



Notice of Appointment of
Retired Judge
(Pursuant to s.117(1) & (5) of the *Police Act*)

Date: March 22, 2012
OPCC File No.: 2011-6633
DA File No.: [REDACTED]

TO: [REDACTED]
Saanich Police Department (Member)

AND TO: Chief Constable Mike Chadwick
Saanich Police Department (Chief Constable)

AND TO: [REDACTED] (Discipline Authority)

AND TO: Retired Provincial Court Judge Carole Lazar (Retired Judge)

An investigation was conducted into the above-noted matter by Sergeant [REDACTED] and the Final Investigation Report was submitted to [REDACTED] for decision. On March 14, 2012, [REDACTED] issued his Notice of Decision pursuant to section 112 of the *Police Act*. [REDACTED] determined that the evidence appeared to substantiate the following allegation:

Allegation #1 - Discreditable Conduct s. 77(3)(h)(i)

That, on [REDACTED], it is alleged that [REDACTED], committed Discreditable Conduct, contrary to section 77(3)(h)(i) of the *Police Act*, in that while off duty, he received a three-day Immediate Roadside Prohibition from the [REDACTED], while operating an ATV when his ability to do so was affected by alcohol.

The Discipline Authority further determined that the evidence did not substantiate the following allegation:

Allegation #2 – Discreditable Conduct s. 77(3)(h)(i)

That, on [REDACTED] it is alleged that [REDACTED] committed Discreditable Conduct, contrary to section 77(3)(h)(i) of the *Police Act*, in that while off duty, he identified himself as a police officer with the intent to gain favorable treatment from [REDACTED], during a traffic stop in [REDACTED] B.C.

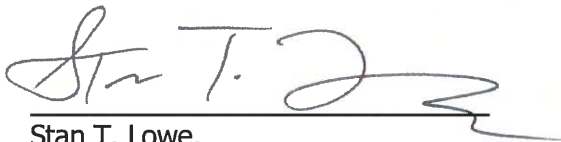
Following a review of the Final Investigation Report and the decision by [REDACTED], I believe that there is a reasonable basis to believe the Discipline Authority was incorrect in determining that the conduct of the member in relation to Allegation #2 did not constitute misconduct.

Therefore, based on a recommendation pursuant to Section 117(4) of the *Police Act*, from the Associate Chief Justice of the Supreme Court of British Columbia, I am appointing retired Provincial Court Judge Carole Lazar to review this matter and, based on the evidence, arrive at a decision with respect to Allegation #2.

Pursuant to Section 117(9) if retired Provincial Court Judge Carole Lazar determines that the conduct as set out in Allegation #2 appears to constitute misconduct, retired Provincial Court Judge Carole Lazar assumes the powers and performs the duties of Discipline Authority in respect to all substantiated allegations associated with this matter. In addition, if a service record of discipline exists the Office of the Police Complaint Commissioner will provide that record to retired Provincial Court Judge Lazar in her role as the new Discipline Authority to assist her in proposing an appropriate range of disciplinary or corrective measures should a pre-hearing conference be offered or a disciplinary proceeding convened. Should a prehearing conference be offered to the member, the matter will be returned to the originating department for the assignment of a Prehearing Conference Authority. If a prehearing conference is not offered or a resolution not reached, the matter will return to retired Provincial Court Judge Carole Lazar as the Discipline Authority for the purposes of a discipline proceeding.

If retired Provincial Court Judge Carole Lazar determines the conduct in question does not constitute misconduct with respect to Allegation #2, retired Provincial Court Judge Carole Lazar must provide reasons and the decision is final and conclusive, in regard to that count only. The remaining counts will be returned to [REDACTED] as Discipline Authority.

Finally, the *Police Act* requires that the 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 time line so our office will not forward any materials to retired Provincial Court Judge Carole Lazar until she is prepared to receive the materials. I anticipate this will be within the next 10 business days.



Stan T. Lowe,
Police Complaint Commissioner

cc: Sergeant [REDACTED]