



Statement

July 24, 2015

By Mary Ellen Turpel-Lafond
B.C. Representative for Children and Youth

The provincial government announced today that it has hired an external contractor to review “matters arising from Judge Walker’s recent B.C. Supreme Court ruling.” Because this sort of contracted review is in my experience unprecedented, and to avoid public confusion given government’s use of the term “independent”, I wish to make it clear that the contracted process announced today is not one that is contemplated either by the *Child, Family and Community Service Act (CFCS Act)* or the *Representative for Children and Youth Act (RCY Act)*.

This review is not associated with my Office but is rather, to my understanding, an exercise of government’s contracting and spending power through which government is seeking the contractor’s opinions on certain matters. The contracted review announced by government today must not be confused with an independent review by an Officer of the Legislature exercising statutory powers.

I want to make it clear that, as this case did involve the sexual abuse of a young child who was involved with the Ministry of Children and Family Development (MCFD), I will continue to monitor this file and will in due course make a determination concerning an independent investigation and report by my Office. The Province’s hiring of an external contractor cannot and does not affect, limit, or change the authorities and responsibilities of my Office to represent the children and youth of B.C., including statutory powers of investigation. Nor does it affect the roles and responsibilities of the Vancouver Police Department with regard to any pending criminal investigation of the abuse of the child.

If the purpose of the contracted review government has announced today is limited to seeking the reviewer’s opinions on learning opportunities for MCFD in light of the court’s findings, that is government’s prerogative and I will take that process and its recommendations into account should my independent Office decide to report on MCFD practice in this matter.

To the extent that the contracted external review is perceived as an opportunity to directly or indirectly re-examine or second guess factual findings the court has made concerning government’s conduct after a lengthy trial in a fully adjudicated trial process, I am compelled to observe, as I have already advised government, that I have

concerns about the meaning, status and implications of such findings through an external contractor review, given that the appeal process is the accepted lawful means of challenging findings made by a trial court. Just as an external contractor review cannot be a replacement for an independent investigation by an Officer of the Legislature, it similarly cannot be a replacement for the roles and responsibilities of the courts.

Whether this becomes an issue arising from the contracted review is a matter that will have to await the outcome of the process government has created. In this regard, I note that the terms of reference for the external contractor review are not entirely clear. On one hand, the government's public statement says that the review "is not intended to retry the court case" while on the other hand, it says that a specific "objective" of the review is to "assess if the child protection practice and actions taken by ministry staff, supervisors, and legal counsel contracted to represent the Director under the [CFCS Act] were consistent with legislation, policies and standards during [MCFD's] contact with the family during 2009 to 2012" – matters on which Justice Walker has made clear findings. I must note that government has not yet indicated whether it will appeal Justice Walker's recent decision.

In addition, it is unclear why the external contractor review is limited to those particular dates as ministry policy and practice with regard to this case should clearly be examined up to the present.

Finally, while I have taken note of the minister's public statement today that my Office is unable to undertake the review, it will suffice here simply to observe that the minister is incorrect. As noted, I will continue to monitor this file and will in due course make a determination concerning an independent investigation and report by my Office with deference to the Courts of British Columbia and proper legal process.