



Office of the
Police Complaint Commissioner

British Columbia, Canada

APPOINTMENT OF EXTERNAL INVESTIGATOR
Pursuant to s. 93(1)(b)(ii) of the *Police Act*, RSBC 1996, c. 367

OPCC File: 2015-11048-05
April 11, 2017

To: Chief Constable Frank Elsner
c/o Janet Winteringham

And to: Deputy Commissioner Butterworth-Carr (External Investigative Agency)
Royal Canadian Mounted Police E-Division

And to: Ms. Carol Baird Ellan (Discipline Authority)
Retired BC Provincial Court Judge

On April 29, 2016, I ordered an external investigation into the conduct of Chief Constable Elsner ("the Order"). Briefly, the Order arose out of information received pursuant to section 108 of the *Police Act* from the investigating officer, Chief Superintendent Bourrie, during the course of his investigation into OPCC File #2015-11048. That information included allegations that Chief Constable Elsner attempted to inappropriately influence potential witnesses and that he had obtained access to the Victoria Police information system and may have deleted or attempted to delete information relevant to the related internal investigation in 2015.

I also determined that it was necessary in the public interest that the allegations be investigated by an external police force, the Royal Canadian Mounted Police. The Commanding Officer of the RCMP 'E' Division at the time, Deputy Commissioner Craig Callens, agreed that Chief Superintendent Sean Bourrie would be the assigned Chief Investigator. Working under his supervision was a senior team of external investigators with the Vancouver Police Department under the command of Deputy Chief Constable Laurence Rankin.

I also considered it necessary in the public interest that a person other than the Co-Chairs of the Victoria Police Board be the Discipline Authority for all purposes pursuant to the Act. Therefore, pursuant to section 135(2) of the *Police Act*, I appointed retired judge, Ian H. Pitfield,

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to exercise the powers and perform the duties of a Discipline Authority in relation to this matter.

However, as the investigation unfolded it became apparent based on my own knowledge of the matter as well as a request from Chief Superintendent Bourrie that would be cumbersome, and could be unfair to the member, to have Retired Justice Pitfield addressing this disciplinary matter due to his position as the Discipline Authority on the related investigation into OPCC File #2015-11048-03. Conversely, having Retired Judge Baird Ellan address both OPCC File #2015-11048 and the April 2016 Order would ensure greater procedural fairness for Chief Constable Elsner, and would be simpler and more effective for the investigative team. Therefore, on December 15, 2016, I designated retired Judge Carol Baird Ellan as the Discipline Authority for this investigation.

The Final Investigation Report was submitted to the Discipline Authority on February 24, 2017. On March 10, 2017, Discipline Authority, Carol Baird Ellan issued her decision pursuant to section 112 of the *Police Act*, recommending that 1 of the 3 allegations against Chief Constable Elsner proceed to a Discipline Proceeding.

On March 30, 2017, Chief Constable Elsner requested further investigation pursuant to section 114 of the *Police Act*. The Discipline Authority granted that request on April 7, 2017, directing the investigating officer to conduct further investigation.

Pursuant to section 115(2)(a) of the *Police Act*, the investigating officer must complete the Supplementary investigation within 15 business-days after the direction was issued. Pursuant to section 115(2)(c), the investigating officer must submit a Supplementary Investigation Report with 20 business-days after the request.

We have been advised by the Commanding Officer of the RCMP 'E' Division, Deputy Commissioner Brenda Butterworth-Carr that Chief Superintendent Bourrie is no longer on active duty due to retirement. Therefore, I am of the opinion that it is necessary in the public interest that a new lead investigator be appointed to carry out the further investigation directed by the Discipline Authority. Deputy Commissioner Butterworth-Carr has agreed that Chief Superintendent Trent Rolfe will be assigned as the lead investigator for the purposes of to meeting the statutory obligations contained in section 115 of the *Police Act*.

Pursuant to section 115(2)(c), the Supplementary Investigation Report must be submitted by **May 9, 2017**.



Stan T. Lowe
Police Complaint Commissioner