



Office of the
Police Complaint Commissioner

British Columbia, Canada

**Notice of Appointment of
Retired Judge**
(Pursuant to s.117(4) of the *Police Act*)

March 13, 2014
OPCC File No. 2013-8589
DA File No. [REDACTED]

TO: [REDACTED] (Complainant)
AND TO: [REDACTED] Abbotsford Police Department (Member)
AND TO: Chief Constable Bob Rich Abbotsford Police Department (Chief Constable)
AND TO: Mr. William B. Smart Retired Judge of the Supreme Court of British Columbia (Adjudicator)

On [REDACTED] Sergeant [REDACTED] of the Abbotsford Police Department Professional Standards Section submitted his Final Investigative Report to [REDACTED] the Discipline Authority in this matter. Sergeant [REDACTED] identified the following counts of misconduct:

Allegation 1 – Abuse of Authority

It is alleged that [REDACTED] committed the misconduct of Abuse of Authority as per section 77(3)(a)(i) of the *Police Act* by arresting [REDACTED] without good and sufficient cause.

Allegation 2 – Abuse of Authority

It is alleged that [REDACTED] committed the misconduct Abuse of Authority as per section 77(3)(a) of the *Police Act* for Oppressive conduct towards a member of the public (by holding [REDACTED] in a jail cell for five hours without explanation).

Allegation 3 – Neglect of Duty

It is alleged that [REDACTED] committed the misconduct of Neglect of Duty as per section 77(3)(m)(ii) of the *Police Act* by basing the arrest and detention of [REDACTED] on an inadequate investigation.

Stan T. Lowe
Police Complaint Commissioner

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Sergeant [REDACTED] recommended that the allegations against [REDACTED] in all counts be unsubstantiated.

On February 14, 2014, [REDACTED] issued his decision pursuant to section 112 in this matter. Specifically, [REDACTED] agreed with Sergeant [REDACTED] and unsubstantiated all three of the allegations against [REDACTED].

Pursuant to section 117(1) of the *Police Act*, having reviewed the allegations individually, and the alleged conduct in its entirety, there is a reasonable basis to believe that the decision of the Discipline Authority with respect to allegation 1, allegation 2 and allegation 3 are incorrect.

Therefore, pursuant to section 117(4) of the *Police Act* and based on a recommendation from the Associate Chief Justice of the Supreme Court of British Columbia, I am appointing William B. Smart, retired Supreme Court Judge, as Adjudicator to review this matter and arrive at his own decision based on the evidence.

Pursuant to section 117(9), if the Adjudicator determines that the conduct in question appears to constitute misconduct, they assume the powers and perform the duties of Discipline Authority with respect to those allegations that they substantiate.

The Office of the Police Complaint Commissioner will provide any existing service records of discipline to the Discipline Authority to assist him or her in proposing an appropriate range of disciplinary or corrective measures should a pre-hearing conference be offered or a disciplinary proceeding convened. If the retired judge as adjudicator determines the conduct in question does not constitute misconduct, they must provide reasons and the decision is final and conclusive.

Finally, the *Police Act* requires that an Adjudicator arrive at a decision **within 10 business days after receipt of the materials** for review from our office. This is a relatively short timeline, so our office will not forward any materials to the adjudicator until they are prepared to receive the materials. I anticipate this will be within the next 10 business days.



Stan T. Lowe
Police Complaint Commissioner

cc: Sgt. [REDACTED] PSS Investigator
[REDACTED] OPCC Analyst
[REDACTED] Registrar

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