

APPENDIX A

**REPORT ON THE REVIEW OF
THE POLICE COMPLAINT PROCESS
IN BRITISH COLUMBIA:
RECOMMENDATIONS**

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RECOMMENDATIONS

1. Section 50(2)(e) be amended to include the duty to develop outreach programs with particular emphasis on those that address the needs of diverse communities including marginalized groups in our society.
2. Section 50(2) be amended by transferring thereto the substance of s. 50(3)(d).
3. Section 50(2) be amended by adding thereto a duty to conduct reviews with respect to the frequency and demographics of complaints so as to identify the development or existence of trends of alleged misconduct and to make whatever recommendations or take whatever actions as may seem necessary in the circumstances.
4. Section 50(2) be amended by adding thereto the duty to oversee and, in consultation with the discipline authority, to advise and if necessary to direct the course of, an ongoing investigation into a public trust complaint.
5. Section 50(2) be amended to provide that:
 - a) The police complaint commissioner, in consultation with the relevant stakeholders affected, have the power to issue guidelines with respect to matters not covered by the provision of the *Act*, but nonetheless necessary to ensure that the objectives of Part IX are achieved. Such guidelines must not be inconsistent with any provision of the *Act*.
 - b) The presently existing Guidelines and Practice Directions, to the extent they are not inconsistent with any recommendation implemented, are ratified and binding until such time as they are either withdrawn by the police complaint commissioner or amended after consultation with relevant stakeholders.
 - c) That such guidelines as are made pursuant to that section as amended, or as may be ratified by an amendment to that section, be binding upon all participants in the Part IX complaint process, subject to the discretion of the police complaint commissioner to waive them in any circumstance where their application would be unreasonable in all the circumstances.
6. Section 51 be amended to provide that the police complaint commissioner may delegate any duty or power he may exercise under the *Act* to any member of his staff, except for the power to order:
 - That a complainant not be allowed to file any further complaint without first obtaining the permission of the police complaint commissioner;
 - That the investigation into a third party complaint be discontinued and the complaint summarily dismissed;

- An investigation;
 - An external investigation;
 - That further or better investigative steps be taken;
 - A public review; or
 - A public hearing.
7. Part IX be amended to provide that:
 - a) the police complaint commissioner, his staff, employees, agents or any person acting under his direction shall not be compelled either to testify or to produce, in any proceeding other than a criminal proceeding, any record or information obtained in the course of discharging their duties under Part IX of the *Act*;
 - b) immunity be provided to the police complaint commissioner, his staff, employees, agents or any person acting under his direction with respect to the performance, or intended performance, of any duty or the exercise of any power under the *Act*.
 8. Section 52(4) be amended to provide that:
 - a) In any case where a written complaint is received in other than the prescribed form, it shall be attached to a Form 1 and processed in the ordinary way under Part IX; and
 - b) The person receiving such a written complaint be required to complete the substantive portion of the Form 1, either by drawing the relevant information from the written document provided by the complainant, or by contacting the complainant to obtain the necessary information.
 9. Section 52 be amended to provide that:
 - a) A formal record be kept, in a new Form 1A to be added to the *Police Act Forms Regulation*, of all oral complaints received which, for whatever reason, are not subsequently reduced to writing;
 - b) The person receiving the oral complaint be required to record the name and contact particulars of the complainant, the name and PIN number(s) of the respondent(s) if known, details of the complaint, including the date and location of the alleged conduct complained of, the steps taken to assist the complainant in committing the complaint to writing, including the reasons why the complainant refused to accept such assistance and the final disposition of the complaint; and
 - c) A copy of the Form 1A be provided to the police complaint commissioner forthwith upon final disposition of the oral complaint and that a copy be maintained in the department's complaint records together with the content, if any, of the file associated with the processing of the complaint.
 10. Section 52 be further amended to provide the police complaint commissioner with the power both to undertake whatever review is deemed necessary to ensure that an oral complaint has been properly disposed of and, again where it is deemed necessary, to order an investigation of such a complaint.
 11. Section 52(2) be amended to add thereto as paragraph (d) any provincial, federal or local person, official or agency designated by the police complaint commissioner as eligible to receive complaints under Part IX, providing such person so designated, or the person(s) employed by an agency so designated, are trained to enable them to comply with the mandatory requirements of ss. 52(3)(a) through (c) and (5).
 12. The s. 46(1) definition of a "public trust default" be amended to clarify that it is conduct which directly involves or affects a member of the public and which, if proved, would constitute a discipline default

that results in one or more of the consequences described in paragraphs (a) through (c) of the present definition.

13. The s. 46(1) definition of an “internal discipline complaint” be amended by striking out paragraphs (a) and (b) of the present definition and providing that it involves conduct that relates to the acts, omissions or deportment of a respondent which do not directly involve or affect any member of the public.
14. Section 52.1 be amended to provide that all lodged complaints be presumptively characterized as public trust complaints unless the police complaint commissioner, either on his own motion, or upon application by the discipline authority made forthwith upon receipt of a complaint is satisfied that it should be characterized as an internal or a service and policy complaint, and that all consequential amendments to s. 52.1 be made to give effect to this amendment.
15. Section 52.2 be amended by adding an express provision to the effect that notwithstanding that a notice of withdrawal has been filed, the discipline authority may continue to process the complaint.
16. Subsections (6) and (7) of s. 52.2 be collapsed into one subsection providing that where the police complaint commissioner determines the notice of withdrawal was not made under duress, he may nonetheless provide directions to the discipline authority with respect to the complaint or order the discipline authority to conduct an investigation into the complaint.
17. Division 3 of Part IX be amended by adding a section which gives the police complaint commissioner the power, upon consultation with the discipline authority, to dismiss any complaint that for whatever reason is not subject to the Part IX complaint process.
18. Division 4 be amended to eliminate the existing limitations on the right of third party complainants to the same participation in the Part IX complaint process as first party complainants.
19. Division 4 be amended to provide that:
 - a) the police complaint commissioner have a discretionary power, either upon application by the discipline authority concerned or on his own motion, to order that the investigation into a third party complaint be discontinued, and the complaint summarily dismissed, upon evidence which establishes on a balance of probabilities that such complaint has been advanced for reasons other than a genuine belief on the part of the third party complainant that the conduct complained of amounted to a breach of the *Code of Professional Conduct*; and
 - b) The police complaint commissioner have the power to summarily dismiss a third party complaint in the event either that more than one such complaint is lodged in connection with the same alleged public trust default or that the member of the public directly affected by the alleged public trust default lodges a complaint under s. 52 of the *Act*.
20. A section be added to Part IX to provide that:
 - a) Where a respondent resigns, retires or transfers to another police department, while facing an outstanding public trust complaint, the discipline authority shall continue to process the complaint as though the respondent were still a member of the department and, in the event the complaint is substantiated following a discipline hearing, a public review or a public hearing at which the respondent is afforded full opportunity to participate, the discipline authority or adjudicator, as the case may be, shall record that result in the respondent’s service record

of discipline together with the corrective and/or disciplinary measure that would have been imposed had the respondent still been an employee of that police department;

- b) A disciplinary authority may draw an adverse inference against a respondent who resigns, retires or transfers to another police department, while facing an outstanding public trust complaint, and who elects not to participate in a discipline proceeding arising out of such a complaint;
 - c) A respondent who resigns, retires or transfers to another police department, while facing an outstanding public trust complaint, and who elects not to participate in a discipline proceeding with respect to that complaint, shall not be entitled to request either a public review or a public hearing in the event the complaint is found to be substantiated; and
 - d) Where a public trust complaint is lodged against a respondent who, since the events giving rise to the complaint but before the complaint was lodged, whether by reason of a resignation, retirement or transfer, is then employed by a different municipal police department, that complaint must be processed under Division 4 of Part IX by the municipal police department of which the respondent is then a member.
21. Section 54(1)(b) be amended to reflect that a public trust complaint can be summarily dismissed when there exists either a legal or a factual reason why it cannot possibly be substantiated such that any, or any further, investigation of the complaint is unwarranted.
22. Section 54(3) be amended to require that the discipline authority must forthwith notify the parties and the police complaint commissioner of a decision to summarily dismiss a complaint, the reasons for the decision and the recourse that is available to the complainant.
23. A section be added to Division 4 giving the police complaint commissioner the power, upon application by a discipline authority, to make an order that no further complaints from an individual complainant be lodged for processing under Division 4 of the *Act* without leave of the police complaint commissioner. Such an order can only be made after giving the individual complainant an opportunity to be heard, and must be based upon proof that such individual has previously made at least two complaints that have been summarily dismissed as frivolous or vexatious. Any individual against whom such an order has been made shall have the right to apply to the police complaint commissioner to have such an order vacated.
24. Section 54.1 be amended to provide that:
- a) Where the discipline authority determines that informal resolution of a complaint would be appropriate, the discipline authority shall first try to obtain the consent of both the complainant and the respondent to engage in such a procedure;
 - b) If the consent of both parties is forthcoming, the discipline authority may engage either or both of the procedures described in s. 54.1(5);
 - c) S. 54.1(4) be repealed;
 - d) If the consent of either or both parties to attempt an informal resolution is not forthcoming, and the discipline authority is of the view that ordered mediation would be appropriate, the police complaint commissioner must be so advised;
 - e) If, after consultation with the discipline authority, the police complaint commissioner agrees that ordered mediation of the complaint is appropriate:
 - i) The police complaint commissioner shall order that any, or any further, investigation of the complaint be suspended pending the outcome of the mediation;
 - ii) The police complaint commissioner shall appoint a mediator;

- iii) The discipline authority shall order the respondent to attend at and participate in the mediation at a time and place to be determined by the mediator;
 - iv) The police complaint commissioner shall order the complainant to attend at and participate in the mediation at a time and place to be determined by the mediator, and shall advise the complainant both that further investigation of the complaint is suspended pending the outcome of the mediation and that failure to attend the mediation may result in the complaint being dismissed. The notice should further provide that if the complainant has good reason not to attend the mediation, he or she can apply to the police complaint commissioner to be relieved of the requirement to attend; and
 - v) If the police complaint commissioner is satisfied that the complainant has a justifiable reason for not attending a mediation, the police complaint commissioner shall so advise the discipline authority, the suspension of the investigation shall be lifted and the complaint processed in the ordinary way under Division 4 of the Act;
 - f) If the ordered mediation does not result in resolution of the complaint, the police complaint commissioner shall lift the suspension of the investigation and the discipline authority shall promptly proceed to initiate, or continue with, as the case may be, an investigation into the complaint; and
 - g) If, notwithstanding the notice to the complainant, the complainant fails to attend the mediation, the police complaint commissioner in consultation with the discipline authority may order either that the complaint be dismissed, or that it be processed under Division 4.
25. Section 54.1 be further amended to provide that, in order to ensure that the guidelines for informal resolution are followed, the police complaint commissioner shall have the authority to make inquiries of the discipline authority with respect to any informal resolution, other than one that has resulted from a mediation, and where for any reason he considers that such resolution was inappropriate, to order that it be set aside and the complaint processed under Division 4. If that recommendation is implemented, ss. 54.2(2), (3) and (4) can be deleted.
26. Section 54.2(5) and (6) be amended to:
- (a) confirm that corrective or disciplinary measures may be imposed by the discipline authority following an informal resolution; and
 - (b) that any complaint resolved by way of informal resolution, which does not result in corrective or disciplinary action, shall not be recorded in the respondent's service record of discipline, but shall be entered in the respondent's personnel file.
27. Section 65.3(1) be amended to provide that no complaint that is informally resolved without subsequent corrective or disciplinary action, and no complaint that is finally either summarily dismissed or found to be unsubstantiated shall be recorded in a respondent's service record of discipline, but shall be entered in a respondent's personnel file.
28. Section 65.3 be amended by adding thereto a further subsection providing that a current or former municipal police officer's service record of discipline shall be made available, upon request, to the chief constable of any police service to which that current or former municipal police officer has made an application for employment.
29. Part IX be amended to provide that every municipal constable, chief constable and deputy chief constable has a duty to cooperate fully with any investigation conducted under Part IX of the Act.

30. Part IX be further amended to provide that every municipal constable, chief constable and deputy chief constable has a duty to cooperate with the police complaint commissioner, and his properly delegated staff, in the exercise of the powers and duties of that office under Part IX of the *Act*.
31. Division 4 of Part IX be amended by adding a section containing an express duty on the part of respondent or witness officers to provide a statement, and to submit to an interview, within 5 days of being called upon to do so by an officer conducting an investigation into a public trust complaint, such deadline to be subject only to a discretion on the part of the discipline authority, in special circumstances, to grant an extension.
32. Division 4 of Part IX be further amended to provide that any statement so provided shall be admissible in any proceedings under the *Police Act*, but cannot, under any circumstance, excepting a prosecution for perjury, be admitted into evidence in any civil or criminal proceeding.
33. Section 5 of the *Code of Professional Conduct Regulation* be amended to provide an additional category of discreditable conduct in the form of a failure to cooperate with any investigation or a failure to provide a statement or to submit to an interview when called upon to do so by an investigating officer.
34. Part IX of the *Act* be amended by adding thereto a section which provides that a justice of the peace, who is satisfied by information on oath that there are reasonable grounds to believe that there is in a building, receptacle or place anything that there are reasonable grounds to believe will afford evidence with respect to the commission of a disciplinary default under the *Code of Professional Conduct Regulation* may, at any time, issue a warrant authorizing a discipline authority or a municipal constable, chief constable or deputy chief constable conducting any investigation under Part IX to search the building, receptacle or place for any such thing and to seize it. Such a provision should be accompanied by the usual safeguards relating to the custody, preservation and ultimate disposal of such evidence following conclusion of the investigation in question.
35. Section 56.1 of the *Act* be amended to provide that the police complaint commissioner's oversight powers include both the power to monitor an investigation into a public trust complaint, as that investigation is being conducted, and the power, upon consultation with the investigating officer or the discipline authority, to provide advice and direction with respect to further investigative steps that he believes are necessary to ensure that a thorough and complete investigation is conducted.
36. Section 56.1 be further amended to provide the police complaint commissioner with the power to order an external investigation in any case where, after and notwithstanding consultation with the investigating officer and/or the discipline authority, he believes that a thorough and complete investigation will not be conducted. Concurrent with this power must be the power to order that the full investigative file accumulated to the point where the order for an external investigation is made be delivered forthwith to the external agency which is to assume conduct of the investigation.
37. Section 56.1 be further amended to include the power of the police complaint commissioner to contemporaneously monitor the non-lodged oral complaint records of each municipal department.
38. Part IX of the *Act* be amended to require all municipal police departments to acquire either the IPDMA Professional Standards Module, or its equivalent, and to link that module to a fully secure integrated system that gives the police complaint commissioner electronic access to the complete complaint files of each such department. This amendment shall include a requirement that all municipal police departments utilize the IPDMA Professional Standards Module, or its equivalent, to store the entire contents of all lodged and

non-lodged complaint files. This amendment shall include a specific deadline for implementation, such deadline to be set after consultation with the departments and the technological personnel charged with the responsibility of designing and installing the system and training the professional standards officers who must use it.

39. Division 4 be further amended to give the police complaint commissioner the power to order an external investigation irrespective of whether a public trust complaint has been lodged.
40. Division 4 be further amended to provide that, where either a discipline authority or the police complaint commissioner orders an external investigation, the scope of available external agencies is not limited to existing municipal police departments or the provincial police force, as both are currently defined in the *Act*.
41. Division 4 be further amended to provide that the police complaint commissioner must be given notice of any in-custody or police-related death.
42. Division 4 be further amended to provide that all in-custody and police related deaths, irrespective of whether a public trust complaint is lodged with respect thereto, must be investigated by an external police agency, whose investigation shall be subject to the same contemporaneous oversight powers given to the police complaint commissioner in the case of investigations into public trust complaints.
43. Section 56.1 of the *Act* be amended to provide that an appointed observer will have the power, upon consultation with the investigator or the discipline authority as the case may be, to advise and, if necessary, through the police complaint commissioner to direct that certain investigative steps be taken.
44. Subsections 56.2(4) through (8) be amended to provide that a respondent who is suspended pursuant to s. 56.2(1) is entitled to receive full pay and allowances during the period of such suspension unless the local police board, after notice to the respondent, and after a hearing at which the respondent is entitled to appear, to be represented by counsel or an agent and to be heard, decides there are strong reasons in the public interest why his or her full pay and allowances should be discontinued.
45. Sections 57 and 57.1 be combined into a single section which provides that:
 - a) Upon receipt of the final investigation report, the discipline authority must decide, on the basis of the evidence contained in that report, whether the discipline default alleged in the public trust complaint has been established on a balance of probabilities. If the discipline authority decides that the public trust complaint is substantiated, he or she must then decide the appropriate corrective or disciplinary measure to be imposed upon the respondent.
 - b) Within 10 business days of the receipt of the final investigation report, the discipline authority must provide the respondent, the complainant and the police complaint commissioner with a copy of the final investigation report together with notice of his or her decision whether the public trust complaint is substantiated and, if so, what proposed corrective and/or disciplinary measures are warranted in the circumstances. The notice accompanying the final investigation report should also contain the matters listed in s. 57.1(2) of the *Act*.
 - c) The final investigation report must be served on both the respondent and the complainant, subject to editing to remove any sensitive law enforcement information or any information which is subject to exemption under the *Freedom of Information and Protection of Privacy Act*.
 - d) The final investigation report provided to the police complaint commissioner shall not be edited and, in addition to the final investigation report, the discipline authority shall provide to the

police complaint commissioner any and all information not included in the investigation file related to the complaint, that may possibly be relevant to the circumstances giving rise to the complaint, including, without limitation, those matters currently listed in s. 57(2)(a) through (f) inclusive.

- e) If the final investigation report provided to the respondent and complainant is edited, either or both may apply to the police complaint commissioner to be given access to the edited portions, and the police complaint commissioner may disclose such portions on the grounds presently set out in s. 57(5).
 - f) Section 57.1(3) be deleted.
 - g) If the police complaint commissioner believes, on reasonable grounds, that the decision of a discipline authority under s. 57.1(1)(b) is wrong, he may order that a discipline proceeding be convened in respect of the complaint before the chief or deputy chief constable of another municipal department.
 - h) Any decision by the police complaint commissioner, on his own motion, to require that a discipline proceeding be convened in connection with a complaint, which a discipline authority has found to be unsubstantiated under s. 57.1(1)(b), must be made within 30 days of the police complaint commissioner's receipt of the final investigation report and notice of the discipline authority.
 - i) If the discipline authority does not order a discipline proceeding, following receipt of the final investigation report and notice of the discipline authority under s. 57.1(1)(b), and the police complaint commissioner does not arrange a public hearing, the decision of the discipline authority to dismiss the complaint as unsubstantiated is final and conclusive.
46. Section 56(6) be amended to provide that the final investigation report contemplated by that section contain a complete summary of all relevant evidence in the investigative file, together with copies of any relevant documents or records and the investigator's findings, conclusions and recommendations.
47. Part IX be amended to provide that, upon the *ex parte* application of any police officer or police agency, the police complaint commissioner may order that sensitive police information not be disclosed to the complainant or any other person, or that it only be disclosed upon such terms and conditions as he directs.
48. Section 58.1 be amended to provide that a discipline authority who has presided over a prehearing conference that has not resulted in the resolution of all discipline defaults alleged against a respondent, shall not preside over the subsequent discipline proceeding mandated by s. 58.1(1)(a).
49. Section 58.1 be amended to provide that a discipline authority may, at any time and for any reason, request that a chief or deputy chief constable of another municipal department preside over a discipline proceeding mandated by s. 58.1(1)(a).
50. Section 58.1 be amended to provide that:
- a) A discipline authority must refer a discipline proceeding to a chief or deputy chief constable of another municipal department if he or she considers that such a referral is necessary in order to preserve public confidence in the complaint process, or if the police complaint commissioner so orders; and

- b) The police complaint commissioner may make an order that a discipline proceeding be presided over by the chief or deputy chief constable of another municipal department if he considers that such is necessary in the public interest.
51. Section 58.1(1)(b) be amended to provide that notice of the discipline proceeding to the complainant include notice of the complainant's right to make written or oral submissions to the discipline authority respecting the matters set out in s. 58.1(3), and the manner in which oral submissions can be made.
52. Section 58.1(3) be amended to provide that any oral submissions by a complainant be recorded and transcribed and that a copy of any written submissions, or the transcript of any oral submissions, shall form part of the record at the subsequent discipline proceeding.
53. Section 58.1 be amended by adding a requirement that a discipline proceeding must be convened within 60 days of the date upon which the discipline authority received the final investigation report.
54. Section 59 be amended to provide that:
- a) In the case of a discipline proceeding into an alleged public trust default, where the proposed disciplinary and/or corrective measures include either a reduction in rank or dismissal, the respondent shall be entitled to:
 - i) Full disclosure of the complete final investigation report, any separate reports prepared respecting the investigation and any other relevant written records including any written submissions, or a transcript of any oral submissions, made by the complainant pursuant to s. 58.1(3) of the *Act*, all of which should be filed as exhibits in support of the alleged public trust default and proposed disciplinary and/or corrective measures;
 - ii) Be represented by counsel or an agent;
 - iii) In addition to cross-examining the investigating officer, to require the attendance for cross-examination, and to cross-examine, any witnesses, including the complainant, named in the final investigation report;
 - iv) To present evidence on his or her own behalf; and
 - v) To make full submissions following the conclusion of the evidentiary phase of the discipline proceeding, including with respect to those matters referenced in s. 59(3)(b) of the *Act*.
 - b) In the case of a discipline proceeding conducted with respect to an alleged public trust default, where the proposed disciplinary and/or corrective measures include anything less than reduction in rank, the respondent shall be entitled to all of (i), (ii), (iv) and (v) set forth in (a), but the right of cross-examination shall be confined to cross-examining the investigating officer unless, in the opinion of the presiding discipline authority, the cross-examination of a witness named in the final investigation report is necessary in order to resolve conflicting evidence material to a proper disposition of the alleged public trust default.
 - c) The discipline authority who presides over a discipline proceeding shall be entitled to the assistance of legal counsel both during and subsequent to the discipline proceeding, including with respect to the preparation of the formal disposition record.
 - d) In addition to the electronic recording of the discipline proceeding provided for in s. 59(4) of the *Act*, a full record of the discipline proceeding, including all exhibits filed, shall be prepared.

- e) The discipline authority presiding over a discipline proceeding may adjourn the proceeding and order that a further investigation into the conduct of the respondent be undertaken, if in his or her opinion such further investigation is warranted and necessary in the public interest.
55. Section 59 be further amended to provide that all discipline proceedings be held in camera.
 56. Part IX be amended by adding a section to provide for a public review of a decision made pursuant to ss. 58(5), 59(5) and (6), as an alternative to a public hearing under s. 60.
 57. Part IX be further amended to provide that the police complaint commissioner have the discretion, on receipt of an application for a public hearing made pursuant to ss. 58(6) and 59.1(3), or on his own motion, to order a public review rather than a public hearing.
 58. Part IX be further amended to provide that the police complaint commissioner may order a public review if he considers either that there is a reasonable basis to believe the disposition of a public trust complaint by a discipline authority, including the imposition of corrective and/or disciplinary measures, if any, is wrong, or if he considers that there are grounds to believe such a review is necessary in the public interest.
 59. Part IX be further amended to provide that the public review shall be presided over by an adjudicator appointed under s. 60.1(2) of the *Act*, and shall be confined to the record upon which the discipline authority made the decision(s) being reviewed, including any records, documents or information provided by the discipline authority to the police complaint commissioner under s. 57(2), subject only to the discretion of the adjudicator in exceptional circumstances to order that additional evidence be admitted.
 60. Part IX be further amended to provide that the police complaint commissioner, or his counsel, and the respondent, either in person or through counsel or an agent, shall have standing to appear at a public review and make submissions based upon the record which is before the adjudicator.
 61. Part IX be further amended to provide that the standard of review at a public review is that of correctness and that, at the conclusion of the review, the adjudicator shall:
 - (a) confirm the decision(s) of the discipline authority, or
 - (b) substitute his own decision(s) for any decision(s) of the discipline authority which he believes to be wrong.
 62. Part IX be further amended to provide that in the case of a public review of a decision of a discipline authority under ss. 58(5), 59(5) and (6), the decision of the adjudicator shall be final and conclusive and not open to question or review by a Court on any ground.
 63. Section 60(3)(a) be amended to provide that the police complaint commissioner must arrange either a public review or a public hearing if the request for a public hearing is made by a respondent with respect to whom a disciplinary measure of reduction in rank or dismissal has been proposed.
 64. Section 60(3)(b) be deleted.
 65. Part IX be further amended to require the police complaint commissioner to make a decision whether to order a public review or a public hearing within 60 days of receiving:
 - a) A notice under s. 58(5)(a);

- b) A notice under s. 59.1(1)(b) or further reasons from the discipline authority under s. 59.1(2)(a);
or
 - c) A request for a public hearing under ss. 58(6) or 59.1(3).
66. Part IX be further amended to provide that the police complaint commissioner may at any time reopen a decision by him not to order a public review or a public hearing if new or additional information becomes available which, in his opinion, requires such decision to be reconsidered.
67. Part IX be further amended to require the police complaint commissioner to provide written reasons for refusing a request for a public review or public hearing.
68. Part IX be further amended to provide that the police complaint commissioner may at any time cancel an order for a public review or public hearing which he has made on his own motion.
69. Part IX be further amended to provide that the police complaint commissioner may, in his discretion, cancel a public review or public hearing ordered at the request of a respondent, if the respondent so requests, in which event the decision of the discipline authority from which the order for the public review or public hearing was made shall become final and conclusive and shall not be open to question or review by a Court on any ground.
70. Section 60.1(2) be amended to provide that if the police complaint commissioner orders a public review or public hearing he shall request the Associate Chief Justice of the British Columbia Supreme Court to appoint a retired judge of the Provincial Court, the British Columbia Supreme Court or the Court of Appeal to preside as adjudicator at the public review or public hearing.
71. Section 60.1 be amended to provide that, if an adjudicator appointed under ss. (2) is unable for any reason to continue or complete a public review or public hearing, the police complaint commissioner shall request the Associate Chief Justice of the British Columbia Supreme Court to appoint a new adjudicator who shall continue with the public review or the public hearing, as the case may be, after either reviewing a transcript of the previous proceedings or rehearing part or all of the previous proceedings.
72. Section 61(3) and (4) be amended to reflect that:
- (a) both the police complaint commissioner, through counsel, and the respondent, either in person or through counsel or an agent, shall have the right to present their respective cases in full, including without limitation, the right to call and cross-examine witnesses, introduce evidence, and make full submissions at the conclusion of the evidence; and
 - (b) upon application by or on behalf of the complainant, the adjudicator may make such order as to the further participation of the complainant in the public hearing as in his or her opinion it is necessary to ascertain the truth.
73. Section 61 be amended to provide that an adjudicator who presides over a public hearing shall have full discretion to conduct such hearing in whatever manner he or she thinks is necessary to achieve a just result and to make whatever procedural or evidentiary rulings at such a hearing as are necessary to ensure that such a result is achieved.
74. Part IX be amended to provide that the cost of public hearings, including the cost of the police complaint commissioner's counsel retained for the purpose of such a hearing, shall not form part of the annual budget of the office of the police complaint commissioner but shall be provided for in a separate fund to be established by the Legislature.

75. Section 61.1(3) be amended to ensure that it does not include a respondent at either a discipline proceeding or a public hearing with respect to a public trust complaint.
76. Section 63 be amended to prohibit a police officer from making a service or policy complaint where the subject matter of the complaint is grievable under his or her collective agreement.
77. Section 63.1 be amended to provide that a complainant must request a review of a decision of a police board, under s. 63.1(6) within 30 days of receiving notice of the police board decision.
78. Section 63.1 be amended to provide that the police complaint commissioner must conclude a review of the decision of a police board under s. 63.1(5) within 60 days of receiving either notice of the decision under that section or a request for such review from the complainant under s. 63.1(6).
79. Section 64(5) be amended by replacing the words “disciplinary default” in the third line to “public trust default.”
80. Section 64(5)(b)(i) be deleted.
81. Section 65(7) be deleted.
82. Section 65(3) be amended to provide that the conviction of a respondent for an offence arising out of the same facts and circumstances giving rise to a complaint does not operate to prevent that complaint from being processed under Part IX.
83. Section 65(4) be amended to provide that the authority to suspend proceedings under Part IX rests with the police complaint commissioner, who has the discretion to order a suspension of proceedings under the *Act* if he is satisfied that prejudice would result either to an ongoing criminal investigation or either party of a lodged complaint if the complaint proceedings under Part IX were to continue in the face of an outstanding criminal charge against either arising from the same circumstances giving rise to the complaint.
84. Section 65 be further amended to provide that both the complainant and the respondent be given written notice of the police complaint commissioner’s intention to order a suspension of the Part IX complaint proceedings and that each be given 14 days in which to provide the police complaint commissioner with written submissions as to why they feel such a suspension ought, or ought not, to be ordered.
85. Section 65.1(6) be amended to provide that unless the police complaint commissioner orders otherwise, the allegations constituting a report made in confidence must not be processed under Division 4 or 5.
86. Section 65.3 be amended by adding a subsection that provides for the automatic expungement of the record of a discipline default from a municipal police officer’s service record of discipline, following the expiration of the expungement clearing period provided for. The expungement clearing period for any discipline default for which a disciplinary measure consisting of a written reprimand or less is imposed is 2 years. The expungement clearing period for a discipline default for which a disciplinary measure greater than a written reprimand up to and including a direction to work under close supervision is imposed is 3 years. The expungement clearing period for a discipline default for which a disciplinary measure greater than a direction to work under close supervision, but less than dismissal, is imposed is 5 years.

87. Section 65.3 be further amended to provide that in the event a municipal constable commits a further discipline default during an expungement clearing period, a new expungement clearing period shall commence to run again from the date upon which the further disciplinary measure(s) are imposed.
88. Section 7 of the *Code of Professional Conduct Regulation* be amended by adding the word “intentionally” immediately after the word “officer” in paragraph (a).
89. Section 19(1)(d) of the *Code of Professional Conduct Regulation* be amended by changing the number of days of suspension without pay from “5” to “30”.
90. Section 19(1) of the *Code of professional Conduct Regulation* be amended by adding thereto as paragraph (j), the corrective measure of “advice as to future conduct.”
91. A further administrative and investigative audit of randomly selected closed complaint files be conducted 3 years after the implementation of these recommendations.

