Principles to Promote Unbiased Policing

Pivot Legal Society (“Pivot”) is a human rights organization located in Vancouver’s Downtown Eastside (“DTES”). Pivot’s mandate is to use the law to address the root causes of poverty, inequality, and social exclusion. Pivot’s work is based on the philosophy that the law should be a tool that guarantees and protects the human rights of everyone, regardless of income, ability, gender, ethnicity, sexuality, occupation, or social condition. Pivot is currently working in four major focus areas; homelessness, police accountability, drug policy, and sex workers’ rights. These submissions are grounded in Pivot’s 17 years of experience working with communities affected by those four issue areas.

We understand that these submissions will be used in developing provincial policing standards and policies that promote unbiased policing in British Columbia. Pivot strongly supports the recommendation of the Missing Women Commission of Inquiry (“MWCI”) that the government “set a provincial standard establishing that police officers have a general and binding duty to promote equality and to refrain from discriminatory policing.”¹ To that end, we recommend that the Province embrace the following principles to guide the delivery of bias-free policing services in BC:

1. **Criminalization and marginalization should not be barriers to accessing the justice system**
   As the MWCI tragically demonstrated, people experiencing criminalization and/or social and economic marginalization are at high risk of victimization, yet they face enormous barriers when reporting crimes. Police forces operating in BC must develop consistent, coherent, and trauma-informed policies and training for officers on how to receive and investigate complaints brought forward by criminalized and otherwise marginalized people. Policies and practices must be in place to ensure that people who are involved in the criminal justice system as a result of their poverty, addiction, or other forms of marginalization do not feel that they are putting themselves at risk of criminal sanctions when reporting serious crimes or calling for police assistance. Police must also be trained not to make assumptions about whether a complainant will make a credible or reliable witness in future based on bias or stigma.

2. **Homelessness and/or relying on public space for the necessities of life is not a crime**
   Pivot has been working with people experiencing homelessness for over a decade. In the last year, Pivot has traveled throughout the province to hear from almost 100 people experiencing homelessness and poverty and 119 service providers. We know from our work with people experiencing homelessness that there is a high level of interaction between police and people who live in public spaces. While grounds such as poverty and homelessness are not currently covered by BC’s Human Rights Code, they are significant sources of stigma and discrimination, and need to be considered as part of the development of unbiased policing principles and practice standards for BC.

People who are homeless or otherwise rely on public space for the necessities of life often feel targeted by police. It is important that police understand that reliance on public space for the necessities of life such as eating, sleeping, storing belongings, attending to physical needs, and lawful income generation is not evidence of criminality or disrespect for the broader community. Police officers must model

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stigma-reducing language and behaviours when members of the public make complaints about visibly homeless people where no crime has been committed. It is also important that police understand that activities associated with homelessness, such as finding a dry place to sleep that may technically be on private property, is not evidence of disrespect for the law. Police must also recognize that amidst a shortage of affordable and accessible sheltering spaces, encampments on public property can be a critical source of security, protection, and harm reduction for people experiencing homelessness. Police must also be trained to understand the impacts of constant displacement and loss of belongings on the health and well-being of people experiencing homelessness and adjust their practices accordingly.

3. Police have a critical role to play in supporting an evidence-based approach to substance use that supports health and safety

Decreasing police bias when engaging with people who use substances can be a matter of life and death, especially in the context of an unprecedented drug poisoning crisis by which BC has been hardest hit. In some cases, policing practices work at cross-purposes with local health authority initiatives aimed at reducing new HIV and HCV infections and preventing opioid-related deaths. For example, there are still police officers in British Columbia who confiscate or destroy harm reduction supplies and many people Pivot works with believe that being found carrying new or used harm reduction supplies changes the way police engage with them. It is important that police shift their perception and recognize that carrying “paraphernalia” and saving used supplies until they can be disposed of properly is a responsible behaviour that should be encouraged and commended.

Police must also be trained in the most recent addiction science in order to better understand that engaging in behaviours related to an addiction, such as possessing an illicit substance or consuming drugs or alcohol in public space (particularly for people who are also experiencing homelessness) is not a sign of disrespect for the law or the broader community. Instead police should understand that these behaviours are expected manifestations of a recognized disability and act accordingly as partners in reducing harms associated with substance use.

4. BC must take active steps to reduce the number of violent and fatal interactions involving people experiencing a mental health crisis and police

Evidence suggests that police generally exhibit bias against people with mental illness, especially when they are in crisis. According to research, police officers tend to perceive encounters with people with mental illnesses as particularly dangerous. This expectation of danger may cause police to approach these encounters in ways that escalate the crisis and the subject’s resistance. Subject resistance is one of the most consistent predictors of police use of force, even if the resistance is merely verbal. This

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police perception of dangerousness does not appear to be supported by evidence: the most recently published statistics indicate that only 2.5% of police homicides between 1961 and 2009 occurred while apprehending a psychiatric patient.\(^5\) Statistics on injury to officers and/or individuals during such incidents are either not recorded or not published.

The “myth” of dangerousness does lead to serious consequences for the mentally ill people with whom police interact. The CBC has reported that between 2000 and 2017, a full 64% of police-involved shootings in Canada involved persons in mental distress; 75.8% involved a person with discernable mental health or substance use issues. BC had the highest per capita rate of police-involved deaths in Canada.\(^6\)

While the Province made Crisis Intervention and De-escalation (CID) training mandatory for all front line and supervisory officers in BC in 2011, this training is woefully inadequate. The training is approximately 4 hours online and 8 hours face-to-face, with superficial competency “testing”, and recertification only every three years. Current evidence indicates best practice as 40-hour training including \textit{inter alia} interaction with persons with lived experience, procedural justice, “myth busting”, and extensive (12 hours) training on crisis and de-escalation approaches, communications, and collaborative solution building through interactive “live” scenarios. Training alone is not enough however; a preferred approach is selecting and training a corps of specialized officers to respond to crisis situations as in the true Memphis CIT model.\(^7\)

5. \textbf{The safety and security of sex workers is the paramount consideration for police in B.C.}

Pivot has been working with sex workers to promote safety and human rights for over 15 years and advocates for the repeal of criminal laws that prohibit the purchase and inhibit the sale of sexual services by adults. Regardless of the federal legal regime, police attitudes and practices play a critical role in promoting or undermining the safety and security of sex workers. As a result of “proactive policing” in the form of surveillance and sting operations, street-based sex workers are still resorting to using alleys, side streets, and isolated areas to carry out their work. The pressure to avoid detection prevents street-based sex workers from engaging in their client screening routines, making them more vulnerable to predators posing as clients. Thus, as a result of policing activities, sex workers are forced to work in the same unsafe conditions that led the Supreme Court of Canada to strike down Canada’s communication law in \textit{Bedford}.\(^8\)

In order to build trust with sex workers, it is critical that police not make assumptions about sex workers’ ability to make autonomous choices or engage in unwelcome “rescue missions.” For example, when police mistakenly conflate sex work and human trafficking, they impair their ability to identify genuine victims of trafficking and make it less likely that people engaged in consensual sex work will report to police in the event that they are the victim of a crime.

\(^{6}\) https://newsinteractives.cbc.ca/longform-custom/deadly-force
\(^{7}\) http://www.cit.memphis.edu/aboutCIT.php
\(^{8}\) Canada (Attorney General) v. Bedford 2013 SCC 72, 3 SCR 1101
6. **Experiential people must play a central role in developing a framework for unbiased policing and training officers**

The most powerful way to promote unbiased policing is to directly engage people who have been effected by police bias in every stage of developing and rolling out new practices. People who live in poverty, people who use drugs, people who do sex work, and people living with mental health issues should be front and centre in program design and in delivering training to police. Experiential people should be respected as experts and compensated for their time and expertise. Police services must also make a deep, long-term investment in decolonizing policing practices, beginning with a robust mandatory training program, designed and delivered by Indigenous experts, aimed at ensuring that every police officer in BC recognizes the historical and current systemic discrimination faced by Indigenous people and communities.

7. **Accountability and oversight mechanisms must be accessible to marginalized people**

Through Pivot’s work with people who are experiencing homelessness, people who use drugs, and people who do sex work, we have learned that police complaints processes in BC are not accessible to marginalized people. Despite negative interactions, most people we work with have never made a formal complaint. People Pivot works with are especially unlikely to report issues such as frequent stops, displacement, and disrespectful treatment by police. These routine negative interactions, often rooted in bias, go unmonitored and make it less likely that marginalized people will come forward to police if they are victimized or have information about a crime. In order for unbiased policing standards to be effective, there needs to be an accompanying oversight and accountability mechanism put in place that allows people to bring forward complaints in a setting where they are comfortable and which allows for investigations of specific complaints as well as monitoring of overall trends.

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