

THE LEGISLATIVE ASSEMBLY OF
BRITISH COLUMBIA

SPECIAL COMMITTEE TO APPOINT A
POLICE COMPLAINT
COMMISSIONER



REPORT
FOURTH SESSION, THIRTY-EIGHTH PARLIAMENT

DECEMBER 2008

**Office of the Clerk of Committees
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December 17, 2008

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

We have the honour to present herewith the Report of the Special Committee to Appoint a Police Complaint Commissioner. This Report covers the work of the all-party Special Committee during the fourth session of the 38th Parliament.

Respectfully submitted on behalf of the Committee,

John Rustad, MLA
Chair

Leonard Krog, MLA
Deputy Chair

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COMPOSITION OF THE COMMITTEE

MEMBERS

John Rustad, MLA	Chair	Prince George-Omineca
Leonard Krog, MLA	Deputy Chair	Nanaimo
Harry Bloy, MLA (from May 29, 2008)		Burquitlam
Mike Farnworth, MLA		Port Coquitlam-Burke Mountain
Dennis MacKay, MLA (to May 29, 2008)		Bulkley Valley-Stikine
John Nuraney, MLA		Burnaby-Willingdon

CLERK TO THE COMMITTEE

Craig James. Clerk Assistant and Clerk of Committees

COMMITTEE RESEARCHER

Josie Schofield, Committee Research Analyst

TERMS OF REFERENCE

On May 21, 2008, the Legislative Assembly agreed that a Special Committee be appointed to select and unanimously recommend to the Legislative Assembly, the appointment of a Police Complaint Commissioner for the Province of British Columbia, pursuant to section 47 of the Police Act (RSBC 1996 c. 367), and that the Special Committee so appointed shall have the powers of a Select Standing Committee and is also empowered:

- (a) to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- (b) to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- (c) to adjourn from place to place as may be convenient;
- (d) to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible, or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

The said Special Committee is to be composed of J. Rustad (Convenor); Messrs. MacKay and Nuraney and Messrs. Krog and Farnworth.

ACKNOWLEDGEMENTS

The Special Committee would like to acknowledge the contributions of the current Police Complaint Commissioner, Dirk Ryneveld, QC, whose term of office ends on February 12, 2009. During the past six years, Mr. Ryneveld has heightened the esteem and profile of the position throughout the province, as well as across Canada and internationally.

The Special Committee believes Mr. Ryneveld's commitment and tireless efforts will undoubtedly facilitate a smooth transition for his successor. On behalf of all Members of the Legislative Assembly, the police community and the public, we would like to express our sincere appreciation to Mr. Ryneveld and wish him the very best in his future endeavours.

INTRODUCTION

The Police Complaint Commissioner is an independent officer of the Legislature who holds office for a term of six years. The position was created in 1998, under Part 9 of the *Police Act* (RSBC 1996, c. 367), to ensure that investigations into complaints about municipal police forces and other law enforcement agencies are handled fairly and impartially.

Section 47(1) of the *Police Act* specifies the procedure for the appointment of a Police Complaint Commissioner. It stipulates that, “On the recommendation of the Legislative Assembly, the Lieutenant Governor in Council must appoint as the police complaint commissioner a person, other than a member of the Legislative Assembly, who has been unanimously recommended for the appointment by a special committee of the Legislative Assembly.”

This procedure was used to appoint the province’s first Police Complaint Commissioner: Don Morrison, who served from July 1, 1998 until May 27, 2002. His successor, Dirk Ryneveld, QC, was also appointed on the unanimous recommendation of a special committee for a six-year, non-renewable term, starting February 13, 2003 and ending February 12, 2009, pursuant to section 47(3) of the *Police Act*.

In accordance with section 41(1) of the *Police Act*, this report of the Special Committee contains the Special Committee’s unanimous recommendation to the Legislative Assembly in regard to the appointment of the third Police Complaint Commissioner for British Columbia.

MEETING SCHEDULE

During the fourth session, the recruitment of a new Police Complaint Commissioner covered the period between May 27 and December 4, 2008. In addition to many informal discussions regarding the planning and recruitment processes, five formal committee meetings were held for the following purposes:

Tuesday, May 27, 2008	Organization/Planning
Wednesday, November 12, 2008	Briefing on Office of the Police Complaint Commissioner
Wednesday, November 19, 2008	Screening of applications
Tuesday, December 2, 2008	Short-list candidate interviews
Thursday, December 4, 2008	Short-list candidate interviews Deliberations Adoption of Report

RECRUITMENT PROCESS

On May 27, 2008, the Special Committee to Appoint a Police Complaint Commissioner held its organizational meeting and elected the Chair and Deputy Chair. As part of the preliminary planning process, the Committee, with assistance from the Office of the Clerk of Committees, carried out a variety of administrative and procedural tasks related to selection criteria, advertising placement, processing of applications, preparation of candidate profile and interview questions, and reference checks.

Between October 10 and 15, an advertisement was placed in British Columbia’s daily newspapers and one national daily, the *Globe and Mail*. Applications for the position of Police Complaint Commissioner were

invited from people with a legal background and/or equivalent experience, proven communication and leadership skills. A copy of the advertisement is in Appendix A.

The Special Committee received 56 applications for the position by the deadline of October 31 — 34 were submitted by residents of British Columbia and the remainder included nine from Ontario and six from Alberta. Six individuals were short-listed. During the interviews, on December 2 and 4, each candidate was asked a standard set of questions to ensure consistency and invited to give their response to the situational questions sent in advance of the interview. Once the interviews were concluded, the Special Committee deliberated carefully before making a unanimous decision regarding the appointment of a new Police Complaint Commissioner.

RECOMMENDATION

The Committee unanimously recommends to the Legislative Assembly that Mr. Stan T. Lowe, LL.B, be appointed to the position of Police Complaint Commissioner, pursuant to section 47(1) of the *Police Act*.

BIOGRAPHICAL INFORMATION



Stan T. Lowe was born in Calgary, Alberta and moved to Vancouver in 1985 to attend law school at the University of British Columbia. He obtained his law degree in 1988, was called to the British Columbia Bar in 1989, and began his legal career with Davis & Company in Vancouver.

Mr Lowe joined the Vancouver Crown Counsel office in 1990 in pursuit of a career in the courtroom. In June 1991, he joined the Victoria Crown Counsel office on Vancouver Island. Mr. Lowe's family had early roots in that community, as both his father and grandmother were born and raised in Victoria's Chinatown. In the early 1900's, his grandfather worked as a cook at various establishments, including the CP Empress Hotel.

In 1996, Mr. Lowe joined the Major Crimes Prosecutions Unit for Vancouver Island and for 9 years he prosecuted primarily murder cases. During this period he liaised with numerous municipal police departments and the RCMP. One of his most well-known cases was *Regina v. Warren Glowatski* (Reena Virk Murder). During his tenure in the Major Crimes Unit, he also participated in the Provincial Residential School Prosecutions Project where he had conduct of a prosecution involving multiple victims who attended Kuper Island Residential School in the 1960s.

In 2005, Mr. Lowe became the Communications Counsel for the Criminal Justice Branch, serving as a conduit to the media and public for BC's Prosecution Service. During this time he became a member of Executive Branch Management, where he has shared his expertise in a number of areas.

Throughout his 18 years as a public servant, Mr. Lowe has been a guest lecturer on legal topics related to police training including the Major Crime Investigators Course, Senior Investigators Course, and Undercover Operations Course. He has also lectured to Professional Standards Officers in BC on the law regarding the use of force, on behalf of the Police Complaint Commissioner.

Mr. Lowe and his wife Christine have three daughters.

APPENDIX A: ADVERTISEMENT

LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

Special Committee to Appoint a Police Complaint Commissioner

John Rustad, MLA *Chair* Leonard Krog, MLA *Deputy Chair*

Police Complaint Commissioner

A Special Committee of the Legislative Assembly of British Columbia has been authorized to recommend to the House the appointment of a Police Complaint Commissioner for the Province, pursuant to section 47 of the *Police Act* (RSBC 1996, c.367).

The Police Complaint Commissioner is an independent officer of the Legislature who provides impartial civilian oversight of complaints regarding the conduct of municipal police officers in British Columbia. Under Part 9 of the *Police Act*, responsibilities include ensuring thorough and competent investigation of complaints and fair adjudication that respects all parties, thereby helping to assure quality policing and public trust in law enforcement and the complaint process.

Applicants must have a law degree and/or extensive experience in dispute resolution. Excellent interpersonal and communication skills are also required. Another important attribute is demonstrated leadership in your profession and the community.

Currently, the appointment is for a six-year, non-renewable term. The Office of the Police Complaint Commissioner is located in Victoria, British Columbia.

Applications should be received by the Office of the Clerk of Committees at the address below no later than **Friday, October 31, 2008**. Where possible please submit your application by confidential e-mail to cjames@leg.bc.ca



FOR FURTHER INFORMATION PLEASE CONTACT:

Craig James
Clerk Assistant and
Clerk of Committees
Room 224, Parliament Buildings
Victoria, BC V8V 1X4

Toll free in BC: 1-877-428-8337
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APPENDIX B: POLICE ACT, PART 9, DIVISION 2 (RSBC 1996, C.367)

Part 9 — Complaint Procedure Division 2 — Police Complaint Commissioner

Police complaint commissioner

- 47 (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor in Council must appoint as the police complaint commissioner a person, other than a member of the Legislative Assembly, who has been unanimously recommended for the appointment by a special committee of the Legislative Assembly.
- (2) The police complaint commissioner is an officer of the Legislature.
- (3) Subject to section 48, the police complaint commissioner holds office for a term of 6 years.
- (4) A person who is appointed under this section is not eligible to be reappointed as police complaint commissioner.

Resignation, removal or suspension of police complaint commissioner

- 48 (1) The police complaint commissioner may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from British Columbia, by notifying the Clerk of the Legislative Assembly.
- (2) The Lieutenant Governor in Council must remove the police complaint commissioner from office or suspend the police complaint commissioner for cause or incapacity on the recommendation of 2/3 of the members present in the Legislative Assembly.
- (3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the police complaint commissioner for cause or incapacity.

Acting police complaint commissioner

- 49 (1) The Lieutenant Governor in Council may appoint an acting police complaint commissioner if one of the following applies:
- (a) the office of police complaint commissioner is or becomes vacant when the Legislative Assembly is not sitting;
 - (b) the police complaint commissioner is suspended when the Legislative Assembly is not sitting;
 - (c) the police complaint commissioner is removed or suspended or the office of the police complaint commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under section 47 (1) before the end of the session;
 - (d) the police complaint commissioner will be temporarily absent for more than 30 days because of illness or any other reason.
- (2) An acting police complaint commissioner holds office until the first of the following occurs:
- (a) a person is appointed under section 47 (1);
 - (b) the suspension of the police complaint commissioner ends;
 - (c) the Legislative Assembly has sat for 20 days after the date of the acting police complaint commissioner's appointment;
 - (d) the police complaint commissioner returns to office after a temporary absence.

Powers and duties of police complaint commissioner

- 50 (1) The police complaint commissioner is to oversee the handling of complaints.
- (2) Without limiting subsection (1), the police complaint commissioner is to
- (a) receive complaints from any source,
 - (b) establish and maintain a record of complaints, including the complaint dispositions relating to those complaints,
 - (c) compile statistical information respecting all complaints,
 - (d) regularly prepare reports of the complaint dispositions made or reached during the reporting period, and make those reports available to the public,

- (e) inform the public of the complaint procedures provided by this Part and the functions and duties of the police complaint commissioner,
 - (f) accept and consider comments from any interested person respecting the administration of this Part,
 - (g) inform, advise and assist complainants, respondents, discipline authorities, boards and adjudicators respecting the complaint process and the handling of complaints,
 - (h) periodically conduct reviews of the complaint process and make any recommendations for improvement of that process in the annual report under section 51.1,
 - (i) establish procedures for mediation services to assist complainants and respondents in achieving informal resolution of complaints and provide those services to those parties,
 - (j) establish guidelines to be followed by municipal police departments for the purpose of informal resolution of public trust complaints under section 54.1, and
 - (k) perform any other duties imposed and exercise any other powers provided by this Act.
- (3) Without limiting subsection (1), the police complaint commissioner may do any of the following:
- (a) prepare and provide informational reports on any matter related to the role of the police complaint commissioner;
 - (b) engage in or commission research on any matter relating to the purposes of this Part;
 - (c) make recommendations to a board that it examine and reconsider any written policies or procedures that may have been a factor in an act or omission that gave rise to a complaint;
 - (d) prepare guidelines respecting the procedures to be followed by a person receiving a complaint;
 - (e) make recommendations to the director or the Attorney General that a review, study or audit be undertaken to assist police departments or forces, or any designated policing unit or designated law enforcement unit to which this Part is made applicable by regulation of the Lieutenant Governor in Council, in developing training or other programs designed to prevent recurrence of any problems revealed by the complaint process;
 - (f) make recommendations to the Attorney General for a public inquiry under the *Inquiry Act* if there are reasonable grounds to believe that
 - (i) the issues in respect of which the inquiry is recommended are so serious or so widespread that an inquiry is necessary in the public interest,
 - (ii) an investigation conducted under this Part, even if followed by a public hearing, would be too limited in scope, and
 - (iii) powers granted under the *Inquiry Act* are needed;
 - (g) refer to Crown counsel a complaint, or one or more of the allegations in a complaint, for possible criminal prosecution.
- (4) In exercising the police complaint commissioner's powers and duties under this Part in relation to a public trust complaint, the police complaint commissioner may receive and obtain information respecting the complaint from the parties and the discipline authority in the manner the police complaint commissioner considers appropriate including, without limitation, interviewing and taking statements from the discipline authority, the person making the complaint and the respondent.
- (5) A person having records relating to a complaint must provide, on request, the police complaint commissioner with access to those records.

Salary, expenses and benefits of police complaint commissioner

- 50.1 (1) The police complaint commissioner is entitled
- (a) to be paid, out of the consolidated revenue fund, compensation as may be fixed by the Lieutenant Governor in Council, and
 - (b) to be reimbursed for reasonable travelling and out of pocket expenses personally incurred in performing the duties of the office.
- (2) [Repealed 1999-44-92.]

Staff of police complaint commissioner

- 51 (1) The police complaint commissioner may appoint, in accordance with the *Public Service Act*, employees necessary to enable the police complaint commissioner to perform the duties of the office.

- (2) For the purpose of the application of the *Public Service Act* to subsection (1) of this section, the police complaint commissioner is deemed to be a deputy minister.
- (3) The police complaint commissioner may appoint a deputy police complaint commissioner, who may carry out the functions of the police complaint commissioner while the police complaint commissioner is temporarily absent for a period of not more than 30 days because of illness or any other reason.
- (4) The police complaint commissioner may incur reasonable office and other expenses as may be necessary to discharge functions under this Act.
- (5) The police complaint commissioner may retain consultants, mediators or other persons as may be necessary to discharge functions under this Act, and may establish their remuneration and other terms and conditions of their retainers.
- (6) The *Public Service Act* does not apply in respect of a person retained under subsection (5) of this section.
- (7) The police complaint commissioner may make a special report to the Legislative Assembly if the police complaint commissioner considers that one or both of the following are inadequate for fulfilling the duties of the office:
 - (a) the amounts and establishment provided for the office of police complaint commissioner in the estimates;
 - (b) the services provided by the BC Public Service Agency.

Annual report

- 51.1 (1) The police complaint commissioner must report annually to the Speaker of the Legislative Assembly on the work of the police complaint commissioner's office.
- (2) The Speaker must promptly lay each annual report before the Legislative Assembly if it is in session and, if the Legislative Assembly is not in session when the report is submitted, within 15 days after the beginning of the next session.

Review of this Part

- 51.2 (1) A special committee of the Legislative Assembly must begin a comprehensive review of this Part and the work of the police complaint commissioner within 3 years after this Part comes into force and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments to this Part that the committee recommends.
- (2) As part of the review process contemplated by subsection (1), the committee must solicit and consider written and oral input from any interested person or organization.