



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH 2010-02

AMENDED NOTICE OF PUBLIC HEARING
(Pursuant to Section 138(4), *Police Act*, R.S.B.C. 1996, c.267)

In the matter of the
Public Hearing into the complaint against
Constable Griffin Gillan
of the West Vancouver Police Department

TO: Constable Griffin Gillan,
West Vancouver Police Department (Member)

AND TO: Chief Constable Bob Rich,
Abbotsford Police Department (Discipline Authority)

WHEREAS:

1. On January 21st, 2009, while off duty, Constable Gillan and two other off duty police officers allegedly assaulted Mr. Firoz Khan who was delivering newspapers as part of his employment in downtown Vancouver. On January 22nd, 2009, as a result of information received from Sergeant Paul Skelton of the West Vancouver Police Department, the Police Complaint Commissioner issued an Order to Investigate pursuant to section 55(3) of the *Police Act*.
2. On July 29th, 2009, Constable Gillan was convicted of the criminal offence of assault. Relying on the aggravating circumstances of this assault, the presiding judge sentenced Constable Gillan to a 21 day jail sentence to be served in the community, with 6 months of probation to follow.
3. On December 15th, 2009, the designated Discipline Authority, Chief Constable Bob Rich of the Abbotsford Police Department, agreed with the admissions made by Constable Gillan and substantiated two of the three alleged disciplinary defaults:
 - a) Improper Off-Duty Conduct, contrary to section 16 of the *Code of Professional Conduct Regulation*; and

Stan T. Lowe,
Police Complaint Commissioner

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- b) Conduct Constituting an Offence, contrary to section 14 of the *Code of Professional Conduct Regulation*, which was the applicable legislation prior to the promulgation of the amended *Police Act*.

The Discipline Authority dismissed a second count of Improper Off-Duty Conduct.

4. The Discipline Authority recommended that the following discipline be imposed for each of the disciplinary defaults found to be committed:
 - a) Reduction in rank to probationary constable;
 - b) Suspension without pay for 5 scheduled working days (120 hours); and
 - c) Undertake professional alcohol counseling.
5. The Police Complaint Commissioner reviewed the investigation into this matter and all the relevant factors including, without limitation, those factors set out in section 138 of the amended *Police Act* as well as in section 60(5) of the *Police Act* as it applied at the time, including but not limited to the following:
 - a) The complaint is very serious in nature as the allegation involves a significant breach of the public trust;
 - b) The harm alleged to have been suffered by the complainant is serious;
 - c) There is a reasonable prospect that a public hearing would assist in ascertaining the truth;
 - d) An arguable case can be made that:
 - i. The disciplinary or corrective measures proposed are inappropriate or inadequate, and
 - ii. The discipline authority incorrectly interpreted the *Code of Professional Conduct Regulation* when he did not substantiate the allegation of Improper Off-Duty conduct based on the available evidence.
 - e) A hearing is necessary to preserve or restore public confidence in the complaint process or in the police.
6. For those reasons I have determined that it was necessary in the public interest to arrange for a public hearing into the conduct of the Respondents.
7. As of March 31st, 2010, amendments to the *Police Act* came into effect. As this complaint file was initiated under the former *Police Act* and was not concluded prior to March 31st, 2010, this matter is a "transitional" file to which the new legislation's transitional provisions apply. In order to facilitate the procedural transition from the former Act to the amended Act, this complaint has been reviewed to determine the stage in the complaint process under the amended *Police Act* that most nearly corresponds to the stage that was reached under the former Act. Accordingly, the

corresponding stage that this matter is at under the amended legislation is the Public Hearing stage and the relevant sections of the amended *Police Act* apply.

8. It is therefore alleged that Constable Gillan committed the following misconduct as defined by section 77 of the amended *Police Act*:
 - a) **Improper Off-Duty Conduct:** contrary to section 77(3)(j) of the *Police Act* (formerly section 16 of the *Code of Professional Conduct Regulation*) the member committed the disciplinary default of improper off-duty conduct in that while off duty, he asserted or purported to assert authority as a police officer and thereupon committed Discreditable Conduct as defined by s. 77(3)(h) of the amended *Police Act* by kicking the interior dashboard of Mr. Simon's car and acting in an erratic, threatening manner. Such conduct would likely bring discredit on the West Vancouver Police Department.
 - b) **Discreditable Conduct:** contrary to section 77(3)(h) of the *Police Act* (formerly section 5 of the *Code of Professional Conduct Regulation*), the member committed the disciplinary default of Discreditable Conduct in that while off duty, he acted in a manner that discredited the reputation of the West Vancouver Police Department, to wit: committed the criminal offence of assault on Mr. Firoz Khan.
 - c) **Improper Off-Duty Conduct:** contrary to section 77(3)(j) of the *Police Act* (formerly section 16 of the *Code of Professional Conduct Regulation*) the member committed the disciplinary default of improper off-duty conduct in that while off duty, he asserted or purported to assert authority as a police officer and thereupon committed an Abuse of Authority as defined by s. 77(3)(a) of the amended *Police Act*, by attempting to arrest Mr. Firoz Khan without lawful authority.
 - d) **Improper Off-Duty Conduct:** contrary to section 77(3)(j) of the *Police Act* (formerly section 16 of the *Code of Professional Conduct Regulation*) the member committed the disciplinary default of improper off-duty conduct in that while off duty, he committed Discreditable Conduct as defined by s. 77(3)(h) of the amended *Police Act* by his display of erratic and aggressive behaviour, including spitting and kicking Constable Jaswal's police vehicle. Such conduct would likely bring discredit on the West Vancouver Police Department.

NOW THEREFORE:

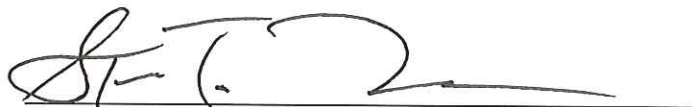
1. A public hearing was arranged pursuant to section 60(4) of the former *Police Act* and is now continued pursuant to the transitional provisions of the amended *Police Act*.
2. Pursuant to the recommendation of Associate Chief Justice Patrick Dohm of the Supreme Court of British Columbia, The Honourable H.D. Boyle, retired Justice of the

Supreme Court of British Columbia, was appointed to preside as Adjudicator in these proceedings, pursuant to s. 60.1(2)(a) of the former *Police Act*, and continues to exercise his jurisdiction pursuant to the relevant sections of the amended *Police Act*.

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

3rd Floor, 756 Fort Street
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Victoria, British Columbia, V8W 9T8
Telephone: (250) 356-7458 / Facsimile: (250) 356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 16th day of August, 2010.

A handwritten signature in black ink, appearing to read 'Stan T. Lowe', is written over a horizontal line.

Stan T. Lowe
Police Complaint Commissioner
for the Province of British Columbia