

Special Committee to Review the Independent Investigations Office



FEBRUARY 2015



February 12, 2015

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

I have the honour to present herewith the Report of the Special Committee to Review the
Independent Investigations Office.

Respectfully submitted on behalf of the Committee,

Mike Morris, MLA
Chair

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Composition of the Committee

Members

Mike Morris, MLA	Chair	Prince George-Mackenzie
Spencer Chandra Herbert, MLA	Deputy Chair	Vancouver-West End
Dr. Doug Bing, MLA		Maple Ridge-Pitt Meadows
Kathy Corrigan, MLA*		Burnaby-Deer Lake
Scott Fraser, MLA		Alberni-Pacific Rim
Wm. Scott Hamilton, MLA		Delta North
Dr. Darryl Plecas, MLA		Abbotsford South
Jane Jae Kyung Shin, MLA**		Burnaby-Lougheed
Jackie Tegart, MLA		Fraser-Nicola

*Committee member to January 22, 2015

**Committee member from January 22, 2015

Clerk to the Committee

Susan Sourial, Committee Clerk

Research Staff

Ron Wall, Manager, Committee Research Services

Terms of Reference

On February 25, 2014 and October 9, 2014, the Legislative Assembly agreed that a Special Committee to Review the Independent Investigations Office be appointed to examine, inquire into and make recommendations with respect to the administration and general operations of the Independent Investigations Office in accordance with section 38.13 of the *Police Act* [RSBC 1996] c. 367, and in particular:

1. To conduct, before January 1, 2015, a review of:
 - a. The administration and general operations of the Independent Investigations Office; and
 - b. The Chief Civilian Director's progress towards a goal of having an Independent Investigations Office that is staffed entirely with employees and Independent Investigations Office investigators who have never served as officers or members of a police or law enforcement agency.
2. To solicit and consider written and oral submissions from any interested person or organization by any means the committee considers appropriate.
3. To submit a report, including any recommendations respecting the results of the review, to the Legislative Assembly within one year of this resolution being adopted by the House.

The Special Committee shall have the powers of a Select Standing Committee and in addition is empowered:

- a. to appoint of their number one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- b. to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- c. to adjourn from place to place as may be convenient; and
- d. to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible, or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

On February 11, 2015, the Legislative Assembly agreed that a Special Committee to Review the Independent Investigations Office be appointed to examine, inquire into and make recommendations with respect to the administration and general operations of the Independent Investigations Office in accordance with section 38.13 of the *Police Act* [RSBC 1996] c. 367, and in particular:

1. To conduct and conclude a review of:
 - a. The administration and general operations of the Independent Investigations Office; and
 - b. The Chief Civilian Director's progress towards a goal of having an Independent Investigations Office that is staffed entirely with employees and Independent Investigations Office investigators who have never served as officers or members of a police or law enforcement agency.
2. To consider written and oral submissions received during the Third Session of the 40th Parliament.
3. To submit a report, including any recommendations respecting the results of the review, to the Legislative Assembly by February 25, 2015.

The Special Committee shall have the powers of a Select Standing Committee and in addition is empowered:

- a. to appoint of their number one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- b. to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- c. to adjourn from place to place as may be convenient; and
- d. to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible, or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

Executive Summary

Section 38.13 of the *Police Act* [RSBC 1996] c. 367 requires that a special committee of the Legislative Assembly conduct, before January 1, 2015, a review of the administration and general operations of the Independent Investigations Office (IIO), and the Chief Civilian Director's progress towards a goal of having an office that is staffed entirely with employees and investigators who have never served as officers or members of a police or law enforcement agency. The Act further requires that the committee submit a report with its recommendations to the Legislative Assembly within one year of its appointment. The civilian-led IIO was established in 2011 and became operational in 2012, with a mandate to investigate incidents of serious harm and death involving BC police officers.

The Special Committee to Review the Independent Investigations Office was established on February 25, 2014. Following organizational and planning meetings, the Committee commenced its review with briefings from the Ministry of Justice and the IIO's Chief Civilian Director and staff. The Committee consulted with stakeholders and interested British Columbians over the summer and fall of 2014. A public call for written submissions was advertised, inviting stakeholder groups and citizens to provide input on the IIO's administration and general operations. During the consultation period, the Committee heard support for the legislation and the work of the IIO. In addition, a number of proposals were made to amend the Act and change the IIO's operating policies and procedures. Following the public consultations, the Committee received supplemental briefings from the Ministry and IIO, and then undertook deliberations with respect to conclusions and recommendations.

This report contains recommendations designed to enhance the IIO's administration and general operations through measures regarding civilianization and staffing by former police officers, human resources issues, the public disclosure of civilian monitor reports, and the use of body-worn cameras; the Committee further recommended that the Ministry of Justice report publicly on actions taken to address human resources issues at the IIO within one year of the presentation of the Committee's report. Given the importance of civilian oversight of serious police incidents, it is also recommended that the *Police Act* be amended to require a comprehensive statutory review of the Independent Investigations Office by a special committee of the Legislative Assembly at least once every six years.

The Statutory Framework

British Columbia's approximately 9,000 RCMP, municipal, First Nations and transit police services members have vital responsibilities in enforcing the rule of law, preserving safety and security, and preventing crime across the province. British Columbians place great value on the high quality of public service and dedication of police members, who frequently go beyond the call of duty and place their lives at risk in serving their communities.

BC's police services and the statutory provisions for policing have evolved over the course of the province's history. From a provincial constabulary under the authority of the Attorney General at the time of BC's entry into confederation, provincial policing today is provided through a modern statutory framework in the *Police Act* to meet the challenges of a growing and diverse population.

In the past three decades, the question of police oversight has gained attention across Canada and abroad, resulting in statutory changes to increase police accountability to citizens and to establish mechanisms for civilian oversight of serious police incidents.

In 1998, in response to recommendations in the 1994 Oppal Commission Report, *Closing the Gap: Policing and the Community*, the *Police Act* was amended to establish a new Statutory Officer of the Legislature, the Police Complaint Commissioner, to oversee an Office responsible for monitoring and receiving public complaints about municipal police members. The 2007 Wood Report on the *Review of the Police Complaint Process in British Columbia* led to a strengthening of the role of the Police Complaint Commissioner.

In the 2000s, two BC public inquiries into police involvement in the death of individuals recommended the establishment of an Independent Investigations Office (IIO) to handle investigations of serious incidents involving police officers.

- In 2007, government appointed Justice William Davies to conduct an inquiry into the 1998 death of Frank Joseph Paul, a First Nations man taken into custody for intoxication by the Vancouver Police and then released in an alleyway near the Vancouver Jail. Mr. Paul subsequently died due to hypothermia. Justice Davies' 2009 report recommended that "government establish an Independent Investigation Office (IIO), to conduct criminal investigations of all police-related deaths in the 12 jurisdictions policed by the 11 municipal police departments."
- Following the 2007 tragic conducted energy weapon-related death of Robert Dziekanski at the Vancouver International Airport, involving the RCMP, government appointed Justice Thomas Braidwood in 2008 to inquire into the use of conducted energy weapons and the death of Mr. Dziekanski. Justice Braidwood's May 2010 report recommended the creation of a civilian-based criminal investigative body, to be named the Independent Investigation Office. Justice Braidwood broadened Justice Davies' proposed mandate and jurisdictional coverage by recommending that the office be empowered to examine serious incidents which: result in serious harm and death; and involve police officers across BC, including the RCMP.

In June 2010, government announced that it would implement the Braidwood report recommendation to create a new civilian-led Independent Investigations Office to investigate incidents of serious harm and death involving BC police officers, including the RCMP.

Government introduced legislation in May 2011 to amend the *Police Act* in order to establish an Independent Investigations Office. The legislation was passed by the Legislative Assembly and came into force in July 2011. Section 38.13 of the Act requires that a special committee of the Legislative Assembly conduct a review of the IIO's administration and general operations by January 1, 2015. This section obliges the committee to submit a report to the Legislative Assembly on its review within one year after the date of its appointment by the Legislative Assembly.

In January 2012, Richard Rosenthal was appointed as the IIO's first Chief Civilian Director. In July 2012, the IIO and BC police agencies (the RCMP, 11 municipal police departments, the South Coast British Columbia Transportation Authority Police Service, and the Stl'atl'imx Tribal Police) signed a Memorandum of Understanding, which addresses all aspects of investigations including notification to the IIO, scene security, designation of subject and witness officers and concurrent investigations.

The IIO became officially operational in September 2012.

The Consultation Process

On February 25, 2014, the Legislative Assembly appointed the Special Committee to Review the Independent Investigations Office to examine and make recommendations with respect to the IIO's administration and general operations as well as the Chief Civilian Director's progress towards a goal of having an office that is staffed entirely with employees and investigators who have never served as police members. The conduct of the Committee's inquiry was to be completed by January 1, 2015, and the Committee's recommendations to be submitted to the Legislative Assembly by February 25, 2015. On October 9, 2014, and on February 11, 2015, the Legislative Assembly renewed the Committee's mandate in the third and fourth sessions of the 40th Parliament.

Planning, Organization, and Briefings

The Committee met on March 25, 2014, and April 10, 2014 to plan and organize its work. The Committee received initial briefings on May 26, 2014 from senior officials of the Ministry of Justice. On June 10, 2014, the Committee made a site visit to the IIO's headquarters in Surrey, and met with the office's Chief Civilian Director and staff. Additional briefings from Ministry and IIO officials were provided to the Committee on December 11, 2014, after the completion of the Committee's public consultation process.

Consultation Methods

The Committee established a range of consultation methods to collect public input on the IIO's administration and general operations. On June 20, 2014, the Committee issued a province-wide media release announcing the launch of public consultations, including public hearings, and written, audio, and video submissions. A Committee webpage was established with information on how to participate in the public consultations.

In June 2014, the Committee issued invitations to participate in its public consultations to stakeholders, including police agencies and public interest advocacy organizations. Advertisements were also placed in provincial daily newspapers, inviting the public to make a written submission by September 26, 2014. The Committee subsequently issued a province-wide media release extending the deadline for written submissions to October 31, 2014, and sent out additional invitations to make presentations at the Committee's public hearings.

Public Hearing Presentations

During the consultation period, the Committee held two public hearings in Vancouver and Victoria, hearing 11 oral presentations. The names of all presenters are listed in Appendix A.

Written Submissions

The original deadline for receiving written submissions was September 26, 2014, which was subsequently extended to October 31, 2014, to provide additional time for making submissions to the Committee. In total, 21 written submissions were received. The names of all individuals and organizations that made a written submission are listed in Appendix A.

Meeting Schedule

March 25, 2014	Organizational Meeting	Victoria
April 10, 2014	Business Plan	Victoria
May 26, 2014	Briefing by the Ministry of Justice	Victoria
June 10, 2014	Site Visit to IIO Headquarters Briefing by the IIO	Surrey
September 11, 2014	Public Hearing	Vancouver
October 9, 2014	Organizational Meeting	Victoria
October 29, 2014	Public Hearing	Victoria
December 11, 2014	Briefings by the Ministry of Justice and the IIO Deliberations	Victoria
January 26, 2015	Deliberations	Vancouver
February 12, 2015	Organizational Meeting Deliberations Approval of Report	Victoria

Briefings

On May 26, 2014, the Committee received a briefing from officials of the Justice Services Branch of the Ministry of Justice, who presented government's perspective on the policy context and statutory framework for the IIO. Ministry officials provided the Committee with a supplemental briefing after the conclusion of the public consultations process. On June 20, 2014, the Committee made a site visit to IIO headquarters in Surrey, and received a detailed briefing from the Chief Civilian Director and staff of the IIO on the organization's progress in implementing its statutory mandate. The Committee received a supplemental briefing from the IIO on December 11, 2014.

Ministry of Justice Briefings

The Committee was presented with information by the Ministry of Justice on the origin, mandate, operation and administration of the IIO. They explained that government had accepted the Braidwood report recommendation to establish an IIO as an independent, civilian-led office to investigate serious incidents involving BC police officers. Development of the IIO's governance structure had been informed by consideration of two existing models:

- Alberta's Serious Incident Response Team – which became operational in 2008, uses civilian and seconded police members (Nova Scotia's Serious Incident Response Team, created in 2012, and Manitoba's Independent Investigations Unit, established in 2013, have adopted the Alberta model); and
- Ontario's Special Investigations Office – which does not use seconded police officers, but allows investigators to have a policing background (the director can never have been a police officer).

The Braidwood objective of a completely civilian IIO was unique to BC, although the IIO shares similarities with Ontario's model. In government's view, the number one goal of the IIO in its early years is to conduct professional, competent investigations into some of the most serious offences in the *Criminal Code*. Government remains committed to a completely civilian IIO investigative team, but this is secondary to ensuring that investigations are done to the highest standard. The Chief Civilian Director has statutory authority to hire former police officers from outside BC, and former BC police officers who have not served in the past five years (the "five-year rule"). The Act also requires the Committee to review the Chief Civilian Director's progress "towards a goal of having an Independent Investigations Office that is staffed entirely with employees and Independent Investigations Office investigators who have never served as officers or members of a police or law enforcement agency."

Regarding the experience of other jurisdictions with respect to mandate, Ministry officials explained that oversight offices across Canada share a mandate to investigate serious incidents which have resulted in death or serious injury as a result of police action, but jurisdictions vary with respect to other matters, such as sexual assault and/or domestic violence. BC and Alberta have civilian oversight offices focusing on incidents of death or serious injury. On the other hand, mandates in Ontario,

Manitoba, and Nova Scotia include incidents involving sexual assault and, in Nova Scotia's case, also cover domestic violence and other matters of public interest.

Staffing and training to develop civilian expertise were taking time. While the IIO has made substantial progress, civilianization would probably take more than five years. Indeed, "even if fully achieved at a point in time, complete civilianization may not be a permanent outcome. Former police officers who meet the statutory waiting period may still be required at particular future points in time, especially if the mandate of the office should change, for example with the addition of new offenses or types of incidents to be investigated." In this context, it is too early to expand the IIO's mandate, since this would require additional expertise and resources, and could divert the IIO from its primary goal of ensuring effective investigations. The Ministry intends to conduct future regular reviews of the IIO. In this regard, the Ministry "plans to conduct a further review of the IIO in 2016, prior to the end of the current Chief Civilian Director's term, and could at that time consider a change in the mandate if that was deemed desirable."

In response to questions from Committee Members, Ministry officials indicated that: the IIO was taking action to enhance human resources practices and victim services; an existing IIO oversight board appeared to be working effectively, and governance arrangements were appropriate; and the provision of police notes was being handled in accordance with constitutional requirements. The Ministry advised that it did not have a concern about a regular statutory review process by a parliamentary committee, if the Committee concluded that this would be in the public interest.

The Ministry's Policing and Security Branch advised the Committee in a December 8, 2014 letter that it is undertaking work on potential policy, budgetary, privacy, and legal issues related to the use of body-worn cameras in BC. The Ministry is working closely with police and other stakeholders to obtain their input on the possible applicability of such devices to policing in BC.

On January 28, 2015, the Ministry advised the Committee that, after an examination of complaints received about IIO human resources practices and related information, the Deputy Attorney General had forwarded the complaints to the BC Public Service Agency for review.

IIO Briefings

The Chief Civilian Director and staff of the IIO provided the Committee with detailed information on work in establishing the IIO, its investigative functions, progress towards civilianization, and administrative and general operations challenges and initiatives.

Establishing the IIO and its Investigative Functions

The Chief Civilian Director and his staff stated that the IIO has made substantial progress on its primary objective of establishing an effective investigations operation. Since the IIO became operational in September 2012, the IIO has: reached agreement with all police agencies across the province on a Memorandum of Understanding for the conduct of IIO investigations; developed investigative processes; and undertaken staffing of investigators.

Between September 2012 and November 2014, 111 investigations were initiated. A total of 30 files had been forwarded to Crown Counsel where the Chief Civilian Director considered that an officer may have committed an offence. The IIO has made significant progress in improving the timeliness of investigations, and the conclusion of decisions on whether to forward a file to Crown Counsel. The Chief Civilian Director suggested to the Committee that the statutory referral standard for sending files to Crown Counsel may be overly broad (the Act requires that in investigations where “the chief civilian director considers that an officer may have committed an offence ... the chief civilian director must report the matter to Crown counsel”). The development of a narrower standard could be an area for review by the Ministry of Justice.

Progress towards Civilianization and Staffing by Former Police Officers

The IIO’s Chief Civilian Director reported that considerable improvements have been made in the area of civilianization, with 67% of investigators coming from civilian backgrounds as of December 2014. In two years, the IIO has achieved the highest rate of growth in civilianization in the western world, and while the Northern Ireland Police Ombudsman’s Office had a similar level of civilianization, “it took them 14 years to achieve that.”

The Committee was advised that the Chief Civilian Director is committed “to the long-term civilianization of the IIO.” He noted that the Act provides “the time necessary to do this in a tactical and appropriate fashion,” but proposed “a relaxation of the five-year rule to give ... more discretion in how to staff the IIO in order to ensure competency and long-term civilianization.”

Stating that, “There have been lots of people who’ve come from any other province in the country and who simply have not been interested in coming to BC because of the high cost of living,” the Chief Civilian Director cited an example where the five-year rule had precluded “a candidate for a team director position, a person who was a former RCMP inspector with extensive major crimes experience outside of BC because he had acted as a complaint adjudicator, based in Chilliwack, for eight months within the preceding five years. It also precluded from consideration RCMP instructors at the Pacific region training centre who had only taught policing in BC but had not actually engaged in the practice of policing in BC in the last five years, and it precludes ... consideration of any (BC) municipal police member who is current with respect to major crimes investigative experience.” The Chief Civilian Director indicated that since the establishment of the IIO, BC police “have gone through a great sea change in culture, to the point that they not only accepted the creation of the IIO; they’ve been some of the biggest supporters of the organization. The inability to hire somebody who’s gone through that sea change, simply because they have policed in BC in the last five years, causes difficulties in the hiring processes.”

Administrative and General Operations Challenges and Initiatives

Reporting on the IIO’s administrative and general operations challenges since its establishment as a new organization in 2012, the Chief Civilian Director stated that staff attrition had been fairly significant in the IIO’s first two years, with a total of 15 employees leaving the office, including 10 former police members and five civilians. He cited reasons for attrition: cultural conflicts when a large

number of new staff with diverse backgrounds enter a new organization; inconsistency in processes in evolving human resources systems; and changes to jobs in an organization's early years, which may lead to people leaving for positions they find more personally compatible.

The Chief Civilian Director briefed the Committee on the findings of three internal reviews – a work environment survey, a SWOT (strengths, weaknesses, opportunities, and threats) analysis, and a Justice Institute of BC assessment. The key findings included the following points.

- The IIO is an emerging situation. Its culture is a hybrid of policing culture and the BC public service. It's clearly a work in progress, in an early stage of development. Given this, the context and circumstances surrounding its launch (including an extremely short start-up time, strict hiring criterion, and intense public scrutiny), and the unique and complex nature of the IIO, many issues in the internal reviews are to be expected.
- Primary areas of concern include: a lack of confidence in senior leadership; cultural conflict between employees having backgrounds in a police culture and staff from a public service culture; the need for better conflict resolution and communication; and requirements to improve administrative processes and directives.
- Changes were recommended to develop personal tailored career development plans for civilian investigators; seek increased organizational development support to make the transition to a fully civilian organizational structure; provide senior leadership with dedicated, ongoing, on-site, customized education and coaching support focused on leading the establishment of the permanent structure of the organization; and develop a more detailed definition, policy and procedure than currently exists on the scope of investigations and report writing standards.

The Committee was advised by the Chief Civilian Director of the serious nature of human resources challenges at the IIO. He had accepted all the Justice Institute of BC's recommendations, and was taking action to implement them. This included a phased approach to civilianization, career development plans for staff, increased support to transition to a fully civilian structure, enhanced education and coaching for senior leaders, and strengthened administrative policies and procedures. These actions were reflected in a new strategic plan for the IIO designed to foster a shared culture and mission at the IIO, with clearer policies by senior leadership on workplace issues, moving to a permanent organizational structure, enhanced communications, better training, and more balanced workloads among investigative teams.

Attrition rates had also reflected specific actions to address conflict between police and public service cultures, as cited in the Justice Institute of BC's finding that "there were IIO investigators who were former police officers who believed that civilians cannot be competent investigating police-related critical incidents." From the Chief Civilian Director's perspective, staffing actions resulting in departures of some personnel had been required to create an investigative team with a shared mission, vision, and values.

Mandate and Functions

Providing the Committee with information on the approaches taken by other jurisdictions with respect to the mandate of civilian oversight offices, the Chief Civilian Director stated that, “It is important to note that every civilian oversight program, nationally and internationally, is different. There is no accepted best practice with respect to these organizations but instead a best fit, where each jurisdiction chooses the form of oversight in a mandate that will best serve its local, provincial or national needs.”

On the issue of including sexual assault incidents in civilian oversight office mandates, he observed that there were different approaches across Canada. Offices in Ontario, Nova Scotia, and Manitoba have provisions to include sexual assault cases, whereas offices in BC and Alberta focus on police incidents involving death or serious injury (in Alberta, the Solicitor General may assign a specific sexual assault case to the province’s office, and in BC, such a case is only investigated if it involves death or serious harm as currently defined in statute).

The Chief Civilian Director informed the Committee that if the IIO’s mandate were to be expanded to cover sexual assault cases “it would be required that we hire experienced sexual assault investigators to conduct the investigations and to train other people to do it. We would have to create appropriate policies and procedures and train current investigators to assist in those investigations, and that would take time ... it would be difficult to do right now, with all of the challenges we’re having.”

Body-worn Cameras

In reply to questions from the Committee about the usefulness of body-worn cameras, the Chief Civilian Director explained that government was responsible for policies regarding body-worn camera use by police members. He noted that such devices were becoming increasingly common in other jurisdictions, particularly in the US, and that evidence from these jurisdictions suggested that body-worn cameras could assist certain IIO investigative files, including emergency response team deployments, police dog handling issues, and conducted energy weapon incidents.

Victim Services

With respect to the IIO’s efforts to improve its victim services program, the Chief Civilian Director noted that the IIO had identified a “void” in this area for persons or families affected by police incidents. Over the past two years, the IIO had established a victim services program with an affected persons manager who can provide death notifications, information on the IIO’s mandate, processes, and investigations, and referrals to appropriate counselling or other support services.

Advisory Board

Turning to the need for an additional advisory board for IIO oversight, the Chief Civilian Director reported that he had established an external advisory working group, comprised of a wide range of

stakeholder, policing, and community representatives. The working group is a voluntary board, which allows its members to provide independent advice on operational and policy issues.

Police Notes

On the issue of police notes, the Chief Civilian Director reiterated information provided by the Ministry of Justice that BC has dealt with issues related to police notes on critical police incidents through provisions in a Memorandum of Understanding between the IIO and police agencies. The Memorandum of Understanding also ensures that officers' constitutional rights are respected and protected. The Chief Civilian Director advised that he had no indication of irregularities in BC with respect to the preparation of police notes.

Public Consultation Results

The Committee's public consultation process through the fall 2014 period engaged stakeholders and individual British Columbians in the Committee's mandate to review the IIO's administration and general operations, and its progress in becoming a fully civilian organization.

Support for an Independent, Civilian-led IIO

The Committee heard a message of support for BC's overall approach of creating an independent, civilian-led organization to investigate serious incidents involving the police.

Testimony by stakeholders, police interests, and individual citizens affirmed the value of an independent investigations office and its work. For example, a presentation by the BC Civil Liberties Association stated that among community-based stakeholders, the association had led the charge for "independent police oversight." Pivot Legal Society told the Committee that, "We start from a position of supporting the independent office and its work." The BC RCMP Assistant Commissioner, Criminal Operations – Investigative Services and Organized Crime indicated that the RCMP has long welcomed and supports independent, external investigations into those matters where serious injury or death has occurred as a result of police action.

Public submissions also affirmed the progress made by the IIO in its first two years. The BC Civil Liberties Association stated that, "As an overarching matter, we have been satisfied with the work of the IIO and with its progress, recognizing that it is, of course, a new agency ... Across the board we have been satisfied with its general work, and not only its work but its relationship with police forces." Likewise, a submission by Michael Porteous of the Vancouver Police Department (VPD) "observes that the IIO and VPD have had a constructive relationship and that, over time, the work of IIO investigators has been enhanced by the adoption of Major Case Management principles and corresponding business rules." A representative of the BC RCMP Staff Relations Representative Program told the Committee that the Chief Civilian Director "has come in with an open mind ... right away he made efforts to include us." Community stakeholders commended the IIO for reaching out to seek their input in the development of IIO operations and procedures.

While the Committee's mandate was to review the overall administration and general operations of the IIO, a number of submissions expressed concern about the IIO's handling of a specific case: the investigation into the September 2012 death of Greg Matters in Prince George. This was the first investigation handled by the IIO, and submissions by family members raised particular administrative and procedural issues with the IIO's investigation. A review of the IIO's administration of the file by a civilian monitor appointed by the Chief Civilian Director found no information that the investigation or the investigative procedures followed lacked integrity. A court proceeding has been initiated by family members regarding the death of Mr. Matters.

The Committee heard from the Police Complaint Commissioner of "a sea change ... in the province over the past two decades, an evolution that has occurred in both the advancement of civilian oversight and a commensurate advancement in terms of accountability amongst the police and

community.” He stated that BC “is viewed as a leader in the civilian oversight landscape based on the level of accountability and the innovative processes that exist in our legislation.”

Civilianization and Staffing by Former Police Officers

The Committee’s public consultations revealed a range of views on the objective of having an IIO staffed entirely with employees and investigators who have never served as officers or members of a police or law enforcement agency.

There was broad support for appointing a Chief Civilian Director with no previous police experience – for example, the BC RCMP Staff Relations Representative Program representative stated that the Chief Civilian Director “should always be someone hired from outside of British Columbia to be free and clear of political interference ... from the government ... but also interference from the police organizations.” However, public submissions expressed differing views on whether all IIO investigators should have no police background.

Some presenters advocated complete civilianization as a necessary goal for the IIO. In their view, this would promote independent and unbiased investigations of police incidents. For example, Pivot Legal Society suggested to the Committee that “the 100 percent civilianization of the IIO is a noble and achievable goal.” A presentation from the BC Civil Liberties Association stated that “we are concerned that overall the IIO must, in the end, be a civilian agency.” The Committee received a submission from Lorraine Matters recommending that “absolutely no ex-police or current police be on the IIO team.” A joint submission by Justice for Girls, West Coast Women’s Legal Education and Action Fund, the Vancouver Rape Relief and Women’s Shelter, and Women Against Violence Against Women stated that, “We support complete civilianization of the IIO.”

Some presentations favouring complete civilianization urged flexibility with respect to the timing for implementing this objective. In this regard, a Families for Police Accountability submission supported complete civilianization, but asked that the deadline be extended.

Other testimony at the Committee stressed the importance of an IIO investigative team with both police and civilian backgrounds. In its submission, the Mounted Police Professional Association of Canada stated that it “urges this Committee to re-evaluate the goal of moving to exclude police-trained investigators.” The BC RCMP Staff Relations Representative Program supported a mix of civilian and former police members as investigators, and recommended that “the majority of the investigative team should be made up of former police officers with extensive experience in dealing with *Criminal Code* investigations,” adding that the civilianization process would take “a very, very long time.” The BC Police Association advised the Committee that “Of the civilian oversight bodies with a similar mandate as the IIO, both in Canada and internationally, the BCPA is not aware of any that are staffed solely with civilians ... the BCPA does not believe BC should ignore this reality and experiment with a fully civilian model in the absence of compelling evidence to do so.” The Police Complaint Commissioner advocated “a return to a strictly merit-based approach” for hiring at the IIO.

A number of the presentations supporting a mix of police and civilian backgrounds urged the Committee to consider a change to the five-year rule, which precludes the IIO from hiring police members who had served in BC in the previous five years.

The Police Complaint Commissioner noted that the five-year rule reflected Braidwood's "concerns related to the appearance of conflict of interest with former officers engaged in investigating the police and the potential for bias in terms of investigative practices." In the Police Complaint Commissioner's view, the premise of a regional or geographic bias in police culture "does not exist," particularly given his sense of a sea change in BC's policing landscape over the past two decades and the requirement that the IIO be led by a person with no prior police background. Accordingly, he recommended relaxing the five-year rule to open the door to a talented pool of investigators in this province who may have recently retired from policing. Similarly, the Mayor of Delta and Chair of the Delta Police Board submitted a motion from the board that the five-year rule should be examined. A presentation by the Mounted Police Professional Association of Canada stated that the five-year limitation was "too long."

Human Resources Issues

A number of presenters noted recent media articles reporting on internal human resources concerns at the IIO. A presentation from the Pivot Legal Society characterized the lack of resolution of these concerns as a cloud hanging over the Committee's proceedings.

Submissions to the Committee from former IIO employees expressed serious concerns about human resources practices and the effectiveness of the IIO's leadership in managing human resources at the organization. Their views were reiterated in an oral presentation to the Committee by an individual, who noted that three workplace surveys had revealed significant reservations about management practices and administrative processes at the IIO, which had contributed to decisions by some IIO investigators with police backgrounds to seek employment elsewhere.

The public consultation process provided the Committee with input on possible ways to strengthen the work of IIO employees, particularly in the area of training programs and assistance for IIO managers and staff. The BC RCMP Assistant Commissioner, Criminal Operations – Investigative Services and Organized Crime, recommended additional training for investigators in the use of force, knowledge of police policies, and the role of specialized police resources. A Families for Police Accountability submission proposed adequate training for all investigators, with further funding to enhance forensic knowledge at the organization. In this regard, an individual submission urged that expert forensics be on hand at IIO investigations.

With respect to administrative processes and procedures, a submission by the Police Complaint Commissioner emphasized the importance of quasi-judicial principles and an evidence-based approach to decision-making in undertaking investigations.

Mandate and Functions

The IIO's mandate and functions were a significant focus of submissions to the Committee, particularly the issue of adding police incidents involving sexual assault to the IIO's mandate.

Submissions presented a variety of views on whether to expand the IIO's mandate to include sexual assault (as is currently the case for civilian oversight offices in Ontario, Nova Scotia, and Manitoba), or not (in the case of offices in Alberta).

A Families for Police Accountability submission asked that "sexual assault by a police officer be added to the IIO mandate for investigation." Community stakeholders such as Pivot Legal Society also advocated enlarging the IIO's mandates. Community interests, including Justice for Girls, the BC Civil Liberties Association, and Women Against Women Against Violence, also favoured increasing the IIO's mandate, but stated that sexual assault should be left out of the IIO's mandate "until the IIO operates under a civilian majority" or pending its complete civilianization.

Police interests such as the Mounted Police Association of Canada cautioned that "the IIO does not have the resources, including investigative experience" to effectively handle sexual assault cases. The BC RCMP Assistant Commissioner, Criminal Operations – Investigative Services and Organized Crime reiterated this concern, noting that an "expansion of the IIO's mandate would require more resources, training, expertise and experience."

Justice for Girls proposed that changing the IIO's mandate should be the subject of further study and engagement of British Columbians. They recommended that government hold a full consultation with women's groups and other experts to consider the development of a plan for handling police incidents involving sexual assault.

Statutory Review

Participants in the public consultations affirmed the importance of the role of the Committee in providing a unique opportunity to review the effectiveness of a key public sector organization at a critical time in its history. A number of presentations and submissions expressed support for an ongoing review process for the work of the IIO.

The Police Complaint Commissioner informed the Committee that "unlike the provisions of the Police Act that create a requirement for a special committee to be struck no fewer than every six years to review the police complaint system, this same requirement does not exist for this current audit. This is currently, as the legislation stands, a one-time-only review." As a result, in his view there is "a gap in the legislation at this very early stage of the development of the IIO." The Commissioner proposed that this gap could be filled by a new oversight mechanism such as an advisory board.

Families for Police Accountability outlined the value of the Committee's role in scrutinizing the early work of the IIO, and recommended that the gap be filled by a regular parliamentary review process. A submission from Women Against Violence Against Women advocated action to enhance the "transparency of the IIO by ensuring that the progress of civilianization is monitored and reported on to the public."

A regular statutory review by a special committee of the Legislative Assembly could support transparency and accountability by providing an open, all-party forum for the ongoing comprehensive examination of the IIO's work, civilianization, mandate, and functions.

Body-worn Cameras

The Committee received evidence from Dr. Michelle Lawrence, a University of Victoria Faculty of Law professor, about the potential benefits of equipping BC police members with body-worn cameras. This presentation highlighted the findings of a report prepared for the Toronto Police Service by former Supreme Court of Canada Justice Frank Iacobucci, which recommended the use of such devices. Recognizing that the use of body-worn cameras could raise privacy concerns for citizens, the presentation cited the Iacobucci report's finding that such concerns could be effectively addressed through privacy protocols. In this regard, the report suggested specific content for privacy protocols which could be put in place. The experience of other jurisdictions has also provided evidence with respect to best practices for the use of body-worn cameras.

Dr. Lawrence's submission reported that, "Nine coroners' inquests in British Columbia have recommended the use of recording devices by police." With respect to budgetary costs, it was indicated that "the cost of equipping our officers with cameras pales in comparison to the injuries and the harms that we all suffer when evidence of police encounters is not available to us for forensic review."

The presentation concluded that the purpose of BC's civilian oversight laws would be furthered by the use of body-worn cameras as a way to "bridge the gap between the aspirations of the law on the books and the clinical realities of evidence on the ground." Moreover "if we are to expect IIO investigators to deliver substantive justice in relation to the application of the rule of law, then we must ensure that they have access to the evidence that they need, evidence which allows them to adequately assess, test, refute and, where appropriate, confirm allegations of misconduct."

Civilian Monitor Reports

Section 38.08 of the *Police Act* authorizes the Chief Civilian Director to appoint a person who is not a current or former member of a police force in BC or the RCMP to review and assess the integrity of a specific IIO investigation, and for the Chief Civilian Director to establish the terms of reference relating to that appointment. The civilian monitor is entitled to access any record of the IIO that is directly related to the investigation assigned to the civilian monitor. IIO staff and investigators are required to cooperate with the civilian monitor in the exercise of his or her powers or performance of duties.

Testimony at the Committee stressed the importance of openness and transparency to public confidence in the IIO. In briefings to the Committee, the Chief Civilian Director stated that "building confidence in police accountability includes transparency in the review processes Even if it makes my job difficult at times, it is something that's essential and necessary to our society." The Police Complaint Commissioner explained the value of publicly-available reports by noting that

“people, stakeholders in the system, can evaluate the evidence themselves when they see the evidence in the reports.”

With respect to civilian monitor reports, the BC Civil Liberties Association informed the Committee that “there is no provision in the *Police Act* requiring those reports to be made public.” The Association added that, “I can think of no possible policy reason why it would ever be in the public interest not to have such a report made public.” A submission by Tracey Matters indicated that the report of a civilian monitor was anticipated in the near future, and urged that the report be made public.

Victim Services

The Committee’s public consultations highlighted the need for effective victim services and support in cases of death or serious injury involving police members. One submission noted the importance of independent grief counseling services for families implicated in such cases, and advocated ongoing telephone access to support services independent from the police, and legal assistance for victims.

Other Issues

The public consultations process raised concerns about other issues, including effective communications guidelines and information by the IIO, and timely and consistent approaches to the public release of information on investigations. Police groups requested clarity with respect to voluntary statements of police officers, and the provision of complete information and records to officers involved in an IIO investigation, while indicating that the practice of joint retainers in IIO investigations did not require further regulation in BC. Dr. Lawrence’s presentation drew the Committee’s attention to the implications of recent legal developments in the area of police notes. A BC Police Association submission to the Committee urged the removal of overlap and duplication between IIO and Office of the Police Complaint Commissioner functions.

Conclusions and Recommendations

Committee Members expressed their appreciation for the public submissions presented during its consultations from individual British Columbians, community stakeholders, and police organizations. Their evidence provided substantive and valuable input into the Committee's deliberations on the IIO's administration and general operations, and the Chief Civilian Director's progress towards a goal of having an office staffed entirely with employees and investigators who have never served as officers or members of a police or law enforcement agency.

Overall Approach of the IIO

"We believe that the creation of this agency is an accomplishment of which the government and the Legislature should be justly proud" Josh Paterson, BC Civil Liberties Association, September 11, 2014 Presentation to the Committee

Committee Members recognized testimony presented from police and non-police stakeholders as well as individual British Columbians endorsing independent, civilian-led oversight in investigating serious police incidents.

In their discussions, Members affirmed the overall support presented during the public consultations for the IIO's overall approach and principles. They also acknowledged the comments of stakeholders and citizens across the province about the IIO's achievements in developing competent, professional investigations, and engaging British Columbians in the work of the IIO.

In conclusion, Committee Members welcomed the progress made by the IIO in its early years with respect to competent investigations and external engagement, and supported continued work by the Ministry of Justice and the IIO to strengthen the IIO's roles, operations, and practices.

Civilianization and Staffing by Former Police Officers

Civilianization is *"a noble goal, and I do think it's achievable, but I don't think you want to rush."* Robert Creasser, Mounted Police Professional Association of Canada, October 29, 2014 Presentation to the Committee

The Committee was impressed by the IIO's progress towards civilianization in its early years, noting the Chief Civilian Director's presentation of evidence showing BC as a global leader in this area. The IIO's advances in civilianization had depended on initial staffing by former police officers who could train and teach investigators from civilian backgrounds and build a legacy of investigative competence at the IIO. In this regard, the IIO had benefitted from authorities in the *Police Act* which had enabled the office to address investigative gaps by going out and seeking expertise from former police officers.

Committee Members recognized the range of views expressed on civilianization during the public consultation process. While some individual testimony advocated complete civilianization as a priority, community stakeholders emphasized the need for continued gains in civilianization in order to support the organization's effectiveness, maintain its independence, and secure public confidence

in the organization. This accorded with the position of Ministry of Justice officials that the IIO's immediate priority in its early years is the development of a competent investigative team, and complete civilianization remains a long-term goal.

Members acknowledged the insights of police stakeholders about the importance of specialized professional skills in building the IIO's investigative capacity, which may require the hiring of investigators with police backgrounds to address immediate investigative needs and to develop the capacity of investigators from civilian backgrounds. Submissions to the Committee supported the concerns identified by the Chief Civilian Director about *Police Act* provisions which preclude the hiring of former BC police officers within five years of their service in the province. Members were receptive to the proposal by the Police Complaint Commissioner, other police stakeholders, and the Chief Civilian Director that the IIO's investigative capacity would be strengthened by a relaxation of the five-year rule in circumstances requiring specific technical skills and experience, particularly in the early stages of the IIO's development. Members concurred that such a change would need to be implemented in a way that focuses such hiring on exceptional circumstances, and does not undermine the long-term objective of civilianization or the IIO's independence. The Chief Civilian Director's proposal to provide the Ministry of Justice with notification and a rationale for appointments of persons from police backgrounds would provide such assurance.

Committee Members concluded by supporting continued civilianization as a long-term objective for the IIO, noting that the organization has enough on its plate in getting established as a new office and ensuring competent professional investigations. Members agreed that, in exceptional cases, the IIO should have the ability to undertake staffing by former police members from other jurisdictions or BC, including former BC members who had served in the province within the past five years, in order to provide special investigative expertise, and, in such cases, the Ministry of Justice should be advised and provided with an explanation of the appointment.

The Committee therefore recommends that:

Recommendation

1. The provincial government support the continued civilianization of the Independent Investigations Office;
2. In exceptional cases, the Chief Civilian Director have the discretion to appoint investigators who were former police or law enforcement members in other jurisdictions or in British Columbia within the past five years in order to provide special expertise to complete effective investigations, and that, in such exceptional cases, the Chief Civilian Director be required to notify the Ministry of Justice and provide a justification for the appointment.

Mandate and Functions

“There must be independent, specialized oversight of police violence against women in BC which meets international standards. We believe the only way to ensure that these cases are investigated with the required expertise and independence is for government to work in consultation with women’s organizations to design appropriate mechanisms.” Asia Czapska, Justice for Girls, September 11, 2014 Presentation to the Committee

In their deliberations, Committee Members discussed the views presented during the public presentations on whether to expand the IIO’s mandate to include police incidents involving sexual offences. It was noted that the *Criminal Code* contains provisions making sexual assault a criminal offence, requiring a criminal investigation. Investigative processes exist for offences in this area, which may explain in part why some jurisdictions in Canada have not assigned sexual assault incidents to civilian oversight offices.

That said, submissions by community stakeholders urged that sexual assault cases be investigated through a civilian oversight mechanism. However, these stakeholders did not have confidence that the IIO would be able to adequately handle such cases at this time. There would need to be more consultation and review, more staff resources, and further progress in civilianization before such a change could be contemplated. For their part, police stakeholders stressed the need for adequate expertise, training, and resources to support the investigation of sexual assault cases.

Members concluded that there is no public consensus about a change to the IIO’s mandate at this time. Given the complexities of sexual assault cases, the need for additional expertise and resources to undertake sexual assault investigations, the desire for further gains in civilianization before implementing such a mandate change, and the IIO’s immediate need to focus on addressing administrative and operational challenges, Members agreed on the need for caution in proceeding with changes to the IIO’s mandate and functions.

Future Reviews

“This review having come very early in the operation of the IIO will be a great help to the government and IIO together to make changes which will make the IIO more effective and efficient. We propose that a regular schedule of reviews be added to the legislation to provide continued opportunities for growth and change wherever it is deemed necessary.” Linda Bush, Families for Police Accountability, Written Submission to the Committee

Testimony presented to the Committee affirmed the importance of its review of the IIO’s administration and general operations. Committee Members were told that the public consultations provided an important opportunity for stakeholders and citizens to express their views on the work of the IIO, and to propose changes to improve the effectiveness of the organization. The Committee was also advised of the statutory requirement for a review by a Special Committee of the Legislative Assembly at least once every six years of the work of the Office of the Police Complaint Commissioner.

In their deliberations, Committee Members commented that the IIO already has an advisory board, which, in the view of stakeholders and the Ministry of Justice, is functioning well. A statutory review by a parliamentary committee would have the advantage of establishing an all-party process for engaging stakeholders and citizens across the province in a regular examination of the IIO.

The Committee concluded that a regular statutory review of the IIO by a special committee of the Legislative Assembly would serve the public interest by a periodic assessment of the organization's objectives and work, with the engagement of stakeholders, experts, and citizens in this process.

The Committee therefore recommends that:

Recommendation

3. The *Police Act* be amended to require a comprehensive statutory review of the Independent Investigations Office by a special committee of the Legislative Assembly at least once every six years.

Human Resources Practices

“There is a cloud overhanging these proceedings, given ... reports (of) tension between management and investigators ... and that there may be significant dysfunction within the organization and a conflict of cultures between civilian investigators and former police officers. This does not surprise us, given the experience of other oversight bodies across the country.” Adrienne Smith, Pivot Legal Society, September 11, 2014 Presentation to the Committee

Committee Members expressed concern about reports of operational dysfunction at the IIO. They recognized the administrative challenges facing the IIO in meeting its objective to carry out competent, professional investigations of complex and sensitive police incidents. They also noted that civilian oversight offices in other jurisdictions had faced similar issues in the early stages of their development. However, the IIO's ability to conduct effective investigations and public confidence in the organization depended on human resources policies and practices which were fair and in accordance with the law.

The Committee acknowledged the testimony presented by former IIO employees about the difficult work conditions and conflicts with the IIO's leadership they had experienced while serving as investigators. A number of administrative reviews of the IIO had been completed, and differing views had been presented about who was responsible for human resources challenges at the IIO. In this regard, a Justice Institute of BC report had raised concerns about practices by both management and staff. The Deputy Attorney General had completed a study of complaints filed by former IIO staff and related information, and had advised the Committee on January 28, 2015 that the complaints have been formally referred to the BC Public Service Agency for review.

The Chief Civilian Director's action to implement recommendations made by the Justice Institute of BC was noted. Members supported continued efforts to enhance training for IIO managers and staff, improve internal communications, and ensure effective administrative processes and procedures.

It was recognized that human resources issues are often complex and difficult, and there is a need to protect the IIO's independence in undertaking a review of human resources complaints. That said, Members expressed concern that the Ministry appears to have been slow to respond to evidence of administrative issues at the IIO. While the BC Public Service Agency review of IIO human resources issues appears to be an effective process, Members concluded that government needed to ensure that urgent and decisive action is taken to correct outstanding issues in order to ensure the effective operations of the IIO. To this end, Members agreed that the Ministry of Justice should continue to closely monitor the human resources situation at the IIO, and should report publicly within one year on actions taken to address human resources issues at the organization.

The Committee therefore recommends that:

Recommendation
4. The Ministry of Justice continue to closely review human resources practices at the Independent Investigations Office in order to ensure the effectiveness of its operations and compositional mandate; and
5. The Ministry of Justice report publicly within one year of the presentation of the Committee's report on actions taken to address human resources issues at the Independent Investigations Office.

Release of Civilian Monitor Reports

"The civilian monitor is now expected to provide a report The Chief Civilian Director will determine what, if any, of the content of the report will be made public. For the sake of transparency, I hope that this information is made public." Tracey Matters, September 11, 2014 Presentation to the Committee

Committee Members shared the view of participants in the public consultations process that openness and transparency are essential in building public confidence in the IIO. Transparency also serves to support the IIO's accountability to citizens for its important work in civilian oversight of serious police incidents in BC. At the same time, Members recognized that in certain circumstances, disclosure of information in a civilian monitor's report could undermine protections in the *Freedom of Information and Protection of Privacy Act* or the effectiveness of investigations or criminal proceedings.

Committee Members noted that the IIO had acted quickly to release a civilian monitor report in October 2014, with the exception of the protection of the names of certain IIO employees pursuant to advice received from the Office of the Information and Privacy Commissioner. Members

concluded that this approach should be followed to support the public disclosure of future reports of civilian monitors.

The Committee therefore recommends that:

Recommendation

6. The reports of civilian monitors be made public subject to requirements for the protection of information in accordance with the *Freedom of Information and Protection of Privacy Act*, or to ensure the effectiveness of investigations or criminal proceedings.

Body-worn Cameras

“The time has come to require that police officers operating in British Columbia be equipped with body-mounted cameras for the recording of their dealings with persons in crisis. I join in the chorus of voices resounding from every corner of this continent that support police use of audio and video recording devices.” Dr. Michelle Lawrence, October 29, 2014 Presentation to the Committee

In their discussions with presenters during the public consultations, Committee Members noted that the use of body-worn cameras was increasing in other jurisdictions, and that these devices had been used recently by police in Vancouver enforcing evictions. Members stated that the use of body-worn cameras in BC was a really practical suggestion, and their use was a natural progression, particularly with today’s technology. It was agreed that the experience of other jurisdictions provided evidence that a full subscription to the use of body-worn cameras by BC police forces was feasible and would benefit law enforcement and citizens alike, citing testimony by the Chief Civilian Director that police use of body-worn cameras could assist the IIO’s conduct of investigations. The experience of other jurisdictions also provided insight into best practices for addressing privacy issues related to the use of body-worn cameras.

Members noted that a review of issues related to the use of body-worn cameras was underway by the Ministry of Justice, in consultation with police and non-police stakeholders, and expressed concern about the urgency of action to support the use of body-worn cameras in BC, given the benefits this would provide to police agencies, citizens, and the IIO.

Members concluded by strongly supporting the use of body-worn cameras in BC, and calling on government in consultation with police and non-police stakeholders to aggressively pursue the steps necessary to implement the use of body-worn cameras by BC police members.

The Committee therefore recommends that:

Recommendation

7. The provincial government aggressively pursue the steps necessary to implement the police use of body-worn cameras, in consultation with police and non-police stakeholders.

Other Issues

Committee Members acknowledged the submissions by stakeholders and individuals on other significant issues affecting the IIO and policing in BC. They noted that submissions expressing concern about the need for effective victim services appear to have been addressed through action taken by the IIO to strengthen its program in this area. Similarly, the IIO is enhancing its communications practices to improve the provision of information to the public. Other proposals were noted in the course of the Committee's public consultations, including clarity with respect to voluntary statements of police officers, the provision of complete information and records to officers involved in an IIO investigation, the practice of joint retainers in IIO investigations, the preparation of police notes, and the governance framework for civilian oversight in BC.

Next Steps

Committee Members concluded their deliberations by thanking individual British Columbians, community stakeholders, and police organizations for their important contributions to the work of the Committee. Members also expressed appreciation to officials of the Ministry of Justice and to the Chief Civilian Director and the staff of the IIO for their briefings and support to the Committee and their service to British Columbians.

Committee Members commended the approximately 9,000 RCMP, municipal, First Nations and transit police services members for the high level of their service to British Columbians in law enforcement, the preservation of safety and security, and the prevention of crime in our province. Members shared the view of public submissions that the development of civilian oversight mechanisms such as the IIO have increased police accountability to citizens and strengthened public confidence in BC's police services.

The Committee looks forward to the implementation of its recommendations, and believes they will enhance civilian oversight of police services in BC to the benefit of all British Columbians.

Summary of Recommendations

The Special Committee to Review the Independent Investigations Office recommends to the Legislative Assembly of British Columbia that:

1. The provincial government support the continued civilianization of the Independent Investigations Office;
2. In exceptional cases, the Chief Civilian Director have the discretion to appoint investigators who were former police or law enforcement members in other jurisdictions or in British Columbia within the past five years in order to provide special expertise to complete effective investigations, and that, in such exceptional cases, the Chief Civilian Director be required to notify the Ministry of Justice and provide a justification for the appointment.;
3. The *Police Act* be amended to require a comprehensive statutory review of the Independent Investigations Office by a special committee of the Legislative Assembly at least once every six years;
4. The Ministry of Justice continue to closely review human resources practices at the Independent Investigations Office in order to ensure the effectiveness of its operations and compositional mandate;
5. The Ministry of Justice report publicly within one year of the presentation of the Committee's report on actions taken to address human resources issues at the Independent Investigations Office;
6. The reports of civilian monitors be made public subject to requirements for the protection of information pursuant to the *Freedom of Information and Protection of Privacy Act* or to ensure the effectiveness of investigations or criminal proceedings; and
7. The provincial government aggressively pursue the steps necessary to implement the police use of body-worn cameras, in consultation with police and non-police stakeholders.

Appendix A: Public Submissions

Public Hearing Witnesses

BC Civil Liberties Association, Josh Paterson (11-Sep-14 Vancouver)
BC Royal Canadian Mounted Police, Assistant Commissioner, Criminal Operations – Investigative Services and Organized Crime, Wayne Rideout, (11-Sep-14 Vancouver)
Families for Police Accountability, Linda Bush (11-Sep-14 Vancouver)
Justice for Girls, Asia Czapska (11-Sep-14 Vancouver)
Lawrence, Dr. Michelle (29-Oct-14 Victoria)
Macham, Murray (29-Oct-14 Victoria)
Matters, Tracey (11-Sep-14 Vancouver)
Mounted Police Professional Association of Canada, Robert Creasser (29-Oct-14 Victoria)
Office of the Police Complaint Commissioner, Stan T. Lowe, Rollie Woods (11-Sep-14 Vancouver)
Pivot Legal Society, Adrienne Smith (11-Sep-14 Vancouver)
RCMP Staff Relations Representative Program, Tom Almasi (11-Sep-14 Vancouver)

Written Submissions

Iris Brade	Fred Leibel
British Columbia Police Association, Tom Stamatakis	Murray Macham
City of Delta and Delta Police Board, Lois E. Jackson	Lorraine Matters
Families for Police Accountability, Linda Bush	Tracey Matters
Phillip Greer	Mounted Police Professional Association of Canada, Rae Banwarie
Justice for Girls, Asia Czapska joint submission with West Coast Women's Legal Education and Action Fund, Laura Track; Vancouver Rape Relief and Women's Shelter, Keira Smith-Tague; and Women Against Violence Against Women, Irene Tsepnopoulos-Elhaimer	Bryan O'Malley
Fiona Kitt	Simon Poynter
Dr. Michelle Lawrence	Robin Stutt
Sheila Lawrence	The Uplands Diversities Company, Michael Helmer-Keir
	Vancouver Police Department, Michael Porteous
	Michelle Whitcomb
	Women Against Violence Against Women, Irene Tsepnopoulos-Elhaimer

Appendix B: Part 7.1 of the *Police Act* [RSBC 1996] c. 367

Part 7.1 — Independent Investigations Office

Definitions

38.01 In this Part:

"**chief of the police service**" means as follows:

- (a) in relation to the provincial police force, the commissioner;
- (b) in relation to a municipal police department, a chief constable;
- (c) in relation to a police force described in section 1.1 (c), a chief officer;

"**civilian monitor**" means a person appointed by the chief civilian director under section 38.08 (1) to review and assess an investigation by the independent investigations office under this Part;

"**officer**" includes a person who is a member of the Royal Canadian Mounted Police;

"**police service**" means the Royal Canadian Mounted Police or a police force in British Columbia other than the independent investigations office;

"**serious harm**" has the same meaning as in Part 11.

Independent investigations office established

- 38.02** (1) An independent investigations office is established in the Ministry of Justice, the purpose of which is to conduct
- (a) the investigation of an incident under section 38.09 (3) [*immediate reporting of critical incidents*],
 - (b) the investigation of a matter under section 38.10 (2) [*immediate reporting of critical investigations*],
 - (c) an investigation that may be directed to the independent investigations office under section 44 [*special investigations*], and
 - (d) the investigation of a matter under section 177.1 [*duty of police complaint commissioner to notify IIO*] on receiving notice from the police complaint commissioner under that section.
- (2) The independent investigations office consists of a chief civilian director, who is in charge of the independent investigations office, and IIO investigators selected by the chief civilian director.

Appointment of chief civilian director

- 38.03** (1) The Lieutenant Governor in Council may appoint a person as chief civilian director.
- (2) A person who is a current or former member of a police force or the Royal Canadian Mounted Police may not be appointed as chief civilian director.

- (3) The chief civilian director holds office,
 - (a) on being appointed to a first term, for 5 years, and
 - (b) if appointed for a 2nd term, for a period of up to 5 years as specified in the reappointment.
- (4) A person must not be appointed under subsection (1) for a 3rd or subsequent term.

Responsibilities of chief civilian director

- 38.04** (1) The chief civilian director is responsible for the following:
- (a) the management, administration and operation of the independent investigations office;
 - (b) overseeing investigations conducted by the independent investigations office under this Part.
- (2) The chief civilian director must
- (a) exercise powers and perform duties assigned to the chief civilian director under and in accordance with this Act and any other enactment, and
 - (b) ensure compliance with the director's standards as they relate to the independent investigations office.

Remuneration, expenses and application of *Public Sector Pension Plans Act*

- 38.05** (1) The chief civilian director is entitled
- (a) to be paid a salary specified by the Lieutenant Governor in Council in the chief civilian director's appointment or reappointment, and
 - (b) to be reimbursed for reasonable travelling and out-of-pocket expenses personally incurred in exercising the powers and performing the duties of the chief civilian director under this Act.
- (2) The public service plan as defined in section 1 (1) of the *Public Sector Pension Plans Act* applies to the chief civilian director.

Independent investigations office staff and investigators

- 38.06** (1) The chief civilian director may appoint, in accordance with the *Public Service Act* and the regulations, if any, made under section 74 (2) (t.1) [power to make regulations] of this Act, the employees the chief civilian director considers necessary to enable or assist the chief civilian director in exercising powers or performing duties of the chief civilian director under this Act.
- (2) Subject to subsections (2.1) and (3), the chief civilian director may appoint persons with investigative experience to serve as investigators with the independent investigations office.
- (2.1) An appointment under subsection (2) must be made in accordance with
- (a) the *Public Service Act*, and
 - (b) the regulations, if any, made under section 74 (2) (t.2) [power to make regulations] of this Act.
- (3) The chief civilian director may not appoint a person under subsection (2) if the person

- (a) is currently a member of a police or law enforcement agency outside of British Columbia,
 - (b) is currently a member of the Royal Canadian Mounted Police, or
 - (c) was a member of a police force in British Columbia at any time during the 5-year period immediately preceding the appointment.
- (4) For the purposes of the application of the *Public Service Act* to subsections (1) and (2) of this section, the chief civilian director is a deputy minister.
 - (5) The chief civilian director may retain consultants, experts, specialists and other persons the chief civilian director considers necessary to enable or assist the chief civilian director in exercising powers or performing duties of the chief civilian director under this Act.
 - (6) The chief civilian director may establish the remuneration and other terms and conditions of a person retained under subsection (5).
 - (7) The *Public Service Act* does not apply in respect of a person retained under subsection (5).

Jurisdiction of chief civilian director and IIO investigators

- 38.07** (1) The chief civilian director and each IIO investigator have
- (a) all of the powers, duties and immunities of a peace officer and constable at common law or under any Act, and
 - (b) jurisdiction throughout British Columbia while carrying out those duties and exercising those powers.
- (2) An IIO investigator is under the exclusive command and direction of the chief civilian director while serving with the independent investigations office.

Civilian monitors

- 38.08** (1) The chief civilian director may appoint a person who is not a current or former member of a police force in British Columbia or the Royal Canadian Mounted Police to review and assess the integrity of a specific investigation in accordance with this section and the terms of reference, if any, established by the chief civilian director in the appointment.
- (2) Before beginning to exercise powers and perform duties, a civilian monitor appointed under subsection (1) must take an oath before the chief civilian director
- (a) to faithfully and impartially review and assess the integrity of the independent investigations office investigation in accordance with this section and the terms of reference, if any, established by the chief civilian director in the appointment, and
 - (b) not to divulge any information obtained as civilian monitor, except in accordance with this section.
- (3) For the purposes of subsection (2), the chief civilian director is a commissioner for taking affidavits in British Columbia.

- (4) A civilian monitor is not entitled to participate in, attend or conduct an independent investigations office investigation under this Part, but the civilian monitor
 - (a) is entitled access at reasonable times to any record of the independent investigations office that is directly related to the investigation in respect of which the civilian monitor is appointed and the duty of the civilian monitor described in subsection (2) (a) in respect of that investigation, and
 - (b) may request an interview with or statement from a staff member of the independent investigations office or an IIO investigator in order to assist the civilian monitor in the performance of that duty.
- (5) A person to whom a request is made under subsection (4) (b) must comply with that request.
- (6) Staff members of the independent investigations office and IIO investigators
 - (a) have a duty to cooperate with a civilian monitor in the exercise of powers or performance of duties under this Act, and
 - (b) must comply with regulations, if any, made under section 74 (2) (t.3).
- (7) Within 30 days after the conclusion of the investigation in respect of which the civilian monitor is appointed, the civilian monitor must provide a written report to the chief civilian director respecting the civilian monitor's assessment of the integrity of the investigation.
- (8) If a civilian monitor considers it necessary or advisable at any time before the conclusion of the investigation in respect of which the civilian monitor is appointed, the civilian monitor may provide an interim report to the chief civilian director respecting the civilian monitor's assessment of the integrity of the investigation.

Immediate reporting of critical incidents and steps to be taken for takeover by independent investigations office

- 38.09** (1) When an officer is at the scene of an incident where it appears that
- (a) a person may have died or suffered serious harm as a result of the actions of an officer, whether on or off duty, or
 - (b) an officer, whether on or off duty, may have contravened a prescribed provision of the *Criminal Code* or a prescribed provision of another federal or provincial enactment, the officer must immediately notify the independent investigations office in accordance with the guidelines established by the chief civilian director.
- (2) Until IIO investigators arrive at the scene of the incident, the officers at the scene must take any lawful measures that appear to the officers to be necessary or expedient for the purposes of obtaining and preserving evidence relating to the matter.
 - (3) On arriving at the scene of the incident, one or more IIO investigators must take over and conduct the investigation of the incident under this Part.

Immediate reporting of critical investigations and takeover by independent investigations office

- 38.10** (1) When a police service is conducting an investigation into the conduct of an officer under Part 11 [*Misconduct, Complaints, Investigations, Discipline and Proceedings*] and there is evidence that the officer may have, whether on or off duty,
- (a) caused the death of a person,
 - (b) caused a person serious harm, or
 - (c) contravened a prescribed provision of the *Criminal Code* or a prescribed provision of another federal or provincial enactment, the chief of the police service must immediately notify the independent investigations office in accordance with the guidelines of the chief civilian director.
- (2) When the independent investigations office receives notice under this section, one or more of its members must initiate and conduct an investigation into the matter under this Part.

Officers to cooperate with independent investigations office

- 38.101** An officer must cooperate fully with
- (a) the chief civilian director in the chief civilian director's exercise of powers or performance of duties under this Act, and
 - (b) an IIO investigator in the IIO investigator's exercise of powers or performance of duties under this Act.

Use of statements made by officers

- 38.102** (1) A statement provided or an answer given by an officer during an investigation under this Part is inadmissible in evidence in court in a civil proceeding for remedies against the officer in relation to the matter under investigation.
- (2) Subsection (1) applies also in respect of evidence of the existence of a statement provided or answer given by an officer during an investigation under this Part.

Report to Crown counsel

- 38.11** If after an investigation by the independent investigations office is concluded the chief civilian director considers that an officer may have committed an offence under any enactment, including an enactment of Canada or another province, the chief civilian director must report the matter to Crown counsel.

Investigation records and annual reports

- 38.12** The chief civilian director must
- (a) establish and maintain a record of each investigation conducted by the independent investigations office under this Part, including all records related to each of those investigations,

- (b) compile statistical information in respect of records referred to in paragraph (a), including, without limitation,
 - (i) information respecting the number and frequency of investigations or of different types or classes of investigations, and the outcome or resolution of them, and
 - (ii) any trends in relation to information compiled under subparagraph (i), and
- (c) submit to the Attorney General an annual report of the information described in paragraph (b) and the operations of the independent investigations office.

Chief civilian director may provide information to public

- 38.121** (1) In this section, "**personal information**" has the same meaning as in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*.
- (2) If the chief civilian director considers it in the public interest to do so, the chief civilian director may make the following information available to the public by posting the information on a publicly accessible website maintained by or on behalf of the chief civilian director:
 - (a) a summary of a matter in respect of which the independent investigations office has been notified or ordered to conduct an investigation;
 - (b) a description of the resources that the independent investigations office has assigned to an investigation;
 - (c) a statement indicating whether the independent investigations office, after concluding an investigation, has reported the matter to Crown counsel;
 - (d) a summary of the results of an investigation, if the matter has not been reported to Crown counsel.
 - (3) In providing information under subsection (2), the chief civilian director must not disclose personal information about an officer, a victim, a witness or another person who may have been involved in the matter, except as provided in subsection (4).
 - (4) The chief civilian director may disclose personal information about a person described in subsection (3) only if
 - (a) the person consents to the disclosure, or
 - (b) in the opinion of the chief civilian director, the public interest in disclosure outweighs the privacy interests of the person.
 - (5) Before disclosing information in accordance with subsection (4), the chief civilian director must, if practicable,
 - (a) in the case of information to be disclosed under subsection (4) (a), notify the person to whom the information relates, and
 - (b) in the case of information to be disclosed under subsection (4) (b),

(i) notify the person to whom the information relates, and

(ii) notify, and consider any comments provided by, the commissioner appointed under the *Freedom of Information and Protection of Privacy Act*.

Special committee to review administration of independent investigations office

- 38.13 (1) In this section, "special committee" means a special committee of the Legislative Assembly that the Legislative Assembly appoints for the purposes of this section.
- (2) Before January 1, 2015, the special committee must conduct a review of the following and submit a report under subsection (6):
- (a) the administration and general operations of the independent investigations office;
 - (b) the chief civilian director's progress towards a goal of having an independent investigations office that is staffed entirely with employees and IIO investigators who have never served as officers or members of a police or law enforcement agency.
- (3) As part of the review process contemplated by subsection (2), the special committee may
- (a) request the chief civilian director to provide copies of any relevant records, information or reports respecting a matter of administration or general operations of the independent investigations office,
 - (b) review and consider the copies of records, information and reports referred to in paragraph (a) that the chief civilian director provides, and
 - (c) solicit and consider written and oral submissions from any interested person or organization.
- (4) Subject to subsection (5), the chief civilian director must comply with a request of the special committee under subsection (3) (a).
- (5) Before providing copies of the records, information and reports referred to in subsection (3) (a), the chief civilian director may sever any portions that must or may be excepted from disclosure by the head of a public body under Division 2 of Part 2 of the *Freedom of Information and Protection of Privacy Act*.
- (6) Within one year after the date that the special committee is appointed, the special committee must submit a report respecting the results of the review under subsection (2) to the Legislative Assembly.
- (7) A report submitted under subsection (6) may include any recommendations that the special committee considers necessary or appropriate.

