MISSING
WOMEN
COMMISSION OF
INQUIRY

ISSUES RELATED TO THE STRUCTURE AND ORGANIZATION OF POLICING ARISING FROM THE MISSING WOMEN INVESTIGATIONS

A POLICY DISCUSSION REPORT PREPARED FOR THE MISSING WOMEN COMMISSION OF INQUIRY
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Statement of Purpose

This paper is a discussion report prepared by the Missing Women Commission of Inquiry to facilitate public input and to assist in deliberations on potential recommendations for change.

The Commission invites public input on the issues, policy options and questions raised in this report and other issues within its terms of reference. Please provide us with your written submissions by May 31, 2012.

The report provisionally identifies a series of issues and questions that are likely to inform the Commission's analysis. Neither the Commissioner nor Commission staff has reached any conclusions on these issues. This is a summary of the major issues identified so far, but the list of issues and options is neither exhaustive nor fixed. We encourage interested parties to provide input and make recommendations on other issues and questions we have not identified.

1. INTRODUCTION

Canadian and international studies have commented upon the complex challenge of missing person investigations and investigations of suspected multiple homicides. The police cannot address this complex challenge alone. Coordination and communication are essential and strong partnerships are required. The Commission has already published three policy discussion reports that address some policy responses to this complexity including the need for police to, among other things, develop enhanced policies and practices, as well as strengthen relationships with families of missing persons and community-based organizations. This paper focuses on how the overarching structure and organization of policing in British Columbia can contribute to or detract from the effectiveness of the initiation and conduct of investigations of missing women and suspected multiple homicides.

The Commission has published a background report entitled *Municipal Policing in the Lower Mainland District of British Columbia.*[1] It provides factual information on municipal policing in British Columbia by independent municipal police departments and contract RCMP detachments within Metro Vancouver. This policy discussion report builds on this foundation by identifying structural and organizational issues arising from the missing women investigations and options for reform to address these concerns.

An organization is best placed to carry out its functions effectively when is has appropriate structures in place. The central question to be posed is therefore: is the current organizational structure of policing in British Columbia sufficient to provide the service expected of it in investigations of missing women and suspected multiple homicides? In most reports on missing person police practices, organizational structure is considered only from an internal police force perspective and so the focus is on issues such as the advantages of having an independent missing persons unit or a missing persons coordinator.[2] However, in this report structural issues are considered from a larger system perspective taking into account the organization of policing in the province as a whole rather than within individual police forces.

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[1] Prepared by Steve Sweeney, October 2011. ["Sweeney Report"]. Available at www.missingwomeninquiry.ca/reports-and-publications/

[2] See for example: Report of the Garda Síochána Inspectorate, *Missing Persons Review and Recommendations* (Ireland, March 2009) at pp. 9-10; G. Newiss, 1999. *Missing presumed…? The Police Response to Missing Persons.* (Policing and Reducing Crime Unit: Police Research Series, London, 1999).

From this holistic perspective, there are two main groups of issues. The first set of issues relates to the ability of the police to prepare for and respond to serial crimes that cross multiple jurisdictional boundaries and the inherent challenges communication and coordination they entail. Fragmentation of police forces is one specific aspect of this set of issues.

A second group of issues relates to police accountability mechanisms, that is the relationship between the police, government and the public. This relationship was canvassed extensively by the Ipperwash Inquiry in Ontario, which was mandated in 2003 to inquire into and report on events surrounding the death of Dudley George, who was shot in 1995 during a protest by First Nations representatives at Ipperwash Provincial Park and later died. A discussion paper prepared for the Inquiry established the following starting point:

> *The police/government relationship establishes the parameters and expectations of government involvement in policing policy and operations. The relationship is important because fundamental democratic principles and values are at stake. Police and policing are amongst the most basic functions of any state. Canadian democracy depends upon the police to fulfill their responsibilities equally, fairly, professionally, and without partisan or inappropriate political influence.*
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> *Yet the police/government debate is not simply about preventing police from becoming "a law unto themselves" or inappropriate government influence. It is also about accountability and transparency for police and government decision-making.*[3]

Public concerns raised about the missing women investigations differ from the public concerns that led to the Ipperwash Inquiry. Here, concerns appear to be not that there was inappropriate government influence or a threat of police becoming "a law unto themselves" but rather an apprehension that there was a failure to act

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[3] The Honourable Sidney B. Linden Commissioner, *The Ipperwash Inquiry* (Ontario: May 31, 2007). Nye Thomas, Director, Policy and Research, *Discussion Paper on Police/Government Relations* (June 2006). This discussion report reviews many of the research papers commissioned by the Ipperwash Inquiry. While the citations in this report are to the versions of the papers as published on the Ipperwash Inquiry website, the papers are also published in *Police and Government Relations – Who's Calling the Shots*, edited by Margaret E. Beare and Tonita Murray (University of Toronto Press, 2007). ["Ipperwash Inquiry Research Paper"]

abetted by either indifference or bias.[4] These public concerns raise questions about the systems for ensuring police accountability and transparency in police and government decision-making.

This policy discussion paper is divided into three sections. The first section provides a brief overview of the issues related to the structure and organization of the police in British Columbia. The second section identifies and discusses major policy options. The third section sets out a number of questions designed to facilitate further discussion and to generate recommendations for change.

Relatively little attention has been paid to structural and organizational issues in Canadian and international reports on the phenomenon of missing and murdered women. This paucity of attention to inter-jurisdictional and accountability issues in this context contrasts markedly with other policing reviews where structural and organizational issues tend to predominate over other policy issues. As a result, this discussion paper is based upon a broader range of reports, including other types of policing inquiries, in comparison with the other policy papers prepared by the Commission.

The Commission welcomes input on all of aspects of this paper, including on additional issues, questions and options for reform to improve the initiation and conduct of missing women investigations and suspected multiple homicides.

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[4] Native Women's Association of Canada (NWAC), *Voices of Our Sisters in Spirit: A Report to Families and Communities* (2nd Edition March 2009); NWAC, *What Their Stories Tell Us – Research Findings from the Sisters in Spirit Initiative* (2010); Standing Committee on the Status of Women, *Interim Report: Call Into the Night – An Overview of Violence Against Aboriginal Women* (March 2011); Tracy Byrne, *Stopping Violence Against Aboriginal Women - A Summary of Root Causes, Vulnerabilities and Recommendations from Key Literature* (Prepared for the Government of BC, February 23, 2011); *A Collective Voice For Those Who Have Been Silenced - Highway of Tears Symposium Report* (Lheidli T'enneh First Nation, Carrier Sekani Family Services, Carrier Sekani Tribal Council, Prince George Nechako Aboriginal Employment and Training Association and Prince George Native Friendship Center, July 2006); Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada* (Amnesty International, 2004).

2. OVERVIEW OF ISSUES

Three main issues arise from a consideration of how the overarching structure and organization of policing in British Columbia can contribute to or detract from the effectiveness of the initiation and conduct of investigations of missing women and suspected multiple homicides. These are (a) the challenges of inter-jurisdictional and inter-agency collaboration; (b) fragmentation of policing; and (c) accountability mechanisms.

(A) The Challenges of Inter-jurisdictional and Inter-agency Collaboration

In order to carry out an effective missing persons investigation, police must communicate and collaborate with a range of individuals and agencies. Given the high level of mobility in today's society and the patterns associated with serial crimes, missing person investigations where foul play is a possibility will often call upon the resources of more than on policing agency. In many cases, these investigations will cross one or more jurisdictional boundaries – be it between local police forces, across a province, between provinces or even between countries.

The Missing Women Working Group reports that at a Serial Murder Symposium in 2005, sponsored by the FBI, attendees agreed that investigations of serial murders present unique challenges when multiple jurisdictions are involved. They noted that linked crime scenes in different police jurisdictions may be investigated differently due to the resources and abilities available. Furthermore, the police agencies involved may not have a consistent approach to the evidence; for example, they may submit evidence to different laboratories, which could prevent the forensic linking of cases to a single offender. The Symposium made a number of recommendations for these investigations, including the use of the same crime scene personnel at related scenes in order to promote consistency in evidence identification and collection.[5]

The Campbell review into the investigation of the serial sexual assaults and murders committed by Paul Bernardo also highlighted the difficulties in cross-jurisdictional investigations.[6] In his introduction, Justice Campbell points out that "virtually every

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[5] Coordinating Committee of Senior Officials Missing Women Working Group, *Report: Issues Related to the High Number of Murdered and Missing Women in Canada* (January 2012) at p. ["MWWG Report"]

[6] Mr. Justice Archie Campbell, *Bernardo Investigation Review* (Ontario: June 1996) ["Bernardo Review"]

inter-jurisdictional serial killer case … demonstrate[s] the same problems and raise[s] the same questions."[7] Justice Campbell's recommendations center on the importance of implementation of a major case management:

> *What is needed is a system of case management for major and interjurisdictional serial predator investigations, a system that corrects the defects demonstrated by this and so many similar cases. A case management system is needed that is based on co–operation, rather than rivalry, among law enforcement agencies. A case management system is needed that depends on specialized training, early recognition of linked offences, co–ordination of interdisciplinary and forensic resources, and some simple mechanisms to ensure unified management, accountability and co– ordination when serial predators cross police borders.*[8]

Today, the practices of major case management (MCM) take place within individual police organizations on a daily basis. Most police agencies have general investigation sections that are prepared with the investigative competencies and in-house resources to handle major investigations. Multi-agency MCM, in contrast, only occurs if and when police agencies identify a common crime problem and come to an agreement to work together as an investigative team. In the majority of provinces in Canada the protocols to form multi-agency teams are unstructured and informal.[9]

A review of the largest multi-jurisdictional, multi-agency investigation in U.S. history, the investigation of a sniper who terrorized the Washington D.C. area, killing or injuring 14 victims in October 2002, sets out critical lessons for managing a multi-jurisdictional case.[10] The investigation spanned eight local jurisdictions and involved numerous local, state and federal policing agencies. The authors of the review state that their findings should be applicable to investigations of serial killers.[11] This report identifies three main issues that need to be resolved for effective inter-jurisdictional investigations: lack of clarity or conflict over roles and responsibilities; inefficient information management and exchange; and ineffective

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[7] *Ibid,* at p. 1.
[8] *Ibid*, at p. 2.
[9] A.R. Gehl, *The Dynamics of Police Cooperation in Multi-Agency Investigations Finding Common Ground* (M.A. Thesis, Royal Roads University, 2001). See also MWWG at pp. 44-47.
[10] G. R. Murphy, C. Wexler, H. J. Davies and M. Plotkin, *Managing a Multijurisdictional Case: Identifying the Lessons Learned from the Sniper Investigation* (Report prepared by the Police Executive Research Forum for the Office of Justice Programs U.S. Department of Justice (October, 2004). ["Managing a Multijurisdictional Case"]
[11] *Ibid.*, at p. 13.

communication.

Reliable information flow is crucial to the success of any major investigation: "The ability to collect, analyze and disseminate tips, leads, intelligence and criminal histories can mean the difference between a quick apprehension and a prolonged, frustrating effort."[12] It is not surprising that involving multiple agencies in an investigation complicates the management of information significantly:

> *While the amount of potentially valuable information may increase substantially with each agency that joins the investigation, there is a commensurate increase in the demand for efficient analysis. The sheer amount of material can overwhelm investigative personnel. Incompatible information management systems impede the sharing of raw information or intelligence.*[13]

The review of the sniper incident emphasized the difficulties involved in managing effective communication during the course of a multi-jurisdictional investigation. Differences of opinion occurred over issues such as whether information should only be shared once it is confirmed to be accurate or whether all information should be disseminated since "any information is better than none."[14] Many patrol officers involved in this investigation believed that leaders were withholding information and leaders were unable to dispel this misperception.[15] Rumours about the investigation were persistent, both within the police agencies involved and in the general public, and police leaders found them difficult to counteract.[16] Communication was seen to be a compelling concern: "Investigations of this kind succeed or fail based on executives' ability to effectively manage and communicate information in a timely manner."[17]

Inter-jurisdiction barriers can be addressed through the establishment of a multi-jurisdictional task force to facilitate information sharing and communication. However, new issues can arise within the task force and between the task force and home police agencies. During complex multi-jurisdictional investigations, all law enforcement personnel from chiefs to officers need to take on new roles within a cross-jurisdictional investigative team or task force and, often, new positions or duties will have to be created for the effective functioning of the team.[18] Many

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[12] *Ibid.,* at p. 17.
[13] *Ibid.*
[14] *Ibid,* at p. 78.
[15] *Ibid,* at p. 98.
[16] *Ibid*, at p. 17 and p. 78.
[17] *Ibid*, at p. 18.
[18] *Ibid.,* at p. 16.

issues and conflicts can arise due to lack of clear definitions and shared understandings of roles and responsibilities within the team. The overriding challenge is to develop and maintain an effective system for providing direction, making decisions and sharing information.[19] In some cases it may be necessary to coordinate multiple task forces over time thereby increasing the complexity of coordination issues.

Closer to home, Ghel's study on the dynamics of police cooperation in multi-agency investigations in Canada and, in particular British Columbia, provides an in-depth look at the issues and challenges experienced by police personnel in collaborative efforts.[20] His conclusion is that a lack of effective protocols hinders cooperative efforts:

> *I believe that because police agencies lack effective protocols for inter-agency communication, information sharing is ineffective and this causes delays in the decision to collaborate and develop multi-agency investigative teams.*
> *Errors occur when police agencies are aware of a joint crime problem or the linkages of criminal incidents across jurisdictions and do not act expediently to share information or work collaboratively to address the problem. The nature and magnitude of crime problems are not fully appreciated because police agencies lack the integrated information sharing systems, and communication protocols to keep them fully informed.*[21]

Gehl points out that while police forces do collaborate on an as needed basis, and both informal and formal protocols do exist, there remains a lack of consistent, effective multi-agency collaboration.[22] He notes that the failure of police agencies to recognize linkages between crimes and act expediently between organizations to form investigative teams is a complex problem. Gehl identifies a variety of causes that might come into play and contribute to this problem:

- *At the agency level the need for more integrated systems may not be recognized because the existing systems seem to be working reasonably well relative to existing organizational needs.*
- *Federal, municipal and provincial police legislation and accountability standards are different. Diverse accountability processes have the potential to obscure and confuse bottom-line accountability.*

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[19] *Ibid*.
[20] Gehl, *The Dynamics of Police Cooperation in Multi-Agency Investigations Finding Common Ground, supra.*
[21] *Ibid*, at p. 3.
[22] *Ibid*, at p. 2.

- *Federal, municipal and provincial police policies are not consistent with each other. Diverse policies may hamper a process of collaboration. Although some suggested practices exist that speak to the manner in which police agencies should come together, there is no universally agreed upon set of practices to govern the process of creating multi-agency teams.*
- *Cultures of police organizations vary and there are engrained cultural norms relative to guarding investigative information that may contribute to a hesitation in information sharing.*
- *Politics relative to historical interagency competition and rivalry may be an issue relative to openness and cooperation in information sharing.*
- *Autonomous authority for funding and personnel rests with the managers of individual police agencies. Their need to maintain accountability for jurisdictional resources may hamper decisions to join forces.*
- *The administration of resources is the exclusive domain of executive members of individual police agencies. The sharing of resources in multi- agency operations is often a contribution based upon problem ownership. Quantifying who owns how much of a particular crime problem can be an impossible equation.*
- *Autonomous decision-making authority relative to information sharing and recommending collaboration rests with case-managers. Limited criteria exist to direct when and with whom information is shared. Case ownership and past experience with ineffective attempts to achieve joint operations may adversely affect the decision to collaborate.*
- *There are too many diverse and incompatible information management systems. Data systems lack connectivity for information sharing and ease of management. Case management systems holding critical information tend to be isolated and unavailable for sharing between agencies. This problem has evolved over time as individual agencies have adopted their own proprietary case- management and records-management systems.*
- *Police agencies have limited resources to fund joint forces operations. Operational budgets are not generated in anticipation of joint forces expenditures and consequently funds must come from existing operational budgets or alternately through specific requests for supplementary emergency funding.*
- *Agencies lack the ability to release human resources to joint forces operations without affecting basic service delivery*.[23]

Over the past decade or more, there has been a movement away from ad hoc joint forces operation and to formally structured multi-agency teams such the Integrated Homicide Investigative Team (IHIT). Legislative restrictions may be a contributing factor to the slowness of this development:

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[23] *Ibid*, at pp. 5-7.

> *In all provinces legislation exists that obligates police agencies to assist each other if called upon in an emergency however: there is no legislation that directs or regulates the manner in which police should share information or come together to form joint forces teams to conduct major case investigations for inter- jurisdictional crime problems. Although some provinces have started initiatives to help police agencies work together in a multi-agency format, the diversity of organizations and systems remains a huge obstacle for the majority of jurisdictions.*[24]

Gehl describes the four levels of police information sharing systems in British Columbia and the fact that information is "flowed less freely" as it moves from the relatively open sharing of information about day-to-day investigations (Level I), through the mandatory information sharing systems of CPIC and ViCLAS (Level II) and becomes more restricted at the level of voluntary criminal intelligence sharing (Level III) and eventually is hindered by inconsistent major case management systems (Level IV).[25] He concludes:

> *Obviously the diversity of information management systems described here creates a problem for police agencies sharing information and making linkages between inter-jurisdictional crimes. Most significantly, the information contained in the major criminal files at Level IV is not in an open system. Critical information capable of solving crimes remains isolated within the case management files of individual police agencies.*[26]

Some of these issues have been addressed through the implementation of the Police Records Information Management Environment (PRIME-BC), which was completed in 2007. As a result of this initiative all police agencies utilize a common records system. The use of PRIME BC as the record keeping database for all provincial and municipal police agencies was legislated by the Government of BC under section 68 (1) of the *Police Act*. While there are some independent records systems still in operation for classified and highly sensitive information, the vast majority of police information is now readily accessible to all agencies in BC.[27]

PRIME BC has replaced numerous independent "silos" of information with a single database. Because of this common environment linkage of information regarding suspects operating in multiple jurisdictions is infinitely easier. Crime Analysts have access to a vastly improved pool of data from which to make their analysis. There are some access issues still awaiting resolution when it comes to accessing another

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[24] *Ibid,* at p. 11.
[25] *Ibid,* at pp. 14-15.
[26] *Ibid,* at p. 15.
[27] Sweeney Report at p. 15.

agency's data but most data is now stored in a common environment. Investigators can now gather relevant suspect information from a single source rather than the previous system of querying multiple databases with unreliable results.[28]

A variety of organizational dynamics come into play in decision-making the appropriateness for inter-agency collaboration. Team building is a complex and critical dimension of multi-jurisdictional major case investigations. Gehl focuses on the effect of cultural practices or "the dynamics of culture in police agencies and the effect of culture on the way police agencies partner."[29] The communication challenges faced in multi-jurisdictional investigations are founded on the tradition of investigators keeping information to themselves, overcoming this tradition requires building trust: "being able to believe that the person you are dealing with is honest and trustworthy and will keep their word is critical."[30]

Other cultural practices that inhibit inter-jurisdictional cooperation identified by Gehl through his research and interviews with police officers include:

- ***Turf****: organizational thinking anchored in history and organizational memories that are hard to overcome;*
- ***Bigger is Better****: has a negative effect on the ability of agencies to come together to form teams out of a fear of being taken over or being overpowered;*
- ***Case Ownership****: the instinctive pride of ownership felt by each investigator and each force over their own investigation provides incentive and energy but can result in police officers fail to effectively share critical information and resist forming partnerships with other agencies.*
- ***Secrecy:*** *the dynamics of secrecy in police culture can negatively effect the formation of multi-agency teams by impairing the flow of information that makes the formation of teams possible;*
- ***Organizational Isolation:*** *the cultural dynamics of organizational isolation exist because police organizations work as independent entities with only limited need for interaction with other agencies.*
- ***Valuing Individuals Over the Team:*** *The para-military structuring of police organizations is designed to recognize and reward individual achievement by advancement through the ranks and therefore an engrained culture exists in police organizations that values the achievements of the individual over the*

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[28] *Ibid.*
[29] *Ibid,* at p. 23.
[30] *Ibid,* at p. 26.

achievement of the team.[31]

In addition to personal dynamics and cultural practices, inter-jurisdictional cooperation can be hindered by lack of communication protocols and organizational systems. Systemic issues include: lack of common databases; paramilitary structuring; politics and regionalization; organized labour issues; lack of common case management systems; resource issues; and police differences.[32]

The nature and scope of these organizational systemic issues are highlighted in Gehl's thesis through selections from his research interviews:

> *You know I have a suspect in a murder here and there is no mechanical way I can share it with [the city] no automated way I can share it with [the city]. I have to physically have to send it down there by mail or on an e-mail address document. There's no searchability. You know if we have a Bernardo case here you know we wouldn't be any more successful in solving it based on the current systems that we have in place. We saw that mandatory involvement of ViCLAS but that's as far as it went… There is no other system right now that we either share oral communications on or data communications that are consistent across [this police community].* [33]

Gehl points out that all police agencies in Canada have evolved as para-military, rank structured organizations. He describes these structures as hierarchical with a focus on singular leadership and autonomy:

> *Communication within these structures in the traditional sense, is formal and linear. While modern police agencies obviously will vary in their adherence to the para-military structure however, this heritage is probably the underpinning structure for many of the previously identified cultures in police organizations.*

Gehl found that the cultural practices and communication protocols that exist within the para-military model often work against the ability of police agencies to form effective multi-agency teams. In particular, one of the problems identified through interviewees was that the higher-ranking officers who are no longer working operationally do not have effective communication with their counterparts in neighboring agencies:[34] As pointed out here:

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[31] *Ibid.* at pp. 43-49
[32] *Ibid.* at p. 63 and following.
[33] *Ibid.* at p. 64-65 (IS8).
[34] *Ibid,* at p. 44.

> *My experience is that the higher you go the less communication there is. There may be formal communication with the mayors on Wednesday night or town council or city council where they expect the Chief to show up and they expect the OIC of the detachment to show up.... but it is obviously not the same as lower down because these guys are working on crimes together and communicating more often.*[35]

Even after the matters of jurisdiction have been settled the negative history remains and stands for some as a barrier to meaningful interaction:[36]

> *Reluctance on some people's part and being forth, forthright about everything in a timely fashion. And even the establishment of a team sometimes is hampered uh, by agencies dislike for each other. And, and some, some I guess smaller forces certainly may have a belief that uh. A smaller number of people and they feel that the, I guess the competition is more intense that the agency may end.*[37]

Interview subjects did point to policy as a problem in the formation of multi-agency teams because conflicting policy sometimes becomes a barrier to the progress of the investigation:

> *There will always be concerns and innuendo when you've got different policies and different ways of doing business. If you're not careful those things tend to turn to the negative.*[38]

And:

> *So it tends to be used, sometimes there's a sword to sort of, to crash down a lot of really good work when people sort of pull up a piece of policy and Say well we can't participate in this operation because our policy says there has to be three people on, on the perimeter, not two and not one. Or, or you know we're supposed to carry this kind of a gun and wait this many hours before you know all that kind of stuff.*[39]

Gehl explains that conflicting policies are hard to overcome because agencies often have serious historical reasons for particular policies and there can be a lack of compromise when those historical reasons are not understood or accepted.[40]

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[35] *Ibid.* at p. 66 (IS4).
[36] *Ibid,* at p. 67.
[37] *Ibid.* (IS7)
[38] *Ibid,* at pp 71-72.(IS1)
[39] *Ibid,* at p. 72 (E1)
[40] *Ibid.*

(B) Fragmentation of Policing

British Columbia currently has 11 municipal police departments, the South Coast BC Transportation Authority Police Service and the Stl'atl'imx Tribal Police Service based in Lillooet. The RCMP has 90 detachments throughout the province. Some of those detachments service more than one community. Counting the number of policing agencies depends on the boundaries that are drawn. The RCMP's Lower Mainland District boundary encompasses 22 police agencies,[41] whereas the Vancouver Census Metropolitan Area (formerly Greater Vancouver Regional District) encompasses fewer agencies. The structure of policing agencies in the Lower Mainland and the Capital Region has been described as a "patchwork".[42]

The Vancouver metropolitan region is said to be the only large metropolis in Canada without a regional police force.[43] Other large metropolitan areas, those with populations overs 500,000, have regional forces. In many cases, regionalization of the police force was facilitated by regionalization or amalgamation of government.[44] In some cases, this occurred over a long period of time.[45] For the most part the two have developed hand in hand. However, the City of Calgary simply annexes new areas on a continuous basis to align with its policy to maintain a 30 year supply of developable land within its boundaries.[46] The City assumes all municipal responsibilities and as a result of this annexation approach, Calgary Police Services continually expands its jurisdiction along with the City.

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[41] Abbotsford, Delta, New Westminster, Port Moody, Vancouver, West Vancouver each have municipal departments and there are 15 RCMP detachments, plus the transportation authority.
[42] Lindsay Kines, Four-part series on "Patchwork Policing" in Times Colonist (September 2010).
[43] VPD Planning, Research and Audit Section, *Options for Service Delivery in the Greater Vancouver Region: A Discussion Paper on the Issues Surrounding the Regionalization of Police Services* (February 2008) at p. 23 ["VPD Discussion Paper on Rerionalization"]
[44] Linda Graham, *Regionalization of Policing Services in British Columbia: Quality and Equity Issues* (Draft submitted to the Commission of Inquiry on Policing in British Columbia, 1994) [unpublished] at p. 13.
[45] This was the case in Montréal. See: R. Fischler and J.M. Wolfe, "Regional Restructuring in Montreal: An Historical Analysis", *Canadian Journal of Regional Science* XXIII:1 (2000), 89-114.
[46] City of Calgary, *Backgrounder: City of Calgary – MD of Rocky View Annexation*, July 31, 2007.

One exception is Halifax, which has a unique policing model. When the Halifax Regional Municipality was created in 1996, the police services of Bedford, Dartmouth and Halifax amalgamated into the Halifax Regional Police.[47] However, the RCMP continues to police rural areas of the municipality. This style of regional policing is called a "blended model."[48]

Although the tendency in Canada has been that police regionalization occurs along with municipal regionalization this is not a requirement:

> *Although the amalgamation of local government has often preceded amalgamations of policing services, there are regional forces that serve separate municipalities and are governed by regional boards. Lack of local government amalgamations is not considered to be a major impediment to regionalization of policing services.*[49]

British Columbia stands out in this regard as all other large metropolitan areas are policed through a single police service except for the Halifax region, which is policed through a hybrid model of amalgamation.

The impact of this fragmentation is highly contested: critics highlight the negative impact in terms of both effectiveness and cost-efficiency whereas supporters emphasize the quality of locally-controlled police services. Discussions about the advantages and drawbacks of regionalization of the police force have been ongoing for many years. These debates are often case in terms of the value of

- Small departments against large ones;
- Specialized versus community policing; and
- Centralized versus decentralized policing.[50]

The overriding question is whether these arrangements actually hinder effective crime prevention and crime response.

While the Commission has made no finding of fact on this issue to date, several of the reports provided to the Commission suggest that this may be the case. One report concludes that a quicker and more coordinated response would have

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[47] VPD Discussion on Regionalization at p. 26. See also "Patrol Division" and "get Informed" found at Halifax.ca/Police.
[48] VPD Discussion Paper on Regionalization at p. 33.
[49] Graham, *supra,* at p. 16.
[50] Dominic Wood, "To Regionalize or Not to Regionalize" Police Practice and Research: An International Journal, 8:3, 283-297 (2007) at p. 285.

resulted if "one police agency held the same jurisdictional control over both Pickton's residence and the DTES where the women went missing from."[51] Another found that "the current structure causes investigations with regional implications to not be policed on a regional basis":

> *This disconnect was evidenced in the missing women investigations, and caused issues such as competing priorities, communication difficulties, and not having a single, large pool of resources to draw on. Investigators from the VPD and RCMP commented that barriers in the missing women investigation would have been minimized or eliminated had a regional force been in place.*[52]

In his report, DCC LePard warned that integration, although a good first step, will not solve the problems created by a lack of a regional or metropolitan police force. For example, he noted that in the missing women and Pickton investigations, integration would have been insufficient to harmonize the number of units involved in complementary aspects of the investigation.[53]

There is a complex interplay between the number of separate policing agencies and the ability of these distinct agencies to work together effectively. Some commentators note that there has been some progress in regionalizing certain specialized police services such as IHIT or Unified Gang Task Force. While others argue that the formation of such groups is evidence that there is a need for full regionalization of police services, not only specialized functions.[54]

One report concludes that the current system of localized (municipal) policing, coupled with overarching integrated teams focused on specific areas of policing (e.g., homicide investigation) does not work well.[55] The integrated teams approach has never been evaluated, but several problems with this approach have been identified by both police managers and individuals working in integrated teams:

- Integrated units drain resources (via secondments) from municipal police services which reduces the capacity of these services to meet local policing needs;

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[51] Deputy Chief Jennifer Evans, Missing Women Commission of Inquiry (Peel Regional Police, 2011) at p. 8-45.
[52] Deputy Chief Constable Doug LePard, Missing Women Investigation Review (VPD, August 2010) at p. 242.
[53] *Ibid*, at pp. 243 - 244.
[54] R.M.Gordon and B. Stewart, *The Case for the Creation of a Metro Vancouver Police Service* (April 11, 2009). [unpublished]
[55] VPD Discussion Paper on Regionalization.

- Individual municipalities bear the cost of training and developing police officers only to have them work outside the communities that are paying for them;
- Integrated units compete amongst themselves for scarce resources and often disagree over priorities;
- Not all police chiefs are supportive of all aspects of integration, which they see as simply leading to more RCMP domination of policing in the region;
- The commitment to integrated units is patchy because of the demands of local policing - if there is nothing to gain locally, police chiefs are not participating;
- The current trend to integrated units as supported by the Solicitor–General is a strong indication and, indeed, proof that amalgamation is the way forward to increased efficiency;
- While there is a system of intelligence-related communication between units, the degree of coordination leaves a lot to be desired (they continue to work in silos). In particular, there are differing policies and practices associated with the collection and dissemination of criminal intelligence;
- Integrated units are managed by joint management teams but these teams are cumbersome and bureaucratic – there is inconsistency in the management methods, investigative techniques and technologies used by many integrated units;
- The members of the units are drawn from different municipal departments and RCMP detachments and are frequently operating with different policies and procedures as well as different forms of civilian oversight.[56]

On the other hand, no matter how big you create different regional entities, there's always going to be a border and therefore successful inter-jurisdictional approaches are required.

In the United States, there is broad recognition that the ability to create policing teams has been frustrated by the diversity of policing agencies:

> *The most fundamental weakness in crime control is the failure of federal and state governments to create a framework for local policing. Much of what is wrong with police is the result of the absurd, fragmented, unworkable, non-system of more than 17,000 local departments.*[57]

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[56] R.M.Gordon and B. Stewart, *The Case for the Creation of a Metro Vancouver Police Service* (April 11, 2009) [unpublished] at p. 3-4

[57] E.J. Delattre, *Characters and Copes: Ethics in Policing* (London, England, 1989) at p. xv cited by Gehl, *supra* at p. 21).

The Director of Police Services Division has a responsibility to "Assist in the coordination of policing and law enforcement provided by the provincial police force, municipal police departments, designated policing units and designated law enforcement units.[58] However, the province's coordination function is hindered by the current structure:

> *Long term strategic planning is conducted in various forms by virtually all police agencies throughout the LMD. Each agency is concerned with their own municipality and there is no overarching regional strategy. Due to the parochial nature of the agencies, it is impossible to impose a regional response. Each agency head remains committed and answerable to their own jurisdiction. No single entity retains policing responsibility for cross boundary issues.*[59]

Fragmentation of policing is not only a problem of the Vancouver area: it is seen as extending to the Greater Victoria (also known as Capital District) and in the Okanagan.[60]

(C) Inadequate Accountability Systems

The current structuring of policing in the Lower Mainland and throughout the province raises concerns over whether there is effective oversight of the various police departments or the RCMP. In the context of the Missing Women Commission of Inquiry, accountability issues have arisen concerning the low level of priority and resourcing assigned to the missing women and Pickton investigations. Although the oversight systems of municipal police departments and RCMP detachments are different, some would argue that neither is done as effectively at it could be. One of the major concerns is the lack of transparency in the oversight system, which is meant to ensure that the needs of communities are being effectively addressed in police decision-making rather allowing "the potentially self-directed plans of the police".[61]

Police accountability systems must strike a delicate balance "between the independence and discretion that police constables have under statute and common law and the need for constables to be accountable for the way in which they exercise

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[58] *Police Act*, Part 8, s.40.1(g)
[59] Sweeney Report, *supra* at p. 9.
[60] See for example: *Police Service Regionalization in the North Okanagan* (1983) and *Greater Victoria Regional Police Services: A Proposed Model* (1985).
[61] Kent Roach, "The Overview: Four Models of Police-Government Relationships" (Ipperwash Inquiry Research Papers) at p. 8.

their powers."[62] In Canada and in many other countries, the main approach to striking the right balance is through reliance on the distinction between policy and operations. The police board or other civilian oversight body is responsible for policing policy by assisting in the development and implementation of the broad strategies, objectives and long-term plans of the police department. Police operations are considered to be "a matter for the Chief Constable alone."[63]

a. The Current Accountability Framework

The Commission's background report on policing provides an overview of the current accountability framework within the province. If a municipality chooses to form their own department then that department is regulated by the British Columbia *Police Act*.[64] A municipal police board is formed to provide governance of the department. Among other responsibilities, this board is responsible for hiring the Chief Constable, approving the annual budget and approving of departmental policies. Municipal police boards are required under the *Police Act* to determine the priorities, goals, and objectives of the department of each year, in consultations with the Chief Constable. Municipal police boards are accountable to the community they serve. The Police Board handbook states that Board members should develop mechanisms to acquire information and input from the community on topics such as what the policing issues are, how well the police are carrying out their duties, and what changes citizens feel are needed.[65]

The Police Board Handbook states that police boards:

> *…play a pivotal role in promoting relations between the department and the community, to prevent crime and violence, and to promote safety and trust. It is envisioned that through police boards, the department and communities working together to solve community problems, community members and law enforcement can build relationships and use resources more effectively.*
>
> *Police boards should look to develop and make recommendations directed towards improving, promoting and encouraging open communication and cooperation between the police department and the residents of the community. This includes reviewing and recommending policies, practices and*

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[62] *BC Police Board Handbook – Resource Document on Roles and Responsibilities Under the Police Act* (Ministry of Public Safety and Solicitor General, March 2005) at p. 1. [BC Police Board Handbook]
[63] *Ibid,* at p. 3 .
[64] *Police Act*, RSBC 1996, c-367
[65] *BC Police Board Handbook*, at p. 7.

> *programs designed to make law enforcement sensitive, effective and responsive to the needs of the community.*[66]

The Handbook goes on to suggest that police board objectives regarding its role with the community may be:

- *To act as an official liaison between the police and the community;*
- *To provide information with respect to policies, programs, and conditions at the department;*
- *To make relevant information known to the community and to encourage community interest and involvement in the department;*
- *To comment and make recommendations regarding the policies and conditions at the department on behalf of the community they represent;*
- *To review incidents, investigations, complaints and policy issues brought to the board by the Chief Constable or any member of the board and make recommendations to the Chief Constable about the matter; and*
- *To take such other actions as may be appropriate to accomplish the objectives of the board.*[67]

Governance of the RCMP is managed under the authority of the *Royal Canadian Mounted Police Act.*[68] Under this federal legislation, the RCMP is led by the Commissioner, who, under the direction of the Minister of Public Safety Canada, has control and management of the RCMP and all matters connected therewith. While the *Police Act* does not fulfill a governance role over the RCMP detachments, it does provide for the formation of local policing committees to liaise with RCMP Detachments.

Section 31(1) of the *Police Act* provides that after consulting the councils of municipalities located entirely or partly in the area of British Columbia in which the committee is to have jurisdiction, the provincial government may establish a local police committee consisting of not less than three members appointed by the provincial cabinet. These police committees are advisory in nature. They consult on the hiring of the Officer in Charge of the RCMP detachment and in establishing budget or policy. Their duties according to section 33 of the *Police Act* are:

> *33. A committee has the following duties:*
> *(a) to promote a good relationship among*

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[66] *Ibid.*
[67] *Ibid,* at p. 1.
[68] R.S.C. 1985, c. R-10.

> *(i) the residents of the area of British Columbia in which the committee has jurisdiction,*
> *(ii) the provincial police force, and*
> *(iii) any designated policing units or designated law enforcement units that may be operating in that area;*
> *(b) to bring to the attention of the minister, the provincial police force, the designated policing units and the designated law enforcement units, any matters concerning the adequacy of policing and law enforcement in the area of British Columbia in which the committee has jurisdiction, and to make recommendations on those matters to the minister, the provincial police force, the designated policing units and the designated law enforcement units;*
> *(c) to perform other duties that the minister may specify.*

The Ministry of Public Safety and Solicitor General has overall responsibility for public safety and the protection of all citizens and their individual rights. These responsibilities extend to ensuring "that an adequate and effective level of policing and law enforcement is maintained throughout British Columbia".[69] Under the *Police Act*, the Director of the Police Services Division, Ministry of Public Safety and Solicitor General, is assigned broad powers, including all former functions of the BC Police Commission (with the exception of public complaints). These functions include audits, inspections and reviews, recommendations about appointments to police boards, policing policy, research and statistics, and advice to the Minister, police boards and Chief Constables.

At the provincial government level, operational accountability for municipal police forces is measured through the audit process. The audit process encompasses inspections, evaluations and reviews of municipal police departments. The main objectives of the police audit process are to improve the quality and standard of services provided by the police and to support the implementation of professional police practices. In practice, Police Services Division currently conducts three types of "audits" under the *Police Act*. These include:

- **Inspections** – All aspects of a particular police department are inspected for compliance to provincial policing standards. A report is produced that deals exclusively with that department.
- **Evaluations** – One aspect (e.g., operation of emergency response teams) of all police departments is evaluated during the same time period. Individual jurisdictional reports and a summary provincial report are produced.

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[69] *Police Act,* Part 2, s.2

- **Reviews** – A particular issue or aspect of one police department is reviewed (e.g., management relations). A report is produced that deals exclusively with that department.[70]

The Director of Police Services Division can make recommendations to the Minister on policing standards on training, use of force and "any other matter related to policing and law enforcement". [71] She or he also has a responsibility to "establish, carry out, or approve and supervise programs to promote co-operative and productive relationships between officers and the public."[72]

All complaints against members of a municipal police department are administered under the provisions of the *Police Act*. The Chief Constable is also the discipline authority for the department, as legislated by the *Police Act*. The Chief therefore has the ultimate responsibility regarding departmental discipline, subject to review of the B.C. Police Complaint Commissioner.

An Officer In Charge of a RCMP detachment is not the discipline authority for the detachment. Likewise, a Community Policing Committee consults but does not hold responsibility for policy or budget for the detachment. The municipal agreement stipulates that RCMP administrative process shall be followed.[73]

A complaint against a member of the RCMP is administered under the provisions of the federal *RCMP Act* and is subject to oversight by the Commission for Public Complaints Against the RCMP. The Officer In Charge of a detachment may implement informal discipline as described in Part IV, section 41 of the *RCMP Act*. The Officer In Charge may also recommend formal discipline, but this process is conducted by an external RCMP review board.

The police are subject to disciplinary and police complaints processes and civil actions and criminal prosecutions for their actions while responsible Ministers are subject to questioning in the legislature and the media, civil law suits, access to information requests, and complaints to the Ombudsman or the human rights commission. The relationship between the government and the police is shaped by "multiple and overlapping forms of oversight":

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[70] *BC Police Board Handbook*, at p. 8.
[71] *Police Act*, Part 8, s.40.1(e).
[72] *Police Act*, Part 8, s.40.1(f)
[73] Sweeney Report at p. 8 referring to Province of British Columbia, Municipal Policing Agreement, ARTICLE 3.0 MANAGEMENT OF THE MUNICIPAL POLICE SERVICES.

- Formal inquiries and inquests,
- Internal reviews of police accountability,
- Province wide task forces,
- Municipal, provincial and federal governments deciding on police force budgets,
- Internal investigations departments, and
- The activities of specialized police-related tribunals (civilian and police complaints tribunals, police services boards, internal police disciplinary panels, etc.).[74]

As can be seen by this brief overview, within the province of British Columbia and across Canada, there are multiple and in some cases overlapping police accountability mechanisms.

b. Issues

Three main issues or sets of concerns related to police accountability systems arise from a review of reports on missing women investigations. These are inadequate community input into policing priorities; inadequate provincial standardization of missing persons and major crime investigations; and limited approaches to police discipline. The concerns raised in the context of this Inquiry relate more specifically to public participation, or community participation, in the government-police relationship.

The idea of community is not a straightforward one in today's complex society, particularly in urban areas. Our sense of community may reside foremost with the neighbourhood where we reside or it may be much broader than the city limits. For First Nations people and some ethnic minorities, a sense of community is likely to exist on ethno-cultural lines as well. Accountability mechanisms should reflect the multi-faceted nature of community. The diverse experience of communities within an urban area is well illustrated by the results of a Regina Police Service (RPS) survey where satisfaction levels were markedly different for First Nations respondents by comparison with others:

> *The First Nations and Métis [survey] respondents reported a lower level of trust and confidence in the police, had a greater fear of crime, and reported less*

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[74] Lorne Sossin, "The Oversight of Executive Police Relations in Canada: The Constitution, the Court, Administrative Processes and Democratic Governance", (Ipperwash Inquiry Research Paper).

> *satisfaction with the quality of services of the RPS. Aboriginal respondents also reported having less positive perceptions of the RPS Community Service Centres located in the Central patrol district, and almost one-third reported that they would never use those services.*[75]

A number of studies of community policing point to the difficulty being that "there is seldom *one* community but rather several—of unequal power."[76] Margaret Beare encapsulates these concerns by pointing out that there are vulnerable offences and vulnerable people: crime control strategies can focus on outsider or "non-respectable" segments of the population without drawing ire from the population at large.[77] Many Canadian studies have confirmed the perception of unequal treatment by the police along racial and class lines.[78] Bear refers to American studies discussing some of the dynamics of policing and governing heterogeneous communities where one group of voices can gain precedent over all others:[79]

> *The police may feel themselves to be under intense political pressure to solve, or at least settle, the competing demands from usually 'unequal' segments of the society. As the police begin to work 'deeper' inside the community via a community-policing model, the more they and their political masters may hear the voices of the most powerful or the most politically astute.*[80]

Former Chair of the Metropolitan Toronto Police Services Board Susan Eng rejects the idea that police subcultures are distinct from the community. This does not tell the whole story in her view, rather, "police buy into the social hierarchies the rest of us try to deny exist. The police subculture makes a distinction between those people they will do things for and those people they do things to":[81]

> *The police are simply reflecting back to us the essential double standard of our society. While we universally profess to value equality before the law, we actually accept that some are more equal than others. The police are asked to choose for us and if they choose wrongly, or make the right choice at the wrong time, they are castigated.*[82]

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[75] N. Jones and R. Ruddell, *Community Perceptions of the Regina Police Service 2011* (University of Regina, November 2011) at p. 3.
[76] Margaret Beare, "The History and The Future of Politics in Policing", (Ipperwash Inquiry Research Paper).
[77] *Ibid,* at pp. 63-64.
[78] See various studies referenced in *ibid,* at pp. 64-65.
[79] J. Q Wilson, *Varieties of Police Behaviour* (Atheneum Press, NY., 1976).
[80] Beare, *supra* at p. 66.
[81] Susan Eng comment on Dianne Martin, "Legal Sites of Executive-Police Relations: Core Principles in A Canadian Context", (Ipperwash Inquiry Research Paper) at p. 60.
[82] *Ibid, at* p. 62.

Police priorities are influenced by broader government policy choices:

> *Through resource allocations, political decisions and preferences can directly or indirectly encourage the police to focus on particular types of "threats" and away from other offences. It is not so much a matter of the police deciding to enforce or not to enforce certain laws, but rather that they have the capability--granted through resources including facilitating legislation—to target a segment of all offenders. Because academics and the media concentrate on how police carry out their functions rather than why they are doing what they do the link to political direction remains hidden.*[83]

Government decision-making on policing matters is removed from the day-to-day operations but still has a major role in determining policing priorities. The government's role is to articulate those policing policies and practices that are in the public interest. Governments have justice system priorities that greatly affect the resources available to police and pose demands on policing. For example, over the course of the last decade or so the federal government has funded major policing-related initiatives such as the Child Sexual Abuse Initiative, Missing Children, Family Violence Initiative, Canada's Drug Strategy and Aboriginal Justice Initiative.[84]

Police priorities are also influenced by third parties including police associations and unions, victims advocacy groups, political parties, interest group organizations of various stripes and the media.[85]

The Report of the Independent Commission on Policing On Northern Ireland (Patten Report) discussed the importance of police accountability and the types of police accountability:

> *In a democracy, policing, in order to be effective, must be based on consent across the community. The community recognizes the legitimacy of the policing task, confers authority on police personnel in carrying out their role in policing and actively supports them. Consent is not unconditional, but depends on proper accountability, and the police should be accountable in two senses – the "subordinate or obedient" sense and the "explanatory and cooperative" sense.*
>
> *In the subordinate sense, police are employed by the community to provide a service and the community should have the means to ensure that it gets the service it needs and that its money is spent wisely. Police are also subordinate*

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[83] Beare, *supra* at p. 70.
[84] *Ibid,* at p. 72.
[85] Sossin, *supra* at p. 41.

> *to the law, just as other citizens are subordinate to the law, and there should be robust arrangements to ensure that this is so, and seen to be so. In the explanatory and cooperate sense, public and police must communicate with each other and work in partnerships, both maintain trust between them and to ensure effective policing, because policing is not a task of the police alone.*
>
> *It follows there are many aspects to accountability. There is democratic accountability, by which the elected representatives of the community tell the police what sort of service they want from the police, and hold the police accountability for delivering it. There is transparency, by which the community is kept informed, and can ask questions, about what the police are doing and why. There is legal accountability, by which the police are held to account if they misuse their powers. There is financial accountability, by which the police service is held to account for its deliver of value for public money. And there is internal accountability, by which officers are accountable within a police organization. All of these aspects must be addressed if full accountability is to be achieved, and if policing is to be effective, efficient, fair and impartial.*[86]

The Patten Report also noted the important relationship between transparency and accountability:

> *People need to know and understand what their police are doing and why. This is important if the police are to command public confidence and active cooperation. Secretive policing arrangements run counter not only to the principles of a democratic society but also to the achievement of fully effective policing.*[87]

Accountability frameworks have a dual goal: promoting accountable and transparent police decision-making and promoting accountable and transparent government decision-making about policing.[88]

Lorne Sossin has argued that the fact that these accountability mechanisms are complex and multi-faceted is not necessarily problematic: the problem with the system of oversight is "its lack of overarching visions and coherence."[89] He makes an important distinction between accountability and oversight:

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[86] United Kingdom, Independent Commission on Policing for Northern Ireland (Rt. Hon. C. Patten, Chair), *A New Beginning: Policing in Northern Ireland* (London: 1999), at pp. 22-25.
[87] *Ibid,* at p. 29.
[88] Sossin, *supra*.
[89] *Ibid,* at p. 11.

> *While other institutions may provide an important oversight role (courts, complaints bodies and administrative tribunals, for example) the police must be accountable to a single Crown authority. If the police are accountable to everyone in theory, they are accountable to no one in practice. However, notwithstanding that they are accountable only to the Crown in theory (and in part because of this fact), their activities may and should be subject to public scrutiny by a range of other judicial, administrative, political and community bodies in practice.*[90]

Sossin supports multiple oversight mechanisms because "accountability through a ministry may lead to ineffective supervision and exacerbate the vulnerability of the police to political interference."[91] The goal, in his view, is to achieve an "autonomous and apolitical" police force.[92]

Sossin makes the case for moving beyond the policy/operation distinction as the boundary of police oversight, arguing that the distinction is artificial. In his view, the public should demand "transparency and authenticity" in the police-government relationship. He advances a contextual framework to determine when political input into police decision-making is legitimate. One should ask:

1. First, does executive have a legitimate public interest goal to advance?
2. Second, would pursuing that goal respect the functional autonomy and apolitical status of the police? And
3. Third, is there an overriding interest, either of individual rights or public safety, which is inconsistent with political involvement?

If the answer to any of the above questions is "yes", then political involvement would be inappropriate. That executive input may be appropriate, however, does not mean that it necessarily trumps the police's own view of what is desirable and in the interests of the public.[93]

Public confidence in the independence of the police can be furthered by increased transparency of the budgetary process and the substantive quality of the deliberations surrounding that process. A more robust system of independent audits of police budgets and government expenditures on policing more broadly would signal a positive step in this direction.[94] In the context of overall transparent and deliberative relations between government and the police, Sossin states:

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[90] *Ibid*, at p. 42.
[91] *Ibid.*
[92] *Ibid.*
[93] *Ibid*, at p. 45.
[94] Sossin, *supra*, at pp. 50-52.

> *My claim in this analysis is that where the police and the executive are engaged in working out their relationship in public view, the safety of the public, needs of communities and rights of individual are likely to be more effectively safeguarded. The Canadian legal and political system is characterized by a strong set of constitutional and democratic norms – translating those norms into practical realities which take into consideration political realities, however, remains an elusive and vital goal.*[95]

Gordon Christie comes to a similar conclusion in this approach to these issues through the lens of the Aboriginal-state relationship.[96] He concludes:

> *A core of policing functions should be by and large removed from government interference, but the government should have a large monitoring role (especially in relation to policy-laden operations), and should play an active role in developing and implementing policing policies.*[97]

Alan Borovoy has proposed an additional safeguard of independent auditing:

> *An independent agency should be given continuing access to police records, facilities, and personnel so that it can conduct on-going, self- generated audits of this pivotal relationship as well as police policies and practices in general. The agency should have no decision-making power. Its sole function should be to disclose and propose.* [98]

The advantage of independent audits is that they do not rely on civilians confronting police, and since auditors have only one function "they have every incentive to be thorough."[99] Publicity from an audit subjects the decision-makers to a new and potent pressure and this can produce changes in police policies and practices. Borovoy points out that Canada is already experiencing this in national security matters: "The independent Security Intelligence Review Committee (SIRC) performs such audits of the Canadian Security Intelligence Service (CSIS). A SIRC audit a number of years ago pressured the government into disbanding CSIS's counter-subversion unit."[100]

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[95] *Ibid,* at p. 53.
[96] Gordon Christie, "Police-Government Relations in the Context of State-Aboriginal Relations", (Ipperwash Inquiry Research Paper).
[97] *Ibid,* at p. 20.
[98] Alan Borovoy's comment on Sossin, *supra*.
[99] *Ibid*.
[100] *Ibid*.

In Ontario, police boards and police forces have been faced with issues of racism and racial profiling and have had to directly confront these systemic concerns. However, as Dianne Martin points out the search for an appropriate response to this problem of racism/racial profiling is a work in progress:

> *Although the courts have recognized the phenomenon of racial profiling and the findings of the various commissions of inquiry have unequivocally noted the presence of racial bias in policing, it has been difficult for Toronto police chiefs to acknowledge that racism may be systemic and unconscious as well as deliberate and/or malicious. The Toronto Police Services Board, under its jurisdiction to set policy has sought to make the issue a priority, but these efforts have been met with extreme resistance (and even denial) by the union and successive chiefs.* [101]

A distinct accountability issue raised in the Commission's consultations is the limited nature of police discipline processes and the need to expand alternative approaches to deal with police mistakes and misconduct. Police disciplinary procedures have long been a source of frustration for nearly everyone involved in the process and those interested in the outcomes.[102] Numerous problems have been identified:

- Lengthy delays in the process from allegation of misconduct through investigation and resolution;
- Lengthy appeals process;
- Appearance that discipline is arbitrary;
- Appearance of uneven approaches to complaints resulting from responses to pressure from the community and media in specific cases;
- Failure to achieve the primary purpose of holding officers accountable for their actions and encouraging positive behavior;
- Predominantly punishment oriented.[103]

To sum it up: "the entire process leaves one with a sense that there should be a better way to help officers stay within the boundaries of acceptable behavior and learn from the mistakes made in an increasingly difficult and challenging job."[104]

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[101] Dianne Martin, "Legal Sites of Executive-Police Relations: Core Principles in A Canadian Context", Ipperwash Inquiry Research Paper, at p. 30-31.
[102] Darrel W. Stephens, "Police Discipline: A Case for Change" *New Perspectives on Policing* (National Judicial Institute/Harvard Kennedy School, June 2011) at p. 1.
[103] *Ibid,* at p. 6.
[104] *Ibid.*

The best situation for a police department, its employees and the community is "to create an environment in which the formal disciplinary process is both the last option to deal with police mistakes and misconduct and the one least used."[105] Creating such an environment involves many different components:

- Improving the hiring process;
- Enhanced training;
- Setting clear expectations and a consistent process for ensuring objectives are met;
- More effective supervision, which "is critical to creating an environment in which coaching, not the threat of discipline, helps mold officers into professionals";
- Implementing performance standards and reviews;
- Simplified complaint reception and investigative procedures;
- Using technology, such as video cameras, to deter misconduct; and
- Counteracting the "code of silence" within police forces.[106]

An effective disciplinary process should focus on behaviour change rather than punishment and therefore requires a broader range of alternate consequences rather than simply consisting of negative sanctions.

3. OVERVIEW OF POLICY OPTIONS

A range of policy options has been proposed to revitalize the structure and organization of policing in British Columbia. These options for reform are discussed under the following seven headings:

- Strengthening inter-jurisdictional structures and protocols;
- Establishing cross-jurisdictional systems;
- Transforming cultural practices;
- Regionalization of policing;
- Establishing provincial policing standards;
- Increasing the transparency of decision-making;

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[105] *Ibid.* See also: Matrix Consulting Group, *Review of Internal Affairs, Disciplinary Process and a Cultural Assessment of the Police Department: City of Vancouver, Washington* (Vancouver, Wash.: 2009); W. Taylor, *Review of Police Disciplinary Arrangements Report*. (London: Home Office, 2005).
[106] Stephens, *supra,* at pp. 5-8.

- Institutional alternative approaches to police discipline.

Many of these reforms have been under discussion for some time. The Commission's work provides an opportunity to take a new look at these reform proposals in light of its mandate to make recommendations for the improvement of the initiation and conduct of investigations of missing women and suspected multiple homicides and, in particular, where more than one policing organization is involved in the investigation. Tragedy creates an important space for rethinking existing structural and organizational arrangements: "When change does occur, particularly change that increases oversight, it does so in the aftermath of a significant crisis in public trust. The failure of accountability mechanisms has, in turn, produced calls for reform."[107]

(A) Strengthening Inter-jurisdictional Structures and Protocols

Several provinces have established structures to facilitate and support work amongst different policing agencies. Ontario, Alberta, Manitoba and British Columbia have established integrated task forces to investigate women who were missing and to identify links between murder victims.[108] Saskatchewan has established a broader coordination body, the Provincial Partnership Committee, which facilitates integration of the work of policing and other types of agencies.[109] In Manitoba, the government has an Action Group, bringing together Aboriginal organizations and community agencies. This group is expected to review past recommendations from inquests and reports on vulnerable and exploited women and girls and will be available to consult with the Manitoba task force.[110]

A review of the Irish police's missing person practices carried out a cross-jurisdictional study and concluded that there were two best practices with respect to structure. One best practice is the use of a central missing persons unit to oversee organization-wide policies and procedures, training, and technology. The central unit helps ensure organizational practice is reviewed for improvement in light of emerging best practices. The central unit also helps implement changes in policy and procedure consistently across the organization. A second best practice is the appointment of a missing persons coordinator in each local jurisdiction within a country. These missing person officers act as "local subject matter experts". They

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[107] Martin, *supra,* at p. 21.
[108] MWWG 2012, at p. 57.
[109] *Ibid.*
[110] *Ibid.*

also liaise with the central unit to ensure local practice is consistent with national standards.

The International Association of Chiefs of Police recognize in their Model Police Manual that the pooling of resources among regional law enforcement and criminal justice agencies are often the most effective and efficient means of investigating selected major crimes.[111]

While there appears to be little doubt that collaboration and coordination between policing agencies is critical to missing women investigations, there is less clarity on how to foster this cooperative approach.

Gehl's thesis provides some options for reform in terms of communication protocols and cultural practices that could be adopted by police to achieve interagency collocation and effective major case investigations.[112] He identifies three communication needs that should be addressed within protocols:

- *Communications that drive timely decision-making to form a multi-agency team,* which is assisted by having clear rules for partnering; making genuine efforts to communicate; having established operational relationships between agencies; and having established management liaison between agencies;
- *Communications that ensure the multi-agency team can function as an independent investigative unit,* which requires effective team leadership, inclusive communications, mixing partnering assignments and clear memoranda of understanding; and,
- *Communications that satisfy the need of contributing organizations to be kept informed and involved at the appropriate levels,* which necessitates sharing credit equally and establishing clear reporting protocols.[113]

Other specific recommendations include the need for:

- Remedial systems strategies designed to address cultural practices in policing;
- Achieving a common data system for case management;
- Integration of police investigation systems;

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[111] International Association of Chiefs of Police, *Consolidating Police Services: An IACP Planning Approach* (2003) at p. 1.
[112] Gelhl, *supra,* at p. 49-62.
[113] *Ibid.*

- Having a common case management system; and
- Integrated training systems.[114]

The Sniper review emphasized the importance of planning and preparation for multi-jurisdictional investigations. As much as possible, agencies should develop plans and policies through memoranda of understanding and other mechanisms to build relationships before an incident develops: "Even if those plans and policies are not perfectly suited to the investigation that unfolds, they provide a foundation upon which modifications or additions can be easily made."[115] Working groups can be established to meet regularly and discuss multi-agency responses and even hold exercises for complex investigations. Planning and preparation can help mitigate confusion about roles and responsibilities for such crucial personnel as executives and investigators, as well as define new positions or duties.[116] Developing relationships prior to crises is crucial to fostering communication, coordination and the exchange of resources. A pre-existing relationship provides "a foundation for agencies that may need to enter into a joint operation in response to an incident and engenders a basic level of trust— trust that can facilitate meshing resources." [117]

The Sniper review also made a number of recommendations concerning managing leads:

- *Leads and suspect information must be disseminated to affected agencies as quickly and accurately as possible.*
- *Officials should recognize and plan for the situation in which some task force members will perceive that information is being withheld, whether it is or not.*
- *Create an investigative team that serves a quality control function and views developments objectively.*
- *Investigators should report the results of investigations to their supervisors, even when the lead does not produce useful follow-up information.*
- *Agencies will need a comprehensive lead management system that includes tracking procedures for receiving, assigning, reviewing and transferring leads.*
- *Supervisors should not filter information (even in an effort to prevent media leaks) before passing it along to investigators.*
- *Supervisors need protocols for reviewing investigators' work and making decisions about re-checking a lead, investigating other leads that grew from the first or moving in a different direction.*
- *Task forces should develop protocols for interviewing and interrogating*

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[114] *Ibid*.
[115] *Managing A Multijurisdictional Case, supra* at p. 15.
[116] *Ibid*, at p. 16.
[117] *Ibid,* at p. 25.

suspects.

- *Investigators who are not accustomed to working together should not jointly conduct interviews of significant suspects.*[118]

Based on his review of the missing women investigations in Vancouver, DCC LePard concluded there was a need for a multi-jurisdictional protocol, specifically a "trigger" for a major investigation and a mechanism to establish a Joint Forces Operation quickly. DCC LePard noted that some progress had been made recently: for example, the RCMP initiative to ensure there is a pool of high level major case managers available in BC, the creation of the BC missing persons analysis unit, and integration of some homicide units. In his 2010 report, DCC LePard stated that "more work is needed to develop specific initiatives to address other systemic barriers." Specifically, he called for a triggering mechanism:

> *What the Missing Women case highlights is how important it is that there be a mechanism or process to "trigger" a multi-agency response to a serious crime problem in BC, such as an active serial killer. It is commendable that there has been considerable leadership and cooperation shown amongst the BC Chiefs with respect to integration of police agencies. However, where police leaders are unable to come to agreement on the appropriate response to a serious problem, there is also a need to have an "oversight" mechanism to serve the interests of public safety in extraordinary situations."*[119]

DCC LePard warned that more attention needs to be paid to the issues of integration and amalgamation of resources for serial offender investigations to be successful, and at the minimum, a mechanism to rapidly create and fund a multi-agency response to urgent problems, which minimizes poor individual decision-making.[120] He made the following specific recommendations in this regard:

> *Multi-jurisdictional Investigations*
>
> *1. Create a protocol or framework for multijurisdictional major case investigations to ensure the timely and seamless implementation of multi-agency teams. Reference documents should include this Review, Inspector R. Gehl's 2001 M.A. thesis on "Multi-Agency Cooperation", and Justice Campbell's Bernardo Investigation Review. The protocol should include specific guidelines, provisions for ongoing liaison between senior police officers, and reporting requirements;*
>
> *2. Strike a committee to:*
>
> - *Develop a mechanism for individual police agencies faced with a "major case" with a multi-jurisdictional aspect to seek assistance, including involvement of the Provincial Police;*

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[118] *Ibid,* at p. 60.
[119] LePard, *supra*, at 240.
[120] *Ibid*.

- *Develop specific criteria that set out the circumstances in which a JFO will be created and a process for providing ongoing review and reporting of the JFO's activities;*
- *Develop an agreement allowing the rapid creation of JFOs when needed; and*
- *Develop a funding model for extraordinary investigations that are beyond the capacity of a municipal police department's budget for "routine" policing;*
- *Examine the state of provincial standards for advanced training of police officers in British Columbia.*[121]

(B) Establishing Cross-Jurisdictional Systems

A common case management system for the province of Ontario was one of the primary recommendations made in the Bernardo Review:

- "Without a consistent set of case management standards and procedures, individual investigations will be less effective and it will be extremely difficult to co-ordinate separate investigations when a link between them becomes apparent";[122] and
- "A major case management system is required for major and inter-jurisdictional serial predator investigations, based on simple mechanisms to ensure unified management, accountability and co- ordination among police forces and law enforcement agencies."[123]

The Bernardo Review contains detailed recommendations regarding the content of an effective case management system and how to operationalize it.[124] The key recommendations were:

> *(1) A major case management system is required for major and inter–jurisdictional serial predator investigations, based on:*
> *a) co–operation rather than rivalry*
> *b) specialized training for senior officers in charge, senior investigators, and interdisciplinary support teams*
> *c) early recognition of linked offences*
> *d) co-ordination of inter-disciplinary and forensic resources*
> *e) simple mechanisms to ensure unified management, accountability and co–ordination among police forces and law enforcement agencies*

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[121] *Ibid*, at 334 to 335.
[122] *Bernardo Review,* at p. 31.
[123] *Ibid*, at p. 38.
[124] See summary of recommendations at pp. 319-328.

> *(3) A major case management system for the investigation of serial predators is required to ensure:*
> *a) unified direction under one single person in overall charge of, and accountable for, related investigations*
> *b) supervision of time lines and systematic follow up of crucial investigative steps such as forensic testing*
> *c) a standard computerized case management system for the recording, organization, management, analysis, and follow up of tips and investigative leads*
> *d) the consistent, and organized classification and elimination of suspects*
> *e) the systematic use of relevant information from other forces such as C.P.I.C. zone alerts*
> *f) co–operative provincial oversight and intervention when a serial predator investigation is not pursued vigorously when it becomes a low priority for a local police force*
>
> *(13) A major case management system is required to ensure:*
> *a) standardization of interview and statement techniques and consistent criteria for suspect classification and elimination*
> *b) better communication between police forces about common suspects*
> *c) strategic analysis of the benefits of major initiatives and the capacity of the investigation to use the resulting information effectively*
> *e) effective media relations policies directed in major cases by a specially trained full–time media relations officer.*

Justice Campbell also made very detailed recommendations concerning the need for a centrally supported organizational structure, based on co–operation among individual police forces based on the following general approach:

> *(17) A province–wide co–ordinated response to serial predators is required, based on the CISO model of a centrally supported police co–operative with additional inter– disciplinary advice and support, but without the creation of a new agency or the attraction of any bureacratic baggage.*[125]

His recommendation sets out the proposed organizational structure in some detail.[126]

The police officers interviewed by Gehl provided a similar message that "a common system of case management is needed to overcome the confusion that exists within the organizational diversity of investigative practices."[127] The system would require commitment on the part of agencies in the police community to reach agreement

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[125] *Ibid,* at p. 23.
[126] Recommendation 20 at p. 323.
[127] Gehl, *supra* at p. 76.

and achieve a convention on the case management system to be used. It would then require a further commitment to allow the MCM unit to exist as an autonomous team:

> *A firm commitment from each agency to let the structure of the Major Case Management Unit exist independently so that they can go do their job and allow them to have their structure reporting from the unit back to each agency. That's one of, the big issues with any multi-agency organization is having, allowing the unit or the team, the investigative team their own structure during the project.*[128]

Both Ontario and Alberta have made significant progress in this regard. The Ontario MCM Manual sets out detailed standards for various aspects of multi-jurisdictional major case management including identification systems; the role of the Serial Predator Crime Investigations Coordinator, Multi-jurisdictional Major Case Manager, Major Case Management Executive Board, Joint Management Team and Investigative Consultant Team; and multi-jurisdictional major case investigative functions and responsibilities. These standards include criteria for activation and the use of interdisciplinary expertise. The multi-jurisdictional major case management process is illustrated in a flow chart, which illustrates the differences between the management of a multi-jurisdictional case by comparison with a single jurisdiction case.[129]

The Sniper review set out some best practices with respect to effective case management systems:

- Serves as the electronic repository for all tips, leads and other information related to a case including, for example, the capability to store and analyze 100,000 telephone tips;
- Achieves portability;
- Remains compatible with systems in other agencies;
- Has a web-based system accessible to authorized agencies;
- Feeds multiple information systems based on one-time data entry;
- Performs sophisticated data analysis, such as cross-checking and soundexing; and
- Provides action tasks for investigators to consider.[130]

The MWWG also noted that the use of distinct MCM software programs by different police agencies creates challenges with respect to the ability to coordinate MCM

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[128] *Ibid*. (W7)
[129] Ontario Major Case Management Manual (2004).
[130] *Managing A Multijurisdictional Case, supra* at p. 67.

between police forces: "If software systems are not compatible between the RCMP and other police agencies, information is not easily exchanged between databases. Ideally information exchange would be enhanced if all police services used compatible MCM software".[131] The MWWG proposes a national compatible MCM system.

> *The MWWG recommends that a move toward compatible MCM software be considered by police agencies across Canada in order to coordinate between police agencies in major investigations.*[132]

The MWWG also found that while MCM is now viewed as standard police practice, "some police agencies still have experienced challenges in implementing MCM effectively".[133] In addition, police are continually engaged in making improvements to MCM and although these refinements could benefit other police forces, there are no mechanisms that would make such information sharing on best practices timely and accessible.[134]

> *The MWWG recommends that jurisdictions encourage police forces, as they develop improvements to MCM, to explore strategies that would promote sharing these best practices with other police forces in a timely manner.*[135]

Law enforcement agencies in the United Kingdom have grappled with how to coordinate the array of information needed in an effective high-profile investigation. The U.K.'s current system, called Home Office Large Major Enquiry System (HOLMES), incorporates elements of case management, information analysis, and intelligence-investigative coordination that could be instructive for developing a Canadian system.[136]

DCC LePard also recommended a provincial standard for electronic case management software to support major investigation, to prevent delays in transferring information and problems arising from police agencies using different systems, and provide provincial standards for training.[137] He acknowledged that once the PRIME-BC Records Management System was implemented throughout BC,

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[131] MWWG, at p. 47.
[132] Recommendation # 32.
[133] MWWG, at p. 47.
[134] *Ibid.*
[135] Recommendation # 33.
[136] National Police Improvement Agency, *HOLMES 2* (2010).
[137] LePard, *supra* at p. 339.

sharing and access would improve, but his recommendations on case management went further:

> *Electronic Case Management*
>
> 6. *Strike a Provincial committee of key stakeholders to study and make recommendations regarding a single uniform computerized case management system, or suite of systems, for use by police agencies throughout British Columbia;*
> 7. *Ensure the selected system is mandatory for use in all serial predator investigations and all major sexual assault and homicide cases that could turn into a serial predator investigation;*
> 8. *Develop training to ensure that team commanders, investigators, file coordinators and analysts have sufficient training for their respective roles in using the system, and that this training be upgraded whenever substantive changes are made to the electronic case management system;*
> 9. *Ensure that if the Versadex PRIME-BC product is to be used for major case management, then the issue of complementary analytical software be studied, to ensure that all important functions of an electronic case management system are available, and to avoid a multiplicity of locally-developed products being used as is the case in British Columbia now.*[138]

In addition, DCC LePard found that, because of problems in the missing women investigations, there was a need for a regional approach to the analysis of missing persons. He recommended a centralized analysis of missing person cases, including a centralized registry, to fix problems in identifying and linking cases of missing women.[139] Specifically, he said:

> *In the Missing Women investigation, MWRT investigators located additional reports of women missing from the Downtown Eastside by canvassing other agencies in the Lower Mainland, an inefficient process. In some cases, though, despite inquiries, the VPD was not initially advised of relevant cases reported to other police agencies. The lack of an easily accessible centralized registry for missing persons hampered the investigation. Although all missing persons reports are entered on CPIC (the Canadian Police Information Centre database administered by the RCMP), searches of CPIC – other than by name – are cumbersome and require expert assistance. (For example, the JFO had to conduct "off-line" searches to determine how many women were actually reported missing.)*[140]

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[138] *Ibid.*
[139] *Ibid,* at p. 246.
[140] *Ibid*, at p. 244.

DCC LePard argued that a provincial database and analysis capacity for unsolved missing person cases was necessary. Although each police agency should have capacity to investigate routine missing person reports, thresholds should be established for reports that are unsolved for an amount of time that suggests foul play. In addition, policies to determine jurisdiction should be consistent: he noted the lack of harmonization of missing person policies in the Lower Mainland and at E-COMM, which has resulted in disagreements about jurisdiction.[141] Together, a provincial database and escalating missing person files until they are solved "can prevent missing persons from slipping through the cracks." A provincial analysis unit "would allow investigative analysis to identify patterns of missing persons so that circumstances that suggest multiple homicides can be more quickly identified."[142]

DCC LePard reports that some work to integrate the response to missing persons has been achieved. For example, in 2005, the BC Association of Chiefs of Police implemented an integrated provincial database, staffed by an RCMP officer, a municipal police officer, and a civilian analyst.[143]

(C) Transforming Cultural Practices

In his thesis, Gehl goes beyond the recommendations made in the Bernardo Review by acknowledging and making recommendations to address the disparate cultural practices between policing agencies.

> *The point to be considered from these observations of the CIR [Bernardo Review] is that when systemic change is being planned, the subsequent effect on culture needs to be considered in the planning process. If we fail to consider the cultural implications of change, we may run the risk of creating interactions that support or even create negative culture.*[144]

He suggests a number of remedial strategies to overcome these cultural barriers to collaboration: trading personnel between agencies; building relationships between operational personnel; and evolving new thinking and practices for working in multi-agency format.[145]

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[141] *Ibid*, at p. 245.
[142] *Ibid.*
[143] *Ibid*.
[144] Gehl, *supra*, at pp. 91-92.
[145] *Ibid,* at pp. 86-87.

(D) Regionalization of Policing

The debate and discussion regarding a regional police service in the Greater Vancouver region and Capital Region has been ongoing for over two decades. The 1994 Oppal Report on policing in BC asked: "Can the regionalization debate be resolved?"[146] The Report noted that while there was a relatively high level of informal cooperation among police agencies, there was considerable room for improvement.[147] Formal arrangements have tended to evolve in piecemeal fashion. The question at this time is whether the problems experienced in the missing women investigations provides a renewed impetus for regionalization.

The Oppal Report concluded that the situation would be improved with a structure that supported police decision-making on a regional basis:

> *There are times when decision-making on major multi-jurisdictional policing issues must rest with a clear governance and executive authority, supported by a unified and accountable management team. In major multi-jurisdictional cases, decisions must not be diluted or avoided because of a lack of an appropriate structure to support such decision making. While a "Joint Management Team" approach has been adopted in BC to support some integrated units, this approach does not set out a legal or practical basis for strong, rapid, and accountable decision-making that incorporates the issues of the major stakeholders. This problem should be examined by the Ministry of Solicitor General.*[148]

In his review of the missing women investigations, DCC LePard made a specific recommendation about regionalization:

> *ii. Regional Policing*
> *3. In light of the negative impact on the Pickton investigation of the current multi-agency policing system in the Lower Mainland, examine the benefits of a regionalized police force in the Lower Mainland.*[149]

Regionalization of policing is purported to improve delivery of police services in a number of ways:

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[146] The Honourable Wallace T. Oppal, *Closing the Gap - Policing and the Community. Report of the Commission of Inquiry on Policing in British Columbia*(1994) at p. D-33. ["Oppal Report"]
[147] *Ibid,* at p. D-17.
[148] LePard, *supra,* at p. 339.
[149] *Ibid*, at p. 335.

- Improve communication and information sharing across municipal boundaries – particularly with respect to strategic and tactical information;[150]
- Improve community relations by giving the community a more uniform view of policing resulting from consistent policies and procedures;[151]
- Promote equity in law enforcement since all citizens in a given region are provided the same quality of service and personnel;[152]
- Provide uniformity in police accountability and the public complaints process;[153]
- Better policing services because large size promotes flexibility and specialization;[154]
- Promote standardized recruitment and training as well as opportunities for deployment and professional development and pay equity;[155]
- Promote a regional approach to crime that takes into account the needs of the region as a whole and facilitates long range and contingency planning and research;[156] and
- Create better coordination to respond to major incidents;[157]

Several reports have also concluded that there are financial benefits to regionalization of policing including costs associated with "failing to apprehend serious offenders quickly or lacking sufficient resources to conduct investigations that lead to conviction."[158] Although police regionalization may not decrease operational costs, costs savings could be made by reducing hidden costs associated with having separate police departments, by eliminating duplication and benefiting from economies of scale.[159]

The VPD Discussion Paper concludes:

> *All else being equal, the delivery of policing services via a myriad of independent municipal and RCMP detachments hinders the effective use of*

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[150] VPD Discussion Paper on Regionalization at pp. 6-7.
[151] *Ibid*, at p. 7.
[152] Graham, *supra,* at p. 6.
[153] VPD Discussion Paper on Regionalization at pp. 15-16.
[154] *Ibid.*, at p. 8; Ministry of Solicitor General, Police Services Branch, *Policing in British Columbia in the Year 2001: Report of the Regionalization Study Team* (1990) at p. 6. ["Policing in BC"]
[155] *Ibid.*, at p.7 and p. 19.
[156] *Ibid.,* at p. 13 and 18; Policing in BC at p. 6.
[157] *Ibid*, at p. 10.
[158] *Ibid*, at p. 7 and p. 20.
[159] *Ibid,* at p.7; Policing in BC at p.7; Hon. René Marin, *Policing in Canada: Issues for the 21st Century* (Aurora, Ont: Canada Law Book, 1997) at pp. 98-99.

> *problem oriented policing, intelligence led policing and coordinated police initiatives to address crime hot spots, chronic offenders, transnational crimes such as human trafficking and hinders effective intelligence collection and utilization, and in continuity of collaborative investigations. While the creation of a regional police service, in itself, would not guarantee effective police practice, it would provide a more comprehensive organizational and operational framework within which effective practices could take place, if the requisite capacities were present*.[160]

The drawbacks of regionalization have also been set out in several reports. The focus tends to be on the start-up costs of regionalization, the move of resources toward urban cores and decreased community involvement.

Start up costs could be significant and would necessitate resources to deal with unanticipated problems. Some specific sources of start-up costs include:

- Transferring assets;
- Harmonizing salaries of members to the level of the highest paid in each rank category;
- Harmonizing and buying out sick leave;
- Changing all signage on buildings, uniforms and vehicles;
- Buying out management or higher ranks as forces are restructured and some are not incorporated into the new force; and
- Costs surrounding integrating or maintaining the provincial police force.[161]

Other potential drawbacks include:

- Increases in per capita cost in some regions – this may be particularly true of rural or suburban areas;[162]
- Personnel issues as a result of needing to reconcile employment agreements and practices (including salaries and benefits, collective agreements, rank and command structures, and working conditions);[163]
- Police morale may decrease and divisions in allegiances may cause clashes and resentment among officers and staff;[164]

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[160] VPD Discussion Paper on Regionalization, at p. 10.
[161] Marin, *supra*, at p. 96.
[162] *Ibid.*
[163] VPD Discussion Paper on Regionalization at p.8; Graham, *supra* at p. 8; International Association of Chiefs of Police, *Consolidating Police Services: An IACP Planning Approach* (May 2003) at p.2. ["IACP Report"]
[164] Graham, *supra* at p. 8

- Domination by the larger police force since regionalization may actually involve the absorption of smaller police forces into a larger force and related concerns that the character, identity, culture or philosophy of the smaller forces will be supplanted by those of the larger force;[165]
- Larger police forces are not necessarily effective since problems of miscommunication and poor communication, isolation and low cooperation can exist within large police forces;[166]
- Reduction in service levels, particularly in suburban communities;[167] and
- Loss of community control and involvement.

This last drawback is perhaps the biggest concern raised. Communities are concerned their involvement in policing will decrease:

> *Local communities are concerned that, by drawing resources away from their communities, by having policing priorities determined at a regional as opposed to local level, and by losing the identification of the police with their communities, the aims of community policing cannot be met. Police for a larger regional force will be transferred in and out, will not develop community ties, and will not understand or respond to the needs of a particular community. The greater "professionalism" of the regional police force may have adverse effects in creating police officers who are more law enforcement oriented, more formal, and more distant from the communities they serve.*[168]

Given where the lines of debate have been drawn, "The challenge is to find a balance between local control and input while getting the benefits of regional policing."[169]

The VPD Discussion Paper set out three options: maintain the status quo; amalgamate and regionalize police forces in the Greater Vancouver Region; and create a hybrid model (regional police service and local police services).[170] Robert Gordon also describes three models: a single police service for the province; a multi-regional policing model in which each region has its own service and partners with surrounding services; and a combination of provincial and regional policing

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[165] Marin, *supra* at p. 95; IACP, *supra,* at p. 9.
[166] VPD Discussion Paper on Regionalization, *supra,* at p.9
[167] Oppal Report, *supra* at D-33; Grahan, *supra*, at p. 7; Marin, *supra* at p. 91.
[168] Graham, *supra* at p. 7.
[169] Staff member, Ontario Police Services quoted in VPD Discussion Paper on Regionalization at p. 29.
[170] At p. ii.

(regional police services in metropolitan areas and provincial police services elsewhere).[171]

The Commission co-sponsored, with the Ting Forum on Justice Policy at Simon Fraser University, an expert roundtable on regionalization of the police. At the roundtable there was a consensus that additional information and analysis is necessary in order to ensure an informed public discussion on regionalization. This information gathering process could include:

- A current analysis of what is working well now and what is not;
- A review of both successes and failures;
- An economic analysis of the costs of the current system, including the costs to public safety, and any proposed models;
- Data gathered within an analytical framework to ensure the right questions are asked, the right data is gathered and the data is understood properly;
- An apolitical process through which to hear community views; and
- Independent performance and financial audits.

Much support was expressed for a thorough, independent third party review of the status quo and feasible options for change. Clearly, all stakeholders should be involved in this discussion and all affected communities should have a voice in any new structure that is proposed.[172]

The International Association of Chiefs of Police (IACP) has noted that there are many types of police force consolidation and that no one form of consolidation is superior to others.[173] The type selected for investigation depends on the needs and expectations of, and the degree of cooperation among the stakeholders in particular jurisdictions:

> *In any community, almost all stakeholders enter into discussion of consolidation with preconceptions about the value, if any, of blending agencies; i.e., they have either a positive or negative set of expectations.*[174]

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[171] Presentation to Expert Roundtable on the Structure and Organization of Policing co-sponsored by the Commission and the Ting Forum on Justice Policy, Simon Fraser University on April 14, 2012.
[172] VPD Discussion Paper, *supra, at p. iii.*
[173] IACP Report at p. 1.
[174] *Ibid*, at p. 2.

Active steps need to be taken to build consensus on the need to consolidate; specific proposals for consolidation should be developed only after that consensus has been achieved.[175] The IACP has developed a retreat model designed to assist stakeholders to make a preliminary assessment of consolidation potential. The goals of the retreat model are

- Inform participants of preliminary information on consolidation to allow them to decide if there was sufficient reason to continue dialogue, and to continue to study and evaluate the consolidation option;
- Identify the issues that need to be resolved to make an informed decision about consolidation.
- Identify the necessary steps that must be taken to successfully accomplish planning and implementation of consolidation.[176]

The IACP also identifies steps to move the consolidation process forward:

- Post-retreat stakeholder roundtables
- Comprehensive feasibility study
- Phased transition plan
- Evaluation and adjustment.[177]

The IACP urges those considering consolidation to avoid simplistic assessments:

> *Determining that consolidation brings substantial immediate costs is not a sufficient reason to discontinue investigation. Nor is discovery that consolidation will bring no long-term financial savings to either jurisdiction sufficient to discontinue investigation, unless financial aspects are the only aspects of interest to the jurisdictions. Consolidation must be viewed in the totality of police services, officer and citizen satisfaction, and the capacity of the new agency to better serve the public and fight crime. Looking at this larger picture, jurisdictions may adopt consolidation even with level or increased costs to bring stronger policing to their constituents.* [178]

(E) Establishing Provincial Policing Standards

One option for reform is the development and implementation of a broader range of provincial policing standards. The Oppal Report recommended that the province legislate its responsibility to set province-wide standards on major policing issues

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[175] *Ibid*, at p. 4.
[176] *Ibid*, at p. 5.
[177] *Ibid*, at p. 8.
[178] *Ibid,* at p. 15.

including enforcement priorities, policing operations and ethical standards for police officers.[179] Two recent changes will facilitate this approach to reform.

First, the new contract negotiated between the Province of British Columbia and the RCMP will give local governments more power over the management of local detachments and increased accountability.[180] It provides a more direct role in determining "what police services look like in our province."[181] The advisory committees will be replaced by a management committee, which will have greater input on how the RCMP detachments operate. There will be a review every five years in which changes to the contract can be negotiated and a BC municipality can opt out of its contract with the RCMP after giving two years notice.

Second, the amendments to section 40 of the *Police Act* came into force in January 2012, granting legislative authority to government to create binding standards on police and to evaluate compliance with those standards. New standards are now in place governing the use of force and training of police officers.[182] The Police Services division has an ongoing Standards Project:

> *Police Services Division is working towards centralizing the development of policing standards and resultant policies. The currently model is decentralized, wherein the province has established minimum standards and requires the individual agencies to develop internal policies to meet those standards. The new model envisages a framework in which the province – in consultation with the police and other key stakeholders – would strengthen current legislation, standards and policy in order to:*
>
> - *Establish a new set of high level policing standards which are sanctioned in a Police Act regulation and complemented by a series of related regulations, guidelines and policies;*
> - *Establish a regular schedule of audit and inspections for all independent police forces with priorities that are proactively managed; and*
> - *Enhance the governance and development of the process by establishing a standing steering committee and related working groups with stakeholders.*[183]

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[179] *Ibid*, at p. B-45-48. (Recommendations 2, 6 and 7).
[180] Statements of Attorney General Shirley Bond, "New BC RCMP Contract Empowers Province, Municipalities" (March 2012) http://www.newsroom.gov.bc.ca/2012/03/new-bc-rcmp-contract-empowers-province-municipalities.html
[181] *Ibid.*
[182] Available at: http://www.pssg.gov.bc.ca/policeservices/standards/index.htm
[183] *Ibid.*

Provincial policing standards could address a variety of issues arising from the missing women investigations. Some of these are discussed in the Commission's discussion paper on missing person policies and practices.[184] Another specific recommendation is a standard mandating an annual review of unsolved cases. British legislation requires that major cases be reviewed after one year if they have not been cleared.

(F) Increasing Transparency of Decision-Making

How can policy directions be more transparent? This is an important issue irrespective of whether the direction comes from government, a Minister or a police board. As discussed above, one model to increase transparency is the use of provincial standards since they provide a more highly developed baseline for accountability.

Steps can also be taken to foster greater transparency in police decision-making and government decision-making on policing. It has been reported that the new provincial agreement with the RCMP foresees stronger civilian oversight mechanisms to replace the former advisory committees.[185]

Information facilitates accountability in the civilian oversight process. For example, police could report on the number and status of missing person reports to promote understanding of discernible patterns and to determine if there certain groups of people are disproportionately represented in these cases. As noted above, the police need to better understand the community they serve. Police boards could be further empowered to question the basis upon which senior police managers base their actions in order to ensure that these decisions accurately reflect community needs. Use of social science experts and confirmation through independent analysis could be included in the civilian oversight process in order to increase transparency through informed analysis.

Transparency can be enhanced through increased reporting to police boards and to the public at large. Communication should be a two way street and police could develop a stronger capacity for public input through surveys or other mechanisms to reach a broad range of community members.

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[184] *Policies and Practices in the Investigation of Missing Persons and Suspected Multiple Homicides.* Available on the Commission website under the Reports and Publications tab: http://www.missingwomeninquiry.ca/reports-and-publications/

[185] "New BC RCMP Contract Empowers Province, Municipalities", *supra*.

Issues have been raised about the accountability of integrated policing units that are composed of members of several policing agencies. Greater integration of services across jurisdictions and consolidation of police services add an additional layer of complexity to accountability of police decision-making. Consideration needs to be given to the potential of regional police boards.

Several recommendations have also been made for greater auditing of police decision-making and performance. One of the major issues to be resolved is whether this can be carried out through the governmental auditing function by the Police Services Division or whether the process should have greater independence from government along the auditor general model. A second issue to be resolved is the role of members of the public in auditing police performance.

(G) Instituting Alternative Approaches to Police Discipline

As noted above, an effective disciplinary process should focus on behaviour change rather than punishment. This shift requires a broader range of alternate consequences for unacceptable police behaviour rather than simply consisting of negative sanctions. Some police forces have developed "discipline matrices" that spell out options for sanctions, defining different levels of misconduct and consequences. In some cases, officers can choose to acknowledge their mistake and "move on" without a lengthy investigation and hearing.[186] Other important developments include education-based discipline, greater use of mediation as a mechanism to resolve complaints,[187] peer review,[188] and early intervention.[189]

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[186] Stephens, *supra*, at p. 11.

[187] Stephens states (at p. 13): "Although not widely used, some police agencies have turned to mediation between officers and citizens as a way of resolving complaints. A national survey identified 16 police departments with mediation programs (Walker, Archbold and Herbst, 2002). Some suggest that the approach has had value in helping both officers and citizens understand their own actions during the encounter. Mediation is often used as an alternative to the formal disciplinary process and usually it is the officer's decision to participate. This approach is most suitable for complaints involving discourtesy, insensitivity and minor procedural issues."

[188] *Ibid*, at p. 13: "In one program, officers could elect to participate in peer review rather than the formal disciplinary process if they were facing charges or exceeded the thresholds. The peer review panel considered the circumstances and suggested behavior changes they believed would help minimize further complaints."

[189] *Ibid.* See also: S. Walker, *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*. (Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services, 2003)

Education-based discipline is used by the Los Angeles County Sheriff's Department. It is considered to be "the most significant departure from traditional police disciplinary practice in the United States and perhaps the world:"[190]

> *As the name implies, the process is designed to focus on behavioral change through education rather than punishment. The process gives the individual the option of voluntarily participating in a personally designed remedial plan that can include education, training or other options designed to address the misconduct issue, including writing a research paper. Moreover, all of the activities related to the plan are conducted during on-duty time. The option to participate is open to employees who are facing a one- to 30-day suspension. One mandatory component of the program is an eight-hour training session developed specifically for Education-based Discipline called the Lieutenants' Interactive Forum for Education (LIFE) Class. It is conducted by lieutenants and middle managers from LASD and focuses on understanding the influences that affect decision-making.*[191]

Early intervention systems are "designed to track various indicators and provide early identification of officers whose performance indicates emerging problems and then intervene in a useful way:"[192]

> *In large departments, these are often complex database management systems that track a wide variety of performance indicators, including citizen complaints, use of force, sick leave, performance evaluations, training, failure to appear in court and car stops, among others. Thresholds are established that let the officer and supervisor know there may be a problem that needs correction before it becomes a disciplinary issue. These systems are not a part of the police disciplinary process, although they are closely connected as they help resolve potential performance issues before an officer reaches the stage where the disciplinary process is engaged. They also serve as one important way of addressing the challenges presented by that small group of officers who account for a large number of citizen complaints and other misconduct issues.*

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[190] *Ibid,* at p. 12.
[191] *Ibid*.
[192] *Ibid,* at p. 14. For a good overview of early intervention systems, see *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide* (Walker, 2003). The Charlotte- Mecklenburg Police Department (2005) publication *Early Intervention System: A Tool to Encourage & Support High Quality Performance*, is also a good example of reaching out to the public to explain the system.

> *Such officers can be identified sooner and steps can be taken to address the behavioral problems.*[193]

Police agencies that have adopted early intervention systems believe they have value. The U.S. Department of Justice frequently includes the requirement to put such systems in place in its consent decrees or memoranda of understanding following a systemic review of a police agency.[194]

Five key principles for an effective police discipline system are identified in the literature:

- ***Early intervention at the lowest level possible.*** *A key part of effective discipline is recognizing mistakes and misconduct as soon as they occur and taking appropriate corrective action. An environment that encourages employees and supervisors to take corrective action on minor mistakes helps create a culture in which everyone takes responsibility for their own behavior and for the behavior of others who may need guidance from time to time. It should also be clear, at the same time, that serious misconduct will be handled and properly documented through the formal investigative and disciplinary processes.*
- ***Fair and consistent application of discipline.*** *One of the most difficult challenges for discipline in a police organization is ensuring both the perception and reality of fairness and consistency. Employees who experience the discipline process must understand the reasons for the actions taken by the department and how they can avoid similar problems in the future. They must have the sense that everyone in the organization is held accountable for their behavior, and if the sanctions are different for similar behaviors, that they are appropriate for the circumstances.*
- ***Behavioral focus.*** *The primary focus of discipline should be on changing unacceptable behavior. If the behavior can be changed by a supervisor cautioning the employee or showing the proper way to handle a situation, that should be all that is required. If the disciplinary decision includes sanctions, the employee is entitled to an explanation of the reasons for the sanctions and their connection to the behavior problem. Training should be an option for addressing honest mistakes. It is one thing for officers to make judgmental errors because they do not know the correct procedure or have the right knowledge. It is quite another for them to know what to do but intentionally fail to follow policy and procedures. The latter may require more severe sanctions to reinforce departmental guidelines. Even punishment must be carried out with a view toward behavioral change.*
- ***Timely.*** *Both internal investigations protocol and the disciplinary process*

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[193] *Ibid*, at p. 15.
[194] *Ibid*, at p. 14.

must have established completion deadlines. To ensure these deadlines are met, a monitoring component that tracks progress on the case from the initial complaint to its resolution is an important piece of the process.

- ***Transparent.*** *While respecting individual privacy rights and staying within the framework of the law, police agencies must be as open as they can possibly be to their employees and the community they serve. Transparency increases the community's confidence that mistakes and misconduct are treated seriously. Transparency helps employees see that the department leadership supports employees but is also willing to publicly acknowledge mistakes. Openness helps contribute to an environment in which accountability is an important individual and organizational value.*[195]

One option for improving police discipline is to use of a problem-solving process to engage as many of the stakeholders as possible in examining how discipline is handled. This process could help to identify specific characteristics of a discipline process that would respond to the agreed deficiencies of current approaches and therefore be regarded as priorities for any changes made.[196]

4. QUESTIONS AND ISSUES FOR DISCUSSION

The third section sets out a number of questions designed to facilitate further discussion and to generate recommendations for change. The Commission invites your responses to one or more of these questions in your written submissions, in addition to feedback on any element of this discussion paper.

Q1: Should a province-wide Major Case Management (MCM) system be developed? If so, what features should be incorporated into MCM in BC? Should MCM be required? Is a national approach to MCM required? If so, how should this objective be pursued?

Q2: Are existing BC approaches to inter-jurisdictional investigations of missing persons and potential serial homicides effective? What gaps remain to be filled? Is there a need for more developed inter-agency protocols to enhance collaboration and coordination? Are there legislative impediments to further integration?

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[195] *Ibid*, at pp. 20-22.
[196] *Ibid*, at p. 19.

Q3: What support systems are required to support more effective inter-jurisdictional collaboration? What role could BC Police Missing Persons Centre play in these efforts?

Q4: What steps can be taken to facilitate the cultural change required within and among police agencies to promote effective collaboration across agencies?

Q5: Would greater amalgamation of police forces in the Greater Vancouver area and/or Capital District facilitate collaboration and coordination in these investigations? If so, what steps should be taken toward amalgamation and regionalization?

Q6: Are changes required with respect to the composition, mandate and/or operations of police boards? Is there a need for a regional police board?

Q7: Should provincial policing authorities be more proactive in setting provincial policing standards and evaluating their implementation by various policing agencies? If so what are the priorities in this regard in the context of the Commission's mandate? How should these functions be carried out?

Q8: What additional mechanisms, if any, are required to enhance accountability and transparency of police decision-making and government decision-making about policing?

Q9: Are independent reviews or audits of police services required in order to ascertain the systemic barriers to the investigation of cases of missing and murdered women and to the effective protection of vulnerable and marginalized women? If so, how should these be carried out?

Q10: What steps should be taken to measure and evaluate progress and new approaches and programs related to the investigation of missing women and suspected multiple homicides?

Q11: Are current processes for police discipline meeting community needs? Should alternative, less formal disciplinary processes be implemented? If so, what alternative approaches would work in BC?