

# **Confronting Poverty and Addiction on Vancouver's Downtown Eastside**

**The City of Vancouver's response  
to the Human Rights Watch report on  
health and human rights impacts of the  
Vancouver Police Department's City-wide  
Enforcement Team (CET) Initiative**

---

**June 9, 2003**

**MAYOR LARRY W. CAMPBELL**



**CITY OF VANCOUVER**

**CONFRONTING POVERTY AND ADDICTION  
ON VANCOUVER'S DOWNTOWN EASTSIDE**

**The City of Vancouver's response to the Human Rights Watch report on  
health and human rights impacts of the Vancouver Police Department's  
City-wide Enforcement Team (CET) initiative**

**Executive Summary**

On May 7, Human Rights Watch (HRW) released the results of four days of research in Vancouver into the health and human rights impacts of a drug enforcement strategy undertaken by the Vancouver Police Department (VPD).

HRW alleged that abuses of police authority were having such a severe impact on addicts' access to health services that the police initiative could fuel "a new wave of transmission of HIV and sexually-transmitted diseases as well as...increase the complications from overdose, including death."

The City of Vancouver, the VPD and Vancouver Coastal Health (VCH) are all committed to uphold the highest possible standards of ethical conduct, and welcome independent scrutiny to ensure those standards are upheld. Violations of human rights or medical ethics must be confronted openly and remedied expeditiously. No one is interested in continuing a policy that does harm to our citizens.

The City of Vancouver has reviewed the HRW report with the Vancouver Police Department and Vancouver Coastal Health, the City's key partners in the Four Pillars

Drug Strategy now being implemented to tackle addiction and poverty in the city's Downtown Eastside. The Four Pillars Drug Strategy has brought together a broad coalition of community organizations to confront the drug trade and crisis of addiction with a four-part program of prevention, treatment, harm reduction and enforcement.

The HRW report's unsubstantiated allegations, incorrect statements and flawed research cast a pall over the reputations of the Four Pillars partners.

The City has concluded that:

- allegations of police misconduct were based on hearsay and are not supported with evidence. These allegations, subject to independent verification, appear to be unfounded;
- in particular, HRW's allegation that they observed Vancouver Police conducting an illegal strip search has been refuted by a full investigation of the incident, including statements from the man arrested at the time;
- although it is too early to make categorical statements about the health impacts of the enforcement strategy, early analysis shows minimal negative impact, and resources are currently in place to identify such impacts;
- avenues to address complaints of police misconduct of the type recommended by HRW are already in place; and,
- a full evaluation of the police enforcement initiative of the type recommended by HRW is already in place.

The City of Vancouver is urging HRW to withdraw its May 7 report, reconsider its findings in light of information provided by the City, and issue a revised report that sets the record straight.

## 1. Introduction

On May 7, 2003, two researchers from Human Rights Watch held a news conference in Vancouver to release a report based on four days of research in Vancouver's Downtown Eastside.

The report, entitled *Abusing the User: Police Misconduct, Harm Reduction and HIV/AIDS in Vancouver*, charges that police actions undertaken in support of Vancouver's Four Pillars Drug Strategy - a comprehensive strategy to reduce the harm associated with drug dealing and injection drug use - may in fact "fuel a new wave of transmission of HIV and other blood-borne and sexually-transmitted diseases as well as...increase the risk of complications from overdose, including death."

Human Rights Watch declares in their report that its "hallmark and pride...is the even-handedness and accuracy of our reporting."<sup>1</sup> These qualities are absent in *Abusing the User: Police Misconduct, Harm Reduction and HIV/AIDS in Vancouver*. The report received regional and national media coverage and international distribution through HRW's Web site.<sup>2</sup>

The report casts a pall over the reputations of the City of Vancouver, the Vancouver Police Department, Vancouver Coastal Health, and over the Four Pillars Drug Strategy that the three organizations are pursuing in partnership with the community to confront the crisis of addiction and poverty on the Downtown Eastside.

---

<sup>1</sup> <http://www.hrw.org/about/whoweare.html>

<sup>2</sup> *Abusing the User: Police Misconduct, Harm Reduction and HIV/AIDS in Vancouver*, Human Rights Watch Vol. 15, No.2 (b) B May 2003, p.1.

The partners in the Four Pillars Drug Strategy share a determination to reduce the harm to communities and injection drug users that is the result of injection drug use, including the spread of HIV/AIDS infection, which HRW correctly notes is at epidemic levels in Vancouver.

Vancouver's Four Pillars Drug Strategy has brought a broad coalition of community, health, business and non-profit organizations together to confront the drug trade and crisis of addiction with a four-part program of prevention, treatment, harm reduction and enforcement.

The HRW report charges our community with betraying the basic human values that lie at the heart of the Four Pillars Strategy:

- that no people are disposable;
- that addiction is an illness; and
- that we should seek to reduce the harm caused by addiction, not increase it.

The City of Vancouver, the VPD and VCH are all committed to upholding the highest possible standards of ethical conduct, and we welcome independent scrutiny to ensure we live up to those standards. Violations of human rights or medical ethics must be confronted openly and remedied expeditiously. No one in Vancouver is interested in continuing a policy that does harm to its citizens.

Regrettably, the HRW report alleges wrongdoing without providing the information necessary to confront the issues raised. The report contains serious factual errors, many of which could have been eliminated through more diligent research or by conducting interviews with the City, the VPD and VCH.

The City of Vancouver, the Vancouver Police Department and VCH hope through this response to convince HRW that its report must be withdrawn and a new report released, one that meets the test of “even-handedness and accuracy.”

Specifically, I urge HRW to provide the City of Vancouver or the Province of B.C.’s Police Complaint Commissioner with specific documentation of the allegations of police abuse. If that is not possible, I urge HRW to withdraw those allegations.

## **2. Vancouver’s Four Pillars Drug Strategy**

Serious factual errors in the report suggest that HRW researchers conducted only partial background research on basic facts on Vancouver’s Four Pillars Drug Strategy and how it is being implemented in Vancouver. I would like to provide some of those basic facts here.

In 2000, former Vancouver Mayor Philip Owen released the “Framework for Action: A Four Pillar Approach to Vancouver’s Drug Problems”, which outlined an integrated approach for addressing Vancouver’s drug problem and open drug scene, particularly in the Downtown Eastside.

To gain public support for the four pillars approach in Vancouver, the City released papers, held community forums and discussions, and worked with partner organizations and various levels of government to create an urban development agreement (called the Vancouver Agreement). In May 2001, the four pillars approach (harm reduction, prevention, treatment and enforcement) was adopted as policy by the City of Vancouver.

To engage the community and build support for the Four Pillars Drug Strategy, the City created the Coalition for Crime Prevention and Drug Treatment in 1997 as a community partnership, one that has grown to a membership of over 60 organizations dedicated to improving crime prevention and drug treatment in the City of Vancouver. The coalition has recently been reconvened and renamed the Four Pillars Coalition, and will continue play an active role in supporting four pillars implementation in the months and years to come.

The four pillars approach was first developed and implemented in Switzerland and Germany in the 1990s. In Geneva, Zurich, Frankfurt, Sydney (Australia) and other cities, the four pillars approach has resulted in a dramatic reduction in the number of addicts consuming drugs on the street, a significant drop in overdose deaths, and a reduction in infection rates for HIV and hepatitis.

History tells us that enforcement alone is not a solution to Vancouver's drug problem. Only an integrated approach that includes prevention, treatment and harm reduction has proven to be effective.

Surveys show overwhelming public support in Vancouver for all elements of the drug strategy, including harm reduction. In 2002, I was elected mayor with a strong mandate to work with our partners to continue to move implementation of the four pillars plan forward, and to work towards the opening of the first supervised injection site (SIS) in North America.

No one agency is responsible for implementation of the Four Pillars Drug Strategy. It is a co-operative project that relies on agencies like the VPD, the City and VCH to develop and implement the pillars within their areas of responsibility.

The federal government must also approve the operation of a supervised injection site (SIS) under its guidelines and in line with its legislative authority.

HRW's report does not recognize or acknowledge any of these facts.

Citing a news report, the HRW report states that "...City officials said their application for a safe site was delayed as they waited for guidelines from the federal health ministry to apply for funds to support the site." There are several factual errors in this statement.<sup>3</sup>

First, it is Vancouver Coastal Health - not the City of Vancouver - that submitted an application to operate the supervised injection site. Second, there has been no delay in the application - Health Canada is responding in a timely manner. Third, the federal government's guidelines for a supervised injection site in Vancouver provide an exemption from federal law - not a means to obtain funding. And finally, federal guidelines for exemption were released in December 2002. VCH's application for exemption now awaits final federal approval, which we expect to be granted shortly.

The HRW report also cites an April 11 article in the *Vancouver Sun* as the source for the claim that "the city government announced that it has a \$50 million plan for the three pillars - treatment, prevention and harm reduction - other than enforcement, but it lacks the funds to implement the plan." In fact, the article cited makes it clear that Vancouver Coastal Health, which is provincially funded, is proposing the \$50

---

<sup>3</sup> *Abusing the Abuser*, p. 9 The article cited, from the *Vancouver Sun* on April 11, actually said the following: "Mayor Larry Campbell had promised to have a safe injection site in operation as soon as possible after his election in November. But the date kept getting pushed back as everyone waited for Health Canada to develop a process for applying for a safe injection site. Ultimately, the health authority's proposal didn't get to Ottawa until March 7 . . . "

million plan.<sup>4</sup>

HRW also overlooked a report published three days earlier in the same paper, in which B.C. Health Minister Colin Hansen "...said he is confident money will be found to run the country's first safe-injection site for drug users among the government partners that are interested in the project."<sup>5</sup>

### 3. Comment on HRW research methods

Human Rights Watch says it emphasizes "on-the-ground" research that often takes months to be collated and released. According to the HRW Web site, media relations are a critical part of HRW's work. After the release of reports to the news media, HRW says that it seeks to meet with officials concerned. For example, the report of alleged abuses by the Israeli army in Jenin was followed with a three-hour meeting with Israeli Defence Force representatives.<sup>6</sup>

In the case of the Vancouver, however, HRW researchers say they spent only four days in the city. Their report was released just three weeks later, without any contact with City officials, other than two city councillors who are not involved in the Vancouver Police Board, the leadership of the Four Pillars Drug Strategy, or Vancouver Coastal Health.

The City of Vancouver first learned of the report as a result of media inquiries. Although HRW representative Jonathan Cohen offered me a meeting when contacted

---

<sup>4</sup> *Abusing the abuser*, p. 7; *Police plan to clean up drug market was hatched last fall*, *Vancouver Sun*, April 11, 2003, p. A1.

<sup>5</sup> B.C. backs injection site, *Vancouver Sun*, April 8, 2003, p. B1

<sup>6</sup> <http://www.hrw.org/audio/2002/peter>

by my office on the morning of May 7, he refused to discuss his findings or to provide a summary, although media outlets had received the report days before on an embargoed basis. Clearly, execution of the media strategy was more important than a dialogue with the agencies responsible for the Four Pillars Drug Strategy.

It is striking that even in very dangerous conditions of civil war and ethnic cleansing, HRW seeks to document individual testimony of human rights violations with photographs of the people concerned.<sup>7</sup> The Vancouver report, by contrast, was based on only four days of observation in a city with a falling rate of violent crime that would be the envy of many American cities. Not a single complainant is identified by name, nor are any photos produced to support HRW's allegations.

Vancouver is not Afghanistan or Kosovo. Our citizens enjoy a free press and full political freedoms. There are multiple avenues to seek redress for wrongdoing. The City's appeal to those who see wrongdoing is to document complaints and bring them forward so they can be dealt with.

A review of the report indicates that the HRW researchers:

- interviewed a narrow range of service providers, ignoring important individuals and organizations involved in the Downtown Eastside;
- misrepresented the status of the Four Pillars Drug Strategy by omitting widely-available factual information about the strategy and the steps taken to open a supervised injection site;
- failed to conduct even elementary fact-checking about police practices and other matters; and,
- apparently failed to document through photographs or witness interviews the

---

<sup>7</sup> *ibid.*

alleged incident of a strip search directly observed by HRW representatives - evidence that could have triggered a full investigation. (The Vancouver Police Department has investigated the strip search incident and the findings are reported below.)

#### **4. Misrepresentation of the Four Pillars Drug Strategy**

HRW charges that since my term began in January 2003, "the crackdown has represented Vancouver's only conspicuous anti-drug initiative."<sup>8</sup> This is not true.

The election conferred an overwhelming mandate to me, and to Vancouver City Council, to work with our partners to implement the Four Pillars Drug Strategy, which will include a pilot research project into a supervised injection site for injection drug users.

Legal operation of such a site, however, requires exemption by Health Canada from provisions of the *Controlled Drugs and Substances Act*, which is concerned with possession of illegal narcotics. This exemption is a pre-condition for police support and a requirement under Canada's international treaty obligations. These guidelines were not released in draft form until early December 2002.

In mid-December, I flew to Ottawa to participate in a special briefing of police and drug treatment specialists from across Canada. At this meeting, sponsored by the Canadian Centre on Substance Abuse, Health Canada briefed participants on the work necessary to secure an exemption to conduct research and evaluation of supervised injection sites. Health Canada pledged to respond to an application within 60 days.

---

<sup>8</sup> *Abusing the User*, p. 2.

Since that meeting:

- Vancouver Coastal Health applied for an exemption on March 7 under the guidelines;
- VCH announced that it had proposed a site at 135/139 East Hastings for the supervised injection site;
- the B.C. Minister of Health confirmed in an interview that he expected the governments concerned would find necessary funding for the project;
- I convened a large public meeting of the Four Pillars Coalition on April 15, 2003 which included the Vancouver Area Network of Drug Users (VANDU) (recipient of an HRW award for its activities to report on progress in implementing the strategy); and,
- the Vancouver Foundation, one of the city's most respected philanthropic organizations, has committed to work for the creation of a multi-million dollar Four Pillars Fund to support expansion of prevention and treatment services.

Other achievements in harm reduction, prevention, treatment and enforcement - the four pillars - in Downtown Eastside to date include:

- development and expansion by VCH of four community health centres, including expanded primary health care clinics, a contact centre targeting street-entrenched drug users and a life skills centre with programming for drug users and those moving towards reduction or cessation of drug use;
- expansion of outreach efforts at various levels of government to increase contact with marginalized injection drug users;
- expansion and decentralization of needle exchange services throughout the city by VCH and contracted community agencies;
- creation of a new Daytox program under the Vancouver Agreement, of a day

- treatment program for those wishing to detox in a non-residential setting;
- support for North America's first clinical research trial in heroin prescription, which will be implemented in the coming months;
- streamlining of the City of Vancouver's ability to conduct Business Licence Hearings of businesses that do not conform to minimum standards as set out in city bylaws or are involved in criminal activity;
- physical redesign of the corner of Main and Hastings in coordination with police enforcement to eliminate an open-air drug market in front of the Carnegie Centre (also part of the Vancouver Agreement).

Although not a formal element of the Four Pillars Drug Strategy, economic development and renewed investment in the Downtown Eastside will also be vital to improve life and bring stability to the community. Since November 2002, the City has:

- peacefully resolved a long-term “squat” of more than 100 homeless people and poverty activists at the vacant Woodward’s department store building by providing long-term housing;
- concluded the purchase of the Stanley New Fountain Hotel to allow the provision of a further 100 low-income housing units, many of which have been allocated to participants in the Woodward’s squat; and,
- concluded the purchase of the Woodward’s building for redevelopment, and secured a provincial commitment for 100 non-market housing units as part of the agreement;
- secured \$20 million in federal-provincial funding for the Vancouver Agreement, a national model for government co-operation that has revitalization of the Downtown Eastside as a priority.

These developments mark a watershed in the long battle to support the community of the Downtown Eastside and bring it into the mainstream of the city's economic and social life. The Four Pillars Drug Strategy cannot succeed without progress on this front as well.

All of these developments have been exhaustively covered in the news media, and all had been completed by the time HRW researchers visited the City, yet none are acknowledged in the report.

In fact, news of the progress on the Four Pillars Drug Strategy was so widespread that Dave Murray, a special assistant in Washington's Office of National Drug Control Policy, visited Vancouver to warn of the American administration's unease.<sup>9</sup> He targeted both federal proposals to decriminalize marijuana possession and the Four Pillars Drug Strategy in meetings with reporters, police and City officials.

During the same week, Downtown Eastside activists announced they had opened their own "safer" injecting site several weeks earlier, without government sanction, to dramatize their demand for quicker action on harm reduction. VPD Chief Jamie Graham and I agreed to not interfere with the site, provided it did not become a public nuisance or a location for criminal activity. It remains open at the time of writing.<sup>10</sup> This is not consistent with the tide of police oppression suggested by HRW.

To ensure timely approval of the VCH application, I traveled to Ottawa during the last week of April to meet with Health Canada officials and members of the federal cabinet, including Solicitor General Wayne Easter, who is responsible for the RCMP and law enforcement in Canada.

---

<sup>9</sup> "Canada's drug policy draws U.S. warning," *Vancouver Sun*, May 2, 2003. p. 1.

<sup>10</sup> "Police tone down criticism of drug site," *Vancouver Sun*, May 1, 2003, p. A10

I confirmed Ottawa's readiness to approve the VCH application for the supervised injection site, and its further willingness to consider funding the research and evaluation component of the site over the first three years of the project. These developments were reported several days before the HRW report was released.

Since my return to Vancouver, the City has issued development and building permits for the supervised injection site, and VCH has begun renovations. Health Canada has indicated that its response to the VCH application is imminent.

The reality is this: Vancouver's partners in the Four Pillars Drug Strategy are poised to move forward with North America's first-ever supervised injection site as part of comprehensive program that has extraordinarily broad public support.

None of these facts are reflected in the HRW report.

## **5. Response to Allegations of Police Abuse**

The HRW report focuses on three key areas: allegations of police abuse, the weaknesses of the complaints process and the alleged health consequences that are resulting from alleged police abuses. I would like to address the police issues first.

Although HRW refers to the police initiative as "Operation Torpedo", the program is properly called the City-wide Enforcement Team, or CET. The CET project was outlined to Vancouver City Council on March 18, 2003, in a report by Chief Constable Jamie Graham. It involves the re-deployment of 60 officers to the Downtown Eastside for a 90-day period to "take on the task of disrupting the open drug market and interrupting the cycle of crime and drug use" - and restore order to a community in

distress. Police officials made it clear that their objective is to target dealers, not users.<sup>11</sup>

(Operation or Project Torpedo was the title given to a successful sweep against known drug traffickers that preceded the enforcement initiative. Purchases of drugs by undercover police officers between March 18 and April 4 resulted in charges against 162 individuals for trafficking, more than 75 percent of whom were “for-profit” dealers, not addicts.<sup>12</sup>)

Vancouver City Council is awaiting an evaluation of the first phase of the VPD’s enforcement initiative before considering the VPD’s request for additional financial resources to extend the program.

Some community activists immediately protested the police initiative, but Inspector Doug LePard, who leads the police program, challenged activists to report specific examples of police abuse. He cited the widespread approval the initiative was garnering from the public, including long-time Downtown Eastside residents.

Media commentary on the police initiative also reflects the wide public support for the Four Pillars Drug Strategy and the CET initiative. “Improved enforcement is important,” wrote the *Vancouver Sun*, in an editorial which reviewed the progress to date to implement the Four Pillars program, “but it must work hand in hand with the other pillars once they’re up and running.”<sup>13</sup> An editorial in *The Province*, Vancouver’s other major daily, was even more supportive. On the ground, there appears to be widespread public support for the CET initiative, including in the Downtown Eastside.

---

11

<sup>12</sup> Statistics provided by VPD inspectors Kash Heed and Bob Rich, April 7, 2003.

<sup>13</sup> “More money for police is not the drug solution,” *Vancouver Sun*, April 4, 2003.

This does not excuse police wrongdoing, but it is important context that is missing from the HRW report.

Abuses of police authority are intolerable. The HRW report claims widespread abuses exist, but fails to offer the specifics necessary to root them out and take action to address them.

a. Allegations of abuse

A proper investigation of the charges made by HRW is very difficult because all but two of the allegations are hearsay. None of the complainants are identified by name. The City of Vancouver and the VPD invite those concerned to come forward to the VPD or to the Office of the Police Complaint Commissioner to ensure a proper investigation is carried out.

VPD staff has thoroughly reviewed the HRW report in an effort to substantiate the charges made. A detailed analysis of the evaluations, to the degree that is possible, is available from VPD. Many of the allegations are impossible to assess because of the lack of detailed information available in the HRW report. Many of the events described could be legal or illegal, depending on the circumstances in each case.

In addition, HRW betrays a weak understanding of Canadian law, frequently citing American practices that are not relevant to the Canadian setting.

Under Canadian law, police are authorized by statute to arrest with a warrant, if a valid warrant exists, and without a warrant, if there are reasonable grounds for an arrest. It should be noted that, in Canada, the courts, not the police, issue search and seizure warrants. Police are also authorized, by the common law, to detain

persons, short of arrest, for investigative purposes, if there is an "articulable cause" for doing so. There are other authorities for search short of arrest, including powers found in the Controlled Drugs and Substances Act and the B.C. Liquor Control and Licensing Act.

By statute, police can use reasonable force if it is necessary in order to do anything they are authorized by law to do. For instance, they can use as much force as is reasonably necessary in order to make a lawful arrest and to conduct a search incidental to an arrest.

The reasonableness of the level of force used depends entirely on the circumstances. If, in any given set of circumstances, an arrest or detention is unlawful or the level of force used is excessive, the police officers involved are potentially exposed to civil and criminal liability and to disciplinary measures that might be imposed pursuant to the comprehensive public complaints and police discipline procedures established under the Police Act. The municipality would also be potentially exposed to civil liability for such police misconduct by way of a statutorily imposed vicarious liability.

In order to know whether there is any merit to the allegations of police misconduct described in the HRW report, it would be necessary to know all of the facts surrounding each incident. For instance, it would be necessary to know, from both the perspective of the police and that of an objective observer, whether there was a valid arrest warrant in existence, whether there were reasonable grounds for an arrest, whether there was an "articulable cause" for detention and whether, in any of those circumstances, it was necessary for police to use force. Without that information, it is impossible to know whether there is merit in any of the allegations contained in the report.

However, two of the most serious incidents cited by HRW did include specific information. VPD has done a careful review of these incidents, as well.

A man named Gary L., who had a warrant out for his arrest on charges of drug trafficking, complained of being chased and tackled by police, being beaten, restrained in handcuffs and leg irons, and attacked with a night stick with a retractable blade.

On the face of it, this allegation lacks credibility.

VPD Inspector Doug LePard notes that Vancouver Police do not have nightsticks with such blades, and are not issued leg irons. They do have the right to restrain individuals with outstanding warrants who run when approached by officers.

HRW says this individual was hospitalized and claimed to have filed a complaint. As of June 4, VPD had not received a complaint regarding this matter nor had they been advised of a complaint at the Office of the Police Complaint Commission.

The second allegation - even more serious - regards an alleged strip search observed directly by the HRW researchers. Regrettably, HRW evidently did not seek to identify the officers concerned, interview witnesses or take photographs of the alleged incidents.

There are clear rulings from the Supreme Court of Canada restricting strip searches. The VPD policy on searches explicitly requires that strip searches be conducted in private.

It is striking that the HRW report makes frequent references to a strip search, but does not describe any search in the detailed account of this incident. The report concedes that “we were unable to see under what circumstances the man had been detained . . .”<sup>14</sup> The man detained had his pants around his ankles and officers were “milling around,” although none is described as touching the arrested man.

These details made it possible for VPD to positively identify this incident and all parties involved. They include a civilian witness, six police officers, two ambulance attendants, and the subject himself. The results of the subsequent investigation have been provided to me by VPD Inspector Doug LePard, who is prepared to make the entire file available to independent reviewers, subject only to the restrictions necessary to protect the privacy rights of those involved.

All witnesses but one ambulance attendant, who was on holidays at the time of the investigation, have been interviewed and have provided statements. Although the HRW report is mistaken about the time of the incident - it took place at 9:35 p.m., not “shortly before midnight” - the civilian witness at the scene identified Mr. Jonathan Cohen from HRW as the person who approached the scene and asked what was happening. There is no question that the right incident has been investigated.

Although the witness statements differ in minor details, as would be expected in a violent incident of the nature that occurred, all statements, including that of the suspect, are consistent with respect to the strip search allegation.

The investigation, conducted by a VPD Sergeant who is a former member of the Internal Investigation Section, revealed the following:

---

<sup>14</sup> *Abusing the Abuser*, p. 13

A uniformed police officer saw the male in question involved in a drug transaction on Hastings near Columbia. When he attempted to arrest him, the suspect immediately resisted. In the suspect's own words, "...he tried to hold on to me but he didn't give me my rights so I have a special Ju Jitsu move, and I do Tai Chi and kickboxing, and I turned it around on him."

The officer called for cover and struggled with the suspect, eventually pepper-spraying him to bring him under control. The suspect was handcuffed. During the struggle or subsequent search of his pockets, the suspect's baggy cargo pants slipped down somewhat, exposing sweatpants underneath.

In his interview, the suspect confirmed he was wearing sweatpants cut off at the knees underneath his cargo pants. In searching the pockets in the cargo pants, the officers discovered uncapped, used syringes.

The suspect continued to struggle while the officers were searching the cargo pants. As a result, his cargo pants fell down or were taken down during the search, but the second layer of clothing - the sweatpants - remained up at all times. The officers then sat the suspect down and attempted to remove the outer pants to search them, as the uncapped syringes posed a serious hazard. The suspect was still physically uncooperative so this attempt to remove his cargo pants was abandoned and they were searched, at greater risk to the officers, while the suspect was wearing them.

An ambulance was called for the suspect, as per VPD procedure, and Emergency Health Services personnel attended to flush out his eyes. They saw no evidence that the suspect had ever vomited, as was alleged (although the draining of the nasal cavity after the application of pepper spray could be confused with vomiting at a distance.) Even as he was being placed in the wagon, the suspect was still violent,

kicking the wagon door and causing it to strike one of the officers at the scene.

(The male in question, once identified, was found to have a lengthy record and a history of assaulting police, including two separate prior convictions for assaulting a police officer).

At no time were the sweatpants pulled down exposing the suspect's private areas or any underwear he may have been wearing, nor did the officers move the sweatpants in any way so as to allow them to look at his private areas. In written and videotaped statements, the suspect confirmed that his sweatpants were never searched because "they have no pockets in them." He further stated that the police did not look inside the sweat pants.

In other words, the search did not meet the even the broadest definition of "strip search" as defined by the Supreme Court of Canada (e.g. see *R. v. Golden*).

In conclusion, the HRW allegations that this incident constitutes arbitrary arrest or unreasonable or unlawful search or seizure are wrong. There was no strip search. We respectfully request that the HRW revise its report to acknowledge these facts.

It is important to note again that police are authorized under the law to detain persons, short of arrest, for investigative purposes, if there is an "articulable cause" for doing so, and to search them for safety reasons. The HRW report claims that police can only search a person after lawful arrest or with a search warrant. This is not so.

Finally, the HRW report urges the VPD to provide additional training for officers working in the Downtown Eastside. In fact, officers are assigned to the CET special training - including training on their legal authority - before undertaking the assignment. An officer with a law degree conducted this training. The training package is available for HRW's review. The VPD would also be pleased to set out, in greater detail, the existing training regime for Vancouver officers, if necessary.

#### b. Criticism of complaint procedure

The HRW report is critical of the police complaints procedure, urging the City of Vancouver to "work with provincial authorities to establish an independent commission to investigate complaints of police misconduct and abuse."<sup>15</sup>

Such a commission already exists (the VPD maintains its own internal investigation unit as well).

The Office of the Police Complaint Commissioner (PCC) is an independent office of the B.C. Legislature charged with the oversight of B.C. municipal police forces. Although the PCC normally refers investigations back to the force concerned, it can ask a force not involved in a matter to conduct the investigation.

The PCC can also conduct public hearings. Complaints must receive a response within six months. Details of the PCC can be found at <http://www.opcc.bc.ca>.

---

<sup>15</sup> *Abusing the user: p. 3*

## 6. Response to allegations of health impacts

There is no room for complacency about B.C.'s battle with HIV/AIDS. According to the B.C. government, AIDS is one of the four leading causes of death in our province for men and women aged 25 to 44. Among intravenous drug users in the Downtown Eastside, the HIV/AIDS infection rate is 30 per cent, and 95 per cent for hepatitis C. In 2001, the number of new HIV/AIDS infections in B.C. increased by 6.5 per cent, compared to 2.5 per cent in Canada as a whole.

The VPD has stated repeatedly that it wishes to avoid any negative health impacts to injection drug users as a result of the CET. For this reason, charges that police action are increasing harm to injection drug users must be pursued, to ensure that enforcement supports the other three pillars of prevention, treatment and harm reduction.

The HRW report focuses on several key areas to support its charge that the CET is having a negative effect on the provision of health services, including:

- a decline in the provision of needles by VANDU to two-thirds the normal volume after the CET initiative began;
- a reduction in the number of needles sought by users per visit, evidently because they feared being found with needles in their possession;
- a belief that police enforcement efforts were driving users to undertake unsafe injection practices.

HRW cited media interviews with health care providers like Mark Tyndall, of the B.C. Centre for Excellence in HIV/AIDS, who expressed fear that police actions were complicating the follow-up treatment of people with HIV/AIDS, tuberculosis and other conditions.

HRW restricted its research on government reaction to these changes to a single telephone interview with VPD Inspector Bob Rich.

Vancouver Coastal Health has partnered with the VPD to facilitate referrals to community health centres and detox services during the CET initiative. Measures undertaken by VCH included:

- distribution of a laminated card to CET officers indicating how referrals to health services could be obtained; and
- an additional shift of Saferide, a program to help users get to the health services they need.

On May 9, VCH reported that since April 7, the date the CET initiative began and one week before the four-day HRW research visit, changes in service use included:

- up to 160 additional calls on the new Saferide shift;
- no decrease in the number of clients seeking methadone at services in the neighbourhood;
- a slight decrease (two clients) in the number seeking antiretroviral at the Downtown Community Health Centre;
- no decline in clients accessing services at Downtown Eastside Youth Activity Society mobile health vans; and,
- VCH found that the number of clients accessing Vancouver Native Health had decreased to 1,964 in the four weeks since April 7 from 2,295 in the five weeks prior to the launch. This is in line, however, with the average range of fluctuation.

HRW focused much of its attention on VANDU's reports of decreased demand for needles by injection drug users. VCH reported "no decrease in the number of needles exchanged since April 7, according to the Downtown Eastside Youth Activities Society, that documents all 3.5 million needles exchanged across Vancouver."<sup>16</sup> VCH did not have specific figures for the VANDU program. HRW reported on only three nights of needle exchange by VANDU on April 7, 8 and 9, the first three days of the CET program, when numbers were below the average of 1,165.<sup>17</sup>

Inquiries by the City of Vancouver have confirmed that service providers report anecdotally that the police operation is having a health impact. These fall into several areas:

- the possibility that addicts are fixing more quickly because of fear of police harassment, increasing health risks; and
- the possibility that addicts are discarding needles more quickly by throwing them away after use because they fear being caught with them. The number of needles found by City engineering staff in the Downtown Eastside seems to be down sharply.

All partners in the Four Pillars Drug Strategy take these issues very seriously. The answers to these questions should be found in the Vancouver Intravenous Drug User Survey (VIDUS), which tracks the experience of city drug users. A full analysis of these issues must await completion of the next VIDUS questionnaire, but no one in the Four Pillars program discounts them. The BC Centre for Excellence in HIV/AIDS has pointed out in the past the importance of needle distribution by groups like VANDU as critical to reach the most at-risk drug-users.

---

<sup>16</sup> Synopsis of City-wide Enforcement Strategy's Impact on Health Services in the Downtown Eastside, May 9, 2003.

<sup>17</sup> *Abusing the user*, p. 18.

Preliminary figures from the B.C. Coroner's Service report that overdose drug deaths in Vancouver totaled six in April, the same number as 2002. For reasons that are unclear, the city recorded a spike of 10 overdose deaths in January, before the CET initiative, but subsequent months have recorded results more in line with 2002 figures.<sup>18</sup> While still unacceptably high, these figures offer important reassurance that the CET has not produced an increase in drug overdose deaths.

Although HRW did contact some service providers, it did not contact Vancouver Coastal Health in the course of its research.

The possible negative health impact of police enforcement strategies has been a concern from the beginning of the Four Pillars Strategy debate in Vancouver. Professionals at VCH and the VPD are strong advocates for humane policing approaches and increasing government financial support for prevention and treatment services.

The HRW report, however, ignored this reality. The fragmentary and anecdotal evidence offered by the HRW researchers falls far short of the standard of evaluation they correctly urge the Four Pillars partners to undertake.

Has the CET initiative had a negative impact on access to health services? The real answer is that we don't know - but early indications are contradictory. To answer this question properly, the VPD and VCH are working with the Vancouver Agreement Secretariat to identify funding for an independent consultant's review, a partnership created well before HRW issued its report.

---

<sup>18</sup> Illicit Drug Overdose Death B Preliminary Figures, B.C. Coroners= Service, May 2003. Available on the website of the BC Ministry of Public Safety and Solicitor General at [www.gov.bc.ca](http://www.gov.bc.ca)

VCH is also in constant contact with health care providers to monitor changes in the effectiveness of its programs.

## 7. Evaluation of the police initiative

The HRW report suggests that the only evaluation of the VPD City-Wide Enforcement Team initiative will be conducted by a graduate student.<sup>19</sup> This statement is false.

Evaluations of the project will include:

- observation research in the Downtown Eastside by a graduate student who, working with colleagues, will count incidents of note;
- video evidence gathered before and during the initiative to assess its impact;
- partnership with an independent consultant, whose work will be funded by the Vancouver Agreement, to assess a wider range of indicators including needle exchange usage and other health-related statistics;
- VPD tracking of crime and other relevant statistics during the enforcement period using standard uniform crime reporting data as required by Statistics Canada, which will utilize cutting-edge software developed at Simon Fraser University to monitor key indicators such as overdose calls, violent crimes, street crimes, significant disturbances, auto break-ins and other crime related to drug trafficking;
- monitoring of public correspondence to the VPD, which has been overwhelmingly in favour of the initiative to date; and,
- a formal public opinion survey.

---

<sup>19</sup> *Abusing the user. p. 3*

All of these evaluation measures were developed before release of the HRW report.

## 8. Conclusion

Four days is a short time to assess the progress of a project as complex as the Four Pillars Drug Strategy. The damage done by incomplete research and undocumented allegations, however, can last much longer.

The partners in the Four Pillars Drug Strategy are working co-operatively together to tackle a profound problem in our city, and breaking new ground in North America. The entire project is founded in the ethical conviction that injection drug use is a health issue. The goal is to reduce the harm done to users and the community by drug use.

The Human Rights Watch report, coming as it does from an organization with international credentials, is especially damaging because it purports to tell the world that the police element of the Four Pillars Drug Strategy is a fraud. HRW lumps Vancouver in with Thailand - which is accused of executing 1,500 drug users - and the repressive laws of the former Soviet Union, with its assessment of events in our city.<sup>20</sup> This is grossly unfair.

The HRW charges are made on the basis of hearsay, incomplete research and basic factual errors.

On behalf of the Four Pillars Coalition, I urge Human Rights Watch to withdraw its May

---

<sup>20</sup> *Abusing the abuser*, p. 27.

7 report, reconsider its findings in the light of what I have set out here, and reissue a revised report in the same fashion as the original.

I commit, as chair of the Vancouver Police Board, to ensure a full investigation of any documented police abuses HRW wishes to bring forward. I also pledge to facilitate meetings by HRW with any experts in the city engaged in the delivery of health services. In my view, to do any less would undermine the defence of basic freedoms that HRW seeks to uphold.

Respectfully submitted,

Larry W. Campbell,  
MAYOR