

Backgrounder on By-Law Enforcement in Vancouver's Downtown Eastside

In the lead-up to the 2010 Olympic Games the Vancouver Police Department decided to ramp up enforcement of the City's By-Laws in what has commonly been referred to in the Downtown Eastside as the ticketing blitz of 2008. Residents of the Downtown Eastside reported getting tickets for any possible infraction, and were often given multiple tickets at once. According to a year-end performance report, and a report to the police board by Supt. Warren Lemcke, the police handed out 1,331 city By-Law tickets and 970 tickets for violations of the Safe Streets and the Trespass Act in 2008, up from 247 and 297, respectively, in 2007. 1,264 of those tickets were issued in one month alone, December 2008.

In the 2009 Strategic Plan the VPD even went so far as stating that it would require BET members to make four street checks per block in the Downtown Eastside, demanding identification and running it in their database to see if the person had any outstanding warrants. This provision was later removed after it was pointed out that random street checks were a clear violation of the *Canadian Charter of Rights and Freedoms*.

Community groups and politicians were outraged by the tactics employed by the VPD, and spoke out vocally against the ticketing blitz. Councillor Geoff Meggs from Vision Vancouver made the following statement in March of 2009 after the matter was raised with the Vancouver Police Board:

“The mayor's made it clear to the police board that these ticketing procedures cannot be used in one neighbourhood for a particular purpose,” says Vision councillor Geoff Meggs. “If they're valid tools, they've got to be used everywhere and they should be used without discrimination; so that you're just as likely to be ticketed in Kerrisdale as the Downtown Eastside.” - Vision Councillor Geoff Meggs, Mar. 22, 2009

http://www.megaphonemagazine.com/legacy/content/ticket_troubles_downtown_eastside_community_protests_police_crackdown.html

Eventually the VPD and the City of Vancouver were forced to acknowledge that the ticketing blitz of 2008 was ineffective and had no notable effect on behaviour. City Councillors began working with community groups to take proactive measures to address problems that the VPD purported to address through ticketing with the creation of a vendors market on Sundays, improved pedestrian safety initiatives, and the expansion of access to public toilets for residents who don't have a decent bathroom where they live. The VPD has not only been absent from these proactive community initiatives but has actively opposed them - for example speaking against the 30km/h speed limit in the DTES and harassing people as they get set up for the Sunday Market.

By-Law Enforcement as Proactive Policing in the Downtown Eastside

In the Vancouver Police Department Strategic Plan for 2013 there is a continued emphasis on what the VPD call 'proactive policing'. Proactive policing typically refers to when police take action and attempt to prevent crime, rather than respond to calls or complaints from citizens. It has traditionally taken the form of 'stop and search', or 'stop and question' procedures, which as noted above have been commonly rejected in Canadian law as unconstitutional. In Vancouver's

case it would appear that the police have now adopted the approach of enforcing the city By-Laws as a means of obtaining an individual's identification, which can then be used to keep tabs on an individual and search for outstanding warrants. In this sense the enforcement of city By-Laws becomes a means with which the VPD can reach an end of searching for outstanding criminal offences.

It is worth noting that proactive policing has been linked to discrimination against marginalized communities, particularly those of a racial minority (<http://www.sagepub.com/gabbidonstudy/articles/Brunson.pdf>)

Even though the ticketing blitz has ended, the Vancouver Police Department continues to enforce By-Laws at significantly higher rates in the Downtown Eastside and Strathcona compared to any other neighbourhood, as evidenced by the statistics revealed today. These tickets often lead to outstanding warrants, as a recent survey at the Sunday street market found that 3 out of 30 people had recently been given a warrant for failing to appear on a By-Law offence. These statistics directly contradict previous statements by the VPD that ticketing has decreased, and that warrants are not issued for By-Law infractions. For example, in August of 2012 Cst. Lindsey Houghton made the following statement to the Vancouver Sun:

"Vancouver police Const. Lindsey Houghton said that a couple of projects conducted by police have determined street vendors do sometimes sell goods they steal from cars, convenience stores and liquor stores. But he said the number of tickets issued for street vending has declined dramatically over the past five years, from 79 in 2008 to one as of June this year."

<http://www.vancouversun.com/Downtown+Vancouver+street+vending+tough+sell/7142281/story.html#ixzz2MgygevDH>

Our statistics show that in fact 94 tickets had been issued for street vending before June 1st of that year, and that Const. Houghton had chosen only to speak about one of the two By-Laws in which tickets are issued, and did not reference the Street and Traffic By-Law.

The Missing Women Commission of Inquiry and Police Relations in the DTES

The recent final report from the Missing Women Commission of Inquiry made significant findings on the adversarial relationship between the VPD and residents of the DTES. In one of his recommendations Commissioner Wally Oppal directed the Vancouver Police Department to limit the amount of tickets given out for minor offences, given the barriers they create in seeking police protection. Recommendation 5.9 is worded as follows:

"I recommend 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."

Given the findings of Commissioner Oppal, and the recently obtained statistics which show continued discrimination against DTES residents through By-Law enforcement, VANDU and Pivot Legal Society have filed the attached Service and Policy Complaint requesting the VPD change their policy around By-Law ticketing.