



February 16, 2009

Assistant Commissioner Bud Mercer
Vancouver 2010 Integrated Security Unit
11411 No. 5 Road,
Richmond, BC
V7A 4E8

VIA FAX: (604) 247-8481

Dear Assistant Commissioner Mercer:

RE: Agents provocateur and the 2010 Olympic Games security plan

I am writing to you in your capacity as the head of the Vancouver 2010 Integrated Security Unit (ISU) on behalf of the B.C. Civil Liberties Association, Canada's oldest and most active civil liberties advocacy organization.

Our organization has had notification from a number of anti-Olympic related organizations that they have significant concerns about the presence and activities of undercover police officers at political meetings and in organized protests related to the Olympics. We are writing to you today to ask for some commitments from the ISU in terms of the use of these tactics.

In August of 2007, Canada hosted a North American leaders' summit at Montebello, Quebec. During this meeting, over 1,000 protesters gathered to raise concerns about various issues including the environment, trade, and human rights.

In an incident that has since become notorious, a group of three individuals dressed in black, wearing bandanas, one of whom was holding a rock, were captured on video and identified as members of the Sûreté du Québec by protesters. The Sûreté du Québec later acknowledged that the three individuals were, indeed, police officers undercover as part of the protest security operation.¹

¹ "Quebec Police admit they went undercover at Montebello protest", CBC Online, August 23, 2007, at <http://www.cbc.ca/canada/story/2007/08/23/police-montebello.html> last accessed February 16, 2009.

As the ISU is aware, the Criminal Code permits police officers, in very limited circumstances, to break the law through acts or omissions as part of an undercover investigation.² However, this exemption has clear limits, prohibiting police absolutely from “the intentional or criminally negligent causing of death or bodily harm to another person.” Given the broad legal meaning of the word “causing”, this prohibition also clearly prevents officers from inciting or instructing another individual to cause bodily harm or death to any third parties.

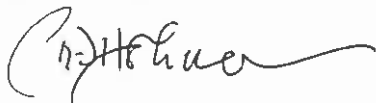
We are writing to ask for the ISU’s assurance that you will make the following commitments to the public with respect to the security planning of the ISU. These commitments are based on the law around the proper exercise of undercover investigations, as described in the Criminal Code and grounded in the *Charter of Rights and Freedoms*, in particular the rights of freedom of expression and assembly. In particular, we ask that you commit that:

1. No undercover officer will participate in, facilitate or encourage acts that could cause bodily harm or death to any other person as part of an undercover investigation;
2. No undercover officer will infiltrate a civil society or protest organization or group, unless the group is engaging or threatening to engage in either physical harm to another person or significant property damage, and the ISU has sufficient evidence of such conduct that rises to the level and quality of evidence required to ground a search warrant; and,
3. No undercover officer will seek to influence the political direction, policy positions or internal discussions of any organizations infiltrated by security forces.

In short, these commitments seek to prevent the ISU from using *agents provocateur* to discredit a protest movement, group or organization. While it may be more convenient for law enforcement to know, in advance, the activities of a given protest group, or even to direct the activities of that group, convenience is not one of the cherished or protected freedoms of our democratic society.

We would hope that these three commitments would be the policy of the ISU even independent of our contacting you; however, in light of the activities of the Sûreté du Québec in Montebello, we would appreciate the ISU making its commitments to democracy and the rule of law explicit with respect to the activities of *agents provocateur* and undercover police officers.

Yours truly,



Rob Holmes
President

² *Criminal Code of Canada*, s.25.1.