



VANCOUVER POLICE DEPARTMENT

REPORT TO THE VANCOUVER POLICE BOARD

REPORT DATE: April 7, 2015
BOARD MEETING DATE: April 16, 2015
BOARD REPORT # 1504V11
Regular

TO: Vancouver Police Board
FROM: Warren Lemcke, Deputy Chief Constable
SUBJECT: Human Rights Tribunal Decision - April 2015

On March 24, 2015, the BC Human Rights Tribunal ruled on a lengthy human rights case involving six complaints from Ms. Angela Dawson against the Vancouver Police Board. Throughout the proceedings, legal counsel Roper Greyell represented the Board. In the Tribunal's decision, a number of evidentiary discrepancies were identified, Ms. Dawson was not found to be a credible witness, and many of the allegations presented by the complainant were dismissed other than the two discussed below. As part of her decision, the Tribunal Chair, Ms. McCreary wrote a thorough account of the many issues a transgender person might face daily. Ms. McCreary also provided a synopsis of the various medical procedures involved in gender reassignment.

The Tribunal concluded that Ms. Dawson's complaint was justified in two areas.

Firstly, the Tribunal found discriminatory conduct with respect to the medical treatment provided to Ms. Dawson at the Vancouver Police Jail, on March 29, 2010. In this event, Ms. Dawson had been arrested several days after sex re-assignment surgery. During the intake medical assessment, she informed the attending male nurse of her need to conduct regular post-surgery requirements. These procedures were beyond the medical capacity of the jail nurses. In the evidence, it was found that Ms. Dawson was uncooperative with the nurse with regards to the nurse's stated need to confirm the surgery. The nurse then provided no further service, nor informed the Jail NCO. The nurse, a Vancouver Coastal Health employee and a contracted nursing services provider, was found to have provided inadequate care to Ms. Dawson. The evidence suggests that other jail staff were also aware of Ms. Dawson's situation. No further steps were taken to address the medical information provided by Ms. Dawson. The Tribunal found that the jail staff, and particularly the Jail NCO, still bore responsibility to ensure proper care was provided.

Secondly, the Tribunal found discriminatory conduct in the "misnaming" and "misgendering" of Ms. Dawson in police documents, other than in the officers' private notes. On different occasions Ms. Dawson was documented by her legal male name and as male gender, and at other times, by her female gender identification and female gender. The failure to respect Ms. Dawson's gender identity was deemed to be discriminatory by the Tribunal. The cause of this was attributed to a lack of training of police members and a lack of clear VPD policy as it relates to transgender identities.

The Tribunal found the Department to have discriminated in regards to these two areas. As a result, the Tribunal ordered a \$15,000 injury award to Ms. Dawson. Furthermore, the Tribunal also instructed a review of the VPD's policies and procedures with respect to transgender persons.

The City of Vancouver law department is reviewing the Tribunal's decision. Although reasons for appeal may exist, the Vancouver Police Department plans not to do so. The timeline for filing an application is 60 days.

The VPD Executive are not recommending an appeal. The jail nurse was an employee of the Vancouver Coastal Health Authority (VCHA), and the fact that this agency could not be added to the complaint as a respondent cannot be undone on judicial review. Thus, although an employee of VCHA may have been identified as the primary transgressor, it does not appear that any recourse exists at this point. Regardless, the VPD contracted VCHA and as such bears a degree of responsibility. It is recommended that the VPD acknowledge the Tribunal's decision, and note that our members were acting in good faith and not disrespectful, but were unsure of how to deal with a person who had not changed her legal name or gender.

In the late 1990s, recognizing the importance and sensitivities surrounding the transgender community, VPD's first transgender police officer conducted awareness training to frontline police officers. The recommendations by the Tribunal will only reinforce much of what has been done over the past two decades to strengthen relations with the LGTBQ community.

Currently, all of our newly hired Community Safety Personnel, Jail Guards, and Traffic Authority have received LGTBQ awareness training. All regular police recruits complete JIBC diversity training which includes learning about the LGTBQ community, its issues and sensitivities. The Department also provides a Canadian Police Knowledge Network (CPKN) on-line LGTBQ increment course that has been completed by 83 members to-date.

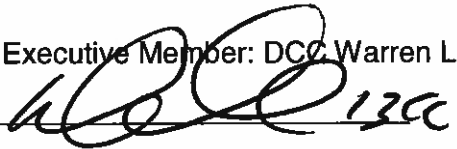
In general, it is suggested this case be used as an opportunity to improve our service to the community by improving on awareness and knowledge with our front-line staff with regard to interactions with transgender persons, while supporting that our members were acting in good faith and were not being malicious.

Recommendations:

1. That, the VPD will use the Tribunal's report as an opportunity to enhance our long-established relationship with the LGTBQ community. This can be achieved by directing outreach from the Diversity & Aboriginal Policing Section to engage and partner with the transgender community for improving awareness.
2. That, the VPD will update transgender awareness training provided to all uniform personnel, including regular members, jail guards, and community safety personnel.
3. That, the VPD will direct the Planning & Research Unit to develop policy regarding transgender identification both for police interactions with transpersons and for recording on official police documents.
4. That, the VPD Jail Manual of Operations will be amended to provide that jail personnel ensure medical concerns of a prisoner be brought to the attention of the Jail NCO; that the Jail NCO ensure that adequate steps are taken by medical staff to ascertain the validity of the concerns; and finally, that these concerns are addressed as appropriate.

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Submitting Executive Member: DCC Warren Lemcke

(signature)  1300 Date: April 7, 2015

