

BC Human Rights Tribunal

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Vancouver BC V6B 5J3
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Text

GENERAL INSTRUCTIONS

- For detailed instructions select the **Help** buttons as you go or click on **All Instructions** now
- See the Tribunal's website for further information – www.bchrt.bc.ca
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- **Print Part I** and provide the necessary signature(s) before sending your information to us
- **Email** us your form by attaching a saved copy along with the scanned Part I with signature(s) and sending it to BCHumanRightsTribunal@gov.bc.ca
- OR click on **Print** and **fax, mail** or **hand deliver** a copy of your form to us
- Keep a copy of this Complaint Form and all the documents

For assistance with filing your complaint contact

BC Human Rights Clinic
Tel: 604-622-1100
Toll Free: 1-855-685-6222
www.bchrc.net

The Law Centre
Tel: 250-385-1221
www.thelawcentre.ca

YOUR INFORMATION

FIRST NAME: ** Anne		LAST NAME: ** Muter	
NAME OF PERSON YOU ARE MAKING THIS COMPLAINT FOR: ** Maxwell Johnson Snr ("Maxwell") and Torianne ("Torianna")			
NAME OF LAWYER OR OTHER PERSON WHO REPRESENTS YOU IN THIS COMPLAINT (IF APPLICABLE): Anne Muter and Lisa Fong, QC, Ng Ariss Fong, Lawyers			
MAILING ADDRESS: ** 8th Floor, 555 West Georgia Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6B 1Z5
<p>Purpose of collecting contact information: The Tribunal uses your contact information to process the complaint and conduct surveys to evaluate and improve its services. The Tribunal will give your mailing address to the other parties for the exchange of information and other documents. Your additional contact information will only be given to the other parties if you agree.</p> <p><input type="checkbox"/> Check here to tell the Tribunal not to disclose the additional contact information below to the Respondent.</p>			
TELEPHONE: ** 1-604-331-1155 ext 104	FACSIMILE: 1-604-677-5410	CELLULAR:	
EMAIL: anne@ngariss.com; lisa@ngariss.com			

PART I: YOUR AUTHORITY TO FILE A COMPLAINT FOR ANOTHER PERSON


The Tribunal may accept your complaint filed for another person if the person has legal capacity and consents, or you have legal authority to file the complaint for someone without legal capacity, such as a child. Complete one of the Options 1 to 4.

Option 1: Consent of a Person with Legal Capacity

[HELP](#)

I, Maxwell Johnson authorize Anne Muter
(print name of individual named in complaint) (print name of person filing complaint)

to act on my behalf in this complaint before the BC Human Rights Tribunal.


Max Johnson sr (Nov 22, 2020 16:19 PST)
Signature (individual named in complaint) _____ Date Signed (YYYY-MM-DD) _____

Option 2: Complaint for a Child with More Than One Parent or Guardian

[HELP](#)

I, _____ declare that I am the parent or legal guardian of _____ (the "child").
(print name of parent or guardian **representing**) (print name of child)

Signature (parent or guardian **representing**) _____ Date Signed (YYYY-MM-DD) _____

I, _____ declare that I am the parent or legal guardian of the child and that I consent to the complaint being filed and

I authorize _____ to act on the child's behalf.
(print name of parent or guardian **representing**)

Signature (parent or guardian **consenting**) _____ Date Signed (YYYY-MM-DD) _____


Option 3: Complaint for a Child with One Parent or Guardian

[HELP](#)

I declare that I am the sole legal guardian of and attach supporting documents as proof.

Torianne

(print name of child)


Max Johnson sr (Nov 22, 2020 16:19 PST)
Signature (sole parent or guardian) _____ Date Signed (YYYY-MM-DD) _____

Option 4: Complaint for an Adult Without Legal Capacity

[HELP](#)

I declare that I have legal authority to make this complaint on behalf of and attach the supporting documents as proof.

Signature (representative with legal authority) _____ Date Signed (YYYY-MM-DD) _____

PART II: COMPLAINT

STEP 1: NAME THE RESPONDENT(S)

Name each individual person, business or organization you believe is responsible for the discrimination.

An individual Respondent might be a co-worker, boss, building manager, landlord, restaurant server, employee at a recreation facility, health care provider or government official.

A business or organizational Respondent might be the company the person worked for, a newspaper, a school district, a trade union, a society or a strata corporation.

State The Person You Represent's Relationship With Each Respondent

[MORE INFORMATION](#)

Respondent 1:

NAME: ** Vancouver Police Board ("VPB")			
RELATIONSHIP TO THE PERSON YOU REPRESENT: ** Employer of the Vancouver Police Department that interacted with the claimants			
MAILING ADDRESS: ** 2120 Cambie St.			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V5Z 4N6
TELEPHONE: ** 604-717-3281	FACSIMILE:	CELLULAR:	
EMAIL: ** office@vancouverpoliceboard.ca			

[ADD Respondent](#)[REMOVE Respondent](#)

Respondent 2:

NAME: ** Bank of Montreal			
RELATIONSHIP TO THE PERSON YOU REPRESENT: ** Bank that claimants attended to open a new account for Torianne.			
MAILING ADDRESS: ** 21st Floor - 100 King Street West			
CITY: ** Toronto		PROVINCE: ** ON	POSTAL CODE: ** M5X 1A1
TELEPHONE: ** 416-359-5164	FACSIMILE:	CELLULAR:	
EMAIL: ** darryl.white@bmo.com			

[ADD Respondent](#)[REMOVE Respondent](#)

STEP 2: AREA(S) & GROUND(S) OF DISCRIMINATION

List the area(s) and ground(s) of discrimination that apply to this complaint:

A complaint must show that the Respondent's conduct took place in an area of daily life protected under the BC *Human Rights Code*. These are called "**areas of discrimination**".

It must also show that the person has a personal characteristic(s) protected under the *Code*. These are called "**grounds of discrimination**". These protected personal characteristics may be:

- actual (for example, a person's ancestry or age), or
- perceived (for example, someone thinks that a person has or may develop a disability in the future, or makes homophobic comments regardless of the person's sexual orientation).

Not all grounds of discrimination apply to all areas of discrimination.

Respondent 1: Vancouver Police Board ("VPB")

Area of Discrimination

- Accommodation, service or facility Employment Employment advertisement Publication
 Purchase of property Tenancy Unions and associations Wages

Grounds of Discrimination

[HELP with this question](#)

- Age Ancestry Colour Family Status
 Gender Identity or Expression Marital Status Mental Disability Physical Disability
 Place of Origin Race Religion Sex
 Sexual Orientation

"Ancestry" is defined broadly and includes where a person's family is from.

Details: The complainants are Indigenous.

"Colour" refers to a person's colour.

Details: The complainants are Indigenous.

"Family Status" includes being related to another person by blood, marriage or adoption. It includes family type (for example, a single parent family) and who is in a family (for example, someone is fired because of who their father is). It *does not apply* to purchase of property.

Details: Maxwell is Torianne's legal guardian and her biological grandfather.

"Race" is defined broadly to include groups such as First Nations, Métis, Chinese or South Asian.

Details: The complainants are Indigenous.

[ADD Areas & Grounds](#)

[REMOVE Areas & Grounds](#)

Respondent 2: Bank of Montreal

The Area(s) & Grounds are the same as Respondent 1

STEP 3: RESPONDENTS' CONDUCT

Answer these questions to show that the Respondent's conduct could be discrimination under the *Human Rights Code*

Respondent 1: Vancouver Police Board ("VPB")

1. What did the Respondent do?

[HELP with this question](#)

Date (YYYY MM DD) **	What Happened? **
2019 12 20	See attached text.

[ADD Event](#)

[REMOVE Event](#)

2. What is the adverse impact on the person you represent? **

HELP with this question

Maxwell and Torianne were detained and handcuffed and made to stand on the corner of a busy intersection while interrogated by the VPD Constables and the other VPD police officers. During the time that Maxwell was in handcuffs he advised the police officers that he suffers from anxiety and a panic disorder. The stress of being in handcuffs was huge and especially so because of his mental health issues. Seeing his grand daughter in handcuffs caused Maxwell to think about the history of residential school and people in his community being put in hand cuffs and taken away from their families in boats. During the interaction with the VPD, Torianne was very upset and worried about her grandfather. She knows about his anxiety and panic disorder and was worried that he might have a panic attack. Maxwell, Torianne and Morgan were all very shaken and upset following the incident. Both Maxwell and Torianne are now very nervous around police officers. Following the incident Maxwell's anxiety got much worse. After many years of working on getting better, he is back to suffering from anxiety and panic attacks. He is back in counseling for his anxiety and panic disorder. Following the incident Torianne tries not to think about it as it is upsetting to remember being treated like that and watching her grandfather have to explain who he was and be handcuffed. She is afraid of the police. Maxwell and Torianne feel mistreated and discriminated against by the VPD and the Constables. They are hurt and upset because they believe that the detention and handcuffing would not have occurred if they had not been an Indigenous grandfather and grand-daughter.

3. How was each ground of discrimination a factor in the adverse impact? **

HELP with this question

Maxwell and Torianne were racially profiled by the Constables, which lead to the VPD Conduct (as defined in the attached text), including but not limited to the unnecessary detention and use of handcuffs. The Constables were aware from the Status Cards provided to them by BMO that Maxwell and Torianne were Indigenous. Maxwell and Torianne have physical appearances of Indigenous people. Their detention and use of handcuffs was discrimination on the basis of race, ancestry and colour. The fact that Maxwell and Torianne use Status Cards as identification as an Indigenous people contributed to the negative treatment. The fact that Maxwell and Torianne had traveled from their home in Bella Bella was questioned. Who they were and how they got to Vancouver was questioned. Their home in an Indigenous community contributed to the discriminatory treatment they received. The fact that their family is a multi-generational family in which Maxwell is the guardian of his young grand daughter contributed to the discrimination they suffered as their family status was questioned and not understood. They were questioned on their family relationship and why Maxwell was looking after Torianne. This family structure contributed to the lengthy interrogation and discrimination they suffered.

Respondent 2: Bank of Montreal

1. What did the Respondent do? **

HELP with this question

Date (YYYY MM DD) **	What Happened? **
2019 12 20	See the attached text.

ADD Event

REMOVE Event

2. What is the adverse impact on the person you represent? **

HELP with this question

Upon determining that there was an issue with Torianne's Status Card, BMO was not forthright in explaining the situation. Rather they held onto both the Status Cards and called 911. Without the discrimination, a bank account may not have been issued to Torianne that day given the issue with her identification. But 911 would not have been called. That call lead to the adverse impact as set out under item 2 below Vancouver Police Board and repeated here.

3. How was each ground of discrimination a factor in the adverse impact?*

HELP with this question

The fact that Maxwell's BMO electronic profile had his Status Card information incorrectly recorded lead to a chain of events resulting in handcuffs. If BMO staff had been properly trained on the use of Status Cards this initial error would not have occurred.

Maxwell and Torianne were treated differently because they attempted to open up a bank account using Status Cards. Maxwell and Torianne believe that a factor in the BMO Conduct (as defined in the attached text), including the decision to call 911, was the fact that they are Indigenous. But for the discriminatory response, an identification issue would have resulted in simply a denial of issuing a new bank account that day.

BMO's suspicion, questioning and decision to call 911 were all informed by a discriminatory line of thought that an Indigenous man with a recent deposit in his account and error on a 12 year old's identification was some type of a fraud.

STEP 4: PART A – TIME LIMIT TO FILE COMPLAINT

To file the complaint on time, you must file it within one year of each Respondent's conduct (acts or omissions). If only some of the conduct happened in the last one year the complaint may be filed in time if all of that Respondent's conduct is related or similar and close enough in time.

Answer the questions in **STEP 4: Part A** to show whether the complaint is filed in time. If some or all of the complaint may be filed late, you will also complete **STEP 4: Part B**.

1. Did all the conduct you say is discrimination happen in the last one year?

HELP with this question

Yes No

STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer the complaint (put the complaint on hold) until another proceeding capable of dealing with the human rights complaint, such as a grievance, has been completed. If the complaint is deferred, the Tribunal will take no further steps until the deferral ends.

Is there another proceeding?*

Yes No

STEP 6: REMEDIES

1. List the type of remedies you want: *

HELP with this question

1. Declaratory order that the respondents' conduct was discriminatory and contrary to the Code;
2. The VPB, VPD and BMO increase and improve ongoing cultural competency training, including with regards to systemic racism, discrimination against Indigenous people and Indian status cards;
3. The VPB, VPD and BMO provide a public apology to the complainants, Morgan and the Heiltsuk Nation; and
4. The VPB, VPD and BMO pay compensation for injury to dignity, feelings and self respect for each of the complainants.

2. List any other person or organization affected by these remedies:

HELP with this question

Morgan witnessed the incident with the VPD and continues to be negatively impacted by having to watch his father and niece be handcuffed. He needs to be included in an apology.

The Heiltsuk Nation and its members have also been impacted by yet another colonial state impact on its people. The young women of Heiltsuk Nation's trust in police forces has been torn by this incident. If we are to move forward in reconciliation, an apology to the entire Heiltsuk Nation is necessary.

STEP 7: SETTLEMENT MEETING

The Tribunal can provide a mediator to resolve the complaint informally and voluntarily. This is called a "**settlement meeting**". This is a free service. What is said during the settlement meeting is confidential and cannot be used against either party later.

Do you want to participate in a settlement meeting? **

Yes No

STEP 8: COMPLETE THE COMPLAINT FORM

After you have filled out the complaint form:

- check the box to confirm that the information is true and accurate
- keep a copy of this complaint form and the documents
- send the complaint form to the Tribunal

Check the following for:

I confirm that the information in this complaint form is true and accurate to the best of my knowledge and belief. **

WHAT HAPPENS NEXT?

After the Tribunal has reviewed the complaint, it will tell you one of the following:

- the complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
- the complaint form is incomplete and the Tribunal will ask you for further information by a certain date
- the complaint is deferred pending the outcome of other proceedings
- the complaint cannot be accepted for filing because:
 - the complaint is not covered by the BC *Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
 - the complaint does not set out enough information to support a complaint of discrimination under the BC *Human Rights Code*
 - the complaint was filed late and the Tribunal has decided not to accept it.

PROTECTION FROM RETALIATION

After a complaint is filed a complainant, anyone named in a complaint, a witness or anyone who assists in a complaint is protected from retaliation for their involvement in the complaint. You must show:

- a complaint was filed with the Tribunal;
- the person who retaliated knew about the complaint; and
- it is reasonable to conclude that the person intended to retaliate against someone because of their involvement in the complaint.

As of May 14, 2015, the Code also protects you from retaliation because someone thought you might make a complaint, be named in a complaint, or give evidence or assist in a complaint.

If the person you represent or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms. File it with Part I of this form (Form 1.2).

HELP FILING YOUR COMPLAINT

For assistance with filing the complaint contact:

BC Human Rights Clinic
300-1140 W Pender Street
Vancouver BC V6E 4G1
Tel: 604-622-1100
Fax: 604-685-7611
Toll Free: 1-855-685-6222
www.bchrc.net

The Law Centre – University of Victoria Faculty of Law
225 - 850 Burdett Avenue
Victoria BC V8W 0C7
Tel: 250-385-1221
Fax: 250-385-1226
www.thelawcentre.ca

PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area and ground of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public.

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that your privacy interests outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.

The Claimants

1. Maxwell Johnson (“Maxwell”) is an Indigenous person who is a member of Heiltsuk First Nation. He is a Heiltsuk artist. He and his family members have contributed to major Heiltsuk projects, including painting the front mural of the Heiltsuk Big-House.
2. Maxwell’s family is an extended family. Maxwell is the legal guardian of his grand-daughter, Torianne (“Torianne”). Torianne was 12 years old in December 2019. Torianne is an Indigenous person who is a member of Heiltsuk First Nation. Maxwell’s son Morgan Johnson (“Morgan”) is also an Indigenous person and a member of Heiltsuk First Nation.
3. In December 2019, Maxwell and Torianne decided it would be a good idea for Torianne to open a bank account at the same bank where Maxwell had an account. Maxwell wanted to ensure she could access money and that he could transfer from his bank account to her, using a bank card. Bella Bella, where they live, does not have any banks.
4. Maxwell was an existing customer of BMO Bank of Montreal (“BMO”) and had had an account with them for several years.
5. During a family trip to Vancouver, Maxwell made an appointment at the BMO branch located at 595 Burrard Street, Vancouver (the “BMO Branch”) for himself and Torianne, to open up a new bank account for Torianne. The appointment was for 11:00 am on December 20, 2019.

BMO Appointment

6. Maxwell, Torianne and Morgan arrived at the BMO Branch a little before their appointment on the morning of December 20, 2019 and walked around for a bit. They went into the BMO Branch around the time of the appointment. They were directed to a cubicle area where Maxwell and Torianne met with a customer service representative, who may have been named Diane (the “CSR”). Morgan remained in the general lobby area of the BMO Branch.
7. Maxwell provided his BMO bank card to the CSR.
8. The CSR asked Maxwell questions about his recent transactions on his existing BMO account and he described a few recent transactions. One of those recent transactions was a large deposit as a result of settlement a legal issue between Heiltsuk First Nation and Canada. Another was a very recent small transfer to a family member.
9. The CSR asked for Maxwell’s identification. He provided her with his Status Card. When looking at Maxwell’s identification, the CSR said that the numbers weren’t matching up.
10. The CSR also asked for Torianne’s identification and she provided her Status Card. She did not advise that there was any issue with Torianne’s card.
11. The CSR then advised that she had to check or verify with a manager and took both Status Cards with her.

12. Maxwell and Torianne waited for the CSR to return. When she returned, she advised that there was an issue with the Status Cards and that she would not be able to open up a bank account for Torianne at that time. Maxwell understood that the problem was with his Status Card.
13. Maxwell asked for their Status Cards to be returned and the CSR advised that they were upstairs with a manager and asked them to come with her to get them back. The CSR lead Maxwell and Torianne to a hallway area of the second story of the BMO Branch and asked them to wait on a bench. Morgan remained below in the main lobby area of the BMO Branch.
14. Maxwell and Torianne waited on a bench without anyone from BMO speaking to them further for some time (about 20-30 minutes). As they waited they saw BMO staff standing up inside offices to look at them through the glass and felt that they were being discussed.
15. Unknown to Maxwell and Torianne, BMO had called 911, and the Vancouver Police Department (the "VPD") responded to the 911 call at the BMO Branch.
16. At all material times during the BMO appointment, and due at least in part to the race, ancestry, colour, and/or family status of Maxwell and Torianne,
 - a. the CSR and BMO management failed to advised Maxwell or Torianne about any issue with Torianne's Status Card or Maxwell's BMO profile;
 - b. the CSR and BMO management concluded a case for fraud or other crimes by Maxwell or Torianne and called the VPD on that basis
(collectively the "BMO Conduct").

VPD Detention

17. At approximately 12 noon, Constable Canon Wong and Constable Mitchel Tong (the "Constables") approached Maxwell and Torianne who were still sitting down on the second floor of the BMO Branch and asked them to come outside with them. Maxwell and Torianne calmly walked outside with the Constables.
18. While standing on the street in front of the BMO Branch the Constables put Maxwell and Torianne in handcuffs. They advised them that they were not being arrested, but were being detained.
19. A second VPD police car and two female police officers arrived. They separated Torianne from Maxwell so that they were not able to speak with one another.
20. Maxwell and Torianne did not understand why they were being detained and handcuffed. When Maxwell asked one of the Constables why he was told it was that BMO had called because of a fraud.
21. Maxwell and Torianne's pockets and bags were searched.
22. The Constables had been given the Maxwell and Torianne's Status Cards by BMO and they entered information from the Status Cards into their computer.

23. Torianne was visibly upset, but she had been separated from Maxwell so he couldn't speak to her. He told the police officers that she was only 12 years old and asked that the handcuffs be removed. After some discussion, one of the Constables removed the handcuffs from Torianne after she had been in them for about 15 minutes.
24. The police officers asked Maxwell many questions about who he was and what his business was in Vancouver. They asked where he was from and why he was there. They were suspicious about where he came from and how he got to Vancouver.
25. Maxwell explained that he is Heiltsuk and lives in Bella Bella. He explained that he was in town to bring his nephew to see his mother and was at the bank to help his granddaughter to open a bank account.
26. The police officers asked Maxwell if he was in a band. He told them he was a member of the Heiltsuk First Nation. They asked Maxwell if he had any tattoos. He said that he did.
27. During the time Maxwell and Torianne were being detained by the police officers, they saw the Constables go in and out to speak with BMO staff at the BMO Branch.
28. One of the Constables took a photo of Maxwell.
29. Morgan watched events unfold from inside the BMO Branch. Morgan called his mother to try to get help. She gave Morgan the telephone number for Mary Brown ("Mary"), who works for the Restorative Justice Program at Heiltsuk Tribal Council. Morgan then called Mary and she told him that he should speak to the police and ask them to call her. Morgan did so and Constable Wong, spoke with Mary who confirmed that she knew Maxwell and Torianne and provided a physical description of them.
30. Eventually, over 30 minutes later, Maxwell was released from handcuffs and Maxwell and Torianne were told that they were free to go.
31. Throughout the entire interaction with BMO and the VPD Maxwell and Torianne were upset but calm and co-operative. There was no threat or risk of injury or attempted escape.
32. At all material times after the Constables arrived at the BMO Branch, and due at least in part to the race, ancestry, colour, and/or family status of Maxwell and Torianne,
 - a. the Constables detained Maxwell and Torianne without any reasonable basis for investigative detention;
 - b. the Constables handcuffed Maxwell and Torianne without any reasonable basis to have a concern for the Constables' safety;
 - c. further or alternatively, the Constables had no reasonable basis for handcuffing Torianne;
 - d. although the Constables referred to "fraud", the Constables failed to provide Maxwell and Torianne information allowing them to understand the nature of the fraud for which were detained, or to make an informed decision about exercising their right to counsel;

- e. the Constables performed pat-down searches, or other searches, without any reasonable basis for concern about their own safety; and
 - f. further or alternatively, the Constables performed a search of Maxwell's and/or Torianne's pockets and/or bags without any reasonable basis or authority for such searches
- (collectively the "VPD Conduct").

Aftermath and Additional Facts

- 33. The BMO electronic client profile for Maxwell was wrong. It had the number from the top right-hand corner of the card incorrectly recorded in his client profile. That number changes with any renewal or replacement of the card. The number that should have been recorded is the Registration Number in the middle of the card below the name, which is relevant and remains the same with any renewal or replacement.
- 34. BMO did not have an electronic client profile for Torianne as she was not an existing customer.
- 35. In early January 2020, Maxwell checked his Status Card and was advised that there is no issue with his Status Card.
- 36. In early January 2020, Torianne checked her Status Card and learned that there was a typo on her Registration Number on the Status Card. She therefore requested and has received a replacement Status Card with the correction of her Registration Number.