



Office of the
Police Complaint Commissioner

British Columbia, Canada

Notice of Appointment of
Adjudicator

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

Date: June 11, 2013
OPCC File No. 2012-8135
DA File No. "E" Div. [REDACTED]

TO: [REDACTED]
[REDACTED]
Vancouver Police Department (Members)

AND TO: [REDACTED]
"E" Division – Royal Canadian Mounted Police (External Investigating Agency)

AND TO: [REDACTED]
New Westminster Police Department (Previous Discipline Authority)

AND TO: Chief Constable Jim Chu,
Vancouver Police Department (Chief Constable)

AND TO: Honourable Provincial Court Judge Dennis Overend (Rtd.) (Adjudicator)

On April 29, 2013, Sergeant [REDACTED] and Sergeant [REDACTED] of the RCMP "E" Division Professional Standards Section submitted their Final Investigation Report to New Westminster [REDACTED], the Discipline Authority in this matter. Sergeant [REDACTED] and Sergeant [REDACTED] identified the following counts of misconduct:

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)(i) of the *Police Act*, intentionally, or recklessly making an arrest without good and sufficient cause.

Stan T. Lowe,
Police Complaint Commissioner

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Count 2 – Abuse of Authority

It is alleged that [REDACTED] and [REDACTED] committed the misconduct of Abuse of Authority as per s. 77(3)(a)(ii)(A) of the *Police Act*, using unnecessary force on any person.

Count 3 – Abuse of Authority

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

Sergeant [REDACTED] and Sergeant [REDACTED] recommended that the allegations against [REDACTED] and [REDACTED] be substantiated.

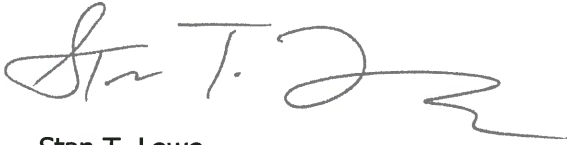
On May 13, 2013, [REDACTED] issued his decision pursuant to section 112 in this matter. Specifically, [REDACTED] 'unsubstantiated' the allegations against [REDACTED] and [REDACTED] in Count #1, Count #2, and Count #3.

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 decisions of the Discipline Authority with respect to Count #1, Count #2, and Count #3 are 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 Honourable Provincial Court Judge Dennis Overend (Rtd.) 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: Sgt. [REDACTED], PSS Investigator
cc: Sgt. [REDACTED] PSS Investigator