



Office of the
Police Complaint Commissioner

British Columbia, Canada

RR: 2024-02
OPCC File: 2022-22122

NOTICE OF APPOINTMENT OF ADJUDICATOR
Pursuant to section 142(1) *Police Act*, R.S.B.C. 1996, c.267

**In the matter of the Review on the Record into the Ordered Investigation against
Constable Samuel Cheung of the Vancouver Police Department**

To: Constable Samuel Cheung (#2512) (Member)
c/o Vancouver Police Department
Professional Standards Section

And to: Superintendent Trevor Burmachuk (Discipline Authority)
c/o Vancouver Police Department
Professional Standards Section

And to: Chief Constable Adam Palmer
c/o Vancouver Police Department
Professional Standards Section

WHEREAS:

1. On May 10, 2024, I determined that a Review on the Record was required in relation to an incident which occurred on July 2, 2022, involving off-duty conduct of Vancouver Police Department (VPD) member Constable Samuel Cheung (Member). Within 10 business days after making a determination under section 138, the Commissioner must provide notification of the decision.
2. A *Notice of Review on the Record* was issued, dated May 10, 2024 (enclosed), pursuant to section 138(1) of the *Police Act*.

Prabhu Rajan
Police Complaint Commissioner

947 Fort Street
PO Box 9895 Stn Prov Govt
Victoria, British Columbia V8W 9T8
Tel: (250) 356-7458 Fax: (250) 356-6503

Toll Free 1 877-999-8707 # Website: www.opcc.bc.ca

APPOINTMENT OF A RETIRED JUDGE:

3. Section 142(1) of the *Police Act* requires the Commissioner to appoint a retired judge to preside as adjudicator for the review the record. An appointment under section 142(1) must be made pursuant to section 177.2 of the *Police Act*.
4. Section 177.2 of the *Police Act*, in turn, requires the Commissioner to request the Associate Chief Justice of the Supreme Court of British Columbia to consult with retired judges of the Provincial Court, Supreme Court and Court of Appeal and recommend retired judges who the Commissioner may include on a list of potential adjudicators. Appointments under the *Police Act* are to be made in accordance with published procedures established under section 177.2(3).
5. On June 13, 2024, I published the OPCC's appointment procedures under section 177.2(3) of the *Police Act* (the "Appointment Procedures") and the list of retired judges who may be appointed for the purposes of sections 117, 135 and 142.
6. In accordance with the Appointment Procedures, I have appointed the Honourable David Frankel, K.C., retired BC Court of Appeal Justice, to preside as Adjudicator in these proceedings pursuant to sections 142(1) and (2) of the *Police Act*. I have considered the factors as set out in the Appointment Procedures, namely:
 - a) the provision under which the appointment is being made;
 - b) the current workloads of the various retired judges;
 - c) the complexity of the matter and any prior experience with the Police Act; and
 - d) any specific expertise or experience of a retired judge with respect to a particular issue or sensitivity associated with the matter.
7. Retired Judge David Frankel has confirmed his availability to preside over this matter and reported no conflicts.
8. Dates for the review on the record have not yet been determined. The review on the record will commence at the earliest practicable date.

TAKE NOTICE that all inquiries with respect to this matter shall be directed to the Office of the Police Complaint Commissioner:

947 Fort Street, PO Box 9895 Stn Prov Govt, Victoria, BC V8W 9T8
Telephone: 250-356-7458 ☐ Toll Free: 1-877-999-8707 ☐ Facsimile: 250-356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 24th day of July, 2024.



Prabhu Rajan
Police Complaint Commissioner

cc: Stacey Taylor, Registrar
David Frankel, KC, retired BC Court of Appeal Justice