



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH:2011-01

NOTICE OF PUBLIC HEARING
(Pursuant to Section 137(1) *Police Act*, R.S.B.C. 1996, c.267)

In the matter of
Public Hearing into the complaint against
Sergeant David Berndt
of the Central Saanich Police Service

AND TO: Sergeant David Berndt
c/o Mr. Dennis Murray, Q.C. (Member)
Central Saanich Police Service

AND TO: Chief Constable Paul Hames
Central Saanich Police Service (Discipline Authority)

WHEREAS:

1. On December 10, 2009, the Office of the Police Complaint Commissioner received information from Deputy Chief Constable Clayton Pecknold of the Central Saanich Police Service outlining allegations of professional misconduct by Sergeant David Berndt;
2. Deputy Chief Clayton Pecknold requested the Police Complaint Commissioner order that the matter be investigated, and on December 11, 2009, Police Complaint Commissioner Stan T. Lowe issued an Order for Investigation, pursuant to section 55(3) of the former *Police Act*;

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. Following an investigation conducted by Sergeant Maillot of the Central Saanich Police Service, Discipline Authority Chief Constable Paul Hames notified the Member that a Disciplinary Hearing would be held on September 28, 2010, which disciplinary defaults alleged during hearing would be; Two counts of Improper Off Duty Conduct, Section 77(3)(j) of the *Police Act* and Corrupt Practice, Section 77(3)(c) of the *Police Act*.
4. On November 4, 2010, Chief Constable Paul Hames as the Discipline Authority, found that Corrupt Practice contrary to Section 77(3)(c) *Police Act* and two counts of Improper Off Duty Conduct contrary to Section 77(3)(j) *Police Act* had been proven, and imposed the following disciplinary and corrective measures following a hearing on November 4, 2010.

Allegation #1 Corrupt Practice and Allegation #2 Improper Off Duty Conduct

- (i) The member's rank is reduced effective today to the rank of Constable (20 years and qualified, 115%). He may compete for further promotional opportunities as they may arise.
- (ii) Upon the members return to work he will be required to work under close supervision for a period of one year. Prior to his return to work the member will provide evidence supporting his physical and mental fitness.
- (iii) The member, prior to returning to work and at his own expense is directed to undertake an assessment of his alcoholism at the Edgewood Treatment facility in Nanaimo, British Columbia. The results of that assessment will be provided to me. Further treatment if required and recommended will be obligatory on the part of the member.

Allegation #3 Improper Off Duty Conduct. The following discipline was imposed:

- i. Written reprimand
5. On November 30, 2010, Sergeant Berndt, through his Counsel, Mr. Dennis Murray, Q.C. requested a Public Hearing pursuant to Section 136 (1) of the *Police Act*.
 6. Pursuant to Section 137(1) of the *Police Act*, a member is entitled upon request to either a review on the record or public hearing in circumstances in which the discipline authority proposes as a disciplinary measure dismissal or reduction in rank. The police complaint commissioner must promptly arrange a public hearing where the issues engaged cannot be adequately addressed by a review on the record. In this matter the police complaint commissioner has determined that a public hearing requested by the member is warranted in the circumstances.

THEREFORE:

7. A public hearing is arranged pursuant to Section 137(1) of the *Police Act*.
8. Upon the recommendation of the Associate Chief Justice of the British Columbia Supreme Court, retired Provincial Court Judge Brian Neal is appointed to preside as Adjudicator in these proceedings, pursuant to s. 142(2) 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 6th day of January, 2011.

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

c.c. Deputy Chief Constable Clayton Pecknold, CSPS