



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 2015-10904

November 26, 2015

To: [REDACTED] (Member)  
c/o Victoria Police Department  
Professional Standards Section

And to: Chief Constable Frank Elsner  
c/o Victoria Police Department  
Professional Standards Section

And to: The Honourable Judge Ian Pitfield, (ret'd) (Retired Judge)  
Retired Judge of the Supreme Court of British Columbia

Victoria Police Département Police Professional Standards investigator, Sergeant [REDACTED], conducted an investigation into this matter and on [REDACTED], she submitted the Final Investigation Report to the Discipline Authority.

In the report, Sergeant [REDACTED] identified the following allegations of misconduct:

1. That on [REDACTED] [REDACTED] committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* when he failed to cooperate with an impaired driving investigation.
2. That on [REDACTED] [REDACTED] committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* when, while off duty, drove his vehicle while impaired in contravention of the *Motor Vehicle Act*.
3. That on [REDACTED] [REDACTED] committed *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* when, while off duty during the impaired investigation, identified himself as a police officer for the purpose of gaining favourable treatment.

Stan T. Lowe  
Police Complaint Commissioner

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On [REDACTED] [REDACTED] issued his decision pursuant to section 112 in this matter. Specifically, [REDACTED] determined that the allegations of *Discreditable Conduct* for failing to comply with the impaired driving investigation, and *Discreditable Conduct* for identifying himself as a police officer for the purpose of gaining favourable treatment against [REDACTED] did not appear to be substantiated.

Pursuant to section 117(1) of the *Police Act*, having reviewed the allegation and the alleged conduct in its entirety, I consider that there is a reasonable basis to believe that the decision of the Discipline Authority is 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 the Honourable Ian Pitfield, retired Supreme Court Judge, 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 prehearing 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 10 business days.



Stan T. Lowe  
Police Complaint Commissioner

cc: [REDACTED], Registrar