

NEWS RELEASE

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FLAWED 2012 INVESTIGATION, RUSHED DECISIONS HAD WIDESPREAD REPERCUSSIONS Ombudsperson Recommendations Will Address Harms, Strengthen System

Victoria – Flawed investigations and rushed decision making resulted in key government officials taking action that had far-reaching and harmful consequences, B.C. Ombudsperson Jay Chalke said today in releasing his investigation report, titled *Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters*.

“A legislative committee referred this matter to my office because there has been a public interest in wanting to know what happened – who made the decisions and why,” Chalke said. “My investigation addresses those questions and our recommendations map the way forward. It is my hope that government takes the opportunity to close this dark chapter by implementing the recommendations I have made in this report.”

The Ombudsperson investigation into the 2012 Ministry of Health dismissals found that the affected individuals did not deserve the significant personal, financial, and professional harm they suffered.

An initial complaint that incorrectly suggested wrongdoing quickly gained momentum without proper assessment, and a resulting investigation grew in scope.

“The breadth and complexity of the subject matter they were investigating presented ministry investigators with enormous challenges. With limited knowledge, investigators very quickly drew adverse conclusions and the momentum grew,” Chalke said.

Key decision-makers acted on the information from the investigation team and believed that the conduct of the employees under investigation was sufficient to support dismissals for cause – which was wrong.

“This breakdown happened in part because a number of government controls and practices were not followed,” Chalke said. “Investigators did not bring an open mind and the investigative process was unfair. The dismissals were rushed, the human resources process effectively collapsed and there was confusion about the scope of the legal advice provided, all of which resulted in terminations that were unjustified.”

The decision to dismiss six Ministry of Health employees was made by former Deputy Minister of Health Graham Whitmarsh. There was no political interference in the dismissals. A seventh employee was constructively dismissed.

The government publicly announced four of the dismissals and said that they had asked the RCMP to investigate. Chalke found that it was wrong to mention the RCMP because the decision failed to consider the impacts on individuals and was misleading. The RCMP had told government that no decision would be made on whether to investigate until a final report was received. The RCMP was not investigating and never did. The lead-up to the public announcement was marked by last-minute, internal debate on whether the RCMP was to be mentioned and, as a result, the issue was not properly considered. “This was an important decision, and the hurried way it was made led to a bad choice being made,” Chalke said.

The Ombudsperson investigation also found that senior government officials suspended or terminated a number of ministry contracts without adequate reason for doing so. As a result, many people associated with ministry research had their livelihoods seriously impacted.

The far-reaching ministry investigation also resulted in a number of impacts on public health research, evaluation, health education initiatives and analysis that the ministry was supporting in 2012.

By examining the negative effects on these people's lives and careers, as well the underlying problems in public administration, the Ombudsperson's investigation led to 41 recommendations that will address the harm done to individuals, and strengthen B.C.'s public service.

"Government took far too long to realize it had gone down the wrong path," Chalke said. "These individual and systemic recommendations are designed to make sure this won't happen again, and to create rigorous checks and balances."

Individual recommendations include that government make *ex gratia* "goodwill" payments to affected individuals. The payments, ranging from \$15,000 to \$125,000, would in some cases be accompanied by personal written apologies from government.

The Ombudsperson is also recommending that government honour the memory of Roderick Maclsaac by funding a \$500,000 University of Victoria endowment for a scholarship.

The Ministry of Health investigation implicated Mr. Maclsaac in alleged wrongdoing. The Ombudsperson investigation found he had done nothing wrong. Mr. Maclsaac was found dead in January 2013, his death a suicide.

Some systemic recommendations in the report are specifically aimed at preventing the events described in the report from recurring.

The Ombudsperson, an independent officer of the Legislature, makes two recommendations relating to new legislation to strengthen public confidence in the administration of public affairs.

One calls for the establishment of public interest disclosure legislation, to establish a clear and comprehensive process for handling whistleblower complaints. Eight other provinces have such laws, as does the federal government.

A second recommendation is for legislation to give new authority to the Merit Commissioner to provide oversight to government's dismissal practices.

Other recommendations are aimed at remedying some of the broader impacts of the investigation, including ways to strengthen morale and improve the culture in the Ministry of Health.

"The ministry investigation created anxiety across the organization that has not been adequately addressed to this day," Chalke said. "We heard from many ministry employees, including senior executives, that this entire experience has hurt morale and productivity. By setting out the facts of what happened, we provide a basis for government, public servants, and affected individuals to focus on reconciliation."

The Ombudsperson investigation began in September 2015. Almost 4.7 million records were obtained, and 130 witnesses provided evidence under oath during 540 hours of interviews.

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Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters and related documents are available on the Ombudsperson website, www.bcombudsperson.ca

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