

Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints

| 39th Parliament – 4th Session (Previous Parliaments) | | | |
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As per the Terms of Reference of the Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints, and pursuant to section 51.2 of the *Police Act*, on September 5, 2012 the Special Committee engaged the services of the Office of the Auditor General to conduct the audit.



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November 29, 2012

VIA E-MAIL

Mr. Murray Coell
MLA Saanich North and the Islands
Chair, Special Committee to Inquire into the
Use of Conducted Energy Weapons and to Audit Selected Police Complaints
Suite F-2412 Beacon Avenue
Sidney, BC V8L 1X4

Dear Mr. Coell:

Re: Audit Opinion – Complaints and Investigations under Part 11 of the *Police Act*

I have examined whether police complaints processed and investigations concluded over the period April 1, 2010 to August 31, 2012, complied in all significant respects with Part 11 of the *Police Act* ("the Act").

Commissioner's Responsibility

The Police Complaint Commissioner is responsible for ensuring compliance with the *Act* by ensuring thorough and competent investigations of police complaints and fair adjudication with respect to all parties, as specified by the *Act*.

Auditor's Responsibility

My responsibility is to render an opinion on whether a randomly selected sample of complaints processed and investigations conducted by the Office of the Police Complaint Commissioner (OPCC) under Part 11 of the *Police Act*, for the period specified, complied in all significant respects with the *Act*. In reference to compliance, the term "in all significant respects" recognizes that there may be minor instances of non-compliance that either may not be detected by the audit, or that are detected but not considered worthy of inclusion in the audit report.

I conducted my audit in accordance with Canadian Generally Accepted Auditing Standards. Those standards require that I comply with ethical requirements in planning and performing the audit to obtain reasonable assurance that the selected complaint and investigation files evidence substantial compliance.

In my view, the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Opinion

In my opinion, complaints processed and investigations concluded over the period April 1, 2010 to August 31, 2012, were in all significant respects completed in compliance with Part 11 of the *Police Act*.

Other Matter—Observations Report

Without qualifying my opinion, I draw attention to the report, *Police Complaint Audit: Summary Report* (enclosed), which describes areas for improvement related to the timeliness of complaint investigations, and formal training to staff at police detachments on the receipt and handling of complaints.

Yours truly,

John Doyle, MAcc, CA
Auditor General

PHN/sm
Enclosure

Copy: Stan T. Lowe, Police Complaint Commissioner
Susan Sourial, Committee Clerk, Office of the Clerk of Committees

November 29, 2012



Police Complaint Audit – Summary Report

AUDITOR GENERAL COMMENTS

Effective oversight of, and accountability for, fair resolution of police complaints is critical to maintaining public confidence in the integrity of police services. In response to a request from the Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints, my office undertook an audit to determine whether police complaints are being processed in compliance with the *Police Act* ("the Act").

My office concluded that police complaints are being processed in compliance with the Act. The complaints and investigations we audited were found to be well-documented and comprehensive – providing sufficient evidence that

complaints are respectfully addressed and that all investigations are conducted in a thorough manner. We observed that none of the complaints we reviewed were treated as trivial.

I would like to express my thanks to the Police Complaint Commissioner ("the Commissioner") and his staff for the cooperation and assistance they provided to my staff during the conduct of this audit.

KEY FINDINGS

- Police complaints are being addressed in compliance with the Act.
- The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act.
- The Office of the Police Complaint Commissioner (OPCC) has taken steps consistent with the Act to ensure increased public awareness of the police complaint process.

RECOMMENDATIONS

Recommendation 1: We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address the challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.

Recommendation 2: We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.

BACKGROUND

Request From the Special Committee

On May 31, 2012, the Legislative Assembly of British Columbia appointed a Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints ("the Committee"). Included in the Committee's terms of reference is the following paragraph:

"...pursuant to section 51.2 of the Act, the committee must, before January 1, 2013 conduct an audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the Act and must submit a report to the Legislative Assembly respecting the results of the audit to the Legislative Assembly within one year after the date of the appointment of the Special Committee."

In accordance with section 13(2) of the *Auditor General Act*, the Auditor General of British Columbia was appointed by the Special Committee to conduct an audit to determine whether the outcome or resolution of randomly selected complaints and investigations concluded between April 1, 2010, and August 31, 2012, were, in all significant respects, completed in compliance with Part 11 of the *Police Act*.

AUDIT OBJECTIVES AND SCOPE

The objectives established for this audit were to answer the following three questions:

1. Are police complaints addressed in compliance with the Act?
2. Does the Police Complaint Commissioner promote thorough and competent investigations of police complaints by exercising discretion as provided by the Act?
3. Has the Police Complaint Commissioner taken steps consistent with the Act to ensure increased public awareness and to ensure complainants are treated fairly and receive proper assistance when making complaints?

The scope of the audit was focused on determining whether complaints are being processed, investigated and resolved in accordance with the requirements of the Act, and the extent to which the OPCC is providing discretionary oversight of the police complaint process prescribed in the Act. Excluded from the scope of the audit was providing an opinion about the validity of investigation decisions.

The Act specifies auditing a random sample of police complaints and investigations; however, based on the audit team's risk assessment, a purely random sample would likely not provide sufficient assurance regarding compliance with the Act. Therefore, a stratified random sample of complaints and investigations was selected to increase the relevance of our work.

SUMMARY REPORT

Audit Conclusion

The Auditor General has concluded that, overall, police complaints are being managed in compliance with the Act. The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act, and the OPCC has taken steps that are consistent with the Act to increase public awareness of the police complaint process.

KEY FINDINGS AND RECOMMENDATIONS

Are police complaints addressed in compliance with the Police Act?

We found that police complaints have been addressed in compliance with the Act. Most investigations were not completed within the six-month time frame specified in the Act, but were completed within time extensions granted by the Commissioner, as provided for in the Act. While we conclude there has been substantive compliance, the fact that less than half (45%) of the investigations in our sample were completed within the six-month time frame suggests that investigations are not being completed within the time frame generally intended by the Act.

Recommendation 1: *We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address the challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.*

Does the Police Complaint Commissioner promote thorough and competent investigations of police complaints by exercising discretion as provided by the Police Act?

We found that the Commissioner exercised discretionary authority as provided by the Act to direct departments to officially document complaints, including those that did not result in a formal complaint being registered. Evidence also shows that the Commissioner directed external investigations to be conducted when deemed in the public interest. We also found the Commissioner reviews Discipline Authority decisions and exercises independent power to appoint a new Discipline Authority if, in the opinion of the Commissioner, he is not convinced that the conclusion of an investigation is correct.

Has the Police Complaint Commission taken steps consistent with the Police Act to ensure increased public awareness and to ensure complainants are treated fairly and receive proper assistance in making complaints?

We found the OPCC has endeavoured to foster public awareness of the police complaints process and individual complainant rights under the Act. Guidelines have been developed for police detachments to follow when handling and processing complaints. Also, forms have been created by the OPCC for police detachments to use when handling and processing both registered and non-registered complaints. Finally, the OPCC has established a list of support groups that may be contacted to provide assistance with complaints.

At the present time, there is no formal monitoring or training provided to detachment staff to increase assurance that individuals wishing to make a complaint are not harassed, coerced, or intimidated when questioning or reporting police conduct or making a complaint. Although we found no evidence of any in-person complaint being received inappropriately, this is an area for potential improvement.

Recommendation 2: *We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

LOOKING AHEAD

In the conclusion to his 2007 review¹, Josiah Wood, QC, wrote, "there is still some distance to go before one-quarter of the population in British Columbia can be fully confident that all complaints against their municipal police officers will be thoroughly investigated and processed to a proper conclusion."

The scope of this audit, which was focused on compliance with legislation, was an appropriate check-in approximately two and a half years after Justice Wood's review recommendations were implemented in law. The audit found that there has been positive change and that compliance has been achieved. And, although the scope of the audit did not include providing an opinion on the appropriateness of decisions rendered as a result of investigations, we are able to provide overall assurance that complaints are properly processed and thoroughly investigated.

Looking ahead, it may be appropriate for a future special committee to consider whether a more comprehensive external examination is appropriate in order to determine if the outcomes intended by Justice Wood and legislators are being achieved.

¹ "Report on the Review of the Police Complaint Process in British Columbia" by Josiah Wood, Q.C., February 2007.
