
CITY OF DRYDEN INTEGRITY COMMISSIONER, GUY GIORNO

Citation: City Council v. Noel, 2025 ONMIC 3

Date: July 24, 2025

INQUIRY REPORT

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THE COMPLAINTS

1. Ms Alexandra Martino, Ms Cheynna Gardner, Ms Margaret Oversby, and Ms Shannon McFayden (Complainants) separately filed complaints alleging that Councillor Ritch Noel (Respondent), in a June 17, 2024, social media post, commented on a deceased member of Eagle Lake First Nation in a manner that contravened the Council Code of Conduct, Policy No. MU-CO-11. The same allegation was also the subject of a referral (complaint) to me by City Council.

SUMMARY

2. The Respondent has been a Council Member since 2022.

3. At the time of the social media post, the Respondent was a member of the Working Circle Committee, an Advisory Committee of City Council. The Working Circle was established to advance the City's strategic priority of fostering positive relationships with Indigenous Peoples and neighbouring First Nation communities.

4. The central factual issue is whether the Respondent posted "bahaha" in reference to the death of an Indigenous woman. The Complainants assert that this was the Respondent's intention. The Respondent states that "bahaha" referred to someone else who was not deceased.

5. On the balance of probabilities, I find that Respondent was referring to the deceased Indigenous woman. In particular, I find that the Respondent was joking that she would no longer be justice-involved because she was now deceased.

6. The comment was posted on the Dryden Crime Report Facebook group, where it was accessible to roughly 5600 members.

7. I accept the Respondent's position that he was not commenting in his capacity as a Councillor, that he was not exercising a Council function when he posted, and that he was not using or attempting to use his position as a Council Member. In short, I accept that the Respondent was acting in a private capacity.

8. However, paragraph 4.3.1(a) of the Code applies to private action, by a Council Member, that renders the Council Member unable to perform duties satisfactorily. The Respondent knew or should reasonably have known that mocking the death of a young Indigenous woman would make it impossible for him to represent the City in "fostering positive relationships with Indigenous Peoples and neighbouring First Nation communities." I find that the Respondent's post rendered him unable to perform satisfactorily his duties as a Councillor serving on the Working Circle Committee. Consequently, the act of posting contravened paragraph 4.3.1(a) of the Code.

9. Discriminatory speech about someone's disabilities is contrary to section 7.2.3 of the Code. The deceased individual had medical conditions that constituted disabilities, the Respondent was aware of two such conditions (disabilities), and the individual's passing was related to one of them. Mocking the disability-related death of a person with a disability was a communication discriminatory in regard to disability, contrary to section 7.2.3.

10. Review of whether a post did or did not contravene a particular provision of the Code is not an assessment of whether the Integrity Commissioner endorses the content. The focus of an Integrity Commissioner inquiry is not whether a Council Member's words are ill-advised or in poor taste. The focus is whether the Code was contravened. In this case, I have found breaches of paragraph 4.3.1(a) and section 7.2.3.

BACKGROUND

11. By his own admission and according to social media posts, the Respondent had prior involvement with the deceased individual.

12. The Respondent states that previously, in the context of work as a paralegal, he served the individual with two "no trespass" notices in buildings where she was "squatting." He also states that he was concerned with her welfare. He would speak to her sometimes when he saw her on the street, he has in past given her money and purchased food for her, and he gave her at least two rides, including once in cold weather when she lacked winter clothes. Over the years, because he was worried about her health and safety, he contacted her relatives and other individuals in Eagle Lake First Nation and urged them to take a more active role in helping her.

13. The Respondent was also aware of the individual's involvement in the justice system and expressed strong views about it.

14. On August 16, 2023, the Respondent uploaded a video of the individual to Facebook. During the inquiry, the Respondent explained that he had not recorded the video. Another resident recorded the video and then the Respondent posted it.

15. The 58-second video showed someone (identified by the Respondent as the individual in question) walking along a road and then up a driveway toward a parked car. After standing beside the car for a few seconds, the individual returned to the road and walked in the same direction as before.

16. The Respondent's post included the following comment:

Our residential thief early this morning. [Individual's name]. Anyone with cameras in the Memorial and Parkdale avenue areas check your cameras

and call OPP if you had your vehicle broken into. She just got out of jail for similar stuff.

17. The text of the post shows that the Respondent was clearly aware that he was referring to a justice-involved individual. The next day, he added more information:

*****UPDATE***** In Custody *again*. Arrested last night. [emphasis added]

18. Many individuals commented on the posted video. One commenter's observation attracted a strong reaction from the Respondent:¹

[Name redacted] I lock my doors in Eagle Lake because of this issue.
Lol not hard for you to lock your shit up.

...

Ritchie Noel I do lock it up ... let me catch that thieving bitch on my property once more ... I told her last week that she was not to be here. Why don't you bring her back to Eagle Lake? Isn't that where her family is??? I don't care if she is ill. Not one bit. I'm tired of her helping herself to others' belongings. I've personally helped her lots. Bought her food, given her a ride before she froze ... don't you dare make it sound like her light fingers are my or the residents of this city's fault. I'm sick of hearing how hard she may have it. Don't care one bit. The citizens she preys on work hard to keep a decent home and feel safe here. One of these days she is going to get caught by the wrong person and it will end very badly for her. ... Mark my words and I repeat ... I don't give a God damn about her circumstances when she preys on our citizens ... period. [original ellipses]

19. Other replies of the Respondent to comments on his post included these:

Ritchie Noel We have the right to leave stuff unlocked. That is not illegal. However, trespass and attempted break and enter definitely is illegal. I have 0 [zero] sympathy or compassion for this thief ... none.
[original ellipses]

Ritchie Noel Easy to comment when they aren't stealing from your property. Maybe you would offer to have these people to come frequent your residence? I repeat. I don't care what issues this person may or may not have ... not even 1 little bit. [original ellipses]

20. As the Respondent mentioned, the individual had previous involvement with law enforcement over a similar incident. On May 6, 2023, the police found her loitering in the yard of someone's home and charged her with prowling at night and breach of probation.

¹ In quoting from documents, my practice in an inquiry report is to correct obvious spelling errors without drawing attention to the correction unless the correction is material. I also edit punctuation and capitalization for consistency.

21. Two days prior, she had been arrested for stealing twenty dollars and two McDonald's gift certificates.

22. A Facebook community group, Real Thunder Bay Courthouse—Inside Edition, posted about the incidents. The headline read, "Dryden OPP Arrest Night Prowling Hamburglar." According to the post:

OPP officers quickly recognized the "Hamburglar" suspect as she had just been arrested on Thursday, May 4, 2023, for stealing \$20 & two McDonald's gift certificates.

The "Hamburglar" was also on probation.

23. The post was accompanied by two photos of the individual and an image of the McDonald's character known as the Hamburglar.

24. The Respondent is one of approximately 19,000 followers of the Real Thunder Bay Courthouse—Inside Edition page.

25. Real Thunder Bay Courthouse—Inside Edition posted again about the individual, in October of the same year. As before, the post was accompanied by an image of the McDonald's Hamburglar. It read, in part, as follows:

Hamburglar Arrested by Treaty Three Police After Fork Attack on Eagle Lake Reserve

...

A local criminal who has been dubbed "Hamburglar" has been arrested yet again.

The Indigenous female suspect was arrested earlier today, Saturday, October 14, 2023, after assaulting a man named [redacted] with a fork on the Eagle Lake Reserve.

...

[Individual's surname] was just released from the Kenora jail on Wednesday, October 11, 2023, after being arrested last week for breaching her bail.

[Individual's surname] has been transported back to the Kenora jail and has numerous outstanding charges.

26. The Respondent also belongs to the Dryden Crime Report Facebook group, which has approximately 5600 members. On June 13, 2024, a member posted a warning to people in the North Dryden area of Pioneer Street and First Street: "There is a younger woman dressed all in black looking in yards and vehicles."

27. The same day, June 13, another member, CH, commented: "McBurglar is back in town, lock your vehicles."

28. CH had previously interacted with the original Real Thunder Bay Courthouse—Inside Edition “Hamburglar” post. CH had reacted to the post with a “laugh” emoji, and then reacted to one of the comments with a thumbs-up emoji.

29. CH confirmed that he when he typed “McBurglar” he was thinking of the individual who had been dubbed “Hamburglar.” He simply used the wrong nickname.

30. On June 17, four days after CH’s comment, the Respondent went to the Dryden Crime Report Facebook page and replied to CH: “not anymore bahaha.”

31. The previous day, June 16, the Indigenous woman alleged to have been the subject of the Respondent’s post had died tragically.

32. Several members of the group assumed that the Respondent was alluding to the Indigenous woman’s death. One asked him, rhetorically, “What the hell is wrong with you?” Another urged, “Just admit that you know damn well you are referring to the ‘Hamburglar.’”

33. The Respondent maintained that he had been referring to someone else – someone who had been arrested. He posted:

I have no need to take it down. Refers to some girl arrested. And if thieves get caught and prosecuted then I applaud that as someone who works hard for what I have. Bit of poetic justice being cuffed in broad daylight on the side of the highway and put in back of police car.

34. Between June 18 and June 25, I received five Code of Conduct complaints from members of the public. I assigned the complaints the collective file number 2024-04-CC and lettered the individual complaints A through E. (Complaint D was subsequently withdrawn when the complainant became aware that others had already complained about the same matter.)

35. On June 19, the City issued, as a news release, the following statement of Mayor Jack Harrison:

First and foremost, I want to express my deepest condolences to the family and loved ones of the Eagle Lake First Nations member who recently passed away as they grieve her loss.

As for the comments made by Councillor Noel on social media, regardless of intent, they do not represent the City of Dryden’s Council, nor staff at the municipality.

I spoke with Chief Wabange of Eagle Lake First Nation yesterday. I expressed Council’s sympathies and reconfirmed our commitment to strengthen our relationship with the First Nation. I have reached out to her again today in response to the councillor’s public comments.

Further, I am in discussions with Councillor Noel on steps to move forward.

Our Council and City staff value and respect every member of our community. We have committed to delivering services with courtesy and integrity every day. Along with transparency and fiscal responsibility, these values are embedded in our Mission Statement.

As a result of his recent actions and behaviour, I am putting forward two motions at Monday's Council meeting. The first is to remove Councillor Noel as a member of The Working Circle Committee. The second is to seek approval to engage the Integrity Commissioner to formally review the councillor's conduct and to advise what other actions this Council can take.

Members of Council are held to a high standard and should be a role model for respect and compassion in every engagement, in person or online. It is very upsetting the recent remarks reflect badly on this Council and the City, and we remain steadfast in doing all we can to uphold the commitments we made when this community elected us to office.

36. On June 24, City Council passed a resolution rescinding the resolution that appointed the Respondent to the Working Circle Committee.

37. At the same meeting, City Council passed a resolution asking that I "formally review the conduct of Councillor Noel regarding comments made on social media and ... recommend actions which are within Council's authority to impose." Further to the resolution, on June 27, the Mayor on behalf of City Council sent me a formal referral (complaint). I assigned it letter F.

38. Meanwhile, on June 21, legal counsel for the Respondent had written to the Mayor, asserting that the Mayor's statement about the Respondent was libellous. The lawyer's letter explained the Respondent's position on the Facebook post:

... you seem to be following the offended voices on Facebook in suggesting he was impugning a particular person. This despite Mr. Noel telling you he was stating that a known burglar was recently arrested so people would not need to lock their vehicles on account of at least that person or persons. He explained himself to you, as he attempted to do to those criticizing him in similar responding texts he later posted. It is beyond me how his comments are offensive other than, perhaps to some, his promotion of arrests for those who commit crimes.

39. On July 30, the Respondent issued a libel notice. On September 24, the Respondent sued the City and the Mayor in Small Claims Court, seeking \$35,000 for defamation.

40. The Respondent's lawsuit set out, in great detail, his explanation that the Facebook post was not about the recently deceased person. The explanation included the following

eleven points. First, at the time of posting, the Respondent was unaware that the young woman had passed away. Second, the Respondent did not know that “McBurglar” was a reference to the particular individual. In fact, he denies that it was a reference to her. Third, the Respondent had never seen this person in McDonald’s. Usually, he saw her “in residential areas, unfortunately often looking for unlocked vehicles or houses.” Fourth, the Respondent questioned whether this person had any connection to McDonald’s. Fifth, CKDR did not report on the death until June 21, several days after the Respondent’s post. The death was not public information when he posted. Sixth, the Respondent was referring to someone else whom he saw being arrested and put into a police cruiser around June 16. The arrestee was a non-Indigenous person whom he did not recognize, and who was not the deceased person, whom he would have recognized. Seventh, the original June 13 post, to which CH responded on June 16, leading to the Respondent’s June 17 comment, was not understood by the Respondent to apply to the person in question. The person in question would run away when approached, while the subject described by the June 13 post did not react in that manner and, in fact, stayed to talk. The person in question resided in apartments when visiting Dryden and was not known to camp, while the subject of the June 13 post said she was camping. Eighth, the Respondent thought “McBurglar” was a generic term for burglars, since “Mc” (as in “McMansion”) is commonly used to refer to indistinguishable items. Ninth, the Respondent had never referred to this person as “McBurglar.” He used her proper name. Tenth, only one individual, CH, called her “McBurglar.” Eleventh, in light of the Respondent’s many attempts over the years to help this individual, it was unreasonable to conclude that he was laughing at her.

41. On June 27, 2025, it was announced that the Respondent’s small claims court action had been discontinued.

PROCESS FOLLOWED

42. In operating under the Code, I follow a process that ensures fairness to both the individuals bringing a Complaint (the Complainants) and the Council Member responding to the Complaint (the Respondent). This fair and balanced process begins with me issuing a Notice of Inquiry that sets out the issues in the inquiry. The Complaints, including any complaint materials, are attached to the Notice. The Respondent is given the opportunity to respond, and then the Complainants receive the opportunity to reply to the Response. The Respondent is made aware of the Complainants’ names. I do, however, redact personal information such as personal phone numbers and email addresses. I may accept supplementary communications and submissions from the parties, generally on the condition that each party gets to see the other’s communications with me. I do this in the interest of transparency and fairness.

43. I modified my typical process in the circumstances of this case. Given the large number of Complainants, each of whom came forward on what I would characterize as a *public-interest* basis and not a *personal-interest* basis, I adapted the usual inquiry process to be fair while also efficient.

44. Three Complainants submitted that the Respondent had contravened Code paragraph 4.3.1(a) and four Complainants alleged a breach of section 7.2.3. I exercised my discretion to conduct an inquiry into whether those provisions were contravened.

45. Code sections 5.3 and 7.2.2 were each cited by one Complainant. I exercised my discretion not to include those provisions in this inquiry. Section 5.3 relates to the performance of duties in office and to the arrangement of private affairs (such as assets or business interests); neither is easily applicable to the facts of this case. The section 7.2.2. allegations were based on something that occurred in August 2023, outside the six-month window set by section 13.3.

46. On June 26, 2024, I sent all parties a Notice of Inquiry. It explained the process and it identified two issues, namely, whether paragraph 4.3.1(a) of the Code had been contravened, and whether section 7.2.3 had been contravened.

47. On June 28, following a communication from the Respondent's lawyer, I issued a Revised Notice of Inquiry. The Revised Notice added a third issue, to be considered prior to the other two: Did the Respondent make a comment about a deceased member of Eagle Lake First Nation?

48. Under the modified process, I gave the Complainants the opportunity to make additional submissions, by July 8. I also invited the Complainants to provide any additional relevant facts, beyond what had been publicly posted, by July 8.

49. I received from two Complainants screenshots of social media posts, which I shared with the Respondent.

50. The Respondent, through his lawyer, Mr. Robert Sinding, responded on July 19. I did not invite the Complainants to reply. I determined that it would be unwieldy and unnecessary to furnish this opportunity, as I had already heard both sides.

51. I issued a delegation under subsection 223.3 (3) of the *Municipal Act* to Mr. Aniket Bhatt, a lawyer who works with me, authorizing him to conduct interviews. He interviewed Councillor Noel in the presence of his lawyer.

52. I personally interviewed Mayor Jack Harrison, Councillor Martin MacKinnon (twice), a family member of the deceased individual (but not her next of kin), someone whose security camera had recorded the deceased individual, and individuals CH and BP. I also received written responses from the former administrator of the Real Thunder

Bay Courthouse-Inside Edition Facebook group. Finally, over two days, I conducted a second interview of Councillor Noel.

53. The Respondent provided the names of two additional witnesses (one an elder of Eagle Lake First Nation and the other a Dryden resident) whom he said would be able to confirm his efforts, during her lifetime, to support and assist the now-deceased person. Ultimately, I concluded that it was unnecessary to interview either of them. This is because I am accepting all of the Respondent's statements about the support and assistance he provided to the individual. There is no point in speaking to witnesses who will confirm facts that have already been accepted.

54. I have also examined City records concerning the Working Circle Committee, recordings of Council meetings, documents in the Small Claims Court file, and social media posts.

55. In making my decision, I have taken into account all the submissions of the parties and all of the evidence obtained during the inquiry.

56. On March 6, 2025, I sent the Respondent and his lawyer, Mr. Sinding, a copy of a draft of this decision, including the findings and reasons, and invited comment.

57. Accompanying the draft report was the following explanatory email to Mr. Sinding:

I am reaching out to you and, through you, Mr. Noel, to invite comment on evidence that I have compiled as part of the investigation, and on a draft report.

My practice is always to allow a Respondent to comment on a draft report if it contains adverse findings.

The opportunity for comment is substantive and meaningful. I always take the response into account and address it in the final report.

You will find in the draft report reference to additional evidence obtained during the course of the investigation. This includes:

- Better social media screen shots (some provided previously had been obtained from complainants and were cut off)
- Some new social media screen shots
- Reference to an interview with Councillor MacKinnon

I am giving you an opportunity to comment on this evidence along with the draft report. To have invited comment on the evidence, and then to invite comment on the draft report containing the evidence, seemed to increase inefficiency without adding to the amount of fairness.

Indeed, I believe that this opportunity, to see the evidence in context and to comment on it in that context is more meaningful and helpful to you.

Please contact me if you have any questions.

58. On March 28, the Respondent's legal counsel sent me ten pages of submissions that commented on the draft. As a result of those submissions, I conducted a second interview of the Respondent spread over two days (April 4 and July 10), I reinterviewed Councillor MacKinnon, I accepted the invitation in the Respondent's submissions to interview additional witnesses, I collected additional evidence relevant to the Respondent's knowledge and dealings with the deceased individual, and during the second interview I gave the Respondent an opportunity to address this additional evidence.

59. On April 4, the first day of the second interview, we spoke for 80 minutes.

60. On July 10, the interview ended after 13 minutes. Councillor Noel began by stating that he would not be answering any more questions about the deceased individual and pointing to what he saw as the unfairness of the situation. In his view, nobody except him had cared about the deceased individual while she was alive (including when he took her off the streets and drove her home on a freezing cold night), yet he was the one subjected to a Code of Conduct complaint. After making this statement, he briefly answered one question and declined to answer another before politely saying the following:

Mr. Giorno, you know what? I appreciate that you have a job to do, and you've been very respectful. I've had enough of this process, though. I really have. OK, I'm done. Make your report. All right. I'm done. I'm leaving the meeting. Thanks.

61. He then exited the video conference leaving me and his lawyer behind.

62. I have taken into account the Respondent's response to the Complaint, his submissions on the draft report, and his statements during the first and second interviews. This final report reflects my consideration of everything said by him and presented by his lawyer.

POSITIONS OF THE PARTIES

Complainants' Positions

63. The Complainants submit that "McBurglar" was a reference to the deceased individual and, consequently, the Respondent's "not anymore bahaha" post was about the deceased person.

64. One Complainant has provided a copy of the May 2023 "Hamburglar" post. The implication is that this was the origin of the "McBurglar" comment.

65. Several Complainants cite personal information about the deceased person that would support a finding that she possessed a disability. Section 7.2.3 prohibits communication that is discriminatory on the basis of disability.

66. One Complainant also argues that, contrary to section 7.2.3, the Respondent's post was discriminatory on the basis of record of offences.

67. To varying degrees, all Complaints submit that the Respondent's post was incompatible with his role as a Council Member.

Respondent's Position

68. The Respondent's submissions were provided by Mr. Sinding.

69. As a preliminary matter, the Respondent argues that the Complainants were first required by section 13.3.1 of the Code to make informal complaints, and they failed to do so. This issue was considered in *Re Noel*, 2025 ONMIC 1, in paragraphs 153 to 157. Informal complaints are not mandatory.

70. The Respondent submits that the six-month limitation in section 13.3 of the Code prohibits a complaint based on the Respondent's August 2023 social media activity.

71. The Respondent submits that the June 17 post was made in a personal capacity and that the Complaints implicitly or expressly concede this point.

72. That the Respondent did not use his Council email address, Council letterhead, the City website, and did not otherwise purport to speak for anyone but himself, were cited as facts consistent with the conclusion that he was acting in a personal, private capacity.

73. To the extent that his function as a Working Circle Committee member is at issue, the Respondent notes that Council removed him from the Working Circle prior to the conclusion of this inquiry.

74. The Respondent observes that neither he nor anyone else who posted in August 2023 called this individual "McBurglar." The Respondent used her proper name.

75. The Respondent argues that, when the purpose is to warn others, it is not discriminatory to identify someone who commits a crime even if the person is part of a protected group.

76. The failure of the Mayor and Council to react to the Respondent's August 2023 online posts is used to argue that City Council does not sincerely believe that his June 2024 comment renders him unfit for his duties.

77. The Respondent (again, through counsel) argues that other public officials have engaged in much worse behaviour than what is alleged here, and they not been found unfit for office. The submission cites, as examples, Mr. Justin Trudeau's repeated wearing of blackface (a blatantly racist act) before he became Prime Minister, various comments and acts attributed to Mr. Donald Trump, and criticisms of the late Ms Alice Munro.

78. According to the Response, "It is a small town and Mr. Noel's occupation as a paralegal means he knows most people in Dryden."

79. The Response makes the same eleven points as the portion of the Statement of Claim summarized, above, in paragraph 40. I do not find it necessary to repeat the summary here.

80. The Response continues:

... it is not reasonable to conclude that Mr. Noel was laughing at [Individual's name], particularly when the full context of his attempts to help her over the year are known. The onus of establishing such an integrity breach has not been met. Why would Mr. Noel start referring to [Individual's name] as McBurglar when he used her real name in the past, and nobody else other than [CH] has used the term. There is no evidence of whom [CH] was referring to. Mr. Noel swears he didn't know [Individual's name] was dead when he wrote the post. The only thing Mr. Noel is guilty of is bad timing, but he is also the victim of citizens unreasonably jumping to conclusions and a Mayor willing to take their side due to fear of controversy and criticism by a local First Nation.

81. Citing *Andrews v. Law Society of British Columbia*,² the Respondent argues that, even if the comment did refer to the deceased individual, it was not discriminatory as it did not impose an adverse effect on any identified group. Specifically, the comment did not withhold a benefit or impose a burden on persons with disabilities or persons with records of offences, as it was merely a comment and not an action.

82. On the distinction between fair commentary and commentary that is abusive or unduly discriminatory, the Respondent's counsel refers to the Canadian Broadcast Standards Council decision in *Re CHIN*.³

83. Finally, the Respondent's counsel highlights the financial burden of participating in this inquiry and argues that the Integrity Commissioner's authority to conduct a hearing includes the power to control the process, which encompasses the authority to order the payment of Councillor Noel's legal costs.

² [1989] 1 S.C.R. 143, at 174-5.

³ [2019] C.B.S.C.D. No. 2.

Respondent's Submissions Commenting on My Draft Report

84. Through Mr. Sinding, the Respondent made the following submissions about my draft report.

85. First, the Respondent argued that it was unfair for me to include, in the draft report, information obtained from my interview of Councillor MacKinnon, without informing the Respondent in advance and without giving the Respondent an opportunity to respond to Councillor MacKinnon's evidence. He argued that, under the rule in *Browne v. Dunn*,⁴ he should have been given a chance to refute the witness's evidence that he had heard the Respondent use a term similar to "McBurglar."

86. Second, the Respondent objected to my interview of Councillor MacKinnon without explanation to the Respondent. His lawyer wrote: "MacKinnon made no submission or complaint to the Commissioner, and there was no known reason to pick him to be interviewed."

87. He also argued: "[I]t appears the Commissioner took the opportunity to seek out additional evidence in support of the complaints, and against Mr. Noel, which might be seen as reflective of bias or a reasonable apprehension from a reasonable person of bias ... An impartial adjudicator should rule primarily on the evidence before him or her and not seek out new evidence to bolster one party's position."

88. Third, after receiving my draft report, the Respondent spoke to Councillor MacKinnon and learned that Councillor MacKinnon no longer clearly recalled the incident he had described to me in his initial interview. He invited me to re-interview Councillor MacKinnon. I did so.

89. Fourth, the Respondent objected to the fact that some interviews were conducted by me, and one was conducted by a lawyer in my office to whom I had issued a written delegation of authority, under subsection 223.3 (3) of the *Municipal Act*, to conduct interviews. In particular, he argued that I should not have made adverse credibility findings against the Respondent without interviewing him personally (instead of watching and listening to the recording of his interview). He also argued that the making of findings of fact cannot be divided between two people.

90. Fifth, the Respondent argued that I had taken writings of the Respondent into account in making findings of credibility, but I had not interviewed him directly. He said, "Mr. Noel invites the Integrity Commissioner to interview him personally, by video or in person, so as to properly assess his credibility ..."

⁴ *Browne v. Dunn* (1893), 6 R. 67 (H.L.), 1893 CanLII 65.

91. As I result of these comments, I personally conducted a second interview of the Respondent, commenced on April 4 and continued on July 10.

92. Sixth, the Respondent stated that he had been blocked from the Real Thunder Bay Courthouse-Inside Edition Facebook group, and, consequently, he did not see the posts that referred to the deceased individual as the “Hamburglar.” He invited me make inquiries about him being blocked from the group, and I did so.

93. Seventh, the Respondent provided an explanation of why his “not anymore bahaha” comment was consistent with him seeing, and why it referred to, a female suspect, not the deceased individual, who had been arrested by the OPP.

94. Eighth, the Respondent argued against my use of certain 2023 comments to draw conclusions about his explanation of what occurred in 2024. (See paragraphs 133 and 134, below.) The gist of his argument is that I was using his 2023 comments as evidence against him, which (he argued) was contrary to the Code’s six-month limitation on bringing a complaint.

95. Ninth, the Respondent objected the draft text of paragraph 136, below, in which I had quoted the Respondent’s legal submissions to support my use of certain 2023 comments. In response, I have removed the quotation to which the Respondent objected.

EVIDENCE AND FINDINGS OF FACT

96. Most findings of fact appear in this section and in the Background section which starts above at page 4. Some findings appear in the Issues and Analysis section that starts at page 24 below.

97. Findings of fact are made based on the standard of the balance of probabilities.

98. The City of Dryden 5-Year Community Strategic Plan (2020-2025) sets two strategic priorities. One of them is: “Continue to foster positive relationships with Indigenous Peoples and neighbouring First Nation communities.”

99. The mandate of City Council’s Working Circle Committee is described as follows:

The Working Circle has been created to recognize and enhance the relationship between the City of Dryden and Indigenous and Métis residents. Recommendations from The Working Circle will be sent to City Council through specific actions and the City’s Strategic Planning goals.

There are really four main priorities identified in the mandate of the Working Circle. The Working Circle priorities are all under the umbrella of the City’s strategic plan, a key aspect of which is to continue to foster positive relationships between Indigenous and non-Indigenous members of the community.

The Specific Mandate of The Working Circle is as Follows:

- Identify issues important to Dryden's Indigenous population. These would include things such as lifestyle issues, social issues, amenities Indigenous people are looking for and other issues impacting their experience living in the community, positive or negative.
- Identify actions the community could take to improve the experience of Indigenous people in Dryden.
- Identify actions or activities the community could take to bring the Indigenous and non-Indigenous community members closer together. These actions may start as small steps that lead to bigger moves over time.
- Identify opportunities for fostering positive relationships between Indigenous peoples and other community members and make recommendations to City Council to capture these opportunities.

100. According to the City, "The Working Circle will work to identify issues important to Dryden's Indigenous communities, recommend actions the City can take to improve the experience of Indigenous people and propose ways the community can bring together Indigenous and non-Indigenous residents."

101. The evidence of the Mayor and the Respondent is consistent that the Mayor invited the Respondent to apologize for the June 17 post and the Respondent declined.

102. The deceased individual was a person with medical conditions that constituted disabilities as the term "disability" is used in the *Human Rights Code* and section 7.2.3 of the City's Code of Conduct.

103. The Respondent's posts allude to the individual's medical conditions. During the first interview, he was more specific. The Respondent was aware of at least two conditions, both of which constituted disabilities. He identified one of her conditions by its commonly-used initials. He mentioned another of her conditions several times during the interview and named a specialized location where she received treatment for that condition.

104. During the second interview, I gave the Respondent an opportunity to address his knowledge of the individual's medical conditions. In respect of one condition, the Respondent said the individual did not "present as" (that is, lacked the physical appearance usually associated with) someone suffering from that condition. He acknowledged that he knew she had been in the specialized location where people receive treatment for that condition and a second, similar condition, but stated he did not know that she was actually receiving treatment for the condition. It was when I was asking about this topic that he ended the second interview.

105. I find that the Respondent was aware that the deceased individual suffered from certain conditions and I find that each condition was a “disability” as that term is used in the Code of Conduct.

106. Further, the individual’s passing was related to a condition, of which the Respondent was aware, that constituted a disability.

107. I find as a fact that the deceased individual was known to many as the “Hamburglar.” The popular Facebook page, Real Thunder Bay Courthouse-Inside Edition, followed by the Respondent and 19,000 others, used this term, and used images of the McDonald’s character, to describe the individual on at least two occasions in 2023.

108. CH was aware that the individual had been dubbed “Hamburglar.” CH interacted twice (with a laughing emoji and a thumbs-up emoji) with the Real Thunder Bay Courthouse-Inside Edition post that first used that term.

109. When CH posted on June 13 about “McBurglar,” he was repeating, albeit imprecisely, the “Hamburglar” sobriquet popularized on the Real Thunder Bay Courthouse-Inside Edition page.

110. A reasonable observer who was familiar with the “Hamburglar” label would readily have concluded that this was what CH meant by “McBurglar.” Several members of the Facebook group certainly reached this conclusion; otherwise, they would not have reacted as they did to the Respondent’s “bahaha” retort.

111. After receiving my draft of this report, the Respondent explained that he had been blocked from the Real Thunder Bay Courthouse-Inside Edition Facebook page and would not have been able to see the “Hamburglar” posts. I contacted the former administrator of the Facebook page and, through the former administrator’s lawyer, conducted a brief written interview. I was not a member of the Facebook page yet was able to access its content, so I wanted to ascertain whether or not Councillor Noel, upon being blocked, would have been unable to see the content. The former administrator responded that he (the former administrator) no longer has access to the information I was seeking, that he has no personal knowledge of who Mr. Ritch Noel is and that, if Councillor Noel was previously blocked by the page, then the former administrator has no memory of it.

112. I accept the Respondent’s explanation, and I find as a fact, that he made the June 17 post in his personal, private capacity, and not in his role as a Council Member.

113. I accept the Respondent’s claim, and I find as a fact, that his occupation as a paralegal means he knows most people in Dryden. The Respondent knew the deceased individual very well. In his words, “[Individual’s name] and I have quite a history.”

114. The Respondent's evidence is that the individual typically would run away when approached. His evidence is also that he was able to converse with her. For example, in August 2023, he commented online about his and her discussion the previous week. The Respondent's relationship with the individual was such that he could have conversations with her when others in Dryden could not.

115. The Respondent's social media activities disclose that he had a high degree of interest in this individual and possessed up-to-date knowledge of her dealings with the justice system. During his second interview, he told me that he frequently gets copies of court dockets where (while she was alive) he would see the individual's name associated with charges, undertakings, and failures to appear, mostly related to theft or petty crime. He said that he would also speak frequently about her "plight" with the defence lawyer who typically represented her.

116. Arising from a suggestion in the Respondent's comments on the draft report, I reached out to interview an individual, BP. BP described an incident during late spring or early summer of 2024 when he saw the deceased individual in a parking lot outside Tim Hortons.⁵ BP said that the Respondent, who had been inside Tim Hortons, got up from his seat, went out the door, and yelled at the individual to "get away from the [expletive] cars" or he would call the police.

117. During the second interview, I gave the Respondent an opportunity to address BP's recollection. He said simply, "We don't know that it's her," and declined to make further comment.

118. In August 2023, the Respondent had uploaded a video of the individual to Facebook. (The content of the video is described in paragraphs 14 and 15.) He did not record the video; he was given it by another resident, a witness whom I interviewed, whose security camera had recorded it.

119. I note that Respondent was familiar enough with the individual to include her full name in his post. I also note that the Respondent was interested enough in her activities, or sufficiently concerned about them, to upload a video of her – taken by someone else – and bring it to the attention of the community.

120. Further, he was familiar enough with the individual's justice-involvement to call her, "[o]ur residential thief," to state that she had "just got out of jail for similar stuff," to identify some of her offences (trespass, attempted break and enter), and to report when she was re-arrested.

⁵ BP's description of the individual's appearance (including dyed hair, apparent age, sex) and conduct (non-confrontational, walking away when addressed) were consistent with other evidence.

121. As the Respondent mentioned in an August 2023 post, the individual had previous involvement with law enforcement over a similar incident. On May 6, 2023, the police found her loitering in the yard of someone's home and charged her with prowling at night and breach of probation.

122. Two days prior, she had been arrested for stealing twenty dollars and two McDonald's gift certificates. This was the incident, discussed in paragraphs 21 to 23, that prompted the Real Thunder Bay Courthouse-Inside Edition page to nickname her "Hamburglar."

123. When I interviewed Councillor MacKinnon in fall 2024, he recalled the Respondent using a term similar to "McBurglar" around mid-2023. He remembered the Respondent talking about a woman who was back in Dryden and breaking into cars. When the term "McBurglar" came to prominence after the June 17, 2024, post, Councillor MacKinnon remembered the Respondent's prior use of an expression like that.

124. In March 2025, after seeing my draft report, the Respondent asked Councillor MacKinnon about this evidence. By then, Councillor MacKinnon could no longer remember whether the Respondent had used a term akin to "McBurglar." (The law is clear that there is no property in a witness.⁶ Consequently, Councillor Noel had every right to ask Councillor MacKinnon about what occurred, provided he did not attempt to influence the latter's evidence.) I reinterviewed Councillor MacKinnon, and he told me the same thing: He could still remember a 2023 conversation in which Councillor Noel had told him about an individual going around the community and breaking into cars, but he could not remember hearing Councillor Noel use a term similar to "McBurglar." He acknowledged that he might have heard the term from another individual, possibly BP.

125. During his first interview, Councillor MacKinnon's recollection had been clear. During his second interview, he no longer remembered. Contrary to the Respondent's take of the situation, this was not a retraction of Councillor MacKinnon's earlier evidence. He still remembered Councillor Noel telling him about the individual (the deceased individual) stealing from cars. On the issue of "McBurglar," he was unable to confirm or to refute his original evidence. Nonetheless, I am not relying on Councillor MacKinnon's evidence to make my findings on the "McBurglar"/"Hamburglar" issue. I am only relying on the fact that Councillor Noel had raised with Councillor MacKinnon the situation of the individual breaking into vehicles. This is further confirmation of the Respondent's high degree of interest in the deceased individual's activities.

126. I note that the timing of the conversation recollected by Councillor MacKinnon is roughly consistent with the timing of the Respondent's posting of the video showing the individual walking up a residential driveway toward a car, and the Respondent's social media commentary about her alleged trespassing, break and enter, and theft.

⁶ 2015429 Ontario Inc. v. Dynasty Homes (Wasaga Hills) Ltd., 2006 CanLII 23251 (ON CA), para. 64.

127. Clearly, there was history between the Respondent and the deceased individual. Sometimes he helped her – for example by bringing her to safety and driving her home when he found her on the street and inadequately clothed during freezing-cold weather.

128. I accept the Respondent's explanation, and I find as a fact, that he had a history of assisting the individual, including giving her rides, reaching out to her family members and others to urge them to help her, providing her with funds and food, and speaking to her to ask how she was when he saw her around Dryden.

129. There being no contradictory evidence before me, I am prepared to accept the Respondent's statement that he had "done probably more personally to help that girl than a hell of a lot of people out in Eagle Lake First Nation ever did."

130. He mentioned during his interview an encounter, outside Safeway, when she asked for \$5 and he gave her \$50. The Respondent ended up in an argument with a Safeway employee unhappy about his generosity. The police (called by the Respondent) arrived. He doesn't recall the outcome but stated she may have been charged with breaching a condition to stay away from Safeway.

131. At the same time, the Respondent also had a history of paying attention to the individual's involvement with the justice system, of warning the community about her, and of confronting her.

132. I do not accept the explanation that the Respondent's concern for, and generosity toward, the individual made it inconceivable that he had mocked her in a Facebook post. The evidence of his social media use is otherwise. The incident outside Tim Hortons also shows otherwise. The Respondent was able to juxtapose his apparent concern for her person with, at times, invective and hostility toward her.

133. On at least one occasion, the Respondent included both concern and hostility in the same paragraph. On August 16, 2023, he posted a Facebook message that reiterated his past assistance to the individual ("[H]elped her lots. Bought her food, given her a ride before she froze") while simultaneously calling her a "thieving bitch," and disclaiming any concern for her well-being:

I don't care if she is ill. Not one bit.

...

And I'm sick of hearing how hard she may have it. Don't care one bit.

...

I don't give a God damn about her circumstances when she preys on our citizens.

134. The contrast between the Respondent's conduct (contacting family members and elders to urge them to look after her) and his August 2023 words was striking. He wrote,

“I have 0 [zero] sympathy or compassion for this thief,” and, “I don’t care what issues this person may or may not have ... not even 1 little bit.” [original ellipses]

135. I also note that one of the Respondent’s August 2023 comments about the individual had an ominous tone: “One of these days she is going to get caught by the wrong person and it will end very badly for her.” I do not characterize his sentence as a threat. However, I do take it as another indication that the Respondent’s comments about the individual were blunt, unrestrained, and not subject to any evident boundaries.

PRELIMINARY ISSUES

136. I have carefully considered the Respondent’s submissions about the fairness of the process.

137. The Integrity Commissioner process is an inquiry not an adjudication or arbitration. As observed by the Divisional Court, “The Integrity Commissioner’s process is investigatory and the Commissioner may only make recommendations.”⁷

138. The process must be fair, but it is unlike an adjudication or arbitration in that the Integrity Commissioner is expressly authorized to collect evidence: see *Municipal Act*, subsections 223.4 (3), 223.4 (4). The Integrity Commissioner may also, though I have not done so in this case, issue summonses, take evidence on oath, and order production: see *Municipal Act*, subsection 223.4 (2).

139. What constitutes a fair Integrity Commissioner inquiry has been considered many times by the Divisional Court. The obligation of procedural fairness is “low.” The Respondent must receive disclosure of the substance of the allegations and an opportunity to respond. The opportunity to respond to a draft report, when provided to the Respondent, is consistent with fairness.⁸

140. An Integrity Commissioner possesses the authority to collect evidence, including through witness interviews and by obtaining and examining records. The Revised Notice of Inquiry informed the Respondent that this would occur: “As part of the inquiry, I will also conduct interviews of witnesses and examine relevant materials.”

141. I disagree that seeking out evidence reflects bias. The suggestion that an Integrity Commissioner cannot seek evidence misapprehends the nature of the process. Investigation is part of the Integrity Commissioner’s role. It may well be, to quote an authority cited by Mr. Sinding, that *an adjudicator or arbitrator* “should not descend into the arena as participant ... acquiring extrinsic evidence not introduced by the

⁷ *Kroetsch v. Hamilton (City) (Integrity Commissioner)*, 2021 ONSC 7982 (CanLII), para. 63.

⁸ In addition to *Kroetsch*, note 7, see *Di Biase v. Vaughan (City)*, 2016 ONSC 5620 (CanLII), and *Dhillon v. Brampton (City)*, 2021 ONSC 4165 (CanLII).

parties.”⁹ However, an Integrity Commissioner is not an adjudicator or arbitrator. This is an inquiry (investigation), not an adjudication or arbitration. Seeking and obtaining evidence are central to an inquiry.

142. As I have noted, the Respondent is entitled to know the substance of allegations and to receive the opportunity to respond. The Respondent does not direct or approve the Commissioner’s investigative steps. (Nor does any Complainant.) The Respondent is not entitled to be told which witnesses are going to be interviewed, or why. The Respondent is not entitled to witness statements. Indeed, the Respondent is not necessarily entitled to witness names. The Divisional Court has repeatedly confirmed this.

143. My delegate conducted the first interview of the Respondent. The interview resulted in a recording, which I personally and carefully reviewed. Whether or not an Integrity Commissioner is entitled to delegate the authority to make findings (subsection 223.3 (3) of the *Municipal Act* seems to authorize this), in this case, the delegate did not make findings of fact, or any findings. The proposed findings in the draft report were mine, and the findings in this final report are mine.

144. Relevant evidence was gathered following the first interview of the Respondent. Because it was gathered subsequent to his first interview, it was not the subject of interview questions. Nonetheless, and significantly, the Respondent was given the opportunity to address the relevant evidence when he was invited to respond to the draft report. Included with the draft report were copies of digital evidence furnished to allow Councillor Noel to respond.

145. The opportunity to address the evidence and the draft report constitutes fairness and is consistent with the Divisional Court jurisprudence.

146. In any event, I then gave the Respondent and his counsel an additional opportunity to respond further to anything contained in the March 6 draft report and evidence (that is, the attachments to my March 6 email) by speaking to me directly, by video conference, during a second interview. This occurred on April 4 and continued on July 10. The manner in which the interview ended is described in paragraph 60, above.

147. I am satisfied that the Respondent was treated fairly, that he was aware of the allegations and the evidence supporting those allegations, and that he had full opportunity to address the allegations and evidence and to submit his own evidence.

148. I agree with the Respondent that the six-month limitation in section 13.3 of the Code prohibits a complaint based on the Respondent’s August 2023 social media activity.

⁹ *Re Babcock & Wilcox Canada Ltd. and Sheet Metal Workers International Association Local 437* (1975), 65 D.L.R. (3d) 514 (NB CA), at 524, cited by the report of an External Review Committee under the *Royal Canadian Mounted Police Act*, considered in *Jaworski v Canada (Attorney General)*, [1998] 4 F.C. 154 (T.D.), at 175.

I am not using the 2023 posts for this purpose. I refer to the 2023 posts because they contradict the Respondent's explanation that he was too compassionate toward the deceased individual and too concerned for her welfare to have possibly mocked her passing by commenting "not anymore bahaha."

149. I do not agree with the Respondent that the Complainants were first required by section 13.3.1 of the Code to make informal complaints. The same issue was considered in *Re Noel*, 2025 ONMIC 1, in paragraphs 153 to 157. Informal complaints are not mandatory.

150. While I am aware of the Small Claims Court proceeding, I find that it has no bearing on this inquiry. The issue in that case was defamation. The issues here involve interpretation and application of the Code of Conduct.

ISSUES AND ANALYSIS

151. I have considered the following issues:

A. Did Councillor Noel make a comment about a deceased member of Eagle Lake First Nation?

If so:

B. Was the comment conduct that rendered the Councillor unable to perform his duties satisfactorily, constituting a breach of paragraph 4.3.1(a) of the Code?

C. Did he communicate in a manner that was discriminatory to the deceased individual in breach of section 7.2.3 of the Code?

A. DID COUNCILLOR NOEL MAKE A COMMENT ABOUT A DECEASED MEMBER OF EAGLE LAKE FIRST NATION?

152. Yes. In my opinion, it is more probable than not that the Respondent commented "bahaha" in relation to the recently-deceased individual who has been discussed at length in this report. Essentially, the Respondent was joking that the individual would no longer be justice-involved because she was now deceased.

153. CH used "McBurglar" as a corruption of the nickname "Hamburglar" adopted by the Real Thunder Bay Courthouse-Inside Edition page that both CH and the Respondent followed.

154. Even if the Respondent was unable to see the “Hamburglar” posts on that Facebook page, the nickname was known in the community.

155. The Respondent was very familiar with the deceased individual. He paid close attention to her activities. He talked about her to others. He posted someone else’s video to warn the community about her. He confronted her about stealing from cars.

156. The Respondent knew the individual, considered himself aggrieved by her alleged offences, and closely followed her involvement in the justice system. More likely than not, he knew she was the “Hamburglar.”

157. On the balance of probabilities, I find that the Respondent replied “not anymore bahaha” as a tasteless joke based on the passing of the individual dubbed “Hamburglar.”

158. Dryden is a small place and I have accepted that the Respondent knows most people.

159. It is probable that the Respondent knew CH was referring to the deceased individual.

160. It is also probable that, when he posted the comment, the Respondent knew the individual was deceased. As the Respondent states, Dryden is a small place where he knows most people. He particularly knew this individual; she and he had had multiple interactions, and he was following her involvement in the justice system. The circumstance of her tragic death involved the police. It is improbable that the Respondent was unaware of her passing.

161. None of the Respondent’s arguments and rebuttals alter my conclusion that he, more likely than not, was referring to the individual’s death when he typed, “not anymore bahaha.”

162. The Respondent’s denials concerning “McBurglar” and proffered interpretations (e.g., McBurglar is similar to McMansion) are beside the point. CH meant “Hamburglar.” I have found it probable that the Respondent knew CH should have used “Hamburglar” and knew who “Hamburglar” was. In this context, for the Respondent to explain that he knows no one called *McBurglar* is disingenuous.

163. The Respondent argues that CH was the only person to use the term “McBurglar.” While this may be true, McBurglar was a corruption of “Hamburglar,” and that term did not result from some individual’s idiosyncrasy. Instead, the moniker was generated by the Real Thunder Bay Courthouse-Inside Edition page, which had more than 19,000 followers. As a source of justice-related information in Northwestern Ontario, its presence was considerable.

164. The Respondent points out that he always used the individual's proper name. If his argument is that this pattern means he was incapable of replying "not anymore bahaha" to a nickname, then I disagree. Consistent use of a proper name says does not negate the possibility (or, in this case, probability) that someone would comment in response to a nickname.

165. The Respondent argues that joking about the individual's death would have been inconsistent with his compassion that he exhibited toward her. The evidence of his social media activity disproves this assertion. The Respondent's generous treatment of the individual does not exclude the possibility that his "bahaha" barb was aimed at her. It is evident from his August 2023 Facebook posts that, as far as the Respondent was concerned, providing her with assistance and deploying harsh words ("thieving bitch") were not incompatible.

166. To be clear, this is not a finding that the Respondent's August 2023 words contravened the Code. By June 2024, it was too late for anyone to file a complaint about what happened the preceding August. In this inquiry, the August 2023 comments are relevant to the possibility, indeed, the clear probability, that his June 17, 2024, post was about the deceased individual.

167. The Respondent explains in detail why the original June 13 post (about a woman wearing black clothes who said she was camping) could not have referred to the deceased Indigenous woman. In my view, the explanation is disingenuous and overcomplicates what occurred. CH commented that the McBurglar (understood to mean "Hamburglar") was back. The woman was dead, so the Respondent took the opportunity to joke tastelessly, "not anymore bahaha." That, in all probability, is what occurred.

168. Consequently, the identity of the woman in black is a distraction and irrelevant to the Respondent's post. The Respondent was not making a statement about her identity or about the accuracy of CH's comment. The Respondent was using CH's comment to make an inappropriate joke about a recently-deceased individual in whom the Respondent was keenly interested.

169. During both his interviews and in his submissions on my draft report, the Respondent explained that "not anymore" was a comment about an unidentified female person (not the deceased individual) whom he saw handcuffed and under arrest.

170. My draft report stated it was implausible that the Respondent would say "not anymore" to the risk of theft posed by an individual merely because the individual was arrested. According to the draft report, the explanation that Councillor Noel was referring to someone being arrested at the side of the road assumes a finality to arrest that the facts do not support and the Respondent's words indicate he does not believe. According to his writings, the Respondent does not believe that arrest for a property crime takes someone off the streets. On the contrary, from the Respondent's perspective, arrest is

part of a revolving-door process in which an individual will soon be released and potentially reoffend. It is implausible and incredible that the Respondent would punctuate a property-crime arrest with a “not anymore” declaration.

171. In this lawyer’s comments on the draft report, the Respondent disagreed with this assessment:

Contrary to the draft report conclusion that Mr. Noel could not have been referring to the two that Noel observed being arrested for a property offence; in fact, one of these individuals, the female, had been violent and threatening to a citizen, and Noel saw both being put in the back of the cruiser. This female matched the description of the female seen breaking into cars in the Facebook posts mentioned in this report. Mr. Noel expected that at least the violent of the two would have an uphill battle to be released on bail, and noticed they were not released at the scene on an Officer in Charge Undertaking. He didn’t see the female ever again, and he only saw the male a few weeks later. He asserts he believed at least one if not both would be taken off the street for a significant period of time, but of course he knew they would eventually be back out. He was happy that someone was being separated from the public for at least some time, and that the public wouldn’t be bothered by them for some time.

Mr. Noel saw these two individuals almost daily in Dryden on the Highway 17 corridor from Dingwall Ford to the local Tim Horton’s, which is close to McDonald’s.

172. I have taken this explanation into account in making my finding about what, on the balance of probabilities, occurred.

173. One of the Respondent’s comments during his first interview was particularly revealing. He said he was saddened by the individual’s death, especially in light of his and her history and his efforts to help her. However, he also said the following:

I am not one bit upset that [Individual’s name] is no longer victimizing the people in my neighborhood and around here. Not one bit, OK? Because this city has turned into a frigging cesspool in the last five years.

174. His meaning is clear. The individual’s death meant that she would not longer be committing property crimes. This is another reason to conclude it is more likely than not that the Respondent was referring to the deceased when he punctuated the discussion with “not anymore.”

B. DID THE COMMENT RENDER THE COUNCILLOR UNABLE TO PERFORM HIS DUTIES SATISFACTORILY?

175. Yes.

176. In particular, mocking the death of a young Indigenous woman made it impossible for him to perform his duties as a member of the Working Circle Committee.

177. I have found that, when he posted on Facebook, the Respondent was engaged in private activity. However, paragraph 4.3.1(a) of the Code applies to private action, by a Council Member, that renders the Council Member unable to perform duties satisfactorily.

178. One of the City's two strategic priorities is to "Continue to foster positive relationships with Indigenous Peoples and neighbouring First Nation communities."

179. The Working Circle Committee "has been created to recognize and enhance the relationship between the City of Dryden and Indigenous and Métis residents."

180. Its specific mandate includes, "Identify[ing] actions or activities the community could take to bring the Indigenous and non-Indigenous community members closer together." It also includes, "Identify[ing] opportunities for fostering positive relationships between Indigenous peoples and other community members ..."

181. The Respondent knew or should reasonably have known that mocking the death of a young Indigenous woman would make it impossible for him to represent the City in "fostering positive relationships with Indigenous Peoples and neighbouring First Nation communities." He knew or should reasonably have known that mocking the death of a young Indigenous woman was the antithesis of "bring[ing] the Indigenous and non-Indigenous community members closer together."

182. The Respondent's post rendered him unable to perform satisfactorily his duties as a Councillor serving on the Working Circle Committee. Consequently, the act of posting contravened paragraph 4.3.1(a) of the Code.

183. I am aware that the Respondent is no longer a member of the Working Circle Committee, but he was a Working Circle member when he posted online. At the relevant time, he was required not to render himself unable to perform his duties as a member of that Committee.

C. DID HE COMMUNICATE IN A MANNER THAT WAS DISCRIMINATORY TO THE DECEASED INDIVIDUAL?

184. According to section 7.2.3 of the Code of Conduct: "Council Members shall not speak or otherwise communicate in a manner that is discriminatory to any individual; or that is discriminatory in regard to any individual based on that person's race, ancestry, ethnic origin, colour, place of origin, creed, citizenship, gender, sexual orientation, same-sex partnership status, age, **record of offences**, marital or family status, or **disability**."

185. In *Re Noel*, 2025 ONMIC 1, paragraphs 184-185, I addressed the Respondent's argument that a comment is not discriminatory unless it has an adverse effect, such as by depriving someone of equal treatment or equal access to services, or it advocates for an adverse effect. This argument confuses discrimination with discriminatory speech. Section 7.2.3 of the Code of Conduct deals only with the latter. It prohibits communicating in a discriminatory manner which includes, in addition to hate speech, insults, slurs and disparagement based on prohibited grounds of discrimination.

186. The Code of Conduct does not define "record of offences," but the basis for including this protection is the *Human Rights Code* (Ontario). Some may be surprised to learn that "record of offences," as defined in Ontario, is relatively narrow. Protection extends to all provincial offences but only to crimes and other federal offences that have been pardoned (now referred to as a "record suspension"). In this case, there is no indication that the deceased individual's involvement in the justice system involved federal record suspensions (formerly pardons). More fundamentally, there is no suggestion that anyone had communicated anything about her record of offences, if in fact she had a record of offences.

187. In any event, I agree with the Respondent that general comments about crime in a community, including comments about people engaging in unlawful conduct (*i.e.*, conduct that should not occur), do not constitute discriminatory speech that is prohibited by section 7.2.3.

188. Another contravention of section 7.2.3 would be discriminatory speech about someone's disabilities. In paragraphs 102 to 103, I have found that the deceased individual had medical conditions that constituted disabilities, the Respondent was aware of two such conditions (disabilities), and the individual's passing was related to one of them.

189. Mocking the disability-related death of a person with a disability was communication that was discriminatory in regard to disability, contrary to section 7.2.3.

CONCLUSION

190. I have found that the Respondent's June 17 post contravened two provisions of the Code of Conduct: paragraph 4.3.1(a) and section 7.2.3.

191. The Complainants made additional observations that were not directly addressed in this inquiry. For example, several of them argued that the Respondent's post was heartless, insensitive, emotionally harmful, and disgusting. It is important to remember that an Integrity Commissioner is limited to applying the Code of Conduct and must stay in that lane. Integrity Commissioners do not have general supervisory authority over

Councillors and – apart from what a Code provides – we cannot tell them how to communicate.

192. Review of whether a post did or did not contravene a particular provision of the Code is not an assessment of whether the Integrity Commissioner endorses the content. The focus of an Integrity Commissioner inquiry is not whether a Council Member's words are ill-advised or in poor taste. The focus is whether the Code was contravened. In this case, I have found breaches of paragraph 4.3.1(a) and section 7.2.3.

RECOMMENDATIONS

193. Under section 223.4 of the *Municipal Act*, the role of the Integrity Commissioner is to determine whether, in the Commissioner's opinion, a Member has contravened the Code of Conduct. If the Code has been contravened, then the role of the Council is to determine the penalty, if any.

194. The decision on penalty belongs entirely to the Council. The Integrity Commissioner does not determine the penalty.

195. In the event of a contravention, the Council may choose to do nothing or it may impose one of two penalties (but not both): reprimand, or pay suspension (up to 90 days).

196. The complete range of penalty options is:

- a. No penalty
- b. Reprimand
- c. Pay suspension (up to 90 days)

197. In this case, two contraventions of the Code (paragraph 4.3.1(a), section 7.2.3) were found, but they arise from a single social media post. In my view, if Council is to impose a penalty, then it should impose one penalty for the post, as opposed to a separate penalty for each provision that was contravened.

198. In the original referral City Council requested my recommendation of additional steps that it might take.

199. Additional steps cannot include penalties. The Divisional Court has made clear that under the *Municipal Act* a Council lacks the power to impose penalties not listed in subsection 223.4 (5) (those listed in paragraph 196, above). See *Magder v. Ford*, 2013 ONSC 263 (CanLII), paras. 66-70; *Altmann v. Whitchurch-Stouffville (Town)*, 2018 ONSC 5306 (CanLII), paras. 45-46; *Dhillon v. Brampton (City)*, 2021 ONSC 4165 (CanLII), para.

86-99. The penalties listed in subsection 223.4 (5) of the Act are the only two penalties available to address a breach of the Code of Conduct.

200. A Council may take non-punitive and remedial action, such as requesting an apology or asking someone to return City property being used improperly, but if the objective is to penalize, then the only options are a reprimand and a suspension of pay.

201. The Divisional Court has also stressed that a measure cannot be justified as remedial when it is actually used for a punitive purpose. For example, if the purpose of a measure is to send a message denouncing the contravention that occurred, or to deter future contravention, then the measure is punitive and (unless it is a reprimand or a suspension of up to 90 days' compensation) it lies outside of a Council's authority: *Magder v. Ford*, at para. 68.

202. In *Dhillon v. Brampton*, para. 95, the Court described appropriate remedial measures as follows: "They were responsive to the misconduct in question, have remedial rather than punitive characteristics, strive to redress the harm caused by [the Member's] misconduct, and seek provide a way to prevent a recurrence of [the Member's] conduct."

203. In *Altmann v. Whitchurch-Stouffville*, para. 44, the Court suggested that the following might be characteristics of appropriate remedial measures: The measures possess remedial characteristics; they remedy the contravention; they remedy the relationship between the Member and the aggrieved individuals (this was a harassment case); they provide a remedial path to find a solution to end the Member's inappropriate conduct.

204. In my view, removing the Respondent from the Working Circle Committee – not as a punishment, but as a remedial measure to restore the confidence of Indigenous communities and First Nations in the Working Circle process – would have been a reasonable remedial measure. However, Council has already taken that step.

205. Additional remedial measures that Council might wish to consider could consist of the following:

- a. Ask the Respondent to apologize to friends and family of the deceased individual and to the Eagle Lake First Nation. (Council can only ask. It cannot require him to do so.)
- b. Adopt a resolution formally confirming that the Respondent's June 17, 2024, post does not represent the views of Council or the City. (This was already stated by the Mayor on June 19, but is not formally a position of Council.)
- c. Honour the memory of the deceased individual with an appropriate recognition in her name.

- d. Consult with Eagle Lake First Nation to identify any additional measures that would be appropriate to bring healing.
- e. Schedule Code of Conduct refresher training, with particular emphasis on social media use, for the entire Council.

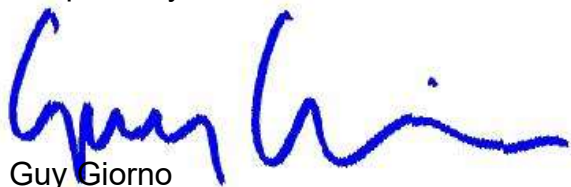
CONTENT

206. Subsection 223.6 (2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

207. After careful consideration, I have chosen not to name the deceased individual in this report. A strong argument in favour of naming the individual is that she was a human being deserving of dignity and respect in life and in death. She has a name, and the strongest way to convey that she matters would be to say that name. On the other hand, she was not subject to the Code of Conduct and this inquiry was not about anything she did. The evidence in this case, including social media posts, contains personal information about the individual, including medical information, that is reflected in this report. These factors weigh in favour of anonymity.

208. Ultimately, I decided not to name the deceased individual unless her next of kin agreed that it would be appropriate for me to do so. Despite attempting on several occasions, through a family member, to make contact, I have been unable to reach the next of kin. Consequently, I am not identifying the deceased individual by name.

Respectfully submitted,



Guy Giorno
Integrity Commissioner
City of Dryden

July 24, 2025