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Human Rights in Vancouver: Do Injection Drug Users Have a Friend in City Hall?

In April 2003, the Vancouver Police Department (VPD) initiated a crackdown in the city's Downtown Eastside, an area frequented by drug users and the site of one of the developed world's worst AIDS epidemics. Human Rights Watch (HRW) visited the city and issued a report documenting first-hand accounts of unnecessary use of force by police officers and other human rights abuses. In this article, HRW staffers Joanne Csete and Jonathan Cohen describe how the initial euphoria that greeted the election of Vancouver Mayor Larry Campbell has worn off; how a crackdown that was supposed to be aimed at drug traffickers had the effect of driving drug users away from health and harm-reduction services; and how both the VPD and the city tried to discredit the HRW report. Finally, the authors discuss how concerns about the VPD have led to official complaints being filed, and they question whether police forces should be allowed to investigate themselves.

Human Rights Watch (HRW) was proud to join with the Canadian HIV/AIDS Legal

Network in September 2002 to honour the work of the Vancouver Area Network of

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Recent Developments in Privacy Legislation

In this article, Ruth Carey takes a critical look at recent privacy-of-personal-information legislation drafted in three Canadian provinces – Ontario, Alberta, and British Columbia. The article begins with a historical overview of international legal instruments and other privacy guidelines, and the Canadian experience with privacy protection. It then critically analyzes the provincial initiatives in the context of the federal Personal Information Protection and Electronic Documents Act and accepted privacy principles. The article goes on to highlight certain types of legislative provisions of particular interest to people with HIV/AIDS and those who advocate on their behalf. It concludes that the numerous legislative initiatives underway in Canada provide an opportunity to alter the public discourse around the virus, thereby improving the lives of people with HIV/AIDS.

Introduction

We believe that health information is among the most sensitive personal information which exists. Within that class of information, one's HIV positive status is arguably the most sensitive piece of information of all. During the

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Drug Users (VANDU) with our AIDS and Human Rights Action Award. VANDU's work has justly garnered praise from many parts of the world as a model for organization and services based on respect for the rights of injection drug users. VANDU brings needle exchange and other life-saving services to the most marginalized users in the city's Downtown Eastside, the lowest-income neighbourhood in Canada and home to one of the developed world's worst AIDS epidemics.

Vancouver's municipal election campaign in the fall of 2002 drew international attention. It featured the election of a council dominated by the Coalition of Progressive Electors (COPE), led by mayoral candidate Larry Campbell, a rare group of politicians willing to hang their political futures on support for harm reduction. When COPE was swept into office in November 2002, we — like many others around the world — saw the election of Campbell and his colleagues as a moment of great promise. Finally, perhaps, drug users could look forward to enhanced services for humane treatment of their addiction, a place to inject safely, and strong support for needle exchange programs.

Campbell is a former narcotics police officer who promised a safe injection site as one of his first priorities and who spoke often about drug addiction as a medical problem in a city whose anti-drug strategies had been dominated by heavy-handed policing. If I thought tripling the police force would solve this problem,

I would do it," Campbell told the *Wall Street Journal* on 1 April 2003. But that's not the case. We're dealing with addiction and disease, and prison doesn't solve either of those problems. It seemed that injection drug users might have a true ally in City Hall.

Police Crackdown

It was not long before hope turned into disillusionment. On 7 April, six days after Campbell's remarks above and a few months into his term as mayor, the police presence was tripled in the Downtown Eastside, ostensibly to clear the neighbourhood of drug traffickers. Vancouver City Council had rejected the request of the Vancouver Police Department (VPD) for funds to support hiring additional officers to execute this crackdown, but it didn't matter. The VPD reallocated police from other parts of the city to the Downtown Eastside, increasing the number of police officers present on the streets of the ten-square-block neighbourhood from 20 to 60. It looked as though the promise of an anti-drug strategy that would be led by harm reduction, treatment, and prevention rather than by shoring up the police, was shattered.

HRW visited the Downtown Eastside for four days toward the end of the first week of the crackdown. We wanted to see what the initiative would mean for drug users and their ability to access services, including HIV prevention services. The crackdown had been preceded by three weeks of intensive issuing of arrest

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warrants and actual arrests which, in some cases, imposed conditions of release that included not carrying syringes or drugs. In the short period of our visit, we heard numerous first-hand testimonies from drug users that were consistent with the concerns experts had raised about the way in which the war on drugs was being fought in Vancouver. A number of drug users recounted cases of unnecessary use of force, especially being punched or otherwise roughed up when they were already in handcuffs. Others said that they had been searched in ways that violated the search and seizure protections in the Canadian Charter of Rights and Freedoms as well as international human rights standards. According to witnesses, the police had also issued numerous citations for municipal by-law offences such as jaywalking, which seemed in many cases designed to legitimize searching and harassing drug users.

Equally worrying was the testimony of health-service providers and needle exchangers that the crackdown, which had the stated objective of targeting drug dealers and traffickers, was having the unintended effect

of driving drug users away from health and harm-reduction services. Street nurses told us that the police presence had been scattering their clients and making it difficult to find them in order to deliver services. Several nurses said that the impact of the crackdown on drug users might have been lessened had Vancouver's

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long-awaited safe injection site been up and running, so that injection drug users displaced from their usual shooting locations on or near the streets would have had a safe place to go.

Reaction to the Report

On 7 May, we released our findings in a 26-page report.² The city's reaction to the report was to attempt to discredit the HRW, both in early press statements after its release and in an open letter from the mayor. Police officials told the press that the HRW had fabricated testimony and that, in any case, all the first-hand testimony that our report cited was hearsay.³ This was obviously an attempt to reduce the first-hand testimonies in the report to the level of rumour. It is the kind of response that government authorities around the world often make to our work when most of the testimony reported is from drug users, sex trade workers or other stigmatized groups.

In response to our concerns about the health impact of the police crackdown, both the city and the Vancouver Coastal Health Authority³ asserted that the crackdown had left health services in the Downtown Eastside undisturbed — indeed, that services may have benefited from the action. Police officials said that many injection drug users had thanked them personally for making the streets safer. The health authorities claimed that the numbers of needles exchanged in Vancouver had risen overall during the period of the crackdown, allowing that this was at least partly a function of the season, as more needles are exchanged during the warmer months. This claim is at odds with data comparisons done by researchers at the British Columbia Centre for Excellence in HIV/AIDS, which show a drop in needle exchange volumes between 2002 and 2003 during the March-to-May period.

Even if the overall needle numbers remained high, the Health Authority would be wrong not to focus on the services targeting the most vulnerable users. As documented in our report, the mobile nighttime needle exchange service of VANDU, which combs the sidewalks, alleys, and parking lots of the Downtown Eastside, saw a precipitous drop in its syringe numbers as of 7 April. Health officials characterized the VANDU experience as an outlier, noting that of the data they reviewed, only the VANDU data showed a significant decline in needles exchanged in the first weeks of the crackdown. The outlier characterization, which is an unscientific attempt to downplay the VANDU data, is only too true in the sense that the city perhaps did not intend: that the most marginalized users — those reached by the VANDU service — are themselves outliers, forced regularly

to the edges of safety. The VANDU numbers deserve serious attention, which the city and the Health Authority seem not to want to give them, because VANDU's services target people who are most likely to experience the worst health consequences when they are chased into unsafe shooting locations.

When we visited the nighttime mobile exchange of VANDU again in June, the numbers of syringes had risen somewhat — again perhaps partly as a function of the season — but the proportion of needles given out as canisters (syringes given even though no used syringe was returned), as opposed to needles given out in exchange of used syringes, was high compared to the period before the crackdown. The VANDU workers attributed this to the fact that some users were afraid to carry syringes for fear that police would stop them and perhaps charge them for syringe possession. A high proportion of canisters is a matter of public health concern. It indicates that many needles may be retained for re-use or sharing, or may be disposed of in an unsafe manner. This is one more reason why any evaluation of the health impact of the crackdown should take a close look at the impact on the population served by VANDU's volunteers.

Vancouver Activists Respond

On 7 April, shortly before we released our report, local activists in Vancouver opened up an illegal safe injection site to give drug users a safe place to inject during the crackdown. A registered nurse and staff person at the illegal site told the media that they could not sit by and watch more people dying when those deaths are preventable.⁴ Incredibly, the mayor

attempted in his rebuttal to our report to take some credit for allowing the site to operate. The fact that the site has not been shut down is not consis-

The findings of Human Rights Watch were not the first sign that something is amiss in the Vancouver Police Department.

tent with the tide of police oppression suggested by the HRW. The mayor said. An article in a US newspaper described the illegal site as "condoned by the new mayor" and "just one sign that Canada's drug policies are moving in a direction that diverges sharply from those in the United States" — making no mention of who opened the site or why.

The mayor and the police have asserted repeatedly that the HRW's recommendation for truly independent investigation of complaints against the police is redundant because independent investigation already exists. Oversight of the police in Vancouver is conferred to a provincial Police Complaints Commissioner. This position is indeed independent, but the usual procedure for handling complaints brought by the public against the police is to turn the investigation over to the police department against which the complaint is made. The current provincial Commissioner, Dirk Ryneveld, is someone with exceptional qualifications for the job, known not only for outstanding service as a prosecutor in British Columbia but for his four-year service to the International Criminal Tribunal for the Former Yugoslavia in The Hague.

But for a police department with the track record of Vancouver's force, the usual procedure for handling complaints should be questioned. The HRW's findings were not the first sign that something is amiss in the VPD. The full story has yet to be told of the police's handling or lack of handling of the case of 60 Vancouver women — many of them from the Downtown Eastside and some of them sex trade workers — who were reported missing over the last few years. The remains of many of these women were eventually found on a pig farm outside Vancouver. The police department has been widely criticized for neglecting the reports of the missing women made by family members and others. The Royal Canadian Mounted Police eventually had to step in to handle the case. As well, six VPD officers were recently prosecuted for physical abuse of three suspected drug dealers in the city's Stanley Park in January 2003. Furthermore, in October 2002, the Pivot Legal Society, a Vancouver-based organization, told the stories of 50 persons, many of them on the Downtown Eastside, who swore affidavits about their experiences of police misconduct.⁶

Formal Complaints Filed

On 9 June 2003, Pivot formally filed with the Police Complaints Commissioner a dossier of 50 sworn complaints, complete with names, dates, and badge numbers, against the VPD. Pivot is calling for a public inquiry rather than a referral of the complaints to VPD investigators. Pivot notes both that the volume of complaints exceeds the capacity of the department's inspectors, and that VPD officials have been publicly scornful of such complaints in the past and thus lack the objectivity to conduct

this investigation. The handling of this case, which should be followed by everyone in Canada interested in justice for injection drug users and persons vulnerable to HIV, will be revealing as to the city and the province's seriousness about protecting the rights of Vancouver's most vulnerable residents.

Our own experience reporting on Vancouver's recent police crackdown gives credence to Pivot's assertion that the VPD lacks the objectivity to investigate allegations of police misconduct. In a letter to a local newspaper, for example, the police inspector in charge of the current crackdown described the first-hand testimony in our report as "bizarre and ideological." He went on to say that "people who are arrested are not always happy about it and often tell a story at odds with the truth." These statements hardly inspire confidence that complaints of misconduct sent to the VPD will be given a fair hearing.

The attacks by the VPD and City Hall on our credibility were matched only by the volumes of hate mail we received from residents of Vancouver who support the police crackdown. People accused us of telling "brazen lies" and of "being interested more in being deceitful than in telling the real story." They referred to the drug users quoted in our report as "a disgraceful waste of human life," "wretches," and "a drain on the economics of ... today's society." Needless to say, we took these letters as further evidence of the stigma and discrimination faced by drug users every day, not least because Canada's drug laws define them as criminals.

The city of Vancouver was one of three cities being considered by the International Olympic Committee to host the 2010 Winter Olympic Games, and was selected as host city in July

2003. Over the years, the HRW has followed the pressures on various prospective Olympic host cities to clean up the streets. On order to win an Olympic bid, Beijing being the most recent example. One can only speculate about the degree to which being a candidate city has fed into Vancouver's decision to triple the police presence in the city's poorest and least attractive neighbourhood. The timing of the crackdown makes such speculation inevitable.

The mayor has said that the kind of investigation the HRW did in Vancouver might be appropriate for Afghanistan or Kosovo but not for Canada, where a free press and a functioning judiciary ensure that human rights abuses are rooted out. The HRW does more investigations

in the United States than any other country, and the United States also boasts of a free press and a functioning judiciary. The mayor's claim is one that we hear frequently when we work in democratic countries. In the end, the Vancouver story, including the city's reaction to our report and its insistence that the police force can investigate itself, shows that politics can get in the way of the best functioning of democratic institutions — as though anyone needed proof of that assertion.

— *Joanne Csete and Jonathan Cohen*

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¹ J Baglole. Vancouver drug facilities draw ire of U.S. officials. *Wall Street Journal*, 1 April 2003.

² Human Rights Watch. Abusing the user: Police misconduct, harm reduction and HIV/AIDS in Vancouver. *Human Rights Watch Report 2003*; 15(2B). Available online at www.hrw.org/reports/2003/canada/.

³ Health services in British Columbia are implemented through five regional health authorities. The Vancouver Coastal Health Authority is the regional authority that includes the city of Vancouver.

⁴ Pivot Newswire. Safer injecting site opens in the Downtown Eastside in response to "Project Torpedo." 28 April 2003.

⁵ C Krauss. Canada parts with U.S. on drug policies. *New York Times*, 18 May 2003.

⁶ Pivot Legal Society. To Serve and Protect. November 2002. Available at http://pivotlegal.org/beta/aff/pivot_toserveandprotect.pdf.

⁷ Police say they've reduced drug scene dangers. Letter from Inspector Doug LePard, Vancouver Police Department, published in the *Vancouver Sun*, 12 May 2003.