



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH: 2011-02

NOTICE OF PUBLIC HEARING

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

In the matter of the Ordered Investigation into
Constable Doug Lemna
Constable Daryl Young
of the Abbotsford Police Department

TO: Constable (Acting Sergeant) 209 Doug Lemna
Constable 400 Daryle Young
Abbotsford Police Department (Members)

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

WHEREAS:

1. On October 9th, 2009 Constable Doug Lemna, as Acting Sergeant, and Constable Daryle Young were carrying out a uniformed foot patrol in Ravine Park in Abbotsford, B.C., in response to ongoing issues of alleged drug dealing in the area. The members observed a car pull into a driveway across the street from their location and witnessed what appeared to be a drug transaction between a male standing in the driveway and the vehicle driver.
2. Constable Young pulled the driver from the vehicle and the driver went to the ground. Acting Sergeant Lemna had his firearm out and was giving commands and instructions to the driver. During the course of those commands and instructions, Acting Sergeant Lemna applied force several times with his foot to the driver's head and body as he lay on the ground.

Stan T. Lowe,
Police Complaint Commissioner

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3. Constable Young assisted Acting Sergeant Lemna in handcuffing the driver and the suspected drug buyer. As he walked towards the buyer to handcuff him, Constable Young applied force on the driver by stepping on the back of his knees; and after handcuffing the buyer, Constable Young returned to the driver and applied force with one knee onto the driver's lower back prior to handcuffing him.
4. A local resident became aware of the incident and recorded a portion of the incident on his video camera. The resident later posted an edited version of the video on the internet video sharing website 'YouTube'.
5. The Abbotsford Police Department became aware of the existence of the YouTube video and on October 20th, 2009 Chief Constable Rich requested an 'Order to Investigate' the matter pursuant to section 55(3) of the former *Police Act*.
6. On October 20th, 2009, the Office of the Police Complaint Commissioner issued an Order for the Abbotsford Police Department to investigate the incident involving Acting Sergeant Lemna and Constable Young on October 9th, 2009.
7. On December 15th, 2010, after a review of the finding of the investigation conducted by Staff Sergeant Vreeman of the Abbotsford Police Department, the Discipline Authority, Chief Constable Rich concluded that one allegation of the use of unnecessary force by Constable Young was substantiated in relation to his arrest of the driver and the remaining allegation was not substantiated.
8. In regard to the allegations of abuse of authority against Acting Sergeant Lemna, Chief Constable Rich concluded that the allegation of abuse of authority against Acting Sergeant Lemna was not substantiated.
9. As of March 31, 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 31, 2010, this matter is a "transitional" file to which transitional provisions and relevant sections of the amended *Police Act* apply.
10. Having reviewed the investigation and determinations to date, pursuant to section 143(1)(b) of the Police Act I have determined that a hearing 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 allegations involves a significant breach of the public trust;
 - b) An arguable case can be made that the discipline authority's interpretation or application of Part 11 of the Police Act was incorrect; and
 - c) There is a reasonable prospect that a public hearing will assist in determining the truth.
11. It is therefore alleged that Acting Sergeant Lemna and Constable Young committed the following disciplinary default pursuant to section 77 of the Police Act:
- a) **Abuse of Authority:** contrary to section 77(3)(a)(ii)(A) of the *Police Act*, the subject members committed disciplinary defaults of abuse of authority, in the performance of duties, intentionally or recklessly used unnecessary force on a person.

NOW THEREFORE:

1. A public hearing is arranged pursuant to section 143 of the *Police Act*.
2. Pursuant to the recommendation of Associate Chief Justice Anne MacKenzie of the Supreme Court of British Columbia, The Honourable Carole Lazar, a retired Judge of the Provincial 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
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DATED at the City of Victoria, in the Province of British Columbia, this 14th day of January, 2011.



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