



July 28, 2009

Stan T. Lowe, Police Complaint Commissioner  
Office of the Police Complaint Commissioner, British Columbia  
#320 - 1111 Melville Street  
Vancouver, BC  
V6E 3V6

VIA FAX: 604-660-1223

Dear Mr. Lowe:

**RE: Vancouver police department search and seizure of alcohol during the HSBC  
Celebration of Light in Vancouver**

I am writing on behalf of the B.C. Civil Liberties Association (BCCLA) to initiate a policy complaint under the *Police Act* regarding the random and mandatory search for alcohol by the Vancouver Police Department. According to a witness, VPD officers performed searches to limit the amount of alcohol brought to the Celebration of Light festivities in Vancouver. It is reasonable to assume that the alcohol that was found was seized. The witness can be contacted through the BCCLA, and has supplied a detailed account of the searches (attached).

The witness alleges that numerous pedestrians were approached and asked to submit to a search of their belongings. The witness approached the officers and asserted that the searches were unlawful under the *Canadian Charter of Rights and Freedoms*. The officers, in reply, asserted that the *Liquor Control Act* provides the authority with which officers can conduct mandatory searches for alcohol. However, the officers' justification is inconsistent with the January 2009 Commission for Complaints against the RCMP (CPC) report, which stipulates that the *Liquor Control Act* does not apply to such circumstances:

As applied to the search of a person, this provision requires that the peace officer must believe, on reasonable and probable grounds, that liquor is being unlawfully possessed or kept, or possessed or kept for unlawful purposes, on the person. Accordingly, before searching, the officer must subjectively believe, and must objectively have reasonable and probable grounds to believe (a) that there is liquor on the person, and (b) that an adult's possession of it is for an unlawful purpose.

The grounds must be individualized to the subject of the search. It is not enough to believe that some, or many, or most, people in a particular group are in possession of liquor for an unlawful purpose.

Under section 67 the power to seize liquor, once found, is similarly limited to liquor that the peace officer believes on reasonable and probable grounds is unlawfully possessed, or possessed for unlawful purposes.

The BC Civil Liberties Association complains that:

1. Police forces in Canada do not have the legal authority to initiate random or mandatory searches such as those that occurred in Vancouver. Moreover, the searching of randomly targeted pedestrians breaches the findings of the CPC (in an investigation of similar searches that took place on Canada day in Victoria) that such searches and seizures are unlawful and “potentially irreconcilable with ensuring that the citizen is aware of the right not to be searched.”
2. Police forces in Canada cannot seize property without legal authority. While alcohol cannot be consumed in a public place, there is no law prohibiting people from carrying closed containers of alcohol. The CPC report notes that “The Act does not prohibit possession of liquor that is in a sealed container in a public place; indeed, it does not prohibit possession of liquor that is in an unsealed container in a public place that is not a motor vehicle.” (emphasis in original)

The Celebration of Light is an occasion that draws hundreds of thousands of spectators. It is unfortunate to see such a celebration tarnished by a policy of illegal search and seizure. The Vancouver Police Department ought to issue an immediate and unequivocal apology for their actions during the Celebration of Light and ensure that such actions are never again repeated.

Yours sincerely,

A handwritten signature in black ink, appearing to read "R. Holmes", with a long, sweeping flourish extending to the right.

Robert D. Holmes,  
*President*