



July 7, 2010

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

VIA FAX: 604-257-3878

Dear Chair Robertson and VPB members:

RE: VPD media policy in cases of police use of force

I am writing on behalf of the B.C. Civil Liberties Association (“BCCLA”) to initiate a policy complaint under the *Police Act* concerning the systemic issue of the VPD releasing inaccurate information when its officers use force against members of the public.

The BCCLA has identified a series of troubling incidents concerning how the VPD fails to make full, true and plain reports in such cases when releasing information to the media. We therefore request that the Police Board investigate how these errors are taking place and clarify police policy on this critical issue to prevent these errors from recurring. Please consider this letter a formal policy complaint pursuant to the *Police Act*.

We have noted several consistent factors with the incidents associated with VPD errors in reporting: all of the incidents have the potential to reduce public confidence in the police should the true state of things come out; all of the incidents were the subject of media interest; and almost all of the incidents involve police use of force against citizens. Further, in the majority of cases information correcting the errors was not made public by the VPD, but rather became public when a third party released videotape of the event or provided contradictory information.

We are asking you to consider policy reform in relation to how instructions are given to the VPD media section regarding the release of information, whether policies mandate full, true and plain reporting or instead mandates promotional or advocacy-oriented reporting, how the VPD media section verifies information they receive, and what process information released to the media, especially around use of force matters, goes through to ensure accuracy and transparency.

We note that in the Robert Dziekanski matter at Vancouver Airport, one of the matters of greatest concern to the public was the failure of the RCMP to correct public media releases about the incident after they obtained video evidence that contradicted the officers’ version of events. The public

release of the video by a civilian, rather than by the RCMP, seriously and irrevocably tarnished the reputation of that police force for truth-telling and transparency. The VPD should implement immediate measures to avoid the same fate.

The failure of the VPD to ensure accurate and timely information in matters of public interest and scrutiny will only undermine the VPD's goals to be a transparent and accountable force working with the confidence of the community it serves. In short, releasing misleading information about these types of incidents, rather than serving the apparent goal of avoiding criticism and a loss of public confidence, will actually itself result in public losing respect and confidence in their police force where such a result could have been avoided.

What follows are a list of high profile incidents of concern to the BCCLA related to the release of misleading information to the media:

Frank Paul - December, 1998 – 2008

The VPD told media that Frank Paul left the VPD jail under his own power. Video released at a later date by the OPCC shows he was dragged out by officers. VPD then told the aboriginal community at a public meeting that Paul was left by an officer under an overhang at the Vancouver detox facility. At the public inquiry, evidence shows that Paul died where he was left, in an unprotected area of the back lane.

Michael Vann Hubbard - March, 2009

The VPD made comments to media hinting that VPD shooting victim Michael Vann Hubbard, a homeless man, was a "suspect" in a car break in. The VPD later clarified that to say to media that Mr. Hubbard "matched the [suspect's] description and his bag appeared the same", then asserted that they "never said that he was the individual who broke into the car," arguing that the media "jumped to the conclusion". The suggestion that Hubbard was a car thief was not publicly corrected by the VPD until after the VPD was confronted with information obtained from Hubbard's family and released by the BCCLA.

Ya Wei Wu - January, 2010

In this case, Mr. Wu was beaten by two police officers when they arrived at the wrong apartment door. The VPD issued a statement asserting that Mr. Wu had "resisted arrest." The VPD later was compelled to retract that media statement and apologize for saying that Mr. Wu "resisted arrest" before the investigation was complete. No information released since has suggested that Mr. Wu resisted anything other than unlawful use of force by VPD officers.

Olympic tent city - February, 2010

In response to concerns that the VPD were sending undercover police officers to the Olympic tent city, a VPD spokesman told the Georgia Straight that one of the three officers that attended and was the subject of the complaints was in uniform, and not in plain clothes as activists suggested. Videotape taken by legal observers and later released by the BCCLA showed that all three officers identified at the tent city were in plain clothes.

Ali Ishtag - June, 2010

The VPD issued a media statement that said a physical confrontation between police and a homeless man, Ali Ishtag, was started by the homeless man and not by police and that Mr. Ishtag repeatedly grabbed for an officer's gun. A video record of the incident released by Megaphone Magazine contradicted the statement, showing a police officer aggressively kneeling Mr. Ishtag twice before Mr. Ishtag resists in an effort to defend himself, and showing Mr. Ishtag's hands well above the gun belts of both officers.

We are deeply concerned that more examples of the release of misleading information to the public by the VPD exist. The examples set out in this letter are simply the most public and apparent recent examples known to the BCCLA right now. Your inquiries should be open to the possibility that there are other cases where information released was misleading, particularly in relation to the use of force by police officers as against citizens, and if you uncover such information we trust you will correct the public record immediately.

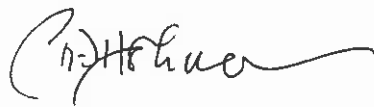
The BCCLA is hopeful that the Board will be able to develop a coherent and direct policy on VPD information release to the media that will prevent this type of misleading "error" from taking place again in the future. While we encourage the police to remain open and transparent in reporting matters to the public, we note that putting the imprimatur of the VPD on what are, prior to investigation and verification, merely accounts from individual officers involved in the incidents themselves, is not a particularly appropriate approach. Perhaps a general policy of identifying the allegations made as being merely those of individual officers involved in the matter and still subject to investigation would be appropriate.

Obviously, once the Independent Investigative Office recommended in the Braidwood Commission report is put in place, protocols for releasing information to the public and characterized it as investigated and verified or not, will have to be worked out.

In all police use of force incidents the public is entitled to know the name of the citizen involved, the nature of the incident, its time and location, the account of the officers involved and also that the VPD, the independent Office of the Police Complaint Commissioner through the investigation oversight process, and eventually the Independent Investigative Office, are investigating the matter.

We look forward to your response.

Yours sincerely,

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

Robert D. Holmes
President

cc. Chief Jim Chu, VPD; Mr. Stan Lowe, Office of the Police Complaint
Commissioner