



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH: 2013-04
OPCC 2011-6210

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 Stephen Todd of the Vancouver Police Department**

TO: Constable 1995 Stephen Todd
c/o Mr. Kevin Woodall (Member)

AND TO: Chief Constable Dave Jones
New Westminster Police Service (External Discipline Authority)

WHEREAS:

1. On March 8, 2011, the Office of the Police Complaint Commissioner received information from the Vancouver Police Department (VPD) outlining allegations of professional misconduct against Constable Stephen Todd concerning his actions in relation to his cousin, the suspect in a homicide investigation.
2. The information included that on March 3, 2011, investigators had conducted an interview of Constable Todd as a witness in the homicide investigation. During the interview, Constable Todd disclosed that in July 2010, while on duty, he met the suspect, his cousin, and they sat in a police car and had a discussion. Constable Todd advised that he had queried the suspect on police information systems and provided the results to his cousin. During their conversations, his cousin allegedly made admissions which were relevant to the investigation in which he was a suspect.
3. It was also alleged that during the March 3, 2011, interview Constable Todd also admitted that in September 2010, approximately two months after his cousin had made a confession to him, he provided information to his cousin on how to avoid police investigative techniques, including wire taps and surveillance.

Stan T. Lowe
Police Complaint Commissioner

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4. On March 22, 2011, at the request of the Vancouver Police Department, the Police Complaint Commissioner issued an Order for Investigation, pursuant to section 93(1) of the *Police Act* and VPD Professional Standards investigator, Sergeant Mike Pollard, was assigned as the investigator.
5. During interviews conducted by VPD Professional Standards investigators on June 3 and 13, 2011, Constable Todd recanted the earlier evidence provided to homicide investigators on March 3, 2011.
6. On January 12, 2012, the Police Complaint Commissioner exercised his discretion and appointed Chief Constable David Jones of the New Westminster Police Department as External Discipline Authority pursuant to section 135(1) of the *Police Act*.
7. On March 8, 2012, following his review of the Final Investigation Report, Chief Constable Jones notified Constable Todd that a disciplinary proceeding would be held in relation to the following disciplinary defaults:
 - i. Deceit contrary to section 77(3)(f)(i)(a) of the *Police Act* – that on March 3, 2011, Constable Todd knowingly stated to investigators he had no information pertaining to the homicide investigation;
 - ii. Deceit contrary to section 77(3)(f)(i)(a) of the *Police Act* – that Constable Todd knowingly misled Professional Standards investigators when he stated he fabricated earlier evidence provided to homicide investigators;
 - iii. Neglect of Duty contrary to section 77(3)(m)(ii) of the *Police Act* – that Constable Todd received information relevant to a homicide investigation, but failed to take action in regards to that information;
 - iv. Corrupt Practice contrary to section 77(3)(c) of the *Police Act* – that Constable Todd accessed police databases on three occasions for purposes unrelated to his duties as a police officer;
 - v. Improper Disclosure of Information contrary to section 77(3)(i) of the *Police Act* – that Constable Todd provided to his cousin information he had received from restricted police databases; and
 - vi. Discreditable Conduct contrary to section 77(3)(h) of the *Police Act* – that Constable Todd revealed to his cousin, a suspect in a criminal investigation, information pertaining to police wiretap and surveillance techniques.
8. On September 10, 2013, considering the evidence and receiving submissions at the discipline proceeding, Chief Constable Jones made the following determinations in relation to the allegations:
 - i. Deceit (Count 1): proven, discipline imposed – dismissal from the VPD;
 - ii. Deceit (Count 2): proven, discipline imposed – dismissal from the VPD;
 - iii. Neglect of Duty: proven, discipline imposed – suspension from duty, without pay, for 15 (10 hour) days;
 - iv. Corrupt Practice: proven, discipline imposed – suspension from duty, without pay, for 20 (10 hour) days;
 - v. Improper Disclosure of Information: proven, discipline imposed – suspension from duty, without pay, for 10 (10 hour) days; and

vi. Discreditable Conduct: not proven.

9. On September 11, 2013, with the assistance of legal counsel, Constable Todd requested a public hearing pursuant to section 137 of the *Police Act*.
10. Pursuant to section 137(1) of the *Police Act*, a police member is entitled to a mandatory public hearing when a Discipline Authority has proposed dismissal as a disciplinary measure for the proven misconduct. The Police Complaint Commissioner has the discretion to arrange a review on the record where the circumstances meet requirements set out in the *Police Act*.
11. Having reviewed the available evidence from the investigation and Discipline Proceeding, I am of the view that there is a reasonable basis to believe that the Discipline Authority's finding that the allegation of discreditable conduct was not proven is incorrect. Pursuant to section 138(1)(c)(i), I am of the view that a public hearing is required.
12. Accordingly, I have determined that a public hearing is necessary in the public interest in respect of all allegations before the Discipline Authority in this matter. The allegations in this case are inextricably woven and, therefore, I am of the view that a new hearing with respect to all allegations is necessary for a fair and thorough examination of the allegations against Constable Todd. In determining that a public hearing is necessary in the public interest, I have considered several relevant factors, including but not limited to the following:
 - a) The matter is serious in nature as the allegations involve a significant breach of the public trust;
 - b) It is necessary to examine and cross-examine witnesses and receive evidence that was not part of the record at the discipline proceeding, in order to ensure that procedural fairness and accountability is maintained;
 - c) There is a reasonable prospect that a public hearing will assist in determining the truth; and
 - d) 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.
13. It is therefore alleged that Constable Todd committed the following disciplinary defaults, contrary to section 77 of the *Police Act*:
 - 1) **Deceit** contrary to section 77(3)(f)(i)(a) of the *Police Act* – that on or about March 3, 2011, Constable Todd committed the disciplinary default of Deceit when he knowingly made a false or misleading statement to police members assigned to a homicide investigation, to wit, stating that he had no relevant or related knowledge or information pertaining to the homicide investigation.
 - 2) **Deceit** contrary to section 77(3)(f)(i)(a) of the *Police Act* – that on or about April 29, 2011, May 25, 2011, June 3, 2011, and/or June 13, 2011, Constable Todd committed the disciplinary default of Deceit by knowingly making false or misleading statements to VPD Professional Standards investigators, to wit, stating that he had fabricated the earlier statements he made to investigators regarding admissions made to him by his cousin.
 - 3) **Discreditable Conduct** contrary to section 77(3)(h) of the *Police Act* – that on or about September 7 or 8, 2010, Constable Todd committed the disciplinary default of Discreditable

Conduct when he revealed to his cousin, whom Constable Todd knew was a suspect in a homicide investigation, information about police wiretap and surveillance techniques.

- 4) **Neglect of Duty** contrary to section 77(3)(m)(ii) of the *Police Act* – that on or about July 18, 2010, Constable Todd received from his cousin information relevant to a homicide investigation and that Constable Todd neglected, without good and sufficient cause, to promptly and diligently fulfill his duty to take action in regards to that information including, but not limited to, advising members investigating that homicide of the information he had received from his cousin.
- 5) **Corrupt Practice** contrary to section 77(3)(c)(iv) of the *Police Act* – that on or about August 19, 2006, December 13, 2007, and July 18, 2010, Constable Todd committed the disciplinary default of Corrupt Practice, using Vancouver Police Department equipment, specifically police restricted databases, for purposes unrelated to the performance of his duties as a member.
- 6) **Improper Disclosure of Information** contrary to section 77(3)(i)(i) of the *Police Act* – that on or about July 18, 2010, Constable Todd disclosed to his cousin information he acquired in the performance of his duties as a member, specifically information he obtained from police restricted databases.

THEREFORE:

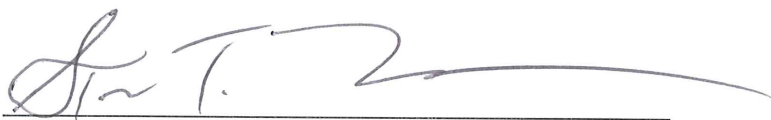
A public hearing is arranged pursuant to section 137(1) of the *Police Act*.

Upon the recommendation of the Associate Chief Justice of the British Columbia Supreme Court, retired BC Court of Appeal Justice WALLY OPPAL, Q.C., 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:

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Telephone: (250) 356-7458 / Facsimile: (250) 356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 9th day of October, 2013.



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