



Office of the  
Police Complaint Commissioner

British Columbia, Canada

**NOTICE OF APPOINTMENT OF RETIRED JUDGE**  
Pursuant to section 117(4) of the *Police Act*

OPCC File: 2015-10371-01  
July 11, 2016

To: [REDACTED] (Complainants)

And to: [REDACTED] (Member)  
c/o Vancouver Police Department  
Professional Standards Section

And to: Chief Constable Dave Jones  
c/o New Westminster Police Department  
Professional Standards Section

And to: The Honourable Justice Wally Oppal, (ret'd) (Retired Judge)  
Retired Justice of the Appeal Court of British Columbia

Royal Canadian Mounted Police investigator, [REDACTED] conducted an investigation into this matter and on May 31, 2016, he submitted the Final Investigation Report to the Discipline Authority.

In that report, [REDACTED] identified the following allegation of misconduct:

1. That [REDACTED] committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* by conducting himself in a manner which he knew, or ought to have known, would be likely to bring discredit on the municipal police department. Specifically, when [REDACTED] and [REDACTED] in their written submission to the Adjudicator, failed to provide balanced, fair, accurate and complete information.

On [REDACTED] [REDACTED], as Discipline Authority, issued his decision pursuant to section 112 in this matter. The Discipline Authority determined that the allegation of *Discreditable Conduct* against [REDACTED] was unsubstantiated.

Stan T. Lowe  
Police Complaint Commissioner

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On [REDACTED] [REDACTED] submitted a written request pursuant to section 117(2) of the *Police Act* that I appoint a retired judge pursuant to section 117(1) of the *Police Act* to review the matter and come to his/her own determination. On [REDACTED] [REDACTED] [REDACTED] provided further written submissions regarding why I should exercise my discretion to appoint a retired judge to review this matter.

Pursuant to section 117(1) of the *Police Act*, having reviewed the evidence related to the allegation and alleged conduct in its entirety, I consider that there is a reasonable basis to believe that the decision of the Discipline Authority is incorrect in finding that the conduct of the member did not appear to constitute misconduct.

I am of the view that the Discipline Authority did not properly assess the member's conduct in terms of his level of participation in the preparation of the letter, whether or not its submission during the discipline phase of a public hearing would likely bring discredit to the VPD and, if so, whether the member's participation constitutes *Discreditable Conduct*. Furthermore, I am of the view that the Discipline Authority did not properly consider whether the conduct of the member would constitute an *Accessory to Misconduct*.

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 the Honourable Justice Wally Oppal, retired Justice of the BC Court of Appeal, to review this matter and arrive at his own decision based on the evidence.

Pursuant to section 117(9), if the appointed retired judge considers that the conduct of the member appears to constitute misconduct, the retired judge assumes the powers and performs the duties of the discipline authority in respect of the matter and must convene a discipline proceeding, unless a pre-hearing conference is arranged.

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 determines that 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 a retired judge 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 retired judge until they are prepared to receive the materials. I anticipate this will be within the next five business days.



Stan T. Lowe  
Police Complaint Commissioner

cc: [REDACTED], Registrar