

Meaningful Police Accountability

Speech to CACOLE Conference, September 2006

1. Thanks and Introduction to the BC Civil Liberties Association

- Thanks for the invite; encourage CACOLE and oversight agencies to work with NGOs and civil society orgs to ensure complainant perspective included in law reform and system
- BCCLA, since 1963, works on police accountability on different levels
 - : assistance to complainants
 - : complainants in own name
 - : law reform
 - : litigation
- Approximately 200 police complaint files since 1995
- personally first assisted complainants in 1988 as a student: relate experience
- Acknowledge work of President Jason Gratl and Board of Directors as essential to the success of the BCCLA

2. Advocacy for an Audit of Police Complaint Systems

- Desire to obtain empirical information about how the system works rather than rely solely on principled arguments
- Successful advocacy for an audit by Joe Wood

3. Principal BCCLA Recommendations for Reform to BC *Police Act*

- *Commissioner Needs Discretionary Authority to Conduct Investigations*
 - : public confidence – overcome perception if not reality of bias; encourage complaints that otherwise would not be made
 - : strong incentive for police to conduct internal investigations properly
 - : alternative remedy to problematic investigations (public hearing not always appropriate)
 - : our experience that the quality of internal investigations depends too much on leadership and not enough of an ingrained culture/ethic of accountability; this authority would assist to overcome that problem
 - : Ontario and Saskatchewan now incorporate this into their systems

NOTE – All in-custody deaths should be subject to independent investigations

- *Commissioner Authority to Substitute Chief's Decisions Re Breach and Corrective Action*
 - : only 12 public hearings in 8 years since Act amended
 - : public hearings are expensive, time consuming, complicated
 - : Commissioner needs alternative in specific cases
 - i. public hearing not in public interest
 - ii. review at initiative of Commissioner or interested party
 - iii. Standard of review is error of law or principle/misapprehension of evidence after review of submissions and evidentiary record
 - iv. Commissioner's decision subject to judicial review.
- *Commissioner should have legal obligation to undertake outreach and education*
 - : real problems with respect to barriers to access – literacy, fear of reprisals, lack of confidence in the process
 - : remedy is for the Commissioner and staff to have a disciplined program for outreach and education and partner with NGOs and government offices
- *Integrated Police Investigative Unit*
 - : Continued problem of public confidence both in general terms but also with respect to prospective complainants
 - : lack of external incentive for proper investigations
 - : no alternative for Commissioner if dissatisfied with an investigation
 - : given police department demographics, large portion of team would originate from VPD yet highest portion of complaints are from VPD thus the problem of direct organizational bias remains
 - : Commissioner may not have confidence in the leader of the team

4. Importance of Personalities

- *Right Person for the Task*
 - : Perhaps it goes without saying, but no matter the degree of excellent legislation, without the right person for the job, there will be ineffective police review/accountability
 - : Conversely, even without strong legislation, a tenacious but judicious and fair complaint commissioner can go a long way to ensuring police accountability
 - : True for a strong ethic of police accountability at every level of the process
 - : Appointment of leader of police internal investigation: Rollie Wood VPD
- *Selection Process*
 - : Critical to have the right process and criteria for selection in order to promote finding the right candidate

5. Civilian Deaths in Police Custody

- Vancouver Sun report that there have been 111 civilian in police custody or related deaths since 2000.
- In late 2004, the BCCLA began making automatic complaints in RCMP related deaths; we have made 5 complaints since then.
- The RCMP investigation into our complaints was first held in abeyance, then terminated. We sought reviews of those decisions arguing that criminal investigations, internal investigations and coroner's inquests are no substitution for civilian review of police conduct for compliance
- The CPC has determined that in two of our complaints (Arnaud and Bush), the RCMP's decision was reasonable. The CPC then launched their own complaint. BCCLA will be seeking judicial review of these decisions
- Effect of this decision means that there is no civilian oversight until months after the death if at all in many small communities where the relationship between the police and the community has deteriorated significantly
- E.g. Houston, B.C. where a candlelight vigil and wreath laying memorial at the RCMP detachment in memory of Ian Bush was interrupted and wreaths laid went missing
- BCCLA's position is that there must be automatic civilian review of every in-custody death; there needs to be law reform to make this happen
- The current delay serves no one: the public, the family of the deceased, the RCMP officers, the reputation of the RCMP
- Logistics of reform: We propose a model that would see a civilian agent ride shot gun with the police investigators to observe and assist the investigation and receive all evidence but not interfere: ensure fair trial
- The BCCLA will not rest until we see meaningful law reform on this issue

: Thanks again for the invitation