



# City of Richmond

## Report to Committee

**To:** General Purposes Committee  
**From:** Cecilia Achiam  
General Manager, Community Safety  
**Re:** **BC Police Act Reform**

**Date:** March 28, 2021  
**File:** 09-5355-00/Vol 01

### Staff Recommendation

That the feedback set out in the staff report titled "BC Police Act Reform", dated March 28, 2021, from the General Manager of Community Safety, be approved for submission to Special Committee on Reforming the Police Act.

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REPORT CONCURRENCE	
SENIOR STAFF REPORT REVIEW	INITIALS: 
APPROVED BY CAO 	

## Staff Report

### Origin

Under the *Constitution Act* section 91 (27) the Federal Government has the authority to create criminal laws and criminal procedures. Provincial Governments have broad constitutional authority for the administration of justice and policing per section 92 (14). In British Columbia (BC) the Province captures this authority over policing in the *Police Act*. Introduced in 1974, the *Police Act* sets the goals, mandate, and standards for the ministry to oversee effective policing in BC. However, this act has not undergone a comprehensive review since its inception. In response to a growing tide of socio-political and economic protest movements centred on issues of police funding, structural racism, and mental health and wellness checks, the Province announced the formation of the Legislative Assembly Special Committee (Special Committee) on Reforming the *Police Act* on July 8, 2020. Prior to the delivery of its final report to the House on May 14, 2021, the Special Committee has launched a public consultation campaign. Of note, all submissions to the Special Committee will be made public and must be made prior to April 30 via a website submission.

This report supports Council's Strategic Plan 2018-2022 Strategy #1 A Safe and Resilient City:

*Enhance and protect the safety and well-being of Richmond.*

### Analysis

#### Organized Crime and Countering Money Laundering

Recently, the former Director of Police Services drew attention to the lack of coordination of strategy between the Province's and Federal government's anti-organized crime efforts:

*"While there are multiple efforts underway to combat organized crime in the province, there is no federal strategy. ...The Organized Crime Agency, OCA, is a provincially designated policing unit but is utilized as a subordinate contingent within the RCMP-led CFSEU. Staff are dispersed among CFSEU in a wide variety of roles. OCA does not currently have its own chief officer or board of governance. OCABC is absent true organizational identity and mandate. The special committee could consider the reconstitution of OCABC to become the lead agency for B.C.'s organized crime efforts... OCA could be positioned to work collaboratively with all RCMP business lines and provincial regulatory agencies to conduct a broad range of coordinated enforcement efforts. They could work with industry, public and private sector institutions to implement cost-effective prevention strategies."*<sup>1</sup>

The above lack of a cohesive strategy to combat organized crime and, in particular, money laundering was identified by Richmond City Council in 2018 in the report "Countering Organized Crime, Money Laundering, and Elicit Gaming" from the General Manager of Community Safety. Multiple letters were written to both the Federal and Provincial Ministers of Public Safety as well as Ministers of Finance calling on the need for a coordinated strategic plan

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<sup>1</sup> <https://www.leg.bc.ca/documents-data/committees-transcripts/20200921am-PoliceActReform-Virtual-n4>

and adequate police resources to combat organized crime and money laundering. While the Federal government has recently announced that it will finally reconstitute money laundering regional policing units, the Province should not wait for action and should introduce its own strategy, in consultation with municipalities and the Federal government, supported with long-term funding and provincial police units. The Province should change the *Police Act* and establish the Organized Crime Agency BC (OCABC) as the lead agency to ensure that there is adequate oversight and focus placed on BC's organized crime efforts.

At the same time, combatting organized crime requires a broader legislative and regulatory effort that should engage the Ministry of Finance, Ministry of Justice and the Ministry of Public Safety and Solicitor General in areas such as gaming, money service businesses, luxury goods and real estate. For example, this could involve the harmonization and modernization of disparate legislation such as the *Gaming Control Act*, *Police Act* and the creation of new legislation for the regulation of money service businesses, mortgage brokers as well as luxury goods industries. Lastly, the Province should provide special constable status to agencies that will oversee anti-money laundering efforts. It is possible that the newly created BC Financial Services Authority could oversee a comprehensive regulatory and enforcement regime regarding money services businesses.

### Integrated Teams

Under the *Police Act*, the Province has the authority to require that local governments within a specialized service area use and pay for the services of a specialized police service provider or integrated team. Currently, participation for the Integrated Teams is voluntary. The reality is that gang violence and organized crime transcends geographical boundaries, particularly in the Lower Mainland. The recent gang and drug wars as well as the money laundering that fuels it must be addressed in a regional and cooperative manner. However, participation in vital policing units, such as the Integrated Homicide Investigation Team (IHIT) and Integrated Emergency Response Team (ERT), remains voluntary. Currently, the largest municipality in BC is not a participant in the Integrated Teams. By making the integrated teams a regional and cohesive unit, it will lead to greater effectiveness and cost containment for all municipalities in the Lower Mainland. The *Police Act* should make participation in the integrated teams mandatory.

### Emergencies

Under the *Police Act* section 38, the Minister has authority to redirect municipal police resources in the case of a declared emergency:

*“If the minister believes an emergency exists outside the municipality in which a municipal constable or special municipal constable is employed, the minister may direct one or more municipal constables or special municipal constables to the part of British Columbia in which the emergency exists.”*

However, in recent history, the Province has not drawn on non-RCMP municipalities to respond to policing emergencies. With the largest municipality in the Province not policed by RCMP and the second largest municipality transitioning away from the RCMP, it is not equitable that only RCMP municipalities should continue to bear the burden of emergency response. The *Police Act*

should make such emergency levies equitable without discriminating on the basis of police service.

### Mental Health Issues

Over the past three years, the RCMP policed jurisdictions have experienced an annual average of 58,780 mental health related calls-for-service. This number is an undercount for the Province as a whole given that it excludes major non-RCMP municipal police forces including Vancouver Police and Victoria Police. Moreover, it should be noted that the *Mental Health Act* (MHA) occurrences represents only a fraction of the police interactions associated with people with mental health difficulties.

Under the *MHA* section 28, titled Emergency Procedures, only police officers have the authority to detain someone who is perceived to be suffering from a mental health crisis:

*“If a police officer or constable is satisfied from his or her own observations or from information received by him or her that a person*

*(a) is acting in a manner likely to endanger his or her own safety or that of others, and  
(b) is apparently suffering from mental disorder,*

*he or she may take the person into custody and take the person immediately to a physician<sup>2</sup>.”*

Apprehension under the *MHA* often involves the transportation of an individual by a police officer to the nearest designated mental health facility. The police officer must wait until a certificate of involuntary admission is completed by a doctor. While police officers are waiting for this form, the individual must remain in the custody of the police officer. If no certificate is issued, the individual must be released from custody. The primary issue is individuals brought to the hospital under *MHA* related matters may receive a low-priority status under the hospital's emergency triage system. In short, police officers could be waiting for hours and sometimes in vain with the individual not receiving any treatment or referrals to address their mental health issues.

However, the Province has recently considered creating a special constable or peace officer status for hospital or regional health authority staff that would enable them to detain individuals under the *MHA*. Under section 9 of the *Police Act*, the Minister may appoint “a special provincial constable [that] has the powers, duties and immunities of a provincial constable.” The creation of mental health based special constables would have a two-fold benefit: first, police officers, who are not specialists in mental health crises, could be supported during call response by mental health trained workers who may have greater expertise to decide whether to detain individuals under the *MHA*; second, these mental health specialists could be posted at hospitals and given authority to retain these individuals under their custody under the *MHA*.

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<sup>2</sup> [https://www.bclaws.gov.bc.ca/civix/document/id/rs/rs/96288\\_01#section028](https://www.bclaws.gov.bc.ca/civix/document/id/rs/rs/96288_01#section028)

In addition to call response, Police officers are involved in a variety of non-emergency but complex mental health services including well-being checks which, most often, are triggered by concerns from family members. Well-being checks frequently devolve into the need to make an urgent and effective risk assessment and de-escalate a mental health crisis. However, police officers are not medically trained mental health professionals and cannot make diagnoses. In response to this urgent need for medical support, the City of Richmond has teamed up with Vancouver Coastal Health (VCH) and launched the mental health car (Fox-80) initiative that involves a joint-police-mental health nurse team.

However, initiatives such as Fox 80 are far from the norm throughout the Province. The *Police Act* should be revised to grant special constable or peace office status to health staff that enables them to respond to individuals suffering from a mental health crisis. The Province should make it mandatory under other legislation that all regional health authorities have integrated mobile crisis response units such as Fox-80. It should also be mandatory that each regional health authorities have integrated case management and outreach services such as the Assertive Community Treatment (ACT) Teams, which are vital in preventative treatment of individuals suffering from mental health issues. Underpinning these joint-police-mental health initiatives should be an overhaul of the nature of information sharing between health authorities and police. Health authorities should proactively provide information to police and not wait for a production order when issues of safety are involved. The Province should standardize information sharing procedures and remove cultural barriers between health and police agencies. Currently, these information sharing agreements are a patchwork at the municipal level and require provincial standardization.

#### Auxiliary Program

Under section 8 of the *Police Act*, the Minister may appoint Auxiliary Constables that have the “powers, duties and immunities of a provincial constable.” Until recently, auxiliary activities included a range of services including operational patrols, call-response, check stops, scene security, person searches and a series of crime prevention-based functions. However, following a series of public safety incidents in 2014 and 2015, the RCMP introduced several restrictions on the Auxiliary program. According to an internal RCMP audit, 735 or 47 per cent of Auxiliaries left the program since 2016 due to these restrictions.<sup>3</sup> In “E” Division (BC), 376 or 48 per cent of Auxiliaries have left since 2016. These rates of attrition are worse for municipal Detachments, such as the Richmond, which operationally rely on Auxiliaries as a key component of its service delivery including community engagement initiatives.

The Auxiliary program has made a significant contribution to community safety in Richmond. The Richmond RCMP Auxiliary Program was re-introduced in 2002 and has provided over 120,000 volunteer hours towards public education and community safety initiatives since its inception. This program provides an important and valuable opportunity for police to partner with a diverse group of Auxiliaries who have an intimate local knowledge and local perspective as well as a vested interest in ensuring community safety. In 2014, Auxiliaries in Richmond were responsible for 12,592 hours of work. However, in 2019 Auxiliaries were responsible for only 2,106 hours, which represents a reduction of 83 per cent.

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<sup>3</sup> <https://www.rcmp-grc.gc.ca/en/evaluation-the-rcmp-auxiliary-program#toc5>

In 2018, the RCMP proposed a three-tiered program model that would allow some degree of a return to the previous model of service delivery. However, the program remains in transition and currently does not include operational patrols, check stops, attending calls, scene security or searches of persons. Moreover, a recent RCMP internal study of Auxiliaries surfaced the following concerns:

1. Diminished roles and responsibilities of Auxiliaries – Restrictions placed on the program in 2016, particularly providing assistance during general duty patrols with regular members (RMs), were considered to have negatively impacted the number of Auxiliaries who wanted to participate in the program. RMs also described the restrictions placed on Auxiliaries' roles as negative since Auxiliaries were no longer able to support them with operational duties.
2. Impacts of the program being in transition for a number of years – When restrictions were placed on the program in 2016, there was no timeline associated with how long it would take the program to complete its redesign. Many Auxiliaries were inactive in terms of being able to do any operational duties but were still considered part of the program.
3. Lack of ongoing communication from the RCMP – Information updates regarding the status of the program were described by Auxiliaries as minimal at the Detachment level.
4. Negative perception of redesigned uniforms – Auxiliaries and RMs described the appearance of the redesigned uniforms as unprofessional and, due to a design that makes the uniforms highly visible, as potentially putting Auxiliaries at risk for harm.<sup>4</sup>

Recently, the Province has signalled at various RCMP municipal forums, as well as to the UBCM, that it is interested in creating its own Provincial Auxiliary Program. Given the dramatic loss of resources in the auxiliary program, it is vitally important the Province create a new Provincial Auxiliary Program and authorize, under the *Police Act*, that Provincial Police Auxiliaries have similar powers which they had prior to the RCMP restrictions. In short, Auxiliaries provide key operational support, a local link to the community, and substantial cost containment.

### Police Boards

In the wake of the City of Surrey's recent movement away from the RCMP towards an independent Surrey Police Service there has been greater scrutiny of the role of police boards. In BC, there are currently 12 municipalities that are not policed by the RCMP. Under the *Police Act*, section 23, municipalities may establish a municipal police department governed by a board consisting of the mayor, who is also the chair; one person appointed by the municipal council; and an additional seven people appointed by the Lieutenant-Governor-in-Council. Although police boards are unelected, they have considerable authority and may conflict with their city councils.<sup>5</sup> In the case of a conflict, for example over a police budget, the ultimate arbitrator would be the Assistant Deputy Minister and Director of Police Services. The Province has broad authority under the *Police Act* section 2, and the Minister "must ensure that an adequate and

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<sup>4</sup> Ibid.

<sup>5</sup> A recent example of such a conflict occurred with Vancouver City Police, City Council and its Police Board. <https://theyee.ca/Analysis/2021/03/16/Former-Mountie-Sets-Vancouver-Police-Budget/>

effective level of policing and law enforcement is maintained throughout British Columbia.” Throughout Canada there has been an increasing trend in conflict between police boards and city councils, most often concerning budgets. More recently, concerns have also been raised over the integrity of individual police board members.<sup>6</sup> This is of particular concern given that police boards have access to confidential and privileged information. The question remains what criteria and due diligence is being conducted by the Province over the appointment of these boards? What governance, oversight and training is being offered by the Province to ensure that these boards are operating effectively and without any conflicts of interests?<sup>7</sup> The *Police Act* should establish clear criteria and standards around board appointments as well conflict of interest.

### **Financial Impact**

None.

### **Conclusion**

The Special Committee on Reforming the Police Act has requested feedback from the public. This represents a unique opportunity to provide input into a key piece of legislation that impacts the lives of all British Columbians. Of note, the City has until April 30, 2021 to provide feedback to the Special Committee.



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<sup>6</sup> <https://www.surreynowleader.com/news/surrey-mayor-concerned-about-perception-of-surrey-police-board-member-in-photo-with-hells-angels/>

<sup>7</sup> Currently, issues of conflict of interests and board integrity are not present in the *Act* but are instead sparsely addressed in the 2015 BC Police Board Handbook, and complaints can be made by the public to the Director of Police Services.