

**Adjudication of a Complaint pursuant to section 32
of the *Police Act*, RSPEI 1988, Cap. P-11.1**

BETWEEN:

LAURA MacARTHUR

COMPLAINANT

AND:

**OFFICER LIAM JAY, OFFICER GREG THOMPSON,
OFFICER COLBY LANDRIGAN, OFFICER JASON POUND,
OFFICER ZACHARY GOULD and OFFICER DAKOTA VanCOLEN**

RESPONDENTS

DECISION ON COSTS

Appearances:

Asha James and Christianne Labelle, counsel for the Complainant, Laura MacArthur
Nasha Nijhawan, counsel for the Respondents, Officer Liam Jay, Officer Zachary Gould,
and Officer Jason Pound

James Giacomantonio, counsel for the Respondents, Officer Greg Thompson, Officer
Colby Landrigan and Officer Dakota VanColen

Chris Montigny and Gillian Lush, counsel for the Minister of Justice, Public Safety and
Attorney General

Karen Campbell, counsel for Police Chief Brad MacConnell

Submissions on Costs:

Complainant – June 10, 2026

Respondents – July 6, 2026

Written Reasons by: The Hon. Wayne D. Cheverie

Date of Reasons: August 14, 2026

1. On April 27, 2026, I issued a Decision in which I concluded that the Complainant had failed to prove her case on the balance of probabilities and therefore I dismissed her request and complaint. Following the rendering of that decision, counsel for the Complainant indicated she wanted to address the matter of costs.
2. Counsel for the Complainant and counsel for the Respondents were given deadlines by which they were each to file written briefs in support of their positions. Ms. James on behalf of the Complainant, Laura MacArthur, submitted her submissions on June 10, 2026. Ms. Nijhawan responded with her written submissions and those of Mr. Giacomantonio on July 6, 2026.
3. Although the Complainant's complaint was dismissed, her complaint was not without merit. Her claim was not baseless, but fell short of establishing her cause on the balance of probabilities. Although her complaint was dismissed, she was not precluded from requesting an order for costs.
4. In her brief, the Complainant seeks an award of costs in the amount of \$30,000.00 to be paid by the Minister and/or the Charlottetown Police Service. In support of her request, she raises the issue of access to justice with specific reference to the Supreme Court of Canada decision in *Hryniak v. Mauldin* 2014 SCC 7. In part, the Supreme Court stated that courts should be prepared to change their practices in order to facilitate access to justice (paragraph 79). In short, the Complainant invites me to step outside the box and provide some measure of compensation to the Complainant so as to grant her access to justice as contemplated by *Hryniak*.
5. The Complainant acknowledges that costs generally follow the event, such that it is generally accepted that the successful party is entitled to their costs. However, it is also recognized in Prince Edward Island that there may be specific circumstances in which an unsuccessful party is entitled to costs. This principle is acknowledged by the Respondents in their written submissions by reference to the decision of Clements, CJ in the case of *CG v. PP* 2020 PESC 22 at paragraphs 56-61.
6. The Complainant submits that I have the discretion to decide by whom and to what extent costs shall be paid. In support of that proposition she cites the *Judicature Act*, RSPEI 1988, Cap. J-2.1, subsection 60(1). That statutory reference is of little assistance to the Complainant because that section recognizes that costs are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid. That section does not extend to this adjudication.
7. The legal issue before me is whether I have the power under the *Police Act*, RSPEI 1988, Cap. P-11.1 (the "Act") to order non-parties to pay costs to the Complainant? While I may be sympathetic to the Complainant's position given the legal costs of this proceeding to her and her ability or inability to pay such costs, my authority to award costs is restricted to what the legislature has given me in the Act. The following sections of the Act set out my authority to award costs:

20. Interpretation

In this Part,

- (a) "complainant" means the person who has made a complaint under this Part concerning the conduct of a police officer or an instructing officer;*
- (b) "police officer" means a person who is a police officer of a police department, but does not include the chief officer of the police department;*
- (c) "respondent" means*
 - (i) in the case of a complaint concerning the conduct of a police officer, the police officer whose conduct is the subject of the complaint, and*
 - (ii) in the case of a complaint concerning the conduct of an instructing officer, the instructing officer whose conduct is the subject of the complaint;*
- (d) "party" means, in respect of a complaint, the complainant or the respondent.*

...

Parties to hearing

32(5) At a hearing conducted by the Adjudicator

- (a) the complainant;*
- (b) the respondent;*
- (c) the chief officer of the police department, or the chief officer's delegate;*
- (d) any person who can demonstrate a personal interest in the proceedings; and*
- (e) the Minister,*

are entitled to

- (f) appear and be heard;*
- (g) be represented by counsel or another agent, including a union representative;*
- (h) be allowed to examine any physical or documentary evidence that will be produced or given in evidence; and*
- (i) call witnesses and examine or cross-examine all witnesses.*

...

Costs - responsibility

(7) Unless the Adjudicator orders otherwise under subsection (8), each person referred to in clauses (5)(a) to (e) is responsible for the costs incurred by the person in respect of the hearing.

Responsibility for costs assumed by employer

(7.1) Notwithstanding subsection (7), where the conduct of a respondent that is the subject of a complaint occurred while the respondent was acting in good faith and in the execution of the respondent's duties, the employer of the respondent shall assume responsibility for the costs incurred by the respondent in respect of a hearing under this section.

Decision

(8) The Adjudicator shall, within 20 days after the day that a hearing is completed, make a decision in respect of the matter and

(a) may decide to

(i) dismiss the request and the complaint,

(ii) overturn any decision of the chief officer to dismiss the complaint, find the respondent in breach of the Code and impose a disciplinary penalty on the respondent for the breach in accordance with the Code,

(iii) overturn any decision of the chief officer that the respondent breached the Code and find that the respondent did not breach the Code, or

(iv) vary, in accordance with the Code, any disciplinary penalty imposed on the respondent by the chief officer; and

(b) may order a party to the complaint to pay the costs incurred by the other party.

8. As the Complainant properly pointed out, the Act is silent as to the adjudication process. The Act is also silent on the process to be followed and who should have carriage of the complaint before the adjudicator. In many respects, in my view, the Act is antiquated. However, my authority is circumscribed by that Act.
9. Subsection 32(5) identifies who may be heard at the adjudication. Then in subsection 32(7), the legislature indicated that each person referred to in subsection (5) is responsible for their costs incurred in respect of the hearing, *"unless the Adjudicator orders otherwise under subsection (8)."* So the starting point with respect to costs is that each person identified in subsection (5) must bear their own costs. Then in subsection (8), paragraph (b), I have the authority to order a party to the complaint to pay the costs incurred by the other party.
10. The Respondents do not seek costs against the Complainant. The Complainant seeks a contribution to her costs to be paid by the Minister and/or the Charlottetown Police Service. Neither the Minister nor the Charlottetown Police Service are parties to this adjudication. Section 20 clearly states that the Complainant and the Respondents are parties. According to the Act, I may order the Complainant to pay costs incurred by the Respondents or order the

Respondents to pay costs incurred by the Complainant, but that is the end of the discretion granted to me under the Act.

11. Although the Complainant provided argument and principles from other jurisdictions, those references are of little assistance to me because of the narrow statutory authority granted on the issue of costs.
12. In summary, my statutory authority is restricted to an exercise of discretion to award costs to a party to the adjudication. I am bound by the relevant sections of the Act and therefore to make an order sought by the Complainant would be beyond the jurisdiction granted by the legislature. Therefore, the Complainant's request for partial indemnification of her legal fees is dismissed.

Dated: August 14, 2026



Hon. Wayne D. Cheverie
Adjudicator