

MEMORANDUM OF UNDERSTANDING **RESPECTING INVESTIGATIONS**

This *Memorandum of Understanding* is dated for reference
August 31, 2020

BETWEEN:

**THE INDEPENDENT INVESTIGATIONS OFFICE
OF BRITISH COLUMBIA (IIO),**
represented by the Chief Civilian Director

AND:

THE ROYAL CANADIAN MOUNTED POLICE,
represented by the Commanding Officer, "E" Division

AND

**THE MUNICIPAL POLICE DEPARTMENTS
OF BRITISH COLUMBIA**

AND

**THE ORGANIZED CRIME AGENCY OF BRITISH
COLUMBIA**

AND

**THE SOUTH COAST BRITISH COLUMBIA
TRANSPORTATION AUTHORITY POLICE SERVICE**

AND

THE STL'ATL'IMX TRIBAL POLICE,
represented by their respective Chief Constables and Chief Officers

TABLE OF CONTENTS

PART		PAGE
Part 1	Definitions	5
Part 2	Notification of the IIO.....	7
Part 3	Media relations.....	7
Part 4	Notification of next of kin and notification of Coroner	8
Part 5	IIO investigations and concurrent investigations.....	9
Part 6	Scene security and preserving evidence.....	10
Part 7	Scene reports / safety reports	11
Part 8	Scene examination, seizure and storage of exhibits.....	12
Part 9	Forensic examination of exhibits	13
Part 10	Witness and video canvassing, and conflicts of interest.....	14
Part 11	Interviews of civilians, including civilian police employees	14
Part 12	Interviewing assistance from uninvolved police agency	15
Part 13	Police agency liaison officers and police association representatives.	15
Part 14	Officer debriefings prior to IIO interview	16
Part 15	IIO access to police records	17
Part 16	Provision to police of IIO records	19
Part 17	Use of records.....	20
Part 18	Costs of investigations	21
Part 19	Notices of claims	22
Part 20	Dispute resolution and compliance	22
Part 21	Implementation, amendment and withdrawal	22
Part 22	Non-derogation terms	23
Part 23	Notices and communications	23
Part 24	Authorities.....	24

PREAMBLE

The IIO, the RCMP, and all other police agencies in British Columbia wish to cooperate with one another in order to facilitate efficient, effective and timely investigations, and to that end they enter into this *Memorandum of Understanding*, which replaces in its entirety the *Memorandum of Understanding Respecting Investigations* among the same participants dated for reference February 12, 2013.

STATUTORY AUTHORITIES

- A. This *Memorandum of Understanding* is to be read, understood, interpreted and applied in a manner consistent with applicable legislation, in particular the B.C. *Police Act* and the B.C. *Interpretation Act*.
- B. The IIO, the RCMP, and other police agencies in British Columbia all conduct investigations pursuant to the *Criminal Code* and other statutes, including the BC *Police Act*.
- C. The IIO is established pursuant to *Police Act* section 38.02:
- to conduct investigations of incidents where it appears that a person may have died or suffered serious harm as a result of the action or inaction of an officer, on or off duty;¹
 - to report the matter to Crown counsel where the Chief Civilian Director considers that there are reasonable grounds to believe that an officer may have committed an offence, pursuant to *Police Act* section 38.11;
 - to report the results of the investigation to the public if the Chief Civilian Director considers it in the public interest to do so and the matter has not been referred to Crown counsel, pursuant to *Police Act* section 38.121; and
 - for other investigations referred to in the *Police Act*.

¹ The IIO will generally not take jurisdiction over an incident in which an officer has caused serious harm only to himself, with no harm to any other person.

- D. *Police Act* subsections 38.09 (1) and (2) require police to notify the IIO of an incident that may fall within the jurisdiction of the IIO, and further require police to secure the scene of the incident, as directed by the IIO, until an IIO investigator arrives on the scene.
- E. The RCMP External Investigation or Review policy directs the RCMP to refer to established independent investigation regimes, like the IIO, certain matters including those where there is death or serious harm involving an RCMP member or other person appointed or employed under the *RCMP Act*. Statutory authority for the IIO to investigate in such cases, if jurisdiction does not otherwise exist, would require an order by the Minister or the Director of Police Services pursuant to subsection 44(1) of the *Police Act*.
- F. *Police Act* section 38.101 requires all officers to cooperate fully with the CCD and IIO investigators in respect of the exercise of the powers or performance of duties under the *Police Act* by the CCD and IIO investigators.² The scope of this statutory duty has been addressed by the B.C. Supreme Court in *Kyle v. Stewart*, 2017 BCSC 522, and in *Independent Investigations Office of British Columbia v. Vancouver (City) Police Department*, 2018 BCSC 1804, appeal dismissed 2020 BCCA 4.

² *It is not the intention of the IIO to interpret officers' duty to cooperate in a manner that is capricious or that is inconsistent with the objectives of Part 7.1 of the Police Act.*

THE PARTICIPANTS CONFIRM THE FOLLOWING TERMS:

Part 1 Definitions

1.1 In this *Memorandum of Understanding* each of the following terms, unless the context otherwise requires, has the meaning given in sections 1 and 38.01 of the *Police Act* or in the *Provincial Policing Standards* (British Columbia), or if no meaning is given in the *Act* or *Standards*, has the meaning set out in this section:

- “CCD” means the Chief Civilian Director of the Independent Investigations Office of British Columbia;
- “Chief of a police agency” includes the Commanding Officer of “E” Division of the RCMP;
- “forensic data” includes but is not limited to emails, text messages and other data from cellular telephones, video recorders, mobile data terminals, vehicle data recording devices, and computers;
- “IIO” means the Independent Investigations Office of British Columbia;
- “in-custody death” means the death of a person who was detained by or in the custody of an officer, or who was in the custody of a police agency;
- “involved officer” means an officer (including officers and members of the RCMP and on-duty special police constables) who was involved in or present during an incident that is within the jurisdiction of the IIO;
- “MMS” means Multimedia Messaging Service, a means of sending messages that include multimedia content over a cellular network;
- “MOU” means this *Memorandum of Understanding* and any amendments thereto;
- “officer” includes:
 - municipal and tribal officers, officers and members of the RCMP and out-of-province police officers designated as special provincial constables while in British Columbia, whether on or off duty; and
 - other special provincial constables, RCMP supernumerary special constables, special municipal constables, designated constables appointed under subsection 4.1(11) of the *Police Act*, reserve constables, RCMP reservists, auxiliary constables and enforcement officers, when engaged in their peace officer duties;

- “originating agency” means a police agency from which records or information has originated;
- “participants” means the signatories to this MOU;
- “police agency” includes all the participants in this MOU except the Independent Investigations Office;
- “police association” means a union of municipal officers or the National Police Federation;
- “PRIME” means the Police Records Information Management Environment;
- “RCMP” means the Royal Canadian Mounted Police;
- “related equipment” means equipment of a police agency, other than firearms, intermediate weapons, or restraints;
- “serious harm” has the meaning given in subsection 76(1) of the *Police Act*; and
- “SMS” means ‘Short Message Service’, a text messaging service component of most telephone, internet and mobile device systems.

1.2 This *MOU* is to be interpreted in a manner consistent with s. 28 of the *BC Interpretation Act*. In particular, the singular number includes the plural and the plural number includes the singular, and gender specific terms include both genders, where such is consistent with the context.

Part 2 Notification of the IIO

The participants understand and agree that the arrangements set out in this Part will ensure that notifications by police and commencement of IIO investigations take place in a timely and efficient manner.

- 2.1 The Chief of each police agency will designate a position that shall immediately notify the IIO upon identification of any on-duty or off-duty incident that may fall within the jurisdiction of the IIO, pursuant to subsection 38.09(1) of the *Police Act*, including any incident involving the death of a person while in police custody.
- 2.2 The Chief of each police agency will notify the CCD of the designated position and of any subsequent changes to the designated position.
- 2.3 The IIO will provide to the Chief of each police agency an on-call telephone number for notifying the IIO of incidents that may fall within the jurisdiction of the IIO.

Part 3 Media relations

The participants understand and agree that the provisions of this Part will assist in ensuring that all information provided to the public about an incident is accurate, consistent and timely.

- 3.1 All parties agree that, in general, only the agency responsible for a particular aspect of an investigation will make public comment on that aspect.
- 3.2 A police agency may advise the media:
 - that an incident has occurred;
 - the general nature and context of that call;
 - that the IIO has been notified of the incident and the reason for the IIO referral; and
 - with respect to the welfare of involved officers.
- 3.3 Care will be taken not to represent as fact any information that has not been verified through investigation, or to release any information that may prejudice an

investigation. Thereafter the IIO will be responsible for issuing media statements regarding the IIO investigation.

- 3.4 The IIO will give any involved police agency reasonable advance notice of IIO media statements. A police agency may advise the IIO of the existence of hold-back information or other concerns about an ongoing concurrent investigation, and the IIO will consider and respect those concerns prior to releasing a statement.
- 3.5 A police agency will also give the IIO reasonable advance notice of a police agency media statement in relation to an IIO investigation or a concurrent investigation. The IIO may advise the police agency of any concerns it may have in relation to the potential impact on the IIO investigation, and the police agency will consider and respect those concerns prior to releasing a statement.
- 3.6 The participants understand that all releases of information to the media are subject to the *Privacy Act* (Canada) and the *Freedom of Information and Protection of Privacy Act* (British Columbia).

Part 4 Notification of next of kin and notification of Coroner

- 4.1 The IIO understands that the notification of next of kin by police agency members in IIO investigations can be challenging.
- 4.2 If practicable, notification in person of the next-of-kin of anyone who has died in an incident of which the IIO is notified will generally be conducted by an IIO investigator or by a non-police agency delegate. If not practicable in a timely manner, or in the best interests of the family, the IIO will discuss alternative means of notification of next-of-kin with a police agency.
- 4.3 It will remain the responsibility of police agencies to notify the Coroner upon locating deceased persons.

Part 5 IIO investigations and concurrent investigations

The participants understand and agree that the arrangements in this Part will ensure appropriate control of scenes and investigations over a range of circumstances that may occur.

- 5.1** Once the IIO has been notified of an incident, and has accepted jurisdiction over it, the IIO controls the investigation, including the scene, and may exercise that control remotely, until IIO investigators arrive at the scene.
- 5.2** When an IIO investigator arrives at the scene of an incident over which the IIO has jurisdiction, the IIO investigator will take over the investigation directly, under subsection 38.09(3) of the *Police Act*, except when the IIO investigator delegates control of the scene as specified in sections 5.7 or 5.8 below.
- 5.3** The participants recognize that there will be concurrent investigations, including investigations of civilian suspects, police agency internal investigations, and Coroner's investigations, and the IIO and police agencies intend to co-operate in conducting concurrent investigations.
- 5.4** In particular, if potential subjects of an investigation into an incident under IIO jurisdiction include both officers and civilians (such as an in-custody death at a facility where civilian guards are employed), the IIO and the involved police agency will co-operate in coordinating the IIO investigation with an investigation by the involved police agency or by an outside police agency, as applicable.
- 5.5** As soon as practicable after the IIO is notified of an incident that appears to be within IIO jurisdiction, the Chief(s) of the police agency (or agencies) involved in the case will inform the CCD or designate of any concurrent investigation(s) being conducted by the police agency (or agencies) including police agency internal investigations.
- 5.6** The participants recognize that whenever there has been a death, the Coroner must be notified immediately, and the Coroner must be consulted before taking any action with respect to the body.
- 5.7** When it appears that the public interest in the IIO investigation may be less significant than the public interest in the concurrent police agency investigation, then notwithstanding sections 5.1 and 5.2 above, the IIO will consult with the police agency as soon as possible to determine investigative strategy, identify the primary investigation and lead agency and, at IIO discretion, delegate control of the scene to the police agency.

- 5.8** Where weather or delayed IIO arrival or any combination of circumstances prevents the IIO from fulfilling its duty to take over a scene in a timely manner, the IIO may delegate processing of the scene to a police agency and may remotely direct and monitor scene examination or investigation.

Part 6 Scene security and preserving evidence

The participants understand and agree that the arrangements set out in this Part, and in Part 7 and Part 8 below, will provide clarity regarding responsibility for scene security and will ensure that evidence at a scene is preserved to the greatest possible extent.

- 6.1** An officer will be designated to be in charge of scene security. This officer's responsibilities will include ensuring that there is no unnecessary access to the scene, and that a log is maintained of all individuals entering and of all observations made.
- 6.2** For clarity, weapons at the scene will not be moved and firearms or other projectile weapons will not be unloaded, unless required to mitigate legitimate safety concerns, in which case all movements and actions taken will be fully and accurately documented.
- 6.3** When IIO investigators arrive at and take responsibility for a scene, members of a police agency will remain at the scene if the IIO investigator requests assistance, even if the police agency is not conducting any concurrent investigation, and the police agency will provide all support services required by the IIO.
- 6.4** If there is a concurrent police investigation, the assigned IIO Director of Investigations will liaise with the officer in charge of the concurrent investigation regarding which agency will have lead agency status. Scene management will be conducted in a manner that maximizes evidential opportunities and secures and preserves evidence with respect to both investigations. Consideration will be given to the relative public interest surrounding each investigation when making these decisions.
- 6.5** If weather, delayed IIO arrival, lack of police resources, extraordinary costs or any combination of circumstances prevents a police agency from fulfilling its duty under subsection 38.09(2) of the *Police Act* or prevents a police agency from remaining at a scene after an IIO investigator requests assistance, the police agency will

communicate with the IIO investigator as soon as such circumstances are foreseeable, and will take all practicable precautions for maintaining ongoing scene integrity until IIO investigators arrive.

Part 7 Scene reports / safety reports

The participants understand and agree that the provisions set out in this Part will facilitate the efficient and complete gathering of information necessary for the deployment of personnel and resources in the immediate aftermath of an incident, and for the protection of police officers, IIO investigators and the public.

7.1 After the IIO is notified and has jurisdiction over an incident, the police agency liaison officer or a senior officer who is not an involved officer shall at the earliest opportunity, for purposes of ensuring public safety and the securing of evidence, and to provide context and an evidentiary basis for officer designations, compile the following information:

- (a) a summary of the occurrence and the roles of all involved officers;
- (b) un-located subjects or other dangers;
- (c) injuries to anyone;
- (d) parameters / boundaries of the scene;
- (e) status, location and identity of known witnesses (police and civilian);
- (f) location of all evidence to be protected or collected, including but not limited to objects, documents, identification information and statements of witnesses, and forensic data; and
- (g) name(s) of any person(s) with whom any involved officer has spoken since the incident.

7.2 All involved officers shall, whenever practicable, co-operate with the police agency liaison officer's or senior officer's collection of the information listed in section 7.1 above.

7.3 The police agency liaison officer or senior officer shall convey the information compiled pursuant to section 7.1 above to the IIO investigator, in writing, as soon as practicable.

Part 8 Scene examination, seizure and storage of exhibits

- 8.1** It is recognized that police agencies may have the most readily available expertise and resources for processing incident scenes in accordance with crime scene management best practices. Police agencies will provide specialist support as required and requested for scene examination.
- 8.2** Pursuant to subsection 38.09(2) of the *Police Act* and subject to all applicable law, prior to IIO arrival the liaison officer or senior officer at the scene who is not an involved officer, or another officer as directed by the IIO investigator, will assist the IIO by seizing or directing the seizure of all relevant evidence at the scene, in consultation with the IIO investigator, and in accordance with the standards of normal police practice. In addition, the security and continuity of that evidence will be maintained in accordance with normal police practice This may include:
- (a) an officer's uniform or other clothing and items, with due regard for the officer's safety, dignity and privacy (personal property of an officer should be identified as such to the IIO investigator to ensure that it is properly recorded and reported pursuant to section 489.1 of the *Criminal Code*);
 - (b) use of force weapons and equipment;
 - (c) any police vehicle;
 - (d) for all motor vehicle accident scenes, all evidence, gathered by lawful means, without delay and within statutory time limits, with respect to the possession or consumption of alcohol or drugs, or impairment of any individual by alcohol or drugs, such evidence to include breath or blood samples as appropriate and including samples voluntarily provided by an officer or mandatory alcohol screening samples available by operation of subsection 320.27(2) of the *Criminal Code*, all of which actions will be fully and properly documented in a manner consistent with a competent impaired driving investigation; and
 - (e) any other relevant evidence, including eyewitness accounts or other evidence from transient civilian witnesses that may otherwise be lost before the arrival of IIO investigators.
- 8.3** To ensure that the IIO is notified of off-duty incidents within its jurisdiction, police agencies will make and maintain policies requiring officers who are involved in incidents that may fall within the jurisdiction of the IIO to identify themselves as police officers to on-duty officers who attend incidents. Further, police agencies will make and maintain policies to the effect that off-duty officers who identify

themselves as police officers in compliance with this section are deemed not to be in violation of the *Police Act*, paragraph 77(3)(c)(iii).

- 8.4 Whenever communications between involved officers at or around the time of an incident under IIO investigation may have been conducted via email, MMS, group SMS or other text-based media, the liaison officer or other responsible officer shall ensure that any and all such communications are preserved and that the IIO is notified in a timely manner of their existence. If it is necessary to seize and search communication devices, IIO investigators will respect constitutional safeguards for personal communications by obtaining and complying with appropriate judicial authorizations.
- 8.5 After the IIO takes over a scene, an IIO investigator will liaise with any police agency investigators performing scene examinations, including photography and measurement of the scene and the seizing of exhibits, and will oversee and determine the focus of that examination. Police forensic personnel performing examinations for the IIO investigation may be required to sign confidentiality agreements.
- 8.6 All exhibits not required for any concurrent investigation or for forensic examination will be released to the IIO and will be transferred by an IIO investigator to the IIO exhibit storage facility.
- 8.7 If necessary, and subject to section 8.8 below, a police agency will provide, whenever practicable, adequate and appropriate storage of the exhibit if requested by the IIO.
- 8.8 Subject to discussion with a police agency, long term storage of vehicles and other large exhibits, or items not suitable for available police storage facilities, will be the responsibility of the IIO.
- 8.9 Exhibits no longer required for any ongoing investigation or proceeding may at IIO discretion be disposed of.

Part 9 Forensic examination of exhibits

- 9.1 The IIO may request forensic examination of exhibits by a police agency forensic laboratory or may request forensic examination of exhibits by the forensic identification specialists of a police agency.

- 9.2** Police agency forensic identification specialists or a police agency forensic laboratory, as the case may be, will be responsible for exhibit integrity and for complete and accurate documentation of exhibit continuity while exhibits are in their custody or under their control.

Part 10 Witness and video canvassing, and conflicts of interest

- 10.1** Pursuant to subsection 38.09(2) of the *Police Act*, before IIO investigators arrive at the scene of an incident a police agency may conduct witness canvassing and/or video canvassing upon the request of an IIO investigator or in circumstances where collecting the information and initial details are time-critical.
- 10.2** If because of extraordinary circumstances the police agency is unable to conduct canvassing as requested or required, then the police agency will communicate with the IIO as soon as such circumstances are foreseeable.
- 10.3** Prior to IIO arrival or as soon as practicable, the liaison officer or senior officer at the scene who was not involved in or present during the incident will canvass for and record conflicts of interest and potential appearances of conflicts of interest between involved officers and officers who attend the scene. That summary will be provided to the IIO investigator. Such conflicts may include family relationships and other personal relationships between involved officer(s) and officers from a police agency who attend the scene.

Part 11 Interviews of civilians, including civilian police employees

- 11.1** An IIO investigator and the liaison officer for the police agency will consult with each other regarding the conduct of separate or joint witness interviews for concurrent investigations.
- 11.2** Where the same person may be a witness in one investigation and a suspect in another investigation, the IIO investigator and the liaison officer for the police agency will consult in advance of any interview of that person. In general, an interview of a person as a suspect in jeopardy will proceed before any interview of the same person as a witness without jeopardy.

11.3 Where possible, a police agency will provide interview rooms and recording equipment for use by the IIO if requested, even if the police agency is not conducting any concurrent investigation.

11.4 Police agencies will make reasonable efforts to ensure that their civilian employees and volunteers are available to be interviewed by IIO investigators.

Part 12 Interviewing assistance from uninvolved police agency

12.1 The IIO may on occasion utilize an uninvolved agency to assist with an investigation. These arrangements will be between the IIO and the agency. IIO will pay reasonable overtime, travel and incidental costs. The members may be required to sign a confidentiality agreement and for operational purposes will be under the direction of the IIO.

Part 13 Police agency liaison officers and police association representatives

The participants understand and agree that the arrangements in this Part will assist in clarifying the duties of officers acting in the role of police liaison officer or police association representative.

13.1 When the IIO has jurisdiction over an incident, whether or not a police agency is conducting any concurrent investigation, the police agency will identify an officer (who is not an involved officer, or an officer in a conflict of interest with respect to the investigation) who shall act as liaison with the IIO, and the IIO will identify an investigator who shall act as liaison with the police agency.

13.2 The police agency liaison officer should be of sufficient rank and authority to fulfill the role, which will include:

- (a) acting as the point of contact for communications between the IIO and the police agency and its officers, including regular investigative updates and communications aimed at timely resolution of issues arising;
- (b) providing appropriate police contact(s) at the scene of an incident under IIO investigation;

- (c) responding to IIO investigative requests, including requests for officer interviews and requests for police agency records, in a timely and effective manner; and

- (d) arranging and coordinating expert resources, where applicable.

13.3 When the scene is the subject of a concurrent investigation, investigative decisions, including those regarding interviews and officer designations, should be discussed and resolved at the time by the primary investigators for the IIO and concurrent investigations respectively. Where matters are time-critical, if agreement is not readily attainable the issue should be referred to the IIO Team Director and a commissioned officer in the police agency, and further if necessary to the IIO Chief of Investigations and a Deputy Chief of the police agency or equivalent. Final resolution should be reached, if necessary, by referring the matter to the Chief of the police agency and the Chief Civilian Director.

13.4 If not related to a concurrent police investigation, evidence requested by the IIO through the police liaison officer is not to be provided or disclosed to any involved officer or the officer's legal counsel, or to a police association representative without the consent of the IIO.

13.5 The role of a police association representative with respect to IIO investigations includes:

- (a) assisting with respect to the welfare and well-being of officers;

- (b) advising officers on police disciplinary matters; and

- (c) when appropriate and permitted by IIO investigators, attending to observe and to provide support at officer interviews.

Part 14 Officer debriefings prior to IIO interview

The participants understand and agree that the provisions of this Part will permit officers who have been involved in critical incidents to access appropriate psychological support, and police agencies to conduct operational debriefs, in ways that safeguard as far as practicable the integrity of evidence in IIO investigations.

14.1 The IIO fully supports an involved officer accessing appropriate psychological first aid ("PFA") or critical incident stress management ("CISM") services utilising officers

who were not involved in the incident under investigation. It is the responsibility of the police agency and/or the officer to make those arrangements.

- 14.2** The IIO understands that its investigations cover a wide range of fluid and dynamic circumstances and has established a policy of decision-making on a case-by-case basis regarding non-PFA briefings and debriefings by police agencies.
- 14.3** The IIO recognizes that there are times when it will be clear that an operational debriefing is urgently required to ensure public safety and must take place immediately.
- 14.4** The IIO will advise the police agency liaison officer when all necessary interviews are completed. In non-urgent circumstances, clear communication, discussion and subsequent agreement must be undertaken between the IIO and the liaison officer before proceeding with an operational debriefing prior to completion of officer interviews.
- 14.5** Pursuant to section 15.1 below, and subject to the exceptions listed in section 15.4, the IIO may require that a police agency provide records of any operational debriefings that pertain to an incident under investigation by the IIO. The IIO will redact any information in such a record that was provided by a subject officer.
- 14.6** The IIO will not require any notes or other documentation in relation to PFA or CISM conducted by a health care professional or trained peer support officer, nor will the IIO interview the health care professional or trained peer support officer.

Part 15 IIO access to police records

The participants understand and agree that the following Parts will support competent and complete investigations by both the IIO and police agencies, by facilitating the sharing of relevant information between agencies in accordance with all applicable principles and laws.

- 15.1** A police agency will provide to an IIO investigator, upon request and in a timely manner, records of the police agency, including the following:
 - (a) operational records of the police agency, including but not limited to:
 - (i) investigative records;

- (ii) business cell phone usage records (not including any data in which an officer has a reasonable expectation of privacy);
 - (iii) police vehicle data recorder downloads;
 - (iv) video recordings from police vehicles and police facilities;
 - (v) records of communications referred to in section 8.4 above; and
 - (vi) dispatch and communications data and recordings.
- (b) written policies and procedures and any other directives or regulations of the police agency;
 - (c) training records of officers that an IIO investigator considers are relevant to an IIO investigation; and
 - (d) records from concurrent police investigations, where relevant to the IIO investigation.

15.2 When requested by the IIO, a police agency will ensure that the IIO will receive full cooperation from any civilian staff necessary for the prompt and full provision of police agency records.

15.3 A police agency will provide the IIO with full access to PRIME reports related to an incident under IIO investigation. The police agency will notify the IIO, through the liaison officer, if there are any specific concerns about material in PRIME reports being provided to the investigative team. In any case, the IIO will ensure that robust internal processes are in place to ensure that any constitutionally protected material is redacted from such reports before they are provided to the investigative team.

15.4 A police agency may redact or refuse to disclose records or information to the IIO only where:

- (a) the records or information are/is subject to a claim of an applicable legal privilege;
- (b) disclosure would violate a statute or constitute an offence; or
- (c) disclosure could reasonably be expected to do any of the other things described in paragraphs 22(1)(b) and (c) of the *Privacy Act* (Canada), or subsection 15(1) of the *Freedom of Information and Protection of Privacy Act* (British Columbia).

15.5 If an IIO investigation results in charges against an officer under any federal or provincial statute, and if Crown counsel requests from the IIO the disclosure of police agency records as relevant to those charges, then the IIO may request records from the police agency, and the police agency will provide such records to the IIO, or directly to Crown counsel, subject to all applicable law.

Part 16 Provision to police of IIO records

16.1 Subject to all applicable law, in particular paragraphs 33.1(1)(c), 33.1(1)(d), 33.1(2)(a), and 33.2(i) of the *Freedom of Information and Protection of Privacy Act* (British Columbia), and subject to section 16.3 below, if during an IIO investigation the CCD considers that there may have been on-duty or off-duty misconduct by an officer such that the officer's police agency may wish to take immediate action, the CCD will inform the Chief of the police agency and will provide to the Chief of the police agency any relevant records if requested.

16.2 Subject to all applicable law, in particular paragraphs 33.1(1)(c), 33.1(1)(d), 33.1(2)(a), and 33.2(i) of the *Freedom of Information and Protection of Privacy Act* (British Columbia), at the conclusion of each IIO investigation the IIO will give a copy of its investigative file to an involved police agency, upon request, for purposes of training, policy development, internal proceedings, and other reasonable uses consistent with the enhancement of the ability of the police agency to carry out its duties.

16.3 The IIO may refuse to disclose records or information to a police agency where:

- (a) the records or information are/is subject to a claim of an applicable privilege;
- (b) disclosure would violate a statute or constitute an offence; or
- (c) disclosure could reasonably be expected to do any of the other things described in subsection 15(1) of the *Freedom of Information and Protection of Privacy Act* (British Columbia).

16.4 If before the conclusion of an IIO investigation a concurrent police investigation results in charges under any federal or provincial statute, and if Crown counsel requests through a police agency the disclosure of IIO records as relevant to those charges, then the police agency may request records from the IIO, and the IIO will provide such records to Crown counsel, subject to all applicable law.

Part 17 Use of records

17.1 The IIO and police agencies agree that they will:

- (a) use one another's records and information solely for the purposes of investigations within their respective jurisdictions and for the purposes set out in Part 15 or Part 16 above, as the case may be;
- (b) for the purposes of subsection 13(1) of the *Access to Information Act* (Canada), subsection 19(1) of the *Privacy Act* (Canada), and paragraph 16(1)(b) and subsection 16(2) of the *Freedom of Information and Protection of Privacy Act* (British Columbia), treat all records and information exchanged between them as confidential and not to be disclosed to third parties except with written consent of the originating agency, or pursuant to an order of the Court, or as otherwise required by law;
- (c) maintain appropriate records of the transmission, transfer, and receipt of records and information;
- (d) limit access to records and information to employees who are legally bound to keep confidences and who have appropriate security clearance;
- (e) immediately notify each other (the CCD or the Chief of a police agency) of any unauthorized use or disclosure of records or information, and take all reasonable steps to prevent further unauthorized disclosure;
- (f) immediately notify the originating agency (the CCD or the Chief of a police agency) of any request for disclosure of personal information under the *Privacy Act* (Canada) or the *Freedom of Information and Protection of Privacy Act* (British Columbia), and limit such disclosure to that required by law; and as between the IIO and British Columbia police agencies, transfer any such request to the originating agency, where authorized under section 11 of the *Freedom of Information and Protection of Privacy Act* (British Columbia) or subsection 8(1) of the *Access to Information Act* (Canada);
- (g) subject to applicable law, immediately return to the originating agency (the CCD or the Chief of a police agency) any records or information that have been erroneously disclosed; and
- (h) immediately notify each other (the CCD or the Chief of a police agency) if it is learned that inaccurate or potentially unreliable records or information may have been provided or received and take all reasonable remedial actions.

17.2 The terms of section 17.1 above will apply to IIO disclosure of records and information to a police agency that is conducting an investigation on behalf of:

- (a) the Office of the Police Complaint Commissioner of British Columbia; or
- (b) the Civilian Review and Complaints Commission for the RCMP.

Part 18 Costs of investigations

18.1 A police agency that notifies the IIO of an incident that may fall within the jurisdiction of the IIO will cover reasonable and customary costs of the following investigative work if it is provided by the police agency:

- (a) securing the scene for a period of up to 48 hours after the time of notification to the IIO, subject to extension of that period by mutual agreement, to take account of exceptional circumstances that may arise (Part 6 of this *MOU*);
- (b) examining the scene and seizing exhibits (Part 8 of this *MOU*), including but not limited to: forensic scene examination; on-scene traffic accident reconstruction work; towing and storage of vehicles from scenes; breath tests; and dog tracking; and
- (c) initial canvassing for witnesses and video-recordings (Part 10 of this *MOU*).

18.2 The costs of specialized scene examination (including but not limited to arson examination, underwater recovery, and aerial search or mapping) will be subject to consultation between the IIO investigator and the police agency liaison officer. Any disputes will be resolved by the CCD and the Chief of the police agency.

18.3 The IIO will bear the costs of ordinary follow-up investigations not performed by police, including but not limited to “use of force” analysis not conducted by the police agency involved in the investigation, forensic data analysis, and laboratory services that are not available from the RCMP National Forensic Laboratories.

18.4 Should the IIO require specialized investigative services (including but not limited to surveillance, undercover investigation, interception of private communications, and major forensic data analysis), the costs of such specialized follow-up investigations will be subject to special agreements beyond the terms of this *MOU*.

18.5 Where a police agency provides investigative services to the IIO, operational tasking will be at the direction of the IIO but the police agency will maintain administrative command of those investigative services, including governance for scope of duties, training, policy and investigative standards.

Part 19 Notices of claims

19.1 If one participant receives notice of a claim by a third party for damages of any kind caused by one of the participants' personnel or agents, arising out of or in connection with the implementation of this *MOU*, the receiving participant will notify all other involved participants.

Part 20 Dispute resolution and compliance

20.1 Disagreements regarding the conduct of an investigation may be resolved by the designated liaison position for the police agency and the IIO investigator, and if necessary between the IIO Team Director or Chief of Investigations and their equivalents in the police agency. If a dispute is not resolved through those channels, it may be referred to the CCD or designate and to the Chief of the police agency or designate.

20.2 If the CCD or the Chief of a police agency believes that any employee of a participant may have intentionally failed to comply with any term of this *MOU*, the CCD may make a formal complaint to the Chief of a police agency or the Chief of a police agency may make a formal complaint to the CCD.

Part 21 Implementation, amendment and withdrawal

21.1 This *MOU* shall come into force when signed by all the participants.

21.2 This *MOU* may be executed by the participants in counterparts. A signed counterpart may be delivered to another participant by facsimile or electronic mail, and such facsimile or electronic mail shall constitute an original document. Signed counterparts held by a participant, taken together, shall constitute one and the same instrument.

21.3 The participants in this *MOU* will implement its terms by adopting them into their policies and by training officers about the terms of this *MOU*.

21.4 This *MOU* will be a public record posted on the IIO website.

21.5 A participant may withdraw from this *MOU* by giving all of the other participants 30 days' notice of its intention to withdraw from the *MOU*.

21.6 The participants acknowledge that this *MOU* and each of its terms are subject to ongoing evaluation, and this *MOU* may be amended by written agreement(s) signed by all of the participants.

21.7 The CCD is responsible for giving police associations reasonable notice and an opportunity for advance consultation on any proposed amendments to this *MOU*.

Part 22 Non-derogation terms

22.1 Nothing in this *MOU* shall replace or amend any obligation imposed upon a participant by operation of law, including the *Criminal Code* and the *Canadian Charter of Rights and Freedoms*.

22.2 Nothing in this *MOU* shall be interpreted to conflict with or derogate from the *Royal Canadian Mounted Police Act* or regulations under that Act (Canada), the *Police Act* or regulations or Standards under that Act (British Columbia), the *South Coast British Columbia Transportation Authority Act* or regulations under that Act (British Columbia), the *Coroners Act* (British Columbia), the *Access to Information Act* (Canada), the *Privacy Act* (Canada), the *Freedom of Information and Protection of Privacy Act* (British Columbia), or the *Judicial Review Procedure Act* (British Columbia), but shall be interpreted in all respects as subject to those statutes. Should any provision of this *MOU* conflict with or derogate from any of those statutes, such provision shall be null and void.

22.3 Nothing in this *MOU* shall be interpreted as in any way derogating from the responsibilities and obligations of the RCMP pursuant to the *Provincial Police Service Agreement* between Canada and the Province of British Columbia dated April 1, 2012.

Part 23 Notices and communications

23.1 All notices or communications referred to in this *MOU* shall be made, mailed or delivered to the participants at the addresses that appear below with the names of the signatories, or at such other address that a participant may provide.

23.2 Any notice or communication given by mail shall be deemed to have been delivered five business days after having been deposited in the mail service with first class postage prepaid. If notice is given by personal delivery, then such notice or

communication shall be deemed effective when delivered. If notice is given by electronic means (including electronic mail and facsimile), then such notice or communication shall be deemed effective 24 hours after delivery to the intended recipient's electronic system.

Part 24 Authorities

24.1 This *MOU* is entered into by the Chief Civilian Director of the IIO under the authority of section 38.04 of the *Police Act*; by Chief Constables of the municipal police agencies in British Columbia under the authority of section 34 of the *Police Act*; and by the Commanding Officer of RCMP "E" Division under the authority of section 5 of the *Royal Canadian Mounted Police Act* (Canada).

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




Ronald J. MacDonald, QC
Chief Civilian Director
12th floor, 13450 – 102 Avenue
Surrey, BC V3T 5X3

August 5, 2020

Date

Signed on behalf of the Royal Canadian Mounted Police "E" Division:



Jennifer Strachan
Deputy Commissioner
Commanding Officer "E" Division
14200 Green Timbers Way
Mailstop #308
Surrey, BC V3T 6P3

2020.08.28

Date

Signed on behalf of the Abbotsford Police Department:

A handwritten signature in dark ink, appearing to read 'Mike Serr', written over a horizontal line.

Mike Serr
Chief Constable
2838 Justice Way
Abbotsford, BC V2T 3P5

August 26, 2020
Date

Signed on behalf of the Central Saanich Police Service:

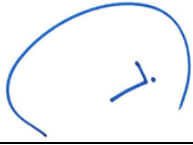


Ian Lawson
Chief Constable
1903 Mt. Newton Cross Road
Saanichton, BC V8M 2A9

2020-08-11

Date

Signed on behalf of the Delta Police Department:

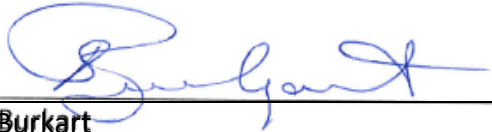


Neil Dubord
Chief Constable
4455 Clarence Taylor Crescent
Delta, BC V4K 3E1

2020/08/04

Date

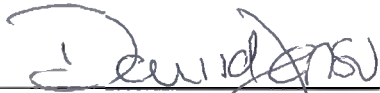
Signed on behalf of the Nelson Police Department:



Paul Burkart
Chief Constable
606 Stanley Street
Nelson, BC V1L 1N4

Aug 10, 2020
Date

Signed on behalf of the New Westminster Police Department:



Dave Jansen
Chief Constable
555 Columbia Street
New Westminster, BC V3L 1H9



Date

Signed on behalf of the Oak Bay Police Department:



Ray Bernoties
Chief Constable
1703 Monterey Avenue
Victoria, BC V8R 5V6

20.08.28

Date

**Signed on behalf of the Organized Crime Agency of British Columbia,
and the Combined Forces Special Enforcement Unit:**

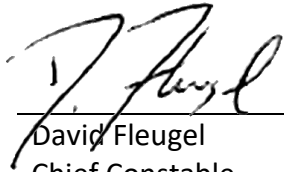


Mike LeSage
Assistant Commissioner
Chief Officer, Organized Crime Agency
of British Columbia
14200 Green Timbers Way
Mailstop #408
Surrey, BC V3T 6P3

SEP 08 2020

Date

Signed on behalf of the Port Moody Police Department:

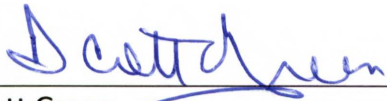


David Fleugel
Chief Constable
3051 St. John's Street
Port Moody, BC V3H 2C4

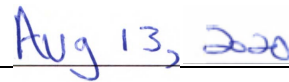
August 6, 2020

Date

Signed on behalf of the Saanich Police Department:



Scott Green
Chief Constable
760 Vernon Avenue
Victoria, BC V8X 2W6



Date

Signed on behalf of the South Coast British Columbia Transportation Authority Police Service:



Dave Jones
Chief Officer
300 – 287 Nelson's Court
New Westminster, BC V3L 0E7

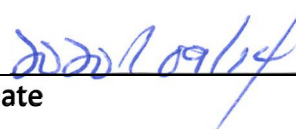
09-01-2020

Date

Signed on behalf of the Stl'atl'imx Tribal Police:

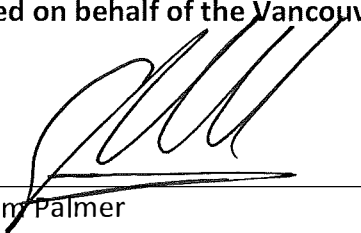


Deborah Doss-Cody
Chief Officer
879 Main Street
P.O Box 488
Lillooet BC V0K 1V0



Date

Signed on behalf of the Vancouver Police Department:



Adam Palmer
Chief Constable
2120 Cambie Street
Vancouver, BC V5Z 4N6

2020-08-06

Date

Signed on behalf of the Victoria Police Department:



Del Manak
Chief Constable
850 Caledonia Street
Victoria, BC V8T 5J8

August 31, 2020

Date

Signed on behalf of the West Vancouver Police Department:



Len Goerke
Chief Constable
755 16th Street
West Vancouver, BC V7V 0B8

200826

Date