

APPENDIX H

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**REVIEW PLAN  
FOR THE REVIEW OF THE  
POLICE COMPLAINT PROCESS  
IN BRITISH COLUMBIA**

SUBMITTED BY:

**Police Services Division  
September 2005**



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# 1 INTRODUCTION

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Police Services Division has been consulting with stakeholders for some time about conducting an audit of the police complaint process, particularly with respect to the conduct of internal investigations by municipal police departments. On June 2, 2005, Police Complaint Commissioner Dirk Ryneveld released his final report regarding a series of more than 50 complaints involving members of the Vancouver Police Department (VPD). The content of this report provided additional impetus for a review of the complaint process.

The Minister of Public Safety and Solicitor General has instructed the Director of Police Services to conduct a review of the police complaint process, under the authority of s. 42.1 of the *Police Act*.

The review will examine three key aspects of the existing police complaint process:

1. The adequacy of the existing complaint process, including implications for amending the current legal framework (Part 9 of the *Police Act*)<sup>1</sup>;
2. The conduct of police complaint investigations by independent municipal police departments; and
3. Confidence in and satisfaction with the existing process.

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<sup>1</sup> As required by section 52.1 of the *Police Act*, a Special Committee of the Legislature was established in 2001 to review Part 9 of the *Act* and the work of the Police Complaint Commissioner. The Committee's final report included 42 recommendations, 20 of which required amendments to Part 9 of the *Act*. The recommendations were aimed at improving the process, without diminishing any of its existing strengths. Police Services Division undertook stakeholder consultation and analysis of the recommendations prior to initiating the legislative reform process.

Due to a number of competing priorities, amendments to the *Police Act* (including Part 9) have not since reached the provincial government's legislative agenda. However, amendments to the *Police Act* are tentatively set for the 2006 agenda.

As noted in Police Complaint Commissioner Dirk Ryneveld's *White Paper on Police Act reform*, this provides an opportunity to "further update, refine and augment the Special Committee's recommendations...based on the ensuing 2 ½ years of experience" (p. 2).

## 2 SCOPE

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Each of the 11 independent municipal police departments will be included in the review:

- Abbotsford Police Department;
- Central Saanich Police Department;
- Delta Police Department;
- Nelson Police Department;
- New Westminster Police Service;
- Oak Bay Police Department;
- Port Moody Police Department;
- Saanich Police Department;
- Vancouver Police Department;
- Victoria Police Department; and
- West Vancouver Police Department.

Designated policing units and special provincial constables will not be included in the review.

Complaints involving the Vancouver Police Department (VPD) will represent a major focus of this review in light of the number of complaints against the VPD and the findings of the Police Complaint Commissioner's report. Given the size of the population living and working within its jurisdiction, the VPD has a considerably higher number of contacts with the public than other independent municipal police departments in the province. Consequently, it is also the subject of a larger number of complaints against police. Statistics from the Office of the Police Complaint Commissioner (OPCC) indicate that, on average, complaints against the VPD have represented 48% of all complaints filed with the OPCC between 1998 and 2003.<sup>2</sup>

In an effort to maximize the resources invested in conducting the review, and ensure the review is provincial in scope, the methodology will include all independent municipal police departments. A provincial review will permit an assessment of the concerns highlighted by Police Complaint Commissioner Ryneveld with respect to the Vancouver Police Department, as well as allow the review team to identify best practices.

It is no part of the review process to engage in a re-investigation of any files. The sole object of this review is to identify, with the assistance of the principal participants in the process, where the process can be improved

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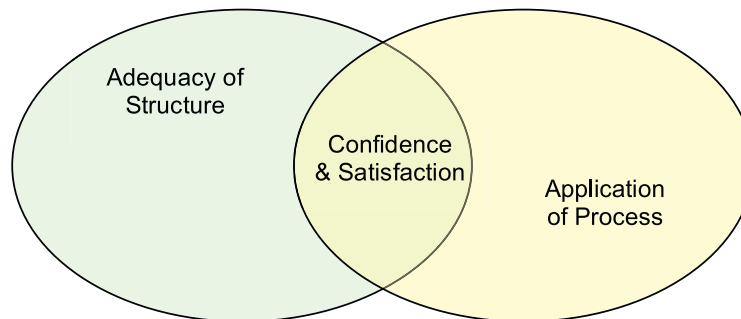
<sup>2</sup> Police Complaint Commissioner British Columbia 2003 Annual Report, p. 40.

so that recommendations for legislative changes can be made and implemented. The overall objective is to ensure that the complaint process is fair, balanced and effective.

### Core Research Questions

As depicted in Figure 1, the review will examine three key aspects of the police complaint process: the adequacy of the process itself (i.e., the structure), the conduct of police complaint investigations by independent municipal police departments (i.e., its application) and the level of confidence and satisfaction with the process amongst those it serves.

Figure 1 Core Research Questions



The research questions to address these issues are listed below:

1. **Is the current police complaints process adequate to ensure that all public trust, internal discipline and service or policy complaints are investigated and where substantiated, resolved appropriately?**
  - a. Does the process strike a fair balance between the needs and expectations of the public and the police?
  - b. Does the legislation confer a sufficient level of authority on those responsible for investigating complaints?
  - c. Does the legislation confer a sufficient level of authority on the Police Complaint Commissioner to ensure effective civilian oversight of the police complaint process?
  - d. Are there gaps in the legislation (i.e., issues that are not addressed or not adequately addressed)?
  - e. What are the priorities for amending the process / what changes are needed?
2. **Does the conduct of complaint investigations by independent municipal police departments conform to the requirements of the existing process?**
  - a. Are the requirements of the legislation being followed by municipal police departments?  
Without limiting the generality of the foregoing:
    - i. Are complainants provided with the information and assistance they request in filing a complaint?
    - ii. Is the OPCC notified of all complaints as required?
    - iii. Is the OPCC notified of key decisions and events as required (e.g., classification of complaints, withdrawal of complaints, summary dismissal of complaints, decisions whether informal resolution is appropriate, etc.)?
    - iv. Is the OPCC provided access to records respecting a complaint when requested?

- v. Do departments comply with orders of the OPCC (e.g., re-classification of complaints, order to investigate complaints withdrawn under duress or summarily dismissed, etc.)?
- vi. Are prescribed timelines followed?
- vii. Is consent obtained from complainants and witnesses prior to pursuing informal resolution?
- viii. Are complainants and respondents kept informed of the status of complaints as required?
- ix. Are complaints properly documented and are records retained as required?
- b. Are police officers (all levels) aware of their responsibilities with respect to the complaint process?
- c. How are complaints handled by municipal police departments?<sup>3</sup> Without limiting the generality of the foregoing:
  - i. What efforts are made to gather necessary evidence to complete investigations?
  - ii. What actions are taken by management to facilitate the complaint process?
  - iii. Are the decisions made with respect to complaints appropriate based on the evidence in the complaint files, including:
    - complaint classification (e.g., public trust, internal discipline or service or policy);
    - disposition (e.g., summarily dismissed, informally resolved, unsubstantiated, substantiated); and
    - disciplinary action taken
  - iv. Is the adjudicated discipline imposed?
  - v. Are complaints finalized within a reasonable time period?
- e. Is there consistency across municipal police departments in the application of the complaint process? Without limiting the generality of the foregoing:
  - i. Are the departments comparable in their use of informal resolution?
  - ii. Are similar findings reached in comparable cases?
  - iii. Are the departmental policies and procedures respecting the complaint process consistent across municipal police departments?
  - iv. Are the departments in compliance with the *Provincial Standards for Municipal Police in British Columbia*?
- f. Are guidelines, policies and practice directives issued by the OPCC being followed?

### 3. Is there confidence in and satisfaction with the current process?

- a. Do complainants, the policing community, interest groups and the public have confidence in the process? Without limiting the generality of the foregoing:
  - i. Is there adequate access to the process (e.g., ease of access to information about the process, or to file a complaint)?
  - ii. Is information about the process understandable, relevant and consistent? Is information available in an appropriate range of languages?
  - iii. Are there barriers to the process?
  - iv. Is the process perceived as fair and unbiased?

<sup>3</sup> This portion of the review will be led by Staff Sergeant Deborah Chisholm, a provincial police officer with extensive background in internal investigations and a Crown prosecutor (TBD). In collaboration with other members of the review team, they will develop measures to guide the interpretation of findings and enhance reliability.

- b. Are complainants, respondent officers and witness officers satisfied with their experience with the process, in terms of:
  - i. The fairness and balance of the process;
  - ii. Access (e.g., ease of access to information about the process, or to file a complaint);
  - iii. Communications (e.g., information about the process was understandable, relevant and consistent);
  - iv. Responsiveness (e.g., timeliness of contacts and resolution, and quality of treatment received);
  - v. Reliability (e.g., the process was consistent with the expected process and free of errors); and
  - vi. Overall satisfaction?



## 3 METHODOLOGY

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Four main procedures will be used to collect the information required to address the core research questions:

- Analysis of Key Documents and Literature Review;
- Surveys;
- Review of Complaint Files and Related Documentation; and
- Interviews.

### 3.1 ANALYSIS OF KEY DOCUMENTS AND LITERATURE REVIEW

A major objective of the review is to examine the adequacy of the existing process and legal framework. The existing provincial legislation (i.e., Part 9 of the *Police Act*) and other relevant reports and publications examining the complaint process in British Columbia will be analyzed, including but not limited to:

- *Closing the Gap: Policing and the Community Commission of Inquiry into Policing in British Columbia*;
- The report of the Special Committee to Review the Police Complaint Process;
- The *Police Act Reform White Paper & Draft Police Complaint Act* prepared by the Police Complaint Commissioner;
- The Police Complaint Commissioner's final report into the Pivot Complaints Against Vancouver Police Department; and
- Relevant case law.

Municipal police department policies and procedures regarding police complaints and internal discipline will be examined to assess consistency across the province and to determine compliance with Part 9 of the *Police Act* and the *Provincial Standards for Municipal Police in British Columbia*.

A literature review will also be conducted examining police complaint systems and experiences in other jurisdictions throughout Canada and internationally, with a focus on critical issues and best practices. This component of the review will assist the review team in reaching conclusions regarding the adequacy of the existing process and identify opportunities for improvement—including the implications in terms of amending the current legal framework.

This portion of the review will be undertaken by the chair of the review team.

## 3.2 SURVEYS

Surveys will be distributed to two key respondent groups:

- All sworn members of independent municipal police departments in B.C.; and
- A sample of residents in communities policed by independent municipal departments.

Police officer surveys will focus on police understanding of their roles and responsibilities with respect to the complaint process (e.g., duty to account), as well as their perceptions of the process (e.g., in terms of access, communications, fairness and priorities for change). Surveys will be distributed via email by BC Stats.

Public surveys will assess public perceptions of the complaint process with respect to: access, communications, fairness, overall satisfaction and priorities for improvements. The surveys will be administered by telephone by BC Stats, to a random sample of residents in communities policed by independent municipal departments.

To ensure that data collection also captures the views of marginalized populations, the review team will request assistance from service providers to administer the survey in the Downtown Eastside of Vancouver and other geographic areas identified by the review team.

Survey questions and sampling methods will be determined by the review team in consultation with BC Stats, taking into consideration the time and resources available for this stage of the review process.

In addition to addressing core research questions, responses to the survey questions will assist in identifying issues for further exploration through the in-depth interview process.

## 3.3 REVIEW OF COMPLAINT FILES AND RELATED DOCUMENTATION

Two samples of files will be reviewed: one of complaints processed under Part 9 and one of “non-lodged” complaints—complaints resolved informally without filing an official record of complaint under Part 9.

The main objectives in reviewing complaints processed under Part 9 will be to assess compliance with the legislation and the guidelines, policies and practice directives of the OPCC; and to determine the completeness of investigations.<sup>4</sup>

The primary consideration in reviewing non-lodged complaints will be to assess whether complaints are processed outside of the Part 9 process in suitable circumstances and in an appropriate manner.

Both file samples will also be used to identify complainants, respondents and witnesses who may be included in the interview process.

### *Complaints processed under Part 9*

The OPCC and each of the independent municipal police departments will be asked to provide a list of complaints processed under Part 9 which were closed<sup>5</sup> between June 15, 2003 and June 14, 2005<sup>6</sup>, including:

- The file number;
- The department involved;
- The date the complaint was filed;

<sup>4</sup> As previously stated, this will not include a re-investigation of any complaints.

<sup>5</sup> To ensure that the file review process does not compromise ongoing complaint investigations, only closed files will be eligible for inclusion in the sample of files which will be reviewed.

<sup>6</sup> This time frame represents the two-year period preceding the Solicitor General’s announcement of the review on June 14, 2005.

- The type of complaint (e.g., public trust, internal discipline, service or policy or hybrid complaint);
- The allegation (e.g., abuse of authority, discreditable conduct, neglect of duty, etc.);
- The number of complainants, respondent officers and witness officers involved (if available);<sup>7</sup>
- The disposition of the complaint (e.g., informally resolved, substantiated, or unsubstantiated); and
- The date the file was closed.

The lists will be consolidated into a master file list, ensuring that any complaints that are “missing” from the list provided by the OPCC are included, and duplicates removed.

The master file list will constitute the sampling frame of complaints processed under Part 9 within the review timeframe. The review team will use this list to extract a systematic random sample that is representative of all complaints in the sampling frame.<sup>8</sup>

Based on statistics provided by the OPCC in its 2004 Annual Report, it is estimated that the sampling frame will include approximately 759 complaints.<sup>9</sup> To achieve optimum results, both in terms of reducing sampling error and controlling costs, a random sample size of 261 files will be required. At the review team’s discretion, additional files may be purposively selected for inclusion.

All files selected for inclusion in the sample will be examined by the review team, led by Staff Sergeant Deborah Chisholm and a Crown prosecutor (TBD). Staff Sergeant Chisholm brings extensive experience conducting internal investigations as a member of the RCMP Provincial Force, while the Crown prosecutor will add a perspective that is independent of any particular interest.

The review team will develop file coding instruments, which will be used as checklists when reviewing files in the sample. The checklists will assist in assessing compliance with legislative requirements and the completeness of the investigation in each complaint. For example, the checklists will allow the review team member to record whether:

- Prescribed timelines were followed;
- A complaint was properly classified;
- Reasonable efforts were made to gather the necessary evidence to complete the investigation;
- The disposition was appropriate based on the evidence in the complaint file; and
- The adjudicated discipline was imposed.

In addition to reviewing investigation files, the review team will have access to and examine other documentation related to the files, such as departmental memorandums and correspondence.

<sup>7</sup> This information will assist in determining appropriate sampling methods for interviews with complainants, respondent officers and witness officers.

<sup>8</sup> To ensure that the sample is reflective of the distribution of complaints by department in the sampling frame, the sampling frame will be sorted by department (and thereafter randomized) prior to sampling. A systematic sample with a random start will then be selected. In this case, it is estimated that every third case after the random starting point will be selected.

<sup>9</sup> A total of 759 files were closed during the two-year period 2003-2004. It is anticipated that the total number of files closed during the timeframe for the review (June 15, 2003 – June 14, 2005) will be similar.

### *Non-lodged complaints*

Under Part 9 of the *Police Act*, municipal police departments are not required to maintain records of non-lodged complaints or to file copies of these complaints with the OPCC. Consequently, the review team anticipates considerable variation between departments in the manner in which information about non-lodged complaints is stored.

Each department will be asked to describe its record-keeping procedures respecting non-lodged complaints. The review team will develop sampling methods for each department according to the information available. The non-lodged complaints selected for inclusion in the sample will be reviewed to examine how this avenue of informally resolving complaints has been applied

## **3.4 INTERVIEWS**

Face-to-face interviews will be conducted with key stakeholders in the police complaint process. Sampling methods will vary between respondent groups. For example, all Chief Constables and professional staff of the OPCC will be interviewed. A purposive and/or random sample may be drawn for larger respondent groups, such as complainants, respondent officers and witness officers. Similarly, while individual interviews will be conducted with most respondent groups, a multiple respondent or focus group setting may be appropriate in some cases. Further information regarding the number of complainants, respondent officers and witness officers in the file sample is required to determine appropriate interview sampling methods.

Interview respondent groups will include:

- All professional staff of the **Office of the Police Complaint Commissioner**;
- All **Chief Constables**;
- All **Discipline Authorities** (where other than the Chief Constable);
- Police officers assigned to the **internal investigations function**;
- Representatives of the **BC Federation of Police Officers** and the **Vancouver Police Union**;
- **Police Board** representatives;
- Representatives of **special interest groups**, such as the British Columbia Civil Liberties Association (BCCLA) and Pivot Legal Society;
- A sample of **complainants** from the file sample;<sup>10</sup>
- A sample of **respondent officers** from the file sample; and
- A sample of **witness officers** from the file sample.

Other interested persons and respondent groups identified through the course of the review may be interviewed at the review team's discretion.

The interviews will be semi-structured, consisting mostly of open-ended questions. Building on information obtained during the survey and file review processes, the main foci of the interview questions will be:

- Perceptions of the adequacy and fairness of the current complaint process;
- Perceptions of the integrity of the conduct of police complaint investigations;
- Police understanding of their roles and responsibilities with respect to the complaint process;
- The practices of internal investigations functions in conducting investigations;

<sup>10</sup> For reasons of confidentiality, assistance may be required from the OPCC in making initial contact with complainants, respondent officers and witness officers to obtain consent to participate in the interview process.

- Management activities in facilitating the complaint process;
- Satisfaction with experiences with the complaint process (e.g., access, communications, responsiveness, reliability and overall satisfaction); and
- Priorities for improving the complaint process.

In addition, the interview process will provide opportunities to obtain any further information about the complaint investigations included in the file review, which may be required to reach conclusions regarding the investigations.

### **3.5 OTHER APPROACHES**

Other approaches which may be considered for this review include:

- Observation of public hearings ordered by the Police Complaint Commissioner at the request of complainants or respondents;
- Analysis of written submissions from the public and/or key respondent groups.

## 4 DATA REQUIRED

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The following information is required from each independent municipal police department in order to proceed with the review:

- A list (preferably in electronic format) of all sworn personnel, including:
  - Name;
  - Email address;
  - Years of service;
  - Rank;
  - Regular assignment (e.g., General Duty, Youth Squad, Traffic, etc.); and
  - Special assignments, if any (e.g., ERT, Crowd Control, etc.).
- A current copy of the department's organizational chart;
- A list of names and contact information for all Chief Constables, Discipline Authorities and officers assigned to the Internal Investigations function;
- A list of names and contact information for representatives of the police union and the police board;
- A list of all complaint files closed between June 15, 2003 and June 14, 2005, including:
  - The file number;
  - The date the complaint was filed;
  - The type of complaint (e.g., public trust, internal discipline, service or policy or hybrid complaint);
  - The allegation (e.g., abuse of authority, discreditable conduct, neglect of duty, etc.);
  - The number of complainants, respondent officers and witness officers involved (if available);
  - The disposition of the complaint (e.g., informally resolved, substantiated, or unsubstantiated); and
  - The date the complaint was closed.
- A copy of all departmental policies and procedures relating to the complaint process;
- Access to investigation files and related documentation when the review team is on-site.

## 5 THE REVIEW TEAM

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### *Josiah Wood, Q.C.*

Josiah Wood, Q.C., has been retained on contract to lead the review. Mr. Wood is a former Justice of the BC Supreme Court and BC Court of Appeal and is currently a senior partner in the Vancouver law office of Blake, Cassels and Graydon.

### *Staff Sergeant Deborah Chisholm, RCMP Provincial Force*

Currently the Non-Commissioned officer in charge of the Major Crime-Anti-Corruption Unit, Staff Sergeant Chisholm has been seconded to Police Services Division to conduct the file review, examine departmental policies and procedures, participate in interviews as required, and submit conclusions to the chair regarding the integrity of the conduct of police complaint investigations by the municipal police departments included in the sample.

### *Crown Prosecutor (TBD)*

A Crown prosecutor will be retained to assist with the review of complaint files.

### *Police Services Division Research and Evaluation Unit Staff*

Research and Evaluation Unit staff will assist the review in various capacities, particularly with the development, implementation and analysis of the survey, file review and interview processes. Staff members assigned to this project include:

- Lynne McInally, Senior Program Manager
- Jenni Bard, Program Manager
- Tanya Allen, Program Manager
- Christal Engleder, Research Officer

## 6 TIMELINE

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The following list of key tasks provides a tentative timeline for the progress of the review. As the scope and magnitude of the key tasks becomes clearer, this timeline may be extended.

### *September*

- Stakeholder Advisory Committee meeting held
- Analysis of legislation, key documents and literature review underway
- Development of survey, file review and interview tools

### *October*

- Administration of surveys by BC Stats
- Pre-testing of file review and interview tools
- File review process initiated at OPCC and municipal police departments

### *November*

- File review process continued
- Survey analysis reports received from BC Stats

### *December*

- File review process completed

### *January*

- Interview process initiated
- Analysis of file review data

### *February*

- Interview process completed

### *March*

- Analysis of interview data
- Draft report of survey, file review and interview findings prepared

### *June*

- Draft final report prepared



## 7 FINAL REPORT

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The chair's final report will include *inter alia* the following:

- A description of the existing police complaint process (i.e., Part 9 of the Police Act);
- An analysis of the key concerns with the existing process, including but not limited to the findings and recommendations put forward by the Special Committee and the Police Complaint Commissioner;
- A summary and analysis of case law with respect to Part 9 of the Police Act;
- A description and analysis of the police complaint systems in place across Canada and international best practices;
- Consideration of the findings of other components of the review (i.e., surveys, file review and interviews); and
- Recommendations for amending the existing legal framework, developed in consultation with the Director of Police Services.

