



JIM CHU
CHIEF CONSTABLE

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April 7th, 2009

Mr. Wayne Moriarty
The Province Newspaper
Suite #1, 200 Granville Street
Vancouver, British Columbia
V6C 3N3

Dear Mr. Moriarty:

On April 5th, some of my officers were involved in a serious incident near Union and Jackson in which a shot was fired. I understand that Jason Payne, one of your staff photographers, lives in the immediate area, learned a police incident was underway, and immediately went to the scene and began taking photographs.

Unfortunately, in the heat of the moment, there were concerns that he was coming too close to a crime scene that had not yet been secured, and there was an uncomfortable interaction with one of my officers who tried to move him back. In addition, the police officer wanted to seize the camera he was using on the belief it might contain photographs of the actual incident. I should note that this was somewhat of an unusual situation in that Mr. Payne did not arrive in a media vehicle, did not immediately identify himself as an employee of The Province Newspaper, and was not carrying press credentials (I understand that Mr. Payne has conceded that he could have handled the situation better by immediately and fully identifying himself.) As a result, our Constable was concerned about the potential loss of evidence so initially seized the camera under the "exigent circumstances" authority provided police in Section 487.11 of the Criminal Code and the common law.

Nevertheless, once it was determined that Mr. Payne did work for The Province Newspaper, his camera should have been immediately returned to him, instead of shortly after. As police officers we know, or should know, that media personnel have special protections in law, and that a search warrant is the appropriate legal mechanism to seize such evidence from a media person in these circumstances.

Unfortunately, the Constable was not given the appropriate advice by a senior officer. I believe our officers acted in good faith in what was described to me as a chaotic crime scene. However, my ability to analyze this situation days later with all of the information at hand, including our



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policies and legal training materials, leads me to conclude that the direction given by the senior officer, made in the heat of the moment, was not in accordance with our policies and training.

Therefore, I want to apologize for this unfortunate incident and assure you that we are taking steps to ensure such an incident doesn't happen again. For example, I have attached a refresher training bulletin that will remind our officers of our policies. As an aside, the Vancouver Police Department recently was criticized by Mr. Adam Smolcic who claimed that video evidence taken on his cell phone was destroyed. This allegation is being investigated by the Abbotsford Police Department. I bring this up because our police officers could also face neglect of duty sanctions if they do not secure and preserve evidence.

I would also like to point out that the Vancouver Police and The Province Newspaper have long enjoyed a professional relationship in which the VPD has assisted your publication many times in its important role in gathering and disseminating news. Likewise, The Province Newspaper and other media outlets have been of great assistance in assisting the police in making public appeals and otherwise informing the public of matters of public safety. I trust that this isolated incident will be taken as exactly that.

Sincerely,

A handwritten signature in black ink, appearing to be "J. Chu", written over a horizontal line.

Jim Chu
Chief Constable

/kc
Enclosure