



# Aboriginal Commission on Human Rights and Justice

## **Suspended Justice: A Case Study of Ethnic and Racial Discrimination Relating to the Edmonton Police Service and The Alberta Human Rights Commission**

A young Aboriginal woman was instructed to stop wearing her beaded earrings, to take down pictures of her children, and to stop using her Aboriginal language in emails. It seemed she was, in effect, “too Aboriginal” for her colleagues and managers. Each avenue she sought for redress, both formal and informal, resulted in further victimization when she felt bullied, isolated, pushed out, and eventually pressured to settle with minimal compensation and little regard for her dignity and rights. This report will describe the experience of Ms. Kathleen Sawdo while employed in the Victim Services Unit of the Edmonton Police Services. It will outline the process to address this discrimination including the results of a formal investigation of EPS and negotiation of a settlement by the Alberta Human Rights Commission.

### **Incident Summary**

Ms. Kathleen Sawdo, an Anishnaabeg from the Treaty 3 Area of Northwest Ontario, was hired as a Court Program Administrator for the Victims’ Services Unit of the Edmonton Police Service. She began work on May 10, 2010 under the supervision of Sgt. Doherty until his transfer one month later when Const. Flemming Kristensen became Kathleen’s Acting Sergeant and new supervisor. The environment of Victims’ Services was characterized as “in turmoil” with interpersonal conflict and staff turnover, and Ms. Sawdo did not receive a sufficient orientation to the job. As a new staff, Ms. Sawdo’s probation was to end August 10, 2010, pending a satisfactory performance appraisal. However, she was invited to a “pre-performance” review meeting on July 19,

2010 that resulted in critical evaluation on issues that were previously undisclosed. Acting Sgt. Kristensen objected to Cree words and promotion of Aboriginal events that Kathleen occasionally inserted in emails to her co-workers as well as her practice of acknowledging her Anishnaabeg lineage in personal introductions to co-workers. She was directed to remove her earrings and beaded hairclip and advised to take down the pictures of her children. Ms. Sawdo noted that Acting Sgt. Kristensen made a gesture with his hands from head to waist stating “You need to be...” before Ms. Sawdo asked, “Are you saying I need to be less Aboriginal?” “Yes, ” was his answer (in Grant, 2010, p. 11). Ms. Sawdo was approached by a colleague, Ms. Sandra Arbeau, (July 29, 2010), a support clerk in the southeast division of the EPS, who was angry that Kathleen had placed cedar above a shared door, and accused her of making her uncomfortable and suggested that “we all have our cultures but we don’t need to bring it to work” (in Grant, 2010, p. 3).

Ms. Sawdo initiated a process to solicit support and resources on how to address these felt incidences of discrimination and, though the networks appeared relevant and logical, she found little resolve through most of these avenues. For example, internal supports such as the EPS human resources representative, her union representative of CSU 52, or the Edmonton Police Commission did not effectively “take up” the process to resolve the incident. Ms. Sawdo approached external resources such as The City of Edmonton Aboriginal Relations Office that could have but did not draw on the Edmonton Urban Aboriginal Accord, the Declaration, or the council-mandated Diversity Framework to support EPS in their workplace treatment of Aboriginal people. At a second mediation meeting that was intended to support the informal resolution process, Acting Sgt. Kristensen apologized in a way that, to Ms. Sawdo, did not convey sincerity that critical reflection or cultural change would occur. Further, she felt that her request for cultural sensitivity training within EPS would not be considered.

In response to the lack of substantial action, Ms. Sawdo filed a formal internal complaint

(August 23, 2010). In it, she named Acting Sgt. Flemming Kristensen and Ms. Sandra Arbeau for alleged discrimination. This complaint instigated an investigation conducted by Toronto-based Ms. Yola Grant, with Grant & Bernhardt Barristers & Solicitors, and likely known by Chief Knecht, between September 26 through to November 3, 2010. The investigation found that parts the initial complaint against Acting Sgt. Kristensen amounted to discrimination on the basis of ancestry while other allegations against Sgt. Kristensen were not ruled as discriminatory yet deemed “inappropriate” and “isolated” (Edmonton Police Service, 2010).<sup>1</sup> The report suggested there was not sufficient evidence to find a claim of harassment against Ms. Arbeau, nor did it find sufficient evidence for systemic discrimination within the EPS. Ms. Sawdo reports bias with the investigative report to favour the EPS and to diminish the allegations of misconduct. However, she did agree with the report statement that Ms. Sawdo functioned as a “lightening rod” for the lack of knowledge regarding the rights of Aboriginal peoples that illustrated the deficit by EPS in serving that population effectively (in Edmonton Police Service, 2010). The investigative report states:

...it appears that education that recognizes the distinct position of Aboriginal peoples within Canada may be necessary to convey to EPS staff that Aboriginal peoples have particular rights to assert against the state and they (EPS as state agents) have an obligation to be alive to these rights and appreciate that they are not merely ceremonial or special/discretionary accommodations. This may promote a better understanding among EPS staff that treating ‘all cultures’ the same (formal equality) is not an effective means of achieving substantive equality...” (Edmonton Police Service, 2010, p. 50).

Ms. Sawdo contacted relevant sources for information and support and followed outlined procedures for addressing conflict and discrimination, she faced significant resistance with each of these avenues. Despite ample tools, policies, and procedures for promoting diversity and respectful

workplaces, building Aboriginal relations, and resolving workplace harassment, conflict, and discrimination, it seems the EPS lacked the ability to effectively operationalize these resources for a mutually effective resolve.

### **Intimidation and Bullying**

Ms. Sawdo documents that her attempts to address the incident resulted in retaliation, intimidation, and bullying. Following the mediation meeting with Acting Sgt. Kristensen, Ms. Sawdo received a letter (August 3, 2010) indicating that her probationary period would be extended for an additional three months despite her previous understanding that it would not be extended if she addressed select behaviour concerns. Ms. Sawdo viewed this as retaliatory action by Acting Sgt. Kristensen. In addition, she could not verify what information was being shared with co-workers, but she sensed the informal conversations or comments trivialized her feelings, the severity of discrimination, and pegged her as a disruptive employee. A senior member of Edmonton Police Service, Inspector Baily stated, “EPS doesn’t have racism like it was 20 years ago ” (in Grant, 2010, p. 13) a senior Human Resources/Diversity Manager relayed to Ms. Sawdo “You do know that training was never going to happen?” (personal communication with Sawdo, 2012). Ms. Sawdo’s co-workers and unit volunteers refused to look or speak to her, thereby compounding a tense and uncomfortable environment.

Overall, Ms. Sawdo felt EPS was trying to maintain “blindness” to diversity issues and lacked capacity for implementing available tools for inviting and celebrating Aboriginal culture in harmonizing ways. She felt the lack of supports for addressing conflict maintains the current “closed” organizational culture. The bullying and intimidation throughout the internal resolution processes created feelings of isolation and frustration that caused physical and emotional distress, so much so that she resigned on March 28, 2011.

## **Alberta Human Rights Commission**

Ms. Sawdo filed a complaint with the Alberta Human Rights Commission on June 07, 2011 when all other attempts of resolving the issue did not yield satisfactory results. In it, she charged the Edmonton Police Service for discrimination that justified compensation. Kathleen requested one year's salary, a request for EPS to initiate Aboriginal awareness training, and a supported process of healing. However, throughout the negotiations with the Alberta Human Rights Commission, Kathleen felt under-represented and unsupported due to inefficiencies, delays, and a perceived unwillingness to take a strong stand for her interests. For example, the Alberta Human Rights Commission Report (Alberta Human Rights Commission, 2012) deems the Edmonton Police Service report (2010) as "objective" (p. 2) "unbiased" (p. 11) and references the report "facts" (p. 14) even if directly contradicting Kathleen's descriptions of issues or events, such as, for example, a description of the workplace as "neutral" (p. 7). Ms. Sawdo continually felt pressured to settle without a hearing as she was told that unless she settled, she would not be assigned an investigator until December 2013 and then to expect a two – three year investigation process. Significant delays presented financial and emotional hardship, and Ms. Sawdo eventually settled under duress.

## **Reflection and Recommendations**

Ms. Sawdo's experience of discrimination within in the Edmonton Police Service, as well as resolution processes that were deemed inadequate and led to further bullying, reveals significant individual and organizational barriers to a fair and equitable workplace. The following recommendations reflect the scope of issues that can be used by the Edmonton Police Service and the Alberta Human Rights Commission to establish commitments to Aboriginal people and to minimize reoccurrence. These recommendations will promote a process that is more reflective and representative of Aboriginal people in Edmonton to ensure respectful environments that prevent discrimination, and, when it does arise, to ensure policy and procedures as well as skilled individuals can guarantee that resolutions are meaningful and effective.

**Recommendation 1: The Edmonton Police Service and Alberta Commission on Human Rights and Justice assume discrimination is reflective of both individual as well as structural issues and ensure its responses and recommendations encompass this full scope.**

Rationale: Discrimination against Aboriginal people is a longstanding interpersonal and structural problem that is reflected by the high representation of Aboriginal people within these systems. The EPS, which is supposed to uphold the highest standards of justice, is one of the institutions where discrimination against Aboriginal people is most frequent (Aboriginal Commission on Human Rights & Justice, 2009). Further, The Alberta Human Rights Commission acknowledges disproportionate discrimination against Aboriginal people; however, the majority of Aboriginal people in Alberta find the Alberta Human Rights Commission ineffective and choose not to report incidences of discrimination through this channel (Aboriginal Commission on Human Rights & Justice, 2009). The specifics of this case study reflect individual and structural issues within Canadian justice systems that deny Aboriginal dignity and rights that warrants grave concern and requires multifaceted responses.

**Recommendation 2: The Edmonton Police Service must be accountable for the effective operationalization of comprehensive policy and procedures to support respectful workplaces as well as dispute resolution policy, procedures and practices.**

Rationale: There are ample resources and tools that may assist in accomplishing respect and inclusion policy goals that include Council-approved tools and directives. Examples include the City Council's Policy C538 Diversity and Inclusion, which is supported by the Respectful Workplace Diversity and Inclusion Framework. Also relevant is the Council Declaration: Strengthening Relationships Between the City of Edmonton and Urban Aboriginal People that acknowledges Aboriginal contributions and realities and to commits to build stronger working relationships between City entities and Aboriginal people. Finally, the Edmonton Police Service is an active member of Racism Free Edmonton that identifies commitments and strategies to overcome racism in our city.

While the tools may be available, there needs to be significant cultural change to operationalize these tools in an effective manner. This includes strong leadership to internalize the underlying values and promote reflective policies and procedures. The Edmonton Police Service can ensure these standards are embedded into the entire human resource cycle that includes recruitment, performance management, as well as retention and promotion.

These resources provide proactive measures that can reduce conflict occurrence; however, should conflict arise, the Edmonton Police Service must normalize dispute resolution processes and ensure they are effective, swift, and facilitated by independent and trained professionals. The most senior leadership must send a clear message that the organization will not tolerate bullying or further discrimination if one chooses to access these supports.

**Recommendation 3: The Edmonton Police Service must demonstrate understanding of the distinct position and rights of Aboriginal people in Canada beyond ceremonial accommodations.**

Rationale: Aboriginal social, economic, and political systems were firmly established before and during the formal creation of the Dominion of Canada and the sovereign status of these systems have been articulated through Treaty and Aboriginal Rights. Therefore, Aboriginal rights are not awarded by Canada nor are Aboriginal people's special place in Canadian society a benevolent gesture by Canada. Aboriginal people have rights and maintain a special place in Canadian society by virtue of being Indigenous and maintaining distinct cultures.

Aboriginal people now have legal and constitutional protections for Aboriginal and treaty rights through Subsection 35(1) of the Constitution Act, 1982 that provides "the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed." Therefore, the Canadian state has a moral and legal responsibility to reflect and affirm the value and distinctness of Aboriginal cultures within these various political and legal spheres.

**Recommendation 4: All justice-related services such as The Edmonton Police Service and the Alberta Commission on Human Rights consult extensively with Aboriginal people and organizations that have direct knowledge and appropriate mandates to support initiatives and strategies.**

Rationale: There are multiple needs in the community that include seniors, youth, and the homeless. The most vulnerable in most of these categories are consistently Aboriginal people and reasons are largely related of poverty, isolation, and oppression. Aboriginal people are the most vulnerable in Canada society yet have a unique place, as affirmed by Canada's constitutional and legal frameworks, which creates strong justification for commitment and resource allocation to ensure that Aboriginal strategies and initiatives are created by Aboriginal communities or in direct consultation with Aboriginal community members with appropriate mandates.

This case study was written by Krista McFadyen in consultation with Ms. Kathleen Sawdo and the ACHR&J Board of Directors.  
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