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May 28, 2021

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Vancouver Police Department  
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**Re: An Open Letter to the Vancouver Police Department and the City of Vancouver  
Regarding the Wrongful Arrest of the Honourable Mr. Selwyn Romilly**

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The Canadian Association of Black Lawyers (“CABL”) writes to express our outrage at the indignity suffered by The Honourable Selwyn Romilly, retired Justice of the Supreme Court of British Columbia (“Justice Romilly”) at the hands of the Vancouver Police Department (“VPD”). Racial profiling dehumanizes and demeans Black people. It alienates, disenfranchises and rejects the right of Black people to exist as equals in Canadian society. We call on the leadership of the VPD, other police departments in Canada and the City of Vancouver to invest in anti-Black racism initiatives including training and the development of progressive policies and proactive control measures to cause attitudinal and behavioral shifts in their departments.

On Friday, May 14th, various news outlets started reporting that officers of the VPD had detained and handcuffed Justice Romilly. The officers say that they had received a report of a "dark-skinned man" around 40 to 50 years old kicking, punching and spitting at people along the seawall near English Bay in Vancouver. The officers noticed Justice Romilly, who was on his usual morning walk around the seawall, and determined that, he fit the suspect's description despite the age difference between Justice Romilly and the suspect. Justice Romilly is in his eighties.

The five officers claimed that they detained Justice Romilly due to the violent nature of the reported incidents, and that they handcuffed him for their safety. Upon realizing that Justice Romilly was compliant and a retired judge, they removed the handcuffs. Justice Romilly subsequently said that two senior officers reached out to him to apologize. The Mayor of the City of Vancouver, Kennedy Stewart, also issued a statement in which he stated that he was appalled by the incident and had personally apologized to Justice Romilly.

**1. Police Practices & Exercise of Police Powers**

The apologies given by the VPD ring hollow when viewed through the prism of the history of maltreatment of Black bodies in Canada and British Columbia at the hands of the police and the public position of the VPD's Police Chief Adam Palmer.

As reported by the Vancouver Sun on June 26, 2020, Chief Palmer stated that while racism is a persistent scourge in Canadian society, it is not a systemic problem in the country's policing.

Incidentally, he made this statement in the same year which saw a global outpouring of anger and grief over the police killing of George Floyd in the United States. In Canada, protests took place in cities from coast to coast and were also motivated by police involved deaths of Black Canadians such as Regis Korchinski Paquet. In Vancouver, thousands of people gathered to protest and condemn racism and highlight that systemic racism and the maltreatment of Black people by law enforcement agencies are not limited to the United States. Many of these protests reflected what many Black Canadians and British Columbians know - Canada has a well-documented history of police misconduct and members of our community are more likely to have been stopped and searched by police.

In British Columbia, data from 2017 shows that Indigenous and Black people are over-represented in the number of street checks the police conducted. In 2017, Black people accounted for 1% of the population and 5% of the street checks. Indigenous people accounted for 2% of the population and over 16% of the street checks. Even in Justice Romilly's family, his experience is not unique. His brother, Judge Valmond Romilly, retired Judge of the Provincial Court of British Columbia ("Judge Romilly"), was wrongfully arrested in downtown Vancouver as a young lawyer in 1974. In that case, officers believed him to be a man with an outstanding warrant who was described as black and four and a half inches shorter than Judge Romilly. After confirming that he was not the suspect, the officer continued to detain him to conduct an immigration investigation.

In 2021, Justice Romilly was detained and handcuffed because he apparently fit the description of a suspect - a "dark-skinned man in his 40s or 50s" who was assaulting strangers along the seawall. The VPD arrested an 81-year old well-mannered man on his usual morning walk. He had no weapon and posed no threat. Outside of the common element of allegedly fitting the description of a "dark-skinned man" what were the other indicators of "fit"? What were the observed behavioral indicators of assault? What did the five officers observe to indicate that Justice Romilly was a risk to them? Moreover, the officers did not take the time to speak with Justice Romilly to assess whether he may in fact be the suspect for whom they were searching. Instead, they rushed to detain and put him in handcuffs because he "fit" the description.

Justice Romilly and Judge Romilly's stories are not unique in British Columbia and Canada. Regrettably, they are emblematic of the experiences of many Black Vancouverites and Canadians - most of whom are not privileged to be retired members of the judiciary. While the stature and profile of Justice Romilly has forced the VPD and the Mayor to issue apologies, there are many Black, Indigenous and British Columbians of colour whose complaints of racial profiling and maltreatment at the hands of the police and other criminal justice officers go unaddressed or dismissed with flimsy justifications such as "fit the description of a suspect." Police powers and the exercise of discretion under those powers go unexamined and remain as potential tools of discrimination. Some of these powers are sometimes dressed up as pretext policing under practices such as street checks. Unexamined police powers and the exercise discretion that come along with those powers become even more concerning when provincial governments expand policing powers under COVID and other emergency powers. Assurances by the police and other criminal justice institutions that they will exercise such powers and their discretion judiciously gives little comfort to Black and Indigenous communities.

The apologies to Justice Romilly are not enough for several reasons. Most importantly, (i) they disregard the fact that the incident is reflective of systemic issues in how the VPD and other police departments police Black and Indigenous people; (ii) they were issued by the VPD, an institution that fails to acknowledge that systemic racism is a problem in Canadian policing; (iii) the apologies did not identify how the VPD plans to take action to do better and avoid subjecting other Black Vancouverites to the same mistreatment; and (iv) unlike the apology issued by the

Mayor, the VPD delayed in issuing a public apology. When it finally did so, the initial public apologies contained justifications for the officers' actions and did not acknowledge that their treatment of Justice Romilly was unjustified and wholly unacceptable.

Also, when viewed in the context of Chief Palmer's comments in 2020, the apologies give CABL and its members no comfort at all. Chief Palmer's comments discount the lived experiences of many Black Canadians. They seek to brush away the fact that systemic racism, biases and discrimination under Canada's laws, public policy and institutions disproportionately negatively impact people of color and, in particular, Black and indigenous peoples. Finally, the comments highlight what Anthony Morgan, a human rights lawyer in Toronto and a CABL member, aptly describes as "the double burden of anti-Blackness in Canada" (i) the knowledge and reality that Black bodies are too routinely surveilled, intercepted and snuffed out and (ii) voicing this reality is most often met with forceful, if in some cases polite, denials.

## **2. Media Reporting**

Another problematic aspect of the VPD's detention of Justice Romilly has been the media reporting surrounding it. Headlines such as "Vancouver police, mayor apologize for wrongly handcuffing and detaining retired Black judge" and "Vancouver police apologize after arresting retired judge based on suspect description" highlight the apologies by the VPD and the Mayor instead of the wrongfulness of handcuffing and detaining Justice Romilly. The focus of such headlines and the stories that went along with them unquestioningly and uncritically recited the VPD's apologies, giving them a veneer of sufficiency and credibility. An appropriate example of reporting that places the individual suffering the injustice at the center of the reporting can be seen outside of Canada. For instance, The Sunday Times of the Britain reported that "Pioneering black judge Selwyn Romilly wrongly handcuffed by Canadian police." Notably, few media reports highlighted systemic racism as an issue. Most often, media reporting positioned the incident as a one-off embarrassing case of mistaken identity. Such reporting does a significant disservice to the struggle of Black Canadians for equal protection under the law.

## **3. Celebrating the Achievements of Justice Romilly**

The actions of the VPD and the much of the media reports surround it reduced all that Justice Romilly is, all that he has achieved, all that he represents to hundreds of thousands of Canadians merely to the colour of his skin. As Justice Romilly said in an interview about his experience upon immigrating to Canada, "...when I came to Canada, I was just Black and down at the bottom of the line." The actions of the VPD serve to remind Black Canadians of what we all know too well – that no matter how hard we work, how much we achieve, our lives are too often reduced to the colour of our skin – we are just Black – we "fit" the description of a suspect.

This letter is written, in part, to reclaim the legacy of Justice Romilly and celebrate this giant in British Columbian and Canadian history. To resist the summary distillation of his story to merely the colour of skin and this interaction with the VPD. Justice Romilly's story is that of persistence, determination, hard work, a commitment to justice and service to his community. Justice Romilly always wanted to be a lawyer as a child, but before doing so, he worked in Canadian jails as a guard. Becoming a lawyer in British Columbia was not easy for Justice Romilly. After graduating from law school, he could not find an articling position in Vancouver – he went north to Smithers in search of greener pastures. When he found a good opportunity – he took advantage of it and then shared it with his brother. Justice Romilly's persistence, determination and hard work led to his many successes in his career. These have included his appointment to the Provincial Court Bench in 1974 at the age of 34 years old. At that time, he was the first black person to be appointed to that Bench and then later elevated to the British Columbia Supreme Court in 1995.

Justice Romilly's persistence, determination and hard work have also earned him the acclaim and respect of those who worked with him. In 1991, BC lawyers voted him as one of the best Provincial Court judges in the province. For over 30 years, Justice Romilly has contributed to the development of the law in British Columbia and Canada. His service to his community has won him many admirers. Justice Romilly has acted as a mentor, a friend and confidant for many lawyers (Black and non-Black alike) in British Columbia and across the nation. He is a friend to the young and old, new and experienced. He is always quick to share an insight and, most often, a laugh with those he meets. For Black lawyers in Canada, Justice's Romilly's career and achievements are the yardsticks by which many of us measure our efforts.

Justice Romilly delivered the keynote address at CABL's 18th Annual Gala in 2014. In his speech, he stated: "it is only by understanding how far we have come that we will be able to be better prepared for the future to continue our momentum beyond the barriers of yesteryear." Sadly, the incident with the VPD tells Black Canadians that despite how far we have come, there is further still to go – the barriers that Black Canadians face are not those of yesteryear.

### **Conclusion**

CABL continues to be troubled by the prevalence of anti-Black racism and racial profiling that Black people encounter in their daily lives. Detaining and handcuffing a distinguished jurist like The Honourable Selwyn Romilly is the most recent high-profile example. We stand in solidarity with all organizations and individuals who are demanding change and call on the leadership of the City of Vancouver, VPD and other police departments in Canada to track incidents of anti-Black racism and invest in developing anti-Black racism action plans that include anti-Black racism training and implementation of progressive policies and proactive control measures to cause behavioral and attitudinal shifts in their departments. A plan to battle systemic racism that involves re-envisioning how police officers are recruited, trained and promoted will assist in addressing systemic racism in policing. Criminal justice institutions must do more to generate truly inclusive communities. In particular, the leaders of these institutions should ensure the protection of and respect for all members of their communities regardless of race, sexual orientation, nationality, religion, ethnic background, ability, gender or any form of otherness that is attacked overtly, subtly, consciously or unconsciously.

Yours Sincerely,



Raphael Tachie  
President  
Canadian Association of Black Lawyers

### **About the Canadian Association of Black Lawyers**

The Canadian Association of Black Lawyers is a national network of law professionals (students, lawyers and the judiciary) with an overall mandate to promote the advancement of black lawyers within the profession by providing support systems, promoting academic and professional excellence and advancing issues of equity and diversity among the bar and judiciary.