



# MEDIA STATEMENT

## CRIMINAL JUSTICE BRANCH

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Tuesday, April 24, 2007

07-05

### NO CHARGES IN RELATION TO ALLEGED MISCONDUCT INVOLVING THE WEST VANCOUVER POLICE DEPARTMENT

**Victoria** – The Criminal Justice Branch of the Ministry of Attorney General today announced in response to media inquiries, that an independent Special Prosecutor has determined that no charges are warranted against certain members of the West Vancouver Police Department following a Vancouver Police Department investigation into allegations of misconduct.

Harold Rusk, a senior Victoria lawyer, was appointed on January 18, 2007 by Robert W.G. Gillen, Q.C., the Assistant Deputy Attorney General for the Criminal Justice Branch. The appointment was made following a request for a Special Prosecutor from Chief Constable Paul Battershill of the Victoria Police Department who is supervising the ongoing police investigation.

Mr. Rusk's mandate as the Special Prosecutor included:

- Offering such independent legal advice as the police investigators may require during the course of their investigation;
- Conducting an independent charge assessment based on any investigation report the police may submit to him;
- Providing the Assistant Deputy Attorney General with a written report setting out his charge assessment decision; and
- If in his view a charge is warranted, conducting the prosecution and any subsequent appeal.

In a written report to Mr. Gillen dated April 5, 2007, Mr. Rusk reported on the results of two investigations conducted by the Vancouver Police department, he states,

*“So far as investigators have been able to ascertain, there is no evidence that any officer from the WVPD contacted a member of the Burnaby R.C.M.P. in an improper fashion with respect to the impaired driving charge under investigation. In particular, the Burnaby R.C.M.P. members involved advised that they received no such calls.*”

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**Criminal Justice Branch HQ**  
**Ministry of Attorney General**

*Mailing Address:*  
PO Box 9276 Stn Prov Govt  
Victoria, BC V8W 9J7

*Office Location:*  
9<sup>th</sup> Floor, 1001 Douglas Street  
Victoria, BC V8W 9J7  
Telephone: (250) 387-3840  
Fax: (250) 387-0090

*Similarly, there appears to be no evidence that would lend substance to the allegation of improper charging for tow truck services on the part of WVPD members."*

An investigation report was submitted by police for charge assessment in relation to a matter involving the allegation of misappropriation of restitution funds by a member of the department. Having reviewed the matter Mr. Rusk concluded,

*"My initial view was that there are a number of matters that I have considered in concluding that, in all of the circumstances of this case, it is not in the public interest to prosecute [the Officer].*

*Firstly, there is no reason to believe that [the Officer] actions were part of a corrupt plan to enrich himself but were clearly the result of a fundamental misunderstanding of his obligations and duties.*

*Secondly, restitution has been made of the missing funds.*

*Thirdly, it appears that [the Officer] simply lacks the organizational abilities to meet the responsibilities of the job.*

*Fourthly, it appears that at least part of the problem for [the Officer] was inadequate supervision.*

*Fifthly, he has had some unfortunate personal circumstances over the four years preceding the incident, including the loss of both of his parents, an uncle and father-in-law and, in the year preceding the incident, the breakdown of his marriage.*

*Lastly, [the Officer] who is apparently the primary financial provider to his two children, has tendered his resignation.*

*... I understand that the resignation, and the circumstances that triggered it, will preclude the possibility of him ever obtaining work as a peace officer in the future."*

Mr. Gillen has reviewed Mr. Rusk's report and agrees with its conclusion not to proceed with any criminal charge in this case.

Special Prosecutors are appointed under the Crown Counsel Act when there is a significant potential for real or perceived improper influence in the independent exercise of prosecutorial responsibilities, including the charge assessment process. The decisions of Special Prosecutors are final subject only to receiving written instructions from the Attorney General, Deputy Attorney General or the Assistant Deputy Attorney General for the Criminal Justice Branch. In such an event, those directions must be made public by publishing them in the BC Gazette.

Media Enquiries: Stan Lowe  
Communications Counsel  
250 387-5169

Harold Rusk  
Special Prosecutor  
250 386-8707