



April 10, 2018

**Promoting Unbiased Policing in B.C.
West Coast LEAF's Written Submissions
Ministry of Public Safety and Solicitor General**

West Coast Legal Education and Action Fund (West Coast LEAF) is a BC-based legal advocacy organization. Our mandate is to use the law to create an equal and just society for all women and people who experience gender based discrimination. In collaboration with community, we use litigation, law reform, and public legal education to make change. In particular, we aim to transform society by achieving: access to healthcare; access to justice; economic security; freedom from gender based violence; justice for those who are criminalized; and the right to parent. We have particular expertise in gender equality and human rights and have done in-depth research and analysis of the impacts of federal and provincial laws and policies on women.

West Coast LEAF provides these written submissions in response to the government's unbiased policing consultations. We understand that the feedback we provide will be used in developing provincial policing standards and policies that promote unbiased policing. We welcome the commitment to develop and implement standards and policies aimed at ensuring unbiased, fair and impartial policing in British Columbia. These standards and policies must include mechanisms to ensure police services that respect the rule of law and the human dignity and rights of all people, and that actively work to eliminate systemic discrimination, both in the RCMP and municipal police services. Given the significant risks that result from discriminatory and biased policing, particularly for vulnerable populations, including women experiencing gender based violence and undocumented migrants who are unable to access municipal and policing services for fear of detention or deportation, it is time to implement unbiased, fair and impartial policing to ensure the security of all British Columbians.

We support the recommendations of the provincial Missing Women Commission of Inquiry (MWCI)¹ and call for their immediate implementation. We also highlight and make the following specific recommendations:

¹ *The Report of the Missing Women Commission of Inquiry*, released December 2012, online at <http://www.missingwomeninquiry.ca/obtain-report/> (“Forsaken”)

1. Promoting Equality and Eliminating Discrimination

We support the recommendation of the MWCI that the “provincial Government set a provincial standard establishing that police officers have a general and binding duty to promote equality and to refrain from discriminatory policing.”²

All police agencies throughout BC must actively and explicitly promote equality and refrain from discrimination in their conduct, standards, and policies. The promotion of equality and elimination of discrimination must include clear language on what is meant by equality and what constitutes discrimination, including a list of prohibited grounds of discrimination.

- Policing standards and policies must work toward fostering substantive equality, and not simply approach unbiased policing from a perspective of treating all people the same. For policing to be truly unbiased, police services must recognize, understand, and address the historical and current systemic discrimination faced by certain populations, particularly Indigenous people.
- The listed prohibited grounds of discrimination should be non-exhaustive, and include race, national or ethnic origin, colour, ancestry, religion, marital status, family status, physical or mental disability, sexual orientation, gender identity or expression, age, poverty, homelessness, level of education, immigration status, employment status, type of employment, including sex work, and any other similar characteristics or circumstances. It is important that these potential grounds of discrimination are explicitly named and go beyond the limited grounds listed in the *Human Rights Code*. Grounds such as poverty and homelessness, while not currently covered by the *Code*, are significant in the context of developing unbiased policing practices in BC, given the history of policing in this province.
- The promotion of equality and elimination of discrimination should also include a directive that policing agencies and police officers must respect the rule of law and the human dignity and rights of all people and take systemic action to eliminate racial discrimination against Indigenous people and racialized individuals by police, both in the RCMP and municipal police services.

2. Unbiased, Fair and Impartial Police Investigations: measures to be taken during police investigations to address the needs of vulnerable victims, witnesses or suspects.

- Police forces throughout BC must:
 - develop consistent and coherent trauma-informed policies and training for officers on how to receive and investigate sexual assault complaints

² *Forsaken*, recommendation 4.2

that direct officers, and others who have contact with complainants, to not be dismissive or make assumptions about how a complainant may respond to sexual assault. These policies should be consistent throughout BC and across different law enforcement agencies.

This approach is consistent with the specialized training that has been developed in other Canadian jurisdictions in response to The Globe and Mail's Unfounded investigation, which revealed that police officers across Canada dismiss sexual assault allegations at a higher rate than other crimes.

- ensure that the safety and security of sex workers is of paramount importance when responding to sex work-related calls or situations.
- take a harm reduction approach when engaging people who use drugs and, more specifically, ensuring that that policing practice conforms with the *Good Samaritan Drug Overdose Act*.
- adopt a public health approach that is prioritized over the enforcement of Canada's drug possession laws at 'overdose prevention sites' and in other scenarios where supervised consumption is taking place for the purposes of preventing and responding to overdoses.
- develop and implement "Don't Ask, Don't Tell" sanctuary policies that bar officers from inquiring about immigration status, reporting people to immigration authorities or enforcement, even if there is an immigration warrant out for the individual, or otherwise cooperating with or assisting immigration authorities or the Canada Border Services Agency ("CBSA"), unless it is clearly and directly relevant to a police investigation. This policy should include a requirement that officers will exhaust all other means of identifying a person under investigation, before requesting identifying information from CBSA. In the event that officers must contact CBSA to identify a person under investigation, they must not share the whereabouts of the person(s) with CBSA.³
- ensure that officers are aware of the *Violence Against Women in Relationships* policy and follow this policy when investigating domestic violence.

3. Community Engagement, Relationship Building & Responsive Policing

- Engagement with communities should be genuine, respectful, non-judgmental, and meaningful. It should be with all communities, with a particular attention

³ See West Coast LEAF's "*Position Paper: Sanctuary City Policy*" for information to support the importance of "Don't Ask, Don't Tell" sanctuary policies for the safety of the general public, and in particular for the safety of vulnerable populations, online at <http://www.westcoastleaf.org/wp-content/uploads/2015/01/WCL-Position-Paper-Sanctuary-City.pdf>

to diverse communities and communities where there is no existing positive relationship with police.

- The engagement should foster trust and confidence, prior to requesting community participation. It should include a genuine interest and effort to build knowledge and awareness of the unique needs of diverse communities.
- The relationship building should be ongoing and maintained; it should not be limited to periods of crisis or during projects where consultation with the community is required.
- The engagement should be a partnership where the communities participate in the planning and delivery of community engagement strategies.
- Police agencies should work with local communities to develop communication and engagement strategies that create a mechanism for open and ongoing dialogue.
- Meetings and activities with communities should be accessible for community members and ensure that language and mobility barriers are addressed, and that relevant cultural practices are considered.
- To show the value of community engagement and ongoing relationship building, the evaluations of an officer's performance should include the time spent on community engagement.
- In order to maintain successful relationships, the community's input and participation must be valued. Officers and police agencies should provide communities with feedback on how their input and participation is being used and is valued. If the input is relied on, the community should be told how their input was used. If the input is not relied on, then the community should be advised of the reasons why their input was not used.
- Each region should establish an advisory committee composed of representatives of the communities in that region, community-based organizations providing support and advocacy for women and people of diverse backgrounds, Indigenous women's organizations, multicultural organizations serving immigrant communities, and police officers to guide the development and/or reform of policing standards, policies, and practices that respect the safety, human rights and human dignity of all British Columbians.
- As recommended by the MWCI, the diverse Indigenous and marginalized communities should have representation on police boards.
- Police agencies should conduct targeted recruitment activities to increase the diversity of their force.

4. Training for Police Officers

- Provide comprehensive domestic violence and sexual assault specific training and direct all officers to complete this training, which should include the unique nature and gendered dynamics of domestic violence and sexual assault, the impacts of this type of violence, and how to adopt a trauma-informed, compassionate response when engaging with victims. It is important that officers are trained on how these crimes disproportionately impact women and other people who experience gender based discrimination.
- Improve training for police officers to reduce police-involved deaths among people experiencing mental health crisis. This training is particularly significant considering the increasing rates of fatal encounters with police, as recently reported by the CBC's investigation.⁴
- Police officers must receive training both on the philosophy behind community engagement and on specific engagement techniques. As recommended by the MWCI, police forces must integrate into training, performance standards and performance measurement, the ability of police officers to develop and maintain community relationships, particularly with vulnerable members of the community who are often at risk of being treated unequally in the delivery of public services.⁵
- We also support the recommendations of the MWCI:
 - That police officers be required to undergo mandatory and ongoing experiential and interactive training concerning vulnerable community members:⁶
 - active engagement in overcoming biases, rather than more passive sensitivity training (sometimes called anti-oppression training);
 - more intensive and ongoing training in the history and current status of Indigenous Peoples in the province and in the specific community, particularly with respect to the ongoing effects of residential schools and the child welfare system;
 - training and resources to make prevention of violence against Indigenous women a genuine priority;

⁴ *Deadly Force*, CBC News investigation into police-involved fatalities in Canada, online at <https://newsinteractives.cbc.ca/longform-custom/deadly-force>

⁵ *Forsaken*, recommendation 4.10

⁶ *Forsaken*, recommendation 4.12

- training to ensure an understanding of violence against women in a range of settings including family violence, child sexual exploitation and violence against women in the sex trade; in particular, the scenarios used in police training should incorporate issues of cultural sensitivity and violence against women; and
- training in recognizing the special needs of vulnerable individuals and how to meet those needs, including recognition of a higher standard of care owed by the police to these individuals.

5. Accountability

- Enhance the accountability of law enforcement in British Columbia through amendments to the *Police Act*:
 - allowing the Office of the Police Complaint Commissioner to initiate its own systemic investigations and/or hearings;
 - expanding the mandate of the Independent Investigations Office so that it has jurisdiction over allegations of sexual offences committed by police officers;
 - clarifying liability for the misconduct of police officers;
 - ensuring that police agencies cooperate and disclose documents to municipalities, the Police Complaint Commissioner, and the Independent Investigations Office when the agencies and officers are the subject of an investigation or a civil lawsuit;
 - ensuring that witness officers have a duty to cooperate with the Police Complaints Commissioner and Independent Investigations Office; and
 - following the recommendations of the Tulloch report in Ontario, commencing a process of change in police accountability in BC to shift investigations of misconduct within the jurisdiction of the Police Complaint Commissioner from investigation by police departments to investigation by the Commissioner.
- We further support the recommendations of the MWCI:
 - That the Director of Police Services undertake equality audits of police forces in British Columbia with a focus on police duty to protect marginalized and Indigenous women from violence. These

audits should be carried out by an external agency *and* with meaningful community involvement.⁷

- That the Police Complaint Commissioner, working with police forces across the Province, take steps to develop, promote and refine informal methods of police discipline, particularly in marginalized communities such as the DTES and with Indigenous communities.⁸
- That Provincial Government engage with the RCMP in order to bring them into the provincial complaints process.

With the foregoing in mind, and given the significant delay in the implementation of the recommendations of the MWCI, we call on the British Columbia Government to take immediate action to develop and implement province-wide policing standards that ensure fair, impartial, bias-free and discrimination-free policing that ensures the safety and respects the rights of all British Columbians.

Respectfully Submitted by:



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⁷ *Forsaken*, recommendation 4.1

⁸ *Forsaken*, recommendation 4.13