



April 7, 2009

Mayor Gregor Robertson, Chair
Vancouver Police Board
c/o 312 Main Street
Vancouver BC V6A 2T2

Dear Mayor Robertson

RE: Seizure of cameras by Vancouver Police Department officers

I am writing on behalf of the B.C. Civil Liberties Association (“BCCLA”) to initiate a policy complaint under the *Police Act* concerning the lack of adequate policy to guide Vancouver Police Department (“VPD”) members on the issue of the seizure of still and video cameras that could contain evidence of a crime.

The BCCLA has now received a number of formal and informal complaints about the practice of VPD members in this regard, and formally ask the Police Board to clarify police policy on this critical issue.

Section 2.9.6 (i) (15) of the Vancouver Police Department Policy and Regulations Manual states the following about the media filming in a public place:

15. The news media can be restricted from entering a crime scene, as with any other citizen; however, members must be aware that news media have the right to film or photograph anyone or any event in a public place, including police officers and their actions.

In our opinion, the rights to privacy, to personal property and to film a public place extend equally to private citizens as they do to the news media, although this is not reflected in current policy.

As examples of incidents that show this need for clear policy, we list the following incidents.

- On April 5, 2009, VPD officers allegedly seized the camera of Vancouver Province photographer Jason Payne as he photographed police activity following the police-involved shooting of an unidentified male in the 700-block of Jackson Avenue near the Georgia Street viaduct;
- On December 10, 2007, VPD officers detained a Channel M reporter for several hours and seized his camera after he filmed

police activity following the lethal police-involved shooting of Reuben Simeon Coleman at the Shell gas station at 41st Avenue and Knight Street;

- In private conversations with two other major media outlets, journalists described incidents paralleling those as alleged by Mr. Payne and Channel M in incidents not related to police-involved shootings; and,
- On Friday, March 20, 2009, a private citizen alleged that a VPD officer seized his camera and deleted a video he had taken of a police involved shooting.

On Monday, April 6, 2009, the spokesperson for the VPD announced to the media that VPD officers had the legal right to seize cameras and videotape from the public at their discretion without a warrant.

On being contacted by the BCCLA to ask for the legal authority for these statements, which the BCCLA believe to be wrong at law, the VPD was unable or unwilling to provide the case or statute the VPD relies on for this apparent policy. Superintendent Warren Lemcke advised the BCCLA via e-mail on the afternoon of April 6 that "We support the comments of our media person and are confident we have the authority in law."

The individuals outlined in this complaint were exercising their expressive right to photograph or film police activity. Three of the incidents were police-involved shootings, two of them lethal, and it is vitally important at these times that the Vancouver Police Department maintain its commitment to transparency and accountability. Further, in most of the alleged incidents, traditional media outlets were involved, bringing in further *Charter* rights to be free from interference by police under section 2(b).

The BCCLA asks that the Vancouver Police Board clarify policy in the Regulations and Procedures Manual to document the right of private citizens, not just the news media, to photograph or film police activity without fear of detention, the seizure of camera equipment, and the seizure or deletion of photographs or video.

If the Vancouver Police Board is of the opinion that certain circumstances allow for the detention of citizens or the seizure of camera equipment and camera recordings, those circumstances ought to be clearly outlined and *Charter*-compliant so that all members of the public and the VPD understand their obligations.

We look forward to your response.

Yours sincerely,



Robert D. Holmes
President

CC: Office of the Police Complaint Commissioner
Chief Jim Chu, VPD