



Office of the
Police Complaint Commissioner

British Columbia, Canada

November 21, 2013

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

Dear Mayor Robertson,

**Re: Service or Policy Complaint - Vancouver Police Department (VPD)
OPCC File No. 2013-8451; VPD Board No. 2013-93 SP**

On March 6, 2013, the Office of the Police Complaint Commissioner (OPCC) received a copy of Mr. Doug King's Service and Policy complaint, filed on behalf of PIVOT and VANDU, regarding *"the inadequacy or inappropriateness of the Vancouver Police Department's standing orders or policies regarding by-law enforcement in Vancouver's Downtown Eastside"*. Mr. King referred to the *"the ticketing blitz of 2008"*, at which time residents of the Downtown Eastside (DTES) reported receiving tickets for many provincial and municipal law infractions, and were often given multiple tickets at one time.

Mr. King also referred to recommendations made by Commissioner Wally Oppal, head of the Missing Women Commission of Inquiry, where Mr. King states that Commissioner Oppal *"made strong and significant findings on the adversarial relationship between the VPD and residents of the DTES"*. Specifically, Mr. King notes that in one of his recommendations, Commissioner Oppal directed the Vancouver Police Department to limit the number of tickets given out for minor offences, given the barriers they create in seeking police protection.

In filing his complaint, Mr. King requested:

1. *That the Vancouver Police Department release the data collected in response to this recommendation to the public, including a comprehensive report on by-law tickets in the Downtown Eastside by location and type.*
2. *That the Vancouver Police Department make these statistics readily available to the public.*

Stan T. Lowe
Police Complaint Commissioner

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3. *That the Vancouver Police Board use the data collected to re-write or modify existing VPD policy to ensure equality in by-law enforcement throughout the City, and to actualize the Commissioner's recommendation on ticketing in the Downtown Eastside.*

On April 17, 2013, the Vancouver Police Board (the Board) requested that the Chief Constable investigate the complaint and submit a report to the Service and Policy Complaint Review Committee.

On August 21, 2013, a report was submitted to the Board. The report was authored by Sergeant Colleen Yee of the Vancouver Police Department. The report made the following two recommendations:

THAT the Vancouver Police Board Service and Policy Complaints Review Committee (the Committee) dismiss with reasons the complaint of Pivot Legal Society (Pivot) and the Vancouver Area Network of Drug Users (VANDU) dated 2013-03-06.

THAT, in the interests of public transparency, the anonymous data on by-law infractions (used to provide statistics in this report) is released publicly.

On September 18, 2013, based on the report and recommendations from the Vancouver Police Department, the Board dismissed the complaint with reasons, pursuant to section 171(1)(d) of the *Police Act*.

On October 21, 2013, the OPCC received a request from Mr. King for a review of the Board's decision, pursuant to section 172(2) of the *Police Act*.

The Police Complaint Commissioner has reviewed the report produced by the Vancouver Police Department and the request for a review, and finds that there are three areas of concern:

1. The statistics for the number of jaywalking tickets issued per year per district noted in the report rely on the year 2008 as a baseline reference for determining the relative ticketing levels since that time. In his original complaint, Mr. King refers to the 'ticketing blitz of 2008'. This appears to be corroborated by the statement in the VPD report that in 2008 there was a 'determined effort' to address the number of pedestrians struck in the DTES. The statistics shown in the report appear to directly reflect this effort, which resulted in a substantial number of additional jaywalking tickets being issued compared to all other years noted, and gives credence to Mr. King's assertion that a 'ticketing blitz' was indeed underway. With this 'determined effort' being used, it is difficult to see how the number of tickets issued in 2008 can be used as a baseline for a comparison to the following years with any meaningful results, as the 2008 statistics obviously skewed the sample. A longer period of comparison is required, exempting the 2008 statistics, to provide a more meaningful sample for analysis.
2. The review has also noted that statistics for the number of pedestrians struck per District per year are given only for the years 2008 and 2012, which does not allow for a meaningful comparison to the similar statistics for jaywalking tickets issued.

3. Regarding the implementation of Commissioner Wally Oppal's recommendations from the Missing Women Commission of Inquiry, the report from the Vancouver Police Department does not address the manner in which those recommendations have been encapsulated in policy. The report refers to the 'steady decline' in by-law tickets issued since 2008, and that 'many collaborative efforts are in effect to improve relations and quality of life issues for the community'. Commissioner Oppal's recommendation 5.9 states:

That the City of Vancouver and the Vancouver Police Department take proactive measures to reduce the number of court warrants issued for minor offences by:

- *Reducing the number of tickets issued and charges laid for minor offences;*
- *Developing guidelines to facilitate greater and more consistent use of police discretion not to lay charges; and*
- *Increasing the ways in which failures to appear can be quashed early in the judicial process.*

On December 17, 2012, in a media release, Chief Constable Chu stated that:

"We know that nothing can ever truly heal the wounds of grief and loss but if we can, we want to assure the families that the Vancouver Police Department deeply regrets anything we did that may have delayed the eventual solving of these murders."

On January 14, 2013, in an administrative report to the Board (Board Report 1301L02), Chief Constable Chu stated:

"The VPD is committed to moving quickly to implement the Commissioner's recommendations as they apply to the VPD and to working with the Provincial Government's report champion, former Lieutenant Governor Steven Point, and other stakeholders in ensuring that all police-relevant recommendations are addressed in a comprehensive and timely fashion."

Section 173(1)(b) of the *Police Act* states:

(1) Subject to subsection (2) of this section, whether or not the person who made the complaint has requested a review under section 172 (2) [if investigation or study is initiated under section 171], the police complaint commissioner may do any of the following:

(b) recommend to the board further investigation, study, courses of action or changes to service or policy;

Pursuant to section 173(1)(b) of the *Police Act*, the Police Complaint Commissioner recommends that the Vancouver Police Board request further investigation and produce the statistics of:

- 1) The number of jaywalking tickets issued per District per year from 2002 to 2012 without the incorporation of the 2008 statistics.
- 2) The number of pedestrians struck per District per year from 2002 to 2012, including the statistics from 2008.

Section 177(4)(c) of the *Police Act* states:

(4) The police complaint commissioner may also do any of the following:

(c) make recommendations to a board that it examine and reconsider any policies or procedures that may have been a factor in conduct that is the subject of a complaint or an investigation under this Part;

Pursuant to section 177(4)(c) of the *Police Act*, the Police Complaint Commissioner recommends that the Vancouver Police Board make a policy which incorporates Commissioner Oppal's recommendation 5.9, and to report on what steps the Board has taken to incorporate the other recommendations into policy.

The Police Complaint Commissioner reserves the right to make further recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stan T. Lowe', with a long horizontal flourish extending to the right.

Stan T. Lowe
Police Complaint Commissioner

STL/kr

Copy: Clayton J.D. Pecknold, Director, Police Services
Chief Constable Jim Chu