

December 2, 2015

The Honourable Suzanne Anton
Attorney General and Minister of Justice
Parliament Buildings
Victoria, British Columbia
V8V 1X4

RE: DNA Analysis Costs to Local Governments

Dear Minister Anton,

I am writing with regard to your decision to transfer a portion of provincial costs resulting from the recent federal-provincial *Agreement Respecting Biological Casework Analysis 2014-2024 (BCAA)* to local governments with populations greater than 5,000. I am concerned both with the process leading to this decision and its fairness. I also believe that there are matters of jurisdiction and authority that have not been addressed by the Ministry of Justice in its handling of this decision.

It is anticipated that this decision will allow the Province of British Columbia to maintain its historical base financial contribution, while transferring the majority of additional costs to local governments. In 2016/17 alone, \$2.90 million in unexpected costs will be shifted onto municipalities with populations greater than 5,000. Given the impact of this transfer, the lack of any consultation with the Union of BC Municipalities prior to sending out bills to local police agencies is a significant oversight. The Province has committed itself to a funding approach without any knowledge of the ability of local governments to pay for these services. Not only does this create additional pressure on local finances, the decision flies in the face of the "One Taxpayer" principle so often invoked by the provincial government.

While all provinces and territories are faced with the same cost pressures related to DNA analysis services, I am not aware of any other province, other than British Columbia, that is shifting a portion of these costs to local government. If it does not make sense for local governments in Alberta or Saskatchewan to be contributing to these fees, I would suggest that is also true in British Columbia. From our perspective, the provincial and federal orders of government have an obligation to fund DNA analysis services, and cost shifting to local government is not acceptable. Given the lack of rationale by the Ministry of Justice for its decision, the cost shift to local government is both unwarranted and unfair.

Finally, I would also add that it remains unclear by what authority the Ministry of Justice has directed the Organized Crime Agency of BC to send bills for DNA analysis services to local governments. Has this decision been authorized through an Order in Council? If so, please indicate the regulation and its effective date.

In light of these concerns, I am requesting that you reverse the decision of the Ministry of Justice to fund a portion of its DNA analysis services costs under the BCAA by passing these along to local governments. I would be pleased to discuss this matter further and meet with you at your convenience.

Sincerely,



Al Richmond
President
Union of BC Municipalities

CC: *The Honourable Ralph Goodale, Minister of Public Safety and Emergency Preparedness
Canada*

*The Honourable Peter Fassbender, Minister of Community, Sport, Cultural Development
and Minister Responsible for Translink*

Lori Wanamaker, Justice Reform and Deputy Solicitor General, Ministry of Justice

*Clayton J.D. Pecknold, Assistant Deputy Minister and Director of Police Services,
Policing and Security Branch, Ministry of Justice*



January 5, 2016

Mr. Al Richmond
President
Union of British Columbia Municipalities
60-10551 Shellbridge Way
Richmond BC V6X 2W9

Dear Mr. Richmond:

I am responding to your December 2, 2015 letter, address to my colleague, the Honourable Suzanne Anton, Attorney General and Minister of Justice, regarding funding for DNA Analysis in British Columbia.

The new Agreement Respecting Biology Casework Analysis 2014-2024 (BCAA) between the Province of British Columbia (BC) and the federal government was negotiated as a result of the federal government informing the Province that it would no longer provide DNA analysis through the RCMP at the historical flat rate. In December 2013, the federal government informed the Province that if BC did not agree to pay considerably more for the service, as of April 1, 2014, the RCMP would significantly reduce the forensic DNA analysis services provided to law enforcement agencies in BC. Under the new BCAA, after a three-year escalation period (which began in fiscal 2014/15), DNA analysis services will be charged based on a calculation that reflects the two-year average of the actual cost to Canada to provide the service, and the two-year average of proportionate usage of service recipients. After the three-year escalation period, Canada will contribute 46 per cent of the total costs.

It is important to note that under the *Police Act*, municipalities with 5,000 population or more, are responsible for providing policing and law enforcement in the municipality, and for bearing the expenses necessary to generally maintain law and order. As per s. 15 (1) of the *Police Act*, in British Columbia, police agencies are responsible for bearing expenses necessary to maintain law and order, to adequately enforce criminal law, and to provide adequate equipment and supplies for the operations of and use by the police. DNA analysis is one of those operational policing expenses for which police agencies are responsible. However, in order to reduce the cost to police agencies, the Province will continue to contribute its historical funding of \$1.366 million, thereby leaving municipalities to pay a portion of their DNA analysis costs. Additionally, as you may be aware, the Province will pay the DNA analysis costs for all communities in British Columbia with a population under 5,000.

Ministry of
Public Safety
and Solicitor General

Office of the Minister

Mailing Address:
Parliament Buildings
Victoria BC V8V 1X4

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In order to assist police agencies with the transition to paying for a portion of their DNA analysis usage, the Province paid \$1.2 million, in addition to the historical funding of \$1.366 million for the first year of the phase-in period for 2014/15. For the second year of the phase-in, in addition to the historical contribution, the Province has committed to paying for the first three quarters of the fiscal year to accommodate police agencies, whose budgets operate on a calendar year.

During the negotiations for the agreement, police agencies and the UBCM were informed in a number of venues, including the various Associations of Chiefs of Police meetings, that the federal government was seeking to increase recovery for DNA analysis and that negotiations were underway. Senior officials with the Union of British Columbia Municipalities (UBCM), UBCM's Public Safety Committee and UBCM's Local Government Contract Management Committee were also briefed. On February 21, 2014, UBCM President Rhona Martin and the co-chair of UBCM Local Government Contract Management Committee Dianne Watts wrote to the federal government strongly urging them to reach an agreement with the Province on a number of issues, including DNA analysis. They made the point that it was not appropriate for Public Safety Canada to make assertions about possible service reductions when service delivery is the responsibility of the RCMP.

At the BC Association of Police Boards meeting in April 2015, the attendees were informed that the Province would continue to provide the historical contribution of \$1.366 million and, because DNA analysis is an operational policing expense, police agencies would be required to contribute funding beyond the Province's historical contribution starting in fiscal 2015/16. In June 2015, the Director again informed the BC Association of Chiefs of Police that as DNA analysis is an operational expense, police agencies will be required to fund their usage beyond the Province's historic funding of \$1.366 million. This is consistent with the obligations under the *Police Act*.

As you are aware, the Organized Crime Agency of British Columbia (OCABC) will be responsible for billing and administering the BCAC. In regards to your question about OCABC administering the BCAC, it was felt that it would be more appropriate for a designated policing unit (in this case OCABC) to administer the agreement because police agencies operate at arm's length from government and it is important that the Province and Local Governments are not seen to be making decisions regarding criminal investigations in British Columbia.

Finally, I would note that the Province makes significant contributions to policing in British Columbia, including more than \$70 million annually for over 20 integrated teams (including IHIT and CFSEU) and a total of \$38.6 million in traffic fine revenue in 2014 (and \$38.4 million in 2013) which can be contributed to municipal policing costs.

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I appreciate that this decision by the federal government has had financial impacts on our local governments. I can assure you that every effort to mitigate this decision was made. You may wish to raise your concerns with the federal government.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mike Morris', with a long horizontal flourish extending to the right.

Mike Morris
Minister of Public Safety
and Solicitor General

pc: The Honourable Peter Fassbender

PSPB PECKNOLD/MCLEAN/LENZ

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