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## **Submissions of the West Coast Legal Education and Action Fund Association (West Coast LEAF) to the Special Committee on Reforming the *Police Act***

### **About West Coast LEAF**

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.

West Coast LEAF recognizes our responsibility to work for the full realization of the rights of Indigenous peoples. In the context of historic and ongoing colonial violence and injustice, West Coast LEAF understands that fulfilling this responsibility requires a deep and continual commitment. We respectfully acknowledge that our office is located in Vancouver on traditional, ancestral, and unceded Coast Salish homelands, including the territories of the xwməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and sə́lilwətaʔt/Selilwitulh (Tsleil-Waututh) Nations. We understand that many of us are uninvited to these territories. As an organization that includes many settlers, we take responsibility for learning and seeking long-term transformation in our relationships with Indigenous peoples and lands.

### **I. Assessing the *Police Act* Through a Substantive Equality Lens**

The focus of the *Police Act* and efforts to change policing to date have been aimed at correcting the behaviour of “a few bad apples” by assessing the actions of individual police officers. However, systemic discrimination in policing cannot be understood or addressed by looking only at individual actions; policing is historically rooted in colonialism and social control, and its institutional practices and organizational culture must be understood within that context. To the extent that policing continues to be

given a role to play in public safety, all efforts must be made to ensure that legislation, policies, and practices around policing become less discriminatory and more accountable to reduce the very real harm experienced by people who interact with this system.

Our recommendations are informed by the principle of substantive equality. Any process of reforming policing and civilian oversight must integrate substantive equality at all stages. West Coast LEAF is committed to advancing the substantive equality rights of all women and people who experience gender-based discrimination, including where gender intersects with other axes of marginalization such as Indigeneity, race, national origin, im/migration status, sexual orientation, disability or ability, and class.

**Substantive equality** in this context requires that those responsible for regulating policing in the province understand that the success of this process will be measured by how responsive it is to the diverse experiences and expressed needs and interests of equity-seeking groups. This requires approaching the work through an intersectional framework that addresses the interlocking forms of marginalization experienced by many people including on basis of gender. For example, Black and Indigenous women, women of colour, trans, Two-Spirit, and non-binary people, and/or women with precarious immigration status or fewer financial means, face distinct issues in police interactions and in accessing justice and accountability for police misconduct.

Pursuant to the province's obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), we emphasize the calls of Indigenous Nations' that reform to the *Police Act* must [guarantee Indigenous peoples' decision-making powers](#) over the provision of services to their communities. The free, prior, and informed consent of Indigenous Nations and communities must be obtained before implementing any legislative measures pursuant to the *Police Act* and subjecting them to any police force.<sup>i</sup>

## **Discrimination in Policing**

### **Policing practices are discriminatory and perpetuate inequality.**

Policing remains a tool of [colonial control and violence](#) against Indigenous peoples, communities and Nations. This is not history, but a [continued, lived reality for Indigenous peoples](#). Indigenous peoples face police violence, harassment, [overincarceration](#) and over-policing, as well as neglect and police apathy when they are victims of crime. Indigenous women are treated by police with a presumption of criminality.<sup>ii</sup> In northern BC, [Human Rights Watch](#) has documented a pattern of police abuse against Indigenous women and girls including excessive use of force, attacks by

police dogs, strip searches by male officers, and disturbing allegations of rape and sexual assault by RCMP officers.<sup>iii</sup>

The policing of Indigenous and Black people and people of colour, and [the police practice of street checks, has been proven to be discriminatory](#). Indigenous and Black people are significantly over-represented in street checks conducted by the Vancouver Police Department. Indigenous women are over-represented in street check data from across BC. In 2016, Indigenous women accounted for 21% of all street checks of women in Vancouver, despite making up only 2% of the population of women.<sup>iv</sup> In 2018, Indigenous women accounted for 17.6% of all street checks of women in West Vancouver, despite making up only 0.6% of the population.<sup>v</sup>

Trans people report a high degree of fear about being harassed and stopped by police, may avoid calling police, and do not expect to be treated fairly or respectfully by police.<sup>vi</sup> Racialized trans and non-binary people have heightened concerns about experiencing police violence and a greater mistrust of police. [Trans Pulse Canada reports](#) that only 1 in 10 racialized trans and non-binary people trusted they would be treated fairly by police if sexually assaulted.<sup>vii</sup> The experience of police harassment and violence is especially high for trans women who are Indigenous, racialized, and/or sex workers.<sup>viii</sup>

Policing has also failed survivors of gender-based violence including sexual assault. Sexual assault is inadequately investigated by police officers. Compared to other crimes [sexual assaults are more frequently classified as unfounded](#). Survivors of sexual assault, particularly those who face intersecting forms of marginalization, frequently state they do not want to go to the police or would require additional support to do so. Engagement with police can be re-traumatizing and re-victimizing for survivors, fraught with myths and stereotypes, and [inappropriate questions and comments](#).<sup>ix</sup> With respect to domestic violence, [Battered Women's Support Services](#) reports that there is an increase in the number of women who have been wrongfully arrested by police for allegedly perpetuating domestic violence, especially for Black, Indigenous, or immigrant women of colour whose first language is not English.<sup>x</sup> In a [Downtown Eastside women's safety audit](#), only 15% of women said they would go to the police if they felt unsafe.<sup>xi</sup> [Living in Community](#) reports that the abuse, surveillance, and harassment of sex workers in Vancouver continues to be an ongoing concern.<sup>xii</sup>

The prevalence of discrimination in policing comes as no surprise when we consider that police culture is traditionally “White, male, and hyper-masculine.”<sup>xiii</sup> In his [Report of the Independent Police Oversight Review](#) in Ontario, Justice Tulloch observed that many stakeholders both from inside and outside the police community raised concerns about the indoctrination into “police culture” which begins as early as initial training. Approaches aimed at rooting out the “few bad apples” or efforts at “training away”

racism, misogyny, sexism, transphobia, and other forms of bias and prejudice are ineffective as they come up against deeply entrenched cultural norms that privilege [militarism, secrecy and disconnect from community](#).<sup>xiv</sup>

**Policing exacerbates existing inequality by disproportionately impacting people who experience social, economic, and political marginalization.**

Policing disproportionately impacts the people and communities who are labeled as “undesirable” and denied the dignity and privileges afforded to others. As set out in the submissions of the [Pivot Legal Society](#) before this Committee, many communities feel police target people who use drugs, rely on public space, and work in informal and criminalized economies such as sex work.<sup>xv</sup> They are subject to greater police surveillance, detention, and interference on account of being criminalized.

Underlying systemic racism in our society also makes police interactions far more likely and dangerous for people of colour than for others. Between 2000 and 2017, 70% of people who died in police encounters faced a mental health and/or substance use crisis, and [Indigenous and Black people were over-represented](#) in these deaths.<sup>xvi</sup> Indigenous women in the Downtown Eastside have reported “an overwhelming experience of fear” of police, including of escalation during a mental health crisis.<sup>xvii</sup>

### **Inequality in Police Accountability**

**Police accountability only works if marginalized members of society can access justice or see value for themselves in doing so. The current models of police accountability are not inclusive, accessible, or trusted.**

There are significant barriers of access to existing police accountability process for many people, including those who do not read or do not read in English, do not have access to internet, phones, or computers, and those who simply require or desire support in navigating the process. The complaint process as set out in the *Police Act* is very difficult to understand and involves many steps and stages. The landscape of police accountability is also confusing with multiple bodies, including the Office of the Police Complaint Commissioner (OPCC), Independent Investigations Office (IIO), and the Civilian Review and Complaints Commissioner (CRCC) for the RCMP, each operating with different mandates.

Despite the complex and intimidating nature of this process which may require people who make complaints to be interviewed by police in many cases, complainants are not assured support in the process. For many people, assistance with the complaint process will be dependent on the capacity of community organizations or legal clinics to help,

which may be dependent on being able to meet the eligibility criteria for services.<sup>xviii</sup> The *Police Act* requires the Police Complaint Commissioner to establish a list of support groups that may assist a complainant with mediation or other informal resolution but does not commit funding or resources for those groups.<sup>xix</sup>

In addition, and importantly, accountability bodies have not earned the public's trust. The [Pivot Legal Society](#) and [Native Courtworker and Counselling Association of BC](#) have explained this mistrust in their submissions. People do feel they will not be believed or are fearful of reprisal by police.<sup>xx</sup> The internal investigation model of "police investigating police," a lack of power and political will in oversight bodies, and frustrations with a lack of appropriate action have created a public perception that police accountability bodies are "[a waste of time.](#)"

The 2019 National Inquiry into Missing and Murdered Indigenous Women and Girls likewise found that existing oversight and [accountability mechanisms are largely inadequate and fail to elicit the confidence of Indigenous Peoples.](#)<sup>xxi</sup> Indigenous women and girls who have experienced police violence fear retaliation and harassment for filing a complaint. They believe there is impunity for alleged police abuses and that they will not be taken seriously, all of which discourages them from filing complaints.<sup>xxii</sup> They report that it is hard to make complaints against the police, that the system is colonial, and that there is [no access to justice if you are a poor Indigenous woman.](#)<sup>xxiii</sup>

The majority of independent investigators working in police oversight in Canada are white men who are former police officers. The [Canadian Press](#) found that of the 167 members involved in seven provincial independent investigation units, 111 are former officers or have had a working relationship with police, and 118 are men. There were only 20 visible minorities or people of colour, not including BC, which did not provide a number.<sup>xxiv</sup> While cultural competency and anti-bias training of investigators is a necessity, this training cannot make up for lived experiences that reflect the diversity of BC's communities. The current staff base creates a very real risk that civilian oversight is also hindered by unconscious bias and systemic racism.

## II. Our Recommendations

To the extent that policing continues to be given a role to play in public safety, we have identified the following **10 recommendations** rooted in the principle of substantive equality to respond to the existing, enduring equity and accountability gaps in policing.

1. Assure Indigenous autonomy over policing services
2. Rebuild the community sector and provincial systems
3. Stop discriminatory policing practices

4. Revise the *Police Act* to include a Statement of Principles
5. Implement the Calls to Justice of the National Inquiry into Missing and Murdered Indigenous Women
6. Conduct regular equity audits of police departments
7. Overhaul police accountability
8. Create a process for Gender-Diverse and BIPOC oversight and monitoring
9. Create a process for civil society interventions
10. Bring the RCMP under provincial oversight

### **Recommendation 1: Assure Indigenous autonomy over policing services**

Any proposed revisions to the *Police Act* must be aligned with UNDRIP. Indigenous peoples must have meaningful opportunities to participate in the drafting of a revised *Police Act* prior to its introduction. The legislation must assure the autonomy of Indigenous Nations and communities to determine who delivers policing services, the scope of those services, and how those services are to be delivered in accordance with the right to self-determination. The free, prior, and informed consent of Indigenous Nations, communities, and peoples must also be secured before adopting and implementing any legislative measures including subjecting them to any police force.

We support the recommendation of the [Downtown Eastside Women's Center](#) that reform efforts must pay particular attention to the rights, experiences, and expectations of Indigenous Elders, women, youth, children, and people with disabilities, and that the province must take measures to ensure Indigenous women and children are provided full protection against all forms of violence and discrimination in accordance with [Article 22](#) of UNDRIP.

### **Recommendation 2: Rebuild the community sector and provincial systems**

West Coast LEAF supports the recommendation of the [Office of the Human Rights Commissioner](#), the [Downtown Eastside Women's Center](#), and other organizations calling for police to be de-tasked where possible, and that funding that would otherwise go to policing be put towards infrastructure and services that strengthen and support communities on the terms that those communities themselves determine.

Police cannot provide mental health support to people in crisis, assist people with finding housing, medical care, or counselling, provide trauma-informed support to survivors of sexual assault and gender-based crime, or liaise with schools to help youth who are at risk of harm or vulnerable. While police budgets have increased exponentially over the past decade, community organizations with the expertise to provide these vital services have been conversely systematically defunded. The [YWCA](#)

[reports that as a result of deliberate systematic defunding, the women's rights sector is at risk of financial devastation.](#)<sup>xxv</sup> Women's organizations have lost significant capacity to provide critical services and have less capacity to participate in training, skills development, and community engagement to meet the needs of their communities.<sup>xxvi</sup> During the COVID-19 pandemic, many women's rights organizations have been forced to reduce vital services or cancel programming altogether.<sup>xxvii</sup>

While police reform is one step that is needed to stop police from perpetuating and entrenching inequalities, it is by no means a silver bullet to address the systemic inequality that underpins our society, or the path to building strong communities for all. Disparities in social determinants of health, inadequate housing, food insecurity, child apprehension, mental health support, and income assistance must be addressed. Investment is also needed to guarantee access to justice and legal aid to people fleeing family violence, as well as health-based or justice-sector supports or services for survivors of gender-based violence. A coordinated approach across sectors is needed to address violence against women, girls, Indigenous peoples, and members of the 2SLGBTQQIA communities. We must reinvest in real safety for communities by building capacity in the community sector and provincial systems.

### **Recommendation 3: Stop discriminatory policing practices**

We echo the calls of nearly 9000 people and 92 organizations, including Hogan's Alley Society, Black Lives Matter, Union of BC Indian Chiefs, WISH Drop-In Centre Society, and the BC Civil Liberties Association, who have called for a ban on street checks.<sup>xxviii</sup> This practice has a severely disproportionate impact on Indigenous and Black women.

We support the recommendations of [Human Rights Watch](#) to the House of Commons Standing Committee on Public Safety and Nation Security that the practice of male officers searching and monitoring people of other genders must cease, except in extraordinary circumstances with documentation and supervisor review of any such searches. Cross-gender strip searches must also be prohibited under any circumstances.<sup>xxix</sup> The surveillance and harassment of sex workers must also stop.<sup>xxx</sup>

We also emphasize the submissions of the [Battered Women's Support Center](#) that the practice of wrongfully arresting and criminalizing survivors of domestic violence, and especially Black, Indigenous, and immigrant women of colour, must end. Police protocols related to intimate partner violence, including within same sex partnerships, must require officers to distinguish assault from defensive self-protection and avoid charging the victim of violence.<sup>xxxi</sup>

## **Recommendation 4: Revise the *Police Act* to include a Statement of Principles**

The *Police Act* does not contain a preamble or statement of principles that frames the purpose of the legislation. While the inclusion of a statement of principles is by no means a cure for all that ails policing in BC, we see value in an articulation of principles developed to govern interpretation of this legislation that are developed in conversation and consultation with communities most directly impacted by policing. To that end, we recommend that the *Police Act* be revised to include a statement of principles which articulates what the “modernized” role of police is going to be, and the principles by which policing must be governed. We recommend that these principles be inclusive of:

- The right to self-determination of Indigenous nations, communities, and peoples and recognition of their inherent jurisdiction over policing in accordance with UNDRIP
- The obligation of police to safeguard constitutional and human rights in accordance with the *Canadian Charter of Rights and Freedoms* and *BC Human Rights Code*
- The right to be safe from violence, harassment, and discrimination by police
- The obligation of all governing bodies to ensure fair and equitable policing
- The obligation of police to treat all people with dignity and respect

The inclusion of a statement of principles will assist the courts, police services, police boards, accountability bodies, and stakeholders with understanding the purpose, role, and obligations of policing and with interpreting the *Police Act* in the public interest. The development of a statement of principles should require a process of nation-to-nation consultation with Indigenous peoples and their free, prior and informed consent.

## **Recommendation 5: Implement the Calls to Justice of the National Inquiry into Missing and Murdered Indigenous Women**

We support the recommendation of the [Downtown Eastside Women’s Center](#) that this Special Committee should review the [Calls to Justice](#) in the report of the National Inquiry into Missing and Murdered Indigenous Women and Girls and implement the calls related to policing and women’s safety in the revised *Police Act*. Nearly two years after the report, families, advocates, and community service agencies are left wondering how the province will address the Calls to Justice that aim to address gender-based violence against Indigenous women, girls and 2SLGBTQIA people.



## **Recommendation 6: Conduct regular equity audits of police departments**

Police departments should be audited routinely against equality indicators. They must tackle discrimination at a system-level through evaluation of their behavioural trends, practices, policies, and decision-making processes which perpetuate disadvantage. These audits should occur in consultation with Indigenous communities, community-stakeholders, and experts across sectors in a manner that prioritizes listening and genuine responsiveness to communities. They should be led and monitored by civilians.

The outcome of these audits should inform how the province and municipalities fund police services, as well as how police budgets are allocated and resources are deployed. It should also form an evaluation tool for police leadership. Police departments must be required to indicate real outcomes in advancing substantive equality by tackling discrimination at a system-level as a condition of future of funding.

The knowledge, tools, and recommendations to begin this organizational culture shift are readily accessible. The question is whether police services and their leadership are ready to make the achievement of substantive equality a priority. See: [Ontario Human Rights Commission, Policy on eliminating racial profiling in law enforcement](#).

## **Recommendation 7: Overhaul police accountability**

We recommend a thorough overhaul of the police accountability process and the legislation. Below, we outline key procedural and structural changes that are needed to ensure that police accountability systems are equitable and accessible.

### **i. Streamline the process and the legislation**

The *Police Act* is very difficult to read and interpret. The provisions related to the police complaint process are entirely unapproachable to members of the public. Indeed, the courts have noted the legislation is “dense, complicated and often confusing”.<sup>xxxii</sup> Police accountability processes need to be streamlined and the legislation simplified so that it is easier for people to understand how the oversight bodies work.

### **ii. Bring an end to internal investigations where police investigate police**

Police investigating police has proven to be a broken system of accountability. Referring complaints about police back to the police for investigation does not create public confidence in the process. Internal investigation allows police to control the quality of investigations, including which witnesses are interviewed and what questions are asked. It also allows police to control the timelines for investigations. People who make

complaints may have to appear before police officers to provide their statements, which does not account for the significant power imbalance between police and civilians.

The powers of police accountability bodies should be expanded so that all complaints about police are investigated by independent and civilian investigators who are obligated to act in the public interest, and not influenced by the interests of their department, colleagues, or unions.

**iii. Police accountability bodies, not chiefs of police, should lay disciplinary charges**

We recommend that police accountability bodies have the power to lay disciplinary charges. In the current system, disciplinary charges are determined by a senior officer in a police department designated by a chief of police or a chief of police.

**iv. Require outreach by police accountability bodies to marginalized communities**

Police accountability bodies must be required to conduct outreach in communities that may not be aware of their right to make a formal complaint against police. Indigenous, Black and people of colour, newcomers to Canada, and trans and non-binary people may have histories or lived experiences which make them reluctant or fearful to make complaints about police. Indigenous and racialized trans women and trans women in sex work also report a high degree of mistrust of police and concerns about being treated fairly and respectfully by police.<sup>xxxiii</sup> Justice Tulloch, in the Independent Police Oversight Review, also found that the availability of accountability processes was not generally well known among Indigenous communities in Ontario or were considered confusing.<sup>xxxiv</sup>

Police accountability bodies should have the resources to engage in public education campaigns across the province. This should target crisis workers, youth workers, community organizers, and legal advocates who work with vulnerable people and may hear about police misconduct.<sup>xxxv</sup> Sustained and proactive outreach is needed to ensure that complaints from marginalized people are safely brought forward.

**v. Require police accountability bodies to be accessible**

For complaint-driven police accountability to be successful, the process must be accessible to the public. The *Police Act* should require police accountability bodies to ensure accessibility for all and to reduce barriers to participation. This includes access for:

- Non-English language speakers who require translation services

- Low-income people who may not have access to phone/email/internet/ mailing addresses to facilitate their complaints
- People unable to take time off from work or procure child care
- Detained people, including people in mental health detention
- People with disabilities, including mental health and substance use barriers
- People who do not read or do not read English

We also echo the call by [Pivot Legal Society](#) that the province must invest in access to justice and dedicate legal aid funding for police complaint clinics and providing public legal education to help people navigate the process of bringing a lawsuit against police. Legal aid funding should be dedicated for a clinic to support people in making police complaints to the CRCC and OPCC, as well as for civil actions in court, for filing human rights cases at the BC Human Rights Tribunal, IIO investigations, and other inquests.

**vi. Ensure that the majority of investigators in police oversight are civilian and require that police accountability bodies employ staff from diverse backgrounds**

With the majority of independent investigators working in police oversight in Canada being white men who are former police officers, police accountability bodies currently reflect the traditional, white, male culture of policing, and not the public they are required to serve.<sup>xxxvi</sup> This creates a risk of civilian oversight being hindered by unconscious bias. *Police Act* reform must ensure that accountability bodies are staffed mainly by civilians and from people of diverse backgrounds. We make this recommendation with the caution that diversifying employees alone does not result in systemic change, especially as diverse staff may face discrimination internally and may be marginalized within an organization’s structure and senior leadership.

**vii. Ensure that support services are built into police accountability processes including access to legal advocates and support persons**

We recommend that OPCC and IIO be required to provide support staff, including victim support and legal support for any individual who requires assistance in the police complaint process. People affected by police misconduct often experience stress, trauma, and financial difficulty. We repeat the recommendation of [Ending Violence Association of BC](#) (EVABC) that survivors of sexual assault in particular must have assistance and advocacy services at all stages of reporting and investigations.

The current *Police Act* requires the Police Complaint Commissioner to establish a list of support groups and neutral dispute resolution service providers and agencies.<sup>xxxvii</sup> Resources and funding should also be made available to community groups to build

their capacity to assist people in the process. The right to support and the means to access support should also be specified in the legislation.

**viii. Expand and revise the allegations of police misconduct**

We recommend that s. 77(3) of the *Police Act* which defines the “misconduct” that may be considered in the OPCC’s process be revised and expanded as follows:

- Establish a new allegation of misconduct for exhibiting discrimination or bias in actions or decision-making by police officers. Importantly, the assessment of allegations of discrimination or bias by a police officer must proceed in accordance with established human rights law, which does not require proof of an intention to discriminate but a nexus between the negative treatment and the prohibited grounds.
- Expand s. 77(3)(a)(iii) of the *Police Act* to include conduct that goes beyond “language that tends to demean or show disrespect”. The use of racist or discriminatory language, jokes, statements, or gestures by a police officer with colleagues or the public, or to display discriminatory symbols, or like or share jokes, tweets, or statements, or to affiliate themselves with any groups that advocate racism, violence, misogyny, or transphobia must be prohibited.
- Expand s. 77(3)(m) of the *Police Act* to specify that a failure to investigate or premature dismissal of an investigation due to bias constitutes misconduct.
- Revise the misconduct of “discourtesy” in s. 77(3)(g) to include a failure to respect the dignity of a person based on a protected status and/or causing psychological harm to a person based on a protected status.
- Create a new duty to intervene, which requires an officer to stop or attempt to stop another officer when force is being inappropriately applied or any other misconduct is taking place.
- Establish a positive duty on police officers to report misconduct.

**ix. Revise the definition of “serious harm” in the *Police Act* to include sexual assault and gender-based violence by police officers**

We echo the recommendation of [EVABC](#) that the mandate of the IIO should be expanded to include sexual assault and gender violence by police officers.

The IIO has jurisdiction over “serious harm” by police officers. The definition of “serious harm” currently means injury that (a) may result in death, (b) may cause serious disfigurement, or (c) may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ.<sup>xxxviii</sup> This definition should be expanded to include sexual violence and gendered-based violence by police officers.

**x. Cease the use of informal resolution and mediation processes for gender-based harm including complaints arising from sexual assault investigations**

Complaints of gender-based harm including those arising from sexual assault investigations must be excluded from the informal resolution processes and mediation processes in the *Police Act*. They are not suitable for resolution by informal means given the significant power imbalance between the complainant, police investigator, and subject officer.<sup>xxxix</sup> Alternatively, a specific gender and trauma-informed lens must be applied to any decision to refer complaints of gender-based harm to informal processes.

**xi. Create guidelines for police discipline and corrective measures**

We recommend that the province, in consultation with communities and experts, create guidelines for the disciplinary and corrective measures that follow a finding of misconduct. There must be meaningful disciplinary or corrective measures that serve to deter future misconduct and promote public confidence in accountability. To the extent possible, discipline and corrective measures should be consistent across BC.

We recommend that findings of discriminatory conduct should be subject to discipline up to and including dismissal. These guidelines should also include a requirement of training or re-training for officers who behave in a discriminatory manner. We also recommend the creation of an early warning system to identify officers with multiple incidents of misconduct who require remedial training.

**xii. Create a process for terminating officers**

We recommend the creation of clear and public process for terminating police officers who are found to have committed serious misconduct or several acts of misconduct.

**xiii. Create a publicly searchable database of allegations and findings of misconduct**

The public has an interest in knowing whether a police officer has been investigated for misconduct or found to have committed misconduct in the past. This information should be easily accessible to all members of the public.

### **Recommendation 8: Create a process for Gender-Diverse and BIPOC oversight and monitoring**

We recommend the creation of a process in the *Police Act* for further oversight and monitoring of police accountability processes by Indigenous people, Black people, people of colour and gender-diverse people. Civilian monitors from these communities and monitors with expertise in sexual and domestic violence should have the ability to access all information related to an investigation and disciplinary proceeding, as well as the power to observe, participate, and intervene in the accountability process. This will act as an additional safeguard against bias and discrimination within the police accountability process.

### **Recommendation 9: Create a process for civil society interventions**

We recommend the creation of a process in the *Police Act* for civil society interventions, like *amicus curiae*, in disciplinary proceedings including public hearings and reviews on the record. This would ensure that civil society stakeholders are able to intervene where the public interest is at stake or the rights of marginalized communities are at issue.

### **Recommendation 10: Bring the RCMP under provincial oversight**

We echo the recommendation of the [Pivot Legal Society](#) that the complaint processes between municipal police and the RCMP be harmonized. Much of BC is policed by the RCMP including many Indigenous communities. The IIO has jurisdiction over RCMP officers in BC in incidents of death or “serious harm”.<sup>xi</sup> However, public complaints about the RCMP are not filed with the provincial OPCC, but with the federal CRCC.

In the [2007 Report on the Review of the Police Complaint Process in British Columbia, Josiah Wood Q.C.](#) supported harmonizing the complaint process for all police services, both municipal and provincial, in the province, as did the Justice Wally Oppal in a 1994 report. Wood noted that the current arrangement creates a perception that “complaints about police misconduct are treated differently in municipal and RCMP jurisdictions, raising the spectre of inequality affecting all stakeholders.”<sup>xii</sup> These different processes also add bureaucratic confusion for members of the public.

Serious concerns of systemic racism have plagued the RCMP, especially with respect to RCMP officers’ interactions with Indigenous women in northern BC.<sup>xliii</sup> According to the National Inquiry into Missing and Murdered Indigenous Women, the RCMP have not proven that they are capable of holding themselves to account, and the ongoing issues of systemic and individual racism, sexism, and other forms of discrimination prevent honest oversight from taking place.<sup>xliiii</sup>

There are also [significant procedural concerns with the RCMP oversight process](#). The CRCC receives public complaints, but 99.9% of cases are sent to the RCMP to investigate itself. If a complainant is not satisfied with the RCMP investigation, they can [complain again](#) to the CRCC about that investigation. RCMP investigations have been reported to lack transparency and to suffer from [considerable delays](#) with the longest wait time for the RCMP's response to an investigation reaching almost four years.<sup>xliv</sup>

If the province moves forward on overhauling police accountability, we recommend that the oversight of public complaints about the RCMP be addressed by provincial bodies in the interest of fairness and accessibility to everyone in British Columbia.

### III. Conclusion

West Coast LEAF's recommendations are informed by the principle of substantive equality. Substantive equality in the context of policing will come only by recognizing and addressing the distinct needs of, and calls for action by, those communities that have been simultaneously excluded from the equal protection of the law, as well as disproportionately harmed by its operation. We urge this committee to listen deeply and with humility to the knowledge being shared by people and communities with lived experience of policing.

We thank the Special Committee on Reforming the *Police Act* for the opportunity to provide these submissions.

*Prepared by [Humera Jabir](#), Staff Lawyer at West Coast LEAF.*

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<sup>i</sup> United Nations Declaration on the Rights of Indigenous Peoples, Article 19

<sup>ii</sup> Human Rights Watch, Submissions to the House of Commons Standing Committee on Public Safety and National Security: Systemic Racism in Policing in Canada, Dec 9, 2020, p. 4. Available from: <https://www.ourcommons.ca/Content/Committee/432/SECU/Brief/BR11055572/br-external/HumanRightsWatch-e.pdf> [Human Rights Watch Submissions]

<sup>iii</sup> Human Rights Watch Submissions, p. 5.

<sup>iv</sup> BCCLA, Hogan's Alley, Union of BC Indian Chiefs, Black Lives Matter, WISH Drop-in Center Society, co-signed, Letter to Mayor Kennedy Stewart and Premier John Horgan, Subject: Immediate Municipal and Provincial Ban on Police Street Checks, dated July 6, 2020. Available from: <https://bccla.org/wp-content/uploads/2020/07/Open-Letter-Ban-on-Street-Checks-July-2020-FINAL.pdf> [BCCLA Letter]

<sup>v</sup> BCCLA Letter

<sup>vi</sup> C. Chih, J. Q. Wilson-Yang, K. Dhaliwal, M. Khatoon, N. Redman, R. Malone, S. Islam, & Y. Persad on behalf of the Trans PULSE Canada Team. Health and well-being among racialized trans and non-binary people in Canada. 2020-11-02. Available from: <https://transpulsecanada.ca/research-type/reports> [Trans Pulse Canada Report]

<sup>vii</sup> Trans Pulse Canada Report, p. 10.

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