



Office of the
Police Complaint Commissioner

British Columbia, Canada

PH:2010-04

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

In the matter of
Public Hearing into the ordered investigation of
Constable Josh Hooker
Constable Gerald Lau
of the New Westminster Police Service

TO: Constable Josh Hooker (Members)
Constable Gerald Lau
(New Westminster Police Service)

AND TO: Inspector Mike Cumberworth,
Vancouver Police Department (Discipline Authority)

WHEREAS:

1. On January 12, 2009, at approximately 01:10 hours, New Westminster Police Constable Hooker entered the McDonald's drive-thru located at 815 McBride Boulevard, New Westminster, B.C. At that time he accessed the police information system to inquire about the license plate of a white Acura 4 door sedan located in front of him. Constable Hooker received information that the license plates on this vehicle had been reported stolen. Constable Hooker then notified dispatch of the situation and requested additional units for back-up.

Stan T. Lowe,
Police Complaint Commissioner

5th Floor, 947 Fort Street,
PO Box 9895, Stn Prov Govt
Victoria, British Columbia, V8W 9T8
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2. Constable Lau attended the scene as a cover unit and positioned his vehicle to block the exit lane, and activated his emergency lights. Constables Hooker and Lau exited their vehicles and Constable Hooker approached the suspect vehicle. Both Constables Hooker and Lau provided verbal commands to the five occupants of the vehicle directing them to show their hands and turn the car off. The driver did not comply with the commands and reverse his vehicle ramming Constable Hooker's vehicle. The driver then drove forward and rammed Constable Lau's vehicle while exiting the drive-thru lane. Constable Hooker and Constable Lau both discharged their firearms striking the suspect vehicle eight times as it drove forward. One passenger in vehicle suffered an gunshot injury to her shoulder. The suspect vehicle stopped a short distance later and the driver fled the vehicle. He was later apprehended by a K9 officer. The remaining occupants were taken into custody at the scene.
3. On April 9, 2009, Deputy Chief Constable Jones of the New Westminster Police Service requested that the Office of the Police Complaint Commissioner issue an External Order to Investigate and that Chief Constable Jim Chu of the Vancouver Police department be delegated as the Discipline Authority.
4. On April 14, 2009, the Police Complaint Commissioner issued an Order for External Investigation and the *Police Act* investigation was assigned to the Vancouver Police Department's Professional Standards Section.
5. A number of extensions were granted by the Office of the Public Complaint Commissioner to facilitate the completion of this investigation, and on May 14, 2010 Constable Darren Hall of the Vancouver Police Department Force Response Options Training Unit submitted a Use of Force Report in relation to this investigation.
6. On June 30, 2010, the Final Investigation Report into the allegation against Constable Hooker and Constable Lau was submitted to the Discipline Authority. The investigator in this matter recommended that the allegation against Constable Hooker and Constable Lau be unsubstantiated.
7. On July 20, 2010, Chief Constable Lorne Zapotichny of the New Westminster Police Service amended the earlier delegation and delegated Inspector Mike Cumberworth of the Vancouver Police Department as the Discipline Authority.
8. On July 26, 2010 Inspector Mike Cumberworth unsubstantiated the allegation and determined that there was insufficient evidence to establish that Constable Hooker and Constable Lau had committed the disciplinary default of Abuse of Authority or Neglect of Duty.

9. On August 19, 2010 the Police Complaint Commissioner sought an independent use of force opinion to assist him in the determination of this matter. On September 9, 2010 the Police Complaint Commissioner received an Analysis Report from Police Use of Force Analyst Orville Nickel.
10. The Police Complaint Commissioner, having reviewed the investigation into this matter and pursuant to section 143(1)(b) of the *Police Act*, has determined that a public hearing in this matter 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 circumstances that give rise to this investigation are serious in nature as the persons in the vehicle and the general public, were subjected to a significant risk of injury or death.
 - b) There is a reasonable prospect that a public hearing will assist in determining the truth.
11. It is therefore alleged that the Constable Hooker and the Constable Lau committed the following disciplinary default pursuant to section 77 of the *Police Act*:
 - a) **Abuse of Authority:** contrary to section 77 of the *Police Act*, subject members committed the disciplinary default of abuse of authority, in the performance of duties, intentionally or recklessly used unnecessary force.

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 William Stewart, retired Provincial Court 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

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

DATED at the City of Victoria, in the Province of British Columbia, this 29th day of November, 2010.

A handwritten signature in black ink, appearing to read 'Stan T. Lowe', with a long horizontal flourish extending to the right.

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