



OFFICE OF THE  
POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

**NOTICE OF PUBLIC HEARING**  
**(Pursuant to Section 60(4) *Police Act*, R.S.B.C. 1996, c.267)**

**IN THE MATTER OF THE PUBLIC HEARING INTO THE COMPLAINT AGAINST  
CONSTABLE GREG SMITH**

TO: Constable Greg Smith, PC #41 (Respondent)

AND TO: Interim Chief Constable Bill Naughton ( Discipline Authority)

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**Whereas** the Police Complaint Commissioner received a Form 1 Record of Complaint dated April 27<sup>th</sup>, 2004, and a Public Trust investigation was conducted by the Victoria Police Department under the Police Act, R.S.B.C. 1996, c.267, and amendments thereto, into concerns arising from a use-of-force on Thomas McKay on April 23<sup>rd</sup>, 2004 at the Victoria Police Department, 850 Caledonia Avenue in the City of Victoria, in the Province of British Columbia;

**And Whereas** on December 8, 2006 the Police Complaint Commissioner received reports of the Victoria Police Department, concluding the investigation into the complaint of Mr. Mark McKay, filed on behalf of his son Thomas McKay, and finding that Police Constable Greg Smith, PC #41 did not commit the disciplinary default of Abuse of Authority;

**And Whereas** the Discipline Authority concluded, that in light of the findings of the Police Act Investigation, that no further action was warranted;

**And Whereas** the Police Complaint Commissioner wrote the Discipline Authority on December 28, 2006 to request further investigation be conducted into the matter;

**And Whereas** the Interim Police Chief acting in his capacity as the new Discipline Authority, having conducted the further investigation has concluded in an undated report received by the Police Complaint Commissioner in November 2007, that he would not reconsider his original decision that Constable Greg Smith did not commit the disciplinary default of Abuse of Authority;

**And Whereas** the Police Complaint Commissioner, having reviewed the investigation into this matter and all relevant factors including, without limitation, those factors set out in section 60(5) of the Police Act, has determined that it is necessary in the public interest to arrange for a public hearing pursuant to section 60(4) of the Police Act into the conduct of the Respondent.

**And Whereas** in relation to the use-of-force by Respondent Police Officer Greg Smith on Thomas McKay on April 23<sup>rd</sup>, 2004, at the Victoria Police Department, 850 Caledonia Avenue in the City of Victoria, in the Province of British Columbia, it is alleged the Respondent

committed the following disciplinary default under the Code of Professional Conduct, B.C. Reg.205/98:

Greg Smith, being a police officer and a member of the Victoria Police Department, did, on or about April 23, 2004 at the Victoria Police Department in the City of Victoria, in the Province of British Columbia, commit the disciplinary default of abuse of authority by using unnecessary force on the person of Thomas McKay causing injury, and did thereby violate Section 10(b) of the Code of Professional Conduct Regulation, BC Reg.205/98.

**Now Therefore TAKE NOTICE THAT A PUBLIC HEARING IS ARRANGED PURSUANT TO SECTION 60(4) OF THE POLICE ACT**

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**Whereas** the Police Complaint Commissioner requested Associate Chief Justice P.D. DOHM of the Supreme Court of British Columbia, to name a retired Justice or Judge for appointment by the Police Complaint Commissioner as an Adjudicator at the public hearing;

**And Whereas** Associate Chief Justice Dohm selected Robert Hutchison, a retired Supreme Court Justice, for appointment by the Police Complaint Commissioner as an Adjudicator at the public hearing;

**And Whereas** the Police Complaint Commissioner has duly appointed Robert Hutchison, as Adjudicator to conduct the public hearing;

**And Whereas** the Adjudicator will hear evidence, and determine whether or not the allegation of the discipline default set out has been proven under a civil burden of proof and, if so proven, to impose disciplinary or corrective measures;

**And Whereas** the Adjudicator shall arrange and set the earliest practicable date or dates for the public hearing.

**And Further Whereas** Frank A.V. Falzon and John D. Waddell Q.C. are appointed as Co-Commission Counsel, with responsibility to present to the Adjudicator the case relative to the alleged disciplinary defaults; **TAKE NOTICE** that all inquiries with respect to this matter shall be directed to the office of the Police Complaint Commissioner:

3<sup>rd</sup> Floor, 756 Fort Street  
PO Box 9895, Stn Prov Govt  
Victoria, British Columbia, V8W 9T8  
Telephone: (250) 356-7458 / Facsimile: (250) 356-6503

DATED at the City of Victoria, in the Province of British Columbia, this 18th day of January 2008, A.D.

  
**DIRK RYNEVELD, Q.C.,**  
Police Complaint Commissioner for British Columbia