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# **Standing Committee on Public Safety and National Security**

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**EVIDENCE**

**Tuesday, November 26, 2013**

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**Chair**

**Mr. Daryl Kramp**



## Standing Committee on Public Safety and National Security

Tuesday, November 26, 2013

• (1100)

[English]

**The Chair (Mr. Daryl Kramp (Prince Edward—Hastings, CPC)):** Colleagues, we will call to order meeting number seven of the Standing Committee on Public Safety and National Security.

Our first order of business today is to hear from witnesses for the first hour. By way of video conference, we welcome the Independent Investigations Office of British Columbia and Kellie Kilpatrick, the executive director for public accountability.

Ms. Kilpatrick, you have about 10 minutes, give or take, for an opening statement, should you wish. Following that, we will have a round of questioning. Are you all hooked up and comfortable and your audio's on?

**Ms. Kellie Kilpatrick (Executive Director, Public Accountability, Independent Investigations Office of British Columbia):** Yes. Thanks, Mr. Chair.

**The Chair:** Please proceed.

**Ms. Kellie Kilpatrick:** Thank you so much.

Good morning and bonjour to the committee.

On behalf of chief civilian director, Richard Rosenthal, and the Province of B.C., I'm very pleased to be able to join you and participate this morning from Vancouver.

As many of you may know, the Independent Investigations Office of B.C. was created out of recommendations made from two public inquiries held here in British Columbia. Justice Davies headed the public inquiry into the death of Frank Paul, a first nation male who died after being released from custody by the Vancouver city police. He subsequently died of exposure. The second inquiry, led by Justice Braidwood, looked at and examined the death of Robert Dziekanski, a traveller from Poland who found himself delayed and disoriented at the Vancouver airport. He died while being taken into custody by members of the RCMP.

As a result of those two inquiries, government acted very swiftly and began drafting legislation and amendments to the B.C. Police Act. The amendments made provision for the creation and the operation of the Independent Investigations Office.

The office opened its doors in September 2012, under the command of the chief civilian director, Richard Rosenthal. The chief civilian director has never been a police officer and is under a five-year term with one additional five-year term potentially renewable.

The Police Act made very strict provisions for who the chief civilian director could appoint as investigators, with the intent of minimizing or eliminating any real or perceived bias of police investigating police. For example, those who are appointed investigators to the IIO cannot have served as a police officer in British Columbia within five years of their appointment. The government was very committed to establishing an agency with independence and to mitigating any, as I say, real or perceived perception of bias.

On the opening day of the IIO, we received our first call. We were deployed to the northern city of Prince George for an officer-involved shooting. Since that time, we have received over 375 notifications from B.C.'s police services related to reportable incidents that they're required, through the legislation, to report to us.

Our mandate is to investigate incidents that result in death or serious harm on and off duty for British Columbia's municipal police forces, one first nations tribal police force, the Lower Mainland transit authority, and E Division of the RCMP. In addition, we have jurisdiction over British Columbia's special provincial constables with respect to on-duty incidents. Our mandate and jurisdiction are limited to death and serious harm at this point, but the act makes provision for the mandate to be expanded in the future.

On or before January 1, 2015, we will be required to report back to a special committee on the progress we've made towards ensuring that all IIO staff consists of individuals who have never been police officers. I don't expect that we will reach that goal by 2015, but we will be required to speak about the progress made.

The work we've done to date has taken us across the province of British Columbia. We have been deployed over 80 times, with 55 or 56 of those cases resulting in full investigations that conclude with either a public report to the people of British Columbia or a report to crown counsel. Over the past 14 months we have made a number of reports to crown counsel. The majority of them have not been approved for charges. One has, and several are pending.

• (1105)

One of the biggest challenges we face is having a police agency, as defined under the act, created in the context of the public service with civilians. That has been a challenge that we continue to deal with every day.

As well, the definition of serious harm is a challenge that the IIO as well as our other colleagues and police oversight nationally struggle with—coming up with a generally well-accepted definition of what is serious harm.

We have published our first annual report. We have about 30 public reports on our website. We have an FTE count, a full-time equivalent staffing count, of 54 and an operating budget of \$9.3 million.

On the whole, we have received excellent cooperation from B.C.'s police services. I think we are meeting the public's expectations in terms of timeliness and fair, transparent, and unbiased investigations.

We look forward to preparing for the report to the special committee. We'll begin working on that in the new year.

Thank you very much.

**The Chair:** Thank you very much, Ms. Kilpatrick.

We will go to our first round of questioning now with the parliamentary secretary.

Ms. James, seven minutes, please.

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Mr. Chair.

Thank you, Ms. Kilpatrick, for appearing before our committee.

I think you said, if I heard correctly, that you have an operating budget of \$1.3 million. Do you have any statistical information on the actual cost of a single investigation relating to an incident of serious harm or death?

•(1110)

**Ms. Kellie Kilpatrick:** Our operating budget is \$9.3 million for the first year. Shortly after we commenced operations, the Province of B.C. instituted fairly significant budget restraint, so we are held to that budget.

We are tracking the cost of individual investigations, but because we are so new, we don't have a sense yet of what an individual investigation will cost. This is keeping in mind that a very serious investigation in the Lower Mainland can cost less in terms of man-hours, travel, and other resource costs than deploying to north-western British Columbia for what would appear to be a less serious incident.

**Ms. Roxanne James:** Thank you.

You said you didn't have any statistical information to give exact numbers. Just out of curiosity, do you have a rough estimate?

**Ms. Kellie Kilpatrick:** No, we don't. In preparation to speak to you this morning, I asked for that information, and we just don't have that at this point.

**Ms. Roxanne James:** Thank you.

You indicated in your opening remarks that your office was created in 2012. I suppose there's just the fact that this body has been created to fulfill the mandate to do these investigations as a result of legislation or amendments or the requirement based on the two inquiries, but do you find that for investigations today, based on requirements for oversight or legislative amendments that have come through the court system, it takes longer to do the same investigation today than it may have done five or ten years ago?

**Ms. Kellie Kilpatrick:** I would say we're hearing quite the opposite from those police services who historically conducted these

types of investigations on behalf of other police services. Because we are dedicated to these types of investigations, we're not faced with having to also conduct the concurrent or parallel investigations that often go on at the same time.

So what we hope to see is not only a reduction in the time it takes for the oversight agency to conduct the investigations, but also expect and hope to see that the actual police service can complete their concurrent or parallel investigation in a more timely manner.

**Ms. Roxanne James:** Thank you.

You have mentioned concurrent and parallel investigations. We actually had other witnesses to this committee—one only in the last week—who talked about the expense related to the duplication of investigative processes at different levels, from the lowest level right up throughout the country.

Are you saying that your particular body that does the investigations eliminates those duplicative requirements? Or are you saying that it still happens, that it's simply a reduced cost? Could you explain that a little bit better, please?

**Ms. Kellie Kilpatrick:** What we're hoping to see is an improvement in timeliness. That's something that the Province of B.C. has indicated as a benchmark for our success. What we do know is that the oversight investigations—the ones conducted by the IIO—are conducted in a more timely manner. We're completing investigations that historically took two to three years within six to seven months now. It's not a huge improvement, but it is a good start.

Many of our investigations are also concurrent as well and we work with the agency in cooperation, as per our MOU, to minimize the duplication, if you will. That includes how we treat exhibits, how we collect evidence, how interviews with witnesses are done. The hope is that not only will there be a reduction in the timeliness but also a reduction in duplication.

**Ms. Roxanne James:** You're saying that there are concurrent investigations going on. Do you see a need for those concurrent investigations, even though it seems like you may be sharing some of the information back and forth, to reduce costs? Do you see any potential to eliminate the duplication or the concurrent investigations, if you're doing a great job? As you've indicated, you are reducing times.

•(1115)

**Ms. Kellie Kilpatrick:** I think I should clarify that when I talk about the concurrent investigations, those aren't related to conduct. They're related to the allegation of a criminal event that led to the police-involved incident.

For example, if there is an assault on the street and a police officer attends and there's a use of force, we—the IIO—look at the use of force, whereas the Vancouver city police will look at the incident of assault that precipitated the use of force incident.

**Ms. Roxanne James:** Thank you very much for that clarification.

You mentioned two particular incidents that were very serious in nature and that as a result of that the IIO was created. Do you have any statistical information on whether there were mental health issues in those incidents? Are they a factor, and are the police necessarily the right people to be dealing with that?

**Ms. Kellie Kilpatrick:** Thank you.

What I can say is that out of the 54 or 55 investigations that are either under way or have been concluded, the majority of them involve vulnerable populations, which include individuals with mental health challenges, people who are transient, and people who have issues with substances. So the majority of what we would call our “affected people” do face those challenges. Whether the police are the ones who should be dealing with that is certainly beyond my scope. It is front and centre in Vancouver, as we speak, with the provincial health authorities and the police forces working together in a task force to address exactly what you've raised.

**The Chair:** That's it. Fine. Thank you very much, Mrs. James.

Now we will go to Mr. Garrison for seven minutes.

**Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP):** Thank you very much Mr. Chair, and thank you very much to Ms. Kilpatrick for being with us this morning.

I want to follow up on that last point, because I think it's very interesting. When you're talking about affected people, if I understood you correctly, in many or the majority of the incidents you're investigating where there's alleged misconduct, it involves a public party who may have had challenges with addictions or mental health issues. Is that correct?

**Ms. Kellie Kilpatrick:** Thank you.

To clarify, our investigations are criminal, so we're not looking at conduct or misconduct. We're looking at allegations that a criminal offence may have taken place.

Yes, the majority of our affected people—we don't use the term “victims”, we use “affected people”—do live with those challenges, as I described.

**Mr. Randall Garrison:** Okay, I want to ask some larger questions about your mandate.

When you talked about the origins of your mandate, you talked about things that are in provincial jurisdiction. But you also deal with the RCMP, the E Division.

Can you explain how the E Division came to be under the jurisdiction of your office?

**Ms. Kellie Kilpatrick:** Early in 2012, when we were getting ready to open the office, we started working towards an MOU with B.C. police forces. At that time, the chief civilian director met with leadership in the RCMP division to start a discussion about how the RCMP would fall under the IIO's mandate, because it didn't necessarily fall under the legislation. The RCMP took the position that they were a police force here in British Columbia and that they wanted to be treated like any of the other police forces that fell under the jurisdiction of the IIO, and so an agreement was reached and the MOU was signed in July 2012.

**Mr. Randall Garrison:** Then, is the basis for your coverage of the RCMP the memorandum of understanding rather than the legislation?

**Ms. Kellie Kilpatrick:** That's correct.

**Mr. Randall Garrison:** Does that create any differences in the way you would treat investigations of the RCMP as opposed to, say, the municipal police?

**Ms. Kellie Kilpatrick:** None whatsoever.

**Mr. Randall Garrison:** You also mentioned that in the case of British Columbia, your office has jurisdiction over B.C. special constables. Is that correct? I'm not totally familiar with B.C. special constables, but does your jurisdiction also cover volunteers who might be acting for police forces?

**Ms. Kellie Kilpatrick:** Thank you.

No, it would not include volunteers acting with any police force. The special constables would include conservation officers and sheriffs, and our jurisdiction is specific to on-duty personnel, not off-duty ones.

• (1120)

**Mr. Randall Garrison:** On the question of auxiliary RCMP members, would they be covered by your office?

**Ms. Kellie Kilpatrick:** That's a very good question and we have continued debates in seeking legal opinion on that. To date, they have not been.

**Mr. Randall Garrison:** To date, they are not covered and would not be included in any of your investigations?

**Ms. Kellie Kilpatrick:** That is the view today. Fortunately, we haven't received notification of a case involving an auxiliary. Auxiliary police officers are allowed to apply to be investigators within the five years, so that lends itself to thinking that they would not fall under our jurisdiction.

**Mr. Randall Garrison:** Where would they fall, for any investigation?

**Ms. Kellie Kilpatrick:** In a criminal investigation, they would fall under the police jurisdiction. The other thing that could happen is that the director of police services in British Columbia has the ability to direct the IIO to take any investigation he feels appropriate. At the end of the day, even if someone may not properly fall under the jurisdiction, we can be ordered to take that investigation on.

**Mr. Randall Garrison:** But in the case of auxiliary RCMP, we could end up with the previous problem of the RCMP investigating someone who was, in essence, working with them.

**Ms. Kellie Kilpatrick:** [*Inaudible—Editor*]...ability, but it would be more likely that the director of police services would direct us to take that investigation.

**Mr. Randall Garrison:** Okay. Is this issue addressed in the memorandum of agreement?

**Ms. Kellie Kilpatrick:** It is not.

**Mr. Randall Garrison:** It is not. The same thing would extend, I guess, to volunteers who sometimes provide assistance to police forces, so volunteers would not be covered, either by your office or by the memorandum of understanding.

**Ms. Kellie Kilpatrick:** That is correct.

**Mr. Randall Garrison:** But so far—fortunately, I guess—you haven't had any of these cases come forward.

**Ms. Kellie Kilpatrick:** It's quite possible that a volunteer has been involved in an incident, but under the Police Act it wouldn't be reportable to the IIO, so I would not necessarily know that.

**Mr. Randall Garrison:** You wouldn't have that information because it isn't a reportable incident?

**Ms. Kellie Kilpatrick:** That is correct.

**Mr. Randall Garrison:** I'm asking these questions because the committee has had suggestions on reducing the costs of policing, that some policing duties should be taken on by civilians or volunteers or auxiliaries, in some fashion. The general concern we've been raising is, how do those fit within the existing framework of accountability?

Do you have any general comments on that?

**Ms. Kellie Kilpatrick:** As we move through to the review and the expected amendments to the Police Act to increase our mandate, it would be with a view to increasing our jurisdiction to include sexual assaults, domestic assaults, and other proscribed offences.

At this point it would be unlikely that we look at expanding the jurisdiction to include volunteers.

**Mr. Randall Garrison:** To distinguish your office itself, you don't take public complaints.

**Ms. Kellie Kilpatrick:** That's correct. We don't take public complaints, but having said that, there have been times when affected people have contacted our office. We have followed through and have determined that the notification did not happen and we have taken on those investigations.

**The Chair:** Fine, thank you very much. We're at the end of that now.

Mr. Norlock, please, you have seven minutes.

**Mr. Rick Norlock (Northumberland—Quinte West, CPC):** Thank you very much, Mr. Chair.

Through you to the witness, thank you for appearing today.

If I could go back, I'm a little confused because in my notes I have you stating that you don't investigate conduct but investigate criminality around an incident in question, or is it the reverse? I'm not sure.

I'm given to understand that most police acts across Canada have a certain code of conduct for officers. They are usually investigated by the department because it's part of their condition of employment.

Am I correct in saying that the police department would investigate contraventions of police acts, while your investigative unit investigates criminal actions relating to the incident in question on behalf of the identified officer?

• (1125)

**Ms. Kellie Kilpatrick:** That's correct. So the involved police office still maintains responsibility for examining the conduct, and that is typically for municipal police forces. The oversight for that is with the Office of the Police Complaint Commissioner, with Commissioner Stan Lowe. Our office investigates any allegation that a criminal offence may have taken place, so typically that involves the Criminal Code or any other enactment.

**Mr. Rick Norlock:** In terms of Ontario, you're the equivalent of its Special Investigations Unit as opposed to the office of public complaints.

**Ms. Kellie Kilpatrick:** That's correct.

**Mr. Rick Norlock:** Okay, thank you very much.

You're a witness regarding the economics of policing, and so how do you see your fit now in reducing policing costs compared to when your unit didn't exist? Would you say you have been able to reduce the costs surrounding investigations? You said in the past it took two to three years to complete an investigation, but with your unit it's now taking six to seven months. Do you see that as a method of reducing policing costs for the Province of British Columbia?

**Ms. Kellie Kilpatrick:** That certainly is one of the outcomes we're looking for. After 14 months it's too early to comment much more than anecdotally. We've concluded 30 cases. We know from the other police services that typically used to conduct these investigations that these are concluded in a more timely fashion by the IIO. Anecdotally, we hear that it frees them up to be more devoted to their ongoing cases, as opposed to being called in to conduct external investigations of other police forces. So that's certainly an outcome that we are hoping for.

**Mr. Rick Norlock:** Thank you very much.

In your previous testimony you also noted that a serious case in, I was going to say in the Lower Mainland, but in the Vancouver or Victoria, the more highly populated areas of British Columbia, might be less expensive to investigate and even be considered a more minor type of occurrence than if it had occurred, let's say, in Fort St. John. Would that be because you are centrally located in the Lower Mainland as opposed to having offices in other parts of British Columbia?

Could you expand on that a little more?

**Ms. Kellie Kilpatrick:** Thank you.

For the most part, our cases to date have been in the Lower Mainland, which came as somewhat of a surprise to us. To go to northern B.C.—somewhere like Fort St. John, in the Peace-Liard area—there are increased travel costs.

We also perhaps look to the local police service to hold the scene for as long as it takes for us to get there. If the weather, potentially, is a problem, we'll look to the local police service to gather the evidence and hold it until we get there.

These are all costs that you would not necessarily incur if there were an officer-involved shooting in Surrey, to which you could get out very quickly. You could customize your investigative response and you would be able to obtain the evidence very quickly and interview witnesses quickly.

We expect that there will be cases of, say, a motor vehicle or a use-of-force incident in Dease Lake or in Kwadacha, a northern B.C. first nations community, that could cost more than what is typically viewed as a more serious case of a shooting three blocks from where our office is.

**Mr. Rick Norlock:** You mentioned \$9.3 million and that you're being held to that amount for efficiency reasons—I guess balancing the budget or that type of thing. Have you looked at the feasibility of perhaps decentralizing, in other words, putting a smaller unit in central British Columbia or somewhere a little bit closer to the rural areas, as a way to reduce costs?

In other words, have you looked at this from an efficiency and cost-reduction perspective? If you have, did you think it was feasible to do from a cost perspective, given that you have rents and perhaps clerical staff, etc.?

• (1130)

**Ms. Kellie Kilpatrick:** Yes, we looked at that prior to the office's opening its doors. We examined what was done in Alberta for ASIRT. We looked at the SIU. We were very grateful to have the benefit of the SIU's experience. The SIU has part-time, on-call investigators throughout the province who have the ability to respond very quickly. I believe the majority, if not all of them, are former police officers.

We were challenged with needing to create a culture of civilian policing, if you will. The chief civilian director decided that in order to do that, he needed everyone under one roof in one location. That's not to say that down the road we wouldn't be looking at satellite offices. It is something that has been raised by the public in B.C. numerous times.

I think, as winter is upon us, we'll potentially be facing cases in the interior and northern B.C. in which travel and weather have an impact upon our response times. That then lends itself to depending upon the resources of the local police service. In some of these communities there are only four police officers.

**The Chair:** Fine. Thank you very much. The time has expired.

We will now go to Mr. Easter, please, for seven minutes.

**Hon. Wayne Easter (Malpeque, Lib.):** Thank you, Mr. Chair.

And thank you, Ms. Kilpatrick, for appearing before the committee.

I wanted to come to Mr. Norlock's point. This is a study on the economics of policing. In your remarks, you said that the investigations were taking two to three years, and now they seem to be concluded by the IIO in six to seven months.

What are the reasons for that? I think it's a major step forward; you're talking about taking a third of the time. What is that the result of?

**Ms. Kellie Kilpatrick:** I would say it's a result of our being able to dedicate ourselves solely to these investigations, whereas other police forces who are called in to conduct criminal investigations of another police force carry their own caseloads, the day-to-day policing that must go on to keep their communities safe. We have the luxury, if you will, of being devoted just to.... Right now, for example, we have 34 cases ongoing.

**Hon. Wayne Easter:** That makes sense.

I will admit, as you were explaining the IIO, to thinking that this was more duplication of another review body that would cost the system more money. On the other hand, when you made this point on investigations being faster, I was thinking that maybe there was a benefit to reducing the overall cost of the system. I will admit I'm betwixt and between here.

You also mentioned that in an investigation the IIO would look at the use of force—I think those were your words—and the police would look at the incident of assault.

How eventually do the two bodies, if I can put it that way, combine those two investigations to get an end result?

**Ms. Kellie Kilpatrick:** We recently concluded an investigation of an officer-involved shooting arising from an affected person having a knife at a SkyTrain station. The IIO investigation concluded within about three months, and the chief civilian director determined, that the officer did not commit an offence. So no report to crown counsel was done. The IIO issued a public report; it was done. Our file was provided to the police service that has always maintained the investigation.

If there were any suggestion that there was an issue of misconduct by the police officer, we would also forward our file to the oversight body that deals with misconduct. At any given time you could have three investigative bodies looking at the same incident: the criminal activity involving the affected person, the criminal activity allegedly involving the officer, and the officer's conduct.

Our commitment through our MOU is to share our files so that all of the agencies can benefit from a more timely conclusion.

• (1135)

**Hon. Wayne Easter:** Trying to come back to the economics of policing, in this case where you have three groups looking at this situation, based on your experience over 14 months—and as you indicated, you're looking at anecdotal evidence—do you believe the IIO has created efficiencies within the system overall and saved public dollars and done a better job with better results?

**Ms. Kellie Kilpatrick:** Yes. I believe we have made some impact.

We have a very robust reporting system to the public, which meets our deliverables around transparency. Affected people have indicated that they feel well respected.

Even within the IIO, we're showing efficiencies; whereas last September we might have deployed a team of six, now we're deploying a team of two.

There are efficiencies to be had, not only with the police services but within our own agency.

**Hon. Wayne Easter:** This is my last question, Mr. Chair.

At the federal level—you're dealing with the B.C. level—where do you fit in with the Commission for Public Complaints Against the RCMP? I mean, that body is still operating. Do you run into duplication in B.C. as a result of that?

Secondly, I don't believe you had any recommendations to the federal level based on your experience, but if you have any we'd welcome hearing them.

**Ms. Kellie Kilpatrick:** Thank you.

I think we're too early in our evolution for me to make recommendations to you and the committee.

We have a very strong relationship with the CPC. When we deal with B.C.'s municipal police forces, we deal with the conduct oversight, which is the Office of the Police Complaint Commissioner.

When we deal with the RCMP, we deal with Director Evans and the commission. We share our files. We've done some joint briefings. They've given us good feedback in terms of ways of improving the work we do, and vice versa. I think we enjoy a very strong working relationship with them.

**The Chair:** Thank you very much. The time is up.

We'll begin the second round of five minutes with Madam Doré Lefebvre.

[Translation]

**Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP):** Thank you very much, Mr. Chair.

Ms. Kilpatrick, thank you for being with us today. Your input is extremely helpful. Unless I'm mistaken, your organization exists only in British Columbia. I know Ontario has a similar organization, but I don't think Quebec does. So it's useful to hear what you have to say.

I know your office has been around only since 2012. Nevertheless, have you noticed a difference in the level of confidence the public has in the police, now that they are no longer responsible for investigating themselves? Do you think the existence of your office boosts the public's confidence in the police?

• (1140)

[English]

**Ms. Kellie Kilpatrick:** Thank you.

Yes, Quebec is starting to look at a police oversight agency, so I'm sure it won't be too long.

We have a very strong network of stakeholders that includes families, the media, government, community groups, and civil liberties groups. We are very linked in with the feedback from them in terms of the IIO meeting the expectations. To date, we have received very good feedback. Some of it's been hard to hear, because it has been critical feedback, but we've incorporated those thoughts into our day-to-day operations. I expect that we will continue to enjoy hearing from our stakeholders about what we're doing well and what we need to do differently.

[Translation]

**Ms. Rosane Doré Lefebvre:** Could you give us some examples of the feedback you received?

[English]

**Ms. Kellie Kilpatrick:** We issued a media release on a case involving an affected person who had been taken into custody and experienced some physical injury because of the use of force. In the media release, at his family's request, we disclosed that he experienced autism. We received information and feedback from the civil liberties and autism groups that they felt it was inappropriate to include that information, that it was personal and private, and that even though the family's view was that they wanted it disclosed, this was an adult male, and his right to privacy outweighed the views of his family.

We took that into consideration and now make a point of sending our public reports through to the privacy commissioner before they're released to the public.

[Translation]

**Ms. Rosane Doré Lefebvre:** So, as a result of the feedback you received, you adjusted your policies accordingly. Frankly, that's great.

I'd like to know which populations are affected by your investigations. Could you give us an idea of how many men, women, first nations members and people struggling with mental health issues are affected? Are the numbers more or less in line with the demographics of the general population? Do you deal with more cases involving members of first nations communities? Do you deal with more cases involving individuals with mental illness? What kinds of cases do you come across in your investigations?

[English]

**Ms. Kellie Kilpatrick:** It's not representative of the population, but I think it's representative of the population that police services provide service to. We are not seeing a large number of first nations individuals. Most of our affected people are young adult males who are challenged by addictions, and by being transient. We've had a number of homeless affected people come into contact with police, and there are those with mental health challenges.

We have a full-time dedicated investigator who deals only with the affected people and their families. Regardless of what circumstances brought those individuals into contact with the police and then into contact with the IIO, to us they are our affected people, and we are committed to providing them with very good support during the IIO investigation.

**The Chair:** Thank you very much, Madam Doré Lefebvre.

Mr. Payne, do you have a question of the witness?

**Mr. LaVar Payne (Medicine Hat, CPC):** Yes.

• (1145)

**The Chair:** Five minutes, please.

**Mr. LaVar Payne:** Thank you, Chair.

Thank you for coming to our committee today. Even if it is by video, it's nice to have you here.



You talked about particular cases where you've had three different bodies involved in an ongoing investigation. To me, that seems to add some level of confusion about who is doing what, and for what part of the investigation. Is there overlap when you have one of those cases? Are you working closely to make sure that doesn't happen? What I see, just in appearances, is that having three different bodies looking at an investigation certainly adds to the cost of policing, and in particular with that incident. Maybe you could help us out there.

**Ms. Kellie Kilpatrick:** We're dealing with the criminal investigation into the acts of the affected person, for example, the gentleman with the knife at the SkyTrain station, prior to the police incident. That is done by the police office of jurisdiction, say the RCMP. We're looking at the conduct from the time the officer attended the SkyTrain and made the decision to shoot the individual. We're looking at the potential for criminality in that event.

In some of our cases there is also a conduct investigation. That is done by the CPC or the Office of the Police Complaint Commissioner, which look specifically at the officer's conduct. There is one set of evidence shared by the three groups of investigative bodies. There are very clear lines as to where one begins and another ends. There is cooperation with regard to sharing file materials so that interviews are not duplicated.

I'm not suggesting there aren't going to be moments in which there is duplication, but for the most part we work very hard to eliminate that. It's not good for police officers, and it's not good for witnesses or for taxpayers.

**Mr. LaVar Payne:** It's helpful to have a clearer understanding of that.

You did talk about E Division of the RCMP. I don't know how that is affected in B.C. and whether it is under provincial jurisdiction or federal jurisdiction. Obviously the RCMP is federal. However, in a lot of the provinces like Alberta we do have a number of RCMP services in some of our communities as well as in some of the rural areas. So I'm not sure if that E Division in particular is under the jurisdiction of the province or of some of the communities.

**Ms. Kellie Kilpatrick:** It's complicated. We have that same combination here in British Columbia. I would say that right now we are 50% municipal policing and 50% RCMP. Regardless of how the contract is constructed for RCMP services, we have received nothing but cooperation from the RCMP in B.C.

**Mr. LaVar Payne:** The other incident I wanted to talk about was the Robert Dziekanski issue. Were there two separate investigations going on for this particular case, looking at the conduct of the officers?

**Ms. Kellie Kilpatrick:** That certainly was before my time. Those inquiries took place more historically than when the IIO became operational. Our focus was on the public inquiry that took place and that led to the recommendation and creation of the office.

**Mr. LaVar Payne:** So that was after the fact then.

Just in terms of the conduct, we did talk about how the bodies are working together. I see that as certainly very positive. You also talked briefly about some of the stakeholders you have and some of the comments they made and suggestions for improvement. Were there other suggestions for improvement of the IIO that were given

to you? What were they? What have you done around those types of suggestions?

**Ms. Kellie Kilpatrick:** I think it's important for the committee to know that our group of stakeholders was involved prior to our opening the door. They were part of the development of the MOU, so we ensured that the MOU met the needs of first nations leadership and first nations governance in B.C. As well, the BC Civil Liberties Association looked at the MOU. We have an external stakeholder advisory group made up of a diverse group of stakeholders that include Linda Bush, the mother of Ian Bush, who died in an officer-involved shooting; Pivot; and the BC Civil Liberties Association.

There are ongoing suggestions. For example, our website has a chart that talks about the status of case completion. That came from a recommendation by a community member. The position was that B. C. taxpayers wanted to know how well we were doing. We had recommendations from people around our hiring practices from first nations groups. We incorporated those recommendations into our hiring practices.

• (1150)

**The Chair:** Fine. Thank you very much. Of course if you have additional information it can come around in the next line of questioning.

Thank you, Ms. Kilpatrick.

We will now go to Mr. Garrison, please, for five minutes.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair.

A lot of members are asking about duplication, so I want to go back on this question of duplication and ask you to be a little more clear. What I've heard you saying is that you've tried to eliminate duplication of some of the aspects of investigations, but in fact the parallel and concurrent investigations are really quite necessary because they have different public purposes. Can you just run through those again? I don't want us to get hung up on the idea that because more than one investigation exists, one of them is not necessary.

**Ms. Kellie Kilpatrick:** Let's say there's a motor vehicle crash, the affected person flees from a roadblock, there's a pursuit, there's a crash, and someone dies. The RCMP are responsible for the investigation involving the affected person who was driving and who fled. The IIO is responsible for investigating whether or not the officer who initiated the pursuit committed an offence.

At the end of those two processes, the CPC—the commission for police complaints, because this is RCMP—is responsible for looking at whether or not the policies, the training, and the conduct of the officer in conducting a pursuit were appropriate.

**Mr. Randall Garrison:** So each of those has a legitimate public purpose. What you've been saying to us is that there are some ways to be more efficient about the way each of those is conducted, by cooperating over not repeating interviews and those kinds of things, but each of these are still very much necessary to achieve a different public purpose.

**Ms. Kellie Kilpatrick:** Correct.

**Mr. Randall Garrison:** I want to go back to a question that Madame Doré Lefebvre raised with you. I don't think we got a full answer for that, and I think it's probably because federally we lack the same context in discussing your office.

That is the question of increasing public confidence overall in policing. You talked mostly about confidence in your office, but I think what members of the committee may be missing is that there was a crisis in public confidence resulting from the perception that police investigating themselves might create problems in British Columbia.

Can you just comment a bit on whether your office is really helping to address that public confidence question?

**Ms. Kellie Kilpatrick:** The best way for me to answer that is to talk about our public reporting.

At the end of an IIO investigation, if a case is not going to crown, there's a very comprehensive public report that talks about the circumstances that led to the event, and the chief civilian director's findings, and so on. The public, therefore, is able to see what the police officer did leading up to the incident and the outcome.

For the most part, I believe officers have been cleared of any wrongdoing. By way of that, I believe that the public's level of confidence is going to increase.

**Mr. Randall Garrison:** How about confidence in terms of those who actually do the policing? Quite often we're worried about public confidence in the police, but there's also the necessity that the people who are serving feel they're being fairly treated in these investigations.

**Ms. Kellie Kilpatrick:** I think when we began there was healthy skepticism. The feedback we get now, for the most part, is positive.

We even have situations where, when the IIO doesn't take a case on, police services say, "Please take it on, because I'm in a small community, and if you take it on you'll show the people that in fact I was doing my job and it was an unfortunate outcome."

**Mr. Randall Garrison:** I think that's a very positive example that you're giving of the value of having an office like yours.

One of the other things you said in response to Madame Doré Lefebvre was that you thought Quebec was looking at this. My understanding is that it's really just Ontario, British Columbia, and Alberta that currently have similar offices. Is that correct?

**Ms. Kellie Kilpatrick:** It's B.C., Alberta, Ontario, Manitoba, and Nova Scotia. I believe Quebec is next in line.

**Mr. Randall Garrison:** Okay. Thank you very much.

That concludes my questions.

**The Chair:** Thank you.

We have time for Ms. James, three minutes.

**Ms. Roxanne James:** Thank you, Mr. Chair.

I'd like to go back to this duplication of investigation. And I thank you for the clarification when you gave the example of a pursuit in a car crash when someone dies.

Earlier in your testimony, though, you indicated with regard to the information you have that you actually share that file with other investigations that are going on. I'm just trying to pinpoint exactly what is in your file that, when you share it, would prevent another investigative body from having to do the same set of investigative steps or processes. It's great to share the file, but if we're not reducing the duplication....

I'm trying to figure out what exactly in your investigation would be taken at face value and would not require someone else to investigate the exact same incident in that perspective.

● (1155)

**Ms. Kellie Kilpatrick:** For example, we're dealing with one set of evidence, regardless of whether you're investigating the affected person or the police officer, looking at conduct. Where IIO staff have gone to Cranbrook and seized CCTV video and other surveillance, physical evidence at a scene, or have taken photographs or seized other exhibits like firearms, that one set of evidence is shared so that there isn't a duplication around analysis.

In terms of interviews, we share interviews. Many witnesses are very difficult to find after the fact. If an OPCC is looking to find witnesses two months after the fact, they are at a disadvantage, whereas we have packages all put together with the witness statements.

**Ms. Roxanne James:** Thank you. I appreciate that answer.

Looking at the mandate of the IIO, it has to do with instances of death or serious harm. But I heard you mention earlier that although you normally don't take complaints from the general public, you have received complaints and you have taken on those investigations.

I guess I'm trying to find out how you define "serious harm". With regard to someone coming to you and making a complaint and your then deciding to take on that investigation, I'm just trying to figure out how that would be possible, how it wouldn't have come through a different channel first.

**Ms. Kellie Kilpatrick:** There's an affected person who is involved in a police incident. He is injured. It's a minor injury that's not required to be reported to the IIO. A month later he develops pneumonia as a result of the injuries that occurred a month earlier, which link back to the police incident. The police office wouldn't even have known it was required to notify the IIO. The affected person comes forward and says, "Look, this is what happened." We go back to the police service and ask, "Did you notify us? You didn't. It should have been reported." So we will take that on.

And sometimes the police agencies just fail to notify us. It doesn't happen very often, but it has happened.

Serious harm is very challenging, because sometimes it takes time to determine how serious the impact of the injuries is going to be. And serious harm to one person may not necessarily be serious harm to another person in terms of their mobility. It's very complicated.

The SIU is challenged with this. Manitoba is challenged with it.

**The Chair:** Thank you very much.

**Ms. Kellie Kilpatrick:** We're trying to come up with a standard definition.

**The Chair:** Fine. Thank you very much.

The time has expired.

Ms. Kilpatrick, as chair, on behalf of all the committee members, thank you very kindly for taking time to appear before us here today. Certainly there's a lot more information for us to consider in our deliberations on the economics of policing—certainly on the scope that you covered in your responsibilities. Once again, thank you.

We will now bring this first hour to a close. We will suspend very briefly prior to going in camera.

Thank you.

*[Proceedings continue in camera]*

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