



HAND DELIVERED

June 26, 2009

Dr. David Ostrow
Interim President and Chief Executive Officer
Vancouver Coastal Health Authority
601 West Broadway, 11th Floor
Vancouver B.C. V5Z 4C2

Dear Dr. Ostrow:

Re the death by suicide of Marek Kwapiszewski June 29, 2008

This is a formal request that VCHA, under your authority, undertake an independent inquiry into the management of Vancouver Community Mental Health Services and acute psychiatric care in light of (a) an egregious failure to take action under the B.C. Mental Health Act to intervene in Mr. Kwapiszewski's case although clearly called for, because of a fundamental and recurring disregard or ignorance of the Act, which contributed to his death, and (b) other indications of the same deeply-rooted, underlying problem in VCHA mental health services in Vancouver.

The Midtown Mental Health Team (MMHT) and Mental Health Emergency Services (MHES) consistently found Mr. Kwapiszewski non-committable because, in effect, he was deemed not to be dangerous, when it was quite clear he was seriously deteriorating and when the B.C. Mental Health Act allows for committal to "prevent the person's or patient's substantial mental or physical deterioration." This failure to intervene was fundamental rather than accidental or a matter of difference of clinical opinion, and requires in turn a fundamental overhaul of senior management and a major cultural change.

We are filing this request with you, as VCHA's CEO, because we have little confidence in the senior managers of Vancouver's community mental health system addressing the failure, for which they themselves are responsible. In any case, they would be in a conflict of interest in such a review.

We request that the person or persons doing the inquiry be independent of professional or other ties to VCHA and that we, as the party bringing this matter to your attention and as a leading advocate for improved delivery of treatment and care, be involved in the selection process.

BACKGROUND

Marek Kwapiszewski had a long history of mental illness, having first been admitted to Vancouver General Hospital in December 1983 when his mother became alarmed that he was sitting lifeless in a corner with a terrified look on his face, and called an ambulance. By the time he was moved to psychiatric emergency, he was catatonic. He was diagnosed with schizophrenia, paranoid type, with a differential diagnosis of schizophrenia, catatonic type, and put on haloperidol, a typical anti-psychotic. A month later he was discharged and taken under care by what was then the Mount Pleasant Mental Health team (MPMH), where his medication was changed to thioridazine, because of haloperidol's side-effects.

The dosage was gradually reduced until January 1987 when he suffered a relapse, complaining that his brain was numb since the reduction in medication. He was anxious and had difficulty concentrating. There was concern about agoraphobia (anxiety about unfamiliar places or places where the person has little control, especially if hit by a panic attack). He was unable to help out at his mother's travel agency because he couldn't get more than a few blocks away from home (he lived with his mother) without severe anxiety attacks. The dosage was increased. In February he was having serious panic attacks, which also kept him close to home, although the sensation of numbness was gone.

He continued to attend MPMH until August 1987 when his psychiatrist, Dr. Tilser, left the team. Mr. Kwapiszewski opted to follow Dr. Tilser and was seen by him at least until June 2000. His last known contact with his general practitioner, Dr. Ostapkowicz, as a patient, in the period leading up to serious relapse, was March 2006. Dr. Ostapkowicz had been providing him with his medication, which he stopped taking, likely that spring.

In October 2006, Mr. Kwapiszewski's mother, with whom he had been living throughout and who gave him support, passed away, aggravating his situation.

Almost immediately on his mother's death, his sister, Halina Haboosheh, concerned with his deterioration, began making efforts to get care and protection for him and to plead for committal, as her brother's insight into his illness had disappeared. In June 2000, for example, he expressed to Dr. Tilser his wish to continue with his medication to avoid a recurrence of panic and paranoid feelings, but by December 2006, two months after his mother's death, he explained to MHES he wouldn't take his medication because he was convinced his pills had been tampered with.

In the 20-month period December 2006 through to Mr. Kwapiszewski's suicide in 2008, Ms. Haboosheh - either directly or through her husband (Sam), Mr. Kwapiszewski's GP, a lawyer, and a North Shore mental health worker - contacted Vancouver mental health services 16 times (including a call that went through the police to Car 88), desperately trying to get them to intervene as her brother showed more and more troubling behavioural symptoms. Three letters were also filed as part of, or in conjunction with, those contacts, and some meetings were also involved. Ms. Haboosheh also called the Vancouver Police Department on three different occasions to report him missing.

Of the 16 calls and other contacts, 10 were with Mental Health Emergency Services and six with the Midtown Mental Health Team. They consistently, however, declined to commit Mr. Kwapiszewski for treatment, insisting he was non-committable. There was no mistaking his deterioration, however.

In December 2006 Ms. Haboosheh was moved to call the police, because of her concern, when her brother came to her and her husband's store irate and hostile, demanding money.

Assessed by MHES, following the call, he showed paranoid delusions, believing attempts were being made to poison him (specifically, again, that his medication had been tampered with) and that people were following him. "Comments about wanting to go be with his mother (suicide)," the report added. He was also spending inappropriately on strange items he couldn't afford, a telltale symptom in itself of decompensation. He had become so paranoid he would no longer answer his phone, returning messages from a payphone. His house, inherited from his mother, was in complete squalor – with so much garbage and other things piled up behind the door that it had to be forced open, according to a nephew (Ms. Haboosheh's son) who was a realtor and had stopped by to assess the property. This was another sign of decompensation. MHES, who went out to see Mr. Kwapiszewski on this occasion and noted his delusional thinking and suicidal ideation (see the above) and also saw the squalor, astonishingly wrote in their notes that "there was no evidence of psychosis or thought disorder at this time."

Mr. Kwapiszewski subsequently declared people were pumping gas into the suite he lived in (the first floor of the house), people were spying on him, everyone hated him, the bank was trying to cheat him and he couldn't work because he was "unable to deal with people." He became increasingly isolated, almost barricading himself in the house. He kept a baseball bat just inside the door to defend himself against people bent on doing him harm. He changed the lock on his house several times and had a padlock on the gate. He attacked a letter carrier and would not allow people on the property. Only one family member was still allowed to visit him on the property, but she became frightened of him.

In January 2007, he had three motor vehicle accidents, and then another one the following month. Ms. Haboosheh, knowing his condition and worried that he would hurt himself or hurt others, sent an email to the Superintendent of Motor Vehicles requesting that his licence be suspended. He had bought a second car in this period, a Nissan Xterra SUV, using some of his mother's insurance money, although he already had a car (a Mazda Miata). He had difficulty dealing with ICBC, being unwilling to go to a claims centre, wait even for a few minutes in a waiting room if necessary, and sit down with an estimator to discuss damages and what had happened. He talked dismissively of ICBC instead. He had the repairs done on his own, and because of inadequate records ended up paying for them himself.

He agreed in February to go to the Midtown Mental Health Team for an assessment, after Ms. Haboosheh and her lawyer had contacted the team with concerns about his erratic behaviour and paranoia. It was difficult to get a history, the doctor, Elena Lisiak, noted of the interview, because Mr. Kwapiszewski was "a difficult historian." He gave the

doctor conflicting information about his finances. He claimed to be doing taxes for 160 clients (the doctor wondered if this were true, but did not pursue it). He also told her people had trouble following his thoughts because they were so fast and intelligent. In contradistinction to this claim, she noted, his concentration was impaired. He denied suicidal thoughts, homicidal ideas or paranoid delusions, but alluded to conspiracy theories. He was red in the face and his speech was pressured. "I think his insight is limited," she wrote, "and his judgement is impaired. I think that Marek may suffer Bipolar Affective Disorder. He has a history of psychotic break....I think that he would benefit from treatment." Despite her urging and that of Dr. Tilser, however, he refused to go back on medication.

Notwithstanding her findings that he had poor insight, probably suffered from a severe mental illness, had a previous psychotic break and been diagnosed with schizophrenia, was currently psychotic (reported verbally to Ms. Haboosheh), had impaired concentration, and wouldn't take medication, she stated in her report that he was not committable.

Mr. Kwapiszewski 's mother had some time ago signed over the house to him, and he began thinking of selling it and buying another one for an extra \$100,000, but he had no income and no plan for managing the additional cost. When Ms. Haboosheh suggested to him he set up a rental suite for income, he refused because he thought tenants would poison him.

He began sleeping in one of his cars because he was concerned people would come onto the property and steal from him. He mentioned hearing voices through the walls. On occasion, instead of sleeping in his car, he would cycle around the Stanley Park seawall all night. He wasn't eating properly. The inability to stay in indoor spaces, such as his bank, and discuss things grew more pronounced. There were disturbances in the bank, with his shouting at tellers, and also problems with a notary public. He wanted things done right there and then. The real estate agent he had retained to sell the house found it impossible to work with him and Mr. Kwapiszewski's nephew, also a real estate agent, had to be brought in as a go-between. Mr. Kwapiszewski also remained convinced that the GP who had been giving him his medication had been trying to poison him

In one small but revealing instance of delusional and/or disordered thinking, he was unable to unlock the door to his mother's office, in the house, because someone, according to him, had put glue in the lock. Distraught, he called Ms. Haboosheh and her husband, who advised him to call a locksmith, which he did. The locksmith opened the door with the existing key without any difficulty.

Although he had decided to sell the house, he would not clean it up so it could be sold as a complete package, and he ended up selling it at a tear-down price. The house was left in so much mess and filth that the new owners decided to pursue Mr. Kwapiszewski legally for not fulfilling his contractual obligation to leave the house in order, and documented the mess with photographs. A settlement, paid for by the nephew from his share of the commission, was required to cover cleaning costs. Mr. Kwapiszewski had considered the house didn't need cleaning, that it was a "castle."

He resisted moving into an apartment, for fear of what the neighbours would do (make him sick, give him headaches, etc.). This was a recurring paranoia – the fear of living with neighbours in proximity. He did briefly rent an apartment in Surrey but left after a few hours complaining of fumes and the headaches it was giving him, although he had approved of the apartment when he had originally looked at it. Because of his paranoia about moving into an apartment, the Nissan SUV became his home.

If he called his sister, Ms. Haboosheh, at all, it would be in the middle of the night, because he couldn't sleep and was up.

He quickly began running through the money from the sale of his mother's house, among other things taking a trip to Mexico. He came back from the trip with \$140,000 less than he had when he left Vancouver.

In August 2007 his driver's licence was suspended with the proviso that the suspension would be lifted if he got a doctor's certificate attesting he was fit to drive. He tried a few doctors, but had no success. Sometime in this period he bought a Volkswagen camper to live in and sold his spare vehicles. He drove the van without a licence to move it from one location to another, as one can't park a vehicle in the same street location for more than 72 hours if one isn't a resident. He was stopped once, however, by the police, and after that he hired a tow-truck to move the van from place to place.

Ms. Haboosheh commented to Mental Health Emergency Services, in a call in September, that "the only thing people wanted to know is if he was suicidal or going to hurt anyone and no one cares if he spends all of his money and ends up on the street." The intake worker, according to MHES's notes, briefly explained the Mental Health Act to her, but what was actually said wasn't recorded. Ms. Haboosheh was, however, left with the same impression she had before, that her brother needed to be suicidal for committal; otherwise they could only act if he himself came for help and began taking his medication again. It appears, then, that the Act wasn't properly explained to Ms. Haboosheh by the intake worker or was incorrectly explained, because dangerousness isn't a requirement for committal in B.C.

Mr. Kwapiszewski's inappropriate and confused behaviour continued. A meeting with, and a couple of further calls to, Mental Health Emergency Services (November and December 2007 and February 2008) by Ms. Haboosheh proved futile. In one ironic moment, they encouraged her to let them know if Mr. Kwapiszewski was hospitalized so they could provide collateral information, while taking no measures themselves to have him hospitalized. A police report at this juncture (specifically January 2008) noted, "[Mr. Kwapiszewski] suffers from psychosis/can be violent if confronted; carries a stick for protection" and that he "has some significant issues and appears to be anti-social and not very connected to the world."

He had taken to shaving on a street corner and, in a call to Ms. Haboosheh, seemed quite distracted, mumbling about having to solve a math problem, then quickly changing the subject. His paranoia continued. He was verbally antagonistic in a brief conversation with a police constable. When he called his sister, Ms. Haboosheh, to arrange a rendezvous, he would give her one location, then call her on her cell while she was

driving there to give her a different location, and then call her a third time to give her yet another location, while peddling his bicycle from one place to another and stopping at pay phones to make his calls. Conversations with him would be mostly a monologue; if she tried saying something, the conversation would turn into a shouting match.

She had no way of contacting him on her own, whether because he wouldn't answer his phone or had let the batteries on his cell phones run down. She was dependent on calls from him – the arrangement was two calls per week - and if she didn't hear from him she assumed he had gone missing or was dead.

His fear of strangers coming close to him and his fear of being in indoor spaces remained. He had stored his belongings from the house in a couple of storage lockers, but wouldn't look for things beyond the outside of the pile because he couldn't stay in any of the lockers for long; he would accuse the movers of having stolen what he was searching for, instead. When a woman with a baby carriage passed by on a narrow sidewalk, at whose edge he was sitting, he shouted at her, "Why are you walking so close to me?" His van, as was discovered later, was so full of junk and garbage that there was barely room to sit down.

On June 23, 2008, he was picked up by police on suspicion of luring children for purposes of pedophilia arising from an incident at Queen Elizabeth Park. This likely arose from a misunderstanding over something he had said to two children (he had actually warned them away), but it became clear in police questioning that he was having great difficulty, and inappropriate behaviour with children is not unknown in cases of severe mental illness. The police report noted, "The suspect did not state he had any mental illness/problems; however, it appeared in the interview he is suffering from some problems: he rambled, had difficulty focusing on [the detective's] questions, appeared fidgety and anxious. Some of the answers to questions were somewhat bizarre and it was difficult to make sense of everything he said."

Two ironic incidents occurred in the days immediately following. On June 25 Car 88 (a constable and nurse) attempted to locate him, but because the previous police report had incorrectly listed the location as 3rd and Ontario rather than 33rd and Ontario, they looked in the wrong place and didn't find him.

On June 26, Mr. Kwapiszewski himself went to VGH Emergency, which we know because he called his GP (really former GP) immediately following (his sister, Ms. Haboosheh, was on a short holiday). He was, however, not admitted. According to the GP, he was removed from the hospital for misbehaving, although there is no incident report from VGH security. The GP instructed him to return to the hospital and have them call her, and she would arrange something with them, but she never heard back.

On June 27, his van was towed away for a bylaw violation and, with that, he was also separated from his day-to-day possessions and his living quarters, such as they were. He also, by this time, appears to have had little or no available money left, having squandered his inheritance from the sale of his mother's house save for a term deposit which was locked in.

Early on June 29, Marek Kwapiszewski jumped to his death from the Granville Street Bridge.

VCHA'S SEVERAL FAILURES IN THIS CASE

This was not a case of someone falling through the cracks because he was unknown to mental health services or because he lived in isolation without anyone having contact with him. Ms. Haboosheh, the sister, directly and indirectly made 16 appeals requesting intervention and providing collateral information in the 20-month period under examination, even going to the extent of hiring a lawyer to help her and of involving her brother's GP.

Disregard of a telltale symptom of deterioration

VCHA erred on two counts in, it seems casually, dismissing Mr. Kwapiszewski's rapid dissipation of the financial resources from his inheritance. They wrongly focused on the money in isolation, claiming it was not a matter they could be concerned with - stating arbitrarily and without any clinical rationale that they did not make assessments on the basis of financial competency. Yet the inappropriate squandering of large amounts of money by someone with a history of mental illness is a reliable marker of deterioration.

It is also false to claim, as was done, that for someone who is mentally ill, acting to prevent the rapid loss of that person's financial resources is beyond the B.C. Mental Health Act. The applicable clause in the section on involuntary committal is in 22 (3)(c)(ii) – that a person may be involuntarily committed "for the protection of the person or patient or the protection of others." In *McCorkell v. Director of Riverview Hospital, 1993 CanLII 1200 (BC S.C.), 1993-06-17, Supreme Court of British Columbia*, Justice Ian Donald, in commenting on the Manitoba Mental Health Act, with a similar "protection" committal criterion, that had been cited, found that protection from harm "can include harms that relate to the social, family, vocational or *financial life* of a patient as well as to the patient's physical condition" [italics are mine].

At the very least, rapid financial squandering should be taken into account both as a harm in itself and as a behavioural symptom of a larger harm (mental deterioration), rather than being arbitrarily dismissed.

Failure to protect

The applicable clause in the B.C. Mental Health Act is, again, 22 (3)(c)ii) – that a person may be involuntarily committed "for the protection of the person or patient or the protection of others." VCHA did not protect Marek Kwapiszewski. Ms. Haboosheh was a lay person unsure of how the system worked and the nuances of the law and clinical practice, but she was in fact perspicacious, legally correct and clinically correct in calling for Mr. Kwapiszewski's protection. VCHA, by contrast, was faulty and remiss on all three aspects.

It would be disingenuous, moreover, to argue that the need for protection wasn't apparent because Mr. Kwapiszewski wasn't at any point clearly dangerous to himself or others, in the sense of wielding a knife or gun, or babbling about suicide. The applicable word in

22 (3)(c)(ii), second part, is "protection" which, as Justice Ian Donald found for an earlier iteration of the Act, goes well beyond the limited notion of dangerousness. The broader and more general word "protection" is in Section 22 (3)(c)(ii) for a reason. Indeed, the word "dangerousness" or any variation of it is not to be found in Section 22 at all.

The broader wording, "protection," is also, in fact, more clinically appropriate in forestalling dangerousness itself, understood as suicide, homicide or the attempt at either. Generally speaking, anyone who is mentally ill and especially paranoid is at risk of committing a dangerous act, like suicide, if the illness is not treated. and/or managed with medication. The change from being at risk to committing a violently destructive act because of the illness, moreover, can happen quickly, for which intervention is too late.

Protection from the risk inherent in the illness is implicit in 22 (3)(c)(ii). It should be remembered, too, that when he was originally committed in 1983, on the first day in the psychiatric ward before benefiting by medication, he attacked an orderly, and that he had more recently expressed suicidal ideation on at least one occasion (wanting to go be with his mother).

Mr. Kwapiszewsk's suicide did not happen out of context, but was the result of a lack of protection (committal and treatment) that was long overdue.

The primary failure, stemming from a deep-rooted fault in VCHA's culture

We have gone into the above VCHA failures for the record. Serious as they are, they are only prefatory to the main reason for our asking for an inquiry – the ingrained disregard of the leading provision for involuntary committal. It is a disregard that, in our experience, is deeply rooted in the culture of mental-health services in the Vancouver service area and that requires a major change in leadership.

The B.C. Mental Health Act 22 (3)(c)(i) is quite clear: A person may be involuntarily committed if the person has a mental disorder and "requires care, supervision and control...to prevent the person's or patient's substantial mental or physical deterioration or for the protection of the person or patient or the protection of others."

We have already discussed the second provision in this clause, the need of protection. The leading provision, however, is "to prevent the person's or patient's substantial mental or physical deterioration." It is also a self-standing provision, sufficient unto itself for committal. The need for protection, however interpreted, and certainly dangerousness are not required.

Not only was Mr. Kwapiszewsk deteriorating but also VCHA service providers knew it. The symptomatic behaviour, the lack of insight, the finding that he was ill and would benefit from treatment, the delusional paranoia that would not allow him to live even by himself in an apartment, the other signs of deterioration – all this was manifest.

It is equally apparent, from the VCHA service providers' preoccupation with whether Mr. Kwapiszewsk was suicidal or going to hurt someone, and from other indications, that

they were using the false requirement of dangerousness in not committing him rather than the proper standard, the need to prevent substantial deterioration.

This is so basic, and of such profound import, that it needs no elaboration.

If the approach taken in the case of Mr. Kwapiszewsk were an anomaly, we wouldn't be filing this submission. It's been clear for some time, however, from our involvement in other cases, that this false standard for committal - while ignoring the primary clinical need - is often used.

Often, too, the fault is made explicit. We have had dangerousness cited to us as a committal requirement and have been berated when we tried to explain what the committal provisions actually were.

Recently a senior psychiatrist in the Psychiatric Assessment Unit at Vancouver Hospital discharged an ill young man after another psychiatrist, worried about the patient's deterioration, had certified him. The reported reason for the discharge: the PAU psychiatrist considered the young man's recent behaviour "not particularly risky."

A senior staff educator for community mental health in Vancouver, giving workshops to staff – this is the person in charge of training others – cited risk, that is dangerousness, as the criterion for committal, as everyone knew, he said. He was quite surprised when one of our members, auditing the workshop, questioned him about it. He did not know what B.C.'s committal provisions actually were.

These are signs of a systemic problem. Particular individuals would not be acting from so fundamental a mistaken assumption if the assumption were not ingrained in their environment.

To summarize: A man was ill and had a history of illness; his sister made repeated efforts to get help for him (for which committal was necessary because he lacked sufficient insight and was paranoid); the help wasn't forthcoming; his death need not have occurred, and the system's failure to respond properly when called on came from a fault deep in its culture.

From our long experience, we have no confidence that sufficient change will occur unless the initiative for it comes from outside mental health services, in this case via an independent inquiry under your aegis.

Yours sincerely,

(signed)

Herschel Hardin
President