



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH:2010-05

NOTICE OF PUBLIC HEARING

(Pursuant to Section 143(1) *Police Act*, R.S.B.C. 1996, c.267)

In the matter of
Public Hearing into the complaint against
Constable Nicholas Florkow & Constable Bryan London
of the Vancouver Police Department

TO:	Mr. Yao Wei Wu c/o Mr. Cameron Ward	(Complainant)
AND TO:	British Columbia Civil Liberties Association c/o Mr. David Eby	(3 rd Part Complainant)
AND TO:	Constable Nicholas Florkow Vancouver Police Department	(Member)
AND TO:	Constable Bryan London Vancouver Police Department	(Member)
AND TO:	Chief Constable Jim Cessford Delta Police Department	(Delegated Discipline Authority)

WHEREAS:

1. On January 21, 2010, at 2:16 a.m. the Vancouver Police Department received a 911 call of a domestic dispute. The 911 call originated from a cellular phone, in which the complainant alleged she had been assaulted by her spouse and that her baby was present in the residence.
2. Constable Florkow and Constable London were on duty working as a 2-member unit in plain clothes and operating an unmarked police vehicle. At 2:20 a.m. the members were initially dispatched to an address on Lanark street that did not exist, then later directed to 6216 Lanark street.

Stan T. Lowe,
Police Complaint Commissioner

5th Floor, 947 Fort Street,
PO Box 9895, Stn Prov Govt
Victoria, British Columbia, V8W 9T8
Tel: (250) 356-7458 / Fax: (250) 356-6503

3. The members attended the front entrance of 6216 Lanark Street dressed in plain clothes, with police identification hanging on lanyards around their necks. The members rang the doorbell and knocked on the door until it was answered by Mr. Yao Wei Wu, the owner of the residence, who was dressed in his bed clothes. Once Mr. Wu opened the door an altercation quickly ensued. The police investigation revealed two materially different versions of events regarding the altercation as provided by the members and Mr. Wu.
4. During the course of the altercation Mr. Wu was taken to the ground and placed in handcuffs. It was also during this period that information was received that the members were at the wrong entrance, and that Mr. Wu was an innocent party. Mr. Wu remained in handcuffs for a period of time and received medical attention for injuries. He was later transported to hospital and treated for a significant facial fracture to the orbit of his left eye which occurred during the altercation.
5. On January 22, 2010, the Office of the Police Complaint Commissioner received a Form 1 Notice of Complaint from Mr. Wu alleging the members unlawfully arrested him and used excessive force in doing so.
6. On January 25, 2010, the British Columbia Civil Liberties Association filed a Form 1 Notice of Complaint in relation to this incident alleging:
 - a. Media releases immediately after the incident could improperly influence investigators assigned to investigate the matter.
 - b. Excessive use of force by officers in arresting Mr. Wu.
 - c. VPD did not have a Cantonese language officer or translator available.
 - d. Use of plain clothes officers in executing arrests or search warrants.
 - e. Neglect of duty causing officers to attend an incorrect address.
7. On February 1, 2010, Chief Constable Jim Chu of the Vancouver Police Department advised the Office of the Police Complaint Commissioner that the investigation of the incident would be undertaken externally by the Delta Police Department due to a potential conflict of interest. Furthermore, on February 18, 2010, Chief Constable Jim Chu advised the Office of the Police Complaint Commissioner that he had delegated the role of Discipline Authority to Chief Constable Jim Cessford of the Delta Police Department.
8. On October 18, 2010, the Final Investigation Report into the allegations against Constable Florkow and Constable London was submitted to the Discipline Authority. The investigator in this matter recommended that all allegations against Constable Florkow and Constable London be unsubstantiated.
9. On November 2, 2010, the designated Discipline Authority, Chief Constable Jim Cessford of the Delta Police Department, issued his Notice of Decision in which he unsubstantiated the allegations against Constable Florkow and Constable London.
10. Having reviewed the investigation and determinations to date, pursuant to section 143(1)(b) of the *Police Act*, I have determined that a public hearing in this matter is required to preserve or restore public confidence in the investigation of misconduct and the administration of police discipline. In arriving at this determination I have considered several relevant factors including but not limited to the following:

- a. The complaint is serious in nature as the alleged misconduct involves a significant breach of public trust.
- b. The nature and seriousness of the alleged harm to have been suffered by the person involved in this matter.
- c. There is a reasonable prospect that a public hearing will assist in determining the truth.
- d. There exist flaws in the investigation.

11. It is therefore alleged that the Constable Florkow and Constable London committed the following disciplinary default pursuant to section 77 of the *Police Act*:

- a. **Abuse of Authority:** contrary to section 77 of the *Police Act*, subject member committed the disciplinary default of abuse of authority, in the performance of duties, intentionally or recklessly used unnecessary force.

NOW THEREFORE:

1. A public hearing is arranged pursuant to section 143 of the *Police Act*.
2. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, The Honourable B. M. Preston, retired Justice of the Supreme Court of British Columbia is appointed to preside as Adjudicator in these proceedings, pursuant to s. 142 of the *Police Act*.

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

#501, 947 Fort Street, PO Box 9895, Stn Prov Govt, Victoria, BC V8W 9T8
Telephone: (250) 356-7458 / Facsimile: (250) 356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 30th day of November, 2010.



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