to downtown Halifax to the Market Street Jazz Cafe. Kim Bernard and Monica Sparks arrived between 10:30 and 11:00. Delvina Bernard was also at the Cafe that evening. Kim Bernard sat with Delvina Bernard and friends, Monica Sparks, Gail Sparks, Janet Sparks and others. Kim Bernard did not drink that evening as she was on a weight loss program through Weight Watchers. She indicates that Delvina Bernard was also on the same Weight Watchers program. Kim described herself as the "points police." She testified that she was watching Delvina and Delvina had one glass of wine through the entire evening. She remembers Delvina buying drinks for other people but not having more than the one glass herself.

Dr. Harvey Miller, Delvina's husband, was performing at the Cafe that evening. Dr. Miller's band played until the Cafe closed. Delvina and Kim stayed late with Dr. Miller while he was packing up the band's gear. Monica Sparks had left earlier and did not accompany Kim Bernard home. Dr. Miller's car was parked outside the Cafe and he drove Delvina Bernard and Kim to their vehicles. Dr. Miller dropped Delvina off at her car first, followed by Kim. Both vehicles were parked in downtown Halifax. Kim headed from downtown to Brunswick Street, up Rainey Drive and past the police station onto Gottingen Street. She remembers that Dr. Miller was driving in front of her while she was driving up Gottingen Street.

After Kim turned onto Gottingen Street, she saw flashing police lights opposite the Human Resource Development Canada office on Gottingen Street, which is located between Falkland and Cornwallis Streets. She saw the police vehicle and she saw Delvina Bernard's and Dr.

Miller's cars parked in front. She recollects the police car was in the back followed by Delvina Bernard's car, Dr. Miller's car. Kim parked in front of Dr. Miller's car. When she first pulled in, she observed through her rear view mirror and out her side window, discussions taking place between Delvina Bernard and Constable Thompson. Delvina Bernard was in her vehicle at the time. Kim exited her vehicle when she saw Constable Thompson pull Delvina from her vehicle. Kim described Constable Thompson as pulling Delvina Bernard by placing his right hand on her left shoulder and using "excessive force." Kim described Constable Thompson's action as a dragging motion, and that Delvina was trying to maintain her balance and get her feet under her as she was being pulled from her car. Kim indicates that she saw pain on Delvina's face. She alternatively described Delvina's expression as scared, confused and "saddened." She also described Delvina's demeanour as calm. She said she observed that Constable Thompson was angry and "fired up."

Kim Bernard testified that when she and Dr. Miller together approached the scene, Constable Thompson hollered at them and told them to get away from the car.

During this time, she remembers Delvina asking Constable Thompson questions such as "what is your name, why are you doing this to me? What am I doing wrong?" Kim testified that Constable Thompson did not respond.

Later, Kim remembers Delvina Bernard had her hands handcuffed behind her back, and she remembered Thompson saying to Delvina that he was going to handcuff her. She also

remembers Constable Thompson saying something like, "I am going to read you something." She remembers that Delvina continued to repeat the questions she initially asked Constable Thompson over and over again but that Thompson did not respond nor give any explanation.

When the police were putting Delvina Bernard into the police car, Kim asked Constable Hovey why Delvina Bernard was being arrested. Hovey advised her that Delvina Bernard was being arrested for impaired driving. Kim Bernard recollected that after Constable Thompson placed handcuffs on Delvina Bernard she was immediately taken around the back of the police car and put in the back seat of the cruiser on the sidewalk side. She described Constable Thompson as shoving Delvina and that Delvina offered no resistance. Constable Thompson had one hand on her back and was pushing her along and Delvina was jerking from the push. She remembers Constable Thompson putting his hand on top of Delvina's head as he put her into the car, and remembers telling Thompson that that much force was not necessary. At this time, Kim and Harvey Miller were on the street side of the police vehicle, and that Constable Hovey was in a "guard stance".

She also remembers towards the end of the incident that Delvina asked the officers what was going to happen to her car. She recollects Constable Hovey asking Dr. Miller whether he was drinking. Dr. Miller advised Hovey that he was not drinking. Constable Hovey then asked Dr. Miller to look after Delvina's vehicle.

On cross examination, Kim Bernard acknowledged that she was in a bar with a group of people who were moving around and that she would not always be able to see what her sister was drinking. Also on cross examination she was asked questions about whether she saw a machine present during the incident on Gottingen Street. She recollects seeing a machine in Constable Hovey's hands and saw him put it on the police car. She doesn't recollect either of the officers mentioning the machine. On redirect, counsel for Delvina Bernard asked for clarification from Kim Bernard as to the length of time of the incident. Kim stated that she was a poor judge of time; she felt she was in her car for about five minutes, and the total duration of the Gottingen Street incident was 20 - 25 minutes.

The next witness was Dr. Harvey Miller. Dr. Miller has been married to Delvina Bernard for eleven years and has known her for seventeen years. Dr. Miller is an associate professor of engineering at St. Mary's University. He is a native of St. Lucia, received his doctorate at the Technical University of Nova Scotia in 1990 and has been a professor at St. Mary's for eleven years.

Dr. Miller was Facilitator for the Atlantic Association of African Canadian Researchers Symposium at St. Mary's on the 18th of April, 1998. The symposium lasted from 8:30 a.m. to 5:00 p.m. and there was no alcohol served. Dr. Miller left Saint Mary's at 5:00 p.m. ahead of Delvina, as he had to prepare for his performance at the Market Street Jazz Cafe that evening. Delvina arrived home from the symposium around 7:00 p.m. Dr. Miller left between 8:30 and 9:00 for the Market Street Cafe. Neither he nor Delvina consumed any alcohol while both at home.

Dr. Miller is part of a jazz trio; he plays guitar and there is a bass player and a drummer.

There was a fairly large crowd at the Market Street Cafe on the evening of April 8, 1998. Dr. Miller started playing around 9:30 p.m. Several people from the symposium came to the Cafe that evening to enjoy the entertainment and to socialize. Dr. Miller remembers that Delvina sat at a table with mostly family, the Sparks girls, a police officer and his fiancée, and a professor from an Ontario university. His recollection was that the group occupied three tables.

During intermission, when Dr. Miller visited the group he recalled that Delvina had a drink of wine in front of her on the table. He also recollected that Kim Bernard, Monica Sparks and Delvina were in a Weight Watchers program and were not permitted to drink very much.

Dr. Miller finished playing around 1:30 a.m. and the band took between twenty and thirty minutes to pack up their instruments and gear. Dr. Miller, Kim Bernard and Delvina Bernard left together in his car sometime after 2:00 a.m. He dropped Delvina Bernard off at her car at the corner of Market and Sackville Streets, and then dropped Kim off at the corner of Grafton and Prince.

Dr. Miller then drove along Brunswick Street, up Rainey Drive and down Gottingen Street. He saw police lights on Gottingen north of Falkland Street. The police cruiser was parked

50 to 75 feet north of the H.R.D.C. office and Delvina Bernard's car was parked in front of the cruiser. He pulled over in front of Delvina's car. When he drove by, he noticed Constable Thompson leaning against Delvina Bernard's car with his head inside the window of the car. Dr. Miller's first thought was that the officer might know Delvina Bernard because the officer was black. Kim Bernard parked her vehicle in front of Dr. Miller's about a minute after he arrived.

Dr. Miller drew a sketch for the Board to demonstrate his recollection as to the location of the vehicles. The police cruiser was parked about two parking lengths behind Delvina's vehicle. Dr. Miller parked his vehicle within six feet ahead of Delvina's. He stated that after he got out of his vehicle, Constable Hovey was at the northeast corner of the police cruiser, one foot on the pavement and one on the sidewalk. Kim Bernard had her head stuck out of the window of her car. Nothing seemed out of the ordinary.

Constable Thompson then opened Delvina's driver's door with his left hand and grabbed Delvina by the left shoulder. Dr. Miller tried to approach the scene and Constable Thompson said "Step back." Up to this point, Dr. Miller had heard none of the conversation between Delvina Bernard and Constable Thompson. Dr. Miller stated that as he moved forward, Constable Thompson put his hand on his holster. Dr. Miller recollected that by this time, Kim was with him. He and Kim moved towards the back passenger door of Delvina's car. Thompson had Delvina held between her elbow and her shoulder. Dr. Miller recollects Delvina asking when she was being dragged from her car, "Officer, what is this about?" Dr. Miller states that Constable

Thompson did not respond. He also recollects Delvina stumbling slightly as she got out of the car and Thompson took her to the centre line of Gottingen Street. Constable Thompson then let go of her arm, reached into his jacket, pulled out something, and said "I am going to read you something." Dr. Miller then states Delvina said to Thompson, "Is this about me driving a BMW and having dreadlocks?" Constable Thompson then said, "That's enough; I am going to arrest you." Thompson ordered Delvina to put her hands behind her back; she complied and he handcuffed her. Constable Thompson did not answer her questions and Delvina Bernard was absolutely calm asking questions throughout. Dr. Miller states that Constable Thompson was breathing heavily and was angry.

Constable Thompson then took Delvina around the back of the police cruiser, pushing her along. Around that time, Constable Thompson shouted to Constable Hovey, "Get them out of here." Constable Hovey blocked Kim Bernard's and Dr. Miller's way when they moved toward the police cruiser. Constable Thompson pushed Delvina Bernard into the back passenger's door of the police cruiser. Thompson opened the door with his right hand, put his left hand on her head and right hand on her shoulder and pushed her into the car. Delvina fell down into the car. Delvina's legs were out so Constable Thompson grabbed her legs and yanked them into the car.

Dr. Miller says he still doesn't know why his wife was arrested and her rights were not read to her. He does, however, agree that Constable Hovey told him she was being arrested for impaired driving. Dr. Miller estimated the whole incident took five minutes. Dr. Miller remembers

Constable Hovey placing something into the trunk of the police cruiser and getting in the driver's door of the police cruiser and then pulling away.

Dr. Miller and Kim followed the police cruiser to the police station, and talked to the commissionaire but could not get in. They then went home and called Delvina at the police station. Dr. Miller was able to pick her up one hour later.

On cross examination, Dr. Miller said that Constable Thompson assaulted his wife. He says that Constable Thompson was discourteous in not responding to Delvina's questions.

Dr. Miller states that the policy of the Market Street Jazz Cafe is that performers could have two drinks. He had one drink during the first intermission and had one-third of a glass of wine that Delvina gave him. He estimated that he had been standing and observing from in front of his vehicle for about two minutes before Kim joined him and that Kim's vehicle was parked about 20 feet beyond his. He doesn't recollect seeing a Roadside Screening Device (ALERT machine) on the police cruiser but does remember Constable Hovey putting something in the police cruiser trunk. On further cross examination, Dr. Miller did recollect he saw Constable Hovey take something off the hood of the police cruiser.

Dr. Miller explained that his wife, Delvina Bernard, was a race relations consultant, having worked with Holland College, various government organizations and school boards.

According to him, his wife was fighting against “racial hegemony.” Dr. Miller also stated that when Constable Thompson removed Delvina Bernard from her car, he used “great force.” He recollected Constable Thompson saying, “I am going to read you something, O.K., O.K.” Thompson also said, “If you interrupt me, I will arrest you.” A third time, Thompson said, “If you don’t let me read this, I am going to place you under arrest.” Dr. Miller does remember Constable Thompson having a card and trying to read something to Delvina Bernard, but that Constable Thompson would not answer Delvina’s questions. Dr. Miller was contradictory in that he suggested Constable Thompson was never interrupted but at the same time, Delvina Bernard was constantly asking questions.

The next witness was Dr. Jeffrey C. Kirby, M.D., a general practitioner. Dr. Kirby was Delvina Bernard’s doctor in 1998. On March 26, 1998, Dr. Kirby carried out a general physical examination of Delvina Bernard and determined she was in excellent physical health. A muscular/skeletal screen was part of the examination. He also examined her on April 13, 1998. The second examination was specific to determine whether or not Delvina was fit to participate in a boxing/fitness program. He determined she was fit to participate.

Dr. Kirby’s next examination of Delvina Bernard was on April 28, 1998, nine days after the incident which is the subject matter of these proceedings. Dr. Kirby’s April 28 examination showed that Ms. Bernard had bruising on the inside of her upper left arm which was consistent with her being pulled from her vehicle by Constable Thompson. Delvina also complained of pain in her left shoulder and had some limitations of movement in her shoulder consistent with rotator cuff

injury. The rotator cuff injury was consistent with the history that Delvina Bernard provided to Dr. Kirby, being her removal from her car and the handcuffing by Constable Thompson. She also had tenderness in her kneecap. Dr. Kirby stated that Delvina had a minor inflammation under her kneecap.

Dr. Kirby stated that the bruising was consistent with a soft tissue injury. He testified to the Board that the speed at which bruising faded depended on the level of injury.

Dr. Kirby stated that Delvina's knee injury was caused by hyperextension. This injury was not necessarily consistent with being placed in the police car. Hyperextension is most commonly caused by athletic activity.

Dr. Kirby saw Ms. Bernard on July 22, 1998. At that time, he noted that Ms. Bernard was suffering from ongoing stress and was ruminating about the events surrounding the incident with Constable Thompson. Ms. Bernard still had some residual pain and Dr. Kirby recommended some flexibility exercises and perhaps therapy.

Delvina Bernard testified that she and Dr. Miller lived at 5281 Livingstone Street in Halifax, which is between Agricola and Robie Streets in Halifax' north end. She testified as to her activities on the 18th day of April, 1998. During that day, she attended the Symposium of the Atlantic Canadian Association African Researchers. She was an employee of the sponsor

organization and was one of the organizers of the event. She arrived home from the Symposium after Dr. Miller. Dr. Miller was bustling about getting organized for his performance at the Market Street Jazz Cafe that evening. Dr. Miller left for the Market Street Cafe at 8:00 p.m. Dr. Miller and Delvina Bernard have one daughter, and Delvina left to take their daughter to her sister's for the night between 9:00 and 10:00 p.m. After Delvina Bernard dropped her daughter off, she visited her friend, Andrea Currie, to congratulate Andrea on her graduation from a therapist program.

Andrea Currie and Delvina Bernard are members of a well known singing group known as Four the Moment. Four the Moment uses music, story-telling, history and animation to illustrate African and women's experiences. Ms. Bernard testified that Four the Moment is a spiritual musical ministry. She has been blessed as part of the group to have travelled all over the world. Ms. Bernard considers that she is a spokesperson for persons of color, for women and for working people. The group won an award at the prestigious East Coast Music Awards.

Ms. Bernard's recollection is that she left Andrea Currie's house around 11:30 p.m. and went directly to the Market Street Cafe. She had consumed no alcohol.

Ms. Bernard parked her blue BMW sedan at the corner of Sackville and Market Streets and walked to the Market Street Cafe. She sat with people from the Symposium, friends and family, and spouses of the other members of her husband's jazz trio. She remembers that she stayed within her circle of friends that evening but that people were moving around and circulating within

the group. Ms. Bernard recollects that during the time she was at the Market Street Cafe, she had one glass of wine, and that she ordered a second glass of wine. She didn't drink more than one third of the second glass of wine because it didn't taste good. She remembers other people in the group tasting the wine.

Ms. Bernard testified that she does not drink and drive. She was hit by a drunk driver in 1982. She does not drink very much, and when she does, she drinks lightly. The last time Ms. Bernard remembered being intoxicated was in the Bahamas in 1992. She has an aversion to substance abuse. She stated that alcohol and drugs have been pumped into the poor black communities as a way to keep them weak.

Ms. Bernard also discussed the Weight Watchers group and confirmed that Kim Bernard was watching to make sure that members of the group didn't drink too much.

Delvina Bernard stayed at the Cafe until the end of the evening. She talked to people from her group until fairly late and Dr. Miller had to pack up the band's equipment. She and Kim Bernard left with Dr. Miller around 2:00 a.m. and he dropped her at her vehicle. Delvina Bernard drove from Market Street up Sackville Street, down Brunswick Street, up Rainey past the police station and onto Gottingen Street. She recollects that there were taxi cabs lined up in front of The Palace night club and there was quite a bit of pedestrian traffic on Brunswick Street. She drove slowly to accommodate pedestrians on Brunswick Street. She recollects letting pedestrians across

on the George Street crosswalk, and remembers a police car coming towards her on Brunswick Street at that time.

The police cruiser came behind her, put its lights on and pulled her over on Gottingen Street between Cogswell Street and Falklands Street. Delvina remembers driving slowly and that she did not have her high beam lights on.

Delvina pulled over and waited for the constable to approach the car and rolled her window down all the way. An officer in uniform, who she later learned to be Constable Thompson, came to the window. Ms. Bernard remembers saying “Good evening, officer” but Constable Thompson did not respond. She then said, “Is there a problem, Officer?”. The officer nodded and grunted, “Routine check.” Ms. Bernard’s recollection is that Constable Thompson did not use any introductory words of courtesy such as, “Good evening, ma’am”, as she would have expected.

Constable Thompson asked for her license, permit and insurance. Ms. Bernard reached over to retrieve these items from the glove compartment. She had changed wallets earlier in the day and did not have her driver’s license, but pointed the officer to the vehicle permit showing that the car was registered to her.

Constable Thompson looked around her vehicle and said, “Is this your car?” He then asked her, “Have you been drinking tonight?”

Ms. Bernard stated she advised Constable Thompson that she was on a diet and was not permitted to drink. Constable Thompson said, "Breathe on me, breathe on me." Ms. Bernard states that she questioned Constable Thompson as to why she should breathe on him, but he did not respond. He again repeated, "Come on, breathe on me."

Ms. Bernard stated that she then told the officer, "I want your name and badge number", at which point he became inflamed, his voice heightened and he walked off. The officer returned and said, "Why don't you breathe on me? Why don't you breathe on me?" Constable Thompson then requested Delvina get out of her car. Constable Thompson stood back from Delvina's car when Kim Bernard and Dr. Miller came on the scene. He again ordered her out of her car and she again requested an explanation. Delvina Bernard described Constable Thompson's actions as an attempt to control the situation without explanation. Ms. Bernard stated that Constable Thompson was not demonstrative but exhibited "controlled anger." Constable Thompson then opened her car door and pulled her out of the car.

Delvina Bernard testified that Constable Thompson opened her car door with his left hand and grabbed her first by the sleeve. At first, she didn't comply but then Constable Thompson grabbed her strongly by the upper arm and pulled. From that point on, Delvina did not resist and complied. She stumbled when she was getting out of the car.

Ms. Bernard describes that at that time she was angry, distraught, terrified and inflamed, a mixed bag of emotions. She believes she was being punished for her mannerisms and style. She had trained people in regards to race issues and believed Constable Thompson was racially motivated. That evening, Ms. Bernard's hair was styled with dread locks, and she was wearing a Saint Mary's University jacket.

After Constable Thompson removed Ms. Bernard from the car, he pulled her away from her car towards, but not to, the centre line of Gottingen Street. At that time, she remembers seeing Kim Bernard, Dr. Miller and they were asking, "What's going on here?" At this time Constable Thompson grabbed Delvina and said, "I am going to read you something." She asked questions and did not permit him to read, so he then said, "Shut up; I am going to read you something." That is when Delvina said, "Is this about having dread locks and driving a BMW on Gottingen Street?" Constable Thompson then said, "That's it. You're under arrest."

Constable Thompson then requested Delvina to put her hands behind her back, she complied and he put handcuffs on her. Delvina was scared and concerned about there being a shooting or something that evening, and therefore complied.

Constable Thompson then took Ms. Bernard around the back of the police car to the passenger rear door. He put his hand on top of her head and pushed her in. He then grabbed her legs

and wrenched them around. She had to move herself around with her hands behind her back in order to sit up properly.

Ms. Bernard remembers that at some point during this incident she asked Constable Thompson “Do you know who I am?” He said, “I don’t know and I don’t care.” She also remembers saying to him, “I helped you get your job” (by which she meant that her efforts on behalf of the black community contributed to black police officers being hired by the Halifax Regional Police.)

Ms. Bernard testified that she was injured as a result of the incident. She was treated at hospital 24 hours later for the injuries. Both of her shoulders and both knees were injured. Her right shoulder was more painful and there was tenderness in her upper left arm from being grabbed. She opined that her shoulders were injured when she was cuffed and uncuffed. She testified that the doctor at the Queen Elizabeth II Hospital recommended that she see Dr. Kirby for her injuries but she could not see Dr. Kirby for eight days because he was booked up. Delvina Bernard stated that Dr. Kirby recommended physical therapy and she did have a couple of appointments with a physical therapist and received some treatment. She had a followup visit with Dr. Kirby and was fine physically by the end of July. However, the emotional stress from the incident, which was overwhelming, has continued. She now dreads seeing police cars because she can’t find an explanation for what happened to her.

After the incident on Gottingen Street, Constables Thompson and Hovey drove to the police station. Each officer held one of Delvina's arms as they directed her into the booking area and into a room with a plexiglass window. Constable Thompson came in and told her to stand against the wall so that he could remove the handcuffs. She complied. He said, "Relax your hands" while he was pulling her hands up and putting his weight against her. This forced removal of the cuffs caused her some discomfort and pain. Constable Thompson seemed to take a long time to uncuff Delvina.

Constable Thompson then asked her to empty her pockets. He also asked Constable Hovey to get a female officer to search Ms. Bernard. A female officer came in to do the search. At first, Ms. Bernard did not cooperate and there was a standoff. Delvina then cooperated, the female officer patted her down and Delvina emptied her pockets for the female officer.

While Ms. Bernard was in the cell, Constable Hovey gave her a list of Legal Aid lawyers she could call, but she was not successful in reaching a lawyer. Constable Hovey also told Delvina that after they did up the paperwork, they would let her go.

At one point, Delvina asked if she could go to the washroom. However, she could not go because they couldn't find a female officer to take her.

After a while, Constable Thompson came out and gave Delvina an appearance notice and he “became superior.” Delvina refused to sign the appearance notice; she said that Constable Thompson jeered and laughed at her, and that Thompson refused to give her his name. Delvina said she asked the booking officer and other officers for their names, and they complied with her requests. Constable Thompson then wrote his name on a piece of paper and gave it to her, and told her she was free to leave.

Constable Thompson told Delvina she had to leave by the back door, which led out to a dark alley way. He then said, “You can’t wait here.” When Delvina refused to go, he walked up to her and said, “What part don’t you understand?”. Constable Hovey then offered to get a female officer to escort Delvina through the police station to the front. Constable Rudback, a female officer, provided the escort. On the way out, Constable Thompson said to Delvina, “I will remember you; how you said you helped me get my job.” He then said, “Have a nice day”.

On cross-examination, Delvina Bernard acknowledges that Constable Thompson asked her whether she was drinking while she was behind the wheel. She remembers telling Thompson, “That would be points, because I am on a diet, so I have to be very careful on that front.” Her belief was that the question as to whether or not she was drinking was whether or not she was drinking so much as to be impaired. She didn’t believe the police should be in control of the scene but that it should be mutual. She felt Constable Thompson was using intimidation and she was not required to respond to his intimidating tactics.

Delvina believed that there was a judgment happening in that Constable Thompson was “profiling her”. Profiling is a form of discrimination and intimidation. She believes the situation was not just about impaired driving but about Constable Thompson’s abuse of authority. Delvina testified to the effect that she was “in tune with his abusive authority.”

Later in cross examination Delvina stated that she had made several assessments of Constable Thompson during the incident in question. She believed he was attempting to flaunt authority and that his actions were more than poor etiquette. Constable Thompson was discourteous and he had poor communication skills. Delvina stated that she has excellent communication skills as a trained communicator, but Constable Thompson acted as if he had a special license to lord it over her. She stated that at the police station, he brutalized her as a person of colour and with dread locks. Delvina concluded that Thompson was trying to impress the other (white) officers that evening. She asserted that she saw this because of her particular astuteness, not necessarily because of anything that Thompson said or did. Delvina knows nothing about Constable Thompson’s personal history, but does know his “political history.”

On redirect, Delvina Bernard asserted that BMW automobiles are known as the “drug mobile” and that her dread locks would be perceived as associated with drugs. In combination, a BMW and dread locks would be seen to present a negative image. Delvina assessed Constable Thompson’s personality type as uncommunicative and that citizens dealing with him must be

passive and submissive. She believes that police officers should be and are trained to be more communicative.

Constable Kevin Hovey testified that at approximately 2:30 a.m. on April 19, 1998, he was driving his patrol car south on Brunswick Street. Constable Thompson was his partner and was in the passenger seat of the vehicle. The area was busy, as the bars were closing. A vehicle driving towards him had its high beams on. Constable Hovey flashed his lights and the driver of the other vehicle did not dim his/her lights. Hovey turned around to follow the vehicle to determine whether or not the person might be an impaired driver. When following the vehicle he didn't see anything that would lead him to believe that the driver was impaired, but the driver did not use his/her left signal when turning left on Rainey Drive. At that point, Constable Hovey decided to pull the vehicle over. He activated his police lights at about 2079 Gottingen Street and the vehicle pulled over in front of him within a short distance. While he radioed Dispatch, Constable Thompson approached the Bernard vehicle. The police vehicle was parked behind Delvina Bernard's vehicle. Delvina Bernard's vehicle was parked close to the curb and the police vehicle further out in the street, in accordance with common practice. After Constable Hovey radioed Dispatch, he exited the police vehicle and walked up to the front right side of Delvina Bernard's car.

While Delvina Bernard was in her car, Constable Hovey could not hear the conversation between her and Constable Thompson. Hovey saw Delvina look into her glove compartment. When Delvina exited her vehicle, she was not physically removed by Constable

Thompson. As Ms. Bernard exited her vehicle, Constable Hovey walked from the passenger side of her car to the back of her car, or about five feet away from Constable Thompson and Ms. Bernard. Constable Thompson was trying to read the Roadside Screening Device Demand and he had his notebook out. Delvina Bernard was interrupting him and said, "I want you to introduce yourself." For clarification, Constable Hovey stated that Constable Thompson was attempting to have Ms. Bernard breathe into an SL2 Model Roadside Screening Device commonly known as an ALERT. Constable Thompson asked Hovey to get the SL2. Hovey took the SL2 to the front of the police car and put it on the hood to get it ready for the test. When he returned, Constable Thompson and Delvina Bernard were in the same place, by the driver's side of Delvina's vehicle. At this time, Dr. Miller arrived and Delvina Bernard tried to walk over to Dr. Miller. Constable Hovey didn't know where Dr. Miller came from and didn't know where Dr. Miller's vehicle was parked. Constable Thompson continued and said, "All you have to do is blow into the machine." He also said, "If you don't take the test you will be arrested for refusal." Delvina Bernard said, "Go ahead." At this time, Constable Hovey assisted Constable Thompson in handcuffing Delvina Bernard. Hovey had to use some force to get Delvina's left hand behind her back because she was in "defensive resistance mode". Delvina was not aggressive.

As the handcuffing occurred, Ms. Bernard's husband started walking towards them and said, "What's going on? What's going on?" Dr. Miller was getting agitated and was yelling. The officers told Dr. Miller to get back. Delvina looked at Dr. Miller and said, "He's just a power hungry nigger." Dr. Miller came within a foot of Constable Hovey, yelling "What's your proof?"

Constable Hovey then remembers Kim Bernard arriving and yelling, but doesn't remember what she said.

Constable Thompson then took Delvina Bernard to the police car. Constable Hovey was trying to keep Dr. Miller and Kim Bernard far enough away so that Constable Thompson could get Delvina Bernard into the police car. He did not actually see Constable Thompson putting Delvina in the vehicle, as his attention was directed toward Dr. Miller and Kim Bernard.

The last thing Constable Hovey remembers about the SL2 is that it was on the hood of the police car and Constable Thompson pointing at it. He believes he put it in the trunk of the police car before driving away, but doesn't specifically remember.

Constable Hovey testified that the total time of the incident, as confirmed by Dispatch records, was eight minutes. He pulled Delvina Bernard's car over at 2:35 a.m. and left the scene at 2:43 a.m. On the way to the police station there was no conversation between Delvina Bernard and the officers.

At the police station, the officers took Ms. Bernard to the booking area and placed her in the holding cubicle, which is a small room with a plexiglass window so that the officers can see inside at all times. Constable Nancy Rudback was assigned to the booking area, and Constable Rudback tried to search Ms. Bernard, but Ms. Bernard resisted for about five minutes before

relenting and permitting the search. Hovey stated that everyone taken to the booking area of the police station is searched.

After the search, Constable Thompson read Delvina her rights. Delvina stated, "I reject everything you said to me."

Constable Hovey testifies that he made the list of telephone numbers for on duty lawyers available to Ms. Bernard. She didn't want to speak to any of the lawyers, but wanted to speak to family instead. After a time, she banged on the plexiglass and said she was having a hard time reaching a lawyer.

When Delvina Bernard was released, Constable Nancy Rudback escorted her through the police station to the front of the building. Hovey remembers Delvina Bernard saying, "Do you know how many people are raped in this city?" but he doesn't remember the specifics of any conversation between Constable Thompson and Ms. Bernard at this time.

Constable Hovey stated he pulled Ms. Bernard over because her the high beam lights were on and she failed to use her signal light. He indicates that when Ms. Bernard was in the police vehicle, her voice was slow and slurred and that he smelled alcohol. He also stated he had no knowledge of Ms. Bernard prior to or at the time of the incident.

On cross examination, Constable Hovey stated that he was satisfied there was sufficient evidence for Constable Thompson to suspect that Ms. Bernard was impaired. He also clarified that when Dr. Miller came running over and tried to intervene, Dr. Miller was not aggressive. When asked why he assisted Constable Thompson in handcuffing Ms. Bernard, Constable Hovey stated it is the general procedure to assist a partner in cuffing. If one officer is preoccupied and doing something else, then the other officer will handcuff on his own. Constable Hovey also testified that even though there was evidence of Ms. Bernard having consumed alcohol, it was unlikely that she was so impaired as to be drunk in a public place.

Constable Hovey also believed that Constable Thompson had no knowledge of who was driving Ms. Bernard's vehicle until he walked up and looked at her through the driver's window. He also stated that Constable Thompson read Delvina Bernard her rights at approximately 2:53 a.m., about 10 minutes after the arrest on Gottingen Street. It was 3:20 a.m. when Ms. Bernard banged on the plexiglass. Constable Thompson served an appearance notice on Ms. Bernard at 3:55 a.m. in regards to her refusal to take the ALERT test, and also for impaired driving under the Criminal Code, S. 253. Ms. Bernard was released from custody at 4:33 a.m.

When questioned about the wisdom or safety of releasing prisoners out the back or booking door of the Halifax Police Headquarters, Constable Hovey indicated he had not previously or since had any complaints about it. It is typical for prisoners to be released out the back door, and they walk around to the front door where the Commissionaire is stationed. They wait at that location

for family or taxis. Hovey stated that the parking lot is video monitored and he considers it a safe area.

The officer who is the subject of this complaint, Constable Andre Thompson, testified that he has been an employee of the Halifax Regional Municipal Police and its predecessor, the City of Halifax Police, since 1993. Since that time, he has worked the area known as “Charlie Zone” which the Board understands to be the Halifax downtown and North End area.

Constable Thompson testified that in the early morning hours of April 19, 1998 he was on patrol with Constable Hovey. They had been partners for three to four years. While proceeding south on Brunswick Street, he saw a vehicle with its high beam lights on. Constable Hovey activated his high beams and received no response. Constable Hovey turned the police car around at or near George Street and moved in behind the vehicle that had its high beams on. Thompson observed the vehicle did not use its left signal when turning from Brunswick Street onto Rainey Drive. He and Constable Hovey decided to pull the vehicle over for use of high beams and failure to signal. Constable Thompson formed the opinion that the driver of the vehicle was either not paying attention or there was alcohol involved. He recollects that Constable Hovey switched on the emergency lights at Cogswell and pulled Delvina Bernard’s car over a short distance up on Gottingen. The vehicle pulled over was not familiar to Constable Thompson and all he could see was the silhouette of the driver’s head in the vehicle.

Constable Thompson exited the police vehicle and approached the Bernard vehicle; the driver put down the window. Constable Thompson stationed himself at the beam between the front and rear doors on the driver's side of the vehicle and requested the driver to provide her driver's license, insurance and vehicle permit. Thompson recollects that the driver asked why she had been stopped. He advised her it was because she was using her high beams. He detected an odour of alcohol and asked her if she had been drinking. She responded that she was on a diet and would lose points if she had been drinking. Thompson asked her to exhale in his direction and she refused. He then asked her to accompany him to the police vehicle. Thompson's grounds for believing that she might be intoxicated were that she had her high beam headlights on, she failed to signal, and there was the smell of alcohol in her vehicle. He stated that he was low-key throughout in speaking to her.

Ms. Bernard's tone was not raised or yelling. However, Ms. Bernard did say to Thompson that he had stopped her because she was black, she had dreadlocks and was driving a BMW. Constable Thompson did not recognize Ms. Bernard. Although she called him a "power-hungry nigger", he did not respond to that. She continually interrupted him and said that he was just stopping her because she was black.

At Thompson's request, Ms. Bernard voluntarily exited her vehicle. When Thompson tried to read the ALERT demand to Ms. Bernard, she tried to walk away from him. He doesn't

remember where Constable Hovey was at this moment but does remember that Hovey did put the Roadside Screening Device on the hood of the police car.

Constable Thompson states that he did fully read the Roadside Screening Device Demand to Ms. Bernard; however, she was continually barraging him with questions and insults. He advised her that all she had to do was blow into the device. He advised her that if she did not comply, she would be placed under arrest. Ms. Bernard replied, "Place me under arrest, then."

Constable Thompson recollects seeing a male person (evidently Dr. Miller) at the rear of Delvina Bernard's vehicle at that time but had no contact with this person. When Constable Thompson tried to handcuff Ms. Bernard, she went stiff and rigid, with arms down by her side. He grabbed her right arm and put it behind her back and Constable Hovey grasped her left arm. Delvina was passive but stiff.

Constable Thompson stated that Ms. Bernard was handcuffed because that is the policy before putting anyone inside a police vehicle. She was advised she was arrested for impaired operation of a motor vehicle. Constable Thompson formed the opinion that Ms. Bernard was in fact impaired at the time of the arrest.

After Ms. Bernard was handcuffed, Constable Thompson put his hand on the small of her back and guided her to the police vehicle. He pushed her into the back seat. He requested that

she swing her legs into the vehicle but she refused. Constable Thompson grabbed her legs and swung them into the police vehicle with her knees together.

As soon as Ms. Bernard was in the police car, Constable Thompson got into the front passenger seat and Constable Hovey got into the driver's seat and drove away. There was no conversation between Ms. Bernard and the officers on the way to the police station.

At the police station, Constable Thompson assisted Delvina Bernard in getting out of the police car and had no problem in escorting her to the booking area and holding room. Arrangements were made for Constable Rudback, a female officer, to search Ms. Bernard but Thompson doesn't recollect which officer requested Constable Rudback's assistance. He had no conversation with Ms. Bernard at this time. When Nancy Rudback arrived, Delvina Bernard refused to permit the search. Conversation then occurred between Constable Rudback and Delvina Bernard, and eventually Delvina did permit the search. Constable Thompson had removed the handcuffs before the search but doesn't remember any particular problems in removing the cuffs. He recollects taking hold of Ms. Bernard's arms and asking her to relax; she did so and the cuffs were removed. He did not push on her back when removing the handcuffs.

After the search was conducted, Thompson read Ms. Bernard's Charter Rights to her. He remembers Ms. Bernard saying that she rejected everything that he said. She appeared insulted when he made the Legal Aid list of on-duty lawyers available to her. He then showed Ms. Bernard

how to use the phone and went off to do his paperwork. He prepared a notice of suspension of her driver's license, and an appearance notice for driving while impaired and refusal to take the ALERT test. He also filled out a form called an Alcohol Driver Report.

When Constable Thompson served Delvina Bernard with the appearance notice, she refused to sign it. When he tried to escort her to the back door to release her, she wanted to wait in the booking area. Constable Hovey explained to her that she had to go to the front door. Thompson recollects Delvina Bernard using the telephone but doesn't know who she called. He remembers at one point Delvina started quoting him statistics. He also remembers her saying, "Do you know who I am, Nigger? I got you your job, Nigger." This was about the time that he got Nancy Rudback to escort Ms. Bernard from the area.

Constable Thompson confirmed that he was in uniform that evening.

On cross examination, Constable Thompson described himself as being 5'6" tall, weighing 190 lb. He lifts weights and is evidently strong and well trained to control situations and people.

Also on cross examination Constable Thompson confirmed that he in fact did not answer all of the questions posed by Delvina Bernard. He formed the opinion that she was bombarding him with questions to try and stop the process of being requested to take an ALERT

test. He believes that the public does have the right to ask questions and it is his responsibility to answer questions. He also confirmed that he did lean into Ms. Bernard's car window when he smelled the alcohol. He considers it a proper technique to request that someone breathe or exhale on him to confirm or refute the general smell of alcohol from a vehicle. Ms. Bernard was the first person who ever complained about his request for someone to exhale on him.

Constable Thompson stated that he requested Ms. Bernard to exit her vehicle at 2:38 a.m., three minutes after arrival at the scene. He clarified that he put his right hand on Delvina's right arm while guiding her to the police vehicle, with his left hand on the small of her back. He didn't recollect how the rear passenger door on the police car became open, but it was open when he reached the vehicle. He presumed that Hovey opened it. He stated that Delvina Bernard was not truthful when she said she fell back into the seat of the police car.

The evidence in these proceedings was long and detailed. The Board must make certain determinations of fact, but does find all witnesses to have honestly believed in their recollection of events.

The Board determines as fact that somewhere shortly before 2:30 a.m. on April 19, 1998, Constables Thompson and Hovey were proceeding south on Brunswick Street. They observed a vehicle, make and driver unknown, proceeding north on Brunswick Street with high beam headlights on. Constable Hovey turned the police car around and was following the vehicle when

he observed it turn onto Rainey Drive without the driver using a left signal. Constable Hovey, perhaps after some discussion with Constable Thompson, formed the intention to pull the vehicle over. The vehicle was pulled over for routine and minor traffic offences. However, both Constable Hovey and Constable Thompson believed that the high beams and the failure to signal on turning were evidence of the driver's possible alcoholic impairment.

At 2:35 a.m., Constable Hovey pulled over the vehicle, and the driver complied. In accordance with the officers' rotating duties, Constable Thompson approached the vehicle. The Board concludes at that time, Constable Thompson did not know who was driving the vehicle.

In accordance with standard police practice, the first thing Constable Thompson did was stand by the driver's window and request insurance, vehicle registration and a driver's license. Ms. Bernard produced her registration and insurance but did not have her driver's license with her. The Board understands this to be a common inadvertence. It was only at this time that Constable Thompson identified the driver. Prior to this he did not know the driver's race, sex or age. The Board concludes that Constable Thompson did smell alcohol emanating from Ms. Bernard's vehicle, as Ms. Bernard had consumed some wine at the Market Street Cafe.

The Board accepts Ms. Bernard's evidence as regards the fact that she did not arrive at the Market Street Cafe until late, and that she was not prone to excess in alcohol consumption. However, the Board does not know whether Ms. Bernard drank one, two or three glasses of wine,

and does not accept that either Dr. Miller or Kim Bernard were in any position to recollect what Ms. Bernard drank. The Board believes only that she drank enough alcohol so that there was a smell of alcohol emanating from her vehicle when Constable Thompson was standing by her window and carrying out his duties as a police officer.

The Board concludes that Constable Thompson rightfully requested Ms. Bernard to exit her vehicle and that she did so, either voluntarily or with some assistance from Constable Thompson.

The Board concluded that Constable Thompson attempted politely and using an ordinary tone of voice, to elicit Ms. Bernard's cooperation in taking an ALERT test. Ms. Bernard interfered with the officer carrying out his duty by constantly asking questions and trying to get control of the circumstances.

There is no doubt that on, and from the time that Ms. Bernard was stopped by the police, she formed some very strong opinions. She believed that she was being stopped because she was black, because she wore dreadlocks and because she was driving a BMW. She conveyed this impression to Constable Thompson. It was confounding that Ms. Bernard was not prepared, at the time nor at the time of the hearing, to accept that this incident was an ordinary incident at 2:30 a.m. in downtown Halifax. The Board recognizes that police officers make routine stops for minor traffic offences and evidence of alcohol impairment. The Board does not conclude that Ms. Bernard called

Constable Thompson a “power hungry nigger”. However, the Board concludes that Ms. Bernard believed that her being pulled over was a political incident. Both on Ms. Bernard’s evidence and in Mr. Jones’ summation, it was strongly asserted that the incident was about black on black on racism and not a routine motor vehicle/alcohol related incident.

The actions of Ms. Bernard on the night in question were equivalent to a form of civil disobedience. She exercised defensive resistance, which led to some bruising on her arm and some minor rotator cuff and perhaps knee injury. Force was used by both Constable Thompson and Constable Hovey as necessary to overcome this defensive resistance at the time of handcuffing. If Constable Thompson did hold on to Ms. Bernard’s left arm when guiding her from the vehicle, (and this was the evidence of Ms. Bernard) then the force was reasonable. If it was Constable Hovey who caused the bruising on her left arm when cuffing Ms. Bernard, his use of force was reasonable. It is in the nature of defensive resistance to an arrest procedure that minor injury may occur. It is never comfortable to have one’s arms placed behind their back for handcuffing, and if there is resistance, injury is possible. There is insufficient medical evidence in these proceedings to determine the exact cause of these minor injuries or if the injuries were caused by the defensive resistance of Ms. Bernard. The Board concludes that the force used by the officers was necessary because of the actions of Ms. Bernard.

The Board accepts that Delvina Bernard is an educated person who has amassed considerable reputation in her professional and musical lives. She is evidently an accomplished

professional and takes great pride in her professional and personal accomplishments. Her husband, Dr. Harvey Miller, is equally a well educated and caring person having achieved success in his personal and professional life. What is disconcerting to the Board is that these educated and sophisticated individuals, in particular Ms. Bernard, did not appear to recognize the straightforward situation in which Ms. Bernard found herself. Even though she had consumed alcohol and evidently committed a couple of minor motor vehicle offences, she concluded her arrest was a matter of great racial import and the actions of the officer were racist. There is simply no evidence to support Ms. Bernard's assertions. The Board finds that Ms. Bernard was disrespectful in her attitude towards Constable Thompson. The Board finds that Constable Thompson did not respond in kind and was as respectful as he could be under these circumstances.

Delvina Bernard is a well spoken person who appears comfortable in alleging racism against Constable Thompson. Both she and her lawyer reiterated her beliefs at the hearing. These unsubstantiated allegations did not impress the Board. Furthermore, the allegations cloud the issues the Board needed to correctly decide, namely; Was Constable Thompson courteous? Was force of any sort necessary? If force was necessary, was it excessive? Was the arrest lawful? Ms. Bernard specifically alleges that Constable Thompson breached the following Regulations of the Police Act, S. 5:

5(1)(a)(i) A member of a municipal police force commits a disciplinary default where the member

(a) engages in discreditable conduct by

(i) acting in a disorderly manner or in a manner prejudicial to discipline or reasonably likely to bring discredit upon the reputation of the police force;

(ii) contravening an Act of the Province of Nova Scotia, a province or territory of Canada or the Government of Canada or a regulation made pursuant thereto, where the contravention is of such a character that would be prejudicial to discipline or likely to bring discredit upon the reputation of the police force.

5(1)(g)(iii) A member of a municipal police force commits a disciplinary default where the member

(g) abuses authority by

(iii) exercising authority as a police officer when it is unlawful to do so.

5(1)(k) A member of a municipal police force commits a disciplinary default where the member

(k) abuses authority by acting in a manner contrary to the Human Rights Act.

Ms. Bernard also alleges breaches under the Canadian Charter of Rights and Freedoms, as follows:

S. 7: Everyone has the right to life, liberty and security of the person and right not to be deprived thereof except in accordance with the principles of fundamental justice.

S. 8: Everyone has the right to be secure against unreasonable search or seizure.

S. 9: Everyone has the right to not be arbitrarily detained or imprisoned.

S. 10 Everyone has the right on arrest or detention,

(a) to be informed promptly of the reasons therefor;

(b) to retain and instruct counsel without delay and to be informed of that right.

- S. 15(1) Every individual is equal before and under the law and has the rights to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The Board specifically finds that Constable Thompson did not act in a disorderly fashion contrary to 5 1 (a)(i) of the Regulations nor did he specifically contravene any Act of the Province of Nova Scotia, nor any Regulation. He did not breach his authority as a police officer, nor did he breach any of the defaults found in the Police Act Regulations as outlined within the Code of Conduct.

The Board specifically finds that Constable Thompson did not breach any provisions of the Canadian Charter of Rights and Freedoms, nor the Nova Scotia Human Rights Act.

The most that could be said about Constable Thompson is that as Ms. Bernard tried to take control of the situation, he evidently became more insistent on her taking the ALERT test. It is the Board's impression that if Ms. Bernard is correct in that she was not intoxicated, then Constable Thompson was acting in her best interests. He would be aware that her refusal to take the test, which on her evidence she most likely would pass, would be to her own detriment. In the discussion between Constable Thompson and Delvina Bernard with respect to these proceedings, Constable Thompson was merely carrying out his statutory duty by requesting Ms. Bernard to take the Alert.

The Board finds that the detention of Ms. Bernard for the purposes of booking her was lawful. Constable Thompson released her at the first opportunity by issuing her an appearance notice. There was nothing arbitrary or unreasonable about his actions in this regard. The Board finds that Constable Thompson was not rough in removing the handcuffs at the police station, and was polite and professional.

This case was not about racism, abuse of authority, wrongful arrest or use of excessive force. This is about a police officer, between 2:00 and 3:00 a.m., dealing with a suspected impaired driver, and the impaired driver deciding in her own way to not cooperate in the process.

Delvina Bernard's complaints against Constable Andre Thompson are dismissed without costs.

DATED at Halifax, Nova Scotia this day of , 2000

BRIAN CREIGHTON
Chair

LINDA FRASER
Member

DISSENTING OPINION

I do not agree with the findings and conclusions of my fellow Board Members. Where the evidence of Constable Thompson and Constable Hovey conflicts with the evidence called on behalf of Bernard, I accept the evidence of the latter for reasons which will be set out below.

In many respects, there is not a great deal of difference between the evidence on behalf of the Complaint, Delvina Bernard, and that on behalf of Constable Andre Thompson. The difference lies in the tone and manner of the confrontation between Thompson and Bernard on the evening in question, with a couple of notable exceptions.

The evidence is set out in some particularity in the majority decision, and so I will not repeat it in great detail, but will review it briefly.

In the early morning hours of April 19, 1998, Delvina Bernard was driving home from an evening at the Market Street Jazz Cafe. She had attended there with her husband, Dr. Harvey Miller (who was performing) and her sister, Kim Bernard. Also present were a number of participants from the Atlantic Association of African Canadian Researchers Inaugural Symposium, which Ms. Bernard had attended earlier that day.

Ms. Bernard left the cafe. Her route ultimately took her along Brunswick Street, left on Rainey Drive, right past the police station onto Gottingen Street, at which point she was stopped by Constables Hovey and Thompson. Her sister, Kim Bernard, followed the same route a minute or so behind her, and Ms. Bernard's husband, Dr. Miller, was not far behind Kim.

All three were driving their own vehicles. They had arrived at the event separately.

Ms. Bernard testified that she had between one and two glasses of wine over approximately a three hour period. This relatively low consumption is supported somewhat by the evidence of Dr. Miller and Kim Bernard, although certainly they were not measuring her alcohol consumption that evening. The consumption is also consistent with the fact that she was dieting and consistent with her evidence as to her casual drinking practice.

Her evidence as to alcohol consumption is actually somewhat supported by the evidence of Constables Thompson and Hovey as to her manner of driving. The only thing they allegedly observed out of the ordinary were high beams and a failure to use a left turn signal onto Rainey (Ms. Bernard contests those observations).

Hovey and Thompson testified that they initially noticed her as they were driving in a southerly direction on Brunswick Street and she was proceeding north. They said that they noted high beams, and flicked their own headlights to alert her without response from the Bernard vehicle. They then executed a U-turn on Brunswick Street and followed her. They then noticed a failure to signal a left turn from Brunswick onto Rainey, where her vehicle was stopped. She responded promptly to their emergency roof lights, and there was nothing untoward about the manner in which she pulled her vehicle her over to the curb.

Her sister Kim arrived on the scene a short time later and parked ahead of Ms. Bernard's vehicle; her husband, Dr. Miller, arrived shortly after Kim.

There are a number of areas where I differ from the findings of the majority of the Board Members.

The following particular areas are notable:

1. **Profiling**

It was Delvina Bernard's perception, from the moment she was stopped on the evening in question, to the conclusion of the hearing, that Constable Thompson's treatment of her was as a result of "profiling". Contrary to the finding of the majority, I do not find it "confounding that Ms. Bernard was not prepared ...to accept that this...was an ordinary incident at 2:30 a.m. in downtown Halifax". It may well have been, but I accept that Ms. Bernard genuinely believes, with some justification, that the incident was about, as she put it, "dreadlocks and a BMW on Gottingen Street". She testified that a BMW motor vehicle and dreadlocks tend to be associated with drug dealers in the community.

Constables Hovey and Thompson, on the other hand, testified that they didn't notice **anything** about the operator of the vehicle until after she was stopped, and in particular they did not note the race or any unusual characteristics of the driver. They further say that they were legitimately investigating a possible impaired driving situation, based on their observations of high beams and absence of turn signal. They further say that the odour of alcohol detected following the stop was the basis for the alert demand.

There is no doubt Delvina Bernard had consumed some alcohol, and even a small amount can certainly produce an odour. I accept that once Constable Thompson noted an odour of alcohol,

he had a right, and a duty, to further investigate and make a demand. However, I do not believe that neither Thompson nor Hovey made any observations of the driver prior to the stop. Both are supposedly trained to be observant and were in fact particularly focused in trying to screen out alcohol/driving problems that night. The area from Brunswick Street to the point where Ms. Bernard's vehicle was stopped is very well lit. They noticed Ms. Bernard's vehicle even before they passed, driver's side to driver's side. They then followed it for some distance through a well lit area before stopping on Gottingen Street. Ms. Bernard has a very unique hairstyle that would be very clearly silhouetted even at night, and it is difficult to understand how these officers would not make any observations regarding the driver in the circumstances. I find that it was not unreasonable of Ms. Bernard to suspect that they had noticed her personal characteristics. This would quite naturally cause her to have concerns, particularly as, in her view, she had done nothing to attract their attention.

Ms. Bernard does not believe she had her lights on high beam. However, she had been in a rural area earlier that evening before proceeding to the cafe, and it is certainly possible that she employed her high beams there. It is possible that when she entered the more brightly lit area of metro, she may not have noticed that they were still engaged. It is therefore possible that her lights did initially draw attention to herself. Indeed, in her evidence she did not entirely discount the possibility that her high beams may have been on.

The failure to signal is also equally possible. It is a matter of routine that can be easily overlooked. I therefore accept the officers' reason for the initial stop, however, I have concerns about the absolute denial of making any observations of the driver.

As I have indicated, however, notwithstanding legitimate reasons for stopping Ms. Bernard, I do find that Constable Thompson was discourteous to the extent of constituting a disciplinary default. I certainly have concerns that it is possible that his actions and obvious disrespect for Ms. Bernard stemmed from a stereotypical view of her, at least once he had stopped her vehicle. However, his manner may equally stem from a simple disdain for impaired drivers. Whatever his reasons he certainly treated her in an unnecessarily disdainful and discourteous manner.

2. **The demand and arrest**

I disagree with the majority in their conclusions with respect to the demand and arrest.

It is common ground that Delvina Bernard was fully cooperative when first stopped, producing what papers she had available (her driver's license was missing). I accept her evidence that Constable Thompson did not initially tell her why she had been stopped, and that he asked her, "Is this your car?". Ms. Bernard takes the latter inquiry as being somewhat racially motivated, and it certainly is possible. However, it is not an unusual question, as Ms. Bernard had not produced her driver's license.

Constable Thompson asked her if she had been drinking, and her answer to him, referencing the Weight Watchers' point system, I find was somewhat evasive. In her evidence before the Board, she said she interpreted his question as meaning have you been drinking to excess, but clearly she knew (and in fact acknowledged in cross-examination) that she was aware that his inquiries were related to possible impaired driving charges.

I also accept her evidence that he used the words, "breathe on me" rather than the more courteous phrase that he suggests, that is, a request for her to exhale. I believe his evidence on this point is an attempt to portray himself as calm and courteous.

While there is nothing inherently wrong with the request, "breathe on me", it is an unpleasant and confrontational expression, and while it could not be characterized in and of itself as discourteous within the meaning of the Regulations, it is not surprising that a subject might respond negatively or apprehensively. In any event, according to Thompson, he had already detected the smell of alcohol, at least in the vehicle; Ms. Bernard was the sole occupant; he supposedly had two minor infractions in the operation of the vehicle; and so Thompson would already have had a "reasonable suspicion" that she was operating a vehicle having consumed alcohol within the previous two hours. Therefore, when Delvina Bernard did not immediately comply with his request to "breathe on him" it would have been appropriate for him to simply make an alert demand. Constable Thompson claims that he did so, however, for the reasons below, I find that he did not, and I accept Delvina Bernard's evidence in that regard.

I accept Dr. Miller's evidence that when he arrived on the scene, just before Delvina Bernard was pulled from her car, that Constable Thompson was at Delvina's Bernard's car with his head in or at the window. Constable Hovey, according to Dr. Miller, at this point was at the front passenger side corner of the police vehicle. I accept Dr. Miller's evidence that it was not until Thompson had Delvina Bernard out of her vehicle, and standing in the street, that Constable Thompson took out his card with the alert demand wording and attempted to read it to her. Dr. Miller would have no reason to fabricate this evidence. It is also consistent with Thompson's own evidence that he

attempted to read the demand in the street and was interrupted by Bernard. If Thompson made the demand at her vehicle, and she voluntarily exited in response as he says, it seems there would be no point in stopping her in the street and reading the demand once again. The normal course of events would be that the suspect is placed in the rear of the police vehicle, and the formal demand is read at that time.

Constable Thompson's evidence is that after Ms. Bernard refused to "exhale in his direction" he "asked her to accompany me to the vehicle so that I could administer a roadside screening test". He would also have us believe that at this point conversation was at a low key. He points out that he is not a "loud talker" and his voice was not raised. He says at this point this previously compliant subject asked him if, "this is about dreadlocks and a BMW". His response was not to respond, according to Constable Thompson. He says that at this point (contrary to the evidence of Cst. Hovey) she called him a "power hungry nigger", and he still did not respond, but took out his notebook and chose to read the formal words of the roadside screening demand. He testified that she refused to get out of the vehicle; she continued to interrupt him, and then for no apparent reason got out of the vehicle entirely on her own volition.

He says that he then continued to read the demand, and she proceeded to walk away in a southerly direction (which is incidentally in the direction of the police vehicle). He says that he then stopped her and continued to read the demand, and at the same time asked Hovey to get the SL2 (the roadside testing device) from the police vehicle.

Even if Constable Thompson's evidence on this point is accepted, his handling of the situation was totally inappropriate. According to him, in the face of an argumentative subject, he responded by ritualistically attempting to recite from a card, rather than calmly responding to her inquiries, identifying himself (which in his own evidence he did not do until the end of the evening), and hopefully diffusing a confrontational situation.

The standard operational procedures do provide a standard for these circumstances. It is recognized that it is not always possible to apply the procedures, however, I believe in this circumstance it was.

The SOP referenced level of control, and the lowest level of control is "peace officer present/verbal direction". The SOP's note as follows:

"The majority of situations can be resolved through effective communication skills or verbal direction. Often the mere presence of a peace officer and proper verbal direction will be sufficient to persuade most individuals to follow a peace officer's direction. In any verbal confrontation, fear and anger must be diffused before the subject will be able to understand that peace officer's commands. This will require effective communication skills and patience on the part of the officer."

In the circumstances of this case, there is no question that Delvina Bernard was experiencing both fear and anger. She described Constable Thompson's approach to the situation as escalating from cold and uncommunicative to the point where she feared that if she did not comply, a serious

incident might occur. However, as noted above, rather than effective communication and patience, Constable Thompson chose to read ritualistically from a card (assuming his evidence is accepted).

Constable Thompson in his evidence tries to validate and justify his conduct by suggesting that he was reading the demand at the foot of the police vehicle, where Constable Hovey had placed the alert, and further suggests that the reason that he was reading the demand in that location (instead of in the police vehicle), was that he intended to administer the screening test in the street as opposed to in the back seat of the police vehicle. This scenario is simply not believable and has a serious impact on the credibility of Constable Thompson on other issues. The scenario proposed by Constable Thompson appears to be an attempt to justify the ritualistic reading of the demand, and as well, it conveniently explains the bruising on Ms. Bernard's arm (which she says was sustained when he pulled her from the vehicle) and tends to attribute that bruising to Constable Hovey's assistance in applying handcuffs when Ms. Bernard continued to be uncooperative.

Aside from the demand scenario suggested by Constable Thompson as being unlikely, it is also inconsistent with the evidence of Hovey. Hovey claims that he heard nothing of the conversation between Thompson and Bernard while she was in her vehicle, yet he claims that he heard the expression "power hungry niger" which he says was made in the street after Ms. Bernard had exited the vehicle. He does not mention her attempting to walk south away from Thompson; the only time he sees her move away from Thompson is when she moved briefly towards Dr. Miller who had arrived at some point and was supposedly standing on the sidewalk (Dr. Miller's evidence is that this did take place and that Constable Hovey very quickly interposed himself between them and maintained a defensive position throughout the process).

Hovey later in his evidence suggests that Miller arrived as Bernard was being handcuffed and says that Miller began yelling and screaming at them. According to Hovey, he had no idea where Miller came from. He said that Kim Bernard did not arrive until some time later when they were "trying" to put Bernard in the police vehicle.

Hovey claims that when Thompson asked him to get the SL2 from the back of the police vehicle he did so, and he prepared it outside of the police vehicle and laid it on the hood of the vehicle for administration. As I have already indicated, I simply do not find this scenario credible whatsoever.

Constable Hovey says that he intervened in the handcuffing of Bernard because she would not cooperate and that she refused to put her **left** arm behind her back. He says that he had to use force to put her **left** arm behind her back while Thompson, the officer who is the subject of the complaint, handcuffed only her right arm. If Constable Hovey is involved in handcuffing Bernard, this means of course that he has left a rather expensive instrument sitting on the hood of the car. Whatever version of his evidence of the arrival of Dr. Miller is accepted, this means that he left this piece of machinery sitting there unprotected in the presence of an unknown bystander who rather quickly became a belligerent unknown bystander. This is at best unlikely. It is more probable, and I find, that in response to the arrival of Kim Bernard and Dr. Miller, Cst. Hovey simply took a position to ensure that these bystanders did not interfere with Cst. Thompson's arrest and handcuffing, which was in progress. As with Thompson's evidence, the scenario as recalled by Hovey diverts the use of force resulting in bruising, from the subject of the complaint to the officer who is now immune from complaint on this issue.

I can see no reason for Harvey Miller, Kim Bernard, or Delvina Bernard to be untruthful with respect to the involvement of Cst. Hovey in the handcuffing. They would have no reason to attribute all of the unreasonable behaviour to Cst. Thompson. If the bruising had been caused by Hovey's involvement in the handcuffing process, I have no doubt there would have been a complaint in that regard.

As indicated above, I prefer the evidence of Ms. Bernard and her witnesses over that of Constables Thompson and Hovey for a number of reasons. As noted, the demand scenario suggested by Constable Thompson is at best unlikely and is inconsistent with normal practice. In addition, however, I find other aspects of his evidence simply lack credibility.

Both Constable Thompson and Hovey suggested that Ms. Bernard used the expression "power hungry niger". In his direct evidence Constable Hovey first said that while he was standing at the passenger side of Bernard's vehicle, he could not hear the conversation between Bernard and Thompson. He says that following this conversation, Bernard voluntarily exited her vehicle, and at this point he walked to the driver's side of her vehicle. By now Thompson had his notebook out and was attempting to read a demand. He said that Ms. Bernard was constantly interrupting Constable Thompson saying, "you haven't introduced yourself - I want you to introduce yourself". He says that Thompson continued to attempt to read the demand. He characterizes her interruption as "not combative".

According to Hovey, it was only at this point that Thompson asked him to get the SL2 from the police vehicle. He says that after Miller arrived, Bernard said to Dr. Miller, "He's just a power

hungry nigger". This is contrary to the evidence of Thompson, referred to above, who says that the remark was made while Ms. Bernard was still seated in her vehicle (and Hovey says that he did not overhear conversation at that stage).

Ms. Bernard gave evidence about her reaction to the highly derogative and offensive expression, "nigger". She very clearly feels very strongly about this demeaning language, and she says that it has never been heard by her daughter, at least certainly not in the home.

Ms. Bernard has a long history of activism in the black community, in both her personal and professional life, and she testified at some length on her views. Her husband, Dr. Miller, appears to feel equally strongly, and is an activist in his own right. Both of these individuals are highly respected in the Province and are leaders in the black community. I find it absolutely impossible that Ms. Bernard, even in a state of fear and anger, would use such an expression, and I find the suggestion by Constables Thompson and Hovey that she did so, are simply an attempt to attack her credibility and portray her as being at a higher level of intoxication than what she actually was.

Constables Thompson's and Hovey's evidence on this point severely impacts on their credibility.

The scenario as described by Ms. Bernard is credible and is consistent with police practices. As one would normally expect, an initial exchange takes place at the vehicle and documents are requested. An odour of alcohol is detected, and the police officer's suspicions are aroused, particularly when that odour is noted in conjunction with a couple of traffic violations. The suspect

is then asked to accompany the officer to the police vehicle, possibly with a demand for roadside screening. The formal demand might well be repeated once the suspect is securely in the back seat of the police vehicle. If the demand had been given while the suspect was still seated in his or her vehicle, there would be no reason to repeat it in the street, on the way to the police vehicle.

The screening device would normally be administered in the police vehicle.

Ms. Bernard testified that after the initial discussion with Constable Thompson, he returned to the police vehicle, while she remained seated in her vehicle. I accept her evidence in that regard. It would seem very likely that the reason he did so was to instruct Constable Hovey to remove the SL2 from the trunk, and prepare it, for administration in the vehicle. I believe that this is in fact what took place.

Matters got out of hand when Thompson returned to the vehicle and asked Ms. Bernard to get out of the car. By her own evidence, she became fearful and concerned, as well as somewhat angry. His request, unaccompanied by any explanation, gave her some alarm. As well, given her history and knowledge of the black community in Halifax, she did have concerns about the motivation of the officer and in her mind her hairstyle and type of vehicle may have been influencing events.

Her response, in demanding his name, appears to have been a source of annoyance for Constable Thompson. However, I find that it would have been a simple matter for him to calmly

tell her his name, perhaps provide her with a card, assuming he had one on his person, and calmly explain the situation to her. By his own evidence he did not do so.

When the formal reading of the demand did not bring immediate compliance, it appears that Constable Thompson felt he was losing control of the situation. In addition, he was annoyed by Ms. Bernard's response, and I find that he did in fact remove her from the car by gripping her left arm, and did so with sufficient force to cause bruising. While he did have grounds to make his demand, and grounds to insist that she accompany him to the police vehicle for a screening, I find his use of force was certainly excessive and unnecessary.

In the meantime, Constable Hovey has returned to the police vehicle and removed the SL2 from the trunk. As was noted above, Constable Hovey testified that he placed the instrument on the hood of the vehicle rather than in the vehicle, and then became involved in the handcuffing of Ms. Bernard. However, I find the evidence of Dr. Miller and Kim Bernard more credible on this point.

Neither of them particularly made note of the instrument, however, what they do recall, is as they arrived on the curb, and began to become verbally involved in the situation, Constable Hovey took the responsibility of maintaining a defensive stance between them and Thompson and Bernard, in order to prevent them from coming off the sidewalk into the street and possibly escalating the situation. It is perfectly logical that he would do so, and in fact this would be consistent with the use of the "officer presence" using voice and body language to control individuals.

As indicated above, I do not believe that he would have left the SL2 device sitting on the hood of the car in order to assist Constable Thompson with handcuffing Bernard. Bernard was not combative. She was verbally non-compliant and given Constable Thompson's build and strength level, I find that he would have had no difficulty handcuffing Bernard on his own.

I believe Dr. Miller and Ms. Bernard's evidence provides a logical explanation as to why the SL2 would be on the hood of the car as opposed to in the vehicle. Constable Hovey simply placed it there after removing it from the trunk, in order that he could quickly respond to the presence of Dr. Miller and Kim Bernard. He never did have an opportunity to place it in the police vehicle as he normally would have done. In the circumstances, I reject his recollection that he participated in forcefully handcuffing Bernard, causing bruising.

In conclusion, on this point, I do find that Thompson used unnecessary roughness in removing Ms. Bernard from her vehicle, and he, not Hovey, caused the bruising on her arm.

3. Activity at the lock-up

I accept Ms. Bernard's evidence of the activities as they unfolded at the lock-up. There is no doubt that Ms. Bernard was concerned about a search and appeared to believe that she had the right to speak with counsel prior to being searched. However, I do note that Constable Rudback, through patience and communication, managed to ultimately obtain compliance.

Ms. Bernard has testified that Constable Thompson used unusual force in removing the handcuffs. He testified he did nothing abnormal. I make no particular finding in that regard, but I am of the view that at this point Constable Thompson had certainly lost any objectivity that he might have had.

Thompson testified that once again Delvina Bernard again used the word "nigger" and he says that while at the lock-up she said, "Do you know who I am, nigger, I got you your job nigger". As was noted above, I do not accept in any way that Ms. Bernard used this particular expression. She does acknowledge that at one point during the evening she asked if he knew who she was, and I accept her evidence that remark was made because she thought that he was profiling her. She also acknowledges making a remark to the effect that she got him his job. Her explanation is that in her view, partly through her human rights activities, she perceived that she may have been influential in encouraging minority hiring within the Halifax Regional Police Department, and essentially she was expressing frustration that he was abusing his position.

I also have concerns about the uncontradicted evidence that Ms. Bernard was asked to leave the booking area through the back door and walk up around the building to wait for someone to pick her up. As any woman would be, she was concerned about entering a darkened area at that hour of the morning. I appreciate the layout of the station makes it difficult to escort civilians through the building, and I accept that there may be surveillance cameras around, at least in portions of the building. However, it is not unreasonable for Ms. Bernard to express those concerns.

In summary, I do find that Constable Thompson used unreasonable force when he pulled Ms. Bernard from her vehicle. I also accept that he became discourteous towards her very early in the situation, and failed to use appropriate communication skills. I specifically disagree with the findings of the majority of the Board that her actions were "equivalent to a form of civil disobedience. I believe she was absolutely entitled to ask the officer his name and ask for particulars of the arrest, and I also accept her evidence that as Constable Thompson's anger escalated, she became fearful and in fact more compliant. Her resistance was at worst verbal.

Surely police officers must routinely be called upon to deal with citizens who are verbally confrontational and questioning of authority. There can be no excuse for responding with anger, force, and handcuffs, particularly when the 'level of resistance' is as low as that presented by Ms. Bernard on this occasion.

I specifically disagree with the findings of the majority of the Board which characterizes any force used by Constable Thompson at the vehicle as "guiding her" from the vehicle, and I note Constable Thompson refuses to even admit that he used any force on the left arm. I do not find that force which will create a substantial bruising was necessary in the circumstances.

I specifically disagree with the characterization by the majority of the Board that the situation was "straightforward". In my opinion, Constable Thompson demonstrated very poor communication skills and lost any objectivity he may have had. I was very impressed with the articulate and graphic description by Ms. Bernard of the escalating levels of anger displayed by Cst. Thompson. In my view, it was his complete absence of communication that escalated the situation. Had he conducted

himself professionally and appropriately, I believe Ms. Bernard would have ultimately co-operated and complied with his requests and directions, and this unfortunate charge and conviction might never have come about.

While he had a right to insist on compliance, his approach to achieving that goal was completely flawed.

I make no finding as whether any of the conduct was racially motivated. However, given her very heavy involvement in activism on behalf of the black community in Nova Scotia, certainly it is not surprising that her perception of the events were that they were racially motivated.

I make no finding as to penalty, as this is a minority decision.

DATED at Halifax, Nova Scotia this 7th day of March, 2001

JEAN MCKENNA
Alt Chair

Distribution:

Ms. Delvina Bernard - Complainant
Mr. B.A. "Rocky" Jones - Solicitor for the Complainant
Mr. Patrick Duncan - Solicitor for the named officer
Constable Andre Thompson - Halifax Regional Police Service
D/Chief Robert Barss - Halifax Regional Police Service
Chief David P. McKinnon - Halifax Regional Police Service
Mr. Brian Creighton - Chair NS Police Review Board
Ms. Linda Fraser - Member NS Police Review Board
Ms. Jean McKenna - Alternate Chair NS Police Review Board

Mr. Jim Beaver - Executive Director Police & Public Safety

File No. 98-0094

IN THE MATTER OF:

The Police Act, R.S.N.S. 1989,
Chapter 348 and the Regulations made
pursuant thereto

AND IN THE MATTER OF:

A Notice of Review, in Form 13, filed
by **DELVINA BERNARD**,
Complainant, against **CONSTABLE
ANDRE THOMPSON** initiating a
review before the Nova Scotia Police
Review Board of a decision by Deputy
Chief Robert Barss of the Halifax
Regional Police Service.

D E C I S I O N

Before:

Brian Creighton - Chair
Jean McKenna - Alternate Chair
Linda Fraser - Member