



Office of the
Police Complaint Commissioner

British Columbia, Canada

NOTICE OF APPOINTMENT OF RETIRED JUDGE

Pursuant to section 117(4) of the *Police Act*

OPCC File 2025-000500

April 16, 2026

To: Mr. [REDACTED] (Complainant)

And to: Constable [REDACTED] (Members)
Constable [REDACTED]
c/o Surrey Police Service
Professional Standards Section

And to: Chief Constable Norm Lipinski
c/o Surrey Police Service
Professional Standards Section

And to: The Honourable Elizabeth Bennett (Retired Judge)
Retired Justice of the British Columbia Court of Appeal

And to: Xwopokton (Mr. Harley Chappell)
Chair, c/o Surrey Police Board

On March 18, 2025, our office received a complaint from Mr. [REDACTED] describing his concerns with members of the Surrey Police Service. The OPCC determined Mr. [REDACTED] complaint to be admissible pursuant to Part 11, Division 3 of the *Police Act* and directed the Surrey Police Service (SPS) to conduct an investigation.

On March 3, 2026, Sergeant [REDACTED] completed the investigation and submitted the Final Investigation Report to the Discipline Authority.

On March 17, 2026, Inspector [REDACTED], as the Discipline Authority, issued his decision pursuant to section 112 in this matter. Specifically, Inspector [REDACTED] identified one allegation of misconduct against Constable [REDACTED] and Constable [REDACTED]. He determined that the allegation of *Abuse of Authority* pursuant to section 77(3)(a) of the *Police Act* did not appear to be substantiated against either of these members.

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Police Complaint Commissioner

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Pursuant to section 117(1) of the *Police Act*, having reviewed the allegation and the alleged conduct in its entirety, there is a reasonable basis to believe that the decision of the Discipline Authority is incorrect.

Background

On March 5, 2025, the complainant, Mr. [REDACTED], was driving his motor vehicle alone in Surrey. Mr. [REDACTED] advised that as he was driving, he was followed closely by an unmarked Ford Explorer and became fearful. Once police activated lights and sirens, Mr. [REDACTED] pulled over, at which point he says he was immediately arrested. Mr. [REDACTED] asserted that he was not read his *Charter* rights or provided access to counsel upon request and he was placed in handcuffs for over 15 minutes while his entire vehicle was searched. Some of Mr. [REDACTED] driving and interaction with the members was captured on video by a camera system in his vehicle that also recorded audio.

Constable [REDACTED] and Constable [REDACTED] were on duty in full uniform operating an unmarked police vehicle when they initiated a stop on Mr. [REDACTED] vehicle. The members stated that, before they initiated the stop, they observed Mr. [REDACTED] vehicle make unsafe lane changes and an unsafe U-turn. According to Constable [REDACTED] Mr. [REDACTED] made eye contact with him while driving and would have been able to see that they were uniformed. Mr. [REDACTED] has consistently maintained that he did not believe the people in the car following him were police and their behaviour led him to believe, in the moment, that they might be “hitters” (i.e. hitmen).

One member also stated Mr. [REDACTED] vehicle was driving at a high rate of speed. The members say they perceived Mr. [REDACTED] driving behaviour as abrupt manoeuvring to evade police. Though they were behind Mr. [REDACTED] vehicle, the members did not initially activate their emergency lights. Constable [REDACTED] stated that sometimes people get “spooked” and attempt to flee when they see police lights and they wanted to finish querying the licence plate first. The query results reportedly showed that the owner of the vehicle had previously been carded with a person with documented links to drug trafficking.

Once the officers turned on their emergency lights, Mr. [REDACTED] pulled over in a parking lot and stopped the car. Constable [REDACTED] stated that the stop had a dual purpose from the outset, having to do both with dangerous driving and links to drug trafficking discovered in police databases. Constable [REDACTED] stated that the stop was initially focused on the dangerous driving alone.

Constable [REDACTED] approached Mr. [REDACTED] vehicle and immediately arrested him for dangerous operation pursuant to the *Criminal Code*. Mr. [REDACTED] explained to him that he had not initially believed that the members following him were police and was fearful instead that they were “hitters.” Constable [REDACTED] noticed a grooming razor on the vehicle’s centre console, which he reported caused him significant concern. The razor was not in a case but may have had a cover on the blade – Mr. [REDACTED] stated that it did.

Constable [REDACTED] asked Mr. [REDACTED] to exit the vehicle and placed him in handcuffs, while arresting him a second time, in this instance for possession of a weapon for a dangerous

purpose. Constable [REDACTED] like Constable [REDACTED] said that the razor's presence justified this arrest, although they did not explain what they relied on for the alleged "dangerous purpose."

While Mr. [REDACTED] was handcuffed and after he had been placed in the back of the police vehicle, the members conducted a search of the interior of the vehicle. The members have said they conducted the search incidental to the weapons arrest and were primarily searching for additional weapons. Mr. [REDACTED] provided video that captured some of the conversation between the officers as they searched the vehicle. One of the members can be heard to say that Mr. [REDACTED] brother is a "dialer," presumably meaning someone who delivers drugs using mobile phones (i.e. dial-a-doper). Constable [REDACTED] is heard to say, "yeah that's why I'm like either one, it's up his ass, or he's hid it." Constable [REDACTED] also speculates that Mr. [REDACTED] may have tried to evade police "because he's probably hiding drugs." When asked about this during the investigation, Constable [REDACTED] said that "discussing theories should not be conflated with the reason for the search." No drugs or weapons were found during the vehicle search and the police report states, "nothing of interest located in vehicle."

Neither member remembered clearly whether they provided Mr. [REDACTED] with his *Charter* rights. Constable [REDACTED] asserted that doing so is his usual practice and he typically offers arrested persons the option of contacting counsel at the scene or after release. The police report does not document the *Charter* issuance process and neither member made a written notebook entry related to this incident.

The members released Mr. [REDACTED] after approximately 15 minutes, having advised him not to keep razors in the centre console and transferred the razor to the vehicle's trunk. The members indicated that they opted not to proceed with criminal charges or violation tickets for the alleged driving offence or criminal charges for the alleged possession of a weapon for dangerous purposes, because they were satisfied with Mr. [REDACTED] explanations for his behaviour and they wished to build a positive rapport with Mr. [REDACTED]

In his complaint, Mr. [REDACTED] also advised that near the end of the interaction, Constable [REDACTED] called him a "goomba," which he considered to be derogatory. Constable [REDACTED] said he used the Italian term intending a meaning akin to "compadre" or "friend," to make light of the situation. He said he was not aware of negative connotations linking the word to those engaged in criminal gang activities.

Discipline Authority's Decision

Having identified a global allegation of *Abuse of Authority* for analysis, the DA considered the lawfulness of the vehicle stop, the grounds for the arrest, whether *Charter* rights were provided, placing Mr. [REDACTED] in handcuffs for approximately 15 minutes, the lawfulness of the vehicle search, and the use of the term "goomba."

The Discipline Authority characterized Mr. [REDACTED] as having engaged in evasive driving behaviour. While noting this could have been motivated by legitimate concerns about being followed by an unmarked car, the Discipline Authority found it provided sufficient grounds for the members to conduct the traffic stop.

The Discipline Authority was satisfied that Constable [REDACTED] had lawful grounds to arrest Mr. [REDACTED] for the dangerous operation of a motor vehicle and had considered a “constellation of factors” before lawfully deciding to also arrest Mr. [REDACTED] for possession of a weapon for a dangerous purpose. Aside from acknowledging Constable [REDACTED] statement that individuals involved in the drug trade have been known to possess a variety of different weapons for self-protection, the decision says little about the basis for the conclusion that Mr. [REDACTED] possessed the grooming razor for a dangerous purpose.

Having found lawful grounds for arrest, the Discipline Authority further held that it was reasonable to put Mr. [REDACTED] in handcuffs for much of the interaction, given the brevity of the overall situation, the vehicle’s associations in police databases, and Constable [REDACTED] observation of what could be interpreted as an improvised weapon.

The Discipline Authority was satisfied that the members had authority at common law to search Mr. [REDACTED] and his vehicle as incidental to the arrests that were found to have been lawful. The Discipline Authority did not identify a specific purpose for which the incidental search was said to have been conducted.

Turning to *Charter* rights, the Discipline Authority pointed out the absence of any contemporaneous notes documenting the reading or facilitation of *Charter* rights. While neither member had a clear recollection, the Discipline Authority was satisfied by Constable [REDACTED] assertion that it was his common practice to read *Charter* rights to people he arrested and he would have read Mr. [REDACTED] his *Charter* rights. With respect to facilitation, the Discipline Authority found that any delays in facilitating Mr. [REDACTED] right to contact counsel were reasonable given the need to search and secure the vehicle and the overall brevity of the interaction.

Noting that police had discretion in how they perform their duties, the Discipline Authority found that the officers provided valid and reasonable rationales as to why they released Mr. [REDACTED] without violation tickets or charges and in continued possession of his alleged weapon.

Finally, the Discipline Authority accepted Constable [REDACTED] evidence that he was not aware that the term “goomba” is associated with persons engaged in criminal activity, and he had ceased using the term. In the circumstances, the Discipline Authority did not consider the tone of the conversation to have been oppressive or derogatory.

Request for Appointment of a Retired Judge

On March 19, 2026, I received a request from Mr. [REDACTED] that I appoint a retired judge to review the Discipline Authority’s decision pursuant to section 117 of the Act and make a decision in the matter. Section 117 gives me authority to make such an appointment if I consider that there is a reasonable basis to believe the Discipline Authority’s decision is incorrect.

OPCC Decision, Section 117 of the *Police Act*

Based on a review of all the available evidence, I have a reasonable basis to believe that the decision of the Discipline Authority is incorrect with respect to the *Abuse of Authority* allegation against Constable [REDACTED] and Constable [REDACTED]

For the reasons set out below, I am concerned that the Discipline Authority did not adequately consider the possibility that the traffic stop and the arrests for dangerous driving and possession of a weapon for a dangerous purpose were intentionally or recklessly made without proper authority, and as a pretext for conducting a criminal investigation into suspected drug activity.

First, the Discipline Authority does not appear to have considered discrepancies in the evidence that call into question the stated grounds for the traffic stop and arrest for dangerous driving. For example, the members have said that Mr. [REDACTED] made eye contact with them at one point, suggesting that he identified them as police which then caused him to drive evasively and them to follow. However, Constable [REDACTED] also said that the officers deliberately delayed turning on their emergency lights while following Mr. [REDACTED] as people are sometimes spooked and attempt to flee once they realize police are following them. This undercuts the prior statement that Mr. [REDACTED] had already identified them as police – as does Constable [REDACTED] comment that he relied on Mr. [REDACTED] stated belief that he was being chased by “hitters” when justifying his assessment of safety risk during the interaction. The Discipline Authority does not appear to have attempted to reconcile these potentially conflicting statements.

Second, the officers appear to agree that Mr. [REDACTED] quickly pulled over once they activated their emergency lights. This may lend support to Mr. [REDACTED] evidence that his driving was due to an understandable fear over the identity of the unmarked vehicle that was closely following him, rather than an attempt to evade police. The Discipline Authority does not appear to have considered this possibility when weighing the officers’ grounds for arresting Mr. [REDACTED] for dangerous driving.

Third, the Discipline Authority did not address multiple inconsistencies in the officers’ evidence about the driving behaviour observed as it relates to the stated offence, the purpose of the stop, and when it became dual-purpose. Constable [REDACTED] stated that it was initially a dual-purpose stop for dangerous driving and the vehicle’s association with previous drug trafficking investigations, while Constable [REDACTED] asserted that it became dual-purpose only after the razor was observed. The officers also gave different evidence about when licence plate queries revealed information linking Mr. [REDACTED] brother to drug trafficking, with Constable [REDACTED] saying it was known before the traffic stop was made, but Constable [REDACTED] saying it was after. The Discipline Authority should have considered whether this lack of clarity supported an inference that the stated grounds for the stop and/or the resulting arrests and searches were pretextual.

Fourth, the Discipline Authority did not place sufficient weight on the fact that Mr. [REDACTED] was released without charges or violation tickets when Mr. [REDACTED] driving behaviour and possession of the grooming razor was troubling enough to justify two arrests, the application of handcuffs, and a full vehicle search. The Discipline Authority should have more carefully

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considered whether the disparity between the alleged seriousness of the conduct and the resulting consequences supported an inference that the stop and searches were pretextual.

Fifth, the Discipline Authority accepts that query results indicated that Mr. [REDACTED] vehicle was associated with drug trafficking without adequately examining the nature and proximity of the association in light of all the evidence. Constable [REDACTED] stated in his audio-recorded interview that the licence plate query revealed that “there was associations to drug trafficking where people associated with this vehicle had been found with over 20 kilos...of drugs.” However, a review of the relevant police report reveals a much more tenuous association than a direct association of this vehicle with drug trafficking. The General Occurrence report related to this stop observes only that Mr. [REDACTED] (registered owner of the vehicle) was carded “in a vehicle” with his brother in 2025, and Mr. [REDACTED] brother is associated with drug activity. The Discipline Authority does not appear to have sufficiently considered the tenuous nature of the association.

Sixth, the Discipline Authority does not appear to have adequately analyzed the lawfulness of the arrest for possession of a weapon for a dangerous purpose. I note the members described the weapon as a “straight razor” in their police report. While the grooming razor does appear to be a sharp instrument that could pose a safety risk if wielded as a weapon, it is very different in size and shape than a straight razor. The members, by identifying the weapon as a straight razor in their reports, arguably exaggerate the safety risks allegedly posed.

The members also do not articulate why they concluded the weapon was possessed for a dangerous purpose or, in fact, what that dangerous purpose was. Similarly, it is difficult to understand why the alleged safety concerns over the razor apparently evaporated following their search of the vehicle. What caused the members to no longer view the razor as a weapon possessed for dangerous purposes? Was it because their search did not turn up any drugs or weapons? The Discipline Authority should have considered whether these factors supported an inference that the officers seized on the presence of the grooming razor as a pretext for conducting the subsequent vehicle search.

Seventh, with respect to the Discipline Authority accepting that the vehicle search occurred incidental to the arrest for the alleged weapons offence, the Discipline Authority does not provide an adequate analysis of whether the search was lawful. The Discipline Authority does not appear to have properly assessed the inconsistency between the purpose of the search suggested by the dialogue between the members captured in the video footage and the members’ subsequent evidence that the search was for further weapons.

Eighth, I note that both Constable [REDACTED] and Constable [REDACTED] were assigned to the SPS gang crime unit at the time of this incident. Constable [REDACTED] noted in his statement that the gang crime unit is a proactive unit that patrols around to try to suppress any high-level criminal behaviour linked to drugs, weapons, and gang violence. He explained that they will look for traffic violations and offences and will try to identify drug traffickers, with their mandate being both intelligence-gathering and enforcement, and traffic stops that may seem trivial can often result in helpful information for “bigger files.” This comment, the lack of clarity about the rationales for the stop, arrests, and search, the lack of rigour in documenting *Charter* rights, and

other aspects of the interaction raise broader concerns about similar police conduct beyond this incident.

In addition to the foregoing, I am also concerned that the Discipline Authority discussed issues about *Charter* rights and the lack of documentation but did not identify or address potential *Neglect of Duty* in that regard. While the members do not clearly recall whether they advised Mr. [REDACTED] of his *Charter* rights, Mr. [REDACTED] has stated that this did not occur. While some delays in facilitating access to counsel may be reasonable, the Discipline Authority does not appear to have adequately considered whether the members could have safely allowed Mr. [REDACTED] to call counsel while he was secure in the police vehicle.

Finally, with respect to Mr. [REDACTED] being called a “goomba”, the Discipline Authority’s analysis does not appear to consider Constable [REDACTED] position of power relative to Mr. [REDACTED]. Also, given the context of the interaction in which Constable [REDACTED] associated Mr. [REDACTED] with crime, the Discipline Authority did not consider the stereotypical use of “goomba,” which implies that its subject was involved in criminality or has connections to the Mafia. The Discipline Authority also failed to consider how being called a “goomba” might be received by Mr. [REDACTED] in the circumstances. The Discipline Authority appears to have erred in failing to assess the conduct as a possible *Discourtesy*.

Appointment of a Retired Judge

Section 117(1) of the *Police Act* 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 *Police Act*.

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).

On June 13, 2024, I published the OPCC’s appointment procedures under section 177.2(3) of the *Police Act* (Appointment Procedures) and the list of retired judges who may be appointed for the purposes of sections 117, 135 and 142.

In accordance with the Appointment Procedures, I have appointed the Honourable Elizabeth Bennett, retired Appeal Court Justice, to review this matter and arrive at their own decision based on the evidence. 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

Retired Judge Bennett has confirmed their availability to review this matter and reported no conflicts.

Pursuant to section 117(9), if the appointed retired judge considers that the conduct of the member appears to constitute misconduct, the retired judge assumes the powers and performs the duties of the discipline authority in respect of the matter and must convene a discipline proceeding, unless a prehearing conference is arranged. The allegations of misconduct set out in this notice reflect the allegations listed and/or described by the Discipline Authority in their decision pursuant to section 112 of the *Police Act*. It is the responsibility of the retired judge to list and/or describe each allegation of misconduct considered in their decision of the matter pursuant to section 117(8)(c) of the Act. As such, the retired judge is not constrained by the list and/or description of the allegation as articulated by the Discipline Authority.

The Office of the Police Complaint Commissioner will provide any existing service records of discipline to the Discipline Authority to assist him or her 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 determines that 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 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 the materials.



Prabhu Rajan
Police Complaint Commissioner

cc: [REDACTED], Registrar
Sergeant [REDACTED], Surrey Police Service