



Chief Jim Chu
Vancouver Police Department
2120 Cambie Street
Vancouver, BC V5Z 4N6

Gregor Robertson, Chair
Vancouver Police Board
2120 Cambie Street
Vancouver, BC V5Z 4N6

February 10, 2009

Dear Sirs:

Re: 2009 Draft Vancouver Police Department Business Plan

We represent organizations concerned variously with issues of policy in Vancouver related to HIV infection and treatment, and policy related to the Vancouver Police Department. We write to you today concerning the draft 2009 Vancouver Police Department Business Plan, presented to the Vancouver Police Board on January 21, 2009. While we understand that particular portions of the plan may have been reworded since that presentation, we remain concerned about the actual implementation of these initiatives in relation to the DTES.

We are particularly concerned with the proposals contained in the draft 2009 plan that call for:

- an increase in the number of police officers patrolling the Downtown Eastside of Vancouver ("DTES");
- the ticketing and identification of so-called "chronic bylaw offenders" in the DTES specifically;
- planned increases in the use of City bylaw processes (+20%), the Safe Streets Act and the Trespass Act (+10%) against the population of the DTES specifically; and,
- increased use of "street checks" by police officers in the DTES specifically.

Our overall concern is that the Vancouver Police Department's planned activities in the DTES, whose population is disproportionately disabled, aboriginal, HIV-positive and hepatitis C-positive, will increase risks of transmission of HIV and hepatitis, limit access to critical health services and will not achieve its desired goals.

Our concern arises from extensive research completed during the last major crackdown in the DTES by the British Columbia Centre for Excellence in HIV/AIDS.¹ This internationally published, peer-reviewed research finds that increased risk behaviours and decreased access to basic healthcare services by DTES residents were closely associated with the actions of the VPD in Project Torpedo. The research further concludes that the sole result of the crackdown was displacement of the drug market to Skytrain stations, the Granville mall strip, the West End, and Broadway, with no net reduction in drug use, availability, price, sale or associated negative conduct. Project Torpedo closely resembles the 2009 business plan model for the DTES.

Our second concern is that this proposal appears consistent with the effect of a street sweep in advance of the 2010 Olympics, involving mass displacement of a very HIV-affected community, and is not directed at long-standing concerns about the safety and health needs of Vancouver citizens, in particular those residing in the DTES and those that access services in that neighbourhood. Our perception that this matter is not related to simple "street disorder" is shared by police departments outside of Vancouver.²

Concerns related to perceived and actual limits to access to DTES-based services

Marginalized individuals, in particular those with addictions or other mental health issues, are less likely to access low-barrier health clinics, needle exchanges or the safer injection facility if they are in possession of illicit drugs and concerned that police officers will stop them, search them, and seize their drugs.

The B.C. Centre for Excellence in HIV/AIDS has demonstrated that during a crackdown, people in the DTES who use drugs will, after obtaining illicit drugs, immediately inject in back lanes or doorways or use previously-used needles, rather than risk going to the safer injection site or needle exchanges if they perceive a greater risk of being targeted for arrest and having drugs seized by using these facilities. As a result, crackdowns of the type proposed by the VPD

¹ Kerr T. Small W., Wood E. The public health and social impacts of drug market enforcement: A review of the evidence. *International Journal of Drug Policy*, 493(1-11).

Small W., Kerr T., Charette J., Wood E., Schechter M., Spittal P. (2006) Impacts of Intensified Police Activity on Injection Drug Users: Evidence from an Ethnographic Investigation. *International Journal of Drug Policy*, Volume 17, Issue 2.

Wood E., Spittal P.M., Small W., Kerr T., Li K., Hogg R.S., et al. (2004). Displacement of Canada's largest public illicit drug market in response to a police crackdown. *Canadian Medical Association Journal*, 170(10).

²Canadian Press, "B.C. Mountie fears 2010 Cleanup could Soil other B.C. Towns" 26 January 2009, accessed on January 26, 2009 at: http://www.google.com/hostednews/canadianpress/article/ALeqM5goP07SZFqmtixGiGxcapOoT_505g

increase the risk of transmission of HIV and other blood-borne illnesses between drug users, at significant human and financial cost.

Beyond subjectively perceived limits on access, actual “no go” orders imposed by judges on individuals identified by police as “chronic bylaw offenders” could restrict access to essential healthcare for this population. Bylaw offences that have been identified for targeting by the Vancouver Police appear to be those most closely associated with dire poverty, including sleeping outside and street vending. The population engaged in these activities needs the low-barrier healthcare services of the DTES, as they are unlikely to be able to access healthcare in any other area of the city. For bylaw offences, these marginalized individuals will not have access to legal aid, and will therefore be required to advocate for themselves to ensure continued healthcare under a movement restriction order from a judge. The implications of “no go” orders for restricting access to healthcare and the limited utility of such orders has been explicitly recognized by the B.C. Provincial Court.³

Concerns related to the legality of the VPD actions

The Vancouver Police Department in the 2009 business plan appears to be proposing unique bylaw enforcement in the DTES as compared with other Vancouver neighbourhoods. In addition, the organization appears to be proposing different interaction patterns (“street checks”) than in other neighbourhoods. It is important to note again that the population of the DTES is disproportionately aboriginal and disabled, including the disability of drug addiction, recognized as such under Canadian law.

Discrimination based on race or disability is illegal under the B.C. Human Rights Act, and section 15 of the *Canadian Charter of Rights and Freedoms*. Further, section 8 of the *Canadian Charter of Rights and Freedoms* prohibits illegal searches by police officers. Section 9 prevents arbitrary detention. Demanding names and birthdates from individuals in the DTES (“street checks”) without an investigative justification beyond geographic location, and based instead on an employment expectation by VPD management of working officers, appears to constitute an illegal search or detention or both.

We also note that Canada is obligated, under the *International Covenant on Economic, Social and Cultural Rights*, to take positive actions to realize over time the highest attainable standard of health for all those within its jurisdiction — and it is presumptively illegal, under this international human rights treaty, to take “retrogressive measures” that would lead to foreseeable increases in death and disease, such as those proposed by the VPD.

³ *R v. Reid* 1999 BCPC 12 (B.C. Provincial Court).

In early February, Canada was reviewed for the first time by the UN's new Human Rights Council on its human rights record. The poverty and ill-health affecting aboriginal people in Canada were key concerns already raised in this UN review process — it would further reflect poorly that Canada is planning, in the lead-up to the 2010 Olympics, to engage in police crackdowns that all evidence suggests will only worsen the health of some of those who are most vulnerable, with disproportionate impact on aboriginal people.

Recommended responses to street disorder

“Street disorder” is a term used by police organizations and others to identify, most frequently, the behaviours associated with abject poverty, untreated mental health issues, and chronic drug addiction. In our view, the VPD should not engage in demonstrably ineffective law enforcement practices that are potentially illegal and at the very least significantly harmful to marginalized populations to respond to health and social policy challenges.

A more appropriate response to street disorder related to drug use, mental health issues and poverty would be a significant provincial or federal expansion in health funding, including services providing detoxification on demand, voluntary mental health treatment services and counseling, as well as appropriate supportive and affordable housing to permit people to move off of our streets and into safe, secure homes. Until these preconditions are met, it is entirely inappropriate that VPD crackdowns should remove access to what few services exist from a population with no other options.

By working with government to ameliorate the issues of poverty and advocating for options for individuals other than life on the streets, the Vancouver Police Department could make a significant difference in the lives of the individuals living in the DTES, including those at risk of HIV and HCV infection and those who are already HIV- and/or HCV-positive.

We strongly urge you to reconsider what appears to be an illegal and inappropriate response to core issues of poverty and homelessness in Vancouver. We especially urge you to resist the temptation to clear the streets and parks of the DTES of their long-time residents to address the imagined perceptions of the international community in 2010.

The current residents of the DTES have as much right as any other citizens in Vancouver to enjoy and be present for the 2010 Olympics, as well as the right to have continued access to essential services during, and in the year-long lead up to, those Olympics.

Yours truly,



Marcie Summers
Executive Director
B.C. Positive Women's
Network



Richard Elliott
Executive Director
Canadian HIV/AIDS Legal
Network



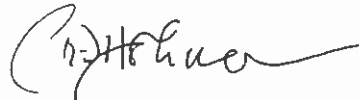
David Swan
Executive Director
AIDS Vancouver



Stephanie Grant
Executive Director
Youthco AIDS
Society



Suji Moon
Executive Director
Asian Society for the
Intervention of AIDS



Robert Holmes
President
B.C. Civil Liberties
Association



Ken Buchanan
Vice-Chair
B.C. Persons With AIDS
Society

