

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

**PURPOSE:** For INFORMATION for David Eby, QC, Attorney General

**ISSUE:**

Introductory meeting with the Justice Institute of British Columbia (JIBC) President and Chief Executive Officer (CEO) Dr. Michel Tarko and Board Chair (Chair) Robert Kroeker on Thursday, February 1, 2018.

**SUMMARY:**

- The JIBC is a justice and public safety institution that provides post-secondary education and training for public safety professionals, including Sheriff Recruit Training for the province of British Columbia.
- The Attorney General (AG) and the Deputy Attorney General (DAG) will be meeting with the CEO and Chair of the JIBC on Thursday February 1, 2018, to discuss JIBC activities and how the institution can further support the AG in achieving the priorities set out in the Mandate Letter (ML).

**BACKGROUND:**

- The JIBC CEO wrote to the AG on July 20, 2017, requesting a meeting with himself and the Chair to discuss JIBC activities and how the institution can further support the AG in achieving ML priorities. See Appendix A for the letter and Appendix B for CEO and Chair biographies.
- The JIBC is a justice and public safety institution that provides post-secondary education and training for public safety professionals.
- JIBC has three schools:
  - The School of Health, Community and Social Justice includes programs in counseling, conflict resolution, mediation and negotiation, leadership development, aboriginal studies and paramedicine.
  - The School of Public Safety includes programs in fire-fighting and emergency and disaster management.
  - The School of Criminal Justice and Security includes programs in policing, corrections, sheriff training, and intelligence and tactical crime analysis.
- The JIBC Strategic Plan 2015-2020 sets out strategic priorities and goals for the institution. Goals relevant to the AG include:
  - Ensuring programs reflect current and emerging labour market and educational needs and trends;
  - Expanding engagement with communities, organizations, and stakeholders, including governments; and
  - Improving long-term planning by ensuring alignment of key performance indicators with government direction.

- There are two apparent program areas that relate to the AG's mandate:
  - The Sheriff Recruit Training (SRT) program, offered at the New Westminster campus, is a 14-week mandatory training program provided at no charge to candidates who are selected as Sheriff Recruits. Recruits are employees of the Court Services Branch of the ministry and receive a training wage while completing the SRT. Increasing the number of court sheriffs to deal with a current provincial shortage is a priority in the AG ML.
  - The JIBC Centre for Conflict Resolution provides certificate programs in family mediation and conflict resolution. Improving dispute resolution services for families is a priority in the AG ML.
  - In addition the JIBC has provided programming and training to support investigators recruited for the Independent Investigation Office (IIO).

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- N/A

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s.17

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s.17

**Approved by:**

Kurt Sandstrom  
Assistant Deputy Minister  
Justice Services Branch  
250-356-0383

**Attachment(s)**

Appendix A – Letter from the JIBC CEO  
Appendix B – Biographies

## Appendix A - Letter from the JIBC CEO



PRESIDENT'S  
OFFICE

July 20, 2017

Honourable David Eby  
Attorney General, Ministry of Justice  
Government of British Columbia  
PO Box 9290, Stn Prov Govt  
Victoria BC V8W 9T7

Dear Minister Eby,

Further to our letter to you dated July 20<sup>th</sup>, 2017, we again, congratulate you on your significant new role as Attorney General, Ministry of Justice.

As you know, the Justice Institute of British Columbia's (JIBC) mandate as a justice and public safety institution is to provide post-secondary training and education for public safety professionals. Our areas of expertise include counseling, conflict resolution, mediation and negotiation, leadership development, aboriginal studies, paramedicine, policing, fire-fighting, sheriffs, corrections, emergency & disaster management, court administration, intelligence analysis and tactical crime analysis.

I would like to request a meeting with you when you are in Vancouver to update you on activities at the JIBC and determine how we can further support your Ministry to achieve the priorities set out in your Mandate Letter. The meeting would be with myself and our Board Chair, Mr. Rob Kroeker.

As well, you are invited to visit the JIBC in New Westminster for a tour, when your calendar permits. If you have any questions please don't hesitate to contact myself at 604-528-5528, [mtarko@jibc.ca](mailto:mtarko@jibc.ca), or my Executive Assistant Janet Haberfield at 604-528-5529, [jhaberfield@jibc.ca](mailto:jhaberfield@jibc.ca).

I look forward to hearing if there is a suitable time we may meet with you.

Sincerely,

A handwritten signature in black ink, appearing to read "MTarko".

Dr. Michel Tarko  
President and CEO

c. Richard Fyfe.  
Deputy Attorney General, Ministry of Justice

**CANADA'S LEADING PUBLIC SAFETY EDUCATOR**

715 McBride Boulevard, New Westminster, BC V3L 5T4, Canada | TEL 604.528.5529 | [jibc.ca](http://jibc.ca)

## **Appendix B – JIBC Biographies**

### **Dr. Michel Tarko – President and CEO**

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### **Robert Kroeker – Chair of the Board of Governors**

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

**PURPOSE:** For INFORMATION of David Eby, QC, Attorney General

**ISSUE:** Next steps on British Columbia's Human Rights agenda

**SUMMARY:**

- MAG work on provincial and international human rights issues is expected to intensify over the coming months. This note provides a summary of key activities.

**Human Rights Commission**

- November 23: MAG met with staff from the Human Rights Tribunal and CLAS to discuss core draft recommendations regarding the Human Rights Commission
- November 24: Human Rights Commission Advisory Group meeting. Fourteen people with diverse interests (complainant side and respondent side) were invited and twelve participated in a discussion with Ravi Kahlon regarding his report's core draft recommendations on the Human Rights Commission.
- November 24 – 27: Inclusion of engagement content in the draft report and recommendations. Ravi Kahlon and Carolyn Heiman (writer) refined direction and content. MAG and GCPE reviewed.
- November 28: Ravi Kahlon briefing of AG, DAG and JSB ADM.
- December 01: Final report went to GCPE graphics team.
- December 4 (tbc): OIC office will issue approved proclamation of International Human Rights Day.
- December 8: Final review of report by Ravi Kahlon and GCPE. Ravi Kahlon provides report to AG. Report finished and ready for release.
- December 10: Possible announcement on International Human Rights Day? (to be confirmed by GCPE).

**Human Rights Code amendments on the Human Rights Commission**

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## **International Human Rights**

- December 6: Linda Canham to brief AG, DAG and ADM JSB in preparation for the the FPT Ministers responsible for Human Rights meeting on December 10-12.
- December 10-12: Meeting of Ministers responsible for Human Rights.  
(The presentation for the roundtable portion of the agenda is now being drafted.

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- 2018 - Optional Protocol on the Convention on the Rights of Persons with Disabilities (OP-CRPD) <sup>s.16</sup>

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- The Third Universal Periodic Review of Canada (UPR3) will take place in Geneva in the spring. This review requires support to the Canadian delegation and MAG is beginning to prepare the 5<sup>th</sup> and 6<sup>th</sup> Report on the Convention on the Rights of the Child (CRC).

**Prepared by:**

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s.17

Linda Canham  
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s.17

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**Approved by:**

Kurt Sandstrom  
Assistant Deputy Minister  
Justice Services Branch  
250-356-0383



**I. Prepared for:** **The Honourable David Eby**, Minister responsible for ICBC, for **INFORMATION**

**II. Subject:** **Potential sale of ICBC investment or operational properties**

**III. Background:**

- ICBC's investment portfolio is used to help offset claims costs. The investment portfolio contains properties as well as fixed income, equity and mortgage portfolios.
- ICBC continually reviews its investment portfolio and makes decisions in response to market conditions and in the best interest of policyholders.
- ICBC has two of its investment properties approved for sale as outlined below.
- ICBC is also examining the potential sale of seven facilities/properties (outside of its investment portfolio) as outlined below. ICBC owns facilities/properties that are not part of its investment portfolio, however, these are also regularly reviewed to ensuring alignment to long term facility needs.
- ICBC is following the normal process for Crown land sales, which involves consulting with First Nations groups that have aboriginal land interests with the assistance of the Ministry of Citizens' Services.
- Strength of Claims analysis are being conducted on other ICBC facilities and investment properties in preparation for any future sale of real estate.
- In September 2017, media reported on the potential sale of ICBC's Head Office in North Vancouver. However, there are no plans to sell this property at this time. In 2016, ICBC began preparing a draft business case to look at the options for maintaining the existing building or finding an alternative location. The business case was not finalized. ICBC's Head Office is not part of the investment portfolio.

**IV. Discussion:**

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Dawson Creek Claim Centre (including adjacent vacant land)

- The estimated market value of the two properties is \$540,000.
- The Ministry of Forests, Lands and Natural Resource Operations has expressed interest in purchasing the properties for their Wild Fire division.
- Alternative ICBC office space will be required to accommodate current staffing levels to continue providing Claims services within this region. A lease is under negotiation for relocation premises.
- Shared Services BC consulted with the Ministry of Aboriginal Relations and Reconciliation and advised there were no concerns. Since this disposition is to the Province of BC, the land remains available to address future potential aboriginal claims.
- The sale of the property is planned to occur by the end of fiscal year 2017/2018, to assist the Wild Fire division for next year's fire season.
- Next steps include ICBC Board review and approval in December 2017.

## ICBC BRIEFING NOTE

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**Contact:** Chris Tupper  
Policy and Partnerships,  
ICBC  
(604) 982-1228

**Date:** December 5, 2017

**MINISTRY OF ATTORNEY GENERAL  
LIQUOR CONTROL AND LICENSING BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for David Eby, QC  
Attorney General

**ISSUE:** Options for expanding government's role in social responsibility related to liquor use

**BACKGROUND:**

- Over the past few years, LCLB has significantly expanded its role in social responsibility.
  - BC now requires virtually everyone who sells or serves liquor to take mandatory responsible beverage service training programs, and recertification is required every 5 years.
  - In 2015, LCLB launched the mandatory display program, which requires all licensees and liquor retailers to display social responsibility materials, provided free of charge, in their establishments.
  - Minimum pricing was implemented in 2014 for hospitality establishments, and adjusted for retail establishments in 2016.
  - LCLB continues to test compliance with the prohibition on supplying liquor to minors using contracted minors. The compliance rate has risen from 29% before the program was introduced to 82% in 2016.
  - An educational outreach program which delivers in person training sessions was launched in 2017 to promote voluntary compliance.
  - In November 2017, a cross-government ADMs committee was formed that for the first time, will support an efficient, integrated and coordinated approach to opportunities to reduce the harms and costs associated with alcohol use in BC.
  - The December 2017 appointment of the new industry liquor advisor also provides opportunities to canvass industry support for any proposed initiatives.

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Recent health reports indicate that BC's drinking rates are rising while all other province's rates are maintaining or decreasing, and BC has the highest rate of all provinces of hospitalization due to alcohol.

**OPTIONS:**

- The ADMs Committee on Social Responsibility and Alcohol are in process of developing an inventory of current efforts, and will be using this inventory to identify opportunities relative to evidence-based policy approaches to reducing harms. In the meantime, discussions with health researchers and the Ministry of

Health have identified the following meaningful and evidence-based options for consideration.

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## **Liquor Distribution Branch**

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- Expand promotion of the Low Risk Drinking Guidelines in BC Liquor Stores by creating a broader program to include more information in stores and online (bcliquorstores.com).<sup>s.13</sup>

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**Prepared by:**

Janice Carlson  
Sr. Policy Analyst, Policy, Planning and  
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Liquor Control and Licensing Branch

s.17

**Approved by:**

Michelle Carr  
ADM and General Manager  
Liquor Control and Licensing Branch  
250 952-5777



## BRIEFING NOTE

CLIFF # 543841

**Prepared for:** David Eby, Attorney General:  
For **Information.**

**Subject:** Deduction of other non-vehicle insurance benefits from ICBC tort claims

**Issue:** The Trial Lawyers Association of BC propose that government amend legislation to have all other sources of non-vehicle insurance respond before a vehicle policy coverage applies.

### **Background:**

- For tort claims, injured parties are entitled to claim medical expenses and wage loss benefits against the at-fault driver, even if the injured party receives similar benefits from their employer (e.g., paid sick leave) or from other non-vehicle insurance providers (e.g., extended health plans, long term disability).
- When settling a tort claim, even if an injured party has other non-vehicle insurance, ICBC will pay the injured party the full amount including medical expenses and wage loss. Their employer and their non-vehicle insurers' may then seek repayment of benefits through subrogation directly from the injured person without further ICBC involvement. Often trial lawyers will be called upon to administer the subrogation between the injured party and their non-vehicle insurance providers.
- Apart from claims against an at-fault driver (tort claims), ICBC's other coverages, such as accident benefits (known as Part 7 benefits), uninsured and unidentified (hit and run) motorist coverage, already require that other non-vehicle insurance benefits (extended health benefits, disability payments) and similar insurance-like benefits, such as paid sick leave, be deducted from the amount payable by ICBC.
- Other jurisdictions have already adopted similar changes. For example, in Alberta, they limit the rights for disability providers to subrogate back against the injured party. It is challenging, however, to make jurisdiction to jurisdiction comparisons given the different insurance schemes unique to each province.

### **Discussion:**

- The Trial Lawyers Association of BC (TLABC) has recently suggested a change to eliminate ICBC's obligation to pay for medical benefits and wage loss if a claimant has other access to these benefits and coverages. Effectively, it would result in ICBC and other automobile insurers treating tort claims



## BRIEFING NOTE

CLIFF # 543841

similarly to how ICBC already treats hit and run claims, uninsured claims, and accident benefits. It would also serve to prevent some claimants from receiving double compensation for the same loss.

- This would require legislative changes to the Insurance (Vehicle) Act. Amendments could place limits on a liable motorist's obligation to compensate an injured party who has access to these benefits from non-vehicle insurers. This would be similar to the current s. 83 of the IVA which limits a liable motorist's obligation to pay amounts that have already been compensated through accident benefits. This would mean that third-party benefits would be deducted from the tort claim in the same way ICBC deducts accident benefits (Part 7).

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## **BRIEFING NOTE**

**CLIFF # 543841**

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**Key** Jason McDaniel  
**Contact:** Chief Legal Officer  
604 982 2239

**Date:** December 11, 2017



## BRIEFING NOTE

CLIFF # 543842

**Prepared for: Attorney General David Eby:**  
**For Information.**

**Subject:** Introducing new charges payable by at-fault drivers <sup>s.13</sup>  
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### Background:

- Basic insurance rates are under growing, substantial pressure from the increasing number of crashes occurring on BC roads and the subsequent escalation in claims and costs.
  - Total costs paid by ICBC for minor injuries are escalating. Larger cash settlements for general damages for pain and suffering from minor injuries are the key driver to the rapidly increasing costs in the system.
    - The average pain and suffering paid out for minor bodily injuries has risen from \$5,004 in 2000 to \$16,499 in 2016, an increase of 330%.
    - Legal costs account for 24% of ICBC's total annual costs – greater than the cost of running ICBC plus the benefits received by customers with either minor or serious injury claims.
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- ICBC has a Multiple Crash Premium (MCP) which requires an at-fault driver to pay a \$1,000 deductible where they have three at-fault crashes within three years. This replaced ICBC's unpopular Crash Responsibility Charge, introduced in 1998 and eliminated in 2000, which required an at-fault driver to pay the first \$250 of a claim. The Crash Responsibility Charge ended up alienating customers, in particular those with long-term safe driving records.
  - Today for automobile crashes in BC, a deductible is applied to material damage claims. These are claims covered under the collision and comprehensive Optional coverages.
    - Deductibles apply to a vehicle owner for repairing damage as a result of a hit and run or for comprehensive claims, such as glass repair or vandalism.
    - As well, for collision claims, a deductible applies for an at-fault driver to have their own vehicle repaired.



## Other Jurisdictions

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A summary of other jurisdictional models and experience is attached in Appendix A.

- The majority of Canadian provinces have instead instituted some form of cap or limit on payments on general damages for pain and suffering (i.e., Alberta, New Brunswick, Nova Scotia, and Prince Edward Island), which have been more effective<sup>s.13</sup> to address the affordability and sustainability of automobile insurance.

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## **Discussion:**

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# **BRIEFING NOTE**

**CLIFF # 543842**

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**Key** Jason McDaniel  
**Contact:** Chief Legal Officer  
604 982 2239

**Date:** December 11, 2017



## **Appendix A – Jurisdictional comparisons**

### **Jurisdictions with caps on minor injuries:<sup>1</sup>**

*Cap: maximum amount an insurance company will pay out on general damages for pain and suffering from a minor injury for a claim*

#### Alberta

- Introduced \$4,000 cap on non-pecuniary losses from minor injuries, to be adjusted annually by changes in CPI (*currently at \$5,020*)
- BI loss costs decreased starting in 2005; the decrease in claims costs reduced BI premiums by 23% over a seven year period

#### New Brunswick

- Cap on damages for non-pecuniary loss for non-pecuniary minor injuries of \$2,500 initiated in 2003 was increased to \$7,500 in 2013, indexed to CPI for New Brunswick (*currently at \$7,818*)
- The introduction of caps on damages for non-pecuniary loss from non-permanent injuries has helped reduce auto insurance rates and improve affordability for New Brunswick drivers (declined 28% from 2004-2009)

#### Nova Scotia

- Limited awards for non-pecuniary losses from minor injuries to \$2,500 in 2013 and increased to \$7,500 in 2010, indexed to inflation (*currently at \$8,489*)
- BI rate decreased and loss costs steadied since cap was implemented

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<sup>1</sup> Source: Jurisdictional Review (EY – June 24, 2016)  
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**Insurance reforms by Canadian Jurisdiction**  
(E&Y Report, p. 46)

Province	Model	Year	Pre-reform	Post-reform
Alberta	Private	2004	Unrestricted litigation- based model	Cap on pain & suffering for minor injuries
Saskatchewan	Public	2003		Hybrid <sup>13</sup> : mix of litigation and care-based
Manitoba	Public	1993		Pure care-based
Ontario	Private	1990		Hybrid: Threshold care-based
New Brunswick	Private	2003		Cap on pain & suffering for minor injuries
Nova Scotia	Private	2003		Cap on pain & suffering for minor injuries
Quebec	Public/private	1978		Pure care-based
Newfoundland	Private	2004		Deductible on pain & suffering for minor injuries
British Columbia	Public	n/a		n/a

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL  
DEPUTY SOLICITOR GENERAL'S OFFICE  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for Honourable David Eby, Attorney General

**ISSUE:** Follow up to the meeting with Mary Teegee, Executive Director, Carrier Sekani Family Services.

**SUMMARY:**

- Mary Teegee has been the Executive Director at Carrier Sekani Family Services for a number of years and is a lead advocate regarding the Highway of Tears.
- In 2006, a symposium was held to raise public awareness and take action on the issue of missing and murdered women along Highway 16. Carrier Sekani Family Services and other organizations released the Highway of Tears Symposium Recommendations Report containing 33 recommendations on victim prevention, emergency readiness, victim family support and community development.
- From 2010-2012, the BC Missing Women Commission of Inquiry (Oppal Inquiry) examined the issues pertaining to the investigation into missing and murdered women in the Vancouver Downtown Eastside as well as other instances of multiple murders or multijurisdictional investigations including Highway 16 cases.
- The Highway of Tears Recommendations are incorporated into the Oppal Report Recommendations, specifically recommendation 6.1: That the Provincial Government fully support the implementation of the Highway of Tears Symposium action plan, updated to the current situation and in a manner that ensures involvement of all affected communities along Highway 16.
- The BC government previously released status reports on actions taken in response to the Oppal Inquiry Report in November 2013 and December 2014. The next status report will be issued in early 2018.
- The issues addressed in the Highway of Tears Symposium are also in scope of the National Inquiry into Missing and Murdered Indigenous Women and Girls mandate to examine and report on systemic causes of violence experienced by Indigenous women and girls and their greater vulnerability to violence.

**BACKGROUND:**

- The province has been working on several fronts to support greater safety for women living in rural and remote areas of northern B.C., including in communities along and near the Highway 16 corridor.



- The ministry provides over \$2.5 million in ongoing annual funding for services and supports to victims of crime and women who have experienced violence in northern B.C.
- Since 2006, \$150,000 in funding has been provided to support implementation of Highway of Tears Symposium Report recommendations.
- Since 2012, \$350,000 has been provided to Carrier Sekani to raise awareness through a media campaign, and to develop, deliver and enhance community safety workshops along Highway 16, which include discussions about safe transportation options.
- In 2013/14, the Ministry of Justice helped to secure \$54,000 in federal funding for Carrier Sekani to undertake a community consultation on the needs of victims and family members of missing and murdered women along the Highway of Tears.
- In March 2014, \$110,000 in grant funding was allocated to further support the safety of vulnerable aboriginal women and girls during their transition from rural to urban communities.
- In March 2016, \$45,000 in grant funding was provided to Carrier Sekani to increase supports to families of missing and murdered persons linked to Highway 16, as well as to support activities of the Highway of Tears Awareness project.
- In March 2017, two civil forfeiture grants totaling \$70,000 were provided to Carrier Sekani to support a child and youth advocacy centre and healing and rebuilding for family members of missing and murdered women along Highway 16.

#### Actions to Address Transportation Along Highway 16

- In December 2015, the Ministry of Transportation and Infrastructure (TRAN) announced a five-point action plan that resulted from the symposium.
- In 2017 TRAN increased the five-point action plan from \$5 million to \$6.4 million:
  - \$2.6 million over three years for transit expansion;
  - \$2 million over three years for a community transportation grant program to purchase and operate vehicles;
  - \$300,000 over two years for a First Nations driver education program;
  - \$1.5 million over two years for highway infrastructure safety improvements including webcams and transit shelters; and
  - Collaboration to increase interconnectivity of services with BC Transit, Northern Health and others.
- **Transit Expansion:** Between August and September 2016, BC Transit, in partnership with First Nations and local community partners, undertook public engagement on proposed transit options along the Highway 16 corridor. Revised

service options were shared with local decision makers in October 2016 for consideration and approval. Since then, BC Transit has launched several new bus services serving communities along the Highway 16 corridor:

- In January 2017, the first Highway 16 Inter-Community Transit Service was launched connecting Moricetown and Smithers;
  - In June 2017, two new bus services linking Burns Lake to Prince George and Smithers were launched; these spans of highway previously represented the largest gap in transit systems along the Highway 16 corridor; and
  - In November 2017 a new transit service launched from Hazelton to Terrace.
- **Community Transportation Program:** 12 communities and organizations along Highway 16 have been approved to receive grants to purchase and operate community vehicles for three years. The first vehicle is now in operation providing shuttle service between Vanderhoof and Saik'uz.
  - **First Nations Driver Education Program:** Funding for hands-on driver training to First Nations members is underway and has been extended to March 2019.
  - **Infrastructure Safety Improvements:** In 2016, TRAN activated five new webcam locations to help increase the safety and visibility of pedestrians and motorists along Highway 16. 6 new all-weather bus shelters have also been installed along the corridor.
  - **Collaboration to increase interconnectivity of services:** A collaboration working group of is reviewing existing schedules against new transportation services being offered. TRAN, Northern Health Authority and First Nations Health Authority are using integrated GIS mapping to look at medical transportation needs and patterns, to better coordinate medical transport services for people in First Nations communities.

#### Additional Progress

- A new comprehensive web-based portal was developed, which provides residents with easy access to information on transit, medical transportation, inter-city bus, rail and community-based transportation services.
- RCMP engages in earlier intervention by stopping to interact with and distribute safety information kits to all hitchhikers observed along the highway.

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**Approved by:**  
Kurt Sandstrom  
Assistant Deputy Minister  
Justice Services Branch

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**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY AND ENFORCEMENT BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for Honourable David Eby, Attorney General

**ISSUE:** Meeting with the Horse Council of BC and issues raised about Great Canadian Gaming Corporation's (GCGC) operation of British Columbia's two main horse racetracks

**SUMMARY:**

- The horse racing industry across North America has been in decline for the past two decades. Direct government support currently accounts for 39 per cent of total income to the industry.
- The General Manager of the Gaming Policy and Enforcement Branch (GPEB) has statutory authority for regulating horse racing. Management of *non-racing* related operations of horse racetracks in B.C. does not fall within these authorities.
- Unlike other types of commercial gambling, the conduct and management of horse racing is done by the private sector. As such, GPEB's authorities related to horse racing extend to the integrity and safety of horse racing.
- Horse racing is regulated under a separate section of the *Criminal Code* and is the only gambling sector that is regulated by both the federal and provincial governments.
- The British Columbia Lottery Corporation (BCLC) has no statutory authority related to horse racing.

**BACKGROUND:**

- On November 7, 2017, Ministerial Assistant to Minister David Eby, Sam Godfrey and five members of GPEB Executive staff met with the Horse Council of BC (HCBC).<sup>1</sup>
- The views of HCBC are not necessarily reflective of all participants in the horse racing industry or of the Horse Racing Industry Management Committee, which brings together the breed associations and the track operator with a mandate to revitalize the industry.
- At the November 7<sup>th</sup> meeting, the HCBC raised the following five key points:
  - Number of months of live racing is a significant problem and is negatively impacting the financial well-being of the industry (currently 60-days of live racing while optimally needing 8-10 months);
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<sup>1</sup> The Horse Council of BC is a not-for-profit association representing the interests of the entire equine industry in B.C. The organization represents all horse related disciplines such as show jumping, dressage, and hunting. See: <http://www.hcbc.ca/>

○ s.13

○ s.13

- In Alberta, Horse Racing Alberta, a crown corporation established by the *Horse Racing Alberta Act*, regulates, conducts and manages the horse racing industry.<sup>3</sup> Horse Racing Alberta also issues all licenses required for horse racing and distributes all funding provided to the industry.<sup>4</sup> In 2017/18 Horse Racing Alberta is forecasted to collect \$35 million in gambling revenues from slot machines to support their mandate.
- The regulation of horse racing across Canada varies between the provinces. Six provinces have dedicated regulators for horse racing (Alberta, Manitoba, and the four Maritime Provinces share a single regulator). In the remaining four provinces (B.C., Saskatchewan, Ontario and Quebec), the provincial gambling regulators also regulate horse racing. Ontario is the most comparable province to B.C. in terms of how their industry is regulated and operated. See Appendix A for how horse racing is regulated and operated across Canada.

#### *Legal Context of Horse Racing in B.C.*

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<sup>3</sup> The corporation's mandate is: (a) to govern, direct, control, regulate, manage, market and promote horse racing in any or all of its forms; (b) to protect the health, safety and welfare of race horses and, with respect to horse racing, the safety and welfare of racing participants and racing officials; (c) to safeguard the interests of the general public in horse racing.

<sup>4</sup> For Horse Racing Alberta's most recent annual report, see; <http://thehorses.com/files/HRA2016ReportWeb.pdf>

<sup>5</sup> Association is exhaustively defined in s. 204(11): Association means an association incorporated by or pursuant to an Act of Parliament or of the legislature of a province that owns or leases a race-course and conducts horse-races in the ordinary course of its business and, to the extent that the applicable legislation requires that the purposes of the association be expressly stated in its constating instrument the organization's charter or mandate), having as one of its purposes the conduct of horse-races.

<sup>6</sup> Section 44(1)(a) of the *Gaming Control Act* requires a horse racetrack to be licensed to operate. GPEB considers the successful completion of an operator's corporate registration to be a licence.

- As horse racing is regulated under a separate section of the *Criminal Code*, it is the only gambling sector that is regulated by both the federal and provincial governments. The Canadian Pari-Mutuel Agency (CPMA) is a special federal agency operating within Agriculture and Agri-Food Canada that regulates and supervises pari-mutuel betting in Canada on horse races.
- GPEB is responsible for the overall integrity of horse racing under Section 27 of the *Gaming Control Act*. The General Manager has extensive authorities related to the regulation of horse racing such as issuing licences to hold a horse race or to manage or operate a race track. The Act states the General Manager must not conduct and manage horse racing.
  - For example, GPEB judges/stewards may cancel a horse race if they believe the track conditions are unsafe in order to protect the integrity of that race. The unsafe track conditions may be due to poor track maintenance. Therefore, while GPEB may cancel a race due to poor track maintenance, GPEB cannot in turn require maintenance be done on the track.
- BCLC has no statutory authority related to horse racing. BCLC has a conduct and management role with respect to casino gambling and/or slot machines located at racetracks.<sup>7</sup>
- Repealed in 2010, section 7(1)(b) of the *Gaming Control Act* granted the Minister authority to direct BCLC to manage horse racing on behalf of government. That authority was never exercised. The section was repealed as BCLC was never intended to have a role in horse racing and the Horse Racing Industry Management Committee (HRIMC) was being established.<sup>8</sup> Additionally, for the Minister to direct BCLC in such a way would have required further amendments to the Act to add horse racing into BCLC's mandate.

#### *Horse Racing in B.C.*

- Historically, horse racing was the first legal form of commercial gambling permitted in Canada and, as such, did not have to compete for a share of the gambling market. Horse racing was also viewed as unique from other forms of gambling, due to its "sporting nature" and agricultural roots.
- In 1960, the British Columbia Racing Commission (BCRC) was established by the provincial *Horse Racing Act*, with a mandate to govern, direct, control and regulate horse racing. The Act and the BCRC was repealed and replaced by the *Gaming Control Act* in 2002. The *Gaming Control Act* amended government's role in horse racing to protecting the overall integrity of horse racing.
- There are only two horse racetracks currently conducting regular live racing in B.C.; Fraser Downs Racetrack in Surrey (exclusively Standardbred racing) and Hastings Racecourse in Vancouver (exclusively Thoroughbred racing). Both tracks have co-located casino gambling and/or slot machines.<sup>9</sup>

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<sup>7</sup> GCGC acts as BCLC's service provider for the casino gambling/slot machine co-located at Elements and Hastings. The current operating service agreement (OSA) for each facility expires in 2027. The OSAs do not consider the horse racing side of the business as BCLC has no authority related to horse racing.

<sup>8</sup> Also repealed in 2010, all mention of horse racing in section 7, Lottery Corporations Mandate. See May 27, 2010 Hansard Debate found: <https://www.leg.bc.ca/content/Hansard/39th2nd/H0527am-01.pdf>

<sup>9</sup> Fraser Downs/Elements has both slots and table games. Hastings Racecourse has slot machines.

- Both tracks are located on land that is owned by their respective cities and are leased to subsidiaries of GCGC<sup>10</sup> for the operation of the racetracks and co-located casinos. The lease with the City of Surrey expires in April 2024. The lease with the City of Vancouver has been extended multiple times; in 2012, 2014, and 2016. The current term expires in November, 2019. These leases permit GCGC to conduct horse racing at the respective tracks while GPEB licenses authorize it.
- Small seasonal horse racetracks are located throughout B.C.<sup>11</sup> Those tracks are operated by volunteer associations for one-off events. In recent years, there has not been adequate support within these volunteer organizations to operate races in these locations.
- There is also simulcast wagering on horse racing in B.C., where races from other jurisdictions are 'imported' at teletheatres throughout the province (there are currently 19 teletheatres in B.C.). Simulcast wagering accounts for 95 per cent of total money wagered on horse racing in B.C.
- Similar to most jurisdictions, there is a minimum number of live race days that are required in order to operate a teletheatre. In B.C., the minimum number of race days is 10 per year as established by section 90(1)(a) of the federal *Pari-Mutuel Betting Supervision Regulations*.
- Horse racing has been in decline across North America for the past two decades. Horse racing had failed to modernize and remain relevant while other forms of legal gambling (ie lotteries and casino) became available in B.C.
- The horse racing industry in B.C. began receiving direct government funding in 1980. The 'horse racing improvement fund' drew 2 per cent of total handle (total amount of money wagered) to the owners and breeders.<sup>12</sup>
- Government agreed to renewed requests from the horse racing industry for a share of government gambling revenues to support their industry as the popularity of commercial gambling grew through the 2000's. The horse racing industry successfully argued that government had encroached on their business. In 2004, government approved the installation of slot machines at Hastings Racecourse and Fraser Downs. It was agreed that 15.5 per cent of net revenues from slot machines at the tracks be allocated to the industry in order to fund purses, enhance live racing and bolster the province's agricultural sector.
- Revenues from the racetrack slots were lower than anticipated. The Province agreed to top-up the slot machine revenues with an additional \$4 million in each of 2011 and 2012, making a total annual grant in those years \$10 million.
- In the late 2000's, the horse racing industry had declined<sup>s.13</sup>  
The horse population was plummeting, which meant the ability to conduct racing was at risk and wagering was in steep

<sup>10</sup> GCGC acquired these leases in 2004 and 2005 respectively.

<sup>11</sup> Other tracks that have operated in the past 5 years include Desert Park in Osoyoos, Sunflower Downs in Princeton, and Kin Park in Vernon.

<sup>12</sup> *Province of British Columbia Horse Racing Review*, 1999. Prepared by PricewaterhouseCoopers for the Gaming Policy Secretariat.

decline (wagering on live horse racing in B.C. fell from \$100 million in 1997 to \$29 million in 2007).

- The racing industry went to then-Minister responsible for gaming, Rich Coleman, to request assistance.
- In 2009 the Horse Racing Industry Management Committee (HRIMC) was formed to bring the industry together under a single team to work towards the revitalization and sustainability of the declining industry. The Committee deals with the overall financial<sup>13</sup> and operational aspects of the industry and provides the strategic direction for the horse racing in B.C. This role is founded in a Memorandum of Agreement (MOA) between member organizations. While the HRIMC is not, and has never been, a government body, the involvement of Minister Coleman and GPEB in the creation and early days of the Committee leads many to believe that it is.
- From inception until 2014, the General Manager acted as the HRIMC Chairman. In 2014, given advice from Legal Service Branch (LSB),<sup>s.14</sup> Today, its membership consists of representatives of both the Standardbred and Thoroughbred horse racing sectors as well as the track operator, GCGC, and an independent member, currently the CEO of BCLC. GPEB's Director of Racing sits as an observer on the committee.
- The HRIMC spent many of its early years disentangling and simplifying a hugely complex financial situation with a goal of having industry partners share risks and opportunities in order to stabilize and sustain the industry. This resulted in the cancellation of unprofitable race days and cost cutting.
- In late 2012, the Province agreed to a request from the HRIMC to increase the industry's share of net slot machine revenues at the two racetracks to 25 per cent (from 15.5 per cent), effectively replacing the top-up grants while keeping the level of funding at approximately \$10 million per year going forward. There is no formal agreement between government and the industry, beyond public statements from government officials, to provide these funds. Overall, government support for the industry has risen from \$4.2 million in 2005/06, to \$11.7 million in 2016/17. During the same timeframe, wagering on live horse racing in B.C. dropped from \$29 million to \$8.1 million annually.
- The industry has directly received over \$100 million in net slot machine revenue since 2004.

#### *Recent complaints related to Fraser Downs*

- Complaints have been received since 2013 from participants from both the Standardbred and Thoroughbred sectors regarding concerns about GCGC's operation of the tracks. These complaints coincide with the start of significant cuts to race days at both tracks.
- In 2015, GCGC invested \$11 million in renovating the casino at Fraser Downs Racetrack and renamed the entire facility Elements Casino. The horse racing industry has reflected

<sup>13</sup> The HRIMC is responsible for distributing all revenues earned from horse racing. The distribution of funds is determined through an agreement between the breed associations and GCGC. The current funding agreement expires Dec. 31, 2018 and distributes funding as follows: 43.2% to GCGC, 33.635% to the Thoroughbred sector, and 23.165% to the Standardbred sector.  
<sup>s.14</sup>



that it was not consulted during the renovations, resulting in Elements Casino adding screens to their windows obscuring viewing of horse racing. Since the renovation and re-branding, complaints from the Standardbred sector have escalated as members suggest GCGC is only interested in investing in the casino side of the business and is neglecting the horse racing side.

- GPEB also received an increase in complaints from the Standardbred sector in the winter of 2017 after nine race days were cancelled at Fraser Downs after heavy snowfall and cold temperatures caused the track conditions to deteriorate. There was public criticism of GCGC for failing to immediately rectify the situation and the sub-optimal track and facility conditions. One day was rescheduled in early January and additional four days were added in October 2017 to make up for the lost days.
- Any amendment to the model for horse racing operations in B.C. would require legislative changes to the *Gaming Control Act* as well as action by the two municipal governments that hold the leases for the two race tracks.

s.13,s.16

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**Attachment:** Appendix A: Horse Racing Regulation & Operation Across Canada

## Appendix A:

**Horse Racing Regulation & Operation Across Canada**

Province	Regulator	Conduct/Manage/ Operate	Government Support	Number of Active Tracks (Thoroughbred & Standardbred)
British Columbia	Gaming Policy and Enforcement Branch (Ministry of Attorney General)	Horse Racing Industry Management Committee (Private sector – industry assoc.)	25% of net slot revenue from co-located casino	2
Alberta	Horse Racing Alberta (Crown Corp)	Horse Racing Alberta (Crown Corp)	51 <sup>2/3</sup> % (to be reduced to 40% by 2018/19) of net slot revenue at co-located casinos	4
Saskatchewan	Saskatchewan Liquor and Gaming Authority (SLGA) (Crown Corp)	Saskatchewan Liquor and Gaming Authority (Crown Corp)	Grant from SLGA	1 (+5 rural tracks w/ 2-6 race days per year)
Manitoba	Manitoba Horse Racing Commission (Crown Corp)	Manitoba Horse Racing Commission (Crown Corp)	Grant from Dept. of Agriculture, Food and Rural development	1
Ontario*	Alcohol and Gaming Commission of Ontario (Crown Corp)	Ontario Racing Association (Private sector – industry assoc.) Ontario Lottery and Gaming (Crown Corp)	25% of net slot revenue from co-located casinos	14
Quebec	Régis des alcools, des courses et des jeux (Ministère de la Sécurité publique)	Industry association (private entity – industry association)	Receives government support (unknown what mechanism)	1

New Brunswick	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	Horse Racing New Brunswick (Private entity – industry assoc.)	No financial support from the provincial government	2
Newfoundland and Labrador	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	St. John's Racing and Entertainment Centre Incorporated (private entity)**	N/A**	0**
Nova Scotia	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	Unknown	Grant from provincial government	3
Prince Edward Island	Atlantic Provinces Harness Racing Commission (Agency of the Council of Atlantic Premiers)	Affiliate of Atlantic Lottery Corporation (Crown Corp)	Grant from provincial government	2

\* On April 1, 2016, the Ontario Racing Commission ceased operations and on that date, as mandated by the *Horse Racing Licence Act, 2015*, the regulatory responsibilities for horse racing were transferred to the Alcohol and Gaming Commission of Ontario (AGCO). Non-regulatory functions were transferred to other organizations. See <https://www.agco.ca/horse-racing/horse-racing-ontario-who-does-what> for more information.

\*\* There is currently no racing in Newfoundland. The final race occurred in 2016.

**MINISTRY OF ATTORNEY GENERAL  
GAMING POLICY & ENFORCEMENT BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION Honourable David Eby, QC  
Attorney General

**ISSUE:**

A meeting is scheduled for 3 January 2018 with two members of the Tsleil-Waututh Nation (TWN), Mr. Leonard George, Director of Economic Development and Chief Negotiator, and Mr. Reuben George, Vice President of Social Gaming (and Project Manager of Sacred Trust).<sup>s.16</sup>

s.16

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Withheld pursuant to/removed as

s.16