

MEMORANDUM OF UNDERSTANDING
RESPECTING THE DISCLOSURE OF INVESTIGATIVE MATERIALS

BETWEEN:

THE INDEPENDENT INVESTIGATIONS OFFICE OF BRITISH COLUMBIA

AND:

THE CIVILIAN REVIEW AND COMPLAINTS COMMISSION FOR THE RCMP

1 September 2016

PREAMBLE

Pursuant to Part 7.1 of the B.C. *Police Act*, the Independent Investigations Office of British Columbia ("IIO") is given jurisdiction to conduct investigations into critical incidents within British Columbia in which a person may have died or suffered serious harm as a result of the actions, inaction or decision of a police officer. That jurisdiction extends to the Provincial Police Force, which pursuant to the Provincial Police Service Agreement of 1 April 2012 is provided, maintained and staffed by the Royal Canadian Mounted Police ("RCMP").

Pursuant to Parts VI, VII, VII.1 and VII.2 of the *Royal Canadian Mounted Police Act* ("the Act") the mandate of the Civilian Review and Complaints Commission for the RCMP ("the Commission") is to review the conduct of RCMP members in the execution of their duties under the Act. The Commission also has broad authority to review activities of the RCMP. The mandate is remedial in nature and aims at monitoring and making recommendations to improve RCMP policies and procedures. The RCMP's interactions with the IIO are therefore a matter of interest to the Commission.

The Commission intends to monitor RCMP notifications of critical incidents pursuant to the Act, the Provincial Police Service Agreement and the Memorandum of Understanding between police services and the IIO. Specifically, the Commission is interested in the initial details of critical incident notifications and whether or not the IIO continues or releases jurisdiction.

Therefore, the IIO and the Commission enter into this Memorandum of Understanding in recognition of the need for cooperation between them to facilitate timely notification to the Commission of critical incidents involving RCMP members.

TERMS

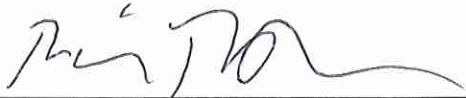
- 1) Subject to all applicable law, in particular subsection 33.2(a) and section 34 of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and section 4 of the *Privacy Act* (Canada), when the IIO receives notification of a critical incident involving an RCMP member in British Columbia, the IIO shall, as soon as practicable, communicate to the Commission the essential factual elements of the notification and of the incident as

reported. If available to the IIO, the information communicated to the Commission shall include

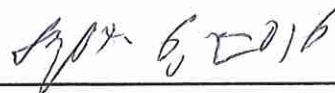
- a) the date and time of the incident;
 - b) the identities of the officer(s) involved;
 - c) a general description of the incident as alleged, including the apparent harm suffered and the apparent connection to police action, inaction or decision; and
 - d) any other information the IIO deems relevant.
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- 2) Upon notification of a critical incident, the IIO has jurisdiction to investigate. If jurisdiction is subsequently released by the IIO, because either the degree of harm or the connection to police action, inaction or decision does not meet the statutory threshold, the IIO shall advise the Commission accordingly.
 - 3) Subject to the *Access to Information Act* and *Privacy Act* (Canada), information shared by the IIO pursuant to this Memorandum of Understanding
 - a) shall be used only for internal purposes by the Commission;
 - b) shall not be further disclosed other than required by law; and
 - c) shall only be made available to Commission employees with a demonstrated need to know.
 - 4) The Commission shall immediately notify the IIO of any request under the *Privacy Act* (Canada) or the *Freedom of Information and Protection of Privacy Act* (British Columbia), for disclosure of personal information shared by the IIO pursuant to this Memorandum of Understanding, and shall limit such disclosure to that required by law.
 - 5) Notwithstanding sections 1 and 2 above, the IIO may withhold the disclosure to the Commission of any information where:
 - a) disclosure would violate a statute or constitute an offence;

- b) the information is subject to a claim of privilege; or
 - c) disclosure could reasonably be expected to interfere with the integrity of an IIO investigation.
- 6) Where the IIO withholds information pursuant to section 4 above, the IIO shall provide to the Commission a general description of the material withheld sufficient to disclose the nature of it and the basis upon which disclosure is being withheld.

Signed on behalf of the Independent Investigations Office of British Columbia:



Richard Rosenthal, Chief Civilian Director



Dated

Signed on behalf of the Civilian Review and Complaints Commission for the RCMP:



Ian McPhail, Q.C.
Chairperson

SEP 02 2016

Dated