



Office of the
Police Complaint Commissioner

British Columbia, Canada

NOTICE OF APPOINTMENT OF RETIRED JUDGE

Pursuant to section 117(1) of the *Police Act*

OPCC File 2022-22930

July 25, 2024

To: Constable [REDACTED] (Members)
Constable [REDACTED]
c/o Vancouver Police Department
Professional Standards Section

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

And to: The Honorable Judge David Pendleton (Retired Judge)
Retired Judge of the Provincial Court of British Columbia

And to: Mr. Frank Chong
Chair, c/o Vancouver Police Board

WHEREAS:

1. On May 22, 2024, I determined that a section 117 review was required in relation to an incident that occurred on November 24, 2022, involving Constable [REDACTED] and Constable [REDACTED]
2. A *Notice of Appointment of Retired Judge* was issued, dated May 22, 2024 (enclosed), pursuant to section 117(4) of the *Police Act* (Act).

APPOINTMENT OF A RETIRED JUDGE:

3. Section 117(1) provides that the Commissioner may appoint a retired judge to review the investigating officer's report, and the evidence and records referenced in that report, and make a decision on the matter. An appointment under section 117(1) must be made pursuant to section 177.2 of the Act.

Prabhu Rajan
Police Complaint Commissioner

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4. Section 177.2 of the 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 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 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 Pendleton, retired Provincial Court Judge, to review this matter and arrive at his own decision pursuant to section 117(1) and (4) of the 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 Pendleton has confirmed his availability to review this matter and reported no conflicts.
8. The 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 them.

Sincerely,



Prabhu Rajan
Police Complaint Commissioner

cc: [REDACTED] Registrar
Sergeant [REDACTED], West Vancouver Police Department

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