



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH: 2012-03

NOTICE OF PUBLIC HEARING

(Pursuant to Section 138(1) *Police Act*, R.S.B.C. 1996, c.267)

**In the matter of the
Public Hearing into the complaint against
Constable #369 Adam Page
of the Abbotsford Police Department**

TO: Constable #369 Adam Page
Abbotsford Police Department (Member)

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

WHEREAS:

1. On April 13, 2010, the Office of the Police Complaint Commissioner received information from Staff Sergeant Carl Vreeman of the Abbotsford Police Department's Professional Standards Section, advising of allegations of professional on-duty misconduct by Constable Adam Page. Staff Sergeant Vreeman advised the OPCC that information had been received which alleged that in either July or August of 2009, Constable Page had pushed Mr. Kerr, who had been arrested for an alleged shoplifting, into a wall, causing him to strike his head with sufficient force to dent the wall. It was further alleged that as Mr. Kerr was being escorted from the store by Constable Page, he pulled Mr. Kerr's arm in a manner that caused him pain.
2. On April 19, 2010, the Office of the Police Complaint Commissioner (OPCC) issued an Order for Investigation pursuant to Section 93(1) of the *Police Act*.

Stan T. Lowe,
Police Complaint Commissioner

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3. A criminal investigation into the matter was also undertaken by Staff Sergeant Vreeman and on March 14, 2011, the Criminal Justice Branch approved a charge of Assault against Constable Page pursuant to Section 266 of the Criminal Code of Canada.
4. On May 19, 2011, the Final Investigation Report into the allegations against Constable Page was submitted to Deputy Chief Len Goerke, the Discipline Authority in this matter. The investigator, Staff Sergeant Vreeman, recommended that the allegations of Abuse of Authority and two counts of Deceit be substantiated.
5. On June 3, 2011, Deputy Chief Len Goerke issued his Notice of Discipline Authority's Decision in which he determined that the evidence appeared to substantiate the allegations of Abuse of Authority and Deceit pursuant to the *Police Act*, the matter was directed to a Discipline Proceeding.
6. On July 5, 2011, a Discipline Proceeding for Constable Page was commenced and adjourned from time to time to facilitate a request for a suspension of proceedings pending the determination of the criminal matter. On August 23, 2011, the OPCC issued a Suspension of Proceedings against Constable Page until May 23, 2012, pursuant to Section 179 (4) of the *Police Act*.
7. On April 12, 2012, in Abbotsford, B.C. Provincial Court, Constable Page pled guilty to one count of Assault and received a Conditional Discharge with one year probation. The Discipline Proceeding was re-commenced on May 23, 2012. The only witnesses called to provide evidence were the investigator Staff Sergeant Vreeman and Constable Adam Page. The Discipline Proceeding was concluded by letter from Chief Rich on June 18, 2012. No material witnesses present for the incident were called to provide testimony regarding the matter.
8. On July 3, 2012, after considering the available evidence and submissions at the Discipline Proceeding, Chief Constable Rich determined that the one allegation of Abuse of Authority had been substantiated; and that the two counts of Deceit were not substantiated. On July 26, 2012, the Discipline Authority, Chief Constable Rich issued his Disciplinary Disposition Record in relation to the Abuse of Authority, which included disciplinary and corrective measures to be imposed.
9. Having reviewed the investigation and Discipline Proceedings regarding this matter to date, pursuant to Section 138(1)(c)(i) and Section 138(1)(d) of the *Police Act*, I have determined that a public hearing into this matter is required. I consider there is a reasonable basis to believe that the Discipline Authority's findings in terms of the allegations of Deceit, are incorrect, and that it is also necessary in the public interest. In terms of the public interest, I have considered factors including, but not limited to, the following:
 - a) The complaint is serious in nature as the alleged misconducts involve a significant breach of trust;
 - b) A public hearing is necessary to preserve public confidence in the police and the disciplinary process; and

- c) There is reasonable prospect that a public hearing will assist in determining the truth.
10. Furthermore, in considering whether to arrange a review on the record or public hearing, I am of the view that it is necessary to examine all witnesses present for this incident 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 in the process.
11. It is therefore alleged that Constable Adam Page committed the following disciplinary defaults, pursuant to Section 10(b) of the *Code of Professional Conduct Regulation* and Section 77 of the *Police Act*:
- 1) **Abuse of Authority:** that on September 20, 2009, Constable Adam Page committed the misconduct of Abuse of Authority pursuant to Section 10(b) of the *Code of Professional Conduct Regulation*, by using unnecessary force on Mr. Darrell Kerr.
 - 2) **Deceit:** that on December 21, 2010, Constable Adam Page committed the misconduct of Deceit pursuant to Section 77(3)(F)(i)(A) of the *Police Act*, in his capacity as a member by knowingly making misleading or false written statements in a duty report, in relation to his use of force on Mr. Darrell Kerr on September 20, 2009, at Abbotsford, B.C., by stating that:
 - (a) On September 20, 2009, Mr. Kerr exhibited a "1000 yard stare".
 - (b) On September 20, 2009, Constable Page instructed Mr. Kerr to stand up.
 - (c) On September 20, 2009, Mr. Kerr unsuccessfully attempted to pull away from Constable Page.
 - (d) On September 20, 2009, Constable Page stepped on Mr. Kerr's right calf and ankle, lost his balance and fell forward into Mr. Kerr, pushing him into the wall.
 - (e) On September 20, 2009, Constable Page told Acting Staff Sergeant Bawtinheimer at the jail, about the incident involving Mr. Kerr, telling him that Mr. Kerr wanted to talk to him and that the London Drug video should be seized and that the damaged wall should be photographed.
 - 3) **Deceit:** that on March 1, 2011, Constable Adam Page committed the misconduct of Deceit pursuant to Section 77(3)(F)(i)(A) of the *Police Act*, in his capacity as a member by knowingly making misleading or false oral statements during an interview with Staff Sergeant C. Vreeman, in relation to his use of force on Mr. Darrell Kerr on September 20, 2009, at Abbotsford, B.C., by stating that:

- (a) On September 20, 2009, Mr. Kerr stared down Constable Page which he took to be unnerving.
- (b) On September 20, 2009, Mr. Kerr tried to pull away from Constable Page.
- (c) On September 20, 2009, Constable Page stepped on the back of Mr. Kerr's right calf which caused him to lose his balance and fall against Mr. Kerr.
- (d) On September 20, 2009, Constable Page told Acting Staff Sergeant Bawtinheimer or Sergeant Schulz about the incident involving Mr. Kerr, suggesting that the London Drugs video be seized and that the damaged wall be photographed.
- (e) On September 20, 2009, Acting Staff Sergeant Bawtinheimer or Sergeant Schulz later told Constable Page that Mr. Kerr did not want to complain and that it was a dead issue.
- (f) On or about September 20, 2009, Constable Page contacted London Drugs Loss Prevention Officer Resa Assimes to advise her that someone would attend London Drugs to take a picture of the wall, get a statement from her and obtain a copy of the video.

NOW THEREFORE:

1. A public hearing is arranged pursuant to Section 138(1) of the *Police Act*.
2. Pursuant to the recommendation of the Associate Chief Justice of the Supreme Court of British Columbia, The Honourable Ian Pitfield, retired Justice of the Supreme Court of British Columbia 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, Toll Free: 1-877-999-8707, Facsimile: (250) 356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 25th day of September, 2012.



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