



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH: 2013-02
OPCC File No. 2010-5217

NOTICE OF PUBLIC HEARING

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

**In the matter of the
Public Hearing into the complaint against
Constable #134 Ken Jansen
of the South Coast British Columbia Transportation Authority**

TO: Constable #134 Ken Jansen (Member)

AND TO: Chief Officer Neil Dubord (Discipline Authority)
South Coast British Columbia Transportation
Authority Police Service

WHEREAS:

1. On May 12, 2010, the Office of the Police Complaint Commissioner received information from the South Coast British Columbia Transportation Authority Police Service (SCBCTAPS) outlining allegations of professional misconduct against Constable Ken Jansen.
2. The allegations pertained to an incident at Surrey Memorial Hospital on April 22, 2010, in which Constable Jansen and Royal Canadian Mounted Police Constable Mitchell Spears used unnecessary or excessive force on Mr. Robert Keith Booker.
3. On May 13, 2010, at the request of the SCBCTAPS, the Office of the Police Complaint Commissioner issued an Order for Investigation, pursuant to section 93(1) of the *Police Act*.

Stan T. Lowe,
Police Complaint Commissioner

5th Floor, 947 Fort Street,
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4. An investigation was completed by a member of the SCBCTAPS and a subsequent supplementary investigation was directed pursuant to section 114 of the *Police Act*. During the course of the investigations further allegations of misconduct were added pursuant to the *Police Act* in relation to Constable Jansen's actions including Abuse of Authority, Deceit and Discreditable Conduct.
5. On September 30, 2011, then Acting Deputy Chief Officer J.B. MacDonald, as Disciplinary Authority, issued his Notice of Discipline Authority's Decision in which he determined that the evidence appeared to substantiate two allegations of Abuse of Authority, five allegations of Deceit and an allegation of Discreditable Conduct against Constable Jansen pursuant to the *Police Act*, the matter was directed to a discipline proceeding.
6. On April 11, 2013, in concluding the discipline proceeding, Discipline Authority Inspector MacDonald, determined that the allegations of Deceit, Discreditable Conduct and only one of the allegations of Abuse of Authority had been proven by the available evidence and imposed the following disciplinary and corrective measures:
 - i. Abuse of Authority – 5 day suspension;
 - ii. Deceit – Dismissal for each allegation of Deceit both individually and collectively;
 - iii. Discreditable Conduct – 3 day suspension.
7. Pursuant to section 137(1) of the *Police Act*, a police member is entitled to a mandatory public hearing in circumstances where the proposed discipline is dismissal or a reduction in rank. The police complaint commissioner has the discretion to arrange a review on the record where the circumstances meet the requirements stipulated in the legislation. On April 24, 2013, Constable Jansen requested a public hearing in this matter.
8. After considering the evidentiary issues associated with this incident, I am of the view that it is necessary to examine and cross-examine witnesses, as well as receive evidence not canvassed in the discipline proceeding, in order to ensure that procedural fairness and accountability is maintained. In addition, I am of the view that a public hearing is required to provide the necessary transparency and accountability, to preserve public confidence in the investigation of misconduct and the administration of police discipline. Accordingly, I have determined that a public hearing is warranted in these circumstances.

9. It is therefore alleged that Constable Jansen committed the following disciplinary defaults, pursuant to section 77 of the *Police Act*:

- a) **Abuse of Authority:** contrary to section 77(3)(a)(ii)(A) of the *Police Act*, Constable Jansen, committed the disciplinary default of Abuse of Authority when he intentionally or recklessly used unnecessary force on Mr. Booker at Surrey Memorial Hospital on April 22, 2010.
- b) **Deceit** – contrary to section 77(3)(f)(i)(B) of the *Police Act*, Constable Jansen, committed the disciplinary default of Deceit, when he made an entry in his notebook that to his knowledge was false or misleading and omitted to record in his notebook the use of force against Mr. Booker, to which he was a witness.
- c) **Deceit** – contrary to section 77(3)(f)(i)(B) of the *Police Act*, Constable Jansen committed the disciplinary default of Deceit, when he made an entry in his PRIME synopsis page on May 1, 2010, that to his knowledge was false or misleading.
- d) **Deceit** - contrary to section 77(3)(f)(i)(B) of the *Police Act*, Constable Jansen committed the disciplinary default of Deceit, arising out of an entry he made to his PRIME Police statement on May 6, 2010, that to his knowledge was false or misleading.
- e) **Deceit** - contrary to section 77(3)(f) of the *Police Act*, Constable Jansen committed the disciplinary default of Deceit, when he provided a duty report to Staff Sergeant Doug Fisher on August 30, 2010, that to his knowledge was false or misleading.
- f) **Deceit** - contrary to section 77(3)(f)(i)(A) of the *Police Act*, Constable Jansen committed the disciplinary default of Deceit, when he provided an oral statement to Staff Sergeants Doug Fisher and Kent Harrison on December 7, 2010, that to his knowledge was false or misleading.
- g) **Discreditable Conduct** – contrary to section 77(3)(h) of the *Police Act*, Constable Jansen committed the disciplinary default of Discreditable Conduct, when he used unnecessary force on Mr. Booker at Surrey Memorial Hospital on April 22, 2010, and conducted himself in a manner that he knew or ought to have known would bring discredit on the South Coast British Columbia Transportation Police Service.

THEREFORE:

1. A public hearing is arranged pursuant to section 137(1) of the *Police Act*.
2. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, The Honourable Carole D. Lazar, retired Provincial Court Judge is appointed to preside as Adjudicator in these proceedings, pursuant to section 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, Toll Free: 1-977-999-8707, Facsimile: (250) 356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 24th day of May, 2013.

A handwritten signature in black ink, appearing to read "Stan T. Lowe", with a long, sweeping flourish extending to the right.

Stan T. Lowe

Police Complaint Commissioner
for the Province of British Columbia