

Office of the Police Complaint Commissioner

British Columbia, Canada

NOTICE OF APPOINTMENT OF RETIRED JUDGE

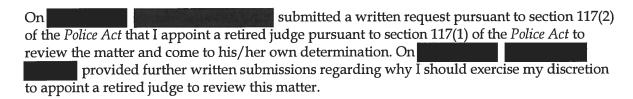
Pursuant to section 117(4) of the *Police Act*

OPCC File: 2015-10371-01

July 11, 2016

| To: | 中型 1996 - 1 15 15 15 15 15 15 15 15 15 15 15 15 1 | (Complainants) |
|----------------|---|-----------------------------|
| And to: | c/o Vancouver Police Department Professional Standards Section | (Member) |
| 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 Justice of the Appeal Court of British Columbia | (Retired Judge) |
| an invest | nadian Mounted Police investigator, igation into this matter and on May 31, 2016, he submitted the Fi the Discipline Authority. | conducted nal Investigation |
| In that re | port, grant identified the following allegation of | misconduct: |
| kı Sj sı | committed <i>Discreditable Conduct</i> pursuant to section 77(3)(h) the <i>Police Act</i> by conducting himself in a manner which he knew, or ought to have own, would be likely to bring discredit on the municipal police department. ecifically, when and in their written omission to the Adjudicator, failed to provide balanced, fair, accurate and complete formation. | |
| | , as Discipline Authority, issued had in this matter. The Discipline Authority determined that the all was unsubstantiated. | |
| | | |

Stan T. Lowe Police Complaint Commissioner Fifth Floor, 947 Fort Street PO Box 9895 Stn Prov Govt Victoria, British Columbia V8W 9T8 Tel: (250) 356-7458 / Fax: (250) 356-6503 Page 2 July 11, 2016 OPCC 2015-10371-01



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.

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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:

, Registrar

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