



inclusion**BC**

Submission of
Recommendations to the
Special Committee on
Reforming the Police Act

ABOUT INCLUSION BC

Inclusion BC appreciates the opportunity to provide a submission to The Special Committee on Reforming the Police Act.

We are a non-profit federation working with our partners to build community and enhance the lives of children, youth and adults with intellectual disabilities, and their families. We do this by supporting people's abilities, promoting positive action, and advocating for rights, responsibilities and social justice. We are supported by a membership of individuals, families and 60 member organizations who are working together to build inclusive communities across our province.

SUBMISSION RATIONALE

This submission identifies opportunities to enhance equity and transparency for people with intellectual disabilities and their families when engaging with the multiple layers of policing in our province. Our overarching recommendation is that the Province of BC should align the Police Act with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Canada is a signatory to the UNCRPD and has acceded to its Optional Protocol. It is a collective responsibility to uphold the rights of people with disabilities in all areas of life, which includes policing and public safety. We recommend including the UNCRPD alongside the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commission Calls to Action in reforming BC's Police Act.

To understand the experiences of people with disabilities in the context of policing practices, it is of critical importance to acknowledge ableism as a fundamental barrier and its impact on the lives of people with disabilities. **Ableism** is a social process that privileges non-disabled bodies and minds as valuable and ideal. This creates discrimination and bias against people with disabilities whose lives are devalued.

We are centring our submission on three primary articles within the UNCRPD. For each article, we have shared a perspective offered by a member of our Board of Directors that offers recommendations and points for consideration. The Board of Directors steers the work

of Inclusion BC. Our mission, vision, position statements, goals, and objectives are all developed under the leadership of this dedicated group of expert volunteers. Directors represent different regions of the province and wide diversity of perspectives and lived experiences.

RECOMMENDATIONS

Recommendation

The province of British Columbia to align the Police Act with the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

UNCRPD Article 13 – Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall **promote appropriate training** for those working in the field of administration of justice, **including police** and prison staff.

Story 1

As a parent of two young men with autism, I have been dealing with the police for the last 20 years either in helping me to locate my boys or to help with aggression in the home. It is my experience that police really want to help but **have not had formalized training on how to interact with someone with an intellectual disability; nor do they have formalized training on how to offer support to a person with an intellectual disability** or how to approach and come to a family's home. There is an intense fear amongst many families that if they need help because their child is harming them or themselves, or if their child has wandered away,

that their children will be removed should they call the police for help, hence they are fearful of calling the police and some will not. Some parents will endure physical aggression instead of contacting the police for help. Each time the police have arrived at my home, or I have had to deal with the police in the community and I ask them about training, I'm met with the same response "We don't get formal training and we don't have the understanding or the lived experience."

One of my sons is verbal but struggles with communication. He is twenty-one but appears much younger and to some people who don't know him or understand him, he seems 'strange' or different. He so desperately wants to be like everybody else, so he has a bus pass because we are trying to get him to be as independent as he can. Sometimes he goes off and wanders around downtown Vancouver or takes the West Coast Express out to Mission. I fear that he is going to have an interaction with somebody in the community or that somebody is going to call the police and that they won't be able to recognize the signs that he has autism, and this could lead to an altercation that will not help my son. My interaction with each of the different RCMP detachments and local police departments has led to me learn that **each police detachment does things differently.**

One time my son was choking me in my home, and I had no choice but to call the police. Because he also has PTSD, he is **flagged under the Mental Health Act** which means when the police come to our home, dispatch can read his profile to the attending officers about how to engage with him before they arrive. They can read about what I have told them about how to arrive to our home, and how to interact with him and the rest of our family. They come with a different perspective. Instead of coming in with guns drawn, they come with the understanding that somebody in the house has autism and an intellectual disability who struggles with self-regulation around his emotions. If he wasn't flagged, they would have tackled him to the ground and handcuffed him which would have caused even more trauma and in the end made things worse for me.

My other son is 23 and nonverbal. One time he was in a public washroom and his support workers were outside being respectful of his right to privacy. My son was in a stall banging on the door as he generally does. **Somebody called 911 and the police arrived.** They looked over the stall down at him and could see that he was using the toilet and just banging on the door. The officers continued to talk about my son in front of him as if he didn't exist and that he could not comprehend anything. They didn't like the fact that his support workers were not

in the actual bathroom with him. They didn't like the fact that his support workers were giving him his privacy and the officers thought that because he has a disability, they should not have left him alone. The officers believed that the support workers should have been standing in the washroom with him, which is quite creepy in itself. **There was an assumption about his capabilities and the attending officers had low expectations** that someone who has an intellectual disability and is non-verbal, should have their support workers glued to them and not be entitled to any privacy.

The police need ongoing training, with trainers that understand intellectual disabilities through a lived experience and that understand policing in order to have the right training to support and help those in our community that appear different. This difference is not always visible at first sight, a person can have some sensitivities to smell, sound or touch, or stimming habits that law enforcement officers might not be able to recognize without training and a police officer could consider not acceptable. In the school system right now, there are over 64,000 students who have been identified as having a disability including intellectual disabilities and autism and we know there are many more who have not been identified. They are all members of the community and they all deserve to have first responders that have the skills to interact with them, to help them and their families.

Recommendation

The Province of BC to mandate training for police officers on topics such as de-escalation techniques, implicit bias training, anti-racism and anti-ableism training and techniques for interviewing and responding to situations involving people with intellectual and developmental disabilities.

Under Part 4 of the Police Act and to fulfill its responsibilities of policing and law enforcement, we recommend that the Province of BC to establish mandatory training at all levels of police and law enforcement guided by robust standards which are also linked to the Code of Professional Conduct Regulation. It is equally important that existing training be fully reviewed to address inclusion, equity, and accessibility gaps to prevent perpetuating ableist beliefs or attitudes. All training needs to be meaningful, ongoing and attached to defined goals and objectives.

UNCRPD Article 14 – Liberty and security of person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - a. Enjoy the right to liberty and security of person;
 - b. Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the **existence of a disability shall in no case justify a deprivation of liberty.**
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, **entitled to guarantees in accordance with international human rights law** and shall be treated in compliance with the objectives and principles of the present Convention, including **by provision of reasonable accommodation.**

Story 2

As an Indigenous social/criminal advocate working within the criminal court system, I supported individuals with mental health diagnoses and disabilities on a daily basis. All too often these were community situations which should have been dealt with via community-based programs such as mental health supports, crisis management teams, and restorative justice.

Unfortunately, mental health, disability, and Indigenous ethnicity tend to create multi-layers of justice barriers instead of consideration, fairness, and a true sense of justice.

This means that all too often I supported clients who:

- had their rights ignored or abused by police,
- their disabilities used against them and questioned without lawyers (including minors),
- interrogated for hours on end exasperating their need for support services and coercing false statements and confessions,
- excessive force used when responding to someone in distress or who simply presents differently, and
- even straight-up unprovoked assaults and police escalating a crisis instead of de-escalating it.

For these reasons, the costs to humanity, community trust, and the economy are far too high and **serious police reform and relocation of funds are needed.**

It is unacceptable to criminalize mental health and disabilities especially when individuals are at their most vulnerable, in distress, and in need of protection and support. **Mental health workers paired with community-based restorative justice workers (not police-based) are much better suited to responding and supporting mental-health-related calls and wellness checks.** These professionals are already accustomed to providing support and wrap-around services to community members in distress. However, these services need to be properly funded. Mental health calls that absolutely need police presence should be accompanied by mental health community stakeholders. But this alone is not enough. These stakeholders must be anti-racist, anti-ableist, and allies to community groups facing barriers. Individuals that work from a decolonized framework. These qualities are necessary because we know that the health care system also has significant problems with racism and discrimination as has been revealed by the report 'In Plain Sight' – Systemic Racism in B.C. Healthcare by Dr. Mary Ellen Turpel-Lafond, released in 2020.

Although there is a complaint process in place, it too often fails to protect those who need its protection the most. Some of my clients experienced police intimidation and out of fear for their safety dropped their complaint. Complaints against the police are often investigated by the police themselves. It is unacceptable that in this process, only if the complainant doesn't like how the police handle it, the provincial Police Complaint Commissioner or the Civilian Review and Complaints Commission consider reviewing it. **Community stakeholders should have involvement in the process and the ability to audit and/or make recommendations around investigations and recommendations for charge approval.** Alternatively, in police reform, policing bodies could have a professional licencing association similar to doctors and counsellors where the complainants' identity is protected at the complainants' request and there is a real threat of losing their license to practice for professional misconduct.

Internal policies offer police protections not available to the public and this creates an unacceptable power dynamic. Police **accountability and transparency** need to be addressed especially to provide justice to members of society who are already feeling marginalized and powerless. For example, measures such as mandatory body cams, even though there is mixed research on whether or not these devices prevent police misconduct, they and their footage are tools for accountability and addressing injustice. If body cams are tampered with

or turned off, it should result in disciplinary actions, and if turned off in an incident that resulted in a police complaint, this should be the object of a more rigorous investigation. In the same way, this should also include fellow officers who turn off their cameras while present during another officer's potential misconduct.

Another measure of oversight that would help **restore public confidence and accountability is direct community stakeholder partnership within the police detachments**. For instance, a police detachment in Vancouver had an Indigenous Case Worker employed by the Native Courtworkers and Counselling Association of BC. The position worked hand and hand with Indigenous people accused and the police with conduct over the file. It provided a safeguard for Indigenous individuals to ensure Gladue rights were implemented from a community policing level and individuals' rights were upheld. This position also supported the community. Partnerships such as this are vital to community capacity building, accountability, fostering trust, and building a culture of police integrity and community protection. These partnerships should be expanded and reflected in every area where vulnerability and lack of accountability exist within the police force. Some examples are partnerships with mental health and disability advocates and organizations.

Recommendation

The Province of BC to amend Section 15 of the Police Act to mandate the provision of public safety services, rather than policing services exclusively, and to add a provision to allow municipalities more flexibility to allocate funds to crisis response teams that could work with police creating an alternative to police being the primary responders, when possible. For example, a mental health worker paired with community-based restorative justice workers (not police-based) may be better suited to responding and supporting mental-health-related calls and wellness checks.

Recommendation

The Province of BC to update accountability provisions for the Office of the Police Complaint Commissioner and the Independent Investigations Office that emphasize independence and civilian control, transparency in keeping complainants updated of their complaints and its result, and timelines. For this purpose, the Province of BC can refer to international bodies,

such as the United Nations Office on Drugs and Crime who published the Handbook on police accountability, oversight and integrity, which offers some clear standards for accountability and emphasizes independence and civilian control.

Recommendation

Considering that a large part of the province is policed by the Royal Canadian Mounted Police, the Province of BC to work with the federal government to reform transparency and accountability standards that uphold the rights of people with disabilities regardless of jurisdiction.

UNCRPD Article 31 – Statistics and data collection

1. States Parties undertake to **collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention.** The process of collecting and maintaining this information shall:
 - a. Comply with legally established safeguards, including legislation on data protection to ensure confidentiality and respect for the privacy of persons with disabilities;
 - b. Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

As the two stories above demonstrate, the experiences of people with intellectual and developmental disabilities with the police can vary greatly from community to community and from officer to officer. These two stories represent a range of the experiences we often hear as a provincial advocacy organization. An often-overlooked opportunity to better

understand the intersectionality of discrimination within our systems lies in **the data we collect**, which leads to our final recommendation.

Recommendation

The Province of BC to collect data and disseminate statistics to help assess how people with intellectual and developmental disabilities are experiencing barriers to exercising their rights within our policing services and understand other factors that aggregate to their experiences such as race, gender, age, and mental health.

CLOSING

Inclusion BC appreciates the opportunity to share our recommendations to enhance equity and transparency for people with intellectual disabilities and their families when engaging with police in our province. We are available to meet or discuss further if more information or clarity is required regarding our recommendations.

Respectfully Submitted,



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