

Select Standing Committee on Finance and Government Services

INTERIM REPORT ON STATUTORY OFFICES



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

JUNE 2020
FIFTH SESSION
OF THE 41ST PARLIAMENT



June 15, 2020

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

I have the honour to present the First Report of the Select Standing Committee on Finance and Government Services for the Fifth Session of the 41st Parliament entitled *Interim Report on Statutory Offices*.

Respectfully submitted on behalf of the Committee,

Bob D'Eith, MLA
Chair

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Composition of the Committee

Members

Bob D'Eith, MLA	Chair	Maple Ridge-Mission
Doug Clovechok, MLA	Deputy Chair	Columbia River-Revelstoke
Donna Barnett, MLA		Cariboo-Chilcotin
Rich Coleman, MLA		Langley East
Mitzi Dean, MLA		Esquimalt-Metchosin
Ronna-Rae Leonard, MLA		Courtenay-Comox
Nicholas Simons, MLA		Powell River-Sunshine Coast

Committee Staff

Kate Ryan-Lloyd, Clerk of the Legislative Assembly
Karan Riarh, Senior Research Analyst
Katey Stickle and Jesse Gordon, Committee Researchers

Terms of Reference

On February 18, 2020, the Legislative Assembly agreed that the Select Standing Committee on Finance and Government Services be empowered to:

Examine, inquire into and make recommendations with respect to the budget consultation paper prepared by the Minister of Finance in accordance with section 2 of the *Budget Transparency and Accountability Act* (S.B.C. 2000, c. 23) and, in particular, to:

1. Conduct public consultations across British Columbia on proposals and recommendations regarding the provincial budget and fiscal policy for the coming fiscal year by any means the Committee considers appropriate; and
2. Prepare a report no later than November 15, 2020, on the results of those consultations.

That the Committee be empowered to consider and make recommendations on the annual reports, rolling three-year service plans and budgets of the statutory officers, namely, the:

- i. Auditor General
- ii. Chief Electoral Officer
- iii. Conflict of Interest Commissioner
- iv. Human Rights Commissioner
- v. Information and Privacy Commissioner
- vi. Merit Commissioner
- vii. Ombudsperson
- viii. Police Complaint Commissioner
- ix. Representative for Children and Youth

and that the Committee be empowered to inquire into and make recommendations with respect to other matters brought to the Committee's attention by any of aforementioned statutory officers.

That the Committee be designated as the Committee referred to in sections 19, 20, 21 and 23 of the *Auditor General Act* (R.S.B.C. 2003, c. 2) and that the report in section 22 of the *Auditor General Act* (R.S.B.C. 2003, c. 2) be referred to the Committee.

In addition to the powers previously conferred upon the Select Standing Committees of the House, the Committee be empowered to:

- a. Appoint of its number one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee and to delegate to the subcommittees all or any of its powers except the power to report directly to the House;

- b. 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. Conduct consultations by any means the Committee considers appropriate;
- d. Adjourn from place to place as may be convenient; and
- e. Retain 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.

Introduction

The Select Standing Committee on Finance and Government Services (the “Committee”) is empowered by the Legislative Assembly to consider the annual reports, service plans and budgets of the province’s nine statutory officers. To that end, the Committee meets with each office in the fall to review and make recommendations on budgetary proposals, and in the spring to receive financial and operational updates. The Committee also considers supplementary funding proposals on an as-needed basis throughout the year. This process has been strengthened in recent years with the establishment of financial reporting templates for budget and supplementary funding proposals, and an enhanced focus on strategic priorities, goals and performance measures.

This interim report provides a summary of the updates and discussion at the 2020 spring meetings. Consideration of any supplementary funding requests will be summarized and recorded in the Committee’s report on the annual review on the budgets of statutory office budgets.

COVID-19

In March 2020, the World Health Organization declared COVID-19 a global pandemic and the province declared a state of emergency. All British Columbians were forced to quickly adapt to new public health measures to reduce the spread of the disease. Parliamentary committees, including this Committee, shifted to working remotely and meeting virtually.

The impact of the pandemic is unprecedented and the Committee is deeply appreciative of frontline health care workers, grocery store clerks, truckers, public servants, and so many others who continue to provide critical supports and services to British Columbians. Committee Members also recognize the important role of the BC’s statutory officers during a time of crisis, and the need for their continuing efforts to support oversight, accountability and transparency of government actions and services. They extend their sincere gratitude to all statutory officers and their staff for their adaptability, flexibility and dedication in finding ways to continue their work in support of the Legislative Assembly and its Members.

Meetings Schedule

The Committee met with statutory offices at the following meetings:

Fifth Session, 41st Parliament

April 28, 2020	Office of the Information and Privacy Commissioner and Registrar of Lobbyists, Office of the Conflict of Interest Commissioner, and Office of the Auditor General
April 29, 2020	Office of the Representative for Children and Youth, Office of the Human Rights Commissioner, Elections BC, and Office of the Police Complaint Commissioner
April 30, 2020	Office of the Ombudsperson and Office of the Merit Commissioner
June 1, 2020	Adoption of Interim Report

Further information on the work of the Committee is available at: <https://www.leg.bc.ca/cmt/finance>

Office of the Auditor General

On April 28, 2020, Acting Auditor General Russ Jones presented his office's financial and operational update. In attendance were: John McNeill, Manager, Finance and Administration; and Peter Nagati, Executive Director, Performance Audit.

With the resignation of former Auditor General Carol Bellringer at the end of 2019, and the Legislative Assembly's appointment of Michael Pickup as Auditor General taking effect on July 27, the Acting Auditor General provided the Committee with an update regarding the transition to new leadership. He noted that the executive team is working to provide stability during this transition, and that the office remains focused on providing independent assurance and advice to the Legislative Assembly.

As it relates to planned financial and performance audits, the Acting Auditor General advised the Committee that adjustments have been made to their audit coverage plans to ensure alignment with the recommended budget allocation. He also shared that the audit of the government's summary financial statements is underway and that the office has received positive feedback with respect to their financial audits of BC Hydro and the University of British Columbia. There are also a number of pending performance audit reports, including one on the Provincial Nominee Program (PNP). In response to a request for further details on the PNP audit, the Executive Director, Performance Audit, outlined the audit's two objectives: assessing whether the Ministry of Jobs, Economic Development and Competitiveness is meeting its program objectives; and assessing whether the Ministry is adequately managing for risks associated with fraud and misrepresentation.

As noted in previous presentations, finding and retaining qualified staff remains a challenge for the office. To that end, the Acting Auditor General provided details about a human resource plan to improve recruitment, succession planning, and staff engagement. The office is also hiring more people, including a director of financial audit, to work out of Vancouver. As part of these initiatives, the Committee inquired as to whether the office has applied a gender-based analysis lens to their staffing efforts. The Acting Auditor General shared that the office does take this into account with regard to hiring and that there is a good gender balance within the office. In addition to the human resources plan, the Acting Auditor General highlighted other priorities for the office, including enhancing and improving communication of the results of the office's financial audit work, and finding efficiencies in their work.

With respect to performance measures, the Acting Auditor General shared that the office is doing well in some areas; for example, 90 percent of the Members on the Select Standing Committee on Public Accounts are satisfied that the office is effectively delivering its legislative mandate. He acknowledged several areas for improvement, such as government's uptake on recommendations, project management practices for forecasting needs, and the office's work environment.

As a follow-up to the Committee's interest in billing practices from discussions last fall, the Acting Auditor General shared that the office's billings for the 2020/21 fiscal year are estimated to be \$1.68 million and reminded Committee Members that the revenue from these fees goes to the consolidated revenue fund. He explained that the office uses neutrality as their billing principle with the audit fee neither benefiting nor penalizing the entity being audited; the office accomplishes this by billing for their services at the market rate. He further noted that the office does not bill for non-audit related work, such as the provision of advice to

clients, and was of the view that this approach provides added value and expertise to the entity and to British Columbians that is not otherwise available from a private firm without incurring additional costs.

COVID-19

With regard to the COVID-19 pandemic, the Acting Auditor General explained that all 120 staff members are working remotely and financial audits are continuing; however, the office has experienced some issues with performance audits. This is primarily attributable to delays in connecting with people and ensuring the office is not impeding the work ministries and other public entities are undertaking in response to the pandemic. For example, the office has postponed an audit on end-of-life care at Interior Health to the fall in recognition of the current circumstances.

The Acting Auditor General also informed Committee Members that the office is not expected to use its full budget allocation, with an estimated underspend between \$290,000 and \$350,000, largely due to reduced travel. At the same time, the office has purchased a number of IT-related items to allow staff to work from home.

The office is also considering potential pandemic related audits such as examining the supply chains for personal protective equipment and food security. In response to a request for further details on the food security aspect, the Acting Auditor General explained that the specifics of such an audit are still being explored, and may include how supply chains have been managed during the crisis.

Office of the Conflict of Interest Commissioner

The new Conflict of Interest Commissioner, Victoria Gray, Q.C., presented her financial and operational update on April 28, 2020. She was accompanied by Executive Coordinator Carol Hoyer.

The Conflict of Interest Commissioner, who commenced her role on January 6, 2020, began her presentation with a summary of the responsibilities of the office as outlined in the *Members' Conflict of Interest Act*. The office has three focuses: helping Members to understand conflict of interest rules and assisting them with compliance; helping Members navigate the financial disclosure requirements of the Act; and responding to complaints and requests for public opinions.

Regarding the budget for the office, the Commissioner noted that the recommended appropriation for operating expenditures in fiscal year 2020/21 is \$734,000 with modest increases for the following two years. The recommended appropriation for capital expenditures is \$25,000 over the next three fiscal years, with the most significant budget items being salaries and benefits. The Commissioner also spoke about the office's unpredictable workflow which is driven by complaints and requests for opinions. As such, the office may need to request additional resources should there be a high volume of complaints requiring inquiries and opinions, or if the office is the subject of another application for judicial review. Absent this, the Commissioner does not anticipate any material changes to the budget.

In response to a question about managing workload with the current commissioner working on a 75 percent basis compared to her predecessor who worked on a full-time, 100 percent basis, the Commissioner stated that this change has not posed any particular difficulties; however, she noted that this is a slower time of year and she will likely have a better understanding of workload by the end of the year. The Commissioner also informed the Committee that the office's legal officer is now working full-time which has been very helpful for managing workload. She further shared that the office's workload in 2019 was comparable to the previous year with nearly 200 requests for information and advice in 2018 and 210 in 2019.

The Commissioner commended the highly professional and dedicated staff who maintained the office without a Commissioner for nearly three months following the passing of former Commissioner, Paul Fraser, Q.C., on March 29, 2019, and supported the Hon. Lynn Smith, Q.C., as Acting Commissioner from June until January. During her service, the Acting Commissioner completed an investigation and publicly released an opinion as requested by Ravi Kahlon, MLA, regarding his membership on a parliamentary committee examining ride-sharing in light of his father's ownership of a taxi. The Acting Commissioner also held annual meetings with all 87 Members to discuss their financial disclosure statements in late 2019.

More recently, the office has collaborated with other offices on matters of shared interest. This includes working with the Office of the Registrar of Lobbyists on a new brochure for Members with respect to accepting gifts and benefits. The office also worked with the Office of the Clerk of the Legislative Assembly and the Office of the Information and Privacy Commissioner with respect to the online posting of Members' disclosure statements. The Commissioner anticipates consulting with the Ministry of Attorney General and a parliamentary committee to update the *Members' Conflict of Interest Act*, either in accordance with the 2012 legislative review or as part of a new legislative review.

COVID-19

The Commissioner indicated that the office has not incurred any significant additional expenses nor does she anticipate any change to the work of the office due to the pandemic apart from the need to do more work remotely. This remote work has however highlighted the need to upgrade the office's computers which can be accomplished within the existing budget allocation. She also noted that the annual financial disclosure meetings with Members may occur by videoconference this year and that her office is working on developing an efficient system to conduct these meetings in this manner, if required.

Elections BC

The Chief Electoral Officer, Anton Boegman, appeared before the Committee on April 29, 2020 to provide Election BC's financial and operational update. He was joined by: Charles Porter, Deputy Chief Electoral Officer, Electoral Finance and Operations; Yvonne Koehn, Deputy Chief Electoral Officer, Corporate Services; and Tanya Ackinclose, Director of Finance.

The Chief Electoral Officer opened his presentation with an update on the implementation of amendments to the *Election Act* passed last fall which he described as the most significant enhancement of electoral administration in 25 years. The changes enable Elections BC to modernize voter administration by allowing for the use of technology to strike off voters when they vote and to use tabulators to count votes. The Chief Electoral Officer informed the Committee that the Canadian firm DataFix was selected as the vendor for an electronic voting book, and that a small number of tabulators from Dominion Voting Systems Canada have been purchased for testing and simulations and to use in by-elections, if required. Elections BC is negotiating an agreement to lease additional tabulators from Elections Ontario for the next scheduled provincial election in October 2021.

Elections BC now also has the authority to create and maintain a list of future voters (16- and 17-year-olds). The Chief Electoral Officer advised that registration for these individuals is available through the online voter registration system and by phone. The office is also developing informational and promotional materials to share with high school students about registering as a future voter, and will receive their first list of Elections Canada's register of future electors to add to the provincial list in August.

Another key change to the Act was providing the Chief Electoral Officer with more access to personal information held by public bodies in order to improve Elections BC's ability to maintain an accurate voters list. The Chief Electoral Officer indicated that negotiations are underway with ICBC, the Ministry of Citizens' Services, and the Ministry of Health to finalize an agreement on how this personal information will be shared.

The Chief Electoral Officer informed Committee Members that the recommended capital budget of \$805,000 for 2020/21 has been re-evaluated to ensure delivery on projects resulting from the amendments to the Act. He reminded Committee Members that in the fall his office had presented three priorities for the 2020/21 fiscal year: to develop an improved vote-by-mail tracking system; to expand online services for clients; and to build a system to assign and manage general election readiness planning assignments for district electoral officers. The system for general election readiness was subsequently moved up to the 2019/20 fiscal year while the scope of the client portal was reduced for delivery in the current fiscal year with enhancements pushed to future years; the improved vote-by-mail tracking system is expected to be delivered this fiscal year. Remaining capital funding has been earmarked for system changes to support the amendments, including modifications to enable data integration between core systems and the new electronic voting book and tabulator software solutions, as well as changes to the voter databases to accept registration information from new public sources.

The Chief Electoral Officer also discussed a forthcoming report on disinformation and digital threats to electoral integrity. Pursuant to section 12(2) of the *Election Act*, the Chief Electoral Officer may make recommendations to the Legislative Assembly on amendments to the Act or other enactments related to

election matters. Reflecting on reports of foreign interference in elections in the United States and the United Kingdom, the Chief Electoral Officer expressed concerns about potential interference with elections through digital disinformation, non-transparent digital political advertising and cyberattacks, and how these activities are designed to reduce trust in electoral processes and democratic institutions. He noted that a number of jurisdictions, including federally in Canada, have taken steps to address challenges posed by disinformation and digital threats, and that his office consulted both Elections Canada and the Commissioner of Canada Elections to learn more about their recent experiences and identify best-practices. The report examines the extent of digital disinformation risk to BC's elections, how the *Election Act* addresses these risks, and possible solutions to address challenges, including recommendations for legislative amendments.

COVID-19

The Chief Electoral Officer discussed how elections are considered a public health risk in the current environment, noting that a number of local by-elections have been postponed, and that Elections BC has been exploring how electoral processes could be adapted to permit elections to proceed with different levels of public health restrictions. This includes continuing to engage with the Provincial Health Officer on guidance, collaborating with Canadian counterparts, assessing international best practices, and reviewing protective measures in jurisdictions such as South Korea where elections have proceeded during the pandemic. The Chief Electoral Officer also expects to engage with caucus chairs, the Election Advisory Committee, voters, and communities with unique needs as part of this contingency planning, and will report to the Committee in the fall when the office presents their election year budget request. He emphasized to the Committee his goal of ensuring safe, accessible, free and fair elections.

Committee Members inquired about shifting entirely to vote-by-mail for a provincial general election. The Chief Electoral Officer agreed that it is possible to have a vote-by-mail provincial general election with the appropriate planning and procurement of supplies. He shared that his office is unique in Canada in having experience with several vote-by-mail electoral events, including three referendums and a plebiscite. He further noted that the *Election Act* currently allows every voter to request a vote-by-mail package; however, some adjustments to processes may be required. For example, vote-by-mail currently uses a write-in ballot and it may be preferable to have an ordinary ballot that clearly lists all candidates; this may then require changes to the timeline for ballot package mailout and candidate nomination deadlines.

In response to a question about online voting, the Chief Electoral Officer stated this is not recommended even though it is possible. He pointed to the 2014 report by the Independent Panel on Internet Voting which examined the issue and explained that key considerations related to security have not changed. He acknowledged debate in the United States on this topic, noting that their discussions are focused on meeting the needs of specific communities, such as people with disabilities and overseas voters. The Chief Electoral Officer emphasized the importance of trust in an election, and how with current security concerns, it is questionable if an election conducted solely through online voting provides that level of trust.

Office of the Human Rights Commissioner

On April 29, 2020, Kasari Govender, Human Rights Commissioner, presented her office's financial and operational update. She was accompanied by: Stephanie Garrett, Deputy Commissioner, and Dianne Buljat, Chief Financial Officer.

The Commissioner started her presentation by providing an overview of her office, the only fully independent human rights office in Canada. She explained that the office is one of three parts of the human rights system in BC. There is also the Human Rights Tribunal, which processes individual complaints and dispute resolution, and the Human Rights Clinic, which provides legal services for those going through the complaints system. Her office has a broad mandate to apply both domestic and international human rights law, and address systemic concerns and provide access to justice for those issues that cannot be addressed by the complaints system. She noted that the three entities are working collaboratively to improve access to the human rights system and ensure a coordinated approach to responding to public concerns and complaints.

Since opening in September 2019, the office has been focused on strategic planning. Along with addressing discrimination as laid out in the *Human Rights Code*, the Commissioner shared that four additional priorities will inform the office's forthcoming service plan: decolonization; hate and the rise of white supremacy; poverty; and human rights for those detained by the state. The office has also been engaged in community outreach, including hosting roundtables and town halls across the province, building relationships with Indigenous communities, and engaging other human rights offices.

In terms of a financial update, the Commissioner stated that the office continues with the phased approach to operationalization as presented in the fall; however, she outlined concerns that the recommended budget allocation for the coming fiscal years may impact the office's ability to fulfill their mandate. She also expressed her appreciation to the Office of the Auditor General for providing office space in Victoria and to the Office of the Representative for Children and Youth for providing shared services, noting that these arrangements have enabled her office to be efficient and dedicate more of their budget to program delivery. Work on completing the building of a permanent office space in Vancouver continues with move-in expected by November 1, 2020.

With respect to staffing, the Commissioner shared that lead staff in each department have been hired and on-boarded. The office now consists of nine full-time staff and two temporary staff, and is scheduled to add eight to nine more people by the end of June. The Commissioner highlighted her office's standards for equity and inclusion in hiring practices, and the quality and diversity of candidates they were able to attract for each competition. She noted that staff work in the main office in Vancouver, as well as the satellite office in Victoria, and that they intend to create remote positions across the province as the office grows.

The Commissioner also updated the Committee on activities undertaken to support the education part of her mandate, including producing fact sheets and providing policy guidance, and a storytelling project featuring human rights champions across BC. On the research and policy side, the office is working on a baseline project that will establish a set of performance indicators to measure improvements to human rights in the province, and preparing recommendations on amending the *Human Rights Code* with a focus on discrimination on the basis of poverty. The Commissioner further shared that the office is working to establish

the advisory council provided for in legislation, and has connected with Simon Fraser University's Wosk Centre for Dialogue on best practices for participatory advisory councils.

Committee Members commented on challenges with respect to enforcement and compensation within the human rights system. The Commissioner acknowledged gaps and discussions she has had with various stakeholders on these issues, including potential recommendations for changes to the *Human Rights Code* to address the gaps.

COVID-19

The Commissioner emphasized to the Committee that human rights are all the more critical in a time of crisis, and that the need for oversight has only increased. She shared that the office has launched two surveys to better understand the impacts of the pandemic: one on human rights violations people are experiencing, and one on obstacles duty-bearers face in respecting and fulfilling human rights during this time.

The Committee referenced incidents related to racism and discrimination during the pandemic, and the capacity of the Human Rights Tribunal to deal with an increase in these incidents, and inquired as to the Commissioner's role. The Commissioner clarified that her office does not provide oversight of the Tribunal; however, they have developed a strong relationship and work collaboratively. She commented that the Tribunal has developed an expedited model, which is working well, to resolve pandemic-related human rights complaints.

Outreach is also being conducted digitally through the use of videos drawing attention to human rights as it relates to the public health crisis, and online community forums to hear about the issues British Columbians are currently facing. In response to a question about engagement with rural communities, the Commissioner noted that reliable access to internet is a concern and the office is looking at alternative approaches, such as connecting with local organizations, to disseminate information.

In addition, the Commissioner highlighted that her office has been involved in providing policy guidance, and engaging government on protecting human rights during the pandemic. This includes: issuing policy recommendations to correctional services, employers, service providers and landlords; protecting those experiencing domestic and gender-based violence; and ensuring communication of public health information meets the needs of persons with disabilities.

Office of the Information and Privacy Commissioner and Registrar of Lobbyists

On April 28, 2020, the Information and Privacy Commissioner and Registrar of Lobbyists, Michael McEvoy, appeared before the Committee to present his financial and operational updates. In attendance were: oline Twiss, Deputy Commissioner; Jeannette Van Den Bulk, Deputy Commissioner; Michelle Mitchell, Senior Communications Manager; and Dave Van Swieten, Executive Director of Corporate Shared Services.

The Commissioner reported a modest surplus of 1.3 percent or approximately \$90,000 in the operating budget for the 2019/20 fiscal year with the capital budget fully spent. At this time, the office does not anticipate requiring additional funds beyond the recommended allocation for the 2020/21 fiscal year.

In his update, the Commissioner described his office's work to improve privacy management in the private sector. The office recently closed a joint investigation with the federal Privacy Commissioner into AggregateIQ (AIQ). The investigation found the company failed to secure consent for the use and disclosure of people's personal information and failed to adequately secure this information; AIQ has agreed to implement the Commissioner's recommendations. The Commissioner shared that a joint investigation with the Information and Privacy Commissioner of Ontario has been launched into the LifeLabs cyber-security breach which impacted around 15 million Canadians. The office is also collaborating with the federal, Quebec, and Alberta privacy commissioners to investigate whether Clearview AI, a US-based company that uses facial recognition technology to identify people, is collecting and using personal information without consent. The Commissioner informed the Committee that his office, along with other privacy regulators across Canada, is working to develop guidance on the use of such technologies for organizations such as law enforcement.

Additionally, this year concludes the office's PrivacyRight campaign which focused on raising awareness about the responsibilities of the private sector under the *Personal Information Protection Act*. The Commissioner shared that the campaign included a series of podcasts, webcasts and training tools, and engaged the support of partners such as the Better Business Bureau of BC and Service BC to distribute information and materials. The office also continues work with Elections BC on developing a code of conduct for political parties, following the release of an investigative report into their collection and use of voter information last year.

As it relates to responsibilities as the Registrar of Lobbyists, the office has been engaged in an extensive amount of work over the last year preparing for the transition from the *Lobbyists Registration Act* to the *Lobbyists Transparency Act*. This includes the creation of a new lobbyist registry, for which the federal lobbyist registered was licensed and adapted to meet BC's legislative requirements, as well as an educational campaign to ensure lobbyists are aware of their responsibilities. The Commissioner noted that lobbyists in BC will transfer over to the new registry in May, with the first monthly lobbying reports due by June 15; those impacted by COVID-19 will have until September 15 provided they keep track of their lobbying and related activities. The Commissioner indicated that the new registry will improve transparency by providing an effective publicly searchable database of lobbying activities.

Enhancing the quality and capacity of the office's people, systems, processes, and culture has also been a focus for the office. This has been facilitated by the introduction of a new engagement model for strategic

goal-setting procedures and evaluation processes coupled with a newly developed diversity and inclusion committee. The Commissioner stated that this committee has made multiple recommendations to increase the diversity of the office, and some of these recommendations have already been operationalized. In response to questions from Committee Members about gendered perspectives, the Commissioner shared that staff are engaging in gender-based analysis plus training and expects this will guide their work moving forward.

COVID-19

The Commissioner informed the Committee that the COVID-19 pandemic has had a negligible impact to date on the office's budget; however, it has impacted the office's operations in two ways. First, to ensure physical distancing, the office has transitioned to working remotely apart from a small group of staff. This process was eased by the work of the IT department and the Executive Director of Corporate Shared Services, and the office's recent transition to tablet computers.

Second, the office has been providing advice on legal and policy issues related to the pandemic, including information sharing and privacy issues. The Commissioner emphasized that it is possible to effectively protect privacy, maintain access to information, and promote transparency and public trust while using every tool in the provincial tool-kit to fight COVID-19. He further highlighted that BC's privacy legislation is designed to facilitate the information sharing necessary to protect public health and safety. Where public bodies and organizations are unsure of their responsibilities under BC privacy law, the office is expediting assistance.

In recognition of the challenges public bodies currently face as they respond to and reorient their work due to the pandemic, the Commissioner has also approved some temporary measures. The Commissioner temporarily extended freedom of information deadlines by 45 days, and provided input on Ministerial Order 85/2020, which temporarily waives BC's data residency requirements. He shared his view that these measures are fair and reasonable given the current circumstances.

The Commissioner also discussed the work of the Asia-Pacific Privacy Authorities, for which BC serves as secretariat, and how the relationships at this table have been valuable in discussing common challenges across jurisdictions with respect to protecting personal information in the time of a pandemic. A virtual forum is being held in June that will further explore these challenges.

Office of the Merit Commissioner

On April 30, 2020, Maureen Baird, Q.C., the new Merit Commissioner, presented her financial and operational update. She was joined by Dave Van Swieten, Executive Director of Corporate Shared Services.

The Commissioner, who was appointed in January, began her presentation to the Committee by reviewing the mandate of her office: to audit randomly selected BC public service appointments; to review appointment decisions at the request of unsuccessful job applicants; and to review processes related to eligible just cause dismissals of BC public service employees. For the 2019/20 fiscal year, the Commissioner reported a surplus of \$153,000 and expects that the recommended budget allocation for the 2020/21 fiscal year will be sufficient.

The Commissioner explained that the surplus is primarily attributable to the office having an Acting Commissioner for four months, followed by a vacancy in the position for another four months, during which no long-term commitments and projects were undertaken. This also resulted in some delays in review processes and in reporting; for example, the *2018/19 Merit Performance Audit Report* was set to be released in November 2019, but was not tabled until March 2020.

In discussing the results of the 2018/19 merit performance audit which sampled 273 randomly selected appointments representing over 14,000 applicants, the Commissioner noted improvement over previous years. Fifty-six (56) percent of appointments were the result of well-executed hiring processes, and only three percent were found to have flaws in the hiring process which negatively impacted the results of the job competition. Better documentation and less observable errors from previous years were also noted.

The office received 25 requests for a staffing review in 2018/19. Five of these requests were found to be ineligible, and appointment decisions were upheld in all but three of the eligible reviews completed. In 2019/20, the office received 22 requests for a review; a report on these reviews is underway and will be released later this summer. One request for review was withdrawn because the candidate did not want to wait for the appointment of a new Commissioner.

The Commissioner also updated the Committee on dismissal process reviews which were added to her mandate in 2018. During initial reviews, it was determined necessary to have access to legal opinions related to the dismissal decision and the office worked with the legal services branch to develop a draft proposal for sharing privileged information. The Commissioner explained that draft protocols were developed in September, and a pilot protocol has been completed; however, she noted that a permanent protocol is still needed. She informed the Committee that her office has received eight files for dismissal process review: three were received in June and July and were subject to a preliminary review; and another five received thereafter were held pending an agreement on sharing legal advice.

The Commissioner concluded her presentation by stating that 2020 will be a transformative year, and informed the Committee that the office expects to be caught up on the backlog of files shortly. She also acknowledged and expressed her sincere appreciation to the staff who provided continuity to the office in the absence of a Commissioner, and supported her orientation and transition into her position.

COVID-19

The Commissioner highlighted the importance of public servants and the services they perform during the COVID-19 pandemic, and how the non-partisan merit-based hiring process for public servants promotes public trust in government institutions. In response to COVID-19, the office has switched to working remotely, a process that was eased, the Commissioner noted, by the cohesiveness and skill of her staff. The office has also become more flexible about delivery of documents related to audits, as staff may not have access to the requested documentation without having to make otherwise unnecessary trips to their offices.

Office of the Ombudsperson

Jay Chalke, Ombudsperson, presented his office's financial and operational update on April 30, 2020. He was accompanied by Dave Van Swieten, Executive Director of Corporate Shared Services.

The Ombudsperson updated the Committee on the implementation of new statutory responsibilities pursuant to the *Public Interest Disclosure Act*, which came into force on December 1, 2019. He explained that his office is one of six places employees can seek advice about their rights, and one of two avenues for making a disclosure; it is also the only avenue for making an allegation of reprisal. The Ombudsperson shared his view that the success of the legislation will be dependent upon employers creating a welcoming, respectful workplace culture that encourages disclosures of wrongdoing.

As part of the implementation work, the Ombudsperson has met with staff, ministries and other stakeholders to: provide training on how to implement the Act; raise awareness of the implications of the Act to public bodies; and stress the importance of promoting an appropriate workplace culture, welcoming disclosures and conducting fair investigations. The office has also published guides and tip sheets.

In response to a question about power imbalances in gendered relationships and the type of advice given to individuals in those situations, the Ombudsperson emphasized the importance of employers establishing processes and a respectful workplace to address these types of concerns and complaints. He also indicated that his office is interested in using gender-based analysis plus tools to examine these types of questions once there are a sufficient number of cases.

The Ombudsperson also reviewed recent activities related to his responsibilities under the *Ombudsperson Act*. The office issued a report in February on progress made by the Ministry of Social Development and Poverty Reduction with respect to recommendations from the 2018 *Holding Pattern: Call Wait Times for Income and Disability Assistance* investigative report, which found mixed levels of improvement. He noted that his office is also working on monitoring referrals from the National Inquiry into Missing and Murdered Indigenous Women and Girls regarding potential misconduct by a public agency.

The Ombudsperson further highlighted work related to outreach, including targeted outreach of post-secondary students, new Canadians, and LGBTQ2S+ communities to raise awareness of the office's services. A more accessible website, with a new complaint checker feature, was also recently launched. The Ombudsperson informed the Committee that a new complaints guide, and additional quick tip documents on topics such as bias, conflict of interest and exercising discretion fairly, will be released soon.

A key priority for the coming year is the development of a new strategic plan. The Ombudsperson stated that this work will involve consultation with the public, staff, legislators and public authorities, and that the office will continue to develop outcome-based performance measures.

COVID-19

The Ombudsperson emphasized the importance of oversight at a time when government exercises extraordinary powers, explaining that this helps to reinforce trust in government and assure British Columbians that measures are being taken in a manner consistent

with democratic principles. He shared that his office has taken an approach of allowing government to fix issues when his office identifies them and will consider public reporting as appropriate.

The Ombudsperson indicated that the COVID-19 pandemic has had a significant impact on the work of his office. One of their key challenges has been staying up-to-date on changes to public administration and the delivery of services as this allows the office to identify outreach priorities, provide accurate and useful referral information, triage complaints, recognize system issues, and identify prevention opportunities. The Ombudsperson explained that the magnitude of the changes in the current environment is such that the office has had to devote full-time resources to and develop new methods of learning about these changes.

As well, the office is now receiving complaints related to the impact of the pandemic, such as shifts to delivery of services via online methods only. To resolve these complaints, the office has expanded the use of early dispute resolution approaches and established rapid response liaison structures with high volume public bodies. The Ombudsperson noted that the office is being mindful of the impact of investigations on frontline services, and is taking proactive and consultative approaches, along with formal approaches, to minimize disruption; the office has also held back on releasing reports until government operations stabilize.

Committee Members asked how access to services is being maintained, particularly for rural communities. The Ombudsperson shared that most inquiries are received by phone and that the office was able to transition to remote work without interruption to phone service. He expressed concerns about awareness of services as some individuals no longer have access to traditional supports in the community or not-for-profit sector.

The Ombudsperson further highlighted efforts to work proactively with government on potential issues related to changing existing services or establishing new ones in response to the pandemic. He explained that the normal course of policy development and stakeholder consultation are not taking place in the current environment in order to respond expeditiously and efficiently to the challenges presented by the pandemic.

In response to questions regarding resources, the Ombudsperson highlighted the level of uncertainty for how the current situation will unfold. He indicated that should a question of resources arise, the first step would be to examine opportunities for making adjustments within the existing budgetary allocation, before coming forward with requests for supplementary funding.

Office of the Police Complaint Commissioner

On April 29, 2020, Clayton Pecknold, Police Complaint Commissioner, presented his office's financial and operational update. He was joined by: Andrea Spindler, Deputy Police Complaint Commissioner; and Dave Van Swieten, Executive Director of Corporate Shared Services.

The Commissioner began his presentation by noting a modest surplus of \$697 in 2019/20. He stated that the office's adjudication funding saw an overage; however, delays in some discretionary expenditures ensured the office remained under budget. He also shared with the Committee an *Amended Service Plan 2019/20 to 2021/22* and indicated that work continues on a full strategic planning process. The plan incorporates the recommendations made by the Special Committee to Review the Police Complaint Process, and the corresponding audit by MNP LLP, in the Special Committee report released last fall.

In looking at the year ahead, the Commissioner discussed the City of Surrey's planned transition from the RCMP to a municipal police force. Once a police board has been appointed, the *Police Act* would bring Surrey into his jurisdictional authority. The office is actively planning for an expected increase in service and policy complaints with the assistance of a contracted resource, as supported by the Committee in the fall.

Reflecting on statistics from the past year, the Commissioner observed an increase in orders and investigations; however, he was pleased to report that 68 percent of ordered investigations are self-disclosures by police agencies, indicative of a successful collaborative relationship between his office and police agencies. The Commissioner expressed concern that 12 percent of complainants self-identified as Indigenous given his jurisdiction largely covers urban municipalities, and suggested that additional research is necessary to understand why this demographic is unduly represented.

In response to a question regarding ongoing outreach with Indigenous organizations, the Deputy Commissioner shared that the office has hired a dedicated outreach person to connect with community-based organizations, to provide information about their outreach services, and to assist with the complaints process. The office is also part of regular meetings with the Missing and Murdered Indigenous Women and Girls Coalition, and is making connections with the Family Information Liaison Unit, the provincial victim service unit for families of missing and murdered Indigenous women and girls. The Deputy Commissioner stated that the office has been engaged in ongoing discussions with Indigenous stakeholders on how to make the police complaint process more accessible, relevant, and culturally aware. Part of this process includes finding alternative dispute resolution systems that are rooted in Indigenous cultural practices. The Commissioner referenced an example of the office's hiring of a cultural safety adviser on a case involving an Indigenous youth as a success, noting that the advice was well received by police agencies and that the adviser has been offered a small contract with the aim of incorporating cultural safety advice on investigations, where appropriate, on an ongoing basis.

As it relates to dispute resolution, the Commissioner acknowledged that his office continues to face challenges with timelines. Many complainants are frustrated by the length of time it takes for a file to go from implementation of a complaint to resolution, and because of this delay, the office has seen some complainants disengage from the process. In response to this issue, the office has worked to improve contact and communication with complainants, and ensure that communications are less rooted in legal-language;

however, the Commissioner is of the view that legislative solutions are ultimately required to expedite the process.

COVID-19

The Commissioner noted that COVID-19 has had an impact on the office both in day-to-day operations, and the types of complaints received. The office followed the advice of the Provincial Health Officer and halted public access; a limited group of staff remain in the office while most work remotely. Weekly check-ins with staff indicate the transition has been smooth. In circumstances where investigations need to occur, the office has moved away from in-person interviews.

In response to the pandemic, the office has expanded outreach efforts, including partnerships with organizations like the Law Foundation. The Commissioner stated that exploring these partnerships will ensure the public, especially those who are most vulnerable, maintain access to the office. He has also been working with the Ombudsperson to ensure any complaints about compliance and enforcement officers are directed to the proper jurisdictional authority.

Committee Members inquired about any complaints or issues in relation to COVID-19 and police conduct and officer safety. The Commissioner indicated that at the onset of this pandemic, police departments had to adjust safety standards and processes, and guidance was not always clear. He acknowledged complaints relating to issues such as a lack of physical distancing on the part of an officer; however, in recognition of the adjustment period, the office took a policy-oriented, informal approach to addressing these issues rather than a formal complaint of misconduct. Safety measures and other processes, including direction on the use of personal protective equipment, and when and how to interact in different environments, are now largely in place in police departments across the province.

Office of the Representative for Children and Youth

Dr. Jennifer Charlesworth, Representative for Children and Youth, appeared before the Committee on April 29, 2020 to present her office's financial and operational update. In attendance were: Deputy Representative for Operations, Alan Markwart, and Chief Financial Officer, Dianne Buljat.

The Representative outlined the responsibilities of her office which include: assisting children, youth, and their families in dealing with child- and youth-serving systems; advocating for improvements to those systems; and providing oversight of the Ministry of Children and Family Development and other public bodies that deliver services and programs to children and youth. This translates into three key areas of work: advocacy, critical injury and death reviews and investigations (CID), and monitoring. The office's recommended budget allocation for 2020/21 is \$10.41 million.

In 2019, the advocacy team handled 1,583 individual cases. The Representative noted that these cases have become more complex as the number of service lines, agencies, and people that are involved in a child's life, as well as the number of challenges they face, increase. This has influenced the way advocates do their work and the amount of time each case takes. With regard to the CID team, the office received a record high of 3,185 reports in fiscal year 2019/20; 1,330 were determined to be within their legislative mandate, representing a 65 percent increase over the last four-year period. The Representative added that she expects a further increase in the CID team's workload as health authorities start reporting critical injuries and deaths in relation to mental health and addiction services for children and youth. The Representative also provided an update on the work of the monitoring team who released two public reports in the last fiscal year and is currently reviewing services and supports for children and youth with fetal alcohol spectrum disorder and their families.

The Representative informed the Committee that her office has established a First Nations, Métis and Inuit relations team (FNMIR) dedicated to improving services to Indigenous children, youth and young adults. The Representative shared that the office is recruiting for an Indigenous Deputy Representative who will be responsible for both advocacy and FNMIR. She noted that the office is also monitoring progress on the implementation of key recommendations from the Truth and Reconciliation Commission's Calls to Action, the Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls, and Grand Chief Ed John's report *Indigenous Resilience, Connectedness and Reunification: From Root Causes to Root Solutions*. In response to a follow-up question regarding these reports, the Representative explained that the office has reviewed the report recommendations to identify key themes and is working to reach out to responsible ministries, and other public bodies, to discuss these themes and identify areas for action.

COVID-19

The Representative shared that staff are able to work from home; however, in-person advocacy and youth and community engagement activities have been curtailed. Instead, advocates are working with children, youth, caregivers, and community services providers via telephone, Skype, Zoom, and recorded messages. The office has also enhanced advocacy efforts and virtual outreach during this time, and is exploring the use of Facebook, chat, text

and other alternative methods to engage with youth. In response to a question about the impact of the pandemic on the office's budget, the Deputy Representative for Operations noted that some under-expenditure due to reduced travel is expected this fiscal year.

The office has created a COVID-19 response team to ensure advocates have the current information available on evolving policies and programs, as well as to review, analyze and summarize COVID-related critical injuries and deaths, advocacy cases, reports from service providers and stakeholders, and other information sources in order to ascertain service-related issues and themes. The Representative shared that the office has regularly advised the Ministry of Children and Family Development and other bodies about various issues and concerns related to the pandemic, including access to technology and family violence. Committee Members asked if the Representative has provided any advice or recommendations about the impact of the pandemic on child protection. The Representative stated that during the pandemic fewer people, such as educators, are monitoring vulnerable children. To address this issue, the office has worked with the Provincial Health Officer and the Office of the Human Rights Commissioner to share information about the implications of crises and emergencies on family violence and to identify opportunities for change.

With respect to reports, the Representative has deferred the release of a number of reports to the fall in recognition of the pressures currently on government due to the pandemic. The office continues to release reports without recommendations that are informative and useful to service systems.

