



Office of the
Police Complaint Commissioner

British Columbia, Canada

Notice of Appointment of
Adjudicator

(Pursuant to s.117(4) of the *Police Act*)

Date: December 3, 2012

OPCC File No.: 2011- 6804

DA File No.: [REDACTED]

TO: [REDACTED] (Complainant)

AND TO: [REDACTED]
Delta Police Department (Members)

AND TO: Chief Constable Jim Cessford
Delta Police Department (Chief Constable)

AND TO: The Honourable Judge Jakob S. De Villiers Q.C. (ret'd) (Adjudicator)

On October 22, 2012, Acting Sergeant [REDACTED] of the Delta Police Department Professional Standards Section submitted her Final Investigation Report to [REDACTED], the Discipline Authority in this matter. Acting Sergeant [REDACTED] recommended that the allegations against [REDACTED] and [REDACTED] included in Count #3 be substantiated. Acting Sergeant [REDACTED] recommended that the allegations against [REDACTED] and [REDACTED] included in Count #1, Count #2, and Count #4 be unsubstantiated:

Count 1 – Abuse of Authority

It is alleged that [REDACTED] and [REDACTED] committed the misconduct of Abuse of Authority as per s. 77(3)(a)(ii) of the *Police Act* by detaining and searching [REDACTED] without good and sufficient cause, and by using unnecessary force.

Stan T. Lowe,
Police Complaint Commissioner

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Count 2 – Damage to Property of Others

It is alleged that [REDACTED] and [REDACTED] committed the misconduct of Damage to Property of Others as per s. 77(3)(e)(i) of the *Police Act* by damaging the property of [REDACTED]

Count 3 – Neglect of Duty

It is alleged that [REDACTED] and [REDACTED] committed the misconduct of Neglect of Duty as per s. 77(3)(m)(ii) of the *Police Act* by inadequately reporting the incident.

Count 4 – Deceit

It is alleged that [REDACTED] and [REDACTED] committed the misconduct of Deceit as per s. 77(3)(f) of the *Police Act* as their reports were inconsistent regarding the incident.

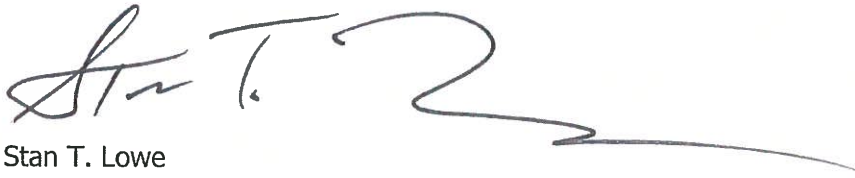
On November 2, 2012, [REDACTED] issued his decision pursuant to section 112 in this matter. Specifically, [REDACTED] 'substantiated' the allegations against [REDACTED] and [REDACTED] in Count #3 while he 'unsubstantiated' the allegations against [REDACTED] and [REDACTED] in Count #1, Count #2, and Count #4.

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 Count #1, Count #2, and Count #4 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 retired Provincial Court Judge Jakob S. De Villiers Q.C 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 any allegations that they substantiate. In addition, if a service record of discipline exists the Office of the Police Complaint Commissioner will provide that record to the new Discipline Authority to assist them 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 time line 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: [REDACTED] Registrar
cc: [REDACTED] OPCC analyst
cc: Acting Sergeant [REDACTED] - Delta PD PSS