

Student Safety in Island Schools

Handling of Complaints and Incidents of Staff Sexual Misconduct

Report to Minister of Education and Early Years

The Honourable David H. Jenkins, Commissioner

February 10, 2026

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Prince Edward Island

Independent Review of the
Education Authorities

Île-du-Prince-Édouard

Examen indépendant des autorités
éducatives

Chapter 1

Commissioner letter to Minister of Education and Early Years

Summary of Report

February 10, 2026

The Honourable Robin Croucher
Minister of Education and Early Years
Province of Prince Edward Island

Minister Croucher:

This letter and the accompanying chapters comprise my report to you regarding student safety in Island schools. Upon your request made pursuant to section 38 (1) of the **Education Act**, I investigated the affairs of the education authorities regarding concerns related to the safety of students and the handling of complaints or incidents in the education system in the province. The review covered the policies, processes and procedures of the education system relevant to the safety of students and specifically staff sexual misconduct towards students, investigation into the instigating incidents, assessment of the prevalence of staff sexual misconduct, and review of the relevant statutory framework for operation of schools. The investigations and policy review are now complete, and I can report on all matters. This letter provides a summary of our review, findings and conclusions.

The **Act** authorizes the Commissioner to “*inquire into, examine and inspect the matters concerning the management, administration or operation of*” the education authorities; and vests in the Commission “*all the powers, privilege and immunities of a commissioner appointed under the **Public Inquiries Act**.*” The Appointment terms of reference (copy attached) broaden the terms of reference to cover “*the education system in the province.*” We interpreted the Appointment as creating an independent review with characteristics of public inquiry, authorizing both an investigation and a policy review.

Concerns and events that prompted this review

All would agree that every child has the right to feel safe, respected, and protected at school; and that school administration has a concomitant duty to have a system in place that ensures students are safe by managing and mitigating risk. Children depend on adults to safeguard them, and school attendance is compulsory. The issue that prompted this particular review is government and public concern related to safety of students in Island schools and the handling of complaints or incidents of staff sexual misconduct.

When you announced this review in early May 2025, you stated there was an obvious problem in the education system that the Department and education authorities could not solve on their own, and that you believed you needed an outside, independent and thorough examination of the Island education system, free and clear of all the politics. You wished for an assessment of the existence and adequacy of relevant policies, an investigation into the prevalence of staff sexual misconduct, and an investigation of the instigating incidents or events – Matthew Craswell, substitute teacher at PSB schools, and Bethany Toombs, guidance counsellor/teacher at East Wilshire Intermediate – and how those matters were handled by the education authorities. You wished to learn what went right and what went wrong, and to receive advice going forward as to best practices and potential measures for improvement so that this kind of failure does not recur.

In late summer 2024, news reports of school staff being arrested and charged with sexual offences against children put the issue of student safety into the forefront of public concern. In August, Matthew Craswell, a substitute teacher who had taught in PSB schools over many years, was charged with child pornography offences. In September, Bethany Toombs, a school counsellor, was charged with sexual offences against a minor.

As more information became available, public concern increased. Government became concerned regarding the adequacy of education authorities' policies and procedures regarding safety of children in schools. The criminal investigations pending, PSB and the Department viewed their role was to cooperate with that process until it concluded.

On April 29, 2025, in a criminal court proceeding Craswell entered guilty pleas to some offences. By an agreed statement of facts presented in open court, extensive information then came into the public domain. The Spring 2025 legislative session was then in progress. Consequently, the matter was the subject of a lot of political attention, visibility and controversy. The Premier and Minister of Education and Early Years announced the government would appointment an independent person to investigate complaints and

incidents of staff sexual misconduct in Island schools and to consider the adequacy of education authorities' policies and procedures. Government expressed its aspiration to ascertain why the system failed and to be able to make improvements based on an informed view of best practices. Government expressed the objective of instilling confidence in the public and especially parents that the Island education system is doing everything it can so that it does not fail again.

The review process

Between the appointment on June 2nd and December, we conducted the policy review and investigations.

At the outset, we invested considerable time and effort toward development of an effective and fair process. Being a form of public inquiry has legal and policy implications. There being no modern PEI experience for the conduct of public inquiries, we researched public inquiries and reviews in Canada and tailored a model that we considered suitable. This review is both an investigation of events and a policy review. For both parts, we sought to get an accurate picture of existing policies and what happened, to identify gaps, vulnerabilities and concerns, and to consider best practices and new measures going forward. We sought to achieve a balance between thoroughness and expedition that would result in a proportionate approach and a reliable report.

Scope of work covered examination of the relevant education authority policies, assessment in aggregate of all reported complaints of incidents of sexual misconduct during the period 2023-2025, assessment of education authority handling of the complaints against Craswell and teacher Roger M'Bahia, review of other complaints and incidents, and investigation of PSB's handling of a request by school counsellor Toombs for permission to have a student from her school live in her home. We reviewed the **Act** framework for delivery of school services, focusing on related issues of communications and accountability. Regarding all matters, we identified gaps, vulnerabilities and areas of concern and developed recommendations for going forward.

We directed the education authorities to provide full disclosure of their relevant policies and their records regarding all complaints and incidents that were reported during the review period 2023- 2025. We reviewed the complaints and incidents and how the education authorities handled them. Our primary review covered the handling of the instigating

complaints at PSB (Craswell) and events (Toombs) and most recently M’Bahia at CSLF. We investigated these matters.

We established a fair and effective interview process. We interviewed all the people who appeared to have information regarding the underlying complaints and incidents and the handling of those incidents, and also people who had the best knowledge of related policy administration. Our interviews involved parents, principals and other school administrators, teachers, education authority personnel – HR officers, managers and directors, policy manager, Student Services director and managers, Director – Department of Education leaders – Registrar, deputy ministers and ministers – police, and child protection officials.

We complemented the interview process with public engagement. We engaged with relevant communities and stakeholders. Consultation incorporated input by education critics of all political parties represented in the legislature, unions representing school staff, association of school administrators, education authority trustees, home and school associations, and interested groups, related professional associations, UPEI education department, and the Canadian Centre for Child Protection. The Child and Youth Advocate declined our invitation, citing the need to remain independent in fulfilment of the OCYA mandate. We invited public submissions and received approximately 24 submissions from 30 responders.

Public participation was a significant component. It added value to the quality of the review and to our confidence in the findings and recommendations. Many organizations and people made extensive effort and provided very thoughtful and informed perspectives. The safety of children is a community-wide, indeed a society-wide, concern. As people experience this concern in different ways, their input added real-life experience and insight.

General observations regarding education authority policies and procedures

Under the **Act**, the education authorities are responsible for operation of schools. This responsibility includes recruitment, employment and supervision of school staff, and requires the education authorities to make and administer policies and procedures regarding student safety in schools, including prevention of risk and intervention with staff when sexual misconduct occurs. The **Act** confers on the Minister ultimate responsibility for administration of the **Act** and leadership of the education system; however, the statutory model for delivery of services is bifurcated, and specifically assigns responsibility for administration of schools, staffing, and making related policies to the education authorities.

In very general terms, the education authorities are aware of their responsibility and role and are attentive to student safety in schools. They have policies, processes and procedures that address the issues of risk and student safety. This framework is designed to create effective barriers to risk-associated adults entering the school system, prevent occurrences through monitoring and education for awareness, provide direction for handling complaints and incidents, and provide training regarding prevention and handling.

The education authorities and schools administration are mostly comprised of dedicated professionals who operate in good faith, care deeply about student safety, and prioritize management of risk. Leadership acknowledges and buys in to the proposition that staff sexual misconduct is a real issue in society and the community, and that (as elsewhere) schools are a target. We did not see indications of administrators or teachers being uninformed, in denial, or of bad faith.

Our research included a 25-year-old report from an Ontario study (*Protecting Our Students*, Hon Sydney L. Robins, 2000). Then and there, it was found that a predator had been able to commit a series of at least 14 serious sexual assaults on students, mostly teenage females, over a period of 20 years; going from school to school committing new crimes. Justice Robins' first finding was that the education administration had denied and minimized reports and complaints of incidents.

Fortunately, today and here, 25 years later and in PEI, the situation is quite different and better in that regard. Education administration accepts and engages with the reality that risks are real and ongoing: (i) that adult perpetrators will seek to infiltrate an environment where children are present, and (ii) that staff sexual misconduct will occur, and (iii) that accordingly, school administration needs to be vigilant in defending against these risks. They accept that the system needs to have facilities to prevent incidents from occurring and handle complaints when incidents occur. We found the administration does intend to treat complaints and incidents seriously, employs a student-focused approach, and positively receives and screens students' complaints.

Still, issues remain to be addressed. These are mostly in the category of policy execution: (i) insufficient understanding of and attention to risk associated with early-stage inappropriate conduct (e.g. grooming) and to the value of related education and training, (ii) regarding handling complaints and incidents, lack of uniformity and sometimes less than rigorous application of procedures, and (iii) absence of a central system for memorializing and tracking complaints and incidents of inappropriate conduct and sexual misconduct.

The suite of policies now in place purports to be sufficiently expansive. However, our review of the instigating incidents and events reveals the presence of some weaknesses and gaps: (i) the scope of inappropriate conduct and behavior that the policies subject to intervention is narrow, and procedures do not sufficiently address early-stage boundary transgressions; (ii) there is variable understanding of the term “*sexual misconduct*”, and a corresponding lack of distinction between incidents involving suspected sexual misconduct that should be reported to authorities and early-stage inappropriate conduct that is not suspected sexual but is conduct that should be the subject of employer intervention; (iii) there are instances of lack of rigour in application of procedures and practices when handling complaints and incidents; and iv) there is no systematized program for memorializing and tracking incidents.

Fortunately, the education system has identified most of these weaknesses and gaps and has initiated some ameliorative measures that are currently works-in-progress, e.g. the PSB draft sexual misconduct policy.

Prevalence of staff sexual misconduct

We issued subpoenas that directed the education authorities to produce all documents in their possession relating to any reports or allegations of sexual misconduct during the 2023-2025 review period. The volume of material we received was significant. Forty separate matters were identified. We conducted a paper review of the disclosed records for the purpose of identifying system-wide themes that reinforce or supplement the conclusions drawn from our investigations. It was not practical to undertake a full factual investigation of these other incidents. Because we did not undertake independent fact-finding in respect of these matters, I do not make findings about what occurred in any particular incident. Instead, we describe only system-level themes and apparent trends.

A significant number of complaints involved conduct that appeared ambiguous to those who received the initial reports. These included reports about casual physical contact, comments about clothing or appearance, interactions that seemed overly personal, or situations in which a staff member spent a notable amount of time with a particular student. In several matters, students or colleagues reported feeling uncomfortable, though the conduct did not appear to be explicitly sexual. The records suggest that these kinds of concerns were often addressed informally. The second theme was considerable variability in how concerns were recorded – some promptly, others only months later; some forwarded to HR or Student Services, others remaining at the school level – this variation suggesting that the system does not have a uniform approach to documenting these concerns. A third

theme, we saw nothing to suggest any pattern of administrators disbelieving students who reported concerns; no recurring expressions of skepticism about credibility. To the contrary, administrators generally appeared to accept the substance of what was reported, to meet with the student and/or parent, and to take some form of responsive action. We did not see a systemic problem. Fourth, there was an apparent increase in reporting frequency and formality after summer 2024 (when the Craswell criminal charges came into the public realm). Overall, most reports were complaints of inappropriate conduct; a variety of boundary transgressions. Very few involved actual sexual misconduct. Two complaints were classified as false reports.

We wanted to obtain some footing or perspective for assessing the PEI experience and situation. We engaged with the Canadian Centre for Child Protection (C3P). They were very helpful in providing us with information that could serve as a baseline for comparison. C3P had carried out extensive studies regarding the modern experience across Canada. Their studies of modern experience across jurisdictions demonstrate that the PEI situation is no better or worse than elsewhere in Canada; that this is not just a PEI problem. Adults targeting children is a global phenomenon; schools are vulnerable, and therefore school administration needs to have awareness of risk and create and maintain protective mechanisms for prevention. C3P observed that the Craswell-kind of incidents that occurred in Prince Edward Island occurred frequently in all jurisdictions across Canada and beyond. The particulars of the Craswell incidents are quite typical of those that C3P found in many of the 1000+ case studies they carried out over the past 15 years.

As a very general observation, there is no identifiable prevalence or proliferation of staff sexual misconduct in PEI schools. Acknowledging the ideal that one incident is too many and that victim impact is a very serious concern, viewed in context the frequency and kind of reported events of inappropriate conduct and misconduct are not exceptional. During the study period, there was no spike or notable increase in incidents or in demonstrated risk to the quality of student safety.

Summary of investigation into Craswell complaints and incidents

We investigated both Craswell complaints – at West Kent on June 26, 2023, and Glen Stewart on April 30, 2024. Regarding each situation, we were informed that substitute teacher Craswell touched a child or children, in the classroom, during a classroom game. In Chapters 6 and 7, I canvass the information we received from many sources that describes

what happened, make findings, evaluate the education authority handling of those matters, identify gaps, vulnerabilities and concerns, and make recommendations for improvement.

Based on the investigations and policy review, I find that in both cases the school administration handled the complaint and incident properly and professionally. They responded to the parents promptly and openly, sought and followed PSB advice on how to proceed, appropriately conducted fact-finding/screening with parents and children who were involved, informed parents properly, and blocked Craswell from returning to teach at their school. They viewed Craswell's conduct as inappropriate and unprofessional; they did not suspect Craswell's acts were sexual in nature. Their judgment appears to be a fair-minded account of all the information they had before them. Given what they knew at the time, I would not find their judgment was unreasonable. We identify some procedural deficiencies in PSB HR handling of the complaints. We assess those deficiencies and identify gaps and vulnerabilities. We recommend new measures: (i) enhance understanding and recognition of early-stage inappropriate conduct, and the value of intervention; (ii) improve complaint handling procedures and practices; and (iii) introduce central tracking. These additions should enable administration to deal effectively with the kind of a situation presented in the Craswell complaints.

From criminal charges to guilty plea: August 8, 2024 – April 29, 2025

On August 8, 2024, Craswell was charged with criminal offences of child pornography. The education system and the public received this news at the same time. As soon as PSB received this news, they contacted the police about the Glen Stewart incident. Along with the then-retired principal of Glen Stewart, they also contacted the father of the child on whose behalf the Glen Stewart complaint had been brought and encouraged him to also contact the police. They contacted the Department (the Registrar, Deputy Minister and Risk Management). Risk Management and PSB initiated a system-wide investigation into the existence of any other Craswell incidents during his more than decade-long substitute teaching at PSB schools. Between August 8th and November, PSB did not inform the Department about the previous West Kent complaint and incident.

After police laid the initial charges against Craswell, they continued to investigate him. On August 12th, he was charged with an offence of sexual interference regarding the Glen Stewart incident. During autumn 2024 the police ascertained that there had been a previous complaint and incident; they commenced further investigation. In November 2024, the police informed the Department that they identified West Kent as the school where the

previous incident occurred. On November 19th, the Department formally recorded with PSB its dismay resulting from PSB failure of duty to report issues relating to staff conduct that may cause concerns about the safety of children. The Deputy Minister issued a letter to the PSB Director that required rectification, including provision of full information on the Craswell and Toombs matters and confirmation that there were not other unreported complaints or concerns regarding staff conduct.

After criminal charges were brought against Craswell in August 2024, the Department and PSB cooperated with police investigations. Conscious of student privacy considerations and publication bans, they were careful to allow the criminal justice system proceedings to play out.

On April 29, 2025, the situation changed. Craswell pleaded guilty in open court to some criminal offences, including child pornography offences and sexual interference (Glen Stewart). A lot of information about those offences then came into the public realm.

The system-wide review of Craswell that Risk Management initiated in August 2024 and PSB carried out within all PSB schools where Craswell had taught revealed no other reported complaints or incidents within the review period or over the previous five years. We probed but did not find evidence that those incidents were part of any known ongoing practice. Craswell's record as a substitute teacher in PSB schools at various times since 2011 contains no mention of other complaints. (AESOP contains a flag entry made in October and December 2018, at which time Craswell was not a PSB employee or teaching on the Island: "CRC to be updated August 2018 – CHECK CRC CAREFULLY – See note from [school principal author] and [HR manager]" regarding Korea.) This is discussed in Chapter 6.

Summary of investigation into Toombs' request

We investigated the education authority handling of the request by school counsellor Bethany Toombs to have a former student live in her home.

In late September 2024, Toombs was charged with criminal offences involving sexual assault against a minor. The situation became an education system issue because Toombs was a school counsellor and teacher in a PSB school. In late May 2024, Toombs had asked East Wilshire Intermediate School and PSB administration for permission to have an adolescent student live in her home with her and her spouse. In Chapter 6, we canvass the request and the information we received from many sources regarding how the PSB handled the request.

I present my evaluation that the administration did not evaluate the request properly, effectively or conclusively, and my opinion that the administration has a duty to exercise its authority regarding staff supervision and student safety that it did not fulfill. I identify related gaps, vulnerabilities and concerns. In Chapter 7, I make findings and recommendations for improvement.

In brief summary, Toombs' request informed administration that she wished to provide accommodation for the student due to his home situation being dangerous. She shared that she was alert to considerations of the proposed arrangement being unusual and raising questions about boundaries. Administration recognized the precarity of the student's home situation, but had concerns over boundaries, professional ethics and potential risk for counsellor and student. There was discussion within administration, and they required a declaration of no conflict-of-interest. While it is unclear, it appears that no explicit decision about Toombs' request was made. Based on our investigation and my opinion that PSB had a duty and authority to decide, I find that PSB did not respond effectively. Some concerns were expressed and some remained unstated. Administration did not subject the request to proper evaluation, consider issues, treat concerns effectively, find facts, and decide. Due administration response would have involved considerations of law, ethics, boundaries, off-duty conduct and student safety, influence and consent, Child Protection Services involvement, and submitting the request to proper evaluation.

The Toombs case study demonstrates the presence of a serious gap in identification and management of risk. The risk – administration inaction and inertia due to lack of identification, coordination and accountability – remains a systemic problem. This needs to be addressed from within. Measures should include (i) development of effective organization policy to reflect employer authority to intervene in a staff request for off-duty contact with a student that has student safety risk implications; (ii) development of effective organization policy on how to respond to an unusual, unprecedented situation in the absence of an existing policy; (iii) a more focused, coordinated and diligent process and culture for decision-making; and (iv) a systemic approach to risk management, including clear lines of responsibility and accountability.

Sources of risk; gaps and vulnerabilities revealed

The risks demonstrated by the Craswell and Toombs scenarios are distinguishable. The Craswell risk is that of a perpetrator intentionally breaching school system defences and the system not being sufficiently equipped or attuned to respond effectively. The essence of the

risk demonstrated by the Toombs scenario is administration having information that tended to suggest boundary transgressions and not intervening to correct course, followed by ineffective handling of a staff member request for extracurricular off-site contact with a student.

Potential measures for amelioration are distinguishable too. The risk presented by an adult perpetrator seeking to breach defences can be mitigated by expanding the scope of reviewable inappropriate conduct, defining the risk, and educating about the risk; by shoring up procedures for training and handling of complaints; by applying more individual diligence to handling of complaints; by employing and applying more corporate resources; and by implementing an effective central tracking system. Regarding these concerns, the education system is presently taking steps toward ameliorative measures.

The Toombs scenario presents a more serious and complex concern – which could be characterized as administration inaction and inertia due to lack of awareness of risk, coordination and accountability. As mentioned, administration needs to understand the risk associated with early-stage inappropriate conduct and to manage this risk. PSB needs to create policies, protocols and corporate approach as listed above. As well, PSB should pursue with CPS effective communication between public agencies that have responsibility for safety of children.

Beyond the distinctions, the Craswell and Toombs case studies demonstrate a thematic coherence that reveals a systemic gap. In each situation a risk presented that the administration did not identify and address. In Craswell, the gap is the occurrence of inappropriate self-serving conduct that once found to be not reportable as sexual was not subjected to intervention for correction. This was apparently due to lack of understanding or appreciation that inappropriate conduct/boundary transgressions found not to be sexual create risk and that prevention calls for intervention. The Toombs scenario reveals a gap that is similar in nature. Administration identified staff conduct as boundary transgressions but did not subject the conduct to effective intervention. Then, upon receiving the staff member request for cohabitation with her student, there was a collective failure within the administration to understand and appreciate the risk and to fully and effectively respond. Administration did not recognize that the scenario of perceived accumulated boundary transgressions and the proposed living arrangement being offside professional and ethical obligations created concerns.

Following are my observations as to the source of these shortcomings and resulting gaps and vulnerabilities:

- a) While the student safety policies are generally adequate, they are applied narrowly. Policies purport to address and preclude inappropriate conduct of all kinds, but in practice the focus is on sexual misconduct, and more specifically on reportable sexual conduct. As a result, there is insufficient recognition that that risk starts with inappropriate behaviour in the nature of boundary transgressions and that prevention being the best investment early-stage inappropriate conduct too merits appropriate employer intervention.
- b) When complaints and incidents are being handled, policies, more often operational directions, are not always followed. In the Craswell incidents, the PEI Sexual Abuse Protocol on mandatory reporting was not consulted; the West Kent incident was not adequately documented, and it was not followed up with Craswell. While the Glen Stewart incident was properly handled at the school level and was followed up by PSB with an interview, the interview was not an investigation, was understaffed, was ineffective, the interviewer was not trained, the interview was not accurately documented, and the interviewer made no connection between complaints and the occurrence of similar staff conduct in both incidents.
- c) There is no system for memorializing and tracking incidents. A number of issues were exposed. The AESOP programming did not permit Glen Stewart administration to see that West Kent administration had previously blocked him. When the Glen Stewart complaint was made, PSB did not have on file a proper documented and readily accessible record of the West Kent incident and outcome. There is no point of scrutiny for timely consideration of accumulated information regarding a staff member.
- d) PSB suffers from being under-resourced, particularly in its HR service capacity. Due to high volume demand and insufficient human resources and support mechanisms, HR lacks the institutional capacity to be strategic and proactive; instead, HR staff necessarily operate on a transactional basis.

Summary of potential measures for mitigation of risk

All of these measures would be beneficial toward ameliorating the risk presented in the Craswell complaint scenario:

- a) Retain the services of C3P or a similar resource to train all education authorities' staff regarding the full spectrum of sources of risk and prevention of risk.
- b) Retain the services of C3P or similar resource toward developing an effective intervention strategy and procedures to deal with inappropriate conduct that is not suspected sexual or reportable.
- c) Tighten up operating procedures and require more diligent compliance with operating procedures regarding: (i) screening for hiring and ongoing employment, (ii) training regarding prevention, (iii) training regarding handling of complaints, and (iv) following protocols on handling complaints.
- d) Develop a central tracking system: adopt best practices for handling, documenting, recording and tracking complaints, incidents and interventions; design to track both individual employee and aggregate complaints and incidents system-wide, to identify risk from overall occurrence of particular misconduct. A tracking system would ideally be centralized, digitized, system-wide, reside with the employer (or in an independent agency), include Department involvement, and have continuity of administration. It would seem advantageous to internally designate a small, nimble triage team that would serve as a standing facility tasked to ensure prompt, informed, consistent and effective intervention, recording and tracking. The matters to be addressed being relatively confined, we are advised this system need not be elaborate. Both design and administration are important. I suggest this involve approximately three people – one from the employer, one from the Department, and one with relevant expertise in social work and interviewing children and/or legal considerations.
- e) Bolster the office of the PSB Director by making 'Assistant Director' a permanent position.
- f) Enhance PSB staffing in the areas of HR service and policy development.

It bodes well that the education authorities and Department have already undertaken steps toward ameliorative measures regarding most of these matters.

Duty to report

We received considerable input and varied opinions on duty to report, failure to report, and appropriate threshold for reporting. This important matter is the subject of misconceptions. There is value in identifying it as an issue and in pursuing a common understanding. Following is a discussion of my opinion and advice on the issues:

- a) The current statutory standard “*reasonable grounds to suspect*” for reporting to CPS regarding a child in need of protection is also employed for reporting to police regarding suspected sexual abuse. In my view and opinion, this standard is appropriate and sufficient. The standard is not the source of under-reporting or identifiable risk. Based on “*reasonableness*”, it is a balanced and relatively low standard. It is a threshold. It expects a person to decide first whether particular conduct raises a reasonable suspicion of abuse; it does not expect or suggest the person go further to investigate in order to believe the complaint, or decide whether there is reasonable cause to believe that abuse occurred or could be proved. The present standard is founded on settled law, child-focused, and well-suited to the risk being addressed. It is fair to both the complainant and the accused staff member.
- b) The question was raised in the political realm as to whether the school administration broke the law by not reporting the Craswell incidents. In my opinion no one broke the law. The statutory duty to report applies when the risk to the child arises from a parent or guardian. That was not the case here: there was no suggestion that parental conduct or neglect placed the child at harm. In any event, school administration explained to us that – based on what they knew at the time – they did not suspect that Craswell’s conduct was sexual. I would not find their judgement was unreasonable. During our interviews regarding the West Kent incident police advised that in the absence of all the other information and knowledge that was gained later when Craswell publicly acknowledged his malicious intent the incident did not appear egregious or was likely not very remarkable.
- c) It is fair to observe that in responding to the Craswell incidents administration did not consult the PEI Sexual Abuse Protocol. The Protocol contemplates reporting based on “*mere suspicion*” of sexual abuse. But that omission did not affect matters because in any event administration did not see the incident as being sexual. The discussion here serves as a segue to mentioning that the Protocol should be revisited with a view of making it consistent with the primary duty to report standard, or at least reconciling the different directions. Any reconciliation should recognize these

factors: (i) the precedence of statute; (ii) there should be a place for discretion in education authority administration to make preliminary evaluation of whether the matter is reportable; and (iii) inappropriate conduct in the nature of a boundary transgression that does not amount to reportable conduct should be handled by the employer education authority.

*Education Act distribution of roles and responsibilities:
communications issues*

The **Act** distributes roles and responsibilities. Education authorities are responsible for operation of schools, including employment and supervision of instructional staff. This includes making related policies and procedures and administration of complaints and incidents of staff sexual misconduct.

We considered concerns regarding PSB communications. The Department expressed concerns about PSB not reporting as required to the Department, Registrar, and Minister regarding their knowledge of complaints and incidents. We heard suggestions of there being concerns from the public and parents about PSB messaging not being timely and effective.

We reviewed the statutory framework for delivery of school services. While the bifurcated system seems to work, we found your concern about the presence of a communications and accountability issues between PSB and the Department is borne out. Some of this is a natural result of any situation where more than one entity is assigned responsibility for delivery of service, where the operating framework bifurcates responsibilities. Some is attributable to limited resources. In any event, the Department concern about PSB not complying with reporting requirements was substantiated.

This issue was illustrated when PSB did not report the Craswell West Kent incident to the Registrar and Deputy Minister between August 9 and mid-November, 2024. By August, when the Department and Risk Management first became informed about the Craswell criminal charges, both the PSB Director and the HR Director were aware that Craswell was alleged to have inappropriately touched students at both Glen Stewart and West Kent. Due to personal circumstances, the PSB Director considered the HR Director to be prime for addressing these matters with the Department and Risk Management. In any event, for reasons we cannot explain, in August 2024 no one from PSB alerted the Department to the West Kent allegations; this state of affairs persisted through autumn. In November, the Department learned about the West Kent incident through the criminal justice system. We are not in a

position to find this omission was intentional; however, it remains that PSB knew about the West Kent complaint in August and did not inform the Department until November.

PSB should have communicated this information to the Registrar and Deputy Minister. The omission caused the Deputy Minister to give formal notice to the PSB Director that failure to report to the Department and Registrar on the conduct of teachers gives rise to concern about the safety of children and other persons in a school. The Deputy Minister required rectification. The letter was followed by verbal reporting, meetings and phone calls to discuss the issues raised; however, PSB's letter in response was issued only on April 1, 2025. The failure to comply with reporting requirements was explained to us as inadvertence. While the explanation given is not satisfactory, I cannot find the omission was deliberate or shown to have been motivated by any identifiable purpose. In any event, this kind of gap creates opportunity for important matters to be missed, and inhibits the Registrar, Deputy Minister and Minister from performing their functions.

The statutory framework presents a challenge. Education authorities are responsible for operations, including delivery of school services, student safety and associated staff administration, and the Minister has ultimate responsibility for administration of the **Act** and oversight of the education authorities. However, the **Act** does not create the means for the Minister to effectively carry out either obligation.

We reviewed PSB communications with the public and parents. I do not have particular findings or advice to offer in that regard. Generally, PSB has and employs a communication strategy and protocols for operations. In practice, they strive to be transparent and to inform constituents – students, parents and the public – with timely and accurate information. They practice being trauma-informed and respectful of confidentiality considerations. PSB has the assistance of a one-person communications resource, who is on loan by government. This PR/communications resource is devoted to the very considerable day-to-day operations and needs of the school system. On occasion when unusual events occur or major issues arise (such as communicating with parents, students and the public regarding the Craswell guilty pleas in criminal court), PSB retains outside communications advice and assistance. We reviewed the May 2025 occurrence that was disparaged by some. In my assessment, PSB's decision to consult a communications firm was prudent and defensible. PSB needed experienced, one-off, professional advice and assistance in order to communicate promptly and accurately with their constituents regarding a major situation involving specialized legal considerations. Sheer volume precluded timely and effective management of the matter in-house. PSB does not have access to other government communications resources.

*Potential measures to address PSB
communications and accountability issues*

Communications challenges present real risks. If the bifurcated model of school administration is to be continued (whether it should be is a political matter beyond the scope of this review) then additional measures for better communication and accountability between PSB and the Department would be beneficial. A combination of the following would reduce risk:

- a) Create a liaison on the PSB board of trustees for the Department to have permanent ex officio representation. This would facilitate (i) ongoing knowledge of what is happening in school operations, and (ii) opportunity for Minister input into PSB administration where appropriate. The public would benefit, as consistent and continuous communication would assist the Minister in performing the apex responsibility for administration under the **Act**.
- b) Provide appropriate resources to the Office of PSB Director: (i) sufficient to carry out the strategic and communications leadership of a large school board that is a Crown corporation; and (ii) to align the necessary and aggregate skill-set with the strategic, executive, and communications functions to be fulfilled.
- c) If the board of trustees model is valued and to be continued, provide training and resources to the board to clarify trustees' duties and limitations and assist trustees in carrying out their mandate effectively.
- d) Provide PSB with its own dedicated communications resource (rather than a loaned government resource).
- e) Provide PSB with access to government legal services, for difficult situations.
- f) PSB to comply with statutory reporting requirements to Registrar and Minister.
- g) Clarify protocols on requirements and expectations for education authority reporting to the Registrar, Department and Minister; expand scope of education authority reporting to Registrar: any incident that may involve an issue of certification – any time a teacher is taken out of the classroom, related complaint or incident should be reported.

Appointment purpose and responsibilities revisited

Circling back to the Appointment terms of reference, I add these observations:

- a) Student safety in schools is a broader issue than staff sexual misconduct. In particular, bullying was top-of-mind for a lot of people who participated in the consultation or made public submissions. However, the terms of reference for this review confine our work to the issue of staff sexual misconduct against students.
- b) We followed the TOR direction to respect the rights of affected individuals. We employed a trauma-informed and culturally sensitive approach. We were able to obtain a sufficient fact base and narrative regarding events from the adults we interviewed without interviewing the children who were involved. Our focus was on the systemic question of how the education authorities handled the complaints and incidents and gaps, vulnerabilities and concerns thereby revealed. We are satisfied that interviewing the children would have carried risk of introducing further trauma.
- c) Safety of children is a society-wide issue involving community-wide responsibility. School administrations undertake the front-line responsibility to establish and maintain effective measures for mitigation of risk. However, perfection is not attainable, and uninformed demand for zero-tolerance is unhelpful. The risk of adult perpetrators being omnipresent in all venues where children are present, I believe there is a shared ethical responsibility for community leadership to contribute positively toward mitigation of risk, avoid sensationalizing and reflect reasonable expectations.
- d) We engaged experts in the field as we considered advisable and proportionate. These needs were revealed as the project unfolded.
- e) We obtained significant contribution regarding the education field from various sources: C3P research; Ontario studies – Justice Robins report in 2000 and a study by Prof. Jaffe and others in 2012; the recent and foremost text *Teachers and the Law*, fifth edition (2025) consultations with the Dean of the UPEI education department and Island educators and administrators. Having the benefit of these resources, we are confident in our ability to make conclusions as to whether and to what extent the education authorities are attuned and attentive to the issue at hand. My assessment being that the condition is not such that the system needs or would benefit from

radical change or refit, we were satisfied that our chosen resources are proportionate and sufficient.

Additional chapters complement this summary report

During our work, we developed a lot of detailed information about various significant matters. It seems beneficial to share this with you. Therefore, this report includes these additional chapters:

- Public inquiries and how they are utilized to serve the public interest;
- How we carried out the work: mode of proceeding, investigation by interviews, procedural fairness considerations, and public engagement;
- Review of relevant legislation, policies and procedures currently in place;
- Risk to student safety: understanding sources of risk, kinds of conduct that present risk, approaches to mitigating risk; effective management of risk;
- Investigation of Craswell, Toombs and M’bahia complaints and incidents and education authority handling of them;
- Findings, conclusions and recommendations regarding complaints, incidents and events and handling by education authorities; and
- Statutory arrangement of the Island education system; related issues of communications and accountability.

By reporting on our various research, I intend to leave with you constructive advice for policy makers, who should know best how to apply particular advice toward their consideration of specific tasks and improvements.

Closing

In this province, education is a public service, and the education authorities and the education ministry are public institutions. Public confidence is essential. Public respect for our institutions is a foundational underpinning to a vibrant society. Public services – healthcare, education, justice, police, legislative, executive government – can only function effectively in the public interest if they benefit from public confidence. Public confidence needs to be earned and deserves to be promoted.

Complaints and incidents of staff sexual misconduct involve the education system and the criminal justice system in complementary roles of prevention, investigation, and correction.

The wider community also has a role. Neither law enforcement nor the education system alone can solve the problem of adults preying on children. Both have an essential contributing role, as does the rest of the village. In the leading case of *R v. Freisen*, 2020 SCC 9, at para 45, the Supreme Court of Canada advises: *...Criminal justice responses alone cannot solve the problems of sexual violence against children.... requires coordinated action by all levels of government and by civil society across policy domains as diverse as health care, education and child welfare.*

The mandate of this review is to respond effectively to public concerns regarding student safety, in particular from the risk of staff sexual misconduct. We delved into the inner workings of the Island public education system. We sought to find the facts regarding the instigating incidents and to assess related issues regarding administration. My aspiration is that this exercise will have a therapeutic effect. Fact-based answers to the questions and informed and independent advice should provide a solid platform to support public confidence going forward.

On the issue of student safety from staff sexual misconduct, in the bigger scheme of things we found the Island education system is working reasonably well. The education authorities and Department are led by competent and caring professionals. Teachers and staff are caring and dedicated professionals. Regarding staff sexual misconduct, it appears that Island schools are relatively safe places. Adult predator behaviour being a global phenomenon, schools are naturally vulnerable. The education authorities have in place a suite of policies and procedures intended to manage risk. Still, some incidents occur. The situation in this province is not better or worse than elsewhere in Canada, or than the experience in previous times. We identified shortcomings in administration operations that should be addressed. For the most part, these are presently being addressed.

In my assessment, amelioration of the overall concerns revealed by the review can be accomplished from within. The challenges neither invite nor necessitate radical change. The education authorities have existing policies and procedures for management of the risk of adult predator behaviour. Our case studies show they are not failsafe. As discussed, effective response to this reality will involve some methodical expansion, shoring up and tightening of policies and procedures, and adoption of new measures. Effective response to the gap revealed by PSB's handling of the Toombs request can be managed by development of policy and leadership developing an organized and informed approach to decision-making that is oriented toward student safety. Across the board, measures for effective mitigation measures would be enhanced by bolstering PSB HR resources.

The bifurcated model of trustee boards and Department for delivery functions is burdened by some challenges to effective communication and accountability. Most are inherent to a system where responsibility is shared. The school board system can be geared to work more efficiently and effectively by adding measures to facilitate ongoing closer liaison between education authorities, Department and the Minister, clarifying understanding of the board governance role and limitations, and enhancing resources for the Office of PSB Director.

“It takes a village to raise a child”. Within the Island education system, the education authorities are charged with the primary responsibility to keep children safe from foreseeable harm. To thrive, the education system needs public support too. This means across-the-board positive participation by political leadership and opinion-makers. There is of course a role for genuine expression of concern; but this should be informed, measured and positive.

In striving to address the public concern that led to this review, we have tried to be thorough. We have sifted a multitude of opinions and interests. This report intends to provide my frank, unbiased view of the surrounding facts and circumstances and an informed and objective policy review. I hope that our report of material facts of the instigating incidents and the education authorities’ handling of them, as we have been informed and understand them, along with our review and assessment of the education authority policies and related communications issues will serve as a basis for renewed public confidence. Hopefully this report will be a segue to the next stage of public policy in which the focus will be restorative. Success will involve excellence in performance by the primary institutions complemented by positive community leadership – political, media, stakeholders and interested parties – that prioritizes goodwill, reasonable expectations, and contribution.

This thoughtful submission by a parent and advocate for student safety shares hope for the future:

“This review could be the beginning of rebuilding trust in a system that requires all of us, parents, educators and government, to function at its very best. But trust can only be rebuilt on truth.”

Thank you for the opportunity to provide this public service.

Sincerely,

(sgd) David H. Jenkins

The Honourable David H. Jenkins

Commissioner

Appointed pursuant to the Education Act to review concerns regarding the safety of students and the handling of complaints and incidents of sexual misconduct by school staff.

EDUCATION ACT APPOINTMENT

Purpose

The purpose of this appointment is to review concerns related to the safety of students and the handling of complaints or incidents in the education system in the province. This review will include a review of the policies, processes and procedures of the education system in the province relevant to the safety of students in Island schools, and specifically sexual misconduct between staff and students.

Responsibilities

The work undertaken as a result of the appointment shall be conducted pursuant to section 38 of the ***Education Act*** to:

- Identify gaps, vulnerabilities and areas of concern in the current handling and reporting of all sexual misconduct complaints by students against staff within the education system and make recommendations to improve future practice and ensure accountability.
- Examine the legal frameworks, compliance issues, and institutional processes, processes and procedures related to the safety of students in Island public schools.
- Review documentation, legislation and policy decisions related to the purpose.
- Engage with experts in the field.
- Engage with relevant communities and stakeholders, including the Child and Youth Advocate.
- Provide recommendations for improvements and accountability and if necessary, propose new measures to better protect children in Island schools.
- Respect the rights of affected individuals, ensuring a trauma-informed and culturally sensitive approach.
- Review the 2023-2025 reported incidents of a sexual nature against staff by students within PEI public schools and the handling of those complaints to determine if the actions taken, and reporting procedures followed, were sufficient to comply with relevant legislation and best practices.

Report

The final report, including both findings and recommendations, shall be submitted to the Minister of Education and Early Years in accordance with subsection 38(5) of the Act.

The final report will be made publicly available, subject to legal and privacy considerations.

Chapter 2

Introduction to public inquiries

This introduction will serve to place this Review in the context of public inquiries and explain the nature of the investigation and how the Commission chose to go about the work.

Public inquiries have been a significant institution in Canada since confederation. They investigate a wide array of important issues of public importance. A public inquiry is established because of a perceived need to have an independent and objective assessment of a serious matter of public interest or concern.

Public inquiries are created by the executive arm of the federal or a provincial government, under a statute. They are designed to be at arm's length from government. They must be independent in order to effectively carry out their mandate and attain public confidence in their findings and recommendations.

There are many modes of public inquiry. The name given to the mission and project – public inquiry, Royal commission, statutory review, independent review, policy review etc. – does not fully describe the role or function. Better insight can be gleaned from considering the concern and associated public interest that generated the inquiry or review and by viewing the terms of the order-in-council or statutory direction that appointed the inquiry and established its scope.

The issue that prompted this independent review is government and public concern related to safety of students in Island schools and the handling of complaints or incidents of staff sexual misconduct.

How public inquiries are created

In the case of a province, the terms of reference for an inquiry or review may be created by Executive Council. In this instance, they were created by the Minister of Education and Early Years. The ***Education Act*** authorizes the Minister to appoint a person to inquire and investigate matters concerning the management, administration and operation of the education authorities.

Public inquiries are unique. While created by the executive branch of government, they must function autonomously. Government defines the powers, including the power to compel evidence, and sometimes states the mode of proceeding – public hearings, private interviews, public submissions or some combination, and their function – inquisitorial, fact-oriented or policy-orientated, or some combination. Beyond that, they are necessarily independent of government and any other influence or advocacy.

Whether broad in scope or confined to a particular matter, all inquiries, including this one, share common features of being created to address a public concern, being independent, and being inquisitorial. All conclude with a report that contains findings regarding the instigating events and concerns and makes recommendations for future practice.

Independence and impartiality

A public inquiry is carried out by a person who is independent of government. This qualification anticipates that the person appointed as commissioner would be publicly accepted as independent, able and suited to fulfill the appointment.

In the Canadian experience, it is commonplace to call upon a sitting or recently retired judge to carry out a commission of inquiry. Judges are appointed because there is widespread respect for judicial independence, impartiality, integrity and competence. As a matter of law, the arrangement is that a commissioner is appointed by the executive branch of government and serves in the role at pleasure. Once appointed, the commissioner must maintain independence. Judges and retired judges bring their reputation for impartiality, integrity and good judgment. Additional skills expected to be possessed by a judge acting as a commissioner are leadership, recruiting and managing a project team, and organization.¹

Public confidence in the integrity of the review process is critical. Accordingly, independence and impartiality are the essential attributes for a credible inquiry. The commissioner must retain an effective distance from the government that made the appointment and have no interest in any party or outcome. This quality connotes procedural fairness. An impartial state of mind in relation to the issues at hand is essential because a commissioner often has to make findings affecting reputations of persons in public life, including politicians and public officers. As well, public scrutiny can be expected with respect to the evidence and findings. A commission of inquiry must be, and be seen to be, independent.

¹ *Reference Guide for Judges appointed to Commissions of Inquiry – Part VI – Conclusion*, Canadian Judicial Council – adopted 2011.

The content of procedural fairness embodied by a public inquiry involves participatory rights and procedural protections. These include the right of people to be heard and to be represented by counsel, and the right of persons involved or affected by the outcome to be assured the decision-maker is independent, impartial and informed. Procedural fairness is required because an inquiry involves an array of differing and often opposed interests and, typically, reputations and public confidence in institutions are at stake.

Role and limitations

A public inquiry is investigative; it is not adversarial like a court proceeding. The role of a commissioner in an inquiry is different than the role of a trial judge in a criminal or civil case. A commissioner often poses many questions to witnesses.

A public inquiry is inquisitorial. Within the structure of the appointment terms of reference, the commissioner and commission counsel determine the issues to be examined and conduct investigations and interviews.

There are often two components to a public inquiry:

1. Investigative: involves hearings or interviews that are designed to find out what happened. Here, witnesses or people who would be expected to have relevant information testify, usually under oath or affirmation;
2. Policy review: involves assessment of existing legislation, policies and protocols; explores best practices and develops recommendations.

In some inquiries, a commissioner may have to make findings that reflect negatively on aspects of a person's involvement in matters under review or make findings of misconduct. Usually, this is not the principal focus. Rather, such findings should be made only in circumstances where they are required to carry out the inquiry mandate.

Procedural fairness has a specific application. Sometimes notice to participants is required. Where the commissioner may comment adversely on the conduct of a person in the report, commission counsel gives notice and opportunity to respond and comment. The procedural requirement to provide notice of alleged misconduct is codified in the ***Public Inquiries Act*** (PEI).

A commissioner does not make findings of criminal or civil liability. Public inquiries proceed on the premise that they cannot be used by a province to investigate criminal offences by named persons.²

Guiding principles for inquiries and reviews

There are five guiding principles for a successful public inquiry:

1. Thoroughness: examine all relevant issues, with care and precision, to ensure effective response to the questions in the terms of reference;
2. Efficiency: to remain relevant, an inquiry must be expeditious;
3. Openness: involve public participation, including, as appropriate, opportunity for public hearings or public submissions;
4. Fairness: give due consideration to the impact the inquiry will have on the reputation of persons whose actions or conduct is being reviewed;
5. Proportionality: on issues of document collection and review, witness identification, length of hearings or interviews, allocate resources in proportion to the importance of the issue and the mandate. Rather than following every conceivable lead, confine the focus to significant matters.

Procedural choices made by the commissioner are critical to the success of the inquiry or review. Success can only be accomplished through the design and execution of a fair process.

Applying the guiding principles, “success” is defined as a fair, thorough, and efficient inquiry or review, resulting in a comprehensive and timely report that analyzes the key issues and provides concrete and realistic recommendations.

An effective public inquiry includes these attributes:

- The commissioner has authority to retain staff, including legal counsel, office administration, media relations, expertise on the topic under review and to incur necessary expenses to fulfill the mandate.

² See, for example, *Star v Houlden*, [1990] 1 S.C.R. 1366.

- Sufficiently broad scope of appointment to permit the inquiry to be carried out effectively, but scope not overbroad such that inquiry would become unwieldy or extend into extraneous matters.
- The terms of reference is defined in terms that give the commissioner latitude to refine the definition of issues as facts and circumstances are revealed and events unfold.

Chapter 3

Education Act Appointment:

Independent review of the Island education system

Scope of Appointment

Representing the Government of Prince Edward Island, the Minister of Education and Early Years appointed a person, myself, to inquire into and review the education system of the province regarding the safety of students from the risk of staff sexual misconduct. The Minister found there was a problem within the education system that the Department and the education authorities could not solve on their own. He sought an outside examination of policies and events, of what is and is not being done well, and informed advice as to what government needs to do to fix the problems that exist.

The Appointment terms of reference are set out in the review mandate:

- Review the relevant legislation, policies, procedures, processes and protocols, as to their adequacy, gaps and vulnerabilities.
- Investigate the handling of reported incidents of staff sexual misconduct during the three-year period 2023-2025.
- Consider opportunities for improvement and accountability; where appropriate make recommendations for new measures to better protect children in Island schools.

We interpreted the **Education Act** Appointment as creating an independent review with characteristics of public inquiry, authorizing an investigation and a policy review.

The **Act** authorizes the Commissioner to “*inquire into, examine and inspect the matters concerning the management, administration or operation of*” the education authorities; and vests in the Commission “*all the powers, privilege and immunities of a Commissioner appointed under the **Public Inquiries Act**.*” The Appointment terms of reference broadens the review to cover “*the education system in the province.*”

The **Act** (s.2(1)) assigns to the Minister ultimate responsibility for administration of the **Act** and the Island education system:

“The Minister is responsible for the administration of this Act, for ensuring the provision of education services through the Department and the education authorities, and for overall leadership of the education system in the province.”

The **Act** distributes responsibility for delivery of education among various agents – teachers, school administrators, education authorities, trustees, and the Department – deputy, registrar and Minister. Accordingly, the Minister broadened the scope of the Appointment to fully encompass the education system of the province.

We interpreted the span of our mandate to be sufficiently broad to cover the education authorities addressing of risks and complaints at all stages: first, entry by persons into the education system – certification, hiring, criminal record and vulnerable sector checks, interviews and references; prevention and awareness; understanding full scope of risk-associated inappropriate conduct; training for handling of complaints and incidents; centralized tracking of complaints and incidents. As well, we viewed the mandate as including assessment of the distribution of administration roles under the **Act** and related issues of communications and accountability.

Mode of review

At the start, I reflected carefully with Commission counsel on the appropriate mode of review. The Appointment calls for both investigation and policy review. The function of reviewing reported incidents is by nature inquisitorial. The policy review function involved gaining a retrospective view of the policies now in place and assessing their adequacy and assessing what went wrong (or right), and also developing a prospective view for consideration of recommendations for improvements. Hence the chosen descriptor “*Independent Review*” and the accompanying statement of purpose “*Appointed pursuant to the Education Act to review concerns regarding the safety of students and the handling of complaints and incidents of sexual misconduct by school staff.*”

We adopted the mentioned five guiding principles for public inquiries as our mantra to guide our choices throughout: thoroughness, efficiency, openness, fairness, proportionality.

The choices for design and operation of the review engaged many considerations and significant responsibility. Commission functions involved: investigate events, examine issues, research, make findings and observations, make recommendations that contribute

to the development of public policy, and report in a way that sufficiently informs the Minister and allows public understanding of the work. While the mandate was defined, the process was not. Accordingly, we invested considerable front-end effort to ensure the process would be workable, reflect the five guiding principles, and follow recommended best practices.³

We assembled a small team, comprised of Commission counsel and administration, and carried out the work over the summer and autumn of 2025.

We carried out our work entirely independent of any government or advocacy influence. Independence is necessary for impartiality; adherence to these foundational principles ensures the integrity of the work. This arrangement is a necessary underpinning for public confidence.

For the policy component, we required the education authorities and the Department to provide to us all applicable legislation, policies, procedures, processes and protocols. We assessed the adequacy of that policy framework.

For the investigative component, we required the education authorities to provide full disclosure of all complaints and incidents of staff-student sexual misconduct that were reported during the review period of 2023-2025. We reviewed those complaints and incidents and how the education authorities handled them. We compared the relevant information that the Department and Risk Management received from the education authorities. Our primary review covered the handling of the instigating complaints and events at PSB (Craswell and Toombs) plus the recent complaint at CSLF (M'Bahia). Our secondary review covered all other reported complaints, allegations and incidents during 2023-2025 that were disclosed to us.

Our methodology for the investigative component was inquisitorial. Functions included: (a) gathering, reviewing and assessing relevant school and education authority documents about complaints and incidents and how they were handled, and (b) interviewing people who should know what happened – people, usually parents, who were involved with bringing complaints; people in school and the education authorities' administration who handled those complaints and/or are involved with handling complaints; people across the education system who are engaged in related policy administration, including education authority administration, the Department – including the Registrar, Deputy Minister and

³ Footnote – “Inquiry into Pediatric Forensic Pathology in Ontario – The Hon. Stephen T. Goudge. Commissioner, Chapter 23. The Scope and Approach of the Inquiry”.

Minister; education authority trustees; as well as police, Child Protection Services and unions representing school staff. Given the nature and sensitivity of matters in issue and associated privacy obligations, we carried out the investigative work by individual private interviews.

Our focus was both retrospective and prospective. We obtained an informed view of the existing administrative condition of the education system regarding the safety of students issue and we assessed the education authorities handling of complaints and incidents. This base of information enabled us to consider and make informed observations and findings about key questions:

- a) the frequency of complaints;
- b) the kind of misconduct that was reported;
- c) how the education authority handled particular complaints and incidents;
- d) the adequacy of processes for handling of complaints; and
- e) gaps, vulnerabilities and areas of concern.

Applying this historic knowledge and our assessment of how complaints were handled, and we looked forward. We considered gaps, vulnerabilities and matters of concern that could be addressed, best practices, and developed recommendations for improvements and accountability, and for new measures to ameliorate risk.

We pursued a trauma-informed approach. We conducted interviews with parents and school and PSB administration. Having the benefit of sufficient and sufficiently reliable information for our purpose, we elected not to interview the children who initiated the complaints. We accepted at full value all children's reports that administration, parents and teachers related to us.

Interviews

Through our examination of the documents disclosed, we identified potential witnesses. We carried out the investigative work by individual interviews with persons who would be expected to have relevant information.

The reach of the interview process was extensive. We interviewed parents, school administrators, education authority administrators – in HR, policy, public relations, student services, school counsellor advisor, directors (superintendents), Department officials –

Deputy Minister, Registrar, Minister, education authority board chairs, police, and Child Protection Services – director and case worker.

Before proceeding, we developed an interview protocol, that we shared with all participants. Our purpose was to ensure consistency in treatment of interviewees/witnesses, provide notice of our expectations and content of interviews, and to communicate our request consistent with the gravity of the subject matter of the review. We utilized a standard invitation and interview protocol. This informed participants about the kinds of information sought, called for production of all relevant documents, and provided assurance for procedural fairness.

We were fortunate in our venue. Most interviews took place in a neutral boardroom in the Atlantic Technology Centre in Charlottetown that was brightened by lots of natural light. Commission invitations were met with positive response and attendance. We found that our concerns were shared by persons being interviewed. Participants appreciated the privacy and confidentiality; they seemed comfortable in sharing their information and experiences with us. Some persons chose to be accompanied by a lawyer or other support person; many appeared on their own. All appeared to be forthcoming and glad to participate and assist the review process.

I am grateful for all persons who were interviewed for their active participation and candor. In each meeting, we offered an opportunity for the participant to offer their views, perspectives, advice and ideas on improvements going forward. This turned out to be mutually beneficial. Participants felt they were heard and seemed to be very forthcoming. The Commission benefitted from hearing new and insightful information from people with first-hand experience in relevant events and issues.

I wish to acknowledge the active and apparently willing and forthcoming cooperation and participation by the leadership of the Island education system. The Directors of the education authorities, whose handling of complaints was the primary focus of the investigation component, as well as all who served at material times as Minister, Deputy, Registrar, HR Director, HR manager and HR officer, Policy Manager, school administrators, risk management, responded promptly and fully to our requests for information and follow-up information, and all seemed candid and forthcoming during the interviews. All were caring, attuned and empathetic with the public concern for safety of students in Island schools. Most offered some contribution and/or perspective on addressing gaps and forging the way forward.

Role of commission counsel

In a public inquiry, Commission counsel has the primary responsibility of representing the public interest. This responsibility includes conducting interviews, preparing and issuing notices and subpoenas, ensuring all matters that bear on the public interest are brought to the Commissioner's attention, and marshalling attendance at interviews, including attending on arrangements for accompanying counsel or support.

The Commission benefited from the advice and guidance of Commission counsel. Our team was comprised of lawyers Murray Murphy, KC and Curtis Doyle with assistance of colleagues in their firm. I believe the Commission and the public have been well served. Counsel professionalism, diligence, practicality and thoroughness, especially respect for and adherence to the public interest and procedural fairness, was unwavering throughout.

Public engagement

We complemented our research and investigations with public participation. We wished to give life to the public aspect of the review. We engaged relevant communities and stakeholders in consultations. We also invited members of the public to make written submissions. These forums of public engagement formed a significant and important component. Stakeholders can provide specific and key insights. The public is concerned about whether students feel safe reporting incidents and how they are handled. Concerns and incidents can be deeply personal. We sought to appropriately engage these important public interests. As we had hoped, informed public input helped ensure our conclusions and recommendations are rooted in real-world experiences and community needs.

We engaged in consultations with relevant communities and stakeholders. Consultations engaged leaders and actors within the education system and the broader community. We met with political leadership on public education from all parties represented in the legislature, school board trustees, school staff represented by all collective bargaining agents, PEI Association of School Administrators, PEI Home and School Federation and La Fédération des parents de l'ÎPÉ, representatives of interested communities – PEERS Alliance, Mi'kmaq Confederacy of PEI, PEI Council on the Status of Women, and organizations with relevant experience and insight – PEI Association of Social Workers, the Canadian Centre for Child Protection, and UPEI Department of Education.

Consultation with stakeholders was a rewarding endeavour. Our individual meetings with their leadership produced a broad range of information, observations and advice on matters

of student safety and various challenges that their organization or constituency is experiencing within the education system. All of this contributed insight and instruction regarding our consideration of issues and raised some collateral issues for consideration. In many instances, sharing their particular first-hand knowledge about how things work illustrated that often matters are more complex than first appears and usually challenges do not give way to a simple response that does not take into account interests and unintended consequences. All of this valuable input permeates our consideration of the various issues.

I would not attempt to distill the consultations here, but a few points are particularly notable. Employee representatives expressed gratitude that the review would be interested in the views and concerns of frontline employees. Since the Craswell charges were made public, many employees feel targeted; they see danger in the issue being sensationalized. They, of course, share the priority of student safety and disdain for any adult staff member who would target students. They desire their inclusion and participation in ameliorative measures going forward. Likewise, school administrators expressed grave concerns over the matters that instigated this review and confirmed student safety is their priority. It is impressive that all 124 principals and vice-principals who administer schools Island-wide joined in their Association submission. School administrators would like to see clarification in the content of their supervisory role; they would prefer to have a PSB HR person assigned to a school or a family of schools. They are empathetic to the challenge of leading a complex education authority administration, and they are complimentary toward the leadership provided by the incumbent PSB Director. The issue of PSB middle management being under-resourced and stretched was raised frequently during the consultations. In some consultations, we heard helpful perspectives regarding unique challenges faced in the school system by identifiable groups, both as students and staff.

The terms of reference contemplate engagement with the Child and Youth Advocate. We informed the OCYA of our process and invited participation. The OCYA declined our invitation. The Advocate explained that given his role as an independent officer of the Legislature, which includes statutory oversight with respect to programs and services delivered by both the Department and the education authorities, it would be inappropriate for him to have private conversations with the Commissioner and contribute to an external review process and a report that in his role he may have to evaluate and publicly report upon.

We believe the review would have benefitted from OCYA participation. We wished to obtain input through a child-focused lens regarding what has been done and what should be done. Children being the primary stakeholder in this review, we hoped the OCYA would contribute by advocating on their behalf. The Advocate referred us to the OCYA presentation to the

Standing Committee on Education September 18, 2025. This document provided helpful perspective on matters in issue.

Submissions by members of the public were very thoughtful and helpful. We received approximately 22 relevant submissions from 30 members of the public. This enhanced the review by providing valuable insight. We considered all relevant submissions. A few public submissions led to consultations, which in turn were more instructive and beneficial. I wish to acknowledge and thank everyone for their efforts.

Twelve submissions were from parents. Bullying was the foremost concern raised in their submissions – sometimes by other students and once by staff. The bullying issue is certainly concerning; however, it is beyond the scope of this Appointment. A common theme of information in parent reports suggests that application of a consistent approach to keep children safe from bullying is a difficult challenge.

Parents related stories of staff misconduct in earlier times. One was regarding teacher anger toward primary school students; another was regarding a past teacher crossing boundaries with high school level students. The common theme was parents' belief and/or assertion that the system demurred from taking effective action, being perceived to have preferred teachers' interests and protected the teacher. This reinforces the advisability of (i) attention being given to intervening in early-stage inappropriate behaviour; (ii) implementing a central tracking system; (iii) revisiting the inherent conflict-of-interest in the relationship between supervising school administrators and supervised school teachers; and (iv) communicating effectively in response to a complaint. One parent related the saga of asbestos and lead exposure during a major school reconstruction project, and their frustrating experience of system pushback, minimization and denial. All these experiences demonstrate a constant need for effective action in response to concerns and complaints that prioritizes student interests, and that broken trust has ramifications.

Six submissions were from school administrators, active and retired. Their descriptions of first-hand, front-line experiences and their advice going forward complements our interviews and consultations. Collectively, their submissions raise relevant systemic issues:

- a) School administrators should receive better orientation training, mentoring, and support;
- b) Trust between the community and the stewards of the education system is essential;
- c) There should be more on-going training and in-service sessions; and
- d) Clarity is needed as to proper reporting on and responding to incidents.

Our engagement with the public and media during the review process was transparent but intentionally limited. We sought to balance the objectives of informing the public about the Appointment and our work and schedule while avoiding Commissioner interaction outside the review process in order to retain the integrity and autonomy of the work.

We shared information about the Appointment with the public. At the start, on June 5th I appeared before the legislative committee on education and provided a statement of the terms of reference and my (then tentative) plan for the work. I responded to questions posed by members of the all-party committee. I then appeared on a CBC News interview, seeking to offer a human face associated with the public role. In late June, we issued a full statement of the review purpose, scope, methodology and timetable to all known Island media. In mid-August, we issued another news release. This one was designed to report to the public regarding our progress and timetable and especially to encourage public participation. We published an advertisement issuing an invitation for public participation. This involved paid weekly advertising in *The Guardian*, *Eastern Graphic* and *La Voix Acadienne* from mid-August to end of September, publication in the *September Buzz*, and posting on the PSB Facebook page. Our review administrator responded to all inquiries from media or members of the public for information and updates.

We made conscious decisions not to have a web-page, to decline all invitations to speak, and to refrain from any participation on social media. The nature of the review calls for investigation and evaluation based on the documentary and oral evidence produced within the investigation and review process. We believe this approach is consistent with accepted Canadian experience that a commissioner engaging with the public by commenting outside the commission process puts the integrity of the public inquiry process at risk.⁴

The operating practice advice is that it is a very bad idea for the commissioner, who is generally a judge or retired judge, to serve as spokesperson for the inquiry to the media. Rather that role is more appropriate to commission counsel or commission spokesperson.⁵

⁴ In the 2003 Federal government inquiry into the Sponsorship Program and Advertising Activities, following a series of media interviews by the Commissioner prior to Christmas 2004 before the inquiry was complete, the Rt. Hon. Jean Chrétien brought an application for judicial review for the Commissioner Justice Gomery to recuse himself and to challenge the findings of the inquiry due to a reasonable apprehension of bias. The Federal Court ruled the inquiry commissioner was biased; that decision was upheld on appeal.

⁵Hon. Dennis O'Connor, "The Role of Commission Counsel in a Public inquiry" (2003), 22-1 *Advocates'* Soe. I. 9 at 10, cited in Bessner and Lightstone, *supra*.

The Commission benefited from very capable administration. I wish to acknowledge and thank Fallon Berry, who served as Review Administrator. Her management of the public interest component, which included interacting with members of the public, relevant communities and stakeholders, and media, along with her supervision of logistics during the interview process, was essential. In all of her endeavours, she provided effective and timely interface with participants and the public. This enabled the Commission to proceed with confidence that all matters of administration were being properly addressed.

Chapter 4

Review of relevant statutes and policies

This chapter introduces the statutes and subordinate instruments that most directly regulate the handling of complaints and incidents of sexual misconduct in the education system. Here, I review their main features. In later chapters I will elaborate as needed on the provisions.

Statutes

Under the ***Education Act***, the Minister of Education and Early Years is responsible for ensuring the provision of education services and for overall leadership of the education system in the province (s 2 (1)). The education authorities – the Public Schools Branch and la Commission scolaire de langue française – are Crown corporations entrusted with administering the English and French schools systems respectively. The education authorities manage schools, deliver programs, and employ principals, teachers and other instructional personnel. (ss. 33, 67). Principals provide educational leadership, supervise and evaluate teachers, maintain order, and ensure compliance with curriculum and record-keeping requirements (s. 74). Teachers are required to teach assigned programs, maintain discipline, ensure student safety, and consult with parents (s. 71). The Registrar, who is appointed by the Minister, issues teacher’s licenses in accordance with prescribed standards and criteria (ss. 97–99).

The ***Education Act*** incorporates and reinforces the duty to report set out in the ***Child, Youth and Family Services Act***. A teacher or other staff member who has reasonable grounds to suspect that a student is “*in need of protection*” in accordance with the ***Child, Youth and Family Services Act*** must immediately report the matter to the Director of Child Protection (s. 82(1)). This obligation overrides any contrary provision and authorizes disclosure of relevant information to the Director or a peace officer for investigation (s. 82(2)). Broadly stated, the ***Child, Youth and Family Services Act*** provides a child is “*in need of protection*” where the child’s safety or well-being is endangered because of parental conduct, neglect, or inaction. With respect to sexual misconduct specifically, the ***Child, Youth and Family Services Act*** provides that a child is “*in need of protection*” in two circumstances: first, where a parent has, or will likely, sexual abuse or exploit the child; and second, where a parent is unable or unwilling to protect the child from sexual abuse or exploitation by another person (s 3(1)(g) and (h)). A person who fails to report knowledge or reasonable grounds to

suspect that a child in need of protection is guilty of an offence and on liable on summary conviction to a fine or imprisonment (s 62).

Child Sexual Abuse Protocol

The *Child Sexual Abuse Protocol* is a subordinate protocol endorsed by provincial officials, police agencies, and First Nations representatives. Its precise legislative authority is unclear; however, it expressly refers to and incorporates provisions of the now-repealed ***Child Protection Act***, including mandatory reporting requirements and definitions of child in need of protection. The Protocol prescribes operational procedures for responding to suspected child sexual abuse in school and early childhood settings, emphasizing immediate reporting to the Director of Child Protection or a peace officer, without investigation or verification by school personnel. It also sets out standards for documentation, confidentiality, and coordination with child protection and law enforcement authorities.

PSB policies and procedures

Safe and Caring Learning Environments:

Safe and Caring Learning Environments is the name of an internal PSB policy and accompanying procedure. The purpose of the policy is to ensure that “schools provide a safe and caring environment for students and staff”. The procedure defines “sexual misconduct” broadly to include any “unwelcome behaviour to a sexual nature that is committed without consent or by force, intimidation, coercion or manipulation”. The procedure requires that all cases of suspected sexual abuse (*sic*) against a student follow the provincial Child Sexual Abuse Protocol. With respect to reporting, the procedure specifies that:

1. the principal will notify the Director of Student Services of the allegation;
2. the Director of Student Services will notify the Director of Human Resources;
3. police “will be contacted where it is determined that the staff member’s conduct is serious enough to warrant police involvement”; and
4. “the parent/guardian of the student involved will be contacted if the situation suggests it is necessary.”

The procedure specifies that PSB “will conduct their own investigation at an appropriate time”.

The Principals' 911:

The Principals' 911 is an internal PSB document that provides guidance to administrators “*dealing with the first 30 minutes of an emergency*”. It covers situations such as fires, missing children, and threats from intruders. Additionally, it contains guidance on “*disclosure/suspicion of inappropriate sexual conduct, abuse, or neglect*”. This guidance provides that a staff member who knows or suspects that “*there is an issue*” must:

- in the case of a parent or family relation, call Child & Family Services;
- in the case of a non-parent, call the police; and
- in all cases, call the PSB branch office and the Director of Student Services.

The *Principals' 911* specifies that staff will not involve themselves in the investigation unless requested by Child and Family Services or police.

CSLF policies and procedures

The CSLF's Student Protection Procedure (501.3) establishes a framework governing the reporting, assessment, and management of adult misconduct toward students within the French-language school system. It defines mistreatment broadly—encompassing discriminatory conduct, breaches of trust, and actions contrary to the *Criminal Code*, the ***Child, Youth and Family Services Act***, or human rights legislation — and prescribes reporting to child protection authorities or police where required. The procedure outlines a tiered structure for responding to complaints and assigns corresponding duties to principals, the Director General, and designated staff. The procedure further specifies post-investigation requirements, including written communication of outcomes, provision of support services to affected students, and disclosure of disciplinary measures in reference checks, reflecting a protective orientation consistent with statutory reporting duties across the education system. (Acknowledging my limited translation skills) policy 501.3 appears to suggest that the threshold for reporting to the “*authorities*” is “*reasonable grounds to believe*”, which is a different, and higher, standard than “*reasonable grounds to suspect*”.

Incongruities and Inadequacies

Preliminary review of these statutes and subordinate instruments reveals several apparent incongruities or inadequacies that are worth noting here.

Obsolete legislative references:

The Child Sexual Abuse Protocol explicitly anchors its mandatory reporting framework and definitions in the **Child Protection Act**. That statute has been repealed and replaced by the **Child, Youth and Family Services Act**, which now governs child protection. The protocol ought to be updated to refer to the legislation current in force. Similarly, the CSLF Student Protection policy contains at least one significant reference – in its explanation of “*Category 1*” behaviour – to the **Child Protection Act**. This reference should be updated.

Divergent conceptions of “Child in Need of Protection”:

As noted, the **Child, Youth and Family Services Act** provides that a child is in need of protection where the child’s safety or well-being is endangered because of parental conduct, neglect, or inaction (s. 3(1)). The statutory scheme is parent-focused: it mandates reporting where harm or risk of harm arises from a parent’s act or omission, or a parent’s failure to protect the child from harm by others. By contrast, the Child Sexual Abuse Protocol appears to depart from this parent-focused approach: it suggests that the statutory reporting obligations are triggered even when the source of the harm does not involve parental conduct or neglect. This incongruity risks creating uncertainty regarding (i) mandatory reporting obligations and (ii) proper reporting when the statutory requirement does not apply. Many of those we interviewed noted this incongruity and expressed uncertainty about what it means.

Ambiguity in the reporting threshold:

The **Child, Youth and Family Services Act** is clear: reporting is mandatory whenever a person has knowledge or reasonable grounds to suspect that a child is in need of protection as defined in section 3 of that statute. Unfortunately, the subordinate instruments introduce imprecision. *The Child Sexual Abuse Protocol* sometimes mirrors the statutory language (p. 13) but elsewhere asserts that “*mere suspicion is the legal requirement for mandatory reporting*” (p. 51–52); this lowers the threshold and creates inconsistency. This is incorrect in law: “*mere suspicion*” is not equivalent to “*reasonable suspicion*”.

The Safe and Caring Learning Environments policy adds further ambiguity by suggesting that reporting to police occurs “*where it is determined that the student’s conduct is serious enough to warrant police involvement*” (pp. 6–7), implying a discretionary filter rather than an objective or statutory trigger.

These variations risk spawning confusion among educators, administrators, and authorities, potentially leading to both over-reporting and under-reporting. Harmonization would be preferable.

Chapter 5

Risks to student safety

Overview

This chapter explores sources of risk to student safety in schools. Various categories of people and behaviours present risk. In order to address risks, it is essential to first understand sources of risk. There is a continuum of risk-associated conduct and behaviour. Education authorities are generally attuned to the presence of risk. They have an array of measures in place that are designed to prevent and manage risk-associated behaviour and mitigate risk. However, there are gaps. Going forward, the full continuum of inappropriate conduct should be subject to intervention, education, training and decision-making should be enhanced, and tracking should be implemented. Education authorities are now developing some new measures.

We discuss these basic tenets:

- Accept that the risk of staff sexual misconduct is a real concern that must be addressed. Fortunately, there is acceptance.
- Acknowledge that adult predators targeting children is a global phenomenon: the risk is present everywhere children gather; schools are a primary target; the risk is pervasive and schools are vulnerable.
- Studies describe potential sex offenders by various categories. While pedophiles are the most prevalent, they are a minority of offenders.
- Prevention is the first and best defence. Misconduct is usually incremental, starting with boundary transgressions. Scope of risk management should be sufficiently broad to manage boundary transgressions.
- Being vulnerable, schools need to be vigilant in defending against occurrence of misconduct.
- Too much focus on duty to report leaves a gap: less-than-reportable inappropriate conduct gets missed, and the roles of education authorities and police and child protection get conflated.

- Management of risk-associated staff conduct that does not rise to the level of being reportable should remain with the employer; reportable matters should of course be handled by police and/or child protection, as appropriate.
- The Craswell incidents have many of the hallmarks of many incidents the Canadian Centre for Child Protection (C3P) studied in other jurisdictions: the experience in PEI is not better or worse than elsewhere in Canada.
- It is neither accurate nor helpful to say schools are not safe places for children. More appropriately framed: safety issues exist, are pervasive, and being vulnerable schools have a duty to be vigilant in creating and maintaining an effective system of risk management. The PEI education administration has a system in place. The system generally works; however, difficult cases – Craswell, Toombs – demonstrate that gaps and vulnerabilities exist that are reason for concern.

Sources of risk

The Supreme Court of Canada has recently reminded us that children “*are the future of our country and our communities. They are also some of the most vulnerable members of our society.*”⁶ Unfortunately, adult predators targeting children is a global issue. Risk is present everywhere there are children, across Canada and abroad. Until the 2000s, there was a dearth of reliable information upon which to identify sources of risk, gaps and vulnerabilities, and develop informed mitigation measures. The Commission looked beyond PEI to learn about the experience in other jurisdictions, to obtain comparative perspective between local experience and the experience elsewhere. Outside studies were particularly helpful with establishing a base or benchmark against which to situate the prevalence of reported incidents in Island schools.

Ontario has been a leader in examining the nature of the problem and developing enhanced safeguards.⁷ Prior to 2000, there was limited recognition that staff sexual misconduct was a serious issue that needed to be addressed. In the late 1990s, a teacher pleaded guilty and was convicted of committing 14 offences of serious sexual assault involving 13 girls aged 10-18. The perpetrator had moved from school to school and committed the offences over a period of 20-plus years between 1972 and 1993. The province of Ontario commissioned an independent review of student safety and sexual misconduct in Ontario schools. This review

⁶ *R. v. Friesen*, 2020 SCC 9 at para. 1.

⁷ Emerging Trends in Teacher Sexual Misconduct in Ontario Schools 2007-2012, Jaffe, Straatman, Harris, Georges, Vink and Reif] Education and Law Journal [23 ELJ.19]

produced a comprehensive report: *Protecting Our Students, A review to identify and prevent sexual misconduct in Ontario Schools*, The Honourable Sydney L. Robins, 2000.

The Robins Commission looked at the systemic problems that allowed this sexual abuse to take place over so many years and made recommendations to address them.⁸ Justice Robins found the complaints had been well founded but not acted upon. Within the Sault Ste. Marie Roman Catholic Separate School Board, there had been an absence of adequate screening on hiring and transfers between schools. The school board response to student complaints was found to have been completely inadequate and harmful. Identified failures were:

- Failure to check references on hiring
- Failure to provide references on transfers
- Failure to maintain records
- Failure to act effectively on disclosures of misconduct
- Denial of complaints
- Minimizing complaints
- Blaming victims
- Failure to investigate
- Failure to report to appropriate authorities
- Threats of intimidation (e.g. confronting victim in presence of the accused teacher)
- Ill-motivated conduct

While the Robins report is now somewhat dated, it remains instructive for defining and understanding the risk to be addressed.

Justice Robins' first finding was that there needs to be acceptance that staff sexual misconduct toward students occurs. He found that before 2000, this had been a somewhat hidden issue, and that there must be an underlying recognition that sexual misconduct by teachers is a concern. Twenty-five years later, this recognition exists. Staff sexual misconduct is viewed as a real concern. The PEI education system recognizes adult predatory conduct is a concern. Education authorities prioritize student safety and pay close attention to staff sexual misconduct. Today and here, the concern is not regarding dereliction of duty; rather the concern is regarding a narrower range of systemic shortcomings – not responding effectively to early-stage risk-associated conduct; insufficient training on effective handling complaints and incidents; absence of effective tracking of complaints

⁸ Jaffe *supra* at p.20.

and incidents. Fortunately, these concerns can be managed and are currently being addressed.

The Jaffe study (*Emerging Trends in Teacher Sexual Misconduct in Ontario Schools 2007-2012*, *supra*) analyzed cases that led to findings of sexual misconduct by the Ontario College of Teachers. This was done in a descriptive fashion in order to understand current patterns of abusers and victims over a six-year period. The authors found sexual misconduct appeared to be an ongoing problem in Ontario schools. Although the number of cases – 110 – was considered small in relation to the teacher and student population, the nature and effects of the misconduct made it a serious concern. This study advised the importance of addressing the topic in teacher education and professional development for teachers and administrators. They found many of the cases suggested a “special” ongoing relationship between the perpetrator and victim including extensive use of social media. This pattern suggested the importance of having policy and practice setting appropriate professional boundaries.⁹

There are many kinds of adults who pose risk as potential sex offenders. In his review, Justice Robins described sexual abusers as a mixed group who defy personality labels or psychiatric description. There is no single profile, and the origins of sexual abuse behaviour vary. The only common characteristic is their preference for sexual exploitation of children and adolescents who, due to their young age and innocence, cannot consent and may not be able to disclose.¹⁰

Understanding there are different types of sexual abusers and knowing their traits is useful. It contributes some context for sources of risk which in turn provides some basis for identifying effective measures for prevention.

Canadian Centre for Child Protection (C3P) is a national charity. It works across Canada and globally. C3P is a part of Canada’s federal strategy to reduce incidents of child sexual victimization. C3P has generously contributed to this Review. Their experience helped us gain some perspective on prevalence of staff sexual misconduct across Canada, which is useful for comparing the PEI experience with a norm or benchmark.

⁹ Jaffe *supra* at pp. 19 and 35.

¹⁰ Robins Commission report, at pp 122-126. The Jaffe study categorized perpetrators into two main types: fixated abusers and opportunistic abusers. Jaffe, *supra* pp 25-28.

C3P carried out modern studies on more than 1,000 cases involving sexual misconduct by staff in Canadian schools. Their 2018 study found that over 20 years almost 1300 children were victimized by 714 employees. Their 2022 study showed that over the next five years, 290 school staff victimized 548 students. C3P's observation is that these studies show that staff sexual misconduct is a common problem across Canada.

Since 2004, C3P has operated Cyber Tip, Canada's national tipline for reporting online sexual exploitation of children across Canada. Cybertip.ca is part of the Government of Canada's *National Strategy for the Protection of Children from Sexual Exploitation on the Internet*.

From 2020 to 2025, Cybertip.ca received 78 reports from someone identified as being in PEI. These reports were from someone who was a child experiencing online sexual exploitation, an adult or child that is concerned about a child experiencing online sexual exploitation (who may or may not be in PEI), or an adult or child who has found suspected child sexual abuse material online. Of these reports, 61 were sent to law enforcement in PEI. Nine were marked as "high priority", meaning a child was in immediate or imminent risk of harm or there was potential risk of harm to a child in the near future. The reports do not indicate whether any of these cases occurred in a school setting or involved a teacher or school staff sexually victimizing a child/student online.¹¹

According to C3P, a number of the issues raised in PEI by the Craswell complaints echo many of the hundreds of similar cases across Canada they researched over the years. C3P identified common policy gaps and opportunities for school administration to better safeguard children. Several jurisdictions have utilized C3P findings to help inform their own policies regarding student safety, investigative structures, and transparency. Most recently Manitoba adopted many of the C3P recommendations as part of an overhaul of their schools public reporting and disciplinary framework.

It is critically important that there be a common understanding of the meaning of "*sexual misconduct*". The Appointment terms state this review is to address: "*specifically sexual misconduct between staff and students.*" The Craswell complaints and incidents were the primary impetus for this review. In each instance, administration found Craswell's conduct toward the students was inappropriate and unprofessional but not suspected sexual. A lot of the questions raised and criticism levied (from some quarters) focus on why the administration did not report the Craswell misconduct to the public authorities and why

¹¹ C3P, CyberTip

administration did not find it to be sexual. This scenario illustrates the fallout associated with a lack of common understanding and points out the critical importance of attaining a common understanding of the term “*sexual misconduct*.” Our interviews demonstrated that the meaning of the term is ambiguous, and that the inconsistency in understanding is shared community-wide – among law enforcement, the education system, child protection, and the general public. This challenge is not unique to PEI.¹²

As discussed, not all risk-associated inappropriate conduct is “*sexual misconduct*”. In law, “*misconduct*” refers to wrongful, unlawful, or improper behaviour that violates laws, rules, or professional standards. It can range from a minor violation to a severe offence and covers a wide variety of situations. Conduct itself is often ambiguous. When the primary question and sometimes only question is whether misconduct should or must be reported to authorities, the concern arises that a whole range of risk-associated inappropriate conduct that should be proscribed is missed.

I infer that the term “*sexual misconduct*” employed in the Appointment statement of purpose refers to the full range of misconduct, including inappropriate conduct that is not found to be sexual. It would be useful, essential really, to start out with a shared understanding as to whether all “*sexual misconduct*” is being viewed as reportable to authorities or whether there are some lesser categories of inappropriate conduct that is to be viewed as not reportable but nonetheless merits employer intervention.

The text *Teachers and the Law*, fifth edition, MacKay, Sutherland and Ashley, 2025 (at pp. 229-234), is a recommended source. The authors observe that while it is safe to say that most teachers are aware of their statutory obligations to report abuse, not all have a clear understanding of what conduct must be reported. The definition of “*abuse*” being slightly abstract, this needs to be clarified and understood.¹³ Similar with the term “*sexual misconduct*”.

This is not only a PEI issue. C3P told us that people who contact them are often unclear about whether an interaction or relationship between an adult and a child meets the threshold of being reportable or illegal. But the important consideration is whether the situation is harmful to the child:

¹² The Jaffe study at pp. 21-22 and p. 31 is a useful reference for sorting out the definitions of terms in issue.

¹³ I note that there is some inconsistency even in the terminology. For example, the policies and authorities appear to make inconsistent use of the terms “*abuse*” and “*misconduct*”.

“It still needs to be addressed, even if child welfare or the police say there’s nothing technically chargeable going on. ... You can’t just rely on the criminal justice system and the child welfare system; organizations need their own formalized structures in place in order to manage these situations and to truly provide safe environments and healthy opportunities for kids.”¹⁴

Applying a narrow lens to the definition of staff sexual misconduct results in a gap. It creates an over-expectation for reporting and an under-appreciation for the risk caused by not identifying less-than-threshold inappropriate behaviour. A whole band of inappropriate conduct that does not amount to sexual misconduct remains unaddressed. According to C3P research, this narrow perspective is experienced in other Canadian jurisdictions and beyond Canada too.

The Craswell West Kent complaint serves as an illustration. Upon the administration determining that the conduct was not reportable, PSB HR did not pursue it. The decision-making logic was that since the alleged conduct did not engage the Safe and Caring Learning Environment protocol, there would be no further action. Application of a broad view of treatable inappropriate conduct would involve PSB having intervened as appropriate. Based on what was known at the time, intervention would likely involve a remedial (or potentially a disciplinary) response, and in any event effective documentation and tracking.

On each Craswell incident, administration found the conduct was inappropriate and unprofessional but not sexual. Beyond the question of whether or not the incident was sexual, there remained another issue – an employment issue – that called for effective intervention and tracking. Following the Glen Stewart incident, employer intervention occurred; but the source of risk – self-serving conduct that was harmful to children – was not identified and subjected to effective intervention involving remediation and tracking.

It would be beneficial for the community to attain a shared understanding of (i) the meaning and parameters of “*sexual misconduct*”, (ii) what conduct is and is not a criminal offence, and (iii) the content of non-criminal misconduct that is within the rubric of inappropriate conduct or a professional boundary transgressions that should be proscribed within the employment relationship.¹⁵

¹⁴ Noni Classen, C3P interview.

¹⁵ Robins, p. 11.

Two kinds of staff conduct need to be addressed:

1. Child sexual abuse or exploitation: based on “...*reasonable grounds to suspect*”; i.e. sexual misconduct regarding which there is a duty to report; and
2. Misconduct: inappropriate conduct or behaviour toward a child or children/professional boundary transgressions; i.e. conduct that crosses boundaries, suggests grooming or is self-serving that does not rise to the level of being criminal or reportable, but calls for employer intervention.

Management of the full spectrum of risk-associated staff conduct would benefit from creation and operation of a complaint handling structure that would appropriately respond to, record and track all complaints and incidents. Reportable sexual misconduct would be reported to authorities; inappropriate conduct that on preliminary view does not meet the reporting threshold would be addressed by the employer (or an independent oversight body created for that purpose).

Emphasis on duty to report recently played out in legislative debate. Island politicians asked whether the school principal or PSB broke the law when they did not report the Craswell complaints and incidents to authorities. In my opinion, ‘No, no one broke the law.’ The statutory duty to report applies when the risk to the child arises from a parent or guardian. That was not the case here: there was no suggestion that parental conduct or neglect placed the children at harm. In any event, school administration explained to us that – based on what they knew *at the time* – they did not suspect that Craswell’s conduct was sexual. I would not find their judgment was unreasonable. Even the police informed us that the West Kent allegations, as reported to the school administration, did not “*seem very remarkable*” without the information that arose at a much later date from the child pornography investigation. But also important, the question posed in the legislature does not lend itself to a binary “yes” or “no” answer. The focus should be broad, and the goal should be mitigation of the risk to student safety posed by the inappropriate staff conduct. Properly reframed, the question becomes whether the staff conduct in issue is of a kind that calls for intervention.

The PEI education system is well advised to subscribe to C3P advice to include within the scope of conduct that is subject to intervention inappropriate staff contact that is below the reporting threshold. This is where most things are going to come to the attention of supervisors.

Over the past two or so years, the Island education system has engaged C3P in valuable advice, education and training, and has embarked on initiatives to manage and mitigate this gap.

Approach to managing and mitigating risk

Education authorities are responsible for having and maintaining a risk management strategy, and for training staff and volunteers so that they understand staff sexual misconduct, how it happens, and what constitutes high-risk behaviour and situations.

The Ontario studies and C3P advise that the focus should be on the staff member's behaviour. A common blind spot for detection is adults believing they can effectively profile a likely predator by looking at the person's appearance. Behaviour being the focus, inappropriate behaviour and boundaries should be spelled out. For this, an effective code of conduct would be a useful tool. This would clarify expected professional boundaries governing any contact between adults and students. It would ensure all staff interactions with students are goal-oriented and in response to students' developmental needs. These examples illuminate:

“If an athlete who fell is bleeding and a coach has their hand on the child's back to console them, any reasonable observer witnessing that would be fine because they're responding to the needs of that athlete who's hurt. But if at practice, a coach rubs the girls' backs and puts his fingers through their ponytails, it's the same sort of touching but it's weird because it's not in response to the students' needs; that's meeting the coach's need, and that would be a transgression in boundaries.”

If not spelled out formally, strange or inappropriate behaviour that doesn't hit the threshold of abuse or exploitation can easily be missed:

“You would think it's odd if a coach invites kids to watch a movie at his house, or massages athletes on the sidelines without credentials to provide therapeutic massage, or emails a child when it's not tied to their responsibilities as a coach, but you're not going to phone police or child welfare about that.”

Formalized boundaries are especially important because most child sexual abuse situations develop in increments:

“If you have somebody who’s grooming a child, the only opportunity to potentially disrupt a situation is seeing boundary transgressions, because you’re not going to see sexual abuse; that only happens behind closed doors.”¹⁶

Prevention is key. C3P’s *Commit to Kids* is a step-by-step plan designed to reduce the risk of child sexual abuse in sports. This program describes background screening and training; it focuses on the ‘*Rule of Two*’, which requires that two adults be present with an athlete in a potentially vulnerable situation. It is about open, transparent and visible spaces. The PEI education system has commenced working with this guidance.

Education being a provincial jurisdiction, every province has a teaching regulation structure. In Prince Edward Island, the education authorities are the employer of teachers and are responsible for safe schools and employee supervision and discipline; and the Registrar (within the Department) is responsible for certification of teachers. Recently, some provinces have revisited and enhanced their structure for teaching regulation. Policy makers may wish to refer to the C3P summary to clarify how those provinces carry out teacher regulation and compare the PEI approach.¹⁷ Common themes in other jurisdictions are:

- A teacher registry and discipline database that provides information about certificate holders, including their status of teaching certificate and any record of disciplinary action;
- A process for reporting, handling, investigating incidents; and
- A dedicated body or entity for administration of standards, complaints and records.

The proposed central tracking system should address the first two criteria, at least.

Reporting standard “...reasonable grounds to suspect”

The threshold for duty to report “*knowledge or reasonable grounds to suspect*” is a relatively low standard, which in our view remains appropriate. The standard is not a source of under-

¹⁶ Noni Classen, C3P interview.

¹⁷ Memorandum Re: *Teaching Regulation in British Columbia, Alberta, Saskatchewan and Ontario*, [820 PGS vol. 11], C3P, March 29, 2023.

reporting. It does not need to be revised or changed. Tensions regarding appropriate initial response and handling of complaints of misconduct can be managed and resolved within this standard.

When contemplating whether to report, the person or administration does not enter into an investigation. However, a child-first model that involves the objective “*reasonable grounds*” standard and avoids a culture of over-reporting contemplates a limited scope for preliminary evaluation of whether the particular conduct is reportable. The purpose of vesting or retaining discretion in the school administrator who is considering whether to report (or any person contemplating whether staff conduct is reportable) is: (i) to facilitate screening out of patently frivolous complaints and (ii) to permit independent assessment of whether the conduct complained of is truly reportable. Once a school administrator has determined that the conduct is reportable, it becomes the role of the public authority, not school administration, to investigate the conduct.

Twenty-five years ago, Justice Robins provided the following well-founded legal and practical advice:

*“A report is not mandated upon mere suspicion or conjecture but upon reasonable grounds to suspect. **Reasonable grounds imports some objective and articulable basis for one’s suspicions.** Put succinctly, while the threshold is a low one, it does not contemplate the automatic reporting of any information communicated, regardless of its ambiguity or patent falsehood. This assumes that the decisions not to report are made free from stereotypical notions about student unreliability or a failure to appreciate the kinds of grooming activities that may evidence a risk of sexual abuse. The theme here is a recurring one throughout this Report: education and training of educators, together with an understanding of the laws and policies which are applicable, are likely to produce fairer and just results.”¹⁸ [emphasis added]*

The Supreme Court of Canada has described “*reasonable grounds to suspect*” as a “*matter of possibilities*” and classified this standard as relatively low compared to the higher standard of “*reasonable grounds to believe*”, which is a matter of probabilities.¹⁹

¹⁸ *Robins, supra* p. 183

¹⁹ *R. v. Chehil*, 2013 SCC 49 at para. 26.

[26] Reasonable suspicion derives its rigour from the requirement that it be based on objectively discernible facts, which can then be subjected to independent judicial scrutiny. This scrutiny is exacting, and must account for the totality of the circumstances. In Kang-Brown, Binnie J. provided the following definition of reasonable suspicion, at para. 75:

*The “reasonable suspicion” standard is not a new juridical standard called into existence for the purposes of this case. **“Suspicion” is an expectation that the targeted individual is possibly engaged in some criminal activity. A “reasonable” suspicion means something more than a mere suspicion and something less than a belief based upon reasonable and probable grounds.** [emphasis added]*

Education law in Canada fifth ed., supra, at p. 233 provides this explanation:

*“How much must a teacher know about a situation before they are obliged to report abuse? In British Columbia, Ontario, Prince Edward Island, Quebec, Manitoba, Saskatchewan, Alberta, and the Yukon, the teacher’s duty to report arises when the teacher has “reasonable grounds to believe,” “reasonable grounds to suspect,” or “reasonable and probable grounds to believe” that abuse has occurred or is occurring. **These statutes use different language, but the common denominator is the word “reasonable.” This word creates an objective standard to test whether a teacher should make a report in a given situation. The question a teacher must ask themselves is whether a reasonable person, knowing all of the circumstances in question, would believe or suspect that abuse is taking place. If the answer is yes, then the teacher has a duty to report.**” [emphasis added]*

There is a balance to be struck in reaching a decision to report. Ensuring the safety of children is paramount. Legislative and judicial policy mandates the immediate reporting of information of suspected child abuse. It also incorporates consideration of the legitimate interests of the person named in the report and the informant. For this: **Informants are not obliged or expected to conduct their own investigation; they are not required to have reasonable cause to believe abuse has in fact occurred. They are, however, obliged to have reasonable cause to make a report ie: to possess information that the authority ought to be asked to look into, even if it turns out to be misinformation.**²⁰

²⁰ Adopted from *Young v. Bella*, 2006 SCC 3, at para 49, as discussed in *Teachers and the Law*, supra, at pp.233-235

Schools are safe places, but vulnerable

C3P frames the student safety issue as serious but manageable. Schools are safe places; in fact, there are such caring individuals working in schools who are protective factors for children. That said, schools are vulnerable to attracting individuals who would misuse relationships and harm children. Noni Classen, Director of Education and Support Services, C3P:

“It is helpful to see that this is an issue globally and we’re not worse or better in Prince Edward Island or Canada. It’s just a risk. Schools have this risk, and it’s not solely a school issue. It is really a society issue, for individuals who misuse access to children. But in institutions of course, it creeps into there with those who work with children. [PEI is] certainly not worse than anywhere else that we see in Canada either. Yes, it is consistent with what we see to say that there is not an outbreak going on in PEI. These [Craswell] incidents are isolated but are being reported. Right across Canada the prevalence of child sexual victimization is pretty consistent within school systems and other child settings.”

All organizations where children gather – schools, churches, sports organizations, community groups, etc. – share this vulnerability. Schools are especially vulnerable: attendance is ongoing five days a week, compulsory, and schools are large-scale environments with high level activity.

Following this advice, we do not say schools are hotspots for abusing children so they are unsafe for students. Such framing is neither accurate nor helpful. Rather, we say that schools are vulnerable to this happening and so schools have a responsibility to be responsive and to have systems in place to safeguard children.

The measure for sanctionable behaviour should be that a staff person does not use children to meet their own needs. The primary responsibility of a staff member is to meet the needs of the children and those families under their professional capacity. A staff member should not breach their competence and overreach and creep. Staff and administrators have fiduciary responsibility around meeting the needs of children. In short, staff member responsibility is to meet children’s needs, not use children to meet one’s own needs. When that happens, there is a boundary transgression. It is important to address boundary transgressions because the occurrence is actually breaching appropriate professional

boundaries with the child. The problem behaviour could stem from lack of insight. The test can be basic: Is the conduct in question meeting the needs of children and within those professional capacities? Would a reasonable observer witnessing it be okay with it, or find it distasteful or disgusting?²¹

Teacher sexual misconduct has very serious impact on students, parents and public confidence in the public education system. Studies in Canada and abroad show that children who experience teacher sexual misconduct not only suffer immediate consequences, but may also suffer long-term emotional, psychological, educational and developmental effects.²²

This discussion describes two sources of risk. The impetus for this review was the Craswell complaints and incidents – the predator wolf in sheep’s clothing who targets vulnerability. To defend against that risk, the education authorities have policies, procedures and processes that pose barriers, require reporting, and direct handling. However, at each stage those defences were shown to have weaknesses that should be addressed.

The second source of risk – that of a staff person who forms what administration views as an inappropriate attachment with a student that transgresses normal boundaries, was not on PSB’s radar, and proved to be more than the administration was equipped to handle. This vulnerability is significant and requires attention.

Regarding both sources of risk, there needs to be education and training on professional scope for staff dealing with children and boundaries. The emerging message is that if a staff member is engaging with a child to meet their own needs, that is a boundary transgression, and it needs to be corrected. It does not necessarily have to go to a high-level investigation. It can be identified as a boundary mistake and treated:

“We know child-serving organizations are vulnerable to having children in their care abused by individuals who target the organization. They are also vulnerable to attracting those who become attached to a child they work with, break boundaries and engage in sexual offending behaviour.”²³

²¹ Noni Classen, C3P Interview.

²² Jaffe, at pp.28-29.

²³ C3P Commit to Kids.

According to C3P Commit to Kids (p15): “*Children are not the only ones vulnerable to grooming. Offenders often build a rapport with the adults who care for children.*”. We saw indications of this. A variety of factors contribute to this state of play. Usually there is insufficient training for school personnel, training that does not go far enough. This applies to both supervisors and school staff. The education system needs to have proper policies and reporting procedures in place for addressing these kinds of boundary transgressions when they come to light.

There is an issue of mandate creep with Child Protection Services. Where the matter is not an interfamilial abuser, where instead the impugned conduct relates entirely to an individual who as a teacher or school staff is in a position of trust, Child Protection does not have statutory authority to step in. C3P has noticed this phenomenon right across Canada.

Part of the issue is with union codes of ethics, which tend to require first reporting to the person against whom the complaint is made and telling them about the problem. That requirement does not fit with effective administration intervention and reporting to authorities. Also, principals and teachers are usually in the same union, which involves an inherent conflict of interest between supervisor and supervised staff. There is not a proper system in place where there is oversight and a process for bringing forward information for clarification. Complaints should be brought forward differently, by a process whereby the need for information is shared outside the union’s code of ethics. According to C3P, unions do not have the training and they have a conflict of interest; this results in blind spots. People do not see developing risks because there is no proper centralized place where information is going to be seen by people who are trained to receive and manage the information. Accountability and transparency are missing. Things get missed or lackadaisically managed.

Central tracking system

A central reporting tool works this way. As more information is collected, it accumulates to hit a threshold that meets the need to trigger reporting to police or for response within the education system. The initial piece of information is often somewhat innocuous but is relevant. It is necessary to respond to this information and to keep track of all information. If administration does not have that information, the opportunity to act and make informed decisions going forward is lost. Incidents need to be managed as professional transgressions.

This information should be housed within the employer (or under independent supervision). In scale for PEI, it would likely be appropriate for each education authority to develop its own tracking system, with direct involvement and assistance of the Department and suited outside professional advice.

Intervention and tracking would need to be impartial and embrace procedural fairness. It would not be appropriate to house the information in CPS, because the type of information to be tracked extends beyond the CPS statutory mandate. It could not be housed with the Office of the Child & Youth Advocate because OCYA has a statutory mandate to be an advocate for children. Nor could it be housed with a union, because unions represent school staff. Proper employer intervention would involve support for both the student complainant and the accused staff member. There needs to be people who can take the information from both student and staff member, and who can manage the process for handling, documenting and tracking. This cannot happen by an advocate for children or staff because both have a conflict of interest.

To address the concerns to be treated the key objectives are (i) coordinated as opposed to fragmented responsibility, (ii) single accountable body, (iii) adequate reporting protocols, (iv) direction and guidance on full scope of boundary transgressions that does not get convoluted into union codes of principles and practices, and (v) effective record keeping protocols for all matters brought forward, including documentation of complaints and incidents, record maintenance and housing, and digital blind spots.

Chapter 6

Investigation of incidents

We issued subpoenas requiring the education authorities to provide us all records of complaints and incidents of sexual misconduct by staff for the period 2023-2025. We reviewed all information received. We investigated the handling of the complaints against PSB substitute teacher Craswell and CSLF teacher M'Bahia. We investigated the PSB's handling of counsellor/teacher Toombs' request for PSB permission for a student to live in her home.

Our objective was to obtain a reliable view of what instigated the incidents, and of how the education authority handled the incidents. We interviewed persons who were involved in reporting or handling the incidents or in related policy administration. Everyone willingly obliged our requests and seemed glad to assist in the review.

6.1 Investigation of PSB handling of Matthew Craswell complaints

Matthew Craswell: West Kent Elementary School

On June 26, 2023, the near-to-last day of the school year, West Kent school administration received reports of an incident from three parents. School administration reported to PSB Student Services and HR and sought direction. Following directions received, they spoke with five students from the grade 5 class about the incident.

The reports indicated that in Craswell's classroom five students were playing their own made-up game 'hide the ruler' (from the teacher). In the process of breaking up the game, Craswell searched for the ruler and in so doing he touched two students (over the clothing). Upon receipt of these reports, school administration wrote to PSB as follows:

“Three inappropriate things happened:

- *Matthew (sub) did a pat down on her front and back and a reach around from behind around the waist – the girl felt quite uncomfortable about this.*
- *He also held the hands of another girl behind her back while looking for a the [sic] ruler.*
- *He picked up another girl in the class under the armpits.”*

The acting principal blocked Craswell from the West Kent substitute teacher list and sought further direction from PSB Student Services on how to proceed.

Following their fact-finding exercise, school administration had discussions with the PSB HR manager and HR Director. Together they concluded that in all the circumstances Craswell's conduct was inappropriate and unprofessional and that they did not view it as sexual in nature or in apparent motivation.

As requested by PSB HR, school administration attempted to contact Craswell. Craswell did not answer her calls. PSB assumed carriage of the matter. No follow-up contact with Craswell occurred and no interview regarding the incident was arranged or held.

Information received from interviews

Interviews with parents, school administration, PSB HR administration, and police provided information. Sometimes there was some variation. In any event, I am satisfied that the following is a fair report of the information received.

One parent informed us that she reported to the school that her daughter had come home and said that the substitute teacher came up behind her put his hand inside her shirt, swiped up from her vagina area to the top, and also touched one of the other students. A second parent told us the students were playing a game; Craswell came up from behind and took the ruler; five girls were playing with rulers at the end of the math class. The teacher took the ruler from one girl and in doing so he lifted her shirt and put her in a bin. The girls thought this was weird and uncommon, and it made them uncomfortable. A third parent's impression was that the teacher may have been playing the wrong game, but there was no sexual involvement. A fourth parent (who is close with the first parent) told us that her daughter reported the girls were playing their 'pass the ruler' game, teacher was trying to get at the ruler, one girl said to the other girl 'put it under your shirt', teacher pulled the girl's shirt up "*a couple of inches just above the waist*" (demonstrated) and put the other girl in the garbage bin. This parent believed her daughter did not think it was sexual in nature but knew it was inappropriate, but the parent thought it was sexual. None of the kids said it was "*sexual*". Of the five girls involved, some thought the substitute seemed to be joking, and one wondered 'why we are talking about this at all?'.

All the parents felt the school administration handled the matter well. All advised that school administration communicated with them, acted promptly, and informed them that the principal was exercising her authority to block Craswell from teaching at West Kent and that they were reporting up to PSB and seeking HR advice and instructions. Upon administration

having determined the contact was inappropriate and unprofessional although not suspected sexual, school administration reported to parents that in view of this determination they would not be reporting the incident to the police, and that the parent could report the incident to the police if they chose to do so.

The (acting) school principal performed a fact-finding exercise. Her observation was that the game was the girls' own and involved hiding the ruler. The teacher patted down student 1, for five seconds; and picked up student 2 by the armpits. She was definitive in stating to us that there was no description of rubbing up from the vagina to the top of the chest, either by student 1 or by any of the five students, and that there was no mention by any student of private parts. None of the parents said to her that Craswell touched student 1 on the chest. All touch was outside the clothes.

The vice-principal participated in the fact-finding exercise. She told us as follows. Five girls were playing 'hide the ruler'; they put the ruler in their shirts. Teacher was trying to find the ruler; he patted down student 1, outside her clothes, in the area of the torso. Girls reactions varied: student 1 was very matter-of-fact, not upset at all; student 2 was concerned the sub would be in trouble, otherwise nothing; student 3 was most relaxed, wondering why we are talking about this, she thought the sub was joking; student 4, who was picked up by the armpits, did not feel upset about it. All the kids said it was weird; none of the kids said it was "*sexual*".

The vice-principal's perception was that it seemed very inappropriate and unprofessional; as far as whether "*sexual*", they could not yet ascertain, as it was third-hand information; it was definitely higher level, more serious than the calls school administration usually gets. One of the biggest questions is "*intent*" – substitutes are inherently trusted less; however, still, at first, give the benefit of the doubt rather than presuming. There was no suggestion of groping a breast. Asked whether it was intentional or accidental, she responded that if predatory in nature one would anticipate that the substitute likely would have started the game; however the way it happened, it looked like the students started the game and the class was sort of out of control. It sounded to her like Craswell was not a very good teacher, that he did not know how to interact with students. The students described the contact as outside the clothes. She told us that if contact had been under the clothes, that would have meant a big change in her perception.

The interview with the Charlottetown Police Services investigating officer assisted us in reconciling what happened. He too interviewed parents and school administration, albeit after criminal charges were brought and Craswell had been seen online bragging about his

exploits. He observed that in the absence of knowledge that was later gained, the incident did not appear as egregious, that as it was reported by school administration it was *“likely not very remarkable”* or *“wasn’t overly remarkable”* (On the other hand, all agree – police and administrators – that the student’s statement given to the police much later on – that described grabbing of vagina – would obviously have caused any administrator to call the police right away). It was Craswell’s published text messages that drew matters together. The police officer noted that the initial descriptions of the alleged touching at West Kent were less explicit than those that were provided after the child pornography charges were publicized.

The acting principal informed each parent that school administration was reporting up to PSB HR, that they did not view the incident as sexual, that they would not be calling the police, and that any parent could call the police if they wished to do so. First parent indicated she was thinking she (parent) would call the police; school principal responded that if you wish to call the police please do. Vice-principal confirmed that administration advised parents that if you wish to call the police that is totally up to you, that school administration has to run the matter up through PSB, and that school administration certainly does not discourage calling the police.

School administration informed us they would certainly not decide on their own the question of whether the conduct was sexual. They brought PSB HR into the matter for instructions and advice. The (acting) principal interacted with both the HR manager and HR Director.

According to the HR Director, principals manage substitute teachers at the school level. If an incident or grievance occurs, a file is created, and physical files reside at the HR Director’s office. All incident reporting comes into Student Services, where a spreadsheet is maintained. There is a gap between departments, because Student Services does not always inform HR of incidents. When the HR Director came on board in 2020, she made a business case for a coordinated incident reporting system. Her request was denied due to limited resources. The relationship between Student Services and HR is good; the communication challenge is a product of volume. PSB follows the safe and caring learning policy.

School administration reported up to PSB HR and sought advice and direction. As reported by school administration, the conduct did not appear to be sexual. The kids were being silly, the contact by Craswell was certainly inappropriate, but it was not viewed as sexual. If school administration had thought it was sexual in nature, they had a very strict protocol to follow, and she knew they would have reported it. The policy was not engaged in this

instance. In her view, Craswell made inappropriate and bad choices, but it did not activate the 'Safe and Caring Learning' policy. Inappropriate conduct and sexual conduct are distinguishable. A teacher should never touch a student. With more diverse workforce, training, different levels of tolerance and acceptance, the climate has really shifted in the past decade.

We interviewed an HR manager. She told us that the reason the principal was the person called upon to meet with Craswell after the incident is because under the **Act** the principal is the teacher's supervisor. That is her role and responsibility. Also, according to the HR manager, the PEITF would say that the collective agreement stipulates that only a teacher can supervise a teacher.

The PSB HR manager was involved. She told the principal to involve Student Services and her ASL. She advised the principal to have a conversation with the substitute teacher. She supported the formation of the view that the incident was not sexual in nature, subject to qualification that would be a call for the Director of HR to decide whether there would be an investigation.

A PSB HR officer told us that she received the incident documentation from school administration. Following usual practice, she opened a file in the name of Craswell and put the e-mail information into the file. She said that based on the information received at the time she did not "*take a sexual stance*" on this matter. She looked into Craswell's CRC/VSC record, noted that he had worked a lot in PSB schools since 2009 and that his record was clear. Regarding AESOP, she advised that previously when a principal blocked a teacher he/she could act unilaterally, but now the collective agreement requires a reason be given.

The HR officer explained that all substitute teacher contracts are terminated at the end of the school year. There is no employer obligation to reactivate any substitute teacher. Each summer, HR takes a "*deep dive*" into substitute teacher files. The HR officer had not experienced a teacher sexual misconduct case before. After the criminal charges, everyone was rattled. The thought that in spite of their policies and efforts, bad people get through the cracks caused her to become emotional. Much later on, after Craswell was charged, at PSB lawyer's request she went back and saw a red flag that showed Craswell had been "*removed*", and also that he had a five-star rating with some teachers.

Matthew Craswell: Glen Stewart Primary School

On August 8, 2024, criminal charges were brought against Matthew Craswell for possession and distribution of child pornography. These criminal charges shocked the Island community. Moreso, because for many years, Craswell had been employed by the Public Schools Branch as a substitute teacher and had taught in various schools in the PSB school system.

Although the criminal charges were based on Craswell's on-line activity and were not then known to be related to his work as a teacher, PSB inquired into Craswell's record for any relevant incidents. This revealed one occurrence – a complaint that he had inappropriately touched a grade 2 student at Glen Stewart Primary when substituting as a teacher on April 30th, 2024.

We investigated how school and PSB administration handled the complaint. I will provide an overview and then report on the information provided to us in the interviews.

On May 1, 2024, a parent reported an incident to school administration. School administration responded immediately. The principal sought PSB Student Services guidance on how to proceed. Following the guidance provided, school administration carried out a same day fact-finding exercise with the parent and child and then made a typed report to PSB HR. The principal blocked Craswell from the Glen Stewart Primary substitute list.

The principal involved the PSB Director of Student Services, attempted to involve a student services manager, and involved the school counsellor. PSB instructed the principal to meet the child with the school counsellor present. The principal was uncomfortable with this, as she did not want to do anything incorrectly. PSB assured her the school counsellor was experienced, and that the principal's role would be to keep notes. She did this, and she prepared notes that are formalized, specific and accurate. The school administration sought accuracy: the notes were contemporaneous, carefully prepared, and verified.

School administration interviewed the child with her father present. The principal's report describes the child's statements regarding Craswell's conduct. Asked what happened, the child said the children were in the classroom at the end of the day when things were getting noisy, they were near the teacher's desk, and playing a game, when *"Mr. Craswell put his hand under my shirt by accident for a minute and rubbed my belly."* Asked how this happened, the child said, *"He put his hand up under my shirt and rubbed my belly."* Asked whether he stopped or did she have to tell him to stop, the child said: *"He stopped."*

School administration viewed Craswell's conduct as being inappropriate and unprofessional. It did not appear to them to be sexual. They did not make that determination; this being a primary school, where contact occurs for various reasons. They did not consult the Protocol. They sent in their report and left that matter for HR to investigate. The principal informed the parent of this process, and also that he was entirely within his right to call the police while the matter remained with PSB HR. The parent indicated he was content with how the school handled the matter and with this information and outcome.

PSB followed up by requiring Craswell to come in for an interview. Its HR Director styled this as a workplace investigation. The interview was held on May 16th. The interview with Craswell was performed by the HR Director with a PEITF employee representative present. The HR Director's notes of the interview recite his version of the outcome:

"Was discussed as per mutual agreement with PEITF and PSB that Matthew would restrict subbing assignments to just High School level where most of his experience is, there is not opportunity to put himself or students in those situations because there are no games/activities played with those level of students. Would look into further professional development around professional judgement as it relates to boundary setting with students."

The PEITF representative who attended this meeting told us that no such disposition was reached at the end of the May 16 meeting. Whether or not the HR Director's notes are accurate, it appears true that over the next month and a half, until end of June 2024 when his contract expired, Craswell taught only at the high school level.

In August, upon being informed of the pornography charges against Craswell, PSB immediately viewed the April 30th Glen Stewart incident in a very different light. They promptly notified the police, the reporting parent, and the Department. The police charged Craswell with sexual interference. The Registrar suspended Craswell's teaching license. Government's Risk Management commissioned an investigation of the incident, and also a search for any other reports or incidents of Craswell sexual misconduct or inappropriate conduct toward students in PSB schools.

Islanders share the concern that any incident of staff sexual abuse or misconduct against students shakes the foundation of trust that is necessary in our education system. This concern affects students, parents, educators and non-instructional staff, and the public.

Predictably, this information elevated public concern over the specter of a potential connection between the criminal charges and Craswell's presence in schools.

Information received from interviews

We conducted interviews with parents, school administration, PSB HR administration, and police. The information was mostly consistent; there is some variation. I am satisfied that the following fairly reports the information received and that any variations are reconcilable.

We interviewed the father. When the father called to speak to the principal on May 1, he reported that his daughter (in grade 2) had told him a secret: that the substitute teacher had rubbed her belly, and that the child had told the same story to her mother. Dad asked if he should call the police. The principal told him that he could, that she would have to notify PSB, and that she would let him know the results of PSB directions and disposition. She did that. Dad was hesitant to report the incident in the meantime because he was concerned not to ruin a teaching career and he wanted to leave it in the school's hands.

The father reported to us that his daughter told him that the substitute teacher put his hand under the child's shirt *"and touched her belly and chest."* He was certain his daughter mentioned both chest and belly. The principal told him if he wanted to call the police he should go ahead. He declined because he was waiting for PSB to investigate first. He confirmed that school told him to go ahead and call the police, and that he preferred to leave it in the school's hands. Father was happy with the school administration and felt they had done their job well. He feels PSB should have done better.

We interviewed the principal. The overview described her meeting with the child and father.

The principal supplied context regarding the matter of school staff touching students for a proper purpose. She explained that this being a primary school, there is a lot of stuff going on with children ages 4 to 7, who need consoling – buttoning up jeans, falling down, needing hugs, playground equipment – it is the nature of being a primary school. The principal engaged PSB because a parent had informed her of a concern. Upon meeting with the child and her father, it did not cross her mind as being sexual (she qualified that of course, now knowing the circumstances puts a different face on it: *"If I had thought it was sexual, my action would've been entirely different."*).

The principal told the father she would keep him informed, and she attempted to do that. Due to staff scheduling conflicts and turnover, PSB HR experienced delay in getting the interview organized. Throughout the next two weeks, the principal pressed PSB HR Director for an answer and decision. The principal was concerned about delay. She was getting “*antsy*”; dad was wondering whether he should go to the police, and she wanted to respond to him. The principal assured the father that if he wanted to call the police, he should go ahead. Timing and response were out of the principal’s hands.

The PSB interview with Craswell took place on May 16. The principal was not involved in the interview or informed as to what was discussed. The HR Director stated to her that it was the child’s “*father’s prerogative*” to reach out to the RCMP. The principal corrected that was Dad’s “*right*”. The principal found it “*weird*” that HR did not inform her why Craswell was no longer allowed to teach in elementary schools. (HR limited information due to employee privacy considerations.)

After retiring from a full and successful career in teaching and school administration, it really hurt her to hear the media reports, as the child did not mention to her in the May 1 interview (as the child later disclosed to police) that Craswell had rubbed her legs, belly and chest, and that is a whole different story. It causes her considerable angst that the media reports did not differentiate and report based on what they knew and heard at the time.

We interviewed the vice-principal. She was not directly involved in the school response, but she and the principal operated as a close team and the principal kept her informed. School administration does have suitable training on how to respond to touching incidents. They follow *The Principals’ 911* on what to do. It advises “if this, then that.” She told us the principal informed her about the parent and school interaction, the interview with the child and her parent, and that the substitute touched the child’s stomach. The principal reported to her that the parent was not upset, that a meeting had been held with the child, who reported that the touching was “*by accident*” and that “*her stomach was touched*.” There was no mention to her of chest, legs, or genitals. The vice-principal did not view the conduct as sexual. Their understanding was that Craswell touched the child’s stomach during a game in the classroom. Never was it thought to involve chest, leg, groin. It was a belly rub, under the shirt. She did not think people would view the incident as sexual. The parent was not suggesting it was sexual. The child did not seem traumatized. Dad seemed lovely, was satisfied and was content with the school process; he expressed he was thankful. The vice-principal followed up by watching out for the child’s welfare; she did not think it was a traumatic situation. The principal was very attentive to keeping the father informed.

According to the vice-principal, when Craswell was called upon to substitute, school administration was unaware of any prior concerns about him.

The vice-principal was distressed by media reports: *“Events as I understood them in May 2024 do not match with the media reports in spring 2025.”* She told us: For perspective, in May 2024 no phone calls were received from parents of other children. *“What was released in May 2025 was not what we knew at the time... And again, I think that what was released and how it was framed was very concerning. It was concerning for me as a mom and as an administrator and as a teacher and as an educator. But that was not what we knew at the time.”*

When the criminal charges became public in August, the PSB HR Director asked the vice-principal to inform the dad. She thought it would be the wish of the principal (now retired) to do that. Upon being informed of the shocking news, the retired principal agreed to call the father.

The Glen Stewart school counsellor who met with the child told us about the fact-finding process. She is experienced and trained. Her practice on disclosure is: *“If a child discloses, I do not go further, I call CPS. We are instructed to leave that to CPS. I follow CPS directions. We receive advisories from CPS, our counselling meetings have been cut back in recent times.”* During the interview with the child, she asked the questions and the principal took notes. She did not see this as a big issue, and it appeared to her that dad did not either. She reviewed the principal’s draft report and assured the principal it was accurate. Asked explicitly whether she ever had a conscious thought this might have been sexual in nature, she responded: She viewed this matter as straightforward. *“I did not think this was sexual in nature – not at all, it never crossed my mind.”* This exchange caused her to become emotional. She explained this was a judgment call, that events did not alert her it was sexual in nature; and in retrospect Craswell’s subsequent revelations of malicious intent make her question her own judgment. The inaccuracy of media and police reports absolutely shocked her. The police did not ask her if there was contact involving the chest, legs, private parts, which they subsequently reported in their criminal report.

We interviewed a PSB HR manager. A complaint (the April 30 incident) came in regarding Craswell. PSB was going to have someone from PSB Student Services speak with the child. The principal was to speak with the substitute teacher. Her fellow HR manager suggested the name of the substitute sounded familiar, and she checked on PSB’s AESOP. This showed that West Kent principal had blocked Craswell at the end of June 2023.

The PSB manager told us that when the Glen Stewart principal called to ask, ‘*what do we do?*’, her response was that there is going to be an investigation. Her direction was to call Student Services/ASL. Upon learning the name of the substitute, she made the connection: “*Holy crap, you better call [West Kent principal].*” She told the HR Director “*You really need to call...*” The HR manager thought there was a connection between Glen Stewart and West Kent. She was not a participant in the meeting /interview with Craswell on May 16. She noted that the interview was not an ‘investigation’, which would typically involve inquiring with all involved – teacher, parent, principal, potentially student – followed by a report by the investigator and a decision/disposition by the HR Director. At the time, it did make sense to her as to why Craswell would be able to teach in high school but not in elementary school.

The HR manager thought the new HR Director was an experienced director; however, that he had not done a lot of workplace investigations.

The PSB HR manager spoke to an October 2018 email HR received from a school administrator regarding alleged misconduct in Korea. PSB thereby became aware that an external out-of-province recruiter had removed Craswell from its prospects list due to an allegation of professional misconduct at a school in Korea. At that time, Craswell was not employed by PSB. PSB HR entered this note in AESOP: “*CRC to be updated August 2018 – CHECK CRC CAREFULLY – See note from ...*”. Their purpose was to flag for careful review before hiring. At that time, HR expectation was that anything concerning would come to light upon a new application for employment because all applicants have to supply a ‘current criminal record check’. She acknowledged, ‘yes, that should have been a flag to pick up the phone and call the recruiter’: “*Today if we see a gap in the application in the criminal records check we follow up.*”

It is a limitation with the AESOP program that only PSB can see exclusions and schools cannot. When a school excludes a substitute, PSB and other schools would not know. Emails are not sufficient for tracking. Sheer volume renders human memory insufficient for reliable tracking of complaints and incidents.

The notes of interview May 16 that the HR Director provided to us purport to be specific – they recite point-form questions and answers. However, the questions relate entirely to the Glen Stewart incident; there is no indication in those notes that the West Kent complaint was discussed in this meeting.

We interviewed the PEITF employee representative who attended the May 16th interview. Her notes contain a record of a cohort of questions and answers regarding the West Kent

complaint. According to her notes, Craswell said he did not recall subbing at West Kent, that it was a blur. A question was posed about the ‘hide the ruler’ game, which he did not answer. He said that his classroom manner is not the best at elementary and that again he did not recall. He felt that his boundaries were appropriate, and that now he would be doubting his boundaries and he felt confident that he was able to set boundaries. He would make high school a focus and acknowledged that there are things to review.

The TF representative was uncomfortable with how the interview was conducted. She found it proceeded quickly, with no follow-up questions or elaboration sought. She found the scenario described as not inconceivable but a bit weird. She was concerned that the interview lacked depth and was not following best practices. However, it was not her interview.

We interviewed a police investigator who spoke with the PSB HR Director on November 13th. HR Director told him the West Kent incident was not discussed with Craswell in the May 16, 2024 interview. The police officer found that ‘bizarre’ because this denial did not fit with police evidence that PSB had knowledge of the June 2023 West Kent complaint just after the Glen Stewart incident occurred on April 30, 2024.

(For clarification, the person who was in the role of PSB HR Director during 2023 moved to other employment in January 2024, and the PSB position was then filled by another person in early 2024.)

6.2 Investigation of PSB handling of Bethany Toombs request

In September 2024, Bethany Toombs was charged with criminal offences involving sexual assault on an adolescent male. This news was another shock for the public. Again, more so because Toombs was a school counsellor at East Wiltshire Intermediate.

In late May 2024, Toombs had arranged for a student to reside in her and her spouse’s home. Toombs sought PSB permission for this proposed living arrangement. According to school administration, she wished to provide respite to the student, as his home life was by all accounts dangerous and untenable. At the time, the student was the subject of an ongoing Child Protection Services investigation. Toombs informed school and PSB administration of the situation and of her plan and requested their permission.

Information received from interviews

I wish to strike a balance between providing sufficient information from our investigation of administration handling of the request and avoiding unnecessary sharing of private information about the student's life. Additionally, I wish to emphasize that allegations in legal proceedings involving Toombs are not the subject of this review. We are careful to neither presume nor speculate about those matters or about what may have happened. We mention statements that were told to us within the review process only because they are necessary context for our review of how PSB handled Toombs' request.

Toombs' request to the principal described the situation as unusual; stating she could understand how *"that might seem very strange."* It explained that the student had been working with her spouse and had disclosed his *"backstory"* to him. It acknowledged the proposal appeared to create a boundaries issue because she had previously been the student's counsellor. She advised she had arranged for the student to have a different counsellor *"in the hopes of avoid any dual role problem."* She described the proposed home living arrangement, noting the student would have his own space. She acknowledged boundaries: *"I get it that the boundary is to leave the kids at school..."* She advised that the parents would maintain their guardianship, that she and her spouse would provide housing in cooperation with his parents, and that the student had informed Child Protection this was his wish. The request expressed urgency.

Upon Toombs introducing this request to the PSB counselling consultant, he consulted with other members of PSB administration. These discussions raised various concerns over professional ethics and potential risks for counsellor and student. Some identified concerns were discussed internally, some were raised with Toombs, and some were not raised. Engagement was less than formal and full. PSB management did not address all matters together and with Toombs in a coordinated or formal fashion. On advice from PSB HR Director and PSB request, Toombs completed and submitted a declaration under the conflict-of-interest policy that her proposal did not create a conflict of interest. Although it remains unclear, it appears that PSB approved her request, did not deny it, or made no decision. Toombs thereupon had the student move into her home.

We interviewed the school principal, other school counsellor, and PSB officials, including school counselling consultant, HR Director, HR manager, Student Services mental health lead, Director of Student Services/appointed assistant director of PSB, policy manager, representatives of Child Protection Services and Health PEI mental health addictions counsellor.

According to the principal, Toombs was an experienced school counsellor. She was on staff when he arrived as principal. He was aware of the student's tenuous situation; and that on the other hand that the student was doing better with assistance of the school counsellor. Some counsellor activities with the student concerned him. He cautioned Toombs that it was not good for her to be going to the student's home in the evening, that she should look out for her own safety, that she should perform her counselling service from school premises where people can see and students can be accompanied: *'I was thinking it was time to pump the brakes a bit.'*

Upon receiving the request, the principal reached out to the PSB counsellor coach. Both thought the request seemed 'strange, like a weird scenario'; on the other hand, the student was doing better, was having his best year. The principal adopted the view that it was not his role to sign off on such a request, Toombs had space for the student, the student had a summer employment opportunity, and the student was nearly finished at his school. The principal suggested the counsellor coach reach out to PSB HR and the PEITF. The principal observed that Toombs was able to drive a proposal and make things happen. Believing it was not his role or training to sign off, his approach became *'OK, we'll do what we can to support'*. He viewed any sign-off as being beyond his authority – not being trained in living arrangements, he could not know what is going on under someone's roof. He explained it is not for the principal to check on someone's house.

The principal did not know why Toombs had assigned the student from her counselling roster to an addictions support person from Health PEI rather than to the other on-site school counsellor.

The principal did not know whether anyone approved the request. He understood the Director of Student Services viewed the request as a Child Protection Services decision. He advised there was no policy or they would have referred to the policy. If it had been a *'Safe and Caring Learning Environment'* issue, they would have said *"no."* The principal did not know whether or not the requested permission was the role of an education authority.

The principal observed that while all PSB leadership are trained educators who are now in leadership roles, none are trained in legal matters, and they would not have all the answers or anyone to turn to when this kind of issue arose. He noted that training is now in place, which is a positive development.

PSB Student Services includes counsellor consultants, whose role is to support school counsellors. The counsellor consultant assigned to East Wiltshire School described this small group as Swiss Army knives, for all tough situations. MAST is a multi-agency support team that operates in some schools. The student was on the East Wiltshire MAST roster. During meetings, Toombs asked a lot about how to support the student. Her relationship with the student developed over time. She would go to the student's house to ensure his school attendance. She bought him things, like a bike. She gravitated to becoming intensely supportive, 'way above and beyond'. The consultant cautioned Toombs, for her own safety, do not go to the student's house alone, or in the evening. He advised her that while it was OK for the student to be involved with Toombs' husband in part-time work, she should beware of the optics.

Upon Toombs bringing the request to him, the counsellor consultant's immediate reaction was "*something does not feel right.*"; but he thought it would probably be an HR issue and it would be up to PSB HR to decide whether or not there was grounds to approve or deny the request. The consultant thought the PSB Assistant Director would have been aware of Toombs' situation. As far as he knew, a CPS worker had okayed the request. The consultant had no further involvement in the approval process. Toombs made daily phone calls to him and advised him that she had the OK. However, he did not have further involvement on her request. He does not know who made the decision.

The consultant had concerns over Toombs' professional association membership. He believed Toombs had been heavily involved in the association but had discontinued her membership. He thought that the request would not be approved by the association. Toombs was seeking his guidance more than permission. Consultant knew Toombs quite well. He had concerns about '*enmeshment*' — being overly involved, making it too hard to make proper decisions. In his view, there should have been a policy, which would make it easier for people to make the right decision and avoid this kind of situation. He thought someone had made a call to CPS.

The counsellor consultant brought Toombs' request to the Director of Student Services, who was at the time transitioning to become Assistant Director of PSB. She believes he reached out because it involved a school counsellor, and they (director and counsellor) have a mutual trust for sharing advice.

Initially, she did not know whether there was a policy. Her first thought was that Toombs being a school counsellor the proposal involved ethics and the conflict-of-interest form. She checked with HR. Toombs was then required to complete a conflict-of-interest form. She

checked with policy management, and found there was nothing to prevent the request – no policy, nothing in the code of ethics or in the collective agreement. This was a novel situation. A staff taking in a student had never come up before, except maybe for one night of couch surfing. She was concerned about putting space between the counsellor and the student. Being aware the home situation was dangerous, he was curious as to whether the student's parents were informed. She was informed that the PEITF's view was that there was nothing to stop the request. She had no knowledge of child protection involvement. In her view, there should be insistence on ending the counselling relationship, similar to a doctor with a family.

She advised us she did not approve of the housing arrangement, per se; that she did not have any tools to stop it; that if PSB had a policy, then yes, she would have stopped it. She was concerned there had to be some separation, with preference for staff to err on the side of caution. She did not know if anyone approved, or whether PSB could approve. She believed that if PSB refused, PEITF would have challenged, on the basis that Toombs' proposal would not interfere with her teaching job, and that TF would have won their grievance.

She advised that any decision would have been at the PSB Director (superintendent) level. The PSB Director was not brought into the decision-making. She acknowledged there should be some checks; she did not know if this should be by Child Protection Services.

The HR Director became involved at the behest of the manager of Student Services. Together, they ascertained that there was no specific policy. The HR Director was aware there had been previous adoptions and parental agreements. He identified gaps – no policy, no code of conduct. In his view, the request involved ethical and moral considerations, and professional obligations. He thought conflict-of-interest was not the right lens. In his view, this was not a conflict-of-interest issue. The applicable supervisory structure is that all school counsellors report into Student Services. PSB relied on each school and teacher to have their own way of dealing with such matters. In his view, this was not an HR responsibility.

The HR Director did know whether PSB had authority to approve; he did not know what role the employer has to say yes or no. He did not know who gave approval. He limited his involvement to advising that he did not see how PSB could hold Toombs accountable and to providing the conflict-of-interest form. The completed form did not come back to him. He viewed the proposal as not a normal arrangement, as one that caused trepidation within PSB. In his understanding no one in PSB saw official documentation from CPS.

The HR Director noted that the PSB Director had been planning to develop a code of conduct that would follow the Nova Scotia experience.

Within PSB Student Services, there is a mental health lead who works to support students. The counselling consultants report to the mental health lead, and the mental health lead reports to the Director of Student Services.

Counsellors are regulated nationally by the Canadian Counselling Psychotherapy Association; there is also a provincial association which relates mainly to private practice. Toombs was a school counsellor, and so the manager's initial concern was around professional ethics. The first consideration is '*do no harm*'.

Toombs' proposal raised some red flags. There is a "*two year*" rule or protocol, meaning no outside involvement with a student for whom you were a counsellor except following a period of two years. While Toombs had arranged to transfer the student to another counsellor, the manager was concerned about "*dual relationship*" due to CPS involvement, and also about "*vulnerability*". He advised Toombs by email that he had concerns – over ethics, driven by "*dual responsibilities*", exacerbated by the apparent vulnerability of a troubled youth with CPS involvement, and no adherence to the two-year rule. He acknowledged it is a concern that a school counsellor carries forward knowledge of the student from having counselled him. In his view, PSB needed (i) a legal opinion, (ii) an arrangement for the student to have a counsellor separate and apart, (iii) no dual involvement, and (iv) a CPS sign off.

His concerns extended to the student working with the school counsellor's husband outside the school, which he classified as "*a gray area for sure*". He noted that days are gone when a staff member in a position of trust can take a student on a private outing. He qualified that such a part-time work arrangement could be OK, subject to the proviso that the school is following up and monitoring the outside work, which was not the case in this situation.

The mental health lead was not part of the final decision. He understood a decision would have been for the Director of Student Services/Assistant Director.

There were two school counsellors within the school. They work separately with their own student rosters. The other counsellor observed that Toombs spent a lot of time with the student. Observing from the outside, he had shared his concerns with the vice-principal that Toombs was putting herself in a situation – unsafe and volatile family, seeing a student outside the school with the administration not knowing. Interaction with students takes place within a school environment where there are other people around.

He told us Toombs did not consult him about her proposal. She first shared her proposal with him when she had one final approval to go. He had concerns that harkened back to a school incident, about volatility, perception, accreditation, and Toombs having referred the student to an outside counselling service rather than to himself as the available counselling service within the school. He responded to her presentation of the proposal to him: *“If you want me to talk to you out of this, I will.”* He said she was ‘incredulous in response’. He repeated his statement to her.

He viewed the proposed arrangement as wrong in many ways: no policy in place, just inherently risky: *“If we are concerned with working behind closed doors with a student, how is it OK to let the student move into the home!”* He viewed the proposal as major – a student going to live with a staff member. He told us that Toombs informed him that she had mentioned the proposal to PSB HR manager, and that CPS was aware of the proposal and would be the one going to the student’s home to take the child. He framed the matter as: *“At the end of the day, you were taking a child from the school to your home, when there’s lots of fosters, a volatile student. A person should be put in a situation that is safe for everybody, and this proposal put a lot of people in a vulnerable situation. Any living arrangement should be with someone not connected with the school.”*

No one in school or PSB administration asked him for his opinion. He does not know whether or not Toombs’ request was approved.

The PSB policy manager was very experienced. There was no policy: *‘You can’t have a policy on everything’*. She could not imagine any jurisdiction across Canada having such a policy. Her understanding was that the student had difficult living conditions and had asked Toombs if he could live with her and her spouse. She saw no red flags, except perhaps conflict-of-interest. She acknowledged it could be a conflict if there was a counsellor-student relationship, but in her view there was no conflict because the counsellor would not be providing direction to the student going forward. She wondered whether PSB had the right to refuse.

As mentioned, weeks prior to making her request, Toombs sought to arrange for the student to receive counselling service an outside counsellor. We interviewed that person. She advised us that her role is to provide addictions support, that she is not a student counsellor, her job is not the same as a student counsellor, and she thought all would have been aware of her limited role. Upon Toombs’ request, she undertook to keep her addictions file open for the purpose of addictions counselling. She did not report concerns. Based on what she knew

in that moment, she did not have concerns. She checked in with the student after he moved into Toombs' home.

Her impression was that in her own workplace the Toombs request is not something that would occur or be permitted to occur. At Health PEI, such a request would be brought forward as a matter for consideration by senior leadership and would be viewed as a conflict of interest and not permitted. Such a request would be reviewed by an ethics committee, with focus on the welfare of the child. (She qualified that this does not necessarily say that an ethics committee would say "no.")

She understood that Toombs' request was being reviewed by PSB.

The advice of the support person who attended with the addiction counsellor is poignant: *"If you can't balance your wisdom, you need a sounding board."*

We interviewed the CPS case worker. He informed us that CPS became involved with the student in February 2024 due to child protection issues. An investigation was opened. The CPS investigation was ongoing in May when Toombs made her request to PSB. Between February and May, the CPS case worker had some limited contact with the student, and also with Toombs as his school counsellor. School counsellors are often a reliable source of information (my discussion of this interview is circumspect due to privacy considerations). The student had been hesitant regarding CPS involvement. A few days before Toombs made the request to school administration, the CPS case worker received a call from Toombs. She expressed concerns over the student's welfare and indicated that if the student wished to stay with her, that was OK with her husband and her. The CPS worker's response was that if there are no child protection issues, CPS would not have the ability to remove the student from his home. The case worker and student met twice; for the second meeting upon the student's request Toombs was present in the meeting. The case worker's reaction to the student's housing proposal was to the effect: *"I had no reason to say no. My view was home was not best for the student..."*, that the student needed to be safe and needed help.

The worker thought our question whether CPS had *"signed off"* was unfair. He explained that the student's move to reside with Toombs was not a CPS-made plan. There was no CPS assessment, financial compensation, safety plan, or caregiver scenario. There was no *"safety plan"* made between the parents and CPS social worker. Asked whether CPS gave *"consent or validation"*, the case worker responded *"yes and no"*; it is not accurate to say *"consent"*: *"I do not recall that I gave Toombs to think it was a good idea; however, I did advise*

the student that if we [CPS] had no protection concerns, we could not stop the plan and that if that's what the student wanted to do that we would assist in facilitating his plan.'

The CPS worker had no contact with the school principal or the PSB office. He believes CPS did not either. We confirmed this assumption with the PSB Director and Assistant Director. Neither school administration nor PSB administration contacted CPS, and CPS did not contact school or PSB administration.

6.3 Investigation of CSLF handling of Roger M'Bahia complaints

In late September 2025, teacher Roger M'Bahia was charged with criminal offences of sexual assault and sexual interference. The underlying incidents occurred in a school classroom. M'Bahia was a new teacher in the CSLF system, employed for this school year. His employment commenced September 3rd and he began teaching at École Pierre-Chiasson on September 8th.

Information received from interviews

This Commission wishes to report the complaint and CSLF handling of the incident without intruding upon or preempting the criminal proceedings involving Mr. M'Bahia. It is noted that the mentioned reports and allegations are repeated as received and are not taken as proven.

The school principal reported two events to CSLF, CPS and police. First, on September 25th, a student (age 12) reported that on the previous day he had been using a magic bag to control stomach spasms, and the teacher *"touched and moved the bag located in the student's privates area, touching his privates"* by reaching over the bag in a wrap-around motion. All alleged contact was outside the clothes. The school principal told us that when she asked M'Bahia for his version, M'Bahia responded he did not know what a *"magic bag"* was, that the student was holding the magic bag in his hands at table height above his lap area, and he touched the magic bag on the corner only to see if it was hot.

Later the same day, the same student reported another incident from that morning. Another student had left the classroom for the washroom. M'Bahia ran his hand up the outside of the student's oversized hoodie – up the front side from around the naval area. The student said *"Woah!"*, the teacher said *"ok"* and walked away. The school principal told us that, when she asked M'Bahia for his version, M'Bahia responded he was checking for a hidden cellphone, as they were not allowed.

Upon hearing the complaint, school administration responded promptly. M’Bahia was brought to the vice-principal’s office, kept separate from the reporting student, both student and teacher were asked for their version of events, M’Bahia was put on administrative leave, and the principal reported the incident to Child Protection Services, the police and CSLF HR. The teacher was sequestered from the student body and later given a drive home.

6.4 Other reported incidents during the review period 2023–2025

In addition to the investigations described above, I directed the Department and the education authorities to produce all documents in their possession relating to any other complaints, reports or allegations of sexual misconduct during the 2023 to 2025 review period. The volume of material we received was significant: Forty matters were identified. In light of this volume, I determined that it was not practical to undertake a full factual investigation of these other incidents. I therefore conducted a paper review of the disclosed records for the sole purpose of identifying system-level themes that reinforce or supplement the conclusions drawn from our investigations. Because we did not undertake independent fact-finding in respect of these matters, I do not make any findings about what occurred in any particular incident. Instead, it describes only system-level themes and apparent trends. My observations are set out below.

System themes and apparent trends

(i) Boundary concerns that appeared to be treated informally

A significant number of the additional incidents involved conduct that, on the basis of the documents reviewed, appeared ambiguous to those who received the initial reports. These included reports about casual physical contact, comments about clothing or appearance, interactions that seemed overly personal, or situations in which a staff member spent a notable amount of time with a particular student. In several matters, students or colleagues reported feeling uncomfortable, though the conduct did not appear to be explicitly sexual.

The records suggest that, during the review period, these kinds of concerns were often addressed informally. Some records reflected a brief discussion with the staff member; others suggested that there was no or minimal follow up. Overall, the materials suggested that boundary concerns were not always addressed within a structured or standardized response process.

(ii) Documentation and reporting practices varied considerably

There was considerable variability in how concerns were recorded and escalated. Some matters were documented promptly; others only months later. In certain cases, documentation appears to have been created solely for the purpose of responding to our request for production and disclosure of documents.

Some incidents were forwarded to HR or Student Services; others remained at the school level alone. The records do not consistently reflect the basis for these differences. This variation suggests that the system does not have a uniform approach to documenting or escalating these concerns.

(iii) No indication of a widespread or reactive pattern of disbelieving students

Based on the documentary record, there was nothing to suggest a pattern of administrators disbelieving students who reported concerns. The records contain no recurring expressions of skepticism about student credibility, no language suggesting that students were prone to exaggeration or fabrication, and no administrative notes discounting concerns on the basis of the reporter's reliability. To the contrary, administrators generally appeared to accept the substance of what was reported, to meet with the student or parent, and to take some form of responsive action. The issues that arose related not to belief or disbelief but to risk recognition and follow-through. In other words, the materials did not indicate a systemic problem of discrediting or dismissing students; rather, where challenges arose, they involved recognizing the significance of the behaviour and in determining the appropriate level of follow-up or escalation.

(iv) There was an apparent increase in reporting frequency and formality after summer 2024.

The documents suggest that reporting practices may have shifted during the latter portion of the review period. Following the public disclosure of the Craswell charges in August 2024, the records indicate an apparent increase in both the frequency and formality of reporting. Specifically:

- A higher volume of incident documentation appeared in late 2024 and throughout 2025;
- Standardized incident forms appeared more frequently;

- References to reporting obligations and consultations with external authorities were more common; and
- Some matters from earlier in the review period appeared to have been formalized only at a later date, suggesting heightened attention to documentation at that time. Although multiple factors may have contributed to this development – including the preparation of materials for disclosure to this review – the shift was noticeable in the documentary record.

6.5 Conclusion

This review of other reported incidents reflects only what appeared from the documentary record of the additional matters disclosed for the 2023 to 2025 review period. Our purpose in examining these materials was not to investigate the underlying incidents, but was to consider whether any system-level observations could be drawn to inform our analysis of how the Craswell complaints and incidents were handled. The themes identified here should therefore be understood as complementing the findings arising from our review of the handling of those matters.

Chapter 7

Findings and recommendations regarding Education Authorities handling of complaints and incidents

Summary of findings and conclusions

This chapter sets out of my findings and conclusions from the Craswell and Toombs investigations on student safety in Island schools and on education authority handling of complaints and incidents of staff sexual misconduct.

Findings regarding the handling of Craswell complaints and incidents

Regarding the PSB handling of the Craswell complaints and incidents, I find:

1. School administration at West Kent and Glen Stewart handled the complaint and incident before them properly and professionally. They responded to the parents promptly and openly, sought advice from school board office on how to proceed, and appropriately conducted finding/screening with parents and children who were involved. Based on all they knew at the time, they did not suspect that Craswell's acts were sexual in nature. Given what they knew at the time, I would not find their judgment was unreasonable. In both cases, the school principal informed the reporting parent that they had blocked Craswell from teaching again at their school, that they had reported the incident up to PSB HR, that they were not going to report the incident to the police, and that the parent could report the incident to the police if they wished to do that.
2. As mentioned, when each Craswell incident occurred, the administration did not suspect the conduct was sexual. How they viewed the situation is reviewable based on what they knew or reasonably could have known at the time. Administration did not know that Craswell was carrying on on-line child pornography activity. It would be unfair to impute knowledge or expect prescience. The West Kent hiring occurred on AESOP; school administration had no knowledge of any blemish on Craswell's record. When the Glen Stewart incident occurred, school administration had no knowledge of the West Kent incident or of any blemish on Craswell's record. Fair assessment of the adequacy of the administration response necessarily takes into account that administration had no extraneous reason to know he may have had criminal intent. Subsequent revelation of the pornography charges and of Craswell's

on-line bragging caused everyone, including school and PSB administrations, to view Craswell's conduct in a very different light.

3. Regarding the West Kent incident:

- a) School administration did not decide on their own whether the matter was sexual; with PSB input school administration concluded the contact was not sexual in nature.
- b) Upon an incident being reported, administration needed to make an assessment of whether the incident was sexual. While they did that, in my view when such a question arises they are required to consult the Protocol which they did not do. While administration should have consulted the Protocol, this omission is immaterial because they determined the incident was not sexual in nature.
- c) Had school administration suspected the reported touching was sexual they would have reported the complaint to police or child protection.
- d) The acting principal informed PSB she was uncomfortable meeting with Craswell and that she would have preferred HR carry out that function with school administration present.
- e) School administration attempted three times to contact Craswell, but he did not respond. The end of the school year then intervened, school administration involvement terminated, and follow-up was then transferred to PSB HR.
- f) The PSB HR file that the HR officer opened on Craswell does not contain the mentioned document that reports on the West Kent allegations.
- g) PSB HR did not follow up with Craswell. They did not interview Craswell to obtain his version of events, pursue appropriate remedial action regarding the inappropriate behaviour, or record the incident.

4. Regarding the Glen Stewart incident:

- a) School administration handled the complaint and fact finding properly and managed the complaint well. The principal resisted becoming involved in the fact-finding process due to her concern over lack of training. She then participated in

the interview with the child and her father in accordance with PSB directions. The principal prepared and delivered an incident report.

- b) Upon being informed of the complaint, PSB was responsive – in policy, Student Services, and at the Director level. School administration is trained on interacting with parents and addressing concerns like the matter in question. The book *'The Principals' 911'* says 'call the school board' and when there is sexual contact it provides specific directions to follow.
- c) The school administration report to PSB can be accepted as accurate. Administration was diligent, and there was no reason not to be accurate. The report was contemporaneous, carefully and properly prepared, and validated. As to the particulars of the extent of touching that was reported to PSB, everything in the record is consistent: the child described it as brief, accidental, and on the belly. In saying this, I fully accept that the child may have provided additional detail to the child's parents or to other adults. My task here, however, is to assess whether the school administration acted appropriately given the information that was available to them at the time.
- d) The school administration viewed the conduct as not appearing to be sexual. This was consistent with the information they had at the time and with their training practices and protocols. The school principal was professional, experienced and attuned to operating a primary school for grades K-2. She collaborated closely with her vice-principal and school counsellor. They left the determination open for PSB HR and awaited further instructions.
- e) PSB followed up. HR called Craswell in for an interview to obtain his version of events. This occurred in the presence of the teachers' union representative. The interview was not effective. The interviewer was not trained in conducting workplace investigations. Although the interviewer had informed himself of the West Kent incident (that had occurred prior to his then-recent appointment as HR Director in January 2024), he treated the West Kent file as not significant given that the administration of the day had closed the file without any interview or action.
- f) The PSB interview occurred on May 16th. It was delayed, understaffed, less than probing, and was not documented fully or accurately. The interview record omits any mention of the previous West Kent complaint, which was an interview topic. We learned from the TF employee representative who was present in the Craswell

meeting that the interview included questions and answers about West Kent. It appears that while the interviewer did question Craswell about West Kent, he did not discern a pattern of behavior or make a connection between the two incidents of similar conduct.

- g) The HR Director's recorded disposition was that Craswell's conduct was a boundary transgression showing him not suited for teaching young children, and his teaching was restricted to the high school level.
5. I will make one additional comment before concluding this section. Public discussion following the criminal charges against Craswell in August 2024 and upon information becoming public on April 29, 2025 was inaccurate in one important respect: it tended to suggest that school administrators at Glen Stewart knew more than they really did. As noted, the principal and school counsellor met with the child and father together on May 1, 2024 to discuss what had occurred. The child reported brief and accidental touching to the belly. That was all the principal knew, and she reported it immediately and accurately to PSB. At that time, the principal knew nothing about the child pornography charges. She knew nothing about the earlier West Kent allegation. And she had no reason to suspect that the child at Glen Stewart had been touched other than the child had described to her. Unfortunately, the public discussion – at least in some quarters – lost sight of all this. Some have suggested or implied that the principal failed to report much more extensive touching than had actually been reported to her. That is inaccurate and damaging. It is also a disservice to her reputation and the reputation of her school, all of which deserves rehabilitation.
 6. Overall, the Craswell incidents fit within this very general context:
 - a) Risk of staff sexual misconduct in the school environment is a global issue. It occurs everywhere; it is not a new phenomenon. Adults who look for opportunities to sexually exploit children will seek employment within places where children are located, accessible and vulnerable. This includes schools, as well as churches, sports organizations, camps, residential homes, etc. Schools are an inviting target for predators and adults who would prioritize their own needs over their professional and fiduciary duty toward students. Schools are not invulnerable. Therefore, school administration undertakes first-line responsibility to have a system in place to effectively manage prevention and intervention and to mitigate risk. The standard of care is high. School administration must be vigilant in exercising their role of safeguarding children who are in their care.

- b) Risk and sources of risk being known and ever-present, education administration need to maintain effective and well-functioning systems for mitigation. Such measures include policies, operating procedures, and processes designed to:
 - i. Create and maintain effective barriers to keep potential bad actors out of the system.
 - ii. Prevent risk-associated conduct through education and training and on sources of risk. For detection and prevention, school administrations need policies and practices that educate on sources of risk, codify acceptable and unacceptable staff conduct, identify the entire range of inappropriate conduct including boundary transgressions, intervene on the full continuum of inappropriate conduct, and track inappropriate conduct.
 - iii. Manage risk-associated staff conduct and behaviour, through protocols for reporting, handling complaints, and intervening to correct misconduct.
 - iv. Monitor and track incidents.

The Craswell incidents and PSB handling of them reveal these systemic gaps, vulnerabilities and concerns:

- a) Hiring process would benefit from enhancements directed at foreclosing risk-associated applicants from entering the system.
- b) student safety policies exist that address sexual misconduct, but procedures employed are too narrow in scope and application to effectively address the inappropriate conduct as it was understood at the time; absence of a code of conduct;
- c) Some training on fact-finding (screening) by school administration and interviewing and investigating by PSB administration exists, but the training is insufficient;
- d) Sometimes policies and procedures are not followed, ie: requirements that reports shall be properly documented, HR shall interview the staff member about their inappropriate conduct, Sexual Abuse Protocol shall be followed, interview shall be carried out with two trained people present and documented, incident shall be reported to the Registrar;

- e) The AESOP booking system for substitute teachers does not inform principals of other schools of a principal's decision to block a substitute teacher from their school;
- f) There is no central registry of incidents that would accumulate reports and incidents of staff misconduct regarding individual staff and aggregate occurrence.

Findings regarding handling of Toombs' request

Regarding PSB handling of the Toombs request, I find:

- a) Toombs' proposal generated various concerns within administration. Some concerns were expressed and some remained unstated. In any event, some concerns felt or discussed among administrators were either unaddressed or not treated effectively. A lot of concerns indicated presence of risk. School administration and PSB staff and administration had information that suggested to them that Toombs' actions crossed boundaries: spending an unusual amount of time with the student, seeing the student off school premises and outside school times, sometimes without knowledge of school administration, buying gifts for the student, staff member's spouse engaging the student in part-time work, assigning the school counselling service to an outside service rather than the other school counsellor, arranging for the student to live in her home.
- b) Toombs' approach had the effect of bringing PSB on side. Administration had concerns, saw red flags, yet they did not exhibit individual or collective capacity or will to effectively intervene.
- c) PSB administration did not respond effectively. They did not subject the request to proper evaluation, consider issues, treat concerns effectively, find facts, and decide.
- d) Administration accepted without scrutiny, verification or independent assessment Toombs' representations that: (i) she avoided any ethical problem by assigning the student to another counsellor; (ii) Child Protection Services approved her proposal; and (iii) the student and his parents gave their informed consent. Toombs was the proponent; it was apparent the student was vulnerable, and known that the parents were incommunicative.

- e) PSB did not evaluate Toombs' request by the proper lens. They viewed it narrowly as a conflict-of-interest issue; they did not test the proposal against relevant ethical principles for the counselling profession. Due administration response and evaluation would have involved considerations of law, ethics, boundaries, off-duty conduct and student safety, influence and consent, and child protection. PSB permitted evaluation of Toombs' proposal to play out informally, without any meeting among administration or with Toombs; no legal advice was sought on employer duty and authority. There was no PSB collaboration or inquiry with CPS regarding their complementary roles as government agencies, or for vetting regarding dual relationship.
- f) It appears there was an absence of communication between statutory agents. Both PSB and CPS had responsibility for the welfare of the student – he was a student in a PSB school and he was a “child” regarding whom CPS had an open investigation. PSB and CPS are state agents; neither initiated contact with the other regarding relevant safety considerations.

The PSB response to the Toombs request reveals an inertia in the administration. The request on a very serious matter – cohabitation of school counsellor and her student – was allowed to proceed without sufficient formality and a systemic approach being applied to evaluation. As a result, student safety and professional ethics considerations were not effectively addressed.

There is a demonstrated need for strategic/coordinated administration to identify risks and act effectively: (i) on supervision of school staff, upon observation of questionable staff conduct; (ii) on a staff member request to have student move into her home; and (iii) for appropriate and effective decision-making in response to an unusual request.

Note: the criminal charges are pending and are not yet proven. This review is careful not to intrude on the court proceeding. The subject of this review is the administration handling of Toombs' request for permission.

Education authority had right and duty to intervene in Toombs' proposal

There is an underlying issue as to whether PSB had authority to approve or deny Toombs' request for permission.

In my opinion, PSB has authority to subject a staff member's request to cohabit with a student to full and proper scrutiny and authority to disallow such a request on reasonable grounds of concern that it poses a risk to student safety. Following are my reasons for this opinion.

The education authority and a school counsellor/teacher are in an employment relationship. Whether the employer has a duty of care to students for their safety in schools and associated authority over school staff to fulfill that duty is mainly a question of law. An education authority has authority to intervene. The scope of authority extends to proscribing employee conduct, including off-duty conduct, that it reasonably assesses to be a student safety concern to the extent necessary to fulfill its duty at law to properly supervise school operations, including in particular preventing foreseeable harm. I will explain this opinion.

The ***Education Act*** assigns the responsibility for school administration to the education authorities. This role includes employing and supervising school staff. School counsellors and teachers are staff. The ***Act*** and common law set out the legal duty of care and standard of care to protect children who attend school from foreseeable risk of harm. This duty is pronounced by school attendance being compulsory.

The role of a counsellor/teacher is to provide education-related professional services to students. Such services are normally provided in the classroom and on school premises. A staff member proposal for an extracurricular, outside the school, personal relationship in the nature of cohabitation between an adult staff member and an adolescent student is exceptional; risk of harm is manifestly foreseeable. Upon being informed by a staff member that she is proposing such an arrangement, the duty of care is invoked. Clearly, the employer would need to effectively assess the risk and then respond appropriately. This would entail establishing and initiating effective intervention measures sufficient to fulfill its duty of care to the student. The purpose of its enterprise being proper administration of schools, the employer would have concomitant authority to intervene for that purpose. This would include exercising its authority, acting reasonably, to take action to prevent significant risk of harm, including denial of such a staff member request.

Under the duty-of-care concept, all people have a responsibility to take reasonable measures to avoid causing harm to others where injury is '*reasonably foreseeable*'. Canadian law has long recognized that a school administration has a duty of care to students who are under their care. Because of the nature of their work, school authorities and teachers have special common law duties of care imposed on them. Society entrusts them with the care of large numbers of children. The duty exists inside and outside the classroom

and begins before school hours and remains in effect after school hours. School administrators and teachers must take care to ensure students are not exposed to unnecessary risk of harm. The duty of care may lead to legal liability. The common law duty of care is codified, expanded and refined by provincial education statutes.²⁴

In its early development, the common law duty of care was substantially framed by the *in loco parentis* doctrine. This imposes a duty of care toward students, the standard of care being that of a careful parent. In modern law, this ‘*careful parent*’ rule has been the subject of criticism for being paternalistic given the extremely heavy burden on teachers. In this province, school consolidation transferred responsibility for schools from individual communities to the provincial government. The law now looks upon teachers as educational state agents. Teachers and administrators are employees of the state and no longer viewed as delegates of parents. Their major role is to deliver public education in accordance with the **Act**.²⁵ At this stage of development of the law, a framework of common law principles and statutory provisions provides the instruction for consideration on the questions of scope of duty of care, standard of care, and scope and limitations of employer authority.

When a student has been a victim of staff sexual misconduct, Canadian courts have found a duty of care and in cases of failure of the duty of care or standard of care have held school administration liable for damages. Liability may arise in negligence, for breach of fiduciary duty, or under vicarious liability for tortious acts of an employee acting in the course of their employment.

In the law of negligence, Canadian courts have long recognized that a school administration has a common law duty of care to students who are under their care and custody.²⁶

School boards may owe a fiduciary duty to their students. Breach of fiduciary duty can arise where a school board has: (1) failed to adequately supervise its employees; (2) failed to protect the students from assault; (3) failed to investigate credentials and qualifications of persons involved with students.²⁷

School boards have also been held vicariously liable for sexual abuse against students committed by persons working on their behalf, in circumstances where a school board

²⁴ See *Teachers and the Law* (5th edition), at page 21.

²⁵ *Teachers and the Law*, supra, page 78.

²⁶ *Myers v. Peel County Board of Education*, 1981 CanLII 27 (SCC).

²⁷ *E.D.G. v. Hammer*, 1998 CanLII 15064 (BC SC), at para 40

significantly increased the risk of harm by putting the employee in the position and required the employee to perform assigned tasks.²⁸ Liability will be imposed on an employer for an employee's wrongful acts where (1) the risks inherent in the employer's enterprise materialize and cause harm and (2) liability is both fair and useful. Plaintiffs must establish (1) the relationship between the perpetrator and person against whom liability is sought is sufficiently close as to make a claim for vicarious liability appropriate, and (2) the tort is sufficiently connected to the perpetrator's assigned tasks that the tort can be regarded as a materialization of risks created by the enterprise. The emphasis is on the strength of the causal link between the employment and the wrongful act; employment must materially enhance the risk of a wrongful act.²⁹ In a recent case, a school board was held vicariously liable for sexual assault by a band teacher, that occurred away from the school and outside school time, where it was determined that the school board's actions had significantly exacerbated the risk.³⁰ Assessing the sufficiency of the connection between the employer's creation or enhancement of the risk and the wrong complained of, the court considered the subsidiary factors the SCC outlined in the *Bazley* case. Three factors are applicable here: (a) the opportunity that the enterprise afforded the employee to abuse his or her power; (d) the extent of power conferred on the employee in relation to the victim; and (e) the vulnerability of potential victim to wrongful exercise of the employee's power.

Often, a primary question is whether the employer has a reasonable system of supervision in place.

The ***Education Act*** codifies and defines the employer duty of care to keep students safe. This is stipulated as a system-wide obligation, distributed among the applicable education authority, principals, and teachers.

Under s. 18, an education authority is responsible for the management of the schools in its system. Under s. 20, the list of responsibilities is broad, and includes: (c) ensure that each student enrolled at a school operated by the education authority and each staff member employed by the education authority is provided with a welcoming, caring, respectful and safe learning environment that respects diversity and a sense of belonging; and (g) establish and maintain governance and organizational structures that promote student well-being and success.

²⁸ *Bazley v. Curry*, [1999] 2 S.C.R. 534

²⁹ *H.C.S.v. Gorsline*, 2004 ABCA 186, para. 18-21.

³⁰ *C.O. v. Williamson*, 2020 ONSC 3874

Under s.74, principals are responsible for the school to which the principal is assigned. They are to provide educational leadership in the school, perform supervisory and management duties, attend to the health, comfort and safety of students, and report to the Director or to the education authority as required on matters concerning the school.

Under s.71(f), teachers are responsible to attend to the health, comfort and safety of students under their supervision.

The commensurate standard of care expected is that of a careful parent.³¹ Teachers are expected to use the same degree of caution that a careful or prudent parent would use in caring for their own children.

It is not within my mandate to make findings about potential liability of PSB, and I do not. Within the Appointment, this opinion is provided as foundation for my assessment of PSB's response to the Toombs request. The school system has a duty to keep students safe and to attend to their well-being; PSB administration should know this. Administration due diligence should be an expectation. This would involve responding to the request with measures for proportionate risk assessment and prevention.

Within reason, an employer has authority to direct its employees:

*"I begin with the proposition that an employer has a right to determine how his business shall be conducted. He may lay down any procedures he thinks advisable so long as they are neither contrary to law nor dishonest nor dangerous to the health of the employees and are within the ambit of the job for which any particular employee was hired. It is not for the employee nor for the court to consider the wisdom of the procedures. The employer is the boss and it is an essential implied term of every employment contract that, subject to the limitations I have expressed, the employee must obey the orders given to him."*³²

That general principle is reflected in the management rights provisions (s. 6) in the collective agreement between the Agency and the PEITF. This stipulates management rights are to be applied in a manner consistent with the **Education Act**. A consistent theme of the **Act** is a systemic obligation to keep students safe.

³¹ *Peel, supra.*

³² *Housing Management Commission*, [1992] B.C.J. No. 280, (C.A.), Hutcheon J.A., at page 8.

The request was for off-duty interaction. The collective agreement does not address off-duty conduct or off-duty interactions between a teacher and a student. The common law provides, in general terms, an employer may direct and discipline an employee for off-duty conduct that has a nexus to the employment relationship, could be prejudicial to the employer's interests (including its reputation), and constitutes a breach of the employee's good faith obligations:

“An employee's conduct outside the workplace which is likely to be prejudicial to the business of the employer can constitute grounds for summary dismissal. The employer need not prove actual prejudice in order to justify the dismissal. This point was made in the decision of the English Court of Appeal in Pearce v. Foster et al. (1886), 17 Q.B.D. 536 (C.A.). In that case, a long term employee was dismissed without notice for engaging in large-scale stock speculation outside the course of his employment. The Court found that dismissal was justified because the employee's interest conflicted with his employment duties which included giving his employer disinterested advice when consulted about securities.”³³

Where an employee is bound by a code of conduct or ethics, and the employee's behavior constitutes a breach of that code, the employer has authority to intervene.³⁴

Questions as to whether an employee has breached their duty of good faith while off-duty often arise in circumstances where the employee has engaged in off-duty activities that conflict with the interests of the employer. Employee obligations do not cease simply because the workday is over and the employee is off-duty; the employee's obligation to conduct him or herself in a manner that is not contrary to the best interests of their employer continues even while off-duty.

Commission counsel invited submissions on this question from the education authorities, PEITF, and the Office of the Child and Youth Advocate. Counsel posed these questions: (1) Does an education authority, as defined in the **Education Act**, have legal authority to authorize or prohibit a teacher or guidance counsellor from cohabiting with a student in any

³³ *Smith v. Kamloops & District Elizabeth Fry Society*, [1996] 25 B.C.L.R. (3d) 24 (B.C.C.A.), at para 44

³⁴ *Employment Obligations and Confidential Information*, 3rd Ed. (Steele, Thornicroft), September 2015, Ch. 3: The Implied Duties of Good Faith, Loyalty and Fidelity.

circumstances? (2) Does an education authority have a duty to deny a teacher's or guidance counsellor's request to cohabit with a student.

Only the PEITF took advantage of the opportunity to offer submissions. The TF position is that an education authority does not have any such legal authority; and that any such prohibition would constitute an unwarranted and unauthorized intrusion into the personal lives of both the teacher or counsellor and the student. According to the TF, the broad statutory responsibilities conferred on education authorities to ensure safe and effective learning environments and to manage their operations and personnel do not extend to regulation or control of private living arrangements. TF informed us that any attempt by an education authority to impose a blanket prohibition or to establish an approval process concerning cohabitation would represent an unreasonable overreach of its statutory and contractual powers, and would be subject to TF challenge through the established grievance procedure.

I respectfully disagree with the TF submission. Given the entire context: the primary purpose of the school system, the paramount importance of schools being a safe place and of protecting students from risk of harm, the relationship between education authority and counsellor/teacher being one of employment, the assigned role of a counsellor/teacher, various supervisory responsibilities and roles, and the applicable common law and statutory duties, it is difficult to understand: (1) how such a staff member proposal to her employer would not fall within the context of the employment relationship, and (2) how commensurate with its duty of care PSB would not have legal authority to evaluate the proposal and any risks associated with it.

We know that PSB has a duty of care to its students. What is the standard that PSB must meet? Duty of care is a legal obligation imposed on an individual to adhere to a standard of care in performing acts that could foreseeably cause harm to others. A central concept of the law of negligence is that we should be able to predict when our actions might create risks that could cause harm to others. People should not create these risks. If they must create risks, they should adopt preventative measures to diminish the chance of harm to others. This is the underlying philosophy of negligence. The courts hold parties accountable in cases where people have created risks or have not taken measures to prevent risk of harm to others.³⁵

Application of due diligence to its common law and statutory duties to protect students from harm suggests that PSB should have evaluated the request, which contemplated

³⁵ *Education Law in Canada*, supra, page 22.

continuing, unsupervised, active personal involvement between an adult staff member and an adolescent student. Due diligence would have led to a process to make a reasonable assessment of the circumstances, and to a decision to reasonably exercise its authority as employer to evaluate the proposal and any associated risks. In this case, I cannot understand how such an evaluation would not have led to a decision to disallow the proposal.

At the least, an education authority's duty of care would require it to consider whether the proposal has a nexus to the staff member's employment relationship, make inquiries, seek legal and other advice on the scope of its authority, formally address the matter, and apply the applicable standards of professional practice and code of ethics, and its judgment, to the proposal.

The integrity of the school system is an important value that the education authority is required to maintain. In a teacher discipline case, it was held that a finding that staff off-duty conduct was unbecoming may be justified on the basis that the conduct caused harm to the education system. The harm is not necessarily to any student or parent (although such harm may have been caused), but to the integrity of the school system as a whole.³⁶

Three of the subsidiary factors in the SCC instruction in *Bazley* that were entertained in *Gorsline* have application here: (a) *the opportunity to abuse power that the enterprise afforded*: PSB and the principal required Toombs to provide counseling; that was her job. This arrangement afforded her access to the student; (d) *the extent of power conferred on the employee in relation to the victim*: by definition, a power imbalance exists in a counsellor-client relationship, and is amplified when the client is an adolescent; and (e) it was known that the student was vulnerable. In her request Toombs described how it "... *might seem very strange*"; she was trying to avoid a "*dual role*" problem; she highlighted the off-school premises issue "*I get it that the boundary is to leave the kids at school ...*."

We interviewed everyone in administration with the school, PSB, and who was involved by Toombs' request and everyone at CPS who had related involvement. The salient points disclosed during the interviews are mentioned earlier in this report.

People in administration had information suggesting that that the student's home life was problematic and possibly dangerous. They knew that Toombs had a counselling relationship with the student. They knew Child Protection had been contacted and there was an open

³⁶ *Kempling v. British Columbia College of Teachers* (2005 BCCA 327) at para 43.

investigation file. Some held concerns that appropriate boundaries of the counsellor-student relationship were not maintained. Concerns were either not expressed fully or sufficiently, or at all. Some had concerns about compliance with professional ethical standards and protocols, but the proposal was not subjected to scrutiny. Legal or other advice was not sought. Other than obtaining a conflict-of-interest declaration, which HR considered inapplicable, no actions were taken. No risk assessment was undertaken. No other options were considered, avenues explored, concerns examined. No decision was made.

There had been concerns about Toombs' relationship with the student, and then regarding her proposal for the living arrangement. But regarding neither situation did anyone in administration intervene effectively or speak up decisively and clearly in fulfillment of their supervisory or administrative role. In response to the request, no one initiated any institutional process to subject the request to proper inquiry and evaluation. Generally, people in administration adopted a view that their own role was limited and that it was not their call to make, that there was no policy and accordingly no direction on how or whether to intervene, that if any decision was to be made this fell to another PSB division/administrator, or that administration did not have authority to approve or deny the proposed arrangement.

Administration did not submit the matter to sufficient attention, scrutiny, or assessment of risk. They did not exercise diligence in determining how PSB should handle the situation, did not make appropriate inquiries to obtain information needed to make an informed decision, and did not subject Toombs and her request to an effective evaluation process. In circumstances where a student's safety was at issue and it was acknowledged there were red flags, those in authority either found it was not their call to make or that PSB did not have authority. None of the administrators involved alerted the PSB Director to the request or advised they were experiencing a dilemma about how to address it.

The lack of inquiry is amplified in significance when one considers ethical obligations of members of the counselling profession, and the employer's management authority to supervise and direct its employees. The Mental Health Lead told us that school counsellors are expected to follow the Standards of Practice and Code of Ethics adopted by the Canadian Counselling and Psychotherapy Association.³⁷ However, school counsellors are

³⁷ The Standards of Practice and Code of Ethics appear to speak directly to the issue. They appear to speak directly to the issue. See in particular Standards of Practice A4 and B8. See also the Code of Ethics A4, B5, B6, B11.

not required to maintain membership in the Association. Regardless, this advice creates a reasonable presumption that if the rules are expected to be followed, they will be followed, applied, and monitored by a school counsellor's employer, and that counsellors and their supervisors are or should be accountable. However, it is unclear who, if anyone, at PSB, is tasked with monitoring school counsellors for professional ethical compliance with the applicable standards of practice and code of ethics.

In the absence of an existing policy to govern handling of an unusual or unprecedented staff request, the administration still ought to have conducted due diligence. PSB should have developed an institutional framework for evaluation and decision-making, and then applied that framework, employing the requisite wisdom, courage, and effective decision making to enable designate administrators as applicable to contribute, speak and act.

Findings regarding handling of the Roger M'Bahia complaint

I find that school administration handled the complaints appropriately in accordance with their legal obligations.

There is a collateral matter that invites comment. M'Bahia was a new teacher in the CSLF school system. CSLF allowed him to commence teaching before CSLF had received confirmation of his criminal record check and certification. When the incidents occurred, M'Bahia's application for a criminal record check and teacher certification were still being processed. This situation informs us that a prerequisite was bypassed, and about a systemic challenge and vulnerability. This situation was a product of extenuating circumstances, not of delay or disorganization. The sequence of events exposes both a compliance issue and an administrative challenge.

In the French language school system, teachers must be francophone or French-speaking, and so recruitment is a perennial challenge. For this school year CSLF had filled all positions, and then in the last days before the start of the new school year three positions became vacant. Administration had to scramble. M'Bahia was on a reserve list following the initial selection process. An incumbent teacher who knew M'Bahia vouched for him being a good teacher and encouraged administration to give his application further consideration. CSLF HR and school administration then conducted a second interview online. Being satisfied with his suitability, they hired him. Responding to the imperative of staffing all classrooms, administration provided M'Bahia with new-teacher orientation and then assigned him to a class, starting September 9th. CSLF, but not school administration, was

aware that his CRC and certification were incomplete – that they were in progress but pending. His criminal record check and vulnerable sector check came in negative (clean) on September 12th. When the incidents occurred, certification was still pending. The timing for processing certification was within the norm; there is always a lot of applications to process at this time of year.

The issue raised is that administration bypassed this ***Education Act*** requirement:

“S.67 Teacher’s license

(1) An education authority shall not employ a person as a teacher unless the person holds a teacher’s license.”

CSLF permitted M’Bahia to commence teaching a class of students without having completed the prerequisite CRC and teacher certification.

During our investigation, administration was forthcoming, candid and contrite. They regretted their decision, acknowledged remorse for not following policy and readily distinguished explanation from excuse. Their self-instruction now is to always fully follow policy despite the predictability of reoccurrence of the vacant teaching position issue.

This decision was made in the context of a severe recruitment challenge; with the alternative being to have no teacher for the classroom. In my view, a constructive response would prioritize consideration of the system issue. In this case, CSLF HR and the school administration had carried out all the usual checks on M’Bahia’s background, qualifications and references. The challenge of a teacherless classroom was clear and present. School administration can sometimes cover off vacancies through goodwill of other teachers in the school or good luck. However, this is a limited option due to provisions of the applicable collective agreement that preclude calling upon other teachers to cover the classroom of students. The option of volunteers or assistants is not reliable. At the root of the issue is the reality of a recruitment challenge. In CSLF’s experience, they and other Canadian jurisdictions, including Quebec, compete for scarce talent of French-speaking teachers. The recruitment pool is now overseas – France, Morocco, Belgium. School administration expressed optimism for the future. UPEI Education department is now graduating cohorts of French-speaking teachers.

Evaluation of this occurrence could involve both accountability and empathy. I believe fairness involves due consideration of the milieu in which the decision to take a chance occurred. An unqualified statement that policy must be airtight and applied without

exception may not be practical. It would seem that a workable approach should take into account the potential consequences of prohibiting flexibility and discretion.

Overall observations and findings

Regarding the **Education Act** review overall, I find:

- a) Under the Act, the education authorities are responsible for operation of schools. This responsibility includes recruitment, employment and supervision of school staff, and requires the education authorities to make and administer policies and procedures regarding student safety in schools, including prevention of risk and intervention with staff when sexual misconduct occurs. The Act confers on the Minister ultimate responsibility for administration of the Act and leadership of the education system; however, the statutory model for delivery of services is bifurcated, and specifically assigns responsibility for administration of schools, staffing, and making related policies to the education authorities.
- b) In very general terms, the education authorities are aware of their responsibility and role and are attentive to student safety in schools. They have policies, processes and procedures that address the issues of risk and student safety. This framework is designed to create effective barriers to risk-associated adults entering the school system, prevent occurrences through monitoring and education for awareness, provide direction for handling complaints and incidents, and provide training regarding prevention and handling
- c) The education authorities and schools administration are mostly comprised of dedicated professionals who operate in good faith, care deeply about student safety, and prioritize management of risk. Leadership acknowledges and buys in to the proposition that staff sexual misconduct is a real issue in society and the community, and that (as elsewhere) schools are a target. We did not see indications of administrators or teachers being uninformed, in denial, or of bad faith. It appears that schools and PSB administration treated complaints brought forward during 2023-2025 professionally, with priority, and at face value. We saw no evidence of mala fides or bad faith, and no overt favouritism to staff member over complainant during complaints administration.

- d) The Craswell and Toombs complaints and incidents reveal some shortcomings and gaps. There are issues to be addressed in order to meet the objective of assuring schools are safe places. Fortunately, the education authorities are developing programs to respond to these issues. Most shortcomings identified by the investigation of the Craswell complaints are currently being addressed.

In the time leading up to this review, the notion of education system being “broken” was introduced into the public discourse. That proposition was not borne out to us. Assertions that schools are unsafe places appear as unsubstantiated. The wide array of information we received does not support a spectre of a ‘*crisis*’. We did not hear that staff sexual misconduct is rampant or that its incidence has spiked. Such fears should be allayed. Acknowledging the ideal that one incident is too many and the very serious impact of abuse, our review of incidents revealed that in context of the ongoing risk the number of reported complaints and incidents is at an unsurprising level. Incidents are relatively infrequent. The Island experience during the study period 2023-2025 is not worse or better than historic experience locally or the experience elsewhere in Canada. The kind of incidents reported were mostly within the classification of early-stage, inappropriate conduct. Very few were explicitly sexual. Reported incidents and events have revealed some shortcomings; however, most gaps and vulnerabilities revealed can be mitigated.

That said, the review informs us that the system in place for keeping students safe would benefit from strengthening some existing processes and practices and adding new measures to: (i) better understand and prevent sources of risk; (ii) track all complaints and incidents; and (iii) furnish PSB with resources commensurate its assigned role.

Criminal record checks and vulnerable sector checks are managed by external agencies and are beyond direct control of the education authorities.

A framework of legislation, policies and procedures exists. The legislative framework is comprehensive and complete in scope. It creates a rational distribution of responsibilities that reflects the legislative policy choice of school board administration of schools including staffing. While the **Act** makes student safety in schools a system-wide responsibility, policy and operational responsibility for student safety is assigned to the education authorities. The education authorities have relevant policies for the purpose of keeping students from the risk of staff sexual misconduct. The relevant policies are substantial. We did not find any wholesale policy void or corresponding absence of awareness of risk.

The safety system has barriers to keep potential perpetrators from entering the school system, provisions for prevention, training, and for handling complaints and incidents. However, we observed this shortcoming: The scope of risk-creating conduct that is managed and tracked is too narrow. In practice, the focus is on whether the transgression is “*sexual misconduct*”. There is insufficient attention to the risk associated with early-stage inappropriate conduct that is not identifiable as sexual in nature. Focusing on whether conduct is reportable to authorities leaves a gap. Conduct below the reporting threshold is where most concerns are going to come to the employer’s attention. Not reviewing such conduct misses a key opportunity for identification, prevention, intervention, and tracking.

It can be expected that public discussion would judge the education authorities on how they handle the most difficult cases that confront them. In this review, I find that while administration is well-intentioned and for the most part attuned and attentive to the risk in issue, in some instances they fell short at the operations level. I believe that is a proportionate measure for fair comment. I see no place for sometimes-heard attribution of administration bad faith or suggestion that staff misconduct has spiked. Embellishment is unhelpful and corrosive; as is a standard of zero-tolerance. Vigilant pursuit of effective mitigation is the fair expectation. I believe pursuit of the end goal of student safety would be served best by pronouncements being proportionate.

A ‘one incident is too many’ standard, while laudable, is an unrealistic expectation. Keeping schools safe from predatory adults who target children being an ongoing concern, there is a corresponding obligation for diligence by school administration. Safety of students is a responsibility shared community-wide.

I find that the threshold for duty to report sexual abuse/staff sexual misconduct to child protection: “*reasonable grounds to suspect*” is appropriate. It is not a source of under-reporting. This standard is consistent with provisions in other jurisdictions and with the balance advised by case law. The standard is child-focused, objective, and understandable.

I find that the Sexual Abuse Protocol direction stating duty to report based on “*mere suspicion*” is not consistent with the statutory standard. The Protocol statement exceeds the statutory standard, by excluding the objective test of “*reasonableness*”. I recommend the protocol be revisited and made consistent or reconciled with the standard “*reasonable grounds to suspect*”.

Narrow focus on reporting incidents to authorities misses the mark. The definition of “sexual misconduct” is confusing; it does not distinguish between a criminal offence/child protection matter and sanctionable employment misconduct.

An underlying theme emerged that reveals a source of gaps. PSB would benefit from a more definitive and coordinated understanding and application of roles and responsibilities. This theme showed up across the spectrum – maintenance of effective barriers, definition and coverage of the scope of behaviour that introduces risk, prevention, education and training for understanding sources of risk, reporting incidents, handling complaints and incidents, and tracking and monitoring incidents. The issue is systemic; it is not fairly attributable to any single leader or employee. The theme played out repeatedly during the interviews. Well-intentioned administrators would see what happened and have an appreciation of potential ramifications and risks, but due to perceived systemic limitations they would miss the opportunity or obligation to ensure an appropriate system response is provided.

This theme can be seen in the case studies. In Craswell, this limitation contributed to (i) a system deficiency in clearly understanding the broad parameters of inappropriate behaviour to be prevented, investigated, and tracked; (ii) insufficiently trained HR resources to effectively manage the incident investigation and intervention process, (iii) absence of a functioning central tracking system. In Toombs, this limitation contributed to (i) administration not fully perceiving staff professional boundary violations and not intervening effectively and (ii) PSB not developing an effective response and intervention to a school counsellor’s request to have her student live in her home.

There are basically two kinds of risk to be addressed. One is the concerning conduct that led this review, the predator risk – the wolf in sheep’s clothing – who targets weakness to serve their own needs. For this, the education authorities have policies, procedures and processes that pose barriers, require reporting and direct intervention; however, there are weaknesses – at each stage – that would benefit from shoring up and additional measures.

The second kind of risk is that of a staff person who inappropriately forms an attachment with a student, crosses boundaries, and bypasses principles of professional ethics. Persistent boundary-crossing requires a serious and formal response from the education system. Our review suggests that the education system – or, more specifically, the PSB – is not yet attuned to its deficiencies in this regard.

We attribute this phenomenon to various sources. A primary one is that PSB HR administration is under-resourced, and thereby disabled from maintaining an effective

strategic and tactical approach to risk management and accountability. Well-intentioned leaders and managers acknowledge that they necessarily operate transactionally due to chronic overload. When incidents occur, staff sometimes see '*red flags*', and with best intentions employ their limited tools and time. Day-to-day administration generally functions quite well, but sometimes something gets past them. The system cannot always be counted on to respond well to difficult or unprecedented challenges. The issue is that the system does not have sufficient capacity to consistently assure and facilitate effective response.

This is more than the normal lament. The anecdotal experience of investigated incidents combined with comparative empirical data demonstrates that the PSB HR resource is necessarily transactional and without capacity to be proactive and strategic. It is not realistic to expect the few overworked personnel in HR management to keep everything in their memory bank. Unless there is an effective institutional response – read funding and staffing – it is predictable that even with introduction of other measures the risk of incidents akin to Craswell breaching system defences will remain.

The Office of Director of PSB is under-resourced. We interviewed three people who served as superintendent, three who have served as board of trustee chair, three who were or had been deputy minister of the Department and three who have served as Minister. This exercise paints a picture: PSB is a relatively big school board that is constituted as a Crown corporation. Yet it is under-resourced and does not have sufficient financial autonomy to function optimally and effectively. As constituted and mandated, PSB is significantly under-resourced. This restricts corporate and staff ability to manage and mitigate the attendant risks. The Office of Director should be strengthened by expanding resources, by confirming the position of Assistant Director and aligning the necessary and aggregate skill-set with the assigned executive functions of strategy, corporate, and communications.

The education authorities and the Department have initiated meaningful and appropriate ameliorative measures. One notable is PSB's proposed new sexual misconduct policy, which they have been developing in the wake of the May 2025 amendment to the **Act**. This policy focuses on prevention and handling and appears to be foundational and a comprehensive response to sexual misconduct within the Island school environment.

*Summary of recommendations regarding handling
of complaints, incidents and events*

Following is a synopsis of recommendations. This reflects my findings and conclusions regarding gaps and vulnerabilities. These recommendations are discussed and explained throughout the report on a topic-by-topic basis. This correlation is based on function.

I include this qualification. Having heard submissions from many people – who are well-informed regarding various matters at hand – I am confident that the review process has furnished me with an accurate picture of gaps and vulnerabilities and a reliable basis upon which to formulate potential ameliorative measures. However, I am cautious that my expertise does not permit me to extend beyond making fairly general recommendations to providing definitive and specific advice on particular measures. The Island education system is a complex operation. I am respectful that my recommendations should remain general, as more particular recommendations could have impacts and potential consequences that are unknowable to me; most would have cost implications. Accordingly, in presenting these recommendations I am deferential regarding particular content and implementation. This list is intended to provide a series of prompts that would refer policy makers to the relevant matters for consideration and action.

Recruitment and hiring – harden barriers for entry into education system:

- a) Upon hiring or reentry into the system, require gaps be filled; employ diligent evaluation, including follow up on career gaps; substantiate references; take a critical, thorough approach.
- b) Pursue, lobby police and federal authorities for complete and reliable information on criminal record checks (CRC) and vulnerable safety checks (VSC) regarding (i) international incidents and (ii) criminal charges that did not result in conviction.
- c) Do a scan of other jurisdictions for additional safeguards for background checks beyond VSC (in progress).
- d) Review the substitute teacher annual reactivation process and requirements.
- e) Require all substitute teacher assignments be booked through AESOP (or similar system).

Prevention – being the best defence, inform and educate:

- a) Enhance education among administration and school staff regarding presence of risk, sources of risk, and early-stage risk-associated inappropriate conduct; retain expertise of C3P, or equivalent: *Commit to Kids, Kids in the Know*.
- b) Develop a sexual misconduct policy and a code of conduct. Set appropriate professional boundaries: a code would ensure all interactions are goal-oriented and in response to students’ developmental needs; and advise staff and students as to expectations. Educate all staff and students regarding its contents, and make policy and code available to parents.
- c) Improve training, mentoring, and support for school administrators.
- d) Employ resources that empower educators to promote a positive school culture among staff and students, and among students.
- e) Enhance trust between the community and the stewards of the education system.
- f) Expand the focus on risk-associated behavior to include early-stage risk-associated behaviour/boundary transgressions.
- g) Address sexual misconduct and boundary transgressions as a topic in teacher education and as an important professional development topic for teachers and administrators. Collaborate with university education programs to expand related education on staff sexual misconduct and boundary transgressions.

Define key terms: “sexual misconduct”; “inappropriate conduct”; “reasonable grounds to suspect”; “abuse”. Facilitate common understanding and application throughout education system and among community agents i.e. CPS, police, public officials.

Clarify and align directions on when to report a complaint to authorities:

- a) collaborate with other public agencies, including police and CPS, to obtain a common understanding of:

- i. Distinction between suspected sexual misconduct and early-stage inappropriate, unprofessional conduct that is not reportable but should be addressed by employer.
 - ii. The threshold for duty to report “*reasonable grounds to suspect*” remains appropriate.
- b) Explain/communicate the threshold for reporting a complaint or incident to the police.
 - c) Streamline directions for reporting to appropriate authority: whether incident involves a parent and should be reported to CPS, or does not involve a parent and should be reported to police. Provide directions on when there is overlap. Simplify reporting so that reporter makes only one call and then authorities have carriage of the report/complaint.
 - d) Revisit Child Sexual Abuse Protocol. Make it conform with applicable legislation and reporting standard “*reasonable grounds to suspect*”. Eliminate divergent conceptions of “*child in need of protection*”.

Employer (education authority) operating system for reporting staff misconduct and for administration handling of complaints and incidents:

- a) Provide clear direction on when and how a person should bring a complaint.
- b) Provide clear direction on how staff and administration should respond to a complaint.
- c) Enhance staff training to gain better understanding of full spectrum of risk-associated behaviour and effective response.
- d) Create a complaint handling structure in which administration appropriately treats, records, and tracks all complaints and incidents.
- e) Review protocols for (i) the handling of school administration interviews with students, (ii) education authority administration interviews and investigations with staff, and (iii) for reporting to authorities.
- f) Individual administrators should always follow relevant directions.

Centralized tracking system for all complaints and incidents of staff sexual misconduct and inappropriate conduct:

- a) Develop a central system that would compile confidential information and share information confidentially within administration Island-wide.
- b) Managing information is paramount. For continuity, competence and confidence, house tracking system within education authority, administer by small, nimble, informed (three person) triage team that includes representation from employer, department and professional person who would provide relevant advice, and keep Student Services involved/informed.
- c) Design tracking system for individual tracking plus cumulative system-wide experience for categories of complaints and incidents sufficient to enable fulfillment of statutory duty for periodic reporting (2025 amendment to **Act**), which would provide internal information for enhancing prevention measures).
- d) Promote a “*buy-in*” culture.
- e) Program substitute teacher booking system (AESOP or alternate) to show/ share system-wide with other schools circumstances of a block by a principal of another school.
- f) Track “near misses”: something that occurs that did not result in harm, but should be a learned experience.

PSB resources:

- a) Enhance HR staffing to provide HR function with capacity to fulfill its assigned role and operate strategically.
- b) Review Office of the PSB Director for the purpose of identifying and providing appropriate resources. Align qualifications for Director position to primary functions assigned to this leadership position: corporate, strategic, communications, executive management skills, expertise in public policy. Confirm Assistant Director position; if have both positions, have one with an education background and the other position with leadership/executive management skills.

- c) Obtain access to Government legal services, for difficult situations.
- d) Create permanent in-office public affairs/communications capacity when exceptional situations involving complex challenges arise, retain professional advice and assistance.

Role of school administrators (principals):

- a) Review and clarify scope and limitation of principals' management and supervisory responsibilities; (PSB is said to be unique because their principals and vice-principals perform some HR issues).
- b) Restore ASL primary purpose of serving as support to school administration.
- c) Address school supervision conflict-of-interest issue. School administrators are responsible for their school. They are managers and supervisors. Teachers are employees. This presents a challenge both in perception (reasonable apprehension) and in practice. School administrators and teachers should not be in the same bargaining unit.
- d) Prepare prospective and new vice- principals for the expectation that they are on a leadership pathway; provide mentorship and assist in skills development.

Ensure PSB decision-making operates in difficult situations (PSB handling of Toombs request:

- a) Create a policy: (i) to reflect employer authority to intervene in a staff request for off-duty contact with a student that has risk implications for student safety, and (ii) to address how to respond to an unusual, unprecedented situation where there is no existing policy.
- b) Assign responsibility within administration in a clear manner that ensures effective decision making.
- c) Develop a systemic approach to risk management, including clear lines of responsibility and accountability regarding supervision among supervisors and advisors.

Education authority duty and authority to intervene on staff request for off-duty contact with student:

- a) Develop a policy or protocol to address staff off-duty conduct that is within the nexus of employment obligations.
- b) Develop a protocol for effective handling of staff requests or proposals for extra-curricular interaction with students that create foreseeable risk to student safety.
- c) Require school counsellors to maintain membership in good standing in an accredited professional association e.g. the Canadian Counselling and Psychotherapy Association.
- d) Upon hiring, and periodically thereafter, require school counsellors to sign a declaration to confirm that they have read (or re-read), understand, and will abide by applicable professional standards and code.
- e) Require administrators who supervise school counsellors to participate in ongoing training and education on the applicable standards of practice and code of ethics.
- f) Adopt policies respecting monitoring, application, and enforcement of applicable standards of practice and code of ethics.

School design: address safety issues:

- a) school layout architecture – build new schools for child protection e.g. bathrooms are scariest place for students; classroom design: open doors, curtains up, etc.
- b) Consider on-site safety officers.³⁸

Communications between government agencies that provide services for children:

- a) Establish protocol and practice between education system and child protection system that is designed to assure due attention to risks and prevent occurrence of gaps.

³⁸ We thank PEERS Alliance and the PEI Homes and School Association for this insightful recommendation.

Chapter 8

Education Act framework for delivery of services:

PSB communications

Current model of administration

The governing legislation creates a distribution of roles and responsibilities. Under the statutory design, school operations, including employment of instructional staff, is assigned to the education authorities. They are responsible for human resources, staffing/employment decisions, facilities/maintenance, transportation, student services, operational policies, and occupational health and safety. Their role includes making related policies and procedures and administration of complaints and incidents of staff sexual misconduct.

The **Act** makes several references to the responsibility of teachers and principals for the safety of children. All school staff have a duty to report under section 82 of the **Act** and under sections 3 and 12 of the **Child, Youth and Family Services Act**.

None of the Department, Registrar or Minister has a direct role in the employment of teachers. But the Registrar, who is appointed by the Minister, is responsible for certification, and so the Registrar's decisions have a critical impact on a teacher's employability, as one cannot work as a teacher in PEI without an active teacher's license. The **Education Act** outlines the corresponding responsibilities of the Registrar in relation to misconduct of a staff member toward a student. One of the Minister's responsibilities, which is performed by the Registrar, is the issuance of teacher licenses and temporary permits for substitutes. Regarding substitute teachers, the Registrar is responsible for teacher licensing and permits. When a person applies for a teacher's license, the Registrar determines whether the applicant meets the standards and criteria set out in the regulations for a class or category of teacher's license, assigns a qualification level and issues a teacher's license to the applicant. The Registrar has particular discretion regarding issues of student safety, and has reviewable authority to suspend or revoke a teacher's license for cause.

The **Act** stipulates that education authority responsibilities are to be performed through the Director. The Director is to provide supervision and management of all employees, including teachers and substitutes, be responsible for the operation of the schools in the system, and fulfil the other responsibilities set out in the **Act** and regulations or assigned by the members

of the education authority. The Director carries out their role on the direction of the members of the education authority, meaning the board of trustees.

When an education authority suspends or terminates the employment of a staff member, it is required to notify the Registrar in writing with reasons within 15 days. This calls for a written report to the Registrar respecting the resignation, retirement or absence on leave or for other reason of a teacher if, in the opinion of the education authority, this may be related to the suitability of the teacher to hold a teacher's license, including concerns about the safety of children.

When the Registrar is notified by any means of a complaint against a teacher, which would include a complaint of sexual misconduct, the Registrar is authorized to seek additional information, refer the case to the Review Committee for investigation, and immediately suspend a teacher's license for up to 24 months.

Under the **Act**, collective agreements and labour laws, sexual misconduct may result in a range of disciplinary actions.

Models of administration leading up to current model

School consolidation occurred more than 50 years ago. This ended community-based teaching and schools. Thereafter, school administration was carried out through school boards that were established to serve regions within the province. Initially and for many years, there were five separate boards. The advent of Charter-based French language education introduced a French language school board. The regional school boards then became English language school boards. Consolidation of administration occurred over time – first by reduction from five boards to the Eastern and Western boards and then by further consolidation into a single Island-wide English language school board.

Around 2012, government responded to concerns of dysfunction by disbanding the elected English language school board of trustees and substituting government appointed administration.

In 2016, government introduced a new model for English public school administration. The proclaimed objective was to replace the 30-year-old **School Act** with a new **Education Act** that would fully and coherently support the Education Governance Commission recommendation for a system-wide focus on student learning.

The new legislation created the *Public Schools Branch of the Department of Education, Early Learning and Culture*. This entity became known by abbreviated terms “*the Public Schools Branch*” or “*PSB*.” The PSB was to be led by a Director, who would carry out the role previously called “*superintendent*” and report to the Deputy Minister. The stated objective was “*so that school activities are in alignment with the initiatives taken by the Department to support educators and promote student achievement.*”

The new design intended to correct system issues related to alignment and accountability and provide clear direction, by requiring that over a period of time, all English Language School Board (then rebranded as PSB) functions would be integrated into the Department of Education, Early Learning and Culture. The roles and responsibilities of the “*PSB branch of the Department*” would be 1) employ teachers and school staff and 2) oversee school transportation and school maintenance in English public schools. The French language school administration would remain unchanged and the Commission scolaire de langue française would operate as before.³⁹

In 2021, the education ministry held public consultations. Government then enacted the **Act** to bring back an elected English language school board. The English Language School Board constituted under previous legislation was continued as a body corporate under a new name “*Public Schools Branch*” to administer the Island-wide English language school system. Both CSLF and PSB would have a board of trustees whose members are elected or appointed to conduct their affairs.

The **Act** directs the respective boards of trustees to appoint a Director who shall be the chief operating officer of the education authority. The **Act** assigns to the Director, subject to the direction of the board of trustees, the general supervision and management of all PSB employees, responsibility for operation of schools in the system and “*other responsibilities set out in this Act, in the regulations or assigned by the members of the education authority.*”

Accordingly, under the current legislative arrangement the Director is to report to the board as trustees, and also has reporting obligations to the Department and the Minister.

³⁹ New Education Act, April 2016 Hon. Doug Currie, Minister; Preliminary Communications Plan for Executive Council and Committees. Education Transition – Proclamation of Education Act, Province of Prince Edward Island.

The PSB trustees election held in 2022 was the first since 2008. The fledgling board is a hybrid model, with seven election zones, and eight members elected and three appointed, including one put forward by the Epekwitk Assembly of Councils.

PSB communications issues

During the interviews, the Commission received information suggesting PSB is experiencing challenges in managing communications with the Department. Concerns were expressed that information regarding complaints and incidents that should be provided by PSB to the Department, Registrar and Minister is sometimes not provided or is deficient and delayed. We explored the circumstances and explanations. We report these observations and offer recommendations for amelioration measures.

Employment of school staff and staff supervision are education authority responsibilities. Non-reporting or delays and inadequate in reporting of complaints and incidents to the Department (Registrar, Deputy, Minister) would leave Department administration and ministry uninformed and unable to perform their respective duties – management of teacher certification, risk management, and interfacing within government and with the legislature and with the public.

Some challenges to effective communication and accountability are inherent in the statutory architecture of the Island education system. The **Act** apportions responsibility for management and delivery of the public school's education program among at least four entities – schools administration, education authorities, boards of trustees, and the Department and ministry. In this arrangement, there is naturally some overlap and exposure to gaps. There are undoubtedly countless reasons for this public and legislative choice of design of the education system, and this review would not presume to question those greater policy choices. I can though, within the scope of review, consider the challenges associated with system design regarding the particular concern of student safety in schools.

There has been some realization of the risk of miscommunication and lack of accountability. PSB failed to report to the Department in accordance with the **Act** about the complaints, incidents and events in Craswell and Toombs. This impeded the Registrar, Deputy Minister and Risk Management.

Particularly notable was PSB non-compliance with reporting requirements and expectations from mid-August to early-November 2024. During that time period, PSB did not report that

there had been a previous Craswell allegation at West Kent. By August 2024, both the PSB Director and the HR Director were aware that Craswell was alleged to have inappropriately touched students at both Glen Stewart and West Kent. We were informed that due to personal circumstances, the PSB Director considered the HR Director to be prime for addressing Craswell matters with the Department and Risk Management. In any event, and for reasons we cannot explain, no one from PSB alerted the Department to the West Kent complaint in August 2024; and this state of affairs persisted through autumn. In November, the Department learned about the West Kent incident through the criminal justice system. We are not in a position to find this omission was intentional; however, it remains that the HR Director and PSB Director knew about the West Kent complaint in August when the Department asked PSB for information as to all Craswell incidents or complaints, and they did not inform the Department until November. In November, PSB informed the Department only verbally. On November 19th, the Department formally reminded PSB of the **Act** requirements and of PSB's non-compliance and required rectification. Meetings and calls occurred; PSB provided a compliance letter only on April 1, 2025.

The failure to provide timely information was explained to us as resulting from inadvertence. The delay in complying with the Department notice requiring response in writing was explained as the PSB written response being the end product of many meetings and discussions. While the explanation given for not providing the information is not satisfactory, I do not find the omission was deliberate or really shown to have been motivated by any purpose. The delay in rectifying by responding in writing speaks for itself. In any event, this demonstrates a gap that creates opportunity for important matters to be missed, and inhibits the Registrar, Deputy Minister and Minister from performing their functions.

From the interview process, it can be seen that improved communications between PSB and the Department would be beneficial. Clarification of and adherence to roles, and fulfillment of reporting responsibilities are recommended topics to be addressed. Education administration under the present statutory arrangement would benefit from better liaison between PSB and Department for ongoing and consistent communication from the PSB Trustees to the Department. These measures would assist:

1. The Department have standing ex-officio representation on the board of trustees;
2. Clarity requirements and expectations for education authorities reporting to the Registrar, Department and Minister;

3. The PSB board model being new, the board is fledgling. If it is to succeed, the trustees should receive better training and support and better understanding of their governance role; and
4. In order to operate optimally – strategically and effectively – the PSB office needs to be adequately structured and securely funded, commensurate with its assigned role of being a large school board that is the employer and supervisor of all school staff.

Recommendations regarding PSB communications and accountability

If the bifurcated model of school administration is to be continued (whether it should be is a political matter beyond the scope of this review) then additional measures for better communication and accountability between PSB and the Department would be beneficial. These challenges present real risks.

Better communications and accountability:

- a) Create a liaison on the PSB Board of Trustees for the Department to have permanent ex officio representation. This would facilitate (i) ongoing Department knowledge of what is happening in school operations, and (ii) opportunity for Minister input into PSB administration where appropriate. The public would benefit, as consistent and continuous communication would assist the Minister in performing the apex responsibility for administration under the **Act**.
- b) Being new, the PSB board model is fledgling. If the board of trustees model is valued and to be continued and succeed, provide training and resources to the board to clarify trustees duties and limitations and assist trustees in carrying out their mandate effectively.
- c) Clarify protocols on requirements and expectations for education authority reporting to the Registrar, Department and Minister.
- d) PSB to comply with statutory reporting requirements to Registrar and Minister; expand scope of education authority reporting to Registrar: any incident that may involve an issue of certification – any time a teacher is taken out of the classroom, related complaint or incident should be reported.
- e) Provide appropriate resources the Office of the PSB Director (1) sufficient to carry out the strategic and communications leadership of a large school board that is a Crown

corporation; and (2) to align the necessary and aggregate skill-set with the strategic, executive, and communications functions to be fulfilled.

- f) Provide PSB with its own dedicated communications resource (rather than a loaned government resource).
- g) Provide PSB with access to government legal services, for difficult situations.

Names – communicate accurately with the public regarding assigned roles and functions. Some names currently employed cause confusion, are superseded by events and no longer comport with the statutory arrangement, and/or are redundant:

- a) PSB is not a branch of the Department, and its functions are not subsumed within the Department; it is a Crown corporation, a school board; under the **Act**, an education authority is a school board;
- b) the name “education authority” appears as surplusage. During the review process, one could observe many participants performing mental gymnastics in converting “school board” to “education authority”. Ideally, a name should reflect function and comport with common understanding and terminology in other jurisdictions;
- c) PSB Director has six directors who report to her: reduce confusion; align title of PSB leader with the assigned function being performed, ie. Superintendent, COO, CEO (consider consulting Public Service Commission).

Communications with parents and public:

- a) Strive for effective and timely communications with parents, announcements in schools. This is related to us as a systems issue, not person-specific.
 - b) When issues that cause serious public and/or parent concern arise and involve specialized considerations, ensure prompt and informed responses. To facilitate this, when necessary, employ appropriate resources.
 - c) Have a plan: a way to assure the public that the Island education system, parents and the public can work well together; for the public to understand the reason for decisions.
-