

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION by the Honourable Suzanne Anton, Minister of Justice and Attorney General, and the Honourable Mike Morris, Minister of Public Safety and Solicitor General

**ISSUE:**  
Theme of 2017 Justice Summit cycle.

**DECISION REQUIRED/RECOMMENDATION:**  
Approval of theme recommended by Justice and Public Safety Council

**SUMMARY:**

- Previous consultations had identified Indigenous Justice as the preferred theme for the 8<sup>th</sup> and 9<sup>th</sup> BC Justice Summits in 2017. Consultation since January 2017 with BC Aboriginal Justice Council (BCAJC) has resulted in a request that this topic be delayed s.16
- The BC Justice and Public Safety Council (JPSC) has considered ten alternative topics and recommends that "Technology and the Justice System" be selected for the 8<sup>th</sup> and 9<sup>th</sup> Summits in 2017. Approval is sought to commence planning.

**BACKGROUND:**

- BC Justice Summits have been held twice annually since 2013. The requirement to host is under the *Justice Reform and Transparency Act* S.9 (SBC 2013).
- Discussions in the fall of 2016, involving Richard Fyfe, Deputy Attorney General, Mark Sieben, Deputy Solicitor General, Kurt Sandstrom, Assistant Deputy Minister, the BC Justice Summits Coordinator (Allan Castle), and the BCAJC, together with other interactions with Indigenous Justice experts had revealed interest in Indigenous Justice as the theme of the 8<sup>th</sup> and 9<sup>th</sup> Summits.
- Minister Anton announced this theme to participants at the conclusion of the 7<sup>th</sup> Summit on November 25, 2016. Subjects potentially to have been addressed at these events included s.16

**DISCUSSION:**

- s.16

- The requirement and sector expectation of a Summit cycle in 2017 remains. JPSC met on February 14<sup>th</sup> to consider ten alternative topics within the areas of criminal justice, civil justice and administrative justice.
- Topics considered included: the use of custody, bail/remand reform, access to justice, use of conditions and breaches, tribunals, cybercrime, performance measures, employee wellness, technology and justice, and specialized courts.
- The consensus choice of the Council as a recommendation was "Technology and Justice." This topic is seen as central to the statutory mandate of the Summits, operationally important, touching all areas of the system, and bringing in a number of important players and innovators in the sector who have largely been excluded from Summit participation to date. Issues within this theme include use of big data, increased access to justice, and more efficient operations.
- No other topics attracted majority support. There was greatest interest in bail and remand, matched with concern about too many criminal-themed topics in sequence.
- Time is of the essence as the next Summit is scheduled for June 23-24, 2017.

**OPTIONS:**

1. Approve "Technology and Justice" as 8<sup>th</sup> and 9<sup>th</sup> Summit theme. [RECOMMENDED]
2. Select an alternative topic from those considered. [NOT RECOMMENDED]
3. Consider other topics via research and consultation. [NOT RECOMMENDED]

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- MARR and MCFD advised of the prior choice of topic and the recent change.

**OPTION 1 APPROVED:**

**DATE:**



Richard J. M. Fyfe, Q.C.  
Deputy Attorney General  
Deputy Minister, Justice

March 3, 2017

**OPTION 1 APPROVED:**

**DATE:**



Mark Sieben  
Deputy Solicitor General

March 1, 2017

OPTION 1 APPROVED:

DATE:



Honourable Suzanne Anton, QC  
Minister of Justice and Attorney General

6 mar 2017.

OPTION 1 APPROVED:

DATE:



Honourable Mike Morris  
Minister of Public Safety and Solicitor General

2017-03-08

Prepared by:  
Allan Castle  
Consultant  
778-679-2916

Approved by: Kurt Sandstrom  
Assistant Deputy Minister

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** FOR INFORMATION Suzanne Anton, QC  
Attorney General and Minister of Justice

**ISSUE:** Surrey Justice Access Centre Implementation

**BACKGROUND:**

- Since 2009 Justice Services Branch (JSB), through Family Justice Services Division (FJSD), have created and implemented three Justice Access Centres (JACs) in Nanaimo, Vancouver and Victoria.
- A recent Treasury Board submission with respect to the creation of a Justice Access Centre in Surrey was approved and announced in the 2017/18 Ministry of Justice Budget.
- JACs are a key Ministry priority and one of the three key Ministry of Justice transformation initiatives, along with RSI and CRT.
- s.13
- The Surrey JAC is currently anticipated to open in 2018.

**DISCUSSION:**

- The Surrey JAC has been one of the Ministry key priorities for a number of years. On April 3, 2009, government announced \$3.3 million capital from the Accelerated Infrastructure Plan to establish a Surrey Neighbourhood Justice Centre.
- In 2010 Surrey invited the province to consider options for redeveloping the Surrey Municipal Hall located adjacent to the Surrey Provincial Court. Planning for a JAC became one component of a comprehensive plan to address capacity issues in the Surrey Provincial Courthouse by redeveloping the municipal hall.
- Subsequently, the Surrey JAC was included in the \$33 million envelope for the Surrey courthouse expansion. In all subsequent studies and business plans, the Surrey JAC has been a feature of that courthouse design.
- s.12
- The TB submission with respect to funding of the Surrey JAC operating costs was approved in December 2016. s.12,s.17  
s.12,s.17



- The rationale for creating a JAC in Surrey at this juncture is as follows:
  - Transformative nature of the initiative and evidenced connection with Ministry vision
  - JACs are a proven initiative with positive and successful evaluation findings
  - JACs exemplify the tenets and goals of the Government's Red Tape Reduction Initiative
  - JACs improve the justice system by delivering services that are faster, easier to access, and simpler to use, which effectively reduces frustration for people using the justice system

• s.13

- Modifications to the space will be made in order to accommodate current occupants and future community partners. A Self Help Resource Room for use by self-represented litigants will also be created within the current space. An illustration of a possible usage of space is attached below ("Surrey JAC Preliminary Design").
- Discussions between Ministry of Justice Corporate Management Services Branch, FJSD and other interested stakeholders on the design and use of space are currently ongoing.

• s.13,s.17

- In comparison, the Vancouver JAC has 16 delegated FTEs (4.5 are federally funded), Nanaimo has 11 FTEs (2 are federally funded) and Victoria has 10.5 FTEs (none are federally funded).
- Expected hiring and training of new staff will commence s.13
- The opening of the Surrey JAC is subject to completion of the construction.

s.13

#### **BOC, Amortization and FTE Breakdown in the Surrey Treasury Branch Submission:**

s.12,s.17

**Prepared by:**  
 Patricia Elliott  
 Policy Analyst  
 Family Justice Services Division  
 250-741-6051

**Approved by:**  
 Dan VanderSluis  
 Executive Director  
 Family Justice Services Division  
 250-387-1560

**Approved by:** James Deitch  
 A/Assistant Deputy Minister

Date: March 13, 2017

**Attachment:**  
 s.13

Page 06

Withheld pursuant to/removed as

s.13

**MINISTRY OF JUSTICE  
COURT SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For **DECISION** for Richard J.M. Fyfe, Q.C.  
Deputy Attorney General and Deputy Minister of Justice

**ISSUE:**

Court Services Branch (CSB) Office of Professional Standards (OPS) seeks approval to increase the June 2017 Sheriff Recruit Training (SRT) class from 24 to 32 recruits.

**DECISION REQUIRED/ RECOMMENDATION:**

Option 2 – Approve the increase in the June 2017 SRT class from 24 to 32 recruits.

**SUMMARY:**

- Ongoing employee retention trends and hiring lags resulting from past FTE constraints has contributed to the BCSS being unable to reliably staff its legislated program obligations without incurring significant costs in overtime and travel. There is a critical short term need to bring new qualified employees into the field as quickly as possible.

**BACKGROUND:**

- The shortage of qualified deputy sheriffs was cited as the reason for two highly publicized stays of proceedings cases in Victoria in recent weeks. Other staffing pressures such as the opening of the Okanagan Correctional Center, eNitro high security trial in Kelowna, and the Surrey courthouse expansion due to come online in October 2017, add additional urgency to existing staffing requirements.
- BCSS staffing demands, combined with employee attrition, long term STIIP and retirements have left the service utilizing a number of short term strategies to meet operational requirements. Overtime, travel and deferring or cancelling training are being utilized to manage the core duties of protective services for the courts.
- In order to attract, hire, and train qualified applicants to meet the demand, CSB approved OPS recruitment section to increase the past two classes from 12 to 24 recruits. This commitment to larger classes has been announced by the Attorney General as ongoing until there are enough Sheriffs to stay ahead of attrition.
- The maximum numbers of classes that can currently run are two SRT classes per year. Each class runs for 16 weeks and utilizes a total of 21 field instructors (BCSS employees) at various stages, in addition to private instructor contracts from other agencies facilitated through the JIBC.
- The general recruit hiring process has been shaped by PSA requirements and Merit Commission reviews, and now takes approximately 5-6 months to complete (similar to BC Corrections). The SRT curriculum has also been reviewed, and core training

reaffirmed. It has been determined that a possible reduction from the current 16 weeks to 14 weeks should be considered. If approved by the ADM, this change is not likely to be implemented until the class of January, 2018.

- Currently, it takes approximately 10 months to complete the hiring and training process assuming facilities are available
- As part of an overarching strategic plan which includes recruitment and retention, BCSS is working closely with PSA on streamlining the hiring process for the future.
- Funding for the additional 8 recruits will be absorbed in the Branch budget and mitigated with hiring lags. Total cost of a class of 32 is approximately \$448,000 wages (based on \$23-25 per hour wages) and \$352,000 training costs. Adding these 8 new recruits will require an additional \$200,000.

**OPTIONS:**

1. Maintain current class levels

s.13

2. Increase June 2017 SRT class size from 24 to 32 recruits

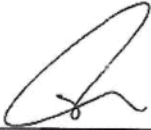
s.13

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- BCPSA to assist with marketing and streamlining hiring processes.
- CMSB regarding related funding pressures.

**OPTION 2 APPROVED**

**DATE:**



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Richard J. M. Fyfe, Q.C.  
Deputy Attorney General and  
Deputy Minister, Justice

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March 14, 2017

**Prepared by:**  
Al Rosa  
Superintendent, OPS  
Court Services Branch  
604 660-8388

**Approved by:**  
Lynda Cavanaugh  
Assistant Deputy Minister  
Court Services Branch  
250 356-1526

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL  
COMMUNITY SAFETY AND CRIME PREVENTION  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for the Honourable Suzanne Anton, Minister of Justice and Attorney General

**ISSUE:** Meeting of the Joint Partners Table regarding continued work on MOU regarding violence against Aboriginal women and girls on March 30, 2017.

**SUMMARY:**

- The First Nations Leadership Council (FNLC) sent a letter to members of the Joint Partners Table (JPT) on November 23, 2016 requesting a meeting to discuss continued work on the Memorandum of Understanding (MOU) regarding violence against Aboriginal women and girls (Appendix A).
- Ministers Anton, Morris and Rustad are scheduled to attend the meeting with FNLC on Thursday, March 30<sup>th</sup>.
- The JPT is comprised of political signatories to the MOU – the First Nations Summit (FNS); the Union of BC Indian Chiefs (UBCIC); the BC Assembly of First Nations (BCAFN); the President of the Métis Nation of BC (MNBC); and, the Province of BC.
- The FNLC requested that the upcoming meeting be focused on:
  - Addressing the remaining three action items identified at the June 2015 JPT meeting.
  - Discussing the current context, including the upcoming National Inquiry into Missing and Murdered Indigenous Women (MMIWG).
  - Considering any additional items that might be relevant to the MOU (See Appendix B for full agenda).
- The three action items identified at the June 2015 JPT meeting include:
  - Expansion of the *Declaration on Stopping Violence Against Aboriginal Women and Girls*
  - Public awareness campaign
  - Youth focused campaign
- s.16,s.17
- BC is committed to fully participating in the National Inquiry on Missing and Murdered Indigenous Women and Girls.

- The Commission has indicated that Phase 1 of the Inquiry will include hearing from family members and survivors and will commence in late May 2017. Phase 2 will commence in the Fall of 2017, and will involve hearing from individuals, organizations and institutions, Indigenous and non-Indigenous, including governments, and agencies such as police departments and child welfare agencies. The Commission will also hear from subject matter experts (Phase 3) – Phase 3 will occur concurrently with Phases 1 and 2.
- The Commission has posted an application for standing at the National Inquiry on its website. Individuals or collective groups may apply for standing. Family members or survivors of violence do not require standing to share their stories and experiences with the Commission. The deadline for standing applications is April 10, 2017.

## **BACKGROUND:**

- In June 2014, a Memorandum of Understanding on Stopping Violence Against Aboriginal Women and Girls ("MOU") was signed by the First Nations Summit (FNS), the Union of BC Indian Chiefs (UBCIC), and the BC Assembly of First Nations (BCAFN) (in collaboration as the First Nations Leadership Council); the President of the Métis Nation of BC (MNBC); and, the Premier of British Columbia and the Minister of Aboriginal Relations and Reconciliation (representing the Province of British Columbia).
- The MOU includes commitments to:
  - Work together to identify shared priorities, core relationship and implementation principles, intended outcomes, actions required to achieve the outcomes, targets, indicators of success and accountabilities.
  - Agree that success is a shared responsibility with shared accountabilities and report on the collective progress in stopping violence against Aboriginal women and girls.
  - Meet annually or more frequently as required to ensure the agreed upon work is proceeding, that the reporting is on track and to make additions or amendments to the priorities as the work evolves.
- In June 2015, the JPT held its first meeting. Parties committed to hosting the Provincial Gathering for Families of Missing and Murdered Indigenous Women and Girls, which was held January 31 to February 2, 2016 in Prince George on Lheidli T'enneh territory.
- The Department of Justice Canada (DOJ) is providing funding to establish new Family Information Liaison Units (FILUs) to assist families of missing and murdered Indigenous women and girls. The launch date for the BC FILU will be in Spring 2017, to align with the anticipated commencement of the National Inquiry hearings process.

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Ministry of Aboriginal Relations and Reconciliation and Public Safety and Solicitor General

**Prepared and Approved by:**

Taryn Walsh

Executive Lead

Strategic Public Safety Initiatives

Deputy Solicitor General's Office

Ministry of Public Safety and Solicitor General

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**FIRST  
NATIONS  
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**UNION OF  
BRITISH COLUMBIA  
INDIAN CHIEFS**

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Ph: 604-684-0231  
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# FIRST NATIONS LEADERSHIP COUNCIL

November 23, 2016

Honourable Christy Clark  
Premier of British Columbia  
PO Box 9041  
STN PROV GOVT  
Victoria, BC, V8W 9E1  
Via facsimile: (250) 387-1715  
Via email: [premier@gov.bc.ca](mailto:premier@gov.bc.ca)

Clara Morin-Dal Col  
President, Métis Nation BC  
Unit #103- 5668 192<sup>nd</sup> Street  
Surrey, BC, V3S 2V7  
Via facsimile: (778) 571-9402  
Via email: [cmorin-dalcol@mnbc.ca](mailto:cmorin-dalcol@mnbc.ca)

Honourable John Rustad  
Minister, Aboriginal Relations and  
Reconciliation  
PO Box 9100  
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## **RE: Continuity on MOU Re. Stopping Violence Against Aboriginal Women and Girls**

Dear Premier Clark, Minister Rustad, and Ms. Morin-Dal Col:

We are writing with respect to our continued work on the Memorandum of Understanding on Stopping Violence Against Aboriginal Women and Girls ("MOU") which was signed on June 13, 2014 by five signatories: the First Nations Summit (FNS); the Union of BC Indian Chiefs (UBCIC); the BC Assembly of First Nations (BCAFN); the President of the Métis Nation of BC (MNBC); and the Premier of BC and the Minister of Aboriginal Relations and Reconciliation (representing the Province of British Columbia).

As you recall, the MOU confirms the parties' shared commitment to end violence against Aboriginal women and girls, and was initially proposed by the Minister's Advisory Council on Aboriginal Women (MACAW). As per the MOU, a Joint Partners Table (JPT) was created with a Terms of Reference (attached).

On June 16<sup>th</sup>, 2015, we had an annual meeting of political signatories to the MOU, where we agreed to carry out the following action items:

1. Gathering for family members of murdered and missing Aboriginal women and girls
2. Expansion of Declaration on Ending Violence Against Aboriginal Women and Girls
3. Public awareness campaign
4. Youth focused campaign

The parties to the MOU collectively planned and carried out the Family Gathering in Lheidli T'enneh Territory from January 31- February 2, 2016. We acknowledge the extensive work this required from all parties, and the significant emotional impact of participating in the Family Gathering. We received generally positive feedback about the Family Gathering, along with some concerns to address for future gatherings regarding inclusion and resourcing.

We are writing to set up a second political signatories meeting of the Joint Partners Table, as per our joint commitment under the MOU, in order to address the remaining three action items we identified, discuss the current context including the upcoming National Inquiry into Missing and Murdered Indigenous Women and Girls, and consider any additional items. We propose identifying a meeting date in January, 2017 and are looking forward to continuing with this important work.

Sincerely,

**FIRST NATIONS LEADERSHIP COUNCIL**

**On behalf of the FIRST NATIONS SUMMIT:**



Grand Chief Edward John

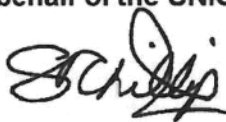


Robert Phillips



Cheryl Casimer

**On behalf of the UNION OF BC INDIAN CHIEFS:**



Grand Chief Stewart Phillip



Chief Bob Chamberlin



Chief Judy Wilson

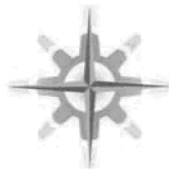
**On behalf of the BC ASSEMBLY OF FIRST NATIONS:**



Regional Chief Shane Gottfriedson

CC: Minister's Advisory Council on Aboriginal Women and Girls

Encl: MOU on Stopping Violence Against Aboriginal Women and Girls (June 13, 2014)  
Joint Partners Table Terms of Reference  
Joint News Release: Gathering for BC Families of Missing and Murdered Aboriginal Women  
(June 18, 2015)  
Joint thank you letter to attendees of Family Gathering (March, 2016)



## MEMORANDUM of UNDERSTANDING Regarding STOPPING VIOLENCE Against ABORIGINAL WOMEN and GIRLS

Between:

THE GOVERNMENT OF BRITISH COLUMBIA  
(Represented by the Premier of British Columbia and  
the Minister of Aboriginal Relations and Reconciliation, on behalf of all ministries)

THE FIRST NATIONS SUMMIT, the UNION OF BC INDIAN CHIEFS, and the  
BC ASSEMBLY OF FIRST NATIONS, in collaboration as the FIRST NATIONS LEADERSHIP COUNCIL

MÉTIS NATION BRITISH COLUMBIA  
(Represented by the President)

The Parties recognize that Aboriginal women and girls suffer disproportionately high levels of violence and that research indicates that the root causes can be linked back to years of colonial policies and practices that sought to exclude Aboriginal people economically and socially, and attempted to destroy their cultures.

The Parties recognize that the legacy of these policies and practices has contributed to social problems that continue to exist in many communities today and may include the expression of trans-generational violent behaviour (e.g. lateral violence), believed to not normally be found in pre-colonial Aboriginal communities; and additionally, that these colonial policies and practices have contributed to racist and sexist beliefs towards Aboriginal people, and females in particular, which are seen manifested as lateral, stranger and societal violence.

By undertaking this MOU, the Parties are seeking to ensure that indigenous women and children enjoy the full protection and guarantees enjoyed by all citizens, against all forms of violence and discrimination and recognize that particular attention should be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

The Parties acknowledge that the *New Relationship Statement of Vision*, the *Transformative Change Accord* and the *Métis Nation Relationship Accord* are all based on shared commitments to reconcile the historical Aboriginal-Crown relationship in British Columbia which has given rise to the present socio-economic disparity between Aboriginal peoples and other British Columbians.

The First Nations Leadership, Métis Nation British Columbia Leadership, and the Provincial Government (The Parties) acknowledge that the Province is developing a coordinated framework to address violence against women and girls and that, while various actions are being undertaken to address the problem, the levels of violence against Aboriginal women and girls remain unacceptable; as such, Parties agree that a focused, collaborative, coordinated approach needs to be taken by all parties to address the disproportionate levels of all types of violence experienced by Aboriginal women and girls:

1. The Parties agree to work together, or through their delegates to identify shared priorities, core relationship and implementation principles, intended outcomes, actions required to achieve the outcomes, targets, indicators of success and accountabilities.
2. The Parties agree that success is a shared responsibility with shared accountabilities and to report on the collective progress in stopping violence against Aboriginal women and girls.
3. The Parties, or their delegates, agree to meet annually or more frequently as required to ensure the agreed upon work is proceeding, that the reporting is on track and to make additions or amendments to the priorities as the work evolves.

JUNE 13, 2014

HONOURABLE CHRISTY CLARK  
Premier of the Province of British Columbia

HONOURABLE JOHN RUSTAD  
Minister of Aboriginal Relations and Reconciliation  
Province of British Columbia

GRAND CHIEF STEWART PHILLIP  
(Sa'ssiWt)  
President, Union of BC Indian Chiefs

CHIEF BOB CHAMBERLIN  
(Owa'di)  
Vice-President, Union of BC Indian Chiefs

KUREY JUDY WILSON  
Secretary-Treasurer  
Union of BC Indian Chiefs

GRAND CHIEF EDWARD JOHN  
(Akile Ch'oh)  
First Nations Summit Task Group

ROBERT PHILLIPS  
(qwilqen)  
First Nations Summit Task Group

CHERYL CASIMER  
(7aqtsmaknik picak patkiy)  
First Nations Summit Task Group

REGIONAL CHIEF PUGLAAS  
(JODY WILSON-RAYBOULD)  
British Columbia Assembly of First Nations

PRESIDENT BRUCE DUMONT  
Métis Nation British Columbia

**MOU Regarding Stopping Violence Against Aboriginal Women and Girls**  
**Joint Partners' Table Terms of Reference**

**BACKGROUND:**

Aboriginal leadership and the Province of British Columbia signed the *Memorandum of Understanding Regarding Stopping Violence Against Aboriginal Women and Girls (MOU)* on June 13, 2014. The MOU signatories subsequently committed to developing the MOU Joint Partners' Table (JPT). The overarching goal of the JPT is to facilitate collaboration between MOU signatories on shared priorities, core relationship and implementation principles, intended outcomes, and actions needed to stop violence against Aboriginal women and girls.

**ACTIVITIES:**

As per the MOU:

1. The Parties agree to work together, or through their delegates to identify shared priorities, core relationship and implementation principles, intended outcomes, actions required to achieve the outcomes, targets, indicators of success and accountabilities.
2. The Parties agree that success is a shared responsibility with shared accountabilities and to report on the collective progress in stopping violence against Aboriginal women and girls.
3. The Parties, or their delegates, agree to meet annually or more frequently as required to ensure the agreed upon work is proceeding, that the reporting is on track and to make additions or amendments to the priorities as the work evolves.

**MEMBERSHIP AND AUTHORITY:**

The JPT will be comprised of the five MOU signatories: the political executives from the First Nations Summit (FNS), the Union of BC Indian Chiefs (UBCIC), and the BC Assembly of First Nations (BCAFN) (in collaboration as the First Nations Leadership Council); the President of Métis Nation British Columbia (MNBC); and the Premier of British Columbia and the Minister of Aboriginal Relations and Reconciliation (representing the Province of British Columbia).

The JPT recognizes that each political signatory has its own respective internal authority structure. The JPT has designed a relationship chart to illustrate how the political signatories are informed by their respective staff (Senior Officials and Technical Support), as well as Key Partners/Advisors as appropriate, based on the identified priorities (See Appendix 1: MOU Joint Partners' Table Relationship Chart).

**RESPONSIBILITIES:**

1. MOU Joint Partners' Political Signatories:

- The Parties agree to work together, or through their delegates to identify shared priorities, core relationship and implementation principles, intended outcomes, actions required to achieve the outcomes, targets, indicators of success and accountabilities.
  - The Parties agree that success is a shared responsibility with shared accountabilities and to report on the collective progress in stopping violence against Aboriginal women and girls.
  - The Parties, or their delegates, agree to meet annually or more frequently as required to ensure the agreed upon work is proceeding, that the reporting is sufficient and to make additions or amendments to the priorities as the work evolves.
2. MOU Joint Partners' Senior Officials and Technical Support will seek direction from the Political Signatories to:
- Confirm shared priorities, intended outcomes, actions required to achieve the outcomes, targets, indicators of success and accountabilities through approval of a MOU Joint Partners' Work Plan.
  - Develop the MOU Joint Partners' Work Plan for review/approval of the MOU Signatories Political Table.
  - Draft any other documents as required under the Work Plan.
  - Meet in advance of the MOU Signatories meetings as required, to ensure the agreed upon work is proceeding under the MOU Joint Partners' Work Plan.
3. Key Partners/Advisors:
- To be determined based on the Work Plan.

#### **GOVERNANCE:**

- The JPT will be co-chaired by the Ministry of Aboriginal Relations and Reconciliation and an Aboriginal organization representative, as appointed by the Aboriginal organizations.
- The JPT will utilize a consensus decision making model founded on the principles of shared responsibility and cooperation.
- All parties will share administrative support for the JPT.

#### **ACCOUNTABILITY:**

- The JPT Work Plan will outline the priorities, deliverables and timelines for the JPT activities.
- The JPT will report on the collaborative progress in stopping violence against Aboriginal women and girls. In addition, the JPT recognizes that each party has its own respective reporting and accountability structures.
- The JPT will seek to engage with key partners/advisors as required.

#### **COMMUNICATIONS:**

The parties agree to the following main principles for maintaining respectful and supportive communication links among members of the JPT.

The purpose of these principles is to establish trusting and reciprocal relationships between the parties to share information as freely as possible and in a timely fashion. This is intended to apply to both crisis situations as well as activities, which the JPT is planning to undertake, that are connected to stopping violence against Aboriginal women and girls.

**JPT Overarching Communication Principles:**

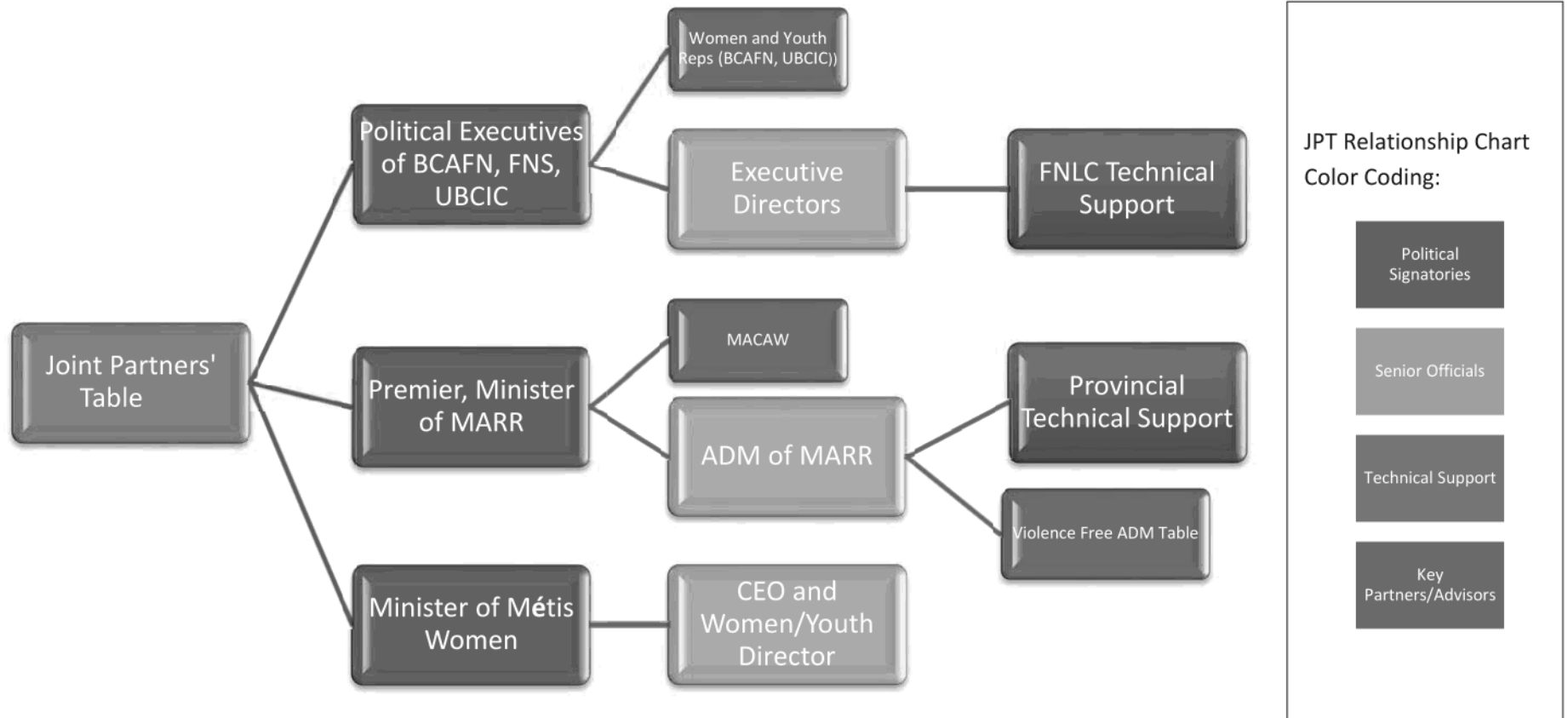
1. Respect: We recognize and respect each other's interests and perspectives on issues.
2. Engagement: We are committed to engaging in an ongoing process of dialogue to develop common understandings, strategies and/or positions on identified issues of mutual interest or priority.
3. Advance Notice: We will do our best to provide advance notice to others on actions and communications that may or may not have been previously discussed and that could have significant impacts.
4. Crisis management/Conflict resolution: When in disagreement on an issue, we commit to engage in timely discussions. If unable to reach resolution, we will advise each other of any intention to pursue external communications. If, for some reason, one party is aware of forthcoming media coverage, that party will provide advance notice to their colleagues prior to its release, if at all possible.
5. Confidentiality: We will ensure a clear understanding of what information is confidential and not appropriate for general distribution.
6. Trust: We will build trust within our relationships to ensure that information and perspectives can be shared and understood by all parties, that advance notice is easily provided, and that confidentiality is honoured.

See Appendix 2: MOU Joint Partners' Table Communication Guidelines for additional detail.

**TERM:**

The JPT will remain in place until such a time that the parties agree to discontinue its efforts. The JPT will review the Terms of Reference and the relationship chart on an annual basis, to determine if changes are required.

## APPENDIX 1: MOU Joint Partners' Table (JPT) Relationship Chart



## **APPENDIX 2: MOU Joint Partners' Table Communication Guidelines**

[Insert Communication Guidelines – in development]





## NEWS RELEASE

For Immediate Release  
June 18, 2015

Ministry of Aboriginal Relations  
and Reconciliation

### **Gathering For B.C. Families of Missing and Murdered Aboriginal Women**

VANCOUVER – B.C. and Aboriginal leadership partners have agreed to jointly plan and host a family gathering to provide a safe and supportive place for families of missing and murdered Aboriginal women to heal together by sharing their stories and their strength, and identifying a path forward to end violence against Aboriginal women and girls.

B.C. family members of missing and murdered Aboriginal women have long emphasized the importance of bringing together as many family members as possible to share their experiences and stories. Recent reports by the Truth and Reconciliation Commission and the Standing Committee on the Status of Women speak to the need for broad reconciliation policy in order to address violence against Aboriginal women and girls.

The gathering, proposed for this fall or spring 2016, follows up on the inaugural National Roundtable on Missing and Murdered Indigenous Women held in Ottawa in February, 2015. John Rustad, Minister of Aboriginal Relations and Reconciliation attended the Roundtable with a provincial delegation, which included Aboriginal family members.

On June 13, 2014, Aboriginal leadership and the Province of British Columbia signed the *Memorandum of Understanding Regarding Stopping Violence Against Aboriginal Women and Girls (MOU)*. The MOU signatories subsequently committed to developing the MOU Joint Partners' Table (JPT). The overarching goal of the JPT is to facilitate collaboration between MOU signatories on shared priorities, core relationship and implementation principles, intended outcomes, and actions needed to stop violence against Aboriginal women and girls.

The MOU signatories met on June 16, 2015 to mark the one-year anniversary, review progress and focus on next steps, which include the commitment to host a family gathering in B.C., working in partnership with families and impacted communities. Following the family gathering, the JPT will work to implement identified actions.

#### **Quotes:**

#### **Christy Clark, Premier of British Columbia –**

"I thank the Joint Partners' Table, the signatories of the Memorandum of Understanding, for agreeing to help plan and co-host this important event for the families of missing and murdered

Aboriginal women and girls. Your willingness to work in collaboration with the Province is vital to ensuring a safe, more secure future for the vulnerable.”

**John Rustad, Minister of Aboriginal Relations and Reconciliation –**

“The cases of murdered and missing women and girls are tragic for the families, their friends, and our entire province. It’s my hope the stories and experiences shared at B.C.’s Family Gathering will help strengthen families and communities, and provide a valuable legacy for the victims. As part of the Vision for a Violence Free BC Strategy, the Province is working in partnership with Aboriginal women, organizations and Aboriginal leadership to end violence and support Aboriginal women and children.”

**Grand Chief Stewart Phillip, Union of BC Indian Chiefs –**

“We are hopeful that the gathering will provide much needed support to families who have tragically lost their loved ones. The heartbreaking death of Paige Gautier, described in the Representative for Children and Youth’s recent report “Paige’s Story” demonstrates the institutionalized attitude of indifference to the safety of Aboriginal women and girls that we absolutely must change.”

**Cheryl Casimer, First Nations Summit Political Executive –**

“The First Nations Summit fully supports BC family members of missing and murdered Aboriginal women in their call to bring together as many family members as possible to collectively share their experiences and to support one another in their journey of healing. The proposed family gathering is a positive and critical first step in this important journey. We also encourage the BC Government to formally endorse and support all recommendations recently announced by the Truth and Reconciliation Commission in the summary of their final report, in particular those related to missing and murdered Indigenous women.”

**Chief Maureen Chapman, BC Assembly of First Nations Spokesperson –**

“Reconciliation takes many forms, key among which is healing, and advancing reconciliation will require strengthened partnerships between our citizens, organizations, and all levels of government. The Family Gathering is an excellent example of both. It is one step among many that we will have to take to honour victims of violence, provide space for the families of missing and murdered women and girls to heal, and to develop actions to ensure we can do better for those who are still at risk.”

**President Bruce Dumont, Métis Nation British Columbia –**

“A gathering of the families of the missing and murdered Aboriginal women is strongly supported by Métis Nation BC as an important step in the healing process for the families who have lost their mothers, daughters and sisters. This is a loss that will affect the families forever, and whatever we can do to help them cope and heal, we will do. ”

**Learn More:**

Memorandum of Understanding Regarding Stopping Violence Against Aboriginal Women and Girls: <http://ow.ly/MUUFu>

**Media Contact:**

Lisa Leslie  
Ministry of Aboriginal Relations and Reconciliation  
250 213-7724

Grand Chief Stewart Phillip, President, Union of B.C. Indian Chiefs  
250 490-5314

Cheryl Casimer, First Nations Summit, Task Group  
778 875-2157

Chief Maureen Chapman, BCAFN Spokesperson  
604 922-7733

President Bruce Dumont, Métis Nation of British Columbia  
250 686-4250



Dear ,

On behalf of the Province of BC, Lheidli T'enneh First Nation, the First Nations Leadership Council (BC Assembly of First Nations, First Nations Summit, Union of BC Indian Chiefs) Métis Nation BC, the Minister's Advisory Council on Aboriginal Women, Carrier Sekani Tribal Council and Carrier Sekani Child and Family Services we would like to thank you for attending the recent Provincial Family Gathering for Missing and Murdered Indigenous Women and Girls in Prince George. We would also like to acknowledge and thank the people of the Lheidli T'enneh for allowing us to do this important work on their traditional lands.

We were honored to listen to your stories and our hope is that the Family Gathering helped you in your healing journey. Your recommendations will continue to guide our daily work as well as inform our input into the National Inquiry into Missing and Murdered Indigenous Women and Girls.

With great respect,

Minister John Rustad  
Ministry of Aboriginal Relations and Reconciliation

Chief Dominic Frederick  
Lheidli T'enneh First Nation

Terry Teegee  
Carrier Sekani Tribal Council

Mary Teegee  
Carrier Sekani Family Services

FIRST NATIONS LEADERSHIP COUNCIL

On behalf of the FIRST NATIONS SUMMITT

Grand Chief Edward John                      Robert Phillips                      Cheryl Casimer

On behalf of the UNION OF BC INDIAN CHIEFS

Grand Chief Stewart Phillip                      Chief Bob Chamberlin                      Kukpi7 Judy Wilson

On behalf of the BC ASSEMBLY OF FIRST NATIONS

Regional Chief Shane Gottfriedson

On behalf of METIS NATION BRITISH COLUMBIA

Minister of Metis Women Clara Morin-Dal Col

On behalf of the Minister's Advisory Council on Aboriginal Women

Chastity Davis, Chair

**Annual Meeting of Political Signatories to the  
Memorandum of Understanding  
Regarding Stopping Violence Against Aboriginal Women and Girls**

March 30, 2017 1:00-3:00pm

Cabinet Boardroom, Premier's Vancouver Office, Vancouver, BC  
Traditional territory of the Musqueam, Squamish, and Tsleil-Waututh First Nations

**Agenda – Chaired by Honourable John Rustad**

1:00pm	<b>Prayer and Opening Remarks</b> <ul style="list-style-type: none"> <li>• Prayer</li> <li>• Opening Remarks by Leadership</li> </ul>
1:15pm	<b>Discuss the current context</b> <ul style="list-style-type: none"> <li>• Provincial initiatives <ul style="list-style-type: none"> <li>• Family Information Liaison Unit (PSSG)</li> <li>• BC Memorial Quilt Book (MARR)</li> <li>• Aboriginal Domestic Violence Funding (MARR)</li> <li>• Ending Violence Advisory Session (MARR)</li> <li>• Minister's Advisory Council on Aboriginal Women (MACAW)</li> </ul> </li> <li>• National initiatives <ul style="list-style-type: none"> <li>• National Inquiry on Missing and Murdered Indigenous Women and Girls (JAG)</li> <li>• Pan-Canadian Awareness and Prevention Campaign (MARR)</li> </ul> </li> </ul>
1:45pm	<b>Address the remaining three action items identified at the last JPT meeting</b> <ul style="list-style-type: none"> <li>• Expansion of the <i>Declaration on Ending Violence Against Aboriginal Women and Girls</i> and the <i>Memorandum of Understanding Regarding Stopping Violence Against Aboriginal Women and Girls</i></li> <li>• Public awareness campaign</li> <li>• Youth focused campaign</li> </ul>
2:15pm	<b>Determine next steps</b>
2:45pm	<b>Closing Comments</b>
3:00pm	<b>Adjourn</b>

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION for the Honourable Suzanne Anton, QC,  
Minister of Justice and Attorney General

**ISSUE:**  
Independent Investigations Office (IIO) authority to investigate officers

**DECISION REQUIRED/ RECOMMENDATION:**

s.12, s.16

**SUMMARY:**

- The IIO is statutorily mandated to investigate 'officers' as defined in the *Police Act*.
- s.16
- 

**BACKGROUND:**

IIO overview

- The IIO is an independent civilian-led body established under the Act to investigate incidents of death or serious harm involving police officers including RCMP and municipal police officers both on and off-duty, and special provincial constables in British Columbia. It has been operational since September 2012.
- Mr. Albert (Bert) Phipps is the acting Chief Civilian Director (CCD), following the s.22 retirement of Mr. Richard Rosenthal in September 2016.
- The CCD is accountable to the Deputy Attorney General (DAG) through a Letter of Expectations.

Legislation

- Part 7.1 of the *Police Act* establishes the authority of the IIO to investigate 'officers' as defined in Part 1, section 1 and Part 7.1, section 38.01.
- 'Officer' in Part 1, section 1 of *Police Act* includes: a provincial constable, special provincial constable, designated constable, municipal constable, special municipal constable, auxiliary constable or enforcement officer.

- 'Officer' in Part 7.1, section 38.01 of the *Police Act* includes a member of the RCMP.
- The Ministry of Public Safety and Solicitor General is undertaking a review of the *Police Act* s.16
- Members of the RCMP are appointed under the *Royal Canadian Mounted Police (RCMP) Act (RCMP Act)* and include officers, regular constables and some civilians.

s.16

## DISCUSSION:

s.16

s.14

s.13,s.16



**OPTIONS:**

s.13

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Ministry of Public Safety and Solicitor General
- The RCMP will need to be consulted if Option 1 is approved.

**RECOMMENDED OPTION APPROVED**

**DATE:**



Richard J.M. Fyfe, Q.C.,  
Deputy Attorney General and  
Deputy Minister, Justice

March 15, 2017

**RECOMMENDED OPTION APPROVED**

Cliff: 426910  
Date Prepared: March 15, 2017  
Date Decision Required: March 20, 2017  
**DATE:**

*S. Anton*

The Honourable Suzanne Anton, Q.C.  
Minister of Justice and Attorney General

16 Mar 2017

**Prepared by:**  
Holli Ward  
Senior Policy Analyst  
Justice Services Branch  
250-387-3246

**Approved by:**  
James Deitch  
Executive Director  
Justice Services Branch  
250-387-2109

**Approved by:** James Deitch  
A/Assistant Deputy Minister

Date: March 15, 2017

• *Understand analysis*

s.13

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for the Honourable Suzanne Anton, QC,  
Attorney General and Minister of Justice

**ISSUE:**

Update regarding the status of work relating to s.13  
s.13

**BACKGROUND / DISCUSSION:**

s.12,s.13

s.12,s.13

**Prepared by:**

Andrea Buzbuzian  
Legal Counsel  
Justice Services Branch  
250 356-5410

**Approved by:**

Nancy Carter  
Executive Director  
Justice Services Branch  
250 356-6182

**Approved by:** Kurt J.W. Sandstrom, Q.C.  
Assistant Deputy Minister

Date: March 23, 2017

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION for Suzanne Anton, QC, Minister of Justice and Attorney General.

**ISSUE:** Legal Services Society's (LSS) 2017/18 budget management plan.

**SUMMARY:**

- The main change in the LSS 2017/18 budget, compared to last year, is a funding increase of \$2.8M annually for expansion of the Parents' Legal Centre (PLC) to Surrey.
- In addition, \$2M funding is provided for continuation and report-back to Treasury Board (TB) of the four successful Justice Innovation and Transformation Initiatives (JITI) pilot projects at the existing locations.
- Overall, the risks and materiality of these items are manageable within the current approved budget, with ongoing monitoring and collaboration between ministry and LSS staff.
- **As such, it is recommended that the AG approve the LSS 2017/18 budget management plan subject to the conditions set out in the attached letter (Attachment 3) and send to the LSS Board Chair (Chair).**

**BACKGROUND:**

- December 12, 2016: LSS submitted the first version of their 2017/18 budget management plan which presented a balanced budget in fiscal year 2017/18 and each of the following two years.
- The budget could not be approved until final decisions and directives were issued by TB and any resulting impacts assessed in the context of the ministry's budget, to be confirmed on Budget Day, February 21, 2017.
- In particular various options for funding of the JITI projects remained to be decided by TB, with consideration continuing from December into January.
- January 4, 2017: the AG sent a letter to the Chair advising the LSS budget will be approved subject to the following condition and resubmission by February 24 (three days after Budget Day):
  - 'Include with the revised budget management plan a copy of the final version of the third quarter forecast, in the format consistent with last year's final, approved budget management plan submission, to permit comparison to the proposed budget.'
- February 20, 2017: the Chair sent a letter accompanying the revised version of their 2017/18 budget management plan to the AG.

- The letter confirms agreement with the principles and priorities as requested by the AG in the original request, and the subsequent letter reflecting the forecast adjustment.
  - The letter noted concerns that have substantively been addressed, or are in the process of being addressed in satisfactory ways between ministry staff and LSS staff.
- LSS continues to advise of risks associated with its proposed budget management plan, primarily (with further information in the Analysis sections):
  - costs related to other ongoing infrastructure system maintenance and upgrades (with an offsetting impact to the budget for tariff services); and
  - large and major cases.
  - (Amortization is also addressed in the Analysis section for information only, as it is no longer viewed as a significant risk).
- However, at this time ministry staff consider all the above risks to be reasonably manageable within the existing budget for LSS (as approved by TB Staff in the LSS Service Plan released February 21), and will continue to monitor and work with LSS to mitigate them.
  - This assumes the Province will receive the increased federal budget allocations, as anticipated, related to criminal legal aid service delivery; and that they will cover potential shortfalls in pressures in immigration and refugee services, as in 2016/17.
- TB-approved changes and funding renewals to the LSS budget from government, confirmed on Budget Day, which align with assumptions in the LSS 2017/18 budget management plan, total an increase of \$2.921M compared to 2016/17 consisting of:
  - a funding increase of \$2.8M annually, over three years, to expand the PLC to Surrey;
  - continuation of the \$2M annual funding, for a further three years, to maintain the existing JITI pilot projects to provide stronger data for performance measures for a TB report-back in fall 2017, in advance of budget decisions for next fiscal year; and
  - small lifts, totaling \$121K, for LSS staff eligible for salary increases under the Economic Stability Mandate and Dividend (ESM/ESD).
- **As such, it is recommended the AG approve the LSS 2017/18 budget management plan dated February 20, 2017, subject to conditions set out in the attached letter to the Board Chair.**

## BUDGET OVERVIEW AND ANALYSIS:

### Revenue

- Total government funding to LSS in 2017/18 is \$77.596M (increased by \$2.921M from the 2016/17 budget of \$74.675M), broken out as follows:

<b>LSS Revenue from Government Sources for 2017/18:</b>	<b>\$ Million</b>
Basic Legal Aid Transfer ( <i>includes new incremental funding of \$121K for ESM</i> )	\$65.288
Justice Transformation - continuation ( <i>renewing the commitment from 2014/15-2016/17</i> )	\$2.000
Justice Transformation - expansion	\$2.800
Large Case Fund (Category B under the MOU)	\$1.813
Major Cases (Category C under the MOU)	\$2.855
Federal High-Cost Cases	\$0.650
Provincial Immigration and Refugee Legal Aid	\$0.800
Federal Immigration and Refugee Legal Aid (flows through from federal government)	\$0.900
Vancouver Drug Court support	\$0.120
Downtown Community Court support	\$0.370
<b>TOTAL</b>	<b>\$77.596</b>

- Government transfers – historical increases:
  - \$2.1M in 2012/13 to maintain family and child protection legal aid services;
  - an additional \$2M for the past three years, now renewed for the next three years (for 6 years, totaling \$12M) to support LSS to implement and continue justice innovation & transformation initiatives (JITI);
  - an additional \$2.8M annually for three years, starting 2017/18, to expand JITI to Surrey for the PLC; and
  - \$75K last year, plus \$121K in 2017/18 (totaling \$196K) for (ESM & ESD) related to staff salary increases.
  - Note this does not include expected federal funding increases, as they have not been finalized.

### ESD/ESM Detail:

Justice Services Branch has been provided with the following budget increases for LSS:

	(\$mil)	2015/16	2016/17	2017/18	2018/19
ESM provided in 2015/16 budget build		0.070	0.120	0.240	0.240
ESM provided in 2016/17 budget build					0.116
ESD provided in 2016/17 budget build		0.004	0.029	0.030	0.030
<b>Total</b>		<b>0.074</b>	<b>0.149</b>	<b>0.270</b>	<b>0.386</b>
<i>Year Over Year Budget Change</i>			<i>0.075</i>	<i>0.121</i>	<i>0.116</i>

- Non-government funding: LSS also receives funding from the Law Foundation, the Notary Foundation, and interest on LSS's investments. Funding from all these sources has varied over the past several years due to fluctuating interest rates. The Law Foundation reduced its amount of annual funding to the Society by \$645K in 2015/16 compared to the 2014/15 budget (from \$3.6M to \$2.955M). The 2017/18 budget has increased slightly, to \$3.085M.

### Operating Expenditures

- The LSS 2017/18 budget management plan in the detailed table (Attachment 2) sets out expenditures for next year to be reasonably close to those of the third quarter (Q3) forecast from LSS (with the exception of large cases and infrastructure, to be discussed in the next section), providing an overall reasonability check.
- Further details on specific risks are provided in the 'Risk Mitigation' section below.

### Capital

- A line summarizing capital expenditures was added to the LSS Service Plan starting last fiscal year, which was not included in reports from prior years. The latest Service Plan, for 2017/18 to 2019/20, shows no change for 2017/18, at \$0.4M compared to the prior year; then increases to \$0.7M for each of the following two years.
- Though the amounts are small (aside from 2014/15, the final full year of CIS development), their presentation has raised questions about the source of capital funding for LSS and whether this funding could be used to offset operating pressures, if necessary.
- Through discussion with LSS staff, reference to auditor's notes in the annual financial statements, and historical reporting through the Capital Planning Secretariat, the following has been determined:
  - LSS receives no separate allocation for capital funding, distinct from operating funds, unlike most other areas of the ministry (ministry staff have been working to determine eligibility going forward);



- The main source of capital is interest from investments, mainly from principal originating from government transfers (e.g., an ongoing accrual of about \$11M for legal services incurred but not yet billed) and the accumulated surplus. Those amounts total about \$16M, on which an interest rate of 2% would yield \$320K annually.
- That interest income could be used for any type of expenditures; however:
  - LSS considers the use to be at their discretion since it is incremental to the budget transfer for service delivery; and
  - Any use of that funding after it flows to the accumulated surplus negatively impacts government's fiscal plan.
- A risk that LSS has flagged is related to capital potentially required for tenant improvements in 2019/20 of an estimated \$3M. However, due to the lack of rigor demonstrated in the calculation of the amount, and unlikelihood of occurrence, it does not pass standard accounting tests to be included as a liability.

## **KEY RISKS AND MITIGATIONS:**

### **JITI Funding**

- Management and oversight of the \$2.8M increase for Surrey expansion of the PLC, and the \$2M for continuation of the four existing pilots is required:
  - to ensure implementation at the new location, and effective report-back to TB in fall 2017 to inform requests for further funding and expansion.
  - In addition, as the \$2.8M is considered contingency funding to the ministry, it is important to ensure accurate tracking and reporting of the actual expenditures throughout the year, for contingency reporting to TB and to avoid creating a surplus or deficit at fiscal year-end.
- Mitigations:
  - ministry staff are working closely with staff from LSS, TB, and key stakeholders like the Ministry of Children and Family Development, to ensure work plans are in place to clarify and fulfill TB expectations, such as gathering data for improved performance measures; and
  - ministry staff are working with LSS on a cash management plan that addresses the concerns the Chair raised in her letter of February 20.
  - Creation of a 'forecast allowance' from within LSS's administrative budget has been considered by ministry staff; however, due to the expectation that pressures can be managed without raising this potentially controversial matter with LSS, it is recommended that the ministry retain it as a 'back-up' plan for future implementation, if the need arises.

### **Federal Funding**

- s.16

○ s.16

- The funding increase for 2016/17, which is reflected in the current LSS forecast because it has been confirmed, is \$1.081M
- The working assumption used in the 2017/18 budget, for LSS and the ministry, is that this federal funding is remaining status quo from prior years: \$14.598M (of which \$13.698M, for criminal legal aid, is included in the Basic Legal Aid Transfer amount in the above table; plus \$900k for immigration and refugee legal aid services).
- Similarly, for potential pressures related to projected increases in the need for immigration and refugee legal aid services, it is assumed that federal funding to cover potential shortfalls for 2017/18 will be addressed as they have been in 2016/17.
- In addition, there may be an opportunity to use some of the expected funding increases starting in 2017/18 for innovative projects such as the Expanded Criminal Duty Counsel model.

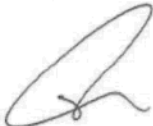
#### **OTHER MINISTRIES IMPACTED/CONSULTED:**

- Government's *Budget 2017* has been tabled in the House, confirming budget decisions related to LSS to be as anticipated by ministry staff and as approved by TB Staff's review of the LSS budget as presented in its Service Plan 2017/18-2019/20, and its Mandate Letter 2017/18, both released on Budget Day.
- **As such, the 2017/18 budget management plan that LSS submitted on February 20, 2017 conforms to the conditions required for approval.**

#### **OPTIONS:**

- **Option 1 (recommended):** approve the LSS 2017/18 budget management plan subject to the conditions set out in the attached letter (Attachment 3) and send to the Chair.
- **Option 2:** defer approval pending further information, analysis and consideration. There is no fixed deadline for approval, but in practice it has been before the start of the new fiscal year, April 1; and there are expected to be further time limitations due to the Provincial election.

#### **OPTION 1 APPROVED:**



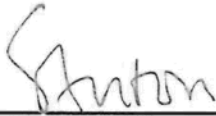
Richard J. M. Fyfe, Q.C.  
Deputy Attorney General and  
Deputy Minister, Justice

#### **DATE:**

March 10, 2017

**OPTION 1 APPROVED:**

**DATE:**



The Honourable Suzanne Anton QC  
Minister of Justice and Attorney General

March 14, 2017

**Prepared by:**  
Kathleen Rawlinson  
Senior Business & Policy Advisor  
Justice Services Branch  
250.356.8083

**Reviewed by:**  
James Deitch  
Executive Director  
Justice Services Branch  
250.387.2109

**Attachments:**

1. Letter from the Chair dated February 20, 2017.
2. LSS budget management plan dated February 20, 2017.
3. Recommended letter from the AG to the LSS Board Chair.

**Approved by:** Kurt J.W. Sandstrom, Q.C.  
Assistant Deputy Minister

**Date:** March 10, 2017



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Executive Office

February 20, 2017

The Honourable Suzanne Anton, QC  
Attorney General and Minister of Justice  
Minister's Office  
PROVINCE OF BRITISH COLUMBIA  
PO Box 9044, Stn Prov Govt  
Victoria, BC V8W 9E2

Dear Madam Attorney,

**Re: Legal Services Society (LSS) 2017/18 Budget Management Plan**

Further to your letter of January 4, 2017, enclosed is the Legal Services Society's budget management plan for 2017/18 as approved by the Board of Directors, and the third quarter forecast which I trust will meet with your approval.

This budget has been developed within the framework and principles established by the *Legal Services Society Act*, the Memorandum of Understanding mandated by section 21 of that Act, and the LSS commitment to transparency and accountability to all its funders in accordance with the BC Taxpayers Accountability Principles.

The enclosed 2017/18 Budget Management Plan departs from previous submissions provided to the Ministry in that it includes:

- An assumption that the Justice Transformation Expansion line item is a three-year commitment for \$2.8 million per year; and
- An assumption that revenues from the provincial government will be paid to LSS monthly in a mutually agreeable manner with the first and last monthly instalments to be delivered no later than five business days after the beginning of the fiscal year as set out in the Memorandum of Understanding.

The budget presented here is not sufficient to meet anticipated demand. LSS is relying on assurances from the Deputy Minister that funding for criminal legal aid committed by Canada to the province will be provided to LSS, without holdback, as additional revenue. In presenting this budget, LSS is relying upon funds provided by Canada to the Province in respect to Immigration legal aid will also be provided to LSS, without any holdback.



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**Executive Office**

As you know, the LSS Board of Directors oversees LSS revenue and expenditures throughout the year and the management of the budget through the year occurs within the statutory framework and is further guided by the direction and priorities established by the LSS Board of Directors.

That direction and those priorities are:

1. LSS will provide services articulated in the MOU to the amount of the available government funding;
2. LSS will manage its government funding to the bottom line and not to the individual tariff line items within the budget;
3. LSS will prioritize services over administrative and operational expenditures to the extent that this can be done without compromising the ongoing effectiveness of the society;
4. LSS will prioritize preservation of services in the following order:
  - a) Child protection
  - b) Family
  - c) Criminal; and
5. Subject to Board approval, LSS will make any necessary tariff service adjustments on the basis of the mitigation strategies included with this document.

LSS remains committed to reporting information concerning the financial and performance results of LSS that is credible, timely and complete.

Thank you for your ongoing support to LSS. I look forward to our continuing dialogue at our next quarterly meeting

Respectfully,

**Suzette Narbonne,  
Chair, LSS Board of Directors**



**Legal  
Services  
Society**

Providing legal aid  
in British Columbia  
since 1979

Suite 400  
510 Burrard Street  
Vancouver, BC V6C 3A8

Tel: (604) 601-6000  
Fax: (604) 682-0979  
[www.lss.bc.ca](http://www.lss.bc.ca)

**Executive Office**

Cc: Richard J. M. Fyfe, QC, Deputy Attorney General and Deputy Minister of Justice  
Kurt Sandstrom, QC, Assistant Deputy Minister, Ministry of Attorney General  
Mark Benton, QC, CEO, LSS

Enclosures: 2017/18 Budget Management Plan documents as of February 20, 2017



## **Legal Services Society (LSS) 2017/18 Budget Management Plan**

*Included in the LSS submission are the following documents:*

<b>Item #</b>	<b>Topic</b>	<b>Page #</b>
<b>1</b>	A three-year budget including the following: a. 2017/18 Budget Principles and Assumptions; b. Three year Budget for 2017/18 to 2019/20 c. Application and Referral Volumes Based on JAG Budget d. Application and Referral Volumes Based on LSS Forecast	1 - 5
<b>2</b>	A 2017/18 departmental budget by expenditure category compared to 2016/17 forecast expenditures as of the December 2016 forecast submission.	6
<b>3</b>	A separate document identifying pressures LSS is forecasting, along with the following: a. A budget pressure mitigation plan that presents options to manage any pressures; and b. Operational impacts of the pressures and mitigation plans.	7 - 14
<b>4</b>	A capital and an amortization forecast/schedule for the next ten years, by year and asset type.	15
<b>5</b>	A spending plan for the anticipated budget increase in federal funding for criminal legal aid.	16
<b>6</b>	A detailed set of assumptions showing the main cost drivers and formulas used in the calculations, and the estimated dollar impacts for each item.	17 - 20
<b>7</b>	A performance metric to measure the accuracy of the LSS 3 <sup>rd</sup> Quarter Forecast of the surplus, if any, compared to final, actual results.	21

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
February 20, 2017

## **Legal Services Society Budget Principles & Assumptions for 2017/18**

### **Overview:**

LSS has been advised through our mandate & budget request letters that we are not permitted to run a deficit unless otherwise approved by the Ministry. LSS must also seek Treasury Board approval to access its Accumulated Surplus. This is consistent with 2015/16.

In the 2017/18 operating budget, LSS budgeted \$21.849 M for the Criminal Category A Tariff, although cost projections are \$23.297 M. LSS has received assurances from the Ministry that the additional cost of \$1.5 M will be funded from a flow through of additional Criminal Legal Aid funds from the Federal Government to the Province of BC. LSS will provide services to the available funding.

LSS anticipates continued tariff cost pressures in the areas of Family & Immigration in 2017/18. In the absence of new funding LSS will manage to the available budget as per the attached mitigation strategies.

Per terms of our MOU LSS is not permitted to use surpluses in other tariff areas to cover a shortfall in Immigration funding. LSS is working with the provincial government to seek additional funding from the federal government.

LSS is also forecasting that costs for Category B & C cases will exceed the amount of available budgets in 2017/18 which will result in additional costs for the Ministry. LSS will provide services to the available funding.

### **Guiding Principles:**

The guiding principles upon which we agreed for the 2016/17 budget continue to guide the development of the 2017/18 budget.

### **Assumptions:**

1. Revenues from the Provincial government will remain at the 2015/16 levels other than:
  - a. An additional \$0.121 million for salary increases for unionized staff under the *Economic Stability Mandate and Economic Stability Dividend*.
  - b. An additional \$2.8 million for Justice Transformation Expansion, subject to budget decision.
2. Revenues from the provincial government will be paid to LSS monthly in a mutually agreeable manner with the first and last monthly instalments to be delivered no later than five business days after the beginning of the fiscal year as set out in the Memorandum of Understanding.



3. Law Foundation base funding of \$2.955 million will remain at 2016/17 levels plus an additional \$0.130 million of deferred revenue being recognized in 2017/18.
4. Contract (referral) volumes for tariff services will occur as forecasted.
5. No additional services will be provided by the society unless additional funds are secured.
6. JITI funding remains at \$2.0 million.

**Key Points:**

7. LSS is concerned with Category B costs exceeding the available budget. In 2017/18 we anticipate a deficit of \$1.1 million over and above the base budget of \$1.813 million for a total forecasted cost of \$2.9 million due to higher volume of cases, higher costs, and additional costs for CLAS. Note, deferred contributions available in prior years are no longer available to LSS as this was completely exhausted in 2015/16. Per terms of our MOU any excess costs are to be covered first by the Criminal Category A surplus, if any. Secondly, any remaining deficit is to be covered by the Ministry. As we are not expecting a Criminal Category A surplus any overage becomes a cost for the Ministry.
8. LSS is concerned with Category C costs exceeding the available budget. In 2017/18 we anticipate a deficit of \$2.545 million over and above the base budget of \$2.855 million for a total forecasted cost of \$5.4 million. LSS has limited ability to control costs in this area. Per terms of our MOU the Ministry is responsible for indemnifying LSS for its costs of Category C cases.
9. All tariff budgets were calculated based on a fee code basis rather than an estimate of the average case cost times the expected number of contracts. This process is consistent with the past three years and has proven to be highly reliable.
10. Contract (referral) volumes were calculated using actual applications and contracts (referrals) for each month over the past three and a half years.
11. The Amortization & Premises budgets were updated to reflect current & anticipated costs.

**Risks or Items Not Budgeted For:**

12. We have not budgeted for any additional costs that may result from the implementation of the recommendations contained in the Truth & Reconciliation Commission Calls to Action or Grand Chief Ed John's report on child protection and Aboriginal children in care.
13. We have not budgeted for any changes as a result of a more liberal Immigration & refugee policy by the federal government.
14. The tariff budgets have not been adjusted for any potential JITI impacts.
15. Court Services Branch on occasion goes out to tender transcript providers. LSS is a party to this tender. Any resulting negotiated increase ends up costing LSS more money as our budget is not increased for this. In 2016/17 LSS budgeted \$1 million for transcripts.

Legal Services Society  
Final 2017/18 Budget  
Figures in thousands

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	2015/16 Actuals	Dec/16 Q3 Forecast	2016/17 Budget	2017/18 Budget	Gov't Funded	Non-Gov't Funded	2018/19 Budget	2019/20 Budget
<b>Provincial Revenue</b>								
Grant	64,640	65,167	65,167	65,288	65,288	-	65,404	65,404
Federal Funding to BC	-	1,081	-	-	-	-	-	-
Justice Transformation	2,000	2,000	2,000	2,000	2,000	-	2,000	2,000
Justice Transformation Expansion	-	-	-	2,800	2,800	-	2,800	2,800
Category B	2,174	2,193	1,813	1,813	1,813	-	1,813	1,813
Category C	2,598	3,383	2,855	2,855	2,855	-	2,855	2,855
Federal High Cost	101	200	650	650	650	-	650	650
Immigration	1,700	2,230	1,700	1,700	1,700	-	1,700	1,700
Drug Court	120	120	120	120	120	-	120	120
Community Court	370	370	370	370	370	-	370	370
<b>Total Provincial Revenue</b>	<b>74,594</b>	<b>76,744</b>	<b>74,675</b>	<b>77,596</b>	<b>77,596</b>	<b>-</b>	<b>77,712</b>	<b>77,712</b>
<b>Other Revenue</b>								
Law Foundation	3,033	2,955	2,955	3,085	-	3,085	3,095	2,955
Notary Foundation	756	900	600	600	-	600	600	750
Investment Income	348	300	368	368	-	368	400	468
Department of Justice	892	550	-	-	-	-	-	-
Other	163	115	115	115	-	115	115	115
<b>Total Other Revenue</b>	<b>5,192</b>	<b>4,820</b>	<b>4,038</b>	<b>4,168</b>	<b>-</b>	<b>4,168</b>	<b>4,210</b>	<b>4,288</b>
<b>Total Revenue</b>	<b>79,786</b>	<b>81,564</b>	<b>78,713</b>	<b>81,764</b>	<b>77,596</b>	<b>4,168</b>	<b>81,922</b>	<b>82,000</b>
<b>Tariff Services</b>								
Criminal Category A	22,332	22,900	21,849	21,849	21,849	-	21,849	21,849
Category B	2,649	1,780	1,400	1,400	1,400	-	1,400	1,400
Category C	2,117	2,902	2,375	2,375	2,375	-	2,375	2,375
Department of Justice	859	550	-	-	-	-	-	-
Criminal Duty Counsel	5,170	5,405	5,375	5,375	5,375	-	5,375	5,375
Justice Transformation	2,000	2,000	2,000	2,000	2,000	-	2,000	2,000
Justice Transformation Expansion	-	-	-	2,800	2,800	-	2,800	2,800
Federal High Cost	101	200	650	650	650	-	650	650
Family Category A	9,095	9,951	8,951	8,951	8,951	-	8,951	8,951
Family Duty Counsel	3,381	3,481	3,166	3,166	3,166	-	3,166	3,166
Family Law Line	315	-	315	315	-	315	315	315
CFCSA Category A	6,413	7,085	7,285	7,285	7,285	-	7,285	7,285
Immigration & Refugee	1,580	2,030	1,500	1,500	1,500	-	1,500	1,500
Contracted Representation Services	2,486	2,516	2,516	2,516	2,516	-	2,516	2,516
<b>Total Tariff Services</b>	<b>58,498</b>	<b>60,800</b>	<b>57,382</b>	<b>60,182</b>	<b>59,867</b>	<b>315</b>	<b>60,182</b>	<b>60,182</b>
Tariff Services Admin	1,867	1,640	1,990	2,048	1,878	170	2,072	2,072
Public Services	5,316	5,447	5,447	5,413	4,652	761	5,441	5,441
Category B Admin	413	413	413	413	413	-	413	413
Category C Admin	481	481	481	481	481	-	481	481
Immigration & Refugee Admin	81	200	200	200	200	-	200	200
Publishing	1,691	1,336	1,336	1,466	392	1,074	1,499	1,359
Community Engagement	928	951	951	960	-	960	960	960
Indigenous Services	641	595	595	595	-	595	595	595
Executive Office	1,208	1,175	1,259	1,309	1,309	-	1,079	1,079
Strategic Planning, Policy and HR	1,824	1,824	1,824	1,774	1,774	-	1,787	1,787
IT Services	2,676	2,064	2,064	2,064	2,064	-	2,085	2,085
Finance & Admin	1,498	1,384	1,384	1,384	1,384	-	1,402	1,402
Infrastructure	-	500	500	500	500	-	500	500
Amortization	774	744	777	777	777	-	955	1,093
Premises	1,890	2,010	2,110	2,198	1,905	293	2,271	2,351
<b>Total Operating Costs</b>	<b>21,288</b>	<b>20,764</b>	<b>21,331</b>	<b>21,582</b>	<b>17,729</b>	<b>3,853</b>	<b>21,740</b>	<b>21,818</b>
<b>Total Costs</b>	<b>79,786</b>	<b>81,564</b>	<b>78,713</b>	<b>81,764</b>	<b>77,596</b>	<b>4,168</b>	<b>81,922</b>	<b>82,000</b>
<b>Net Surplus/(Deficit)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
February 20, 2017

**Legal Services Society**  
**Application and Referral Volume - JAG Budget**  
**For the Fiscal Year April 1, 2017 to March 31, 2018**

Tariff	2013/14	2014/15	2015/16	3 Yr. Average	Budget 2016/17	Forecast 2016/17	Variance 2016/17	Budget 2017/18	Change
<b>Criminal</b>									
<b>Admin</b>									
Application	4,466	4,606	4,100	4,391	4,420	4,468	48	4,420	-
Referrals	3,552	3,729	3,445	3,575	3,530	3,887	357	3,320	(210)
Referral %	79.5%	81.0%	84.0%	81.4%	80.0%	87.0%	-	75.0%	-
<b>Summary</b>									
Application	10,101	10,110	9,525	9,912	10,350	9,944	(406)	9,930	(420)
Referrals	8,065	8,264	8,633	8,321	7,240	8,494	1,254	7,400	160
Referral %	79.8%	81.7%	90.6%	83.9%	70.0%	85.0%	-	75.0%	-
<b>Indictable</b>									
Application	9,857	9,539	9,716	9,704	9,470	9,442	(28)	9,680	210
Referrals	8,405	8,231	8,862	8,500	8,060	8,690	630	8,500	440
Referral %	85.3%	86.3%	91.2%	87.6%	85.0%	92.0%	-	88.0%	-
<b>Major</b>									
Application	331	365	354	350	330	268	(62)	342	12
Referrals	305	340	344	330	311	243	(68)	325	14
Referral %	92.1%	93.2%	97.2%	94.2%	94.0%	91.0%	-	95.0%	-
<b>Appeals</b>									
Application	450	586	484	507	480	470	(10)	450	(30)
Referrals	173	280	277	243	280	230	(50)	250	(30)
Referral %	38.4%	47.8%	57.2%	48.0%	58.3%	49.0%	-	56.0%	100.0%
<b>Criminal Sub-Total</b>									
Application	25,205	25,206	24,179	24,863	25,050	24,592	(458)	24,822	(228)
Referrals	20,501	20,844	21,561	20,969	19,421	21,544	2,123	19,795	374
Referral %	81.3%	82.7%	89.2%	84.3%	78.0%	88.0%	-	80.0%	-
<b>CFCSA</b>									
Application	3,241	3,330	2,962	3,178	3,020	3,106	86	3,150	130
Referrals	2,553	2,571	2,423	2,516	2,420	2,346	(74)	2,370	(50)
Referral %	78.8%	77.2%	81.8%	79.2%	80.0%	76.0%	-	75.0%	-
<b>Family</b>									
Application	9,364	8,621	7,888	8,624	6,210	7,854	1,644	7,860	1,650
Referrals	3,727	3,494	3,887	3,703	3,460	4,031	571	3,380	(80)
Referral %	39.8%	40.5%	49.3%	42.9%	56.0%	51.0%	-	43.0%	-
<b>Immigration</b>									
Application	865	981	1,040	962	1,040	1,418	378	1,040	-
Referrals	641	720	779	713	780	1,053	273	780	-
Referral %	74.1%	73.4%	74.9%	74.2%	75%	74.0%	72.0%	75.0%	-
<b>Total</b>									
Application	38,675	38,138	36,069	37,627	35,320	36,970	1,650	36,872	1,552
Referrals	27,422	27,629	28,650	27,900	26,081	28,974	2,893	26,325	244

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**Legal Services Society**  
**Application and Referral Volume - Based On Forecast**  
**For the Fiscal Year April 1, 2017 to March 31, 2018**

Tariff	2013/14	2014/15	2015/16	3 Yr. Average	Budget 2016/17	Forecast 2016/17	Variance 2016/17	Budget 2017/18	Change
<b>Criminal Admin</b>									
Application	4,466	4,606	4,100	4,391	4,420	4,468	48	4,420	-
Referrals	3,552	3,729	3,445	3,575	3,530	3,887	357	3,750	220
Referral %	79.5%	81.0%	84.0%	81.4%	80.0%	87.0%	-	85.0%	-
<b>Summary</b>									
Application	10,101	10,110	9,525	9,912	10,350	9,944	(406)	9,930	(420)
Referrals	8,065	8,264	8,633	8,321	7,240	8,494	1,254	8,450	1,210
Referral %	79.8%	81.7%	90.6%	83.9%	70.0%	85.0%	-	85.0%	-
<b>Indictable</b>									
Application	9,857	9,539	9,716	9,704	9,470	9,442	(28)	9,680	210
Referrals	8,406	8,231	8,862	8,500	8,060	8,690	630	8,720	660
Referral %	85.3%	86.3%	91.2%	87.6%	85.0%	92.0%	-	90.0%	-
<b>Major</b>									
Application	331	365	354	350	330	268	(62)	342	12
Referrals	305	340	344	330	311	243	(68)	325	14
Referral %	92.1%	93.2%	97.2%	94.2%	94.0%	91.0%	-	95.0%	-
<b>Appeals</b>									
Application	450	586	484	507	480	470	(10)	450	(30)
Referrals	173	280	277	243	280	230	(50)	250	(30)
Referral %	38.4%	47.8%	57.2%	48.0%	58.3%	49.0%	-	56.0%	100.0%
<b>Criminal Sub-Total</b>									
Application	25,205	25,206	24,179	24,863	25,050	24,592	(458)	24,822	(228)
Referrals	20,501	20,844	21,561	20,969	19,421	21,544	2,123	21,495	2,074
Referral %	81.3%	82.7%	89.2%	84.3%	78.0%	88.0%	-	87.0%	-
<b>CFCSA</b>									
Application	3,241	3,330	2,962	3,178	3,020	3,106	86	3,150	130
Referrals	2,553	2,571	2,423	2,516	2,420	2,346	(74)	2,370	(50)
Referral %	78.8%	77.2%	81.8%	79.2%	80.0%	76.0%	-	75.0%	-
<b>Family</b>									
Application	9,364	8,621	7,888	8,624	6,210	7,854	1,644	7,860	1,650
Referrals	3,727	3,494	3,887	3,703	3,460	4,031	571	4,050	590
Referral %	39.8%	40.5%	49.3%	42.9%	56.0%	51.0%	-	52.0%	-
<b>Immigration</b>									
Application	865	981	1,040	962	1,040	1,418	378	1,610	570
Referrals	641	720	779	713	780	1,053	273	1,220	440
Referral %	74.1%	73.4%	74.9%	74.2%	75.0%	74.0%	72.0%	76.0%	77.0%
<b>Total</b>									
Application	38,675	38,138	36,069	37,627	35,320	36,970	1,650	37,442	2,122
Referrals	27,422	27,629	28,650	27,900	26,081	28,974	2,893	29,135	3,054

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
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**Legal Services Society**  
**2017/18 Operating Budget Submission**  
**Departmental Budget by Expenditure Category**  
**Figures in 000's**

Description	Salaries	Contracted Services	Operational Costs	2017/18 Department Budget	Q3 Forecast
Total Tariff Services Admin	2,788	161	193	3,142	2,734
Less: Cat B Admin	0	0	(413)	(413)	(413)
Less: Cat C Admin	0	0	(481)	(481)	(481)
Less: Immigration Admin	0	0	(200)	(200)	(200)
Net Tariff Services Admin	2,788	161	(901)	2,048	1,640
Public Services	3,092	2,084	238	5,413	5,447
Publishing	870	297	299	1,466	1,336
Community Engagement	475	355	130	960	951
Indigenous	204	360	31	595	595
Executive Office	679	206	424	1,309	1,175
Strategic Planning, Policy and HR	1,217	333	224	1,774	1,824
Finance and Administration	1,163	153	69	1,385	1,384
Information Technology	1,200	383	481	2,064	2,064
Infrastructure	0	0	500	500	500
Amortization	0	0	777	777	744
Premises	0	0	2,198	2,198	2,010
<b>Total</b>	<b>11,687</b>	<b>4,331</b>	<b>5,564</b>	<b>21,582</b>	<b>20,764</b>

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
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## BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES

### CRIMINAL

Criminal representation services are provided to financially eligible clients who face a risk of jail, loss of livelihood, removal from Canada or are not able to receive a fair hearing if self-represented. Increased volumes of representation contracts and significant case cost increases in more complex criminal cases mean that criminal tariff costs are forecast to exceed available funding.		
2016/17 Budget	2017/18 Forecast	Deficit
\$21,849,000	\$23,297,000	(\$1,448,000)
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy
Possible acceleration or deceleration of cases in the Provincial Court affecting the number of bills and therefore expenditures.	<ul style="list-style-type: none"> <li>Changes to the capacity of the Provincial Court (e.g. responses to SCC decision on trial delay) (Jordan decision)</li> <li>Possible impact of Crown file ownership project include:               <ul style="list-style-type: none"> <li>Earlier resolution of criminal cases thereby increasing the number and frequency of bills processed by LSS in fiscal 2017/18</li> <li>Delayed or reduced approval of charges.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Seek additional funding from Federal Criminal Legal Aid Funding with direct flow through from the province to LSS</li> <li>If expenditures exceed budget, LSS will reduce expenditures through one or all of the following options:               <ul style="list-style-type: none"> <li>Eliminating or reducing out of custody duty counsel services in high volume locations (Abbotsford, Chilliwack, Kamloops, Kelowna, New Westminster, North Vancouver, Surrey, Vancouver (222) and Victoria).</li> <li>Eliminating or restricting coverage for Administrative offences.</li> </ul> </li> </ul>

BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES CRIMINAL		
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy
		<ul style="list-style-type: none"> <li>- Reduce number of Appeals contracts (which will increase s. 684 appointments in Category B)</li> <li>- Limit the number of referrals to the available budget</li> <li>• If expenditures are below budget, LSS will allocate excess in accordance with the Memorandum of Understanding</li> <li>• See above</li> </ul>
Increase in cost per case	<ul style="list-style-type: none"> <li>• Determination of constitutionality of mandatory minimum penalties (<i>Safe Streets and Communities Act</i>) drives case costs higher</li> <li>• Procedural complexity increases trial length (e.g. R. v. Hart voir dires)</li> <li>• Increase in externally driven disbursement costs (BCMA rates, transcript costs, meterage, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>• See above</li> </ul>
Increase in the average length and overall cost of complex criminal proceedings.	<ul style="list-style-type: none"> <li>• Higher volumes of drug and gang related prosecutions</li> <li>• Increase in frequency and duration of pre-trial applications related to disclosure, privilege, and Crown positions related to Charter issues</li> </ul>	<ul style="list-style-type: none"> <li>• See above</li> </ul>

## BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES

### FAMILY

To manage family law expenditures to budget, LSS restricts services to situations where safety is at risk or there is a persistent denial of access to children. The society further limits expenditures by restricting discretionary services. A consequence of this is that LSS currently refuses about 50 per cent of applicants for family representation services. The society also provides Family Duty Counsel and Family Advice Lawyer services to court and non-court self-represented clients at most Provincial Court and some Supreme Court locations. Based on forecasted tariff expenditures LSS anticipates a deficit in Family services in 2017/2018 unless the following mitigation strategies are undertaken.

2016/17 Budget		2017/18 Forecast	Deficit
\$8,951,000		\$9,570,000	(\$619,000)
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy	
Demand for referrals exceeds budget	<ul style="list-style-type: none"> <li><i>Family Law Act</i> – provides a broader definition of violence</li> <li>More clients qualify for legal aid as definition of violence is more broadly understood</li> <li>BC families affected by the economic downturn in Alberta increases the prevalence of family violence and makes more clients financially eligible</li> </ul>	<ul style="list-style-type: none"> <li>Limit the number of referrals to available budget</li> <li>Limit the scope of services offered to applicants</li> <li>Eliminate discretionary coverage for clients with income within \$200 of financial cut-off</li> <li>Eliminate any discretionary coverage for clients regardless of need or ability to pay</li> <li>Reduce income for financial eligibility criteria</li> </ul>	



BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES FAMILY		
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy
Case cost increases	<ul style="list-style-type: none"> <li>Family Law Act creates a statutory obligation on lawyers to screen for family violence - impacts usage of general preparation hours</li> <li>Lack of available court time requires multiple and duplicate hearing preparations.</li> <li>Experienced local lawyers choosing private paying clients for better remuneration</li> <li>Increased travel costs due to lack of available lawyers in many regions</li> <li>New legislation creates increased usage of preparation hours as counsel learns leading decisions &amp; challenges interpretations</li> </ul>	<ul style="list-style-type: none"> <li>Reduce the scope of legal services offered to qualifying clients</li> <li>Limit or reduce preparation &amp; attendance for mediation per referral</li> <li>Limit total number of mediations per referral</li> </ul>

BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES FAMILY		
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy
	<ul style="list-style-type: none"> <li>• Increase in externally driven disbursement costs (BCMA rates, transcript costs, disclosure from third parties such as MCFD and police agencies, meterage, etc.)</li> <li>• Statutory emphasis on out-of-court dispute resolution by mediation or arbitration creates growing disbursement expenditures &amp; counsel fees for mediation/arbitration</li> </ul>	
Tariff billing & number of bills exceeds budget	<ul style="list-style-type: none"> <li>• Accelerated scheduling of cases as family trials given priority</li> <li>• Increased tools available in legislation such as conduct &amp; enforcement orders</li> <li>• Family Duty Counsel and Family Advice Lawyers assist clients who do not qualify for representation and are self-represented (LSS policy for higher financial eligibility threshold for advice services )</li> </ul>	<ul style="list-style-type: none"> <li>• Limit the number of referrals to the available budget</li> <li>• Reduce the scope of services to qualified clients</li> <li>• Limit or reduce preparation &amp; attendance hours for court applications per referral</li> <li>• Temporarily suspend Family Duty Counsel and Family Advice Services (other than contractual obligations to Lead FDC)</li> </ul>

## BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES

### CFCSA

Child Protection services are provided to financially eligible parents, persons who have lived with the child in a parent or custodial relationship, or a member of the community who has a cultural or traditional responsibility towards the child or children, and the child has been removed or there is a risk of removal due to protection concerns by MCFD or a Delegated Aboriginal Authority (DAA). LSS anticipates that the recent release of **Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions**, A Report on Indigenous Child Welfare in British Columbia by Special Advisor Grand Chief Ed John will escalate demand for CFCSA services and costs as it focuses on consensual dispute resolution processes and will create fiscal pressures for LSS in 2017-2018. LSS will need to closely monitor demand and implement the mitigation strategies if demand exceeds budget.

2016/17 Budget	2017/18 Forecast	Deficit
\$7,285,000	\$7,285,000	\$ 0
<b>Risk (Budget Pressure)</b>	<b>Cost Driver</b>	<b>Mitigation Strategy</b>
Demand for referrals exceeds budget	<ul style="list-style-type: none"> <li>Increase in number of clients applying for coverage in Child Protection cases</li> <li>Increased applications prior to removal of children as a result of increased awareness of legal rights related to parenting</li> </ul>	<ul style="list-style-type: none"> <li>Limit referrals to available budget</li> <li>Limit preparation &amp; attendance at Family Group Conferences</li> <li>Eliminate any discretionary coverage for clients regardless of need or ability to pay</li> <li>Provide a more restrictive level of advice service to clients at the "pre-removal" protection stage</li> </ul>

BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES CFCSA		
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy
Increased case costs	<ul style="list-style-type: none"> <li>Increased usage and cost of consensual dispute resolution processes at family assessment stage</li> <li>Increased usage of consensual dispute resolution processes at all levels and stages of intervention</li> <li>Increased usage of hours available in tariff for related poverty issues such as benefit entitlement, housing, debt</li> <li>Increase in externally driven disbursement costs (BCMA rates, transcript costs, meterage, etc.)</li> <li>Increase in length of trials</li> <li>Increase in disclosure issues and volumes and related counsel preparation time and court attendance</li> <li>Increased travel costs due to lack of available lawyers in many regions</li> </ul>	<ul style="list-style-type: none"> <li>Limit preparation &amp; attendance hours for dispute resolution processes</li> <li>Limit number of mediations allowed per referral</li> <li>Eliminate extended services for complex CFCSA cases that require more hours than provided in tariff</li> <li>Eliminate legal services currently covered by the tariff for related poverty issues</li> </ul>
Potential acceleration or deceleration of cases in court affecting the number of bills received and therefore expenditures.	<ul style="list-style-type: none"> <li>Projected accelerated scheduling of cases due to changes in provincial court trial scheduling process and additional available hearing dates</li> </ul>	<ul style="list-style-type: none"> <li>Manage the number of referrals to the available budget</li> <li>Reduce the scope of legal services offered to qualifying clients</li> </ul>

## BUDGET PRESSURES, COST DRIVERS AND MITIGATION STRATEGIES IMMIGRATION

Immigration representation services are provided to financially eligible clients who have meritorious refugee claims and to financially eligible clients who face immigration proceedings that would result in their removal from Canada in circumstances that put their personal safety at risk. Significant increases in the number of refugee claims in BC resulting from the international refugee crisis mean that the immigration tariff is forecast to exceed available funding.

2016/17 Budget	2017/18 Forecast	Deficit
\$1,500,000	\$2,300,000	(\$800,000)
Risk (Budget Pressure)	Cost Driver	Mitigation Strategy
Increased demand for services	<ul style="list-style-type: none"> <li>Increase in applications for refugee protection in BC resulting from international refugee crisis</li> </ul>	<ul style="list-style-type: none"> <li>Seek additional funding from federal government and full flow through from provincial government to LSS</li> <li>Reduce discretionary services currently provided to long-term residents at risk of removal from Canada</li> <li>Cease services when available funds exhausted (target on current budget is October 2017)</li> </ul>
Increase in case costs	<ul style="list-style-type: none"> <li>Increase in refugee claims will increase demand for appeals under new procedures introduced in December 2012</li> </ul>	<ul style="list-style-type: none"> <li>As above</li> </ul>

**16/17 10 Year Capital Forecast**  
**Legal Services Society**  
 (figures in \$000's)

Agency	Project Name	12/13 Actual	13/14 Actual	14/15 Actual	15/16 Actual	16/17 YTD Q3	16/17 Forecast	17/18 Forecast	18/19 Forecast	19/20 Forecast (note 1)	20/21 Forecast	21/22 Forecast	22/23 Forecast	23/24 Forecast	24/25 Forecast	25/26 Forecast
Legal Services Society	Office Furniture and Equipment	53		1					100	100	100	100	100	100	100	100
Legal Services Society	Tenancy Improvement	31								3,000						
Legal Services Society	Client Information System (CIS)	139	1,768	2,090	262		700									
Legal Services Society	Information Technology	150	27	40	53	39	50	400	400	400	400	400	400	400	400	400
Legal Services Society	Large Case Management	178														
Legal Services Society	Infrastructure				176				150	150	150	150	150	150	150	150
	<b>Total Additions</b>	<b>551</b>	<b>1,795</b>	<b>2,131</b>	<b>491</b>	<b>39</b>	<b>750</b>	<b>400</b>	<b>650</b>	<b>3,650</b>	<b>650</b>	<b>650</b>	<b>650</b>	<b>650</b>	<b>650</b>	<b>650</b>

**Current Actual Amortization**

Project Name	15/16 Actual	16/17 YTD Q2	16/17 Forecast	17/18 Forecast	18/19 Forecast	19/20 Forecast (note 1)	20/21 Forecast	21/22 Forecast	22/23 Forecast	23/24 Forecast	24/25 Forecast	25/26 Forecast
Furniture	54	27	54	54	54	11						
Equipment	7	4	6									
Computer Equipment	59	14	42									
Computer Software	38	20	38	38	38	38	38	38	38	38	5	
CIS	426	213	426	426	426	426	426	426	426	426	426	426
Leasehold Improvements	191	95	163	163	163	122						
<b>Total Additions</b>	<b>774</b>	<b>373</b>	<b>728</b>	<b>681</b>	<b>681</b>	<b>597</b>	<b>464</b>	<b>464</b>	<b>464</b>	<b>430</b>	<b>426</b>	<b>0</b>

**Book Value March 31, 2016**

Furniture	172
Equipment	6
Computer Equipment	42
Computer Software	272
CIS	3,832
Leasehold Improvements	612
<b>Total</b>	<b>4,936</b>

**Amortization of Additions**

Project Name	15/16 Actual	16/17 YTD Q2	16/17 Forecast	17/18 Forecast	18/19 Forecast	19/20 Forecast (note 1)	20/21 Forecast	21/22 Forecast	22/23 Forecast	23/24 Forecast	24/25 Forecast	25/26 Forecast
Office Furniture and Equipment			0	0	0	5	15	25	35	45	55	65
Tenancy Improvement						75	300	300	300	300	300	300
Client Information System (CIS)				70	70	70	70	70	70	70	70	70
Information Technology			16	26	163	263	400	400	400	400	400	400
Large Case Management												
Infrastructure				0	36	73	281	244	150	150	150	150
<b>Total Annual Amortization</b>	<b>773,990</b>	<b>373</b>	<b>744</b>	<b>777</b>	<b>955</b>	<b>1,093</b>	<b>1,540</b>	<b>1,513</b>	<b>1,429</b>	<b>1,405</b>	<b>1,411</b>	<b>995</b>

**Note 1:** The \$3.0 million estimated cost for Tenancy Improvements in 19/20, is the cost the society may incur to relocate offices should the society not be able to renegotiate its Vancouver lease.

**Note 2:** Assume half year rule in year of acquisition other than for Tenancy Improvements

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
 February 20, 2017



## **LSS Proposed Use of Additional Criminal Legal Aid funding from the Federal Government in 2017/18**

**LSS's proposal includes the following:**

- 1) **To fund existing cost pressures in Criminal Category A cases:** LSS anticipates more cases next year along with higher costs per case (due to longer trials) for its Criminal Case Management (CCM) cases. LSS is currently forecasting a criminal cost pressure of \$1,448,000 in 2017/18.
- 2) **Other areas where LSS would expand include:**
  - a. Targeted Indigenous programs/services such as:
    - i. First Nations Courts Elders programs and community committee support;
    - ii. Duty Counsel in First Nations Courts;
    - iii. Gladue Reports, proven in BC to reduce frequency and length of incarceration where they are utilized; and
    - iv. Increased training for Gladue writers in northern and remote communities (all are criminal legal aid innovations)
  - b. Training & development for lawyers in areas such as:
    - i. Cultural Competency recommended by the Truth and Reconciliation Commission (another criminal legal aid innovation) and as identified by Aboriginal leadership and communities as needed in BC, eg. at the First Nations Health Caucuses, LSS Aboriginal Justice Dialogues;
    - ii. Lawyer and community training on Gladue principles and how to apply them in the absence of a Gladue report; and
  - c. Any year-end surplus in these funds is to be used as a reserve fund for future Category B cases.

**Legal Services Society**  
**2017/18 Budget**  
**Calculation of Criminal Category A Budget**  
**Figures in 000's**

	17/18 Forecast	17/18 Budget	Difference
Administrative	1,456	1,337	(119)
Summary	4,812	4,500	(312)
Indictable	11,017	10,128	(889)
Major	864	900	36
CCM	3,723	3,660	(63)
Appeals	1,425	1,324	(101)
Total	23,297	21,849	(1,448)
2016/17 Q3 Forecast			
	22,900		
Change	397		

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
February 20, 2017



**Category A Tariff Budget**  
**For the Fiscal Year April 1, 2017 through March 31, 2018**  
 Figures in 000's  
**Criminal Administrative Tariff**

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
113035	Non-trial resolution	77.8%	2,730	1.1	3,000	160	480	36%
111005	Provincial Court fee	90.9%	3,190	1.0	3,200	70	224	17%
113050	Sentencing	63.6%	2,230	1.2	2,700	80	216	16%
	Subtotal						920	69%
	All other tariff codes (78) eg. Multiple information resolution eg. Bail matters in Provincial Court							
							417	31%
							<b>Total Budget</b> 1,337	100%

**Criminal Summary Tariff**

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
113035	Non-trial resolution	79.9%	6,400	1.2	7,700	200	1,540	34%
113050	Sentencing	65.5%	5,300	1.2	6,400	100	640	14%
111005	Provincial Court fee	88.5%	7,100	1.0	7,100	85	604	13%
	Subtotal						2,784	62%
	All other tariff codes (61) eg. Multiple information resolution eg. Bail matters in Provincial Court							
							1,717	38%
							<b>Total Budget</b> 4,500	100%

**Criminal Indictable Tariff**

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
113035	Non-trial resolution	69.2%	7,055	1.3	9,200	288	2,650	26%
113080	Trial (subsequent half-days)	5.8%	593	4.0	2,400	535	1,284	13%
113050	Sentencing	57.8%	5,892	1.3	7,700	125	963	10%
	Subtotal						4,896	48%
	All other tariff codes (80) eg. Bail matters in Provincial Court eg. Provincial Court fee							
							5,232	52%
							<b>Total Budget</b> 10,128	100%

**Category A Tariff Budget**  
**For the Fiscal Year April 1, 2017 through March 31, 2018**  
 Figures in 000's  
**Criminal Major Tariff**

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
113080	Trial (subsequent half-days)	11.2%	45	6.6	300	740	220	24%
113035	Non-trial resolution	48.1%	192	1.3	200	390	98	11%
113075	Trial (first two half-days)	13.7%	55	1.2	100	1,330	88	10%
	<b>Subtotal</b>						<b>406</b>	<b>45%</b>
	All other tariff codes (62) eg. Meterage eg. Sentencing						<b>494</b>	<b>55%</b>
							<b>900</b>	<b>100%</b>

**Criminal CCM - A Tariff**

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
9153	General Preparation	65.6%	216	93.1	20,100	95	1,903	52%
9158	Court Attendance (Actual)	55.6%	183	29.5	5,400	91	491	13%
9159	Trial Preparation	33.6%	111	46.3	5,100	92	475	13%
	<b>Subtotal</b>						<b>2,869</b>	<b>78%</b>
	All other tariff codes (142) eg. Disclosure/Case assessment eg. Travel out-of-office						<b>791</b>	<b>22%</b>
							<b>3,660</b>	<b>100%</b>

**Criminal Appeals Tariff**

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
9510	Transcripts	36.8%	154	1,425.0	219,500	1	298	23%
908010	Additional preparation	8.9%	38	30.9	1,200	90	105	8%
2040	Miscellaneous	5.3%	22	1.5	33	2,800	93	7%
	<b>Subtotal</b>						<b>496</b>	<b>37%</b>
	All other tariff codes (44) eg. Preparation for conviction appeal in BCCA eg. General preparation - Enhanced Fee						<b>828</b>	<b>63%</b>
							<b>1,324</b>	<b>100%</b>

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
 February 20, 2017

## Non-Criminal Tariff Budget

For the Fiscal Year April 1, 2017 through March 31, 2018

Figures in 000's

## Family Tariff Budget

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
211010	General Preparation	91.8%	3,870	9.0	34,800	88	3,062	34%
213010	Attendance for court processes	62.5%	3,310	4.3	14,200	88	1,250	14%
211020	Preparation for Supreme Court	11.6%	1,280	5.2	6,700	88	590	7%
	Subtotal						4,902	55%
	All other tariff codes (93) eg. Preparation for out-of-court dispute resolution eg. Filing/Hearing Fees							
							4,049	56%
							8,951	123%
							<b>Total Budget</b>	

## CFCSA Tariff Budget

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
311010	General Preparation	90.1%	3,870	9.0	34,800	89	3,097	43%
313010	Attendance for court processes	77.0%	3,310	4.3	14,200	89	1,264	17%
313050	Attendance for mediation and/or consensual dispute resolution	32.0%	1,380	5.2	7,200	89	641	9%
	Subtotal						5,002	69%
	All other tariff codes (87) eg. Preparation for mediation eg. Travel out-of-office							
							2,283	31%
							7,285	100%
							<b>Total Budget</b>	

## Immigration Tariff Budget

Tariff Code	Tariff Description	% of Cases	No. of Cases	Units/Case	Total Units	\$ Cost / Unit	Budget	%
411010	General Preparation	46.9%	360	13.4	4,800	90	432	29%
421020	Preparation for Immigration appeal/Judicial review	9.8%	80	18.3	1,500	90	135	9%
413010	Attendance at a hearing - refugee claims	30.5%	240	4.0	1,000	90	90	6%
	Subtotal						657	44%
	Duty Counsel							
							140	9%
	All other tariff codes (89) eg. Additional preparation eg. Submissions to CIC/CBSA							
							703	47%
							1,500	100%
							<b>Total Budget</b>	

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice

February 20, 2017

## LSS 3rd Quarter Forecast Accuracy Metric in thousands (000's)

<b>3rd Quarter Forecast</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
Revenue	80,841	79,469	79,636
Expense	81,341	79,469	79,636
<b>Surplus/(Deficit)</b>	<b>(500)</b>	<b>0</b>	<b>0</b>

### **Year-end Actual from Audited Statements**

Revenue	80,058	79,715	79,786
Expense	80,558	79,833	79,786
<b>Surplus/(Deficit)</b>	<b>(500)</b>	<b>(118)</b>	<b>0</b>

### **Variance**

Revenue	(783)	246	150
Expense	(783)	364	150
<b>Surplus/(Deficit)</b>	<b>0</b>	<b>(118)</b>	<b>0</b>

### **% Variance**

Revenue	0.97%	0.31%	0.19%
Expense	0.96%	0.46%	0.19%

The Honourable Suzanne Anton, QC, Attorney General and Minister of Justice  
February 20, 2017

### ATTACHMENT 3

Ms Suzette Narbonne  
Chair  
Board of Directors  
Legal Services Society  
400 – 510 Burrard Street  
Vancouver BC V6C 3B9

Dear Ms. Narbonne:

On behalf of the Government of British Columbia I write to advise you that I approve the 2017/18 three-year budget management plan for Legal Services Society (LSS) as submitted on February 20, 2017, with the revisions and principles agreed upon and confirmed by your letter of the same date, noting for clarification that any mitigation strategies that impact service delivery are only to be undertaken after all administrative spending options have been assessed jointly by LSS and ministry staff and approved by the LSS Board.

Please submit LSS's first forecast for fiscal year 2017/18 to ministry staff by Thursday, May 4, 2017.

I appreciate the time and diligence that you, the LSS board, and staff have put towards these matters and look forward to ongoing collaboration with LSS.

Yours very truly,

Suzanne Anton QC  
Attorney General  
Minister of Justice

pc: Mr. Richard J. M. Fyfe, Q.C.  
Mr. Kurt J. W. Sandstrom, Q.C.  
Mr. Mark Benton, Q.C.

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION for the Honourable Suzanne Anton, QC,  
Attorney General and Minister of Justice

**ISSUE:** Designation of a representative on the Board of the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR).

**DECISION REQUIRED/ RECOMMENDATION:**

- Recommendation: It is recommended that the Minister designate the Honourable Thomas Cromwell as the representative for the Ministry of Justice on the ICCLR Board for 2017/18.
- A draft letter appointing the Honourable Thomas Cromwell is attached. It is requested that the Minister sign this letter (Appendix A).

**BACKGROUND:**

- Founded in 1991, ICCLR is a joint initiative of the Government of Canada, University of British Columbia, Simon Fraser University, International Society for the Reform of Criminal Law, and the Province of British Columbia.
- ICCLR brings together expertise across various sectors including academic, government, private sector and non-governmental organizations to improve the quality of justice through reform of criminal law and practice.
- The ICCLR is governed by a Board of Directors and managed under the direction and supervision of a President and Executive Director. The Board consists of two representatives each from the University of British Columbia, Simon Fraser University and the International Society for the Reform of Criminal Law, and one representative each from the Department of Justice Canada, the Department of Public Safety (Canada), the BC Ministry of Justice and the Department of Foreign Affairs Canada.
- Each year, Charter Members of the ICCLR designate or re-designate an individual to represent their institution on the Centre's Board of Directors.

**2015/16 Annual Report**

- ICCLR's 2015/16 priorities and programme activities were designed to respond to Canada's domestic and international priorities. Strategic focus areas for project development included:
  - Corruption (including organized crime);

- Justice Efficiency and Performance Improvement;
- Victims of Violence: human trafficking, gender-based violence, and violence against children;
- Mental Health in the Criminal Justice System; and
- Criminal Justice Reform and Alternatives to Imprisonment.
- The Annual Report describes several projects and events that ICCLR undertook in the past year (see Appendix C).
- ICCLR is one of eighteen institutes in the United Nations Crime Prevention and Criminal Justice Programme Network. The institutes meet regularly to coordinate their efforts and often undertake or support joint programme activities.
- The Annual Report provides an overview of ICCLR's continued contribution and participation in conferences, workshops and other activities with the UN and other international partners.

### **2016/17 Work Plan**

- ICCLR's 2016/17 Work Plan (Appendix D) identifies five main areas of focus which the ICCLR will "maintain a readiness to get involved in research, policy discussion, and technical assistance activity". These include:
  - Corruption Prevention;
  - Justice Efficiency and Access to Justice;
  - Victims of Violence;
  - Terrorisms, Extremist Groups, Foreign Fighters; and
  - Crimes against the Environment and Wildlife.
- The ICCLR 2016/17 Work Plan also emphasizes the need to incorporate outcome measures into its work, and that it may be able to support government's development of system-wide performance measures.

### **DISCUSSION:**

- Ms. Rowles, a retired justice of the Court of Appeal, has served as the Ministry's representative on the Centre's Board since 2007/08. Ms. Rowles was re-designated as the Ministry's representative for 2016/17.

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- The ICCLR Board meets once per year, in May or June, for its Annual General Meeting. Other consultations and requests for Board decisions are conducted by email on an as-needed basis.
- The Minister and the DAG met with ICCLR Executive Director, Mr. Tkachuk, Board Chair Neil Boys, and Ms. Rowles on January 24, 2017 to discuss future Ministry representation on the Board.
- Mr. Boyd, has since written to the Minister requesting the appointment of a Ministry representative on the Board for 2017/18 (Appendix B).
- In his letter, Mr. Boyd reiterated the proposal made during the January 24 meeting, that the Honourable Thomas Cromwell be appointed as the replacement for Ms. Rowles.
- Mr. Cromwell was appointed to the Supreme Court of Canada on December 22, 2008, retiring on September 1st, 2016. He had previously been appointed to the Nova Scotia Court of Appeal on August 27, 1997.
- Mr. Cromwell is the Chair of the National Action Committee on Access to Justice in Civil and Family Matters and a member of the Canadian Judicial Council's Working Committee on Jury Charges.

**OPTIONS:**

**Option 1 (recommended):** Designate the Honourable Thomas Cromwell as the representative for the Ministry of Justice and implement a parallel arrangement consisting of regular meetings between the Ministry representative, the DAG and the ADM, Justice Services Branch.

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Letter: 426579

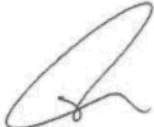
Date Prepared: February 24, 2017

Date Decision Required: March 24, 2017

• s.13

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**RECOMMENDED OPTION APPROVED:**

**DATE:**



Richard J. M. Fyfe, Q.C.  
Deputy Attorney General and  
Deputy Minister, Justice

March 10, 2017

**RECOMMENDED OPTION APPROVED:**

**DATE:**



Suzanne Anton QC  
Attorney General and Minister of Justice

March 13, 2017

**Prepared by:**

David Travia  
Senior Policy Analyst  
Justice Services Branch  
250-356-6512

**Approved by:**

James Deitch  
Executive Director  
Justice Services Branch  
250-387-2109

**Approved by:** Kurt J.W. Sandstrom, Q.C.  
Assistant Deputy Minister

**Date:** February 28, 2017

**Attachments:**

- Appendix A: Letter of appointment for the Honourable Thomas Cromwell (426579)
- Appendix B: Correspondence from Mr. Neil Boyd, Chair of the ICCLR Board of Directors
- Appendix C: ICCLR 2015/16 Annual Report (separate attachment)
- Appendix D: ICCLR 2016/17 Work Plan (separate attachment)

## APPENDIX A

Mr. Neil Boyd  
Executive Director  
The International Centre for Criminal Law Reform  
and Criminal Justice Policy  
1822 East Mall  
Vancouver BC V6T 1Z1

Dear Mr. Boyd:

Thank you for your letter of February 7, 2016, in which you recommended the Honourable Thomas Cromwell as the representative for the Ministry of Justice on the Board of Directors of the International Centre for Criminal Law Reform and Criminal Justice Policy.

In keeping with this suggestion, I am pleased to designate the Honourable Thomas Cromwell as the representative for the Ministry of Justice on the Board.

As you will recall in our meeting on January 24, we discussed closer alignment of the board and the Ministry on strategic priorities. Once the Honourable Thomas Cromwell is designated would you please contact Kurt Sandstrom, Assistant Deputy Minister, Justice Services Branch, so that he may contact Mr. Cromwell to arrange a process for coordinating Ministry input into the future work of the Centre. This process would entail regular meetings between Mr. Cromwell, Mr. Sandstrom and the Deputy Attorney General.  
Thank you for the ongoing work of the Centre.

Yours very truly,

Suzanne Anton QC  
Attorney General  
Minister of Justice

February 7, 2016

The Honourable Suzanne Anton  
Attorney General and Minister of Justice  
P.O. Box 9044 STN PROV GOVT  
Victoria, BC  
V8W 9E2

*The*  
International Centre  
*for*  
Criminal Law Reform  
*and*  
Criminal Justice Policy

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Le Centre international  
*pour*  
la réforme du droit criminel  
*et*  
la politique en matière  
de justice pénale

Dear Minister Anton,

It was a pleasure meeting you recently and I thank you for giving us the opportunity to discuss the issue of your future representative on the Board of Directors for the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR).

This letter is a brief response to our meeting, formally requesting you, the Attorney General for British Columbia (AGBC) and a Charter Member of the ICCLR, to designate an individual to represent you on the Centre's Board of Directors for 2017/2018. As you are aware, the AGBC is currently represented on the ICCLR Board by the Honourable Anne Rowles. s.22

During our meeting we proposed the recently retired Justice of the Supreme Court, the Honourable Thomas Cromwell, as a potential replacement for the Honourable Anne Rowles, and we hope that you will look favourably upon this suggestion. Regardless of whom you may select to represent you on the ICCLR Board, however, I would like to take this opportunity to indicate to you that ICCLR welcomes the involvement of the AGBC in our programme of work and looks forward to the further development of an ongoing and collaborative relationship with your Ministry.

I thank you for your continued support of the Centre and I also want, particularly, to thank the Honourable Anne Rowles for her commitment and her strong leadership during her time as your representative at the Centre. We look forward to exploring future potential areas of work between the International Centre and the AGBC. We are keen to continue to make contributions to national, regional and international efforts to reduce crime and to improve the administration of criminal justice.

Best wishes,



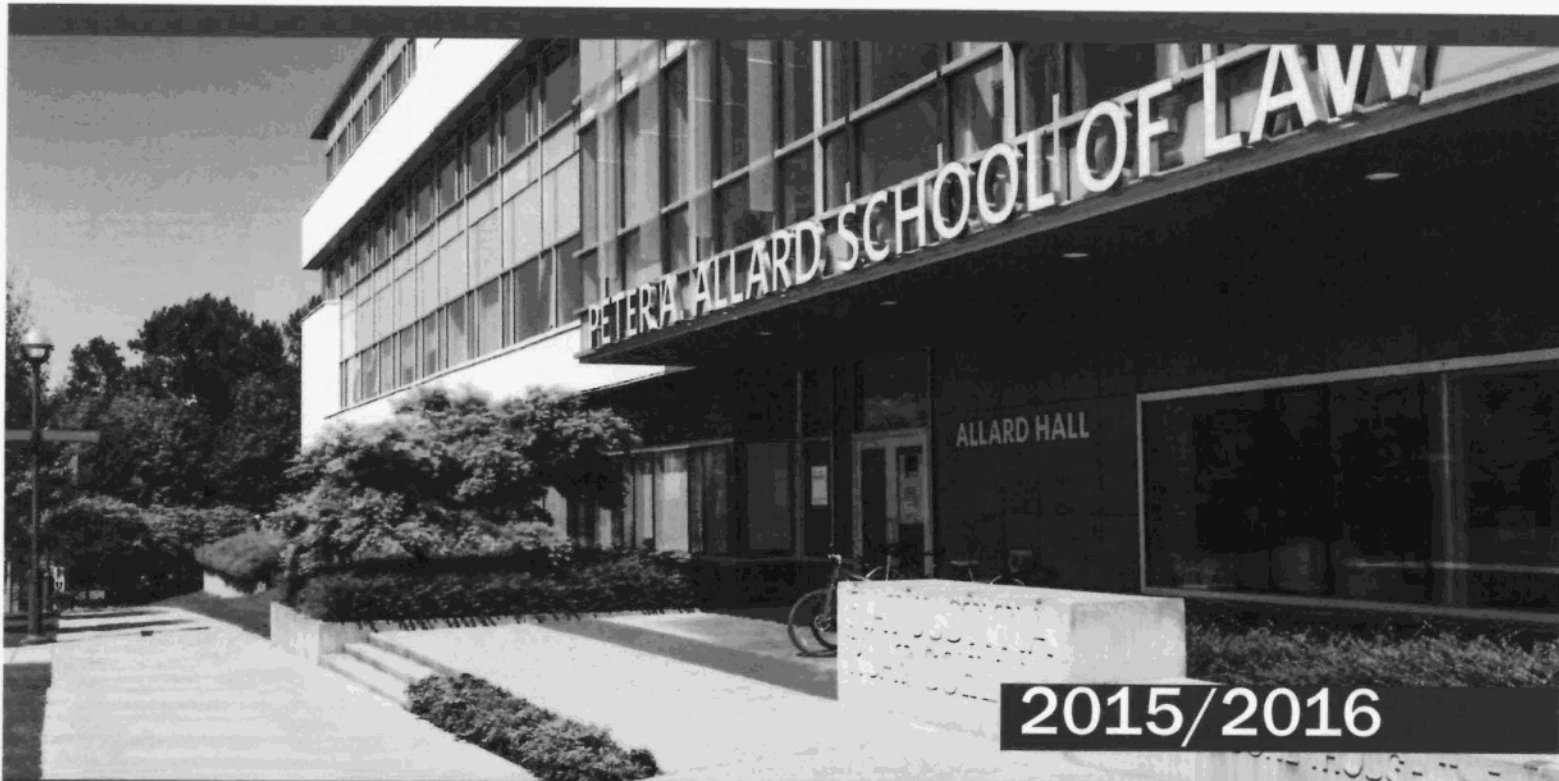
Neil Boyd  
Chair of the Board of Directors



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e-mail: icclr@law.ubc.ca Website: www.icclr.law.ubc.ca



INTERNATIONAL CENTRE FOR CRIMINAL LAW REFORM  
AND CRIMINAL JUSTICE POLICY  
CENTRE INTERNATIONAL POUR LA RÉFORME DU DROIT CRIMINEL  
ET LA POLITIQUE EN MATIÈRE DE JUSTICE PÉNALE



# ANNUAL REPORT

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Reform and Criminal Justice Policy

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INTERNATIONAL CENTRE FOR  
CRIMINAL LAW REFORM  
AND CRIMINAL JUSTICE POLICY

## **Opportunities, Relevance and Continuity**

### **The International Centre's 2016-2017 Workplan for Law Reform and Criminal Justice Policy**

Report prepared by Yvon Dandurand  
Alison MacPhail  
June 14, 2016,  
finalized Sept 11, 2016

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**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for the Honourable Suzanne Anton, QC,  
Attorney General and Minister of Justice (AG).

**ISSUE:** Quarterly meeting with the Legal Services Society (LSS) Board Chair (Chair)  
Suzette Narbonne on March 30, 2017.

**SUMMARY:**

- The AG and the Deputy Attorney General (DAG) are scheduled meet with the Chair and Mark Benton, Chief Executive Officer (CEO) of LSS on March 30.
- As there are currently no pressing or contentious matters to address [assuming MOU matters are resolved soon], and given the timing in advance of the interregnum, discussions could be brief and high-level around the following broad topics and themes:
  - Thanking LSS for their work in general, and specifically for the success with the Justice Innovation and Transformation Initiatives (JITI);
  - Consider JITI timelines and priorities for future expansion; and
  - Receive updates from the Chair on current LSS matters such as board appointments.

**BACKGROUND:**

- January 6, 2017: the last quarterly meeting with the Chair and CEO was on January 6, 2017.
  - The DAG attended in place of the Attorney General (AG), accompanied by Kurt Sandstrom, Assistant Deputy Minister (ADM).
  - At that meeting, it was agreed that the ADM will attend LSS Board meetings to enhance the flow and quality of information between the Board and Ministry Executive.
- February 17, 2017: the ADM attended an LSS Board meeting, where he provided an update, at the CEO's request, on topics the DAG had presented at LSS Board strategic planning session on September 12, 2016. These topics focused on the Ministry's strategic priorities of innovation and indigenous justice.
- February 20, 2017: the Chair sent a letter accompanying an updated version of the LSS 2017/18 budget management plan to the AG, anticipating budget increases that were confirmed on Budget Day, February 21. The letter noted:
  - agreement with the principles and priorities as requested by the AG in the original request; and
  - budget risks and concerns that have substantively been addressed, or are in the process of being addressed in satisfactory ways between ministry staff and LSS staff.
  - As such, the AG has sent a letter to the Chair approving the LSS budget management plan for 2017/18.



- Week of March 20, 2017 [anticipated as of the writing of this note]: public event planned to build on the announcements of Budget Day of additional funding and plans to expand the Parents' Legal Centre (PLC) and Justice Access Centre (JAC) to the Surrey Courthouse. Expected to attend with the AG are the Minister of Child and Family Development (MCFD), the Chair, and Grand Chief Ed John.

#### **DISCUSSION:**

- Below is summary information to address the main topics of proposed discussion. Speaking notes are appended as Attachment 1.
- Thanks and Recognition to LSS
  - The AG could thank LSS for their ongoing dedication to high-quality service delivery, over the duration of her term, contributing to the justice system transformation across the province.
  - JITI features and achievements to recognize include:
    - Their business cases, which were widely regarded by senior financial managers in the ministry, as well as Treasury Board Staff (TBS) as strong and effectively supported by evaluations and performance measures;
    - The focus on helping Indigenous people, aligning with ministry priorities and the Grand Chief Ed John's report recommendations regarding the Parents' Legal Centre;
    - The planned and approved expansion of the PLC to Surrey in 2017/18; and
    - A nomination, with the ministry, for a Premier's Award in Innovation.
- JITI Plans:
  - Ministry staff have confirmed with TBS, LSS, and other key stakeholders such as staff in MCFD, what the potential features and expectations are, at a high-level, for the TB report-back in the fall <sup>s.13</sup>
  - TBS is allowing a substantive degree of flexibility in options to propose for the complementary part of the TB report-back, <sup>s.13</sup>
  - As such, it may be helpful for the Chair and CEO, in terms of informing their recommendations, to discuss options and priorities with the AG and DAG. <sup>s.13</sup>
- Board Appointments:
  - Status of vacancies, current and potential/upcoming:
    - one current vacancy, as a new appointee as of December 2016 was <sup>s.22</sup>

- an expected upcoming vacancy as another member, s.22  
s.22
- the Chair's term is up for renewal in April.
- The LSS board is comprised of nine board members, five appointed by the government and four by the Law Society of BC in consultation with the Canadian Bar Association.
- As per standard policy and practice, government suspended making board appointments and renewals in advance of the provincial elections and does not anticipate making any further ones until fall 2017.
  - On January 26, 2017, the Chair wrote to the Deputy Minister (DM) of Finance, Athana Mentzelopoulos, to request an exception this policy.
  - This request was denied; however, it should not pose a significant problem for LSS, since there should still be enough active members to form a quorum.
- s.13
- 
- Law Society Colloquium on Legal Aid Report:
  - The ministry has not undertaken a meaningful analysis on this report to date.
  - s.13
  - The Law Society's vision echoes that of the Public Commission on Legal Aid (2011) in finding that legal aid should be considered an essential service, similar to health care and education.
  - The report contains 2 recommendations:
    - That the Benchers adopt the vision for legal aid (Appendix 2)
    - That the Benchers establish a Legal Aid Advisory Committee

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Ministry staff have engaged Treasury Board Staff and staff from MCFD, in discussions related to JITI planning, performance, TB report-back expectations, and potential options for future expansion.

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Justice Services Branch

**Revised by:**  
Wendy Jackson  
Legal Counsel  
Justice Services Branch

**Approved by:** James Deitch  
Executive Director  
Justice Services Branch

Date: March 24, 2017

**Approved by:** Kurt J.W. Sandstrom, Q.C.  
Assistant Deputy Minister

Date: March 27, 2017

**Attachments:** Appendix A -- Speaking Notes  
Appendix B -- The Law Society's Vision for Public Legal  
Aid in British Columbia

## APPENDIX A

### Speaking Notes

for the

Honourable Suzanne Anton QC  
Attorney General and Minister of Justice

Quarterly Meeting with the Legal Services Society  
Board Chair, Suzette Narbonne, and Chief Executive Officer,  
Mark Benton

March 30, 2017

## **Opening**

- Suzette and Mark, thank you for meeting with us today.
- I'm glad we have the chance to fit this in before the interregnum.

## **Thanks and Recognition to LSS**

- On that note, as we move towards this transitional phase, I'd like to take the opportunity to thank you for all the great work from the LSS team throughout my time in office so far.
- LSS has made significant contributions to the progress of transformation and other improvements to access to justice across the province.
- In particular, I congratulate you on the success of the launch, evaluations, and business cases of the JITI projects.

- Your focus and dedication in assisting vulnerable populations, especially Indigenous families, continues to be highly commendable.

## **JITI Plans**

- Congratulations on achieving approval to expand the Parents' Legal Centre (PLC) to Surrey in 2017/18.
- How are plans progressing?
- I understand that Treasury Board Staff have indicated some flexibility regarding options to be proposed in fall 2017<sup>s.13</sup>.
- As such, I'm interested in hearing what sort of options and priorities may be considered.
- For example:
  - <sup>s.13</sup>
  - 
  -

## **Board Appointments**

- I understand that current and projected vacancies and term renewals are a concern.
- How is this being addressed?

## **Law Society Colloquium Report**

- The ministry has not done any significant analysis of the Law Society Report to date but would be interested in any input LSS would care to provide.
- Our initial analysis suggests that the Law Society report appears to be focused on a strategy which is much more aligned with providing traditional legal advice rather than looking for innovative approaches to address user needs.
- The fiscal impacts of the report also appear to be quite significant if adopted and not consistent with the approach that either LSS or the Ministry have been taking in the past three years.

## **Conclusion**

- Again, thank you for the hard work, dedication and high quality of services demonstrated by LSS.
- I am confident that LSS will continue to play a key role in increasing access to justice.
- Please pass on my thanks and recognition to the LSS board and staff.

-END-



**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION for the Honourable Suzanne Anton, QC,  
Minister of Justice and Attorney General

**ISSUE:** Ministry review of the recommendations made by the Special Committee to review the Independent Investigations Office (the Committee) and the standard of referral to Crown Counsel used by the Independent Investigations Office (IIO).

**DECISION REQUIRED/ RECOMMENDATION:**

s.13

**SUMMARY:**

- s.13
  
- The Solicitor General (SG), in his capacity as former Chair of the Committee, was briefed on the ministry review and recommended actions.
- The Attorney General (AG) determined that prior to any public release, the recommended ministry actions should be presented to a Cabinet Committee.
- On December 13, 2016, the Cabinet Committee on Secure Tomorrow (CCST) requested further consideration be given.  
s.12
- Cabinet Operations has advised that further direction from CCST is not required.
- s.13
  
- GCPE has been consulted and supports the plans above.

**BACKGROUND:**

Refer to briefing note 422424 (Appendix A)

**DISCUSSION:**

- s.12,s.13

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**OPTIONS:**

**Option 1 (recommended):**

s.13

s.13

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Ministry of Public Safety and Solicitor General

**OPTION   1   APPROVED**

**DATE:**



March 8, 2017

---

Richard J.M. Fyfe, Q.C.,  
Deputy Attorney General and  
Deputy Minister, Justice

**OPTION        APPROVED**

**DATE:**

---

The Honourable Suzanne Anton, Q.C.  
Minister of Justice and Attorney General

**Prepared by:**

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Senior Policy Analyst  
Justice Services Branch  
250-387-3246

**Approved by:**

James Deitch  
Executive Director  
Justice Services Branch  
250-387-2109

**Approved by:** Kurt J.W. Sandstrom, Q.C.  
Assistant Deputy Minister

**Date:** March 8, 2017

**Attachment(s)**

Appendix A-BN 422424

Appendix B- Report of the Special Committee to Review the Independent Investigations Office

Appendix C- s.13

s.13

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION for the Honourable Suzanne Anton, QC,  
Minister of Justice and Attorney General

**ISSUE:** Ministry review of the recommendations made by the Special Committee to review the Independent Investigations Office (the Committee) and the standard of referral to Crown Counsel used by the Independent Investigations Office (IIO).

**DECISION REQUIRED/ RECOMMENDATION:**

s.13

**SUMMARY:**

- In February 2015, the Committee submitted the *Report of the Special Committee to Review the Independent Investigations Office* to the Legislative Assembly (Appendix A).
- A review of Committee recommendations 1 through 4 and 6 and the standard of referral to Crown Counsel used by the IIO has been completed.
- The review findings and options for a ministry response to each of the Committee recommendations and the standard of referral to Crown Counsel are presented in a report to the Minister (Appendix B).
- s.13

**BACKGROUND:**

**IIO overview**

- The IIO is an independent civilian-led body established under the *Police Act* to investigate incidents of death or serious harm involving police officers including RCMP and municipal police officers both on and off-duty, and special provincial constables in British Columbia. It has been operational since September 2012.
- The IIO is headed by the Chief Civilian Director (CCD), Richard Rosenthal, who has never served as a police officer. Mr. Rosenthal will resign, effective September 8, 2016.

- Mr. Albert (Bert) Phipps, who has never served as a police officer, will be appointed acting CCD, effective September 8, 2016.
- The CCD is accountable to the Deputy Attorney General (DAG) through a Letter of Expectations.

*Special Committee of the Legislative Assembly to review the IIO (the Committee)*

- The *Police Act* provided that before January 1, 2015, a Special Committee of the Legislative Assembly must conduct a review of:
  1. the CCD's progress towards the IIO becoming fully civilianized; and
  2. the administration and general operations of the IIO.
- In February 2015, the Committee submitted a *Report of the Special Committee to Review the Independent Investigations Office* to the Legislative Assembly. Seven recommendations related to IIO administration and general operations were made to the Legislative Assembly. These recommendations were regarding:
  1. Government support for continued civilianization;
  2. Discretion for the CCD to appoint investigators with police experience in BC in the past five years;
  3. A comprehensive statutory review of the IIO by a Special Committee at least once every six years;
  4. Continued close review by the Ministry of Justice of human resources practices at the IIO;
  5. Public reporting by the Ministry of Justice, in one year, on actions taken to address human resources issues at the IIO;
  6. Civilian monitor reports to be made public; and
  7. Implementation of police use of body-worn cameras.

*The standard of referral by the CCD to refer cases to Crown Counsel*

- Following the conclusion of an IIO investigation, the CCD is statutorily required (s. 38.11 of the *Police Act*) to make a report to Crown counsel if he believes an officer may have committed an offence under any enactment.
- The IIO has applied this standard of referral since it became operational in September 2012. Based on its application since this time, concerns about the standard being too broad have been raised by the IIO. Similar concerns have been raised by the policing community and in the media.

**DISCUSSION:**

- The ministry commenced a review of recommendations 1 through 4 and 6 made by the Committee in October 2015.

- A ministry response to recommendation 5 was provided separately as a letter to the Speaker of the Legislative Assembly and recommendation 7 is being reviewed by the Ministry of Public Safety and Solicitor General (Policing and Security Branch).
- In December 2015, the Minister requested that the scope of the review be expanded to include a review of the standard used by the CCD to refer cases to Crown Counsel.
- The review included consultations with the IIO and stakeholders, a jurisdictional scan and research literature review.

s.13

**OPTIONS:**

**Option 1 (recommended):**

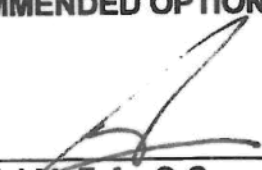
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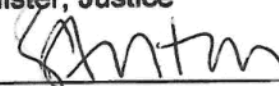
Cliff: 422424  
Date Prepared: July 8, 2016  
Date Decision Required: July 29, 2016

**RECOMMENDED OPTION APPROVED:**

**DATE:**

  
\_\_\_\_\_  
Richard J.M. Fyfe, Q.C.  
Deputy Attorney General and  
Deputy Minister, Justice

JUL 18 2016

  
\_\_\_\_\_  
The Honourable Suzanne Anton, Q.C.  
Minister of Justice and Attorney General

28 July 2016

**Prepared by:**  
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**Approved by:**  
James Deitch  
Executive Director  
Justice Services Branch  
250-387-2109

**Approved by:** Kurt J.W. Sandstrom, Q.C.  
Assistant Deputy Minister

**Date:** July 18, 2016

**Attachments:**

Appendix A- Report of the Special Committee to Review the Independent Investigations  
Office

Appendix B-

s.13

s.13



# *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 40<sup>th</sup> 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 <i>Police Act</i> 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 <i>Freedom of Information and Protection of Privacy Act</i> , 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.





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