



March 1, 2010

Chair Dean Fortin
Victoria Police Department Police Board
850 Caledonia Avenue
Victoria, BC
V8T 5J8

VIA FAX: 250-384-1362

Dear Chair Fortin:

Re: Policy complaint concerning off-duty speech by Victoria Police Department officers

I write to you as President of the B.C. Civil Liberties Association (BCCLA) in your capacity as Chair of the Victoria Police Board. Please accept this policy complaint submitted by the B.C. Civil Liberties Association, Canada's oldest and most active civil liberties organization.

The BCCLA has received unconfirmed information that Victoria Police Department senior management has issued an order preventing Constable David Bratzer from speaking at a drug-policy conference on the evening of March 3, 2010.

We understand the background of this allegation to be that the conference takes place outside of Mr. Bratzer's scheduled work hours, and that Mr. Bratzer would be speaking on behalf of "Law Enforcement Against Prohibition" at the invitation of the City of Victoria for a conference concerning harm reduction issues.

In light of this allegation, the BCCLA is concerned that the Victoria Police Department is taking an unduly punitive and anti-free speech position without justification. If this allegation is accurate, the Victoria Police Department's policy is at odds with the policy of the Vancouver Police Department, with the only distinction between the actions of officers on the two forces being that Mr. Bratzer is speaking against policy in favour of harm reduction and decriminalization of drugs, rather than against policy in opposition to harm reduction and decriminalization of drugs.

We draw two examples to your attention of the Vancouver Police Department's tolerance for Vancouver Police officers to speak publicly in their personal capacity on matters of drug policy. Many others exist. In 2007, Vancouver Police Department (VPD) officer John McKay criticized the four pillar approach to drug policy in Vancouver in the Ottawa Citizen

newspaper, calling it “a failed social experiment.”¹ At the time the VPD supported, and still currently supports, the four pillar approach. No action, that the BCCLA is aware of, was initiated against Mr. McKay’s public comments.

In 2008, Pivot Legal Society filed a complaint filed against VPD officer Mark Steinkampf for criticizing the Insite safe injection site in the media, contrary to VPD policy, while in uniform and on duty. His complaint resulted in the following finding by a VPD senior management investigator in a letter dated September 4, 2009:

. . . Sergeant Steinkampf’s expression of what were clearly his personal views did not constitute a disciplinary default under the Police Act. . . there are many examples of members publicly expressing opinions at variance with VPD policy.

The BCCLA holds that the *Charter of Rights and Freedoms* obliges police departments to come to the same conclusion as was reached in the Steinkampf complaint, in so far as that complaint result relates to Mr. Steinkampf’s off duty comments on drug policy to a journalist.

Where an off-duty communication by a member is a critique or endorsement of government or department policy, and it is not stated or implied in that communication that the member is unable or unwilling to enforce the law impartially and according to his or her statutory and professional duties, it is inappropriate for a police department to interfere with that communication. We urge you to develop policy that encompasses the Department’s *Charter* obligations and privileges the free speech of members while off duty.

We look forward to hearing from you shortly.

Yours truly,



Jason Gratl
Vice President

¹ “Report calls for review of crack-pipe program”, Ottawa Citizen, June 16, 2007. Available online at: <http://www.canada.com/ottawacitizen/news/city/story.html?id=4119f93e-f32a-40cf-bd1c-b4c75e74397e>