ADMINISTRATIVE INVENTORIES:
WHAT DID THEY SAY?
(Detailed Report)

JUNE 27, 1997

PREPARED FOR:
ROYAL COMMISSION ON WORKERS’ COMPENSATION
IN BRITISH COLUMBIA
VANCOUVER, BC
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CHAPTER ONE:
WHAT IS AN ADMINISTRATIVE INVENTORY?

1.1 THE ROYAL COMMISSION NEEDS CREDIBLE ANSWERS TO SOME TOUGH QUESTIONS ABOUT THE SYSTEM’S PERFORMANCE

The Royal Commission on Workers’ Compensation in BC has been asked to examine a diverse array of complex, high profile, emotionally-charged issues over a short period of time. To complement and support their own research and fact-gathering activities, they are naturally interested in receiving credible information from other objective sources on the performance of the workers’ compensation system in BC:

- **Current Performance:** How well is BC’s workers’ compensation system performing? Is that performance getting worse or better over time? How does that performance compare to other jurisdictions? How significant are the gaps, if any?

- **Future Performance:** What principles or standards should guide the design of any future system? What changes, if any, should be made to the system to improve its performance? Why?

1.2 THE ADMINISTRATIVE INVENTORIES REPRESENT A POSSIBLE SOURCE OF ANSWERS TO THOSE QUESTIONS

In 1991 the Chair of the newly-instituted Board of Governors for the WCB wished to have a thorough description of the organization which he and his Board colleagues were expected to govern. Even more importantly, and in his words, he also wanted a means of reviewing the Board’s performance which would:

- create a baseline against which the future performance of the Governors and the new legislative structure can be assessed; and,

- have an expert view of the Board based on credible and sound information … [to] identify what are real issues requiring attention within the system and to assist in setting priorities.¹

The Chair was informed about a “tool”, called an Administrative Inventory, which had been developed in 1987 by the not-for-profit Workers Compensation Research Institute (WCRI) of Cambridge, Massachusetts. At that time, WCRI had conducted Administrative Inventories in five different American states. According to WCRI, the purpose of its series of reports is to provide a thorough description of the workers’ compensation system in a particular jurisdiction so that all participants (employers, injured workers, agency managers, legislators, etc.):

- Have a better understanding of the key features of their own system.

- Can make informed comparisons between their system and others.

¹ These two goals are taken from the Chair’s Preface to the first Administrative Inventory which was published in 1991. That first Inventory was meant to be the “model” for all subsequent Inventories of the WCB.
• Can undertake informed policy discussions.

Although the focus of WCRI’s Administrative Inventory Model is on describing, not evaluating, the system, the WCB Chair decided in 1991 to use the Administrative Inventory Model to describe and assess the WCB. His intention was to have the same reviewers return four years later to conduct a follow-up study to measure the performance of the Governors and of the new legislative structure.

With that objective in mind, and at a direct, out-of-pocket cost of more than $500,000, the Chair commissioned a series of Administrative Inventories. (Because of a number of factors, WCRI itself was unable to conduct the reviews. Instead, the Chair contracted with other Canadian and American organizations to perform the Administrative Inventories.) Exhibit 1.1 identifies the seven different Inventories that were completed for the WCB, during the period 1991 to 1997, pointing out which of the system’s core functions were addressed; Exhibit 1.2 defines which organizational units were included in the reviews. (A separate report from us identifies some of the gaps in the Inventories’ coverage of the overall system.)

1.3 OUR REPORT SUMMARIZES THE INVENTORIES’ FINDINGS

The Inventories have covered many key aspects of the workers’ compensation system in BC. They were often conducted by acknowledged experts in such issues. The reports therefore represent a potentially-valuable source of descriptive information, conclusions, opinions and recommendations about the BC workers’ compensation system.

The purpose of this document is to summarize the key findings of the Inventories as input to the Royal Commission’s own deliberations. In order to prepare such a summary, we used this approach:

• Assessment of the Inventories’ Methodologies: We assessed the methodologies used by the Inventories against a set of generally-accepted criteria for conducting performance reviews. The soundness of each such methodology influenced the scope and depth of our summary of the Inventory’s findings. (For example, if one of the Inventory’s findings was not based on credible methodology, we have usually not included it in our document.)

• Definition of “Performance”: Although the Inventories were asked to measure “performance”, there was no common definition of the term. In order to impose some consistency in our description of what the Inventories have said about the system’s performance, we have defined “performance” along 12 different dimensions or attributes (see Exhibit 1.3). Some Inventories examined many such attributes; some Inventories examined only a few.

• Recommendations Versus Attention Points: A feature of the Administrative Inventory model is its use of what are called “Attention Points.” In our view, these attention points are really recommendations from the authors as to what the WCB should, must or consider doing. We have therefore labeled these findings as “recommendations” and we highlight those recommendations which are (usually) supportable and flow logically from the observations and evidence presented in the report.

• Quotes and Paraphrasing: We have often quoted directly the Inventories’ observations and recommendations. However, in the interests of brevity, we have
usually paraphrased our interpretation of what the authors observed or recommended. (It should be stressed that all such findings summarized in this way in the report are the view of the Inventories’ authors and are not our own conclusions or recommendations.)

Each Chapter in our report focuses on a distinct core function of the system, ranging from preventing accidents to resolving disputes. (The final Chapter addresses the Inventories’ findings about the overall system.) The structure is the same in each such Chapter:

- The first section identifies the various Inventories that commented on that particular core function.
- The second section highlights the criteria or standards that were used (usually implicitly) by the Inventories to assess the performance and policies of that core function.
- The third section summarizes what the most recent Inventory observed and recommended about the performance and policies of that core function. (In order to provide consistency and enable comparisons across core functions, we have categorized the Inventories’ findings using the “12 attributes of effectiveness model” described above). As mentioned above, we have usually included only those observations and recommendations which are supported in the report by valid evidence.
- The fourth section focuses on the Inventories’ “high profile” statements which could be, or have been, cited by others as either a criticism or defense of the system. We comment on the extent to which these possibly-contentious statements are supported in the Inventories by valid evidence. (Note: Our selection of these statements is clearly subjective and another reviewer could disagree with our choice.)

1.4 OUR OTHER REPORTS ADDRESS OTHER ISSUES ABOUT THE ADMINISTRATIVE INVENTORIES

In a series of complementary and linked reports, we answer these additional questions about the Administrative Inventory Model and its application to BC:

- **What have the Inventories Covered?** To what extent have the seven different Inventories described and assessed the features, functions, and performance of the workers’ compensation system in BC? What gaps, if any, need to be filled to have a complete picture of the system?
- **Is the Methodology Sound?** To what extent can the Royal Commission have confidence in the Inventories’ descriptions, observations, attention points, and recommendations concerning the system’s performance and its key, possibly-contentious policy issues?
- **How did the WCB Respond?** What mechanisms were put in place at the WCB to respond to the Inventories’ findings and recommendations? What happened as a result?
- **Is the Model Appropriate?** To what extent, if at all, does the Administrative Inventory Model represent a credible and useful tool for not only exercising accountability within the workers’ compensation system, but also for inducing organizational change that leads to improved performance?
## EXHIBIT 1.1
AN OVERVIEW OF THE WCB’S ADMINISTRATIVE INVENTORIES: CORE FUNCTIONS COVERED

<table>
<thead>
<tr>
<th>INVENTORY</th>
<th>AUTHORS</th>
<th>DATE OF PUBLICATION</th>
<th>WHICH CORE FUNCTIONS WERE REVIEWED?</th>
<th>COST TO WCB</th>
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</thead>
<tbody>
<tr>
<td>1) Workers’ Compensation in British Columbia: An Administrative Inventory at a time of Transition</td>
<td>Drs. H. Allan Hunt, Peter S. Barth, Michael J. Leahy</td>
<td>November 1991</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>2) Occupational Safety and Health in British Columbia: An Administrative Inventory</td>
<td>Drs. Kathleen M. Rest and Nicholas A. Ashford</td>
<td>October 1992</td>
<td>✓</td>
<td></td>
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<tr>
<td>3) Workers’ Compensation Board of British Columbia: Assessment Department Administrative Inventory</td>
<td>Dr. H. Allan Hunt</td>
<td>November 1992</td>
<td>✓</td>
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<tr>
<td>4) Medical Review Panel Report and Highlights of the Medical Review Panel Report</td>
<td>Dr. Leonard Jenkins</td>
<td>August 1992</td>
<td></td>
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<tr>
<td>5) Medical and Rehabilitation Programs in Workers’ Compensation: An Administrative Inventory in British Columbia</td>
<td>Drs. Jane Fulton and John Atkinson</td>
<td>May 1993</td>
<td></td>
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<tr>
<td>7) Occupational Health and Safety in British Columbia: An Administrative Inventory of the Prevention Activities of the Workers’ Compensation Board</td>
<td>Drs. Kathleen M. Rest and Nicholas A. Ashford,</td>
<td>February 1997</td>
<td>✓</td>
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<td>INVENTORY AND DATE</td>
<td>WHICH CORE UNITS WERE INCLUDED?</td>
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<td>2) Occupational Safety and Health in British Columbia: An Administrative Inventory 1992</td>
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<tr>
<td>5) Medical and Rehabilitation Programs in Workers’ Compensation: An Administrative Inventory in British Columbia 1993</td>
<td>✔ ✔</td>
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<tr>
<td>7) Occupational Health and Safety in British Columbia: An Administrative Inventory of the Prevention Activities of the Workers’ Compensation Board 1997</td>
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</table>
EXHIBIT 1.3
THE 12 ATTRIBUTES OF EFFECTIVENESS

1. **Clear Management Direction:** The program or organization, in order to be effective, should have clear and understood objectives which are reflected in its plans, structure, delegations of authority and decision-making processes.

2. **Relevant Objectives:** In order to be effective, the program or organization’s objectives should be relevant to the problems or needs of its clients.

3. **Appropriate Design:** In order to be effective, the program or organization’s policies, service delivery model, strategies, activities, level and allocation of effort, skill profile, organizational structure, and support mechanisms should be logical in light of the specific objectives to be achieved. In other words, the program or organization should be designed to achieve its intended results.

4. **Achieving Intended Results:** An effective program or organization should achieve its goals and objectives.

5. **Satisfied Clients:** In an effective program or organization, the clients should judge it to be satisfactory.

6. **Reasonable Costs and Productivity:** To be effective, there should be a reasonable relationship between the program or organization’s costs, inputs and outputs.

7. **Responsive:** An effective program or organization should be able to adapt to changes in such factors as available funding, technology, social trends, and client concerns.

8. **Positive Working Environment:** To be effective, the program or organization should provide a positive working atmosphere for its staff, offer appropriate opportunities for development and achievement, and promote commitment, initiative and safety.

9. **Protecting Assets:** An effective program or organization should safeguard its important assets (key personnel, records, agreements), so that the organization is protected from the danger of losses that could threaten its success, credibility and continuity.

10. **Positive Financial Results:** In an effective program or organization, its financial systems comply with sound policies and its overall financial position is viable.

11. **No Negative, Unintended Impacts:** An effective program or organization should not generate negative, unintended outcomes or impacts.

12. **Regular Monitoring and Reporting:** In an effective program or organization, performance should be targetted, reported and carefully monitored on an ongoing basis, such information should be used to inform decisions about strategies and policies.

Source: Various publications of the Canadian Comprehensive Auditing Foundation.
CHAPTER TWO: CORE FUNCTION: PREVENT ACCIDENTS AND INDUSTRIAL DISEASE

2.1 WHAT INVENTORIES HAVE REVIEWED THIS FUNCTION?

In 1992 Rest and Ashford examined what was then called the occupational safety and health (OSH) function. They returned in 1996 to examine that function (now called the prevention function, as delivered by the WCB’s newly named Prevention Division) and submitted their Inventory in February, 1997.

In this Chapter, we focus on the observations and recommendations from the most recent, 1997 Inventory when it is relevant to do so. (In a separate report, we identify the core recommendations from both the 1992 and the 1996 Inventories and describe the WCB’s response to those recommendations.)

2.2 WHAT THEORIES OR CRITERIA DID THE INVENTORIES USE TO ASSESS THE FUNCTION’S PERFORMANCE AND POLICIES?

In our report on the methodologies used by the various Administrative Inventories, we commented that one of the distinguishing features of the Administrative Inventory model is that the authors are not supposed to make any policy recommendations. The OSH/Prevention Inventories did not follow that guideline. Instead, they took a stance on many contentious policy issues, ranging from the use of health and safety committees to the role of economic incentives in setting assessments.

Many of the authors’ views and theories appear to be based on the authors’ own personal philosophy and values as to what constitutes an effective OSH program. Many of the authors’ theories and beliefs can not be defended, nor criticized, based on objective, rigorous analysis. Instead they often represent the opinions, not the proven scientific theories, of acknowledged experts in their respective fields. Many of these theories challenge the status quo. They are probably contentious and are therefore not likely to be universally accepted by all stakeholder groups.

However, just because the theories and the subsequent conclusions and recommendations are not “provable” does not mean they should be ignored. Indeed, they represent a valuable source of issues which ought to be examined and debated during the life of the Commission. For example, we believe that the Commission ought to pay close but careful attention as to what the authors have to say about such high profile policy issues as:

- The scope and content of WCB’s OSH regulations and the process that ought to be used to design such regulations.

- The broad strategies to be used by the WCB in preventing accidents and generating compliance.

- The set of activities that ought to be in place to achieve WCB’s prevention-oriented objectives.
Appendix A lists the theories and criteria used by the authors in their Inventories of the prevention function. (These criteria are usually not explicitly stated. Instead, they are woven into the reports’ findings.) Exhibit 2.1 at the end of this Chapter identifies some of the authors’ possibly more contentious views on OSH policies and regulations.

### 2.3 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE OF THE PREVENTION FUNCTION?

The 1997 Inventory had findings on seven performance issues. In some cases, these observations and recommendations are supportable and credible; in other cases, as we have noted, the findings are based on the authors’ own theories, many of which may be debatable and not necessarily backed by evidence.

In summarizing the Inventory’s findings, we have either quoted their statements or, in the interests of brevity, paraphrased our interpretation of their conclusions and recommendations.

#### Issue One: Appropriateness of Design

The first OSH Inventory in 1992 went into considerable detail as to what constitutes an appropriate and well-designed prevention function. As can be seen in Appendix A, the authors’ implicit design criteria, some of which are contentious, address a series of issues, ranging from the content of policies and regulations to the type of prevention strategies that ought to be used.

The 1997 follow-up Inventory applied some of those same criteria in assessing the appropriateness of the function’s current design. That 1997 Inventory started by examining the appropriateness of the function’s policies and regulations. It observed that:

> “After a long history of regulatory gridlock, the WCB has achieved considerable success in revising old and developing new regulations through its Regulation Review process.”

In particular, the Inventory noted that the review process had several strengths:

- **Exemplary Stakeholder Involvement:** Although problems surfaced around specific regulations and areas, the level of stakeholder involvement in the design and reach of regulations has been extraordinary and exemplary. For example, the process was successful in obtaining substantial public input through:
  - an initial series of public forums to inventory public concerns and the priorities of workers and employers,
  - public hearings of specific recommendations, and
  - stakeholder participation on committees and subcommittees.

- **Open Process:** The openness and transparency of the overall process has been commendable. While the process broke down at higher levels on a number of occasions, members of the employer and labour communities worked well together on many of the specialty subcommittees, most of which were able to produce consensus recommendations.

- **Notable Successes:** The Regulation Review process has not been without problems and controversy. Yet, unlike previous attempts to revise regulations, there have been notable
successes. In 1993, the Board of Governors adopted new regulations for agricultural operations, occupational first aid, and for protecting workers from violence. New and much needed revisions to existing permissible concentrations were adopted for 14 substances, and the Governors extended OSH regulations to the aquaculture industry. In 1994, the Board adopted new regulations for fishing operations – the first of their kind in North America. In 1996, the Panel of Administrators approved new regulations for noise and for fall protection.

- **Excellent Outcomes:** The overall outcomes of the Regulation Review process (i.e., the revised regulations) are generally excellent and represent an important advance in workplace health and safety for the province. (For example, the new noise regulations will contribute to efforts to prevent the occurrence of noise-induced hearing loss.) That some stakeholders may quarrel with the process and point to deficiencies in some of the proposed regulations should not obscure the Board’s overall achievement.

However, the 1997 Inventory also observed some concerns about the process used to develop regulations:

- **Controversial:** The process used to develop the regulations engendered some controversy. Some members of the employer community and of the WCB itself perceive the process as a “horse-trade,” although this perception was often not shared by members of the specialty subcommittees, the level at which most of the technical work was done. This is an almost inevitable consequence of a process that is predominantly bipartite. Indeed, a bipartite process necessarily injects an element of concern for economics into deliberations which, in the absence of a clearly defined standard of protection, will result in “negotiation” and the balancing of different levels of protection with costs to employers and workers. Further, arguments and disagreements over the substance of a regulation do not necessarily impugn or signal the failure of the regulation development process.

- **Dissatisfaction Amongst WCB Professionals:** The level of involvement and the advisory status of the WCB itself in the process resulted in considerable dissatisfaction among WCB prevention professionals. This raises the question of how future Regulation Review processes should be structured. The importance and value of meaningful stakeholder involvement is not in question. Rather, the issue for consideration is whether or not a truly tripartite model would result in better regulations and/or be preferable for other reasons, e.g., perhaps it would result in more effective enforcement and compliance assistance.

- **Debates About Internal Responsibility and the Type of Regulation:** There was considerable debate about the linkage between the type of regulation and the issue of internal responsibility. Both worker and employer representatives involved in the Regulation Review process acknowledged the need for, and the importance of a system of internal responsibility in BC workplaces, based on joint collaboration between workers and their employers at the worksite. However, some have argued that internal responsibility necessarily implies performance-based regulations. Employers suggest that the latitude and flexibility to develop innovative, site-specific methods of achieving regulatory targets (i.e., performance-based regulations) are essential to the concept of internal responsibility.
• **Incomplete:** Despite more than four years of work, the process remains incomplete at the time of this writing. Unfinished business includes Part 3 of the proposed regulations (the core section on rights and responsibilities), ergonomics, and medical programs.

The 1997 Inventory also examined the appropriateness of the Prevention Division’s **activities and strategies.** It applauded the Division’s strategies in several areas:

• **Strategic Approach:** While it is too early to provide an evaluation of the outcomes of these initiatives, there is no question that the Prevention Division has tried to construct a rational, directed approach to preventing occupational accidents, injuries, and harmful exposures. For example, the new Diamond approach seeks to combine safety and health programs with claims management programs in a cohesive manner.

• **Integration via Worksafe:** The Prevention Division has further integrated its functions and activities since the writing of the 1992 Inventory. Under the banner of Worksafe, it has undertaken a complex, data-driven, and targeted strategy of inspection, consultation, technical assistance, education, and outreach involving all of its functional units (service centres). Although the measurement of results remains somewhat problematic, and, there have been problems with its implementation, the strategy is thoughtful and provides an opportunity for the Division to discover and apply the most effective mix of prevention tools available to it.

• **Training Partnerships:** A positive change has been the development of a more comprehensive safety and health training system in the province through WCB partnerships with educational institutions and other community-based organizations. The “partnership” arrangement is not without its critics, who worry that the quality of occupational safety and health education and training will decline, especially if field officers are not involved in the process, and if up-to-date materials are not used.

• **Potential Contribution of Funded Research:** The WCB strategy of providing grants and awards for research into prevention has significant potential. There is a tremendous amount to learn about the causes and prevention of workplace injury and disease, and the WCB cannot possibly do it alone. The Board’s support of research (and educational) projects in the industry, labour and research communities will not only provide the Board with more information and an enhanced understanding of how best to achieve its mission, it will also help advance the knowledge base of occupational health and safety in the province.

• **Welcome Addition of Ergonomists:** The recognition of the magnitude of ergonomic-related problems in the province promoted the hiring of five ergonomists by the Prevention Division since the writing of the prior Inventory. The ergonomists are a welcome and necessary addition and the demands on their time will only increase.

• **Integration:** The above plans and initiatives herald a more integrated WCB and, perhaps, a more integrated approach to prevention and the achievement of the WCB’s vision of “workers and workplaces safe and secure from injury and disease.”

The 1997 Inventory repeated its belief that additional data (over and above claims history data) should be used in developing prevention strategies. In this light, it noted that:

• **Drawbacks of Using Claims Data:** Using claims data as the driving statistic for prevention activities has several drawbacks. For example, claims data continue to
underestimate the magnitude of occupational disease. Thus, the good claims histories of industries or firms may obscure problems stemming from occupational exposures to chemicals, radiation, and other health hazards. Further, the industries or firms with the greatest claims problems may or may not represent the greatest opportunities for claims or risk reduction.

- **Over-Reliance on Claims Data:** As an approach, Worksafe is heavily dependent on claims information and less on quantified information about a firm’s/industry’s compliance history or worksite/hazard/risk information. To the extent that claims-based information dominates targeting efforts, the full potential for defining data needs, establishing the means to obtain the data, and utilizing the data to achieve the purposes of preventing accidents, injuries and disease has yet to be met.

- **Unsuccessful Efforts:** An earlier effort to design a “Prevention Focus System” that would identify, weight, and provide information on worksite risk factors needed to inform targeting for inspection, education, and consultation seems to have been abandoned in favour of efforts to implement Worksafe.

The 1997 Inventory also pointed out some weaknesses in the Division’s prevention activities and strategies:

- **Missing Communication Channels:** In order for the inspection process to be consistent, there needs to be good communication among WCB managers, between managers and officers, and among officers, as well as managerial oversight and monitoring. It is not clear that these avenues of communication are firmly in place. This merits some attention. Complaints of “inconsistency” will never disappear altogether, but communication mechanisms, clearly articulated policy, and written officer instructions will help alleviate much of the problem.

- **Domination of the Targeting System by Claims Data:** The Division’s targeting strategies, especially in the Worksafe and Diamond initiatives, rely heavily on claims data and do not reflect many other risk factors, such as the compliance history of the firm, specific technologies used, the status of labour-management relations, etc.

- **Problems With Tripartite Partnerships:** The Prevention Division began a series of “partnership-type” initiatives in 1992 with the development of two tripartite committees – one in retail food and one in health care. The purpose of these initiatives was to create forums for joint discussion on ways to reduce and prevent the major causes of occupational injury and illness in these industries. Both committees had problems, and one reorganized itself into a bipartite structure. Neither attempt can be characterized as an unqualified success, although WCB prevention efforts in both industries have had some positive outcomes. However, the actual contribution of the committees to such successes is not clear. This is not to question or disparage the value of collaborative mechanisms for employers, workers, and the WCB. Indeed, the WCB has clearly articulated and acted on the need to consult with labour and industry representatives on a wide range of activities. Whether formal tripartite committees are the most effective mechanism for such collaboration remains to be seen.

- **Declining Use of the Laboratory:** There has been a decline in the number of air samples and commercial products received by the laboratory for analysis since the mid 1980s. The decline has potentially serious implications for the laboratory and for prevention activities, especially in light of new permissible concentrations. It is difficult
to maintain quality without practice and it may be difficult to sustain staff technical expertise and morale if they have little opportunity to use their analytical skills. The availability of high quality laboratory analytical services is essential for many aspects of occupational disease prevention – exposure assessment and risk identification, hazard and disease surveillance, trend analysis, and early detection of illness. It is difficult to understand how the Board can and will assess compliance with regulations without some degree of sampling.

The 1997 Inventory examined the appropriateness of the level and allocation of resources used in the prevention function. It applauded the increase in the WCB budget allocation for the Prevention Division, noted that the WCB is among the most generous in terms of per capita spending on workplace health and safety, and concluded that the Prevention Division has an outstanding array of resources to assist employers and workers in injury and illness prevention. These include safety, hygiene, and first aid officers, engineers, ergonomists, occupational physicians, audiologists, laboratory analysts, curriculum developers, educators and technical writers.

It also had these concerns about the level and deployment of the Division’s resources:

- **Danger of Inadequate Attention to Occupational Disease:** The prevention of occupational disease may be overlooked or given short shrift in the new prevention initiatives. Occupational diseases include much more than musculoskeletal and repetitive strain disorders associated with ergonomic factors. These non-ergonomic diseases are even less likely to result in claims. For these disorders, exposure monitoring and assessment may be the only way to get to primary prevention. Sampling done for compliance purposes has declined over the years, and this may have implications for worker health. In addition, although the new emphasis given to ergonomic injuries should be applauded, they may so overwhelm the occupational hygiene officers that other aspects of occupational health may be neglected.

- **Questionable Use of Physicians’ Time:** It is also not clear that the Prevention Division has determined how best to utilize its limited occupational health expertise. This needs to be explored with the occupational physicians, their colleagues in the Prevention Division, other Board physicians, the stakeholders, and physicians in the community. For example, occupational physicians in the Prevention Division review the forms submitted by external physicians for commercial divers and grant medical certification. First Aid Officers review forms for first aid attendant candidates. Occupational medicine expertise is a valuable and limited resource in the Division; it is reasonable to question whether such activities are the best use of the physicians’ time.

- **Barriers to Use of Physicians:** The Division’s two occupational medicine physicians are struggling with how to become more proactive, but they are hampered by a lack of data on occupational exposure, disease, and risk factors in provincial workplaces. Ideally, the occupational physicians should be an integral part of the WCB’s prevention team, yet their availability to interact with officers (especially hygiene officers), employers, and workers in the field has been limited. There appears to be little awareness and appreciation of their potential contribution to the Board’s prevention efforts.

- **Use of Engineers:** Engineering is another valuable resource, but it is under-utilized in providing engineering solutions to health and safety problems. For example, recently, engineers have been involved in the development of reports on the causes of fatalities in
industries with high rates. Reception to the reports was mixed. The role of the engineers in following up on their reports with the involved stakeholders has not been clarified.

- **Use of First Aid Officers:** The FAOs are heavily involved in certification activities and this substantially limits their availability for field activities.

The 1997 Inventory examined the appropriateness of the systems used to ensure that the prevention function had the right level and mix of skills. It commended the Division for adding skills in ergonomics but had these concerns:

- **Perceived Problems With the New Hiring Process:** A new competency-based hiring process was instituted in 1993, with the position of occupational safety officer used as part of the pilot. The process was successful in providing an opportunity for career advancement for Board employees, and it resulted in the addition of several women to the officer corps. However, it created a perception within the Prevention Division and elsewhere that the process did not result in the hiring of the most qualified persons for the job. Additionally, it generated concern that the process, which seemed to favour internal candidates, would erode the technical competence of the inspectorate over time.

- **Inadequate Staff Development:** Staff development continues to be a serious concern for all WCB employees, including those in the Prevention Division. The organization has a tremendous pool of talent, but it is not clear that it is being nurtured. In addition to the adverse effect on morale and organizational innovation, this paucity of staff and professional development can have serious implications for worker health and safety.

- **Eroding Skills:** The WCB has formally certified commercial blasters (except those who work in the mining industry) since 1949, and informally certified commercial divers in seafood harvesting since 1988. There is considerable concern that WCB expertise in these areas will erode over the next several years through attrition.

- **Missing Skills:** To help ensure the fitness of workers in some high risk occupations or jobs where ill health or medical impairment would jeopardize the safety or health of other workers, the Board requires those workers to obtain certificates of medical fitness. These include commercial divers and candidates for first aid certification. Medical examinations are performed by external physicians, many of whom have little understanding of occupational health or appreciation for the serious nature of their responsibility in these fitness examinations.

The 1997 Inventory examined the appropriateness of the Division’s external linkages. It noted that the Prevention Division has increased the number of opportunities for stakeholder and public involvement through the Regulation Review process and various partnership initiatives – such as the Diamond project, various tripartite committees, and its partnerships with educational institutions. (As mentioned previously, the Inventory also noted that neither of the two attempts at the tripartite process can be characterized as an unqualified success. It questioned whether formal tripartite committees are the most effective mechanisms for collaboration but offered no suggestions or alternatives.)
It also observed that through the engineers’ liaisons with and participation in outside regulatory bodies and standard setting organizations, the WCB is able to keep updated on regulatory and technical changes that may affect its prevention activities and to have some influence on the development of industry and professional standards. It stressed that this type of activity is important for maintaining quality, visibility, and leadership in promoting engineering solutions to problems of workplace safety and health.

In order to improve the appropriateness of the function’s design, the 1997 Inventory made a number of recommendations, as summarized in Exhibit 2.2.

The 1997 Inventory also commented on the appropriateness of the appeals mechanisms as they related to the prevention function. These OSH-related observations and recommendations are included in our Chapter which focuses on the dispute resolution function.

**Issue Two: Achieving Intended Results**

Although the authors’ contracts with the WCB had called on them to develop outcome measures and to assess the baseline performance of the prevention function, they observed in their 1997 Inventory that “It was beyond the scope of this Inventory to suggest a performance measurement system.” However, they did conclude that:

- **Impact on Hearing Loss:** There are indications that the problem of noise-induced hearing loss has diminished over time. For example, an analysis of 15 years experience with hearing conservation programs in the forest products industry shows that the level of hearing loss in sawmill workers was significantly less in 1995 than in 1981, although the extent of improvement was somewhat less than expected.

- **Performance Measures:** Reductions in claims (numbers, rates, costs, and severity) cannot be the sole measure of performance for the Prevention Division. (The authors did not suggest what measures ought to be used.)

- **Caution in Focusing on Claims Rate:** Like many North American jurisdictions, the WCB is struggling with the best way to measure its occupational health and safety/prevention performance. The Prevention Division’s Worksafe strategy has articulated a corporate goal of reducing the serious injury rate (in actuality, the claims rate) in BC by 10% by the year 2000. This is an admirable, results-oriented goal, but the Prevention Division should be cautious in linking its overall performance to achievement of this goal. An upswing in economic activity alone could increase the claims rates (as could many other factors).

The authors point out that there was a real fall of 7% in STD claims over the period 1988-1993 but conclude that claims experience in BC not traceable to changes in economic activity has been essentially flat for forty years. The authors offer several theories and hypotheses (versus evidence-based conclusions) to possibly explain this plateau in performance:

- Not enough effort has been directed towards prevention.

- Inspection and enforcement of existing regulations, though necessary conditions for prevention, are not sufficient in and of themselves to impact significantly on prevention; i.e., other factors also affect prevention success.
• Regulations do not address the worksite changes needed to result in prevention – additional or different regulations may be necessary.

• Management lacks the willingness (attitude) and/or requisite technical knowledge needed to prevent injuries and disease.

• Field officers are not devoting sufficient and effective efforts to encourage the needed attitudinal and behavioural change.

• Field officers are not providing the requisite knowledge to employers and workers through consultation and education.

• Attitudes, experience, and training of workers have an overriding effect on prevention measures taken by management.

• WCB programs to educate employers and workers outside the inspection process need bolstering.

• Workers are not sufficiently involved in workplace-based prevention efforts.

• The situation would be far worse without WCB intervention. (Like all of the above statements, this is the authors’ hypothesis. There is no evidence in the report to support this last statement.)

**Issue Three: Client Satisfaction**

The 1997 Inventory involved a much larger survey of labour and employer representatives than had taken place for the 1992 Inventory. (For example in 1992, only 21 workers and/or labour representatives were interviewed and of those 21, nine were from the Carpenters Union and four interviewees were from Weyerhaeuser.) Based on a survey of 42 employer representatives and 18 labour representatives, the 1997 Inventory had these observations. (Note: There is no way to measure progress made since the first Inventory):

• **Lingering Negative Climate:** Although there have been some notable successes, especially in Regulation Review, a climate of distrust and even animosity pervades the system. Employer groups and worker groups question each others’ sincerity and motives, and there is little public support for the WCB, which often gets caught in the middle. This is unfortunate, but not surprising. Although certain criticisms are valid and improvements can always be made, recognition of the strengths and contributions of the WCB are often lost in the process. Legitimate complaints of the various stakeholders should not obscure the good work done by the organization, especially by the Prevention Division.

• **Labour’s Concerns:** In general, labour’s concerns fall into several broad categories:
  ⇒ a perceived diminution of enforcement activity;
  ⇒ the need to complete the Regulation Review process, including a willingness to address the “contentious” issues;
  ⇒ the role of workers in “internal responsibility” systems; and,
⇒ the need to preserve the WCB’s social policy function and to extend its conception of workplace health and safety beyond a mindset tied to claims.

For example, labour notes that while employers can contest orders (as well as warning letters and penalty assessment recommendations), workers do not have an equivalent means to contest orders that are not written and sanctions that are not imposed, are not sufficient, or are rescinded or reduced.

• **Employers’ Concerns:** Employers in general expressed concern about:

⇒ the politics of Regulation Review and the new regulations;
⇒ instability of leadership and a consistent management philosophy at the WCB;
⇒ the need for the WCB to adopt a more collaborative and consultative approach to occupational health and safety;
⇒ perceived inconsistencies in the inspection, enforcement, and sanction processes and inappropriate targeting of prevention resources; and,
⇒ differential treatment of employers and workers.

### Issue Four: Costs and Productivity

The 1992 and 1997 Inventories did not examine the costs of running the WCB’s prevention programs. In their only reference to “efficiency”, both Inventories concluded that

“For most industries in the province, the WCB has the final authority to promulgate workplace health and safety regulations. This makes for a very efficient regulatory system. Unlike what happens in the U.S., for example, Board regulations are not appealable in the courts, and workers and employers do not suffer the uncertainty of not knowing what is expected during years of costly judicial proceedings.”

### Issue Five: Responsiveness

The 1997 Inventory concluded that the Prevention Division had responded to many of the attention points raised by the first Inventory, as evidenced by:

• Increased attention being paid to the Board’s prevention function, particularly the increase in the WCB budget allocation for the Prevention Division.

• The intense effort expended on revising and updating the OSH regulations.

• The initiation of a planning process by the Prevention Division in 1993.

• The leadership taken by the Prevention Division to help integrate and make consonant the various functions of the Board.

• The WCB’s Strategic Plan which acknowledged the importance of prevention and which recognized the central role of information.

• The number of new initiatives undertaken by the Prevention Division.
• The progress in the generation, recording, access and use of data for planning and targeting.

Indeed, the authors expressed some concern about the number and extent of new initiatives and activities presently being undertaken by the Prevention Division and the fact that staff may have difficulty in keeping up with the many new programs, and may not understand if and how they all fit together.

The 1997 Inventory had two recommendations to improve the function’s responsiveness:

• **New Initiatives:** Continue to develop new initiatives; however, they must be carefully monitored and evaluated before they are applied to all sectors and subclasses. In this context, pilot projects are essential. The Division’s approach to the Diamond Project is illustrative. The Diamond Project has been carefully crafted; short- and long-term strategies have been identified; simultaneous support projects have been defined and assigned to teams; and evaluation criteria have been outlined. The project will be pilot tested in a small number of firms in one industry (sawmills). It has been developed as an interdivisional activity.

• **Stakeholder Input:** Continue to seek stakeholder input into all new initiatives during implementation; labour scrutiny and feedback are essential for determining success. Particular attention must be paid to the adequacy and quality of labour participation in programs that seek to advance internal responsibility and self-management, especially when decreased inspection activity is tied to performance.

**Issue Six: Working Environment**

The authors of the 1997 Inventory were impressed that, despite continuing upheavals in governance and leadership, as well dissatisfaction with some internal operational matters, the commitment and dedication of Prevention Division managers and staff remain “outstanding.”

They were also pleased to learn of recent steps taken to enhance communication, including joint development of the agendas for quarterly Divisional meetings; “walk-abouts” by the executive management team; circulation of Divisional Directors’ meeting minutes to staff through their managers; and quarterly meetings of Division Directors with staff, in a portion of their service centre units.

The 1997 Inventory concluded that the Prevention Division has a talented, experienced, and resourceful cadre of employees who can contribute significantly to the prevention mission of the Board. However, based on interviews with more than 100 Divisional staff, the Inventory concluded (without clear evidence) that there were significant morale problems and that those problems were more acute than during the period of the first Administrative Inventory.

In order to improve morale and to make the working environment more positive, the 1997 Inventory recommended that the Division enhance the involvement of and communication with its staff. For example:

• **Staff Involvement:** Solicit staff input into policies, plans, and initiatives earlier rather than later in the process. Staff often have the real-world experience needed to develop an initiative, identify and address the potential barriers, and determine the likelihood of its success. Moreover, they are usually and primarily responsible for implementing the initiatives.
• **Communication With Staff:** Provide better communication about the rationale behind, and the expectations for, certain decisions. In particular, better communication mechanisms for staff should be established, especially for those scattered around the province. These could include, for example, annual meetings for field officers, an electronic bulletin board, etc. Such mechanisms may not only increase morale, but help address staff development needs.

• **Understanding:** Ensure that staff understand the tremendous demands placed on their leadership. Their Vice-President has vital responsibilities in Regulation Review and the WCB Policy Bureau. His involvement provides the necessary integration and assurance that prevention plays the central role it deserves in the WCB. These activities also provide an important avenue for consultation with external stakeholders.

• **Team Work:** Ensure that Department Directors and Regional and Section Managers themselves work as a team and that they provide the needed communication and involvement opportunities for all members of the Division.

**Issue Seven: Regular Monitoring and Reporting**

The 1997 Inventory commented on the progress that had been made by the WCB and by the Prevention Division in exploiting the wealth of data available. For example, it observed:

• **Role of Information:** The WCB has recognized the central role of information in its strategic plan and has undertaken several data initiatives, including AIRS and the AIRS Inquiry System, the E-file, the Employer Report Card, and a data warehouse.

• **Role of the Policy Bureau:** The creation of a Policy Bureau with a focus on “public interest analysis” is a step in the right direction for the WCB. The Bureau will help assemble and analyze the data and information needed to underpin WCB policy and regulation development, and could help restore the credibility of the Board with its stakeholders and the public.

• **Funded Research:** The Board has upgraded its grants and awards program in an effort to conduct more research into WCB activities, including the identification of “addressing causality” as a key strategy in the Worksafe Initiative.

• **Internal Research:** The Prevention Division has also responded to the need to enhance its research and analytical capabilities. It has created an office of Research and Evaluation and, under the banner of Worksafe, designed and begun to implement a more rational, data-driven approach to its activities.

However, the 1997 Inventory concluded that the WCB continues to lack adequate analysis about causes and consequences in spite of the data available to it. It noted that the Division has made significant strides to address this concern but more remains to be done. The Inventory again stressed that:

> “Developing prevention policies, regulations, and strategies requires a clear understanding of why accidents and exposures occur in addition to how, in turn, they lead to injuries, diseases, and fatalities. Deploying the most effective mix of tools and resources requires analysis and evaluation of what works, what doesn’t, and with whom.”
In particular, the 1997 Inventory made these observation about the gaps in this important area of performance:

- **Uninformed Strategic Decisions and Evaluations:** Fortunately WCB is a rich repository of statistical data, and it has the professionals who could contribute to more informed strategic design of prevention initiatives. However, these resources have yet to be utilized successfully. Although ongoing and planned data collection and analysis initiatives are encouraging, the targeting and ultimate evaluation of prevention activities – whether through inspection and enforcement and/or consultation, education, and technical assistance – are, as before, proceeding without a clear understanding of accident causation, the needed changes in the firm’s technology and work practices, and how to change behaviours of the key parties to workplace injury and accident prevention – employers and workers.

- **Unexploited Data Resources:** The WCB has a voluminous amount of data that have not been mined adequately. If properly analyzed and presented, these data can begin to identify the real causes of accidents and harmful exposure in the province (and the resulting occupational injuries and diseases), to link data with prevention initiatives and to design and evaluate strategic approaches to prevention. Analyses of existing data will also reveal gaps and suggest where additional data collection efforts are needed.

- **Unexploited Systems and Resources:** The WCB has an impressive array of data systems and statistical support services to assist the Prevention Division but more collaboration is required.

- **Unexploited Potential of the Research and Evaluation Unit:** This unit produces useful statistical reports and analyses of the Division’s activities, but further analytical work is needed – analyses that will begin to answer the “why” questions noted earlier.

- **Unexploited Information Line:** The Prevention Division staffs a telephone line to provide information to employers, workers, and other members of the public who can call with questions about regulations and any number of workplace health and safety issues, policies, and procedures. At this time, there is no clear mechanism for tracking the problems, issues, and questions coming into the information line and using this information to help target or design prevention interventions or identify areas otherwise in need of attention, e.g., unclear regulations.

- **Use of Faulty or Insufficient Performance Measures:** Activity measures alone (e.g., number of inspections, orders, etc.) are not sufficient indicators of performance; nor are outcome measures linked only to reductions in claims. The area of performance measurement needs critical examination and attention; reliance on faulty or insufficient measures can only damage the WCB in the long run.

- **Missing Accident Data:** The present reporting system does not provide the Prevention Division with accessible and informative data on accidents. The degree of employer compliance in filing these accident investigation reports is minimal at best. For those that do file, there is a problem in the extent to which the reports find their way into the Prevention Division’s “firm files.”

In order to address these gaps in performance, the 1997 Inventory made these recommendation:
• **Research:** Consider allocating additional resources (both human and financial) to the research effort into prevention and intervention.

• **Collaboration:** Increase the amount of collaboration between Divisional staff and those WCB staff who operate the WCB’s data systems and its statistical support services.

• **Reporting Accidents:** Achieve enhanced accident reporting on the part of employers; extend voluntary electronic reporting through AIRS; consider making electronic reporting mandatory for certain firms and/or creating incentives for electronic reporting; consider a consolidated paper form for reporting both claims and accidents to enhance reporting for the majority of firms who are unlikely to use electronic reporting systems in the near future.

• **Denominator:** Use “worker-hours of exposure to a hazard” rather than “hundred person-years of employment” to calculate injury rates.

• **New Initiatives:** Carefully monitor and evaluate any new experiments or initiatives (e.g., the Diamond Project) before they are applied to all sectors and subclasses.

The 1997 Inventory did not provide recommendations as to how the Division ought to monitor and report on its performance, noting that “It was beyond the scope of this Inventory to suggest a performance measurement system for the Prevention Division.”

### 2.4 WHAT “HIGH PROFILE” FINDINGS COULD BE CITED AND/OR CHALLENGED?

Both Inventories contain a large number of findings that would likely be challenged by many of the system’s stakeholders, particularly the employers. For example, many of the Inventories’ observations and recommendations are based on the authors’ possibly contentious theories that are summarized in Exhibit 2.1 and in Appendix A.

Exhibit 2.3 lists some of the Inventories’ more “high profile” conclusions that may be cited or challenged by defenders or critics of the system, plus our comments on the extent to which the statements are supported in the reports by valid evidence.
EXHIBIT 2.1
EXAMPLES OF THE AUTHORS’ POSSIBLY-CONTENTIOUS THEORIES AND CRITERIA CONCERNING OSH POLICIES AND REGULATIONS

1. **Broad Purpose**: Industrial development should be guided by OSH policies and regulations that co-optimize economic growth, environmental protection and worker health and safety. Workplace health and safety issues should be linked with the broad issues of environmental protection and plant safety.

2. **Internal Responsibility for Health and Safety**: Because no regulatory system can ever have the resources required to police the workplace 24 hours a day, the concept of internal responsibility for health and safety should drive many policy decisions. This should include:
   - a broad role for health and safety committees
   - rewards for employers with excellent programs, committees and accident experience
   - the expansion of workers’ rights to refuse hazardous work to a collective right
   - the provision of grants-in-aid for developing the institutional OSH capacity of firms, trade associations, and unions.

3. **Health and Safety Programs**: For the concept of internal responsibility to really work, OSH policies and regulations should ensure that workplace-based health and safety programs, including joint health and safety committees, are operational and effective. This means that regulations concerning such programs should be in place and regulations should address the requirements for experience, training, information, resources, respect, support, and authority.

4. **Thorough Coverage**: OSH policies and regulations should be wide-ranging and should cover all issues which affect workplace health and safety. This includes:
   - the organization of work
   - the involvement of labour in the production process
   - the establishment of action levels that require employers to conduct environmental sampling and/or biological monitoring as well as to notify and train exposed workers.

5. **Induce Technological Change**: Governmental intervention, via OSH policies and regulations, should attempt to force and encourage technological changes using “technology-forcing” regulations. That intervention should induce a fundamental rethinking and redesign of the technology of production. It should involve significant input from ergonomics and engineering.

6. **Economic Incentives**: OSH policies and regulations should include economic incentives which should be used to supplement, but not replace, enforcement activities.

7. **Recourse to Courts**: To prevent years of costly and acrimonious judicial proceedings, OSH regulations should not be appealable in the courts.

Note: Such theories and criteria are not usually stated explicitly in the report. Instead, they are often “woven” into the reports’ observations and recommendations.
**EXHIBIT 2.2**
**RECOMMENDATIONS FOR IMPROVING THE APPROPRIATENESS OF THE PREVENTION FUNCTION’S DESIGN**

**POLICIES AND REGULATIONS:**

- **Completion of the Regulation Review Process:** Complete the process of reviewing, updating and implementing the WCB’s regulations. In doing so, provide special attention to emerging problems (e.g., indoor air quality), consider the value of technology-forcing regulations, and forge more linkages with those regulators and stakeholders concerned with environmental protection and preservation.

- **Linkage of Internal Responsibility and the Type of Regulations:** Consider both prescriptive and performance-based standards in designing new regulations. Some hazards and conditions are best served by specific regulations; other situations are best addressed by performance targets. This should be debated on a regulation by regulation basis. However, a major function of an internal responsibility system is to help ensure compliance with regulations, whatever their type.

- **Tripartite Process:** In future efforts to review and update regulations, consider a more tripartite process which involves a third party (usually government) with no political allegiance to either labour or management and with a professional interest in the outcome. This approach could help minimize the political bickering and inject professional judgment and leadership into determinations of the appropriate and necessary levels of protection.

- **Ongoing Process:** Develop a process for the ongoing review, evaluation, and timely update of regulations; establish a mechanism to track problems and glitches in the new regulations; encourage employers, workers and field officers to provide feedback through this mechanism.

- **Packaging and Disseminating:** Once the Regulation Review process is complete, determine how best to package and disseminate the new regulations. Clearly, some consolidation of the regulations is needed; they now appear in over ten different documents. The possibility of developing additional documents that contain the regulations specific to particular industrial sectors could be considered, as could the translation of at least some of the regulations into different languages. Dissemination is also an important area in need of attention. What will be the best way to inform employers (especially small employers) and workers (especially unorganized workers) about the new regulations? The potential contribution of certain organizations and groups to this effort should be considered, e.g., the Workers’ and Employers’ Advisers, the WCB Assessment Department, and the media.

- **Use of Various Policy Perspectives:** Because of the prominence and weight of the claims function within the Board and the clear potential for claims and claims costs to drive the system, be vigilant and avoid the singular application of a compensation lens to developing and evaluating prevention policy.

- **Inspection and Sanction Policy:** Periodically re-examine the Division’s established inspection and sanction policies. For example, with respect to the “11 deadly sins” and the level of penalty assessments, periodically consider whether or not additions to the list of 11 deadly sins might enhance their prevention efforts and whether or not changes to penalty assessment levels might provide increased economic incentives for employers to comply with regulations and maintain safe and healthy workplaces.

**PREVENTION STRATEGIES:**

- **Targeting Strategy:** Expand the focus of the targeting system to include additional risk factors and data elements (besides claims data).

- **Hearing Conservation Strategy:** Ensure that noise-induced hearing loss is addressed in the Division’s strategic planning process and in focused interventions; ensure that employers, workers, and field officers appreciate the serious nature of noise and hearing loss and recognize their own roles in prevention. Employers will need assistance in understanding and acting on their responsibilities; the Prevention Division will need to integrate the database into its targeting initiatives; officers will need to address noise and hearing loss prevention in their workplace intervention; and workers will need a better understanding of the permanent effects of noise, their own risk, the importance of wearing hearing protection, and the meaning of their own test results.

- **The Privatization Strategy:** Be careful in moving in the direction of privatizing the blasting and diving certification functions to accredited organization; there may be costs as well as benefits to “outsourcing” such functions. Similarly, be careful in considering the privatization of the laboratory as a cost-saving measure since such a move may have serious implications for worker health. (An alternative to privatization is a fee-for-service...
• Partnership Strategy for Training: As the WCB pursues partnership models for education and training, engage members of the Prevention Division and the stakeholder communities in a dialogue about several important issues, including quality control and evaluation of effectiveness, the extent of WCB involvement in training done by colleges and other external groups, the issue of competency-based training, and resource allocation between the education function of field officers (and others within the Prevention Division) and the external “partners.”

• Community Outreach Strategy: Ensure that this strategy is cost-effective. The Prevention Division has embarked on a series of outreach campaigns aimed at school children, young workers, high risk workers, and the public. These are costly ventures, and they warrant evaluation. This will be challenging, given the historic difficulty of evaluating the effectiveness of public education campaigns. Thus, evaluation criteria will need to be broad-based and creative. Additionally, resource constraints suggest that the WCB try to identify other partners for such outreach activities who may be able to share in the expense.

• Research Strategy: Continue to fund research projects that focus on primary prevention; continue to support and partner with such organizations as the BC Cancer Agency (to obtain scientific data on occupational cancer) and BCIT (to support educational scholarships for training future health and safety professions); support the identification and funding of priority research (and training) areas in the WCB’s annual request for proposals (RFP) and introduce avenues for considering well-justified, investigator-initiated proposals for research and training; as a remarkably rich source for data, allow and facilitate access to these data by researchers engaged in studies of occupational health and safety, workers’ compensation, and the rehabilitation of work-related illness and injury.

• Mix of Prevention Strategies: Continue to tailor different mixes of tools and strategies for different sectors and problems (as has been done with the Worksafe initiative); evaluate the results of different applications.

LEVEL AND ALLOCATION OF RESOURCES:

• Laboratory Support: Maintain a high quality, comprehensive, analytical laboratory service.

• Deployment of Resources: Continually assess the use and deployment of the Division’s valuable resources. For example:
  ⇒ To ensure that the full spectrum of occupational disease is addressed in new initiatives and programs, consider some written discussion (self-appraisal) of how prevention of these diseases does or does not fit into the initiative in documents prepared by the Prevention Division.
  ⇒ Clarify the roles and the rationale for assigning engineers to the regions continue to concentrate the efforts of engineers on work of the Prevention Division in the short-term, but in the long-run, build some flexibility into this policy.
  ⇒ Because the demands on the time of the WCB’s ergonomists will only increase, address the use, adequacy and deployment of this resource.
  ⇒ Develop strategies for increasing FAO field activity without jeopardising their important role in the certification function.
  ⇒ Do not overlook the disease component of the prevention mission, since this goes well beyond musculoskeletal disorders.
  ⇒ Involve the occupational physicians more in determining data and research needs as well as the design of new data systems; they should be an integral part of the prevention team.

• Small Enterprises: Because small and medium-sized enterprises (SMEs) have special problems and needs, devote particular attention to developing the most effective approaches and interventions for this sector.

SKILLS OF DIVISIONAL STAFF:

• Hiring Strategies: Continue to diversify the field staff to include women and visible minorities and to better reflect the client communities; balance that need with the necessity of maintaining a highly qualified and competent inspectorate, with sufficient real-world industrial experience; consider a hiring process that results in a mix of internal and external candidates, especially for field positions.
RECOMMENDATIONS FOR IMPROVING THE APPROPRIATENESS OF THE PREVENTION FUNCTION’S DESIGN (Cont’d)

- **Training of New Field Officers**: Reflect on the best method of training new field officers. Input from new and experienced field officers will be valuable. Any decision to implement a mentoring component would require the support and training of the mentors. Evaluation of any new training model will be critical. Because consistency is a major issue for employers, workers, field officers, and their managers, efforts to achieve it must begin with initial field officer training.

- **Blasting and Diving Expertise**: Take steps to ensure that the WCB will continue to have technical expertise to address these areas.

- **Training Policies**: Review, clarify and communicate staff development policies and recognize that the ability to attend seminars, workshops, and conferences as well as to participate in professional associations are important for maintaining and upgrading skills and for enhancing credibility with employers, workers, and their colleagues in the private sector.

- **Enhanced Training**: Consider the need to enhance training in certain areas either because they have been neglected in the past or because they might become increasingly important in the future. These include safety management and communication and negotiation skills.

EXTERNAL LINKAGES:

- **Linkages With Environmental Players**: Establish linkages with regulators and stakeholders concerned with environmental protection and preservation. Leveraging workplace health and safety changes with opportunities for pollution and accident prevention could provide unparalleled opportunities to address two related issues in the public interest – protection of worker health and safety and protection of the ambient environment.

TOOLS AND SUPPORT:

- **Training Tools**: Establish mechanisms to obtain officer feedback on developing and/or revising the “standard lesson plans” produced by the Division, as well as materials developed for wider audiences.

- **Useful Educational Materials**: Consider developing educational materials in different languages and at a variety of literacy levels.
### HIGH PROFILE FINDINGS THAT COULD BE CITED OR CHALLENGED

**EXHIBIT 2.3**

<table>
<thead>
<tr>
<th>HIGH PROFILE CRITERIA, OBSERVATIONS, OR RECOMMENDATIONS (Plus Date of Inventory)</th>
<th>TO WHAT EXTENT IS THE FINDING SUPPORTED IN THE REPORT BY VALID EVIDENCE?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Exemplary:</strong> The WCB in BC is an exemplary organization, arguably the best in Canada. (1997)</td>
<td>This is the authors’ opinion about the design features of the system in BC, <strong>not</strong> its outcomes. The “exemplary” features are not identified in the report and comparisons to other Canadian jurisdictions are not included in the report.</td>
</tr>
<tr>
<td><strong>2. Incremental Role of the WCB:</strong> The prevention situation in BC would be far worse without WCB intervention. (1997)</td>
<td>This is based on opinion. There is no evidence in the report to support this conclusion.</td>
</tr>
<tr>
<td><strong>3. Excellent Regulations:</strong> The overall outcomes of the Regulation Review process (i.e., the revised regulations) are generally excellent and represent an important advance in workplace health and safety. (1997)</td>
<td>This is based on the authors’ theories as to what constitutes effective regulations. Their report says that their evaluation is <strong>not</strong> based on the potential effectiveness of any particular regulation. Instead, the authors told us that the new regulations are “excellent” primarily because they contain new and better safety levels.</td>
</tr>
<tr>
<td><strong>4. Positive Outcomes:</strong> WCB prevention efforts in the retail food and health care industries have had some positive outcomes. (1997)</td>
<td>There is no evidence in the report to support this statement.</td>
</tr>
<tr>
<td><strong>5. Morale Problems:</strong> The prevention Division has significant morale problems that are more acute than before. (1997)</td>
<td>The indicators used to measure and compare “morale” are not provided; there is no evidence to support the conclusion that morale has worsened.</td>
</tr>
</tbody>
</table>
CHAPTER THREE:  
CORE FUNCTION: ASSESS EMPLOYERS

3.1 WHAT INVENTORIES HAVE REVIEWED THIS FUNCTION?

In 1992 Hunt prepared a stand-alone Inventory on the WCB’s Assessment Department. In 1996, he completed a follow-up review of the Department, as part of a larger examination of the overall Compensation Services Division.

The 1996 follow-up Inventory involved fewer interviews and examined performance issues in less depth. For example, a key difference in methodology between the original and follow-up Inventories was the number of persons interviewed: in the first Inventory of the Assessment Department, the author interviewed 63 departmental staff, 10 individual employers, and representatives of 12 employer groups. In contrast, the follow-up Inventory of the Assessment Department involved interviews with only 7 departmental staff and representatives of 5 employer groups; the author interviewed no individual employers. This may partially explain why the first Inventory had 6 pages of Attention Points while the second Inventory examined fewer issues and had about one page of Attention Points concerning the Assessment Department.

In this Chapter, we focus on the supportable observations and recommendations from the most recent, 1996 Inventory, making comparisons to the 1992 Inventory when it is relevant to do so. (In a separate report, we identify the core recommendations from both the 1992 and 1996 Inventory and describe the WCB’s response to those recommendations.)

3.2 WHAT THEORIES OR CRITERIA DID THE INVENTORIES USE TO ASSESS THE FUNCTION’S PERFORMANCE AND POLICIES?

In our previous report on the Inventories’ methodologies, we noted that virtually none of the authors had explicitly stated the criteria or standards they used when assessing the various WCB functions and policies. Instead, such criteria, both contentious and otherwise, were woven into the reports.

The Inventories of the assessment function are no different. They contain a number of useful criteria that the Commission could consider when recommending its own set of principles for a future workers’ compensation system. Exhibit 3.1 lists some of the authors’ key criteria that are probably not contentious.

In contrast to the OSH Inventories (see Chapter Two), the Inventories for the assessment function used only a small number of possibly-contentious theories and criteria for assessing performance and policies. Two such theories were:

- **The Use of Economic Incentives**: Notwithstanding labour’s position opposing the very concept of experience rating, the policy of using economic incentives in setting assessments should be favoured (because employers overwhelmingly favour it as a matter of equity).

- **Linkage of Economic Incentives to OSH and Prevention**: In general, there should be a policy link between safety and prevention activities and the employer’s financial rewards and penalties. Financial incentives should be used to re-enforce safety
performance. For example, the results of OSH activities should be used in setting an employer’s merit or demerit in the assessment process.

3.3 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE OF THE ASSESSMENT FUNCTION?

The 1996 Inventory addressed six performance issues:

**Issue One: Clarity of Management Direction**

The 1996 Inventory observed that the Department’s objectives are broad, largely unstated, and do not offer much scope for examination of particular performance issues. (This finding is similar to the 1992 Inventory in which the author observed that differences in interpretation of the Department’s goal help to explain why various parties evaluate the performance of the Department differently.)

The author provided no recommendations on how the Assessment Department could make its objectives more clearly understood.

**Issue Two: Appropriateness of Design**

The 1992 Inventory, because it was a stand-alone exercise, went into considerable detail about the strengths and weaknesses of the function’s design, ranging from its policies to its allocation of resources. In contrast, the 1996 Inventory had a much smaller number of observations. For example, here is what the 1996 Inventory concluded about the appropriateness of the WCB’s assessment policies:

- **Moderate ERA Policy:** The ERA plan in BC is moderate in its provisions in comparison to other provinces.

- **Weaknesses in the Classification Structure:** There is a danger that sub-class problems and classification inequities could creep into the classification system and thus damage its perceived fairness. For example, the furor over reorganization of class 621 (Retail Stores), provides an object lesson in the damage an inappropriate classification structure for rate-making can do. The fact that one identifiable group of employers was responsible for virtually all the sub-class deficit is a clear demonstration that there was something wrong with the sub-class. Further, the combination of limited experience rating and annual swing limits at the sub-class level prevented the system from being able to correct itself.

- **Lack of Balance in the Classification System:** In 1995 there were three times as many rate groups whose rates increased compared to those whose rates decreased. This reflects the upward pressure on rates in BC due to the growing unfunded liability, but it also seems to imply that BC is out of step with other jurisdictions.

- **Distortions in the Classification System:** While the BC system is designed to be balanced (i.e., each sub-class aims for a long term equilibrium between costs and revenues), there are some significant distortions in the current system. For example, at
the end of 1994, 17 sub-classes were “substantially in deficit,” and 10 sub-classes were in “substantial surplus,” all by more than one years’ assessment revenues.

- **Incomplete Data to Apply ERA Policy:** Certain accidents, diseases, etc. are excluded from ERA calculations. The aggregate impact of these exclusions is estimated by the Assessment Department to result in only about one-third of all claim costs entering the ERA database.

In order to improve the appropriateness of the Department’s assessment policies, the 1996 Inventory made these recommendations:

- **ERA Policy:** In the short run, focus the policy debate on the optimal design of an effective experience rating system to encourage prevention of injuries and disease, notwithstanding labour’s position opposing the very concept of experience rating.

- **Sub-class Structure:** Re-examine the sub-class structure and increase WCB’s vigilance for sub-class problems and for classification inequities.

The 1996 Inventory also examined the appropriateness of the **strategies** employed by the Assessment Department and made these positive conclusions:

- **Strategy of “Openness”:** There has been significant progress in the Department’s strategy of being more open, primarily due to changes in Assessment Department policy and procedure, influenced in part by Freedom of Information and Protection of Privacy Act requirements. The Assessment Department now makes the WCB classification for all employers available as a matter of public record. This seems to have satisfied the need for more information.

- **Strategy of Easy Access:** The Assessment Department has a noteworthy strategy of committing to easy employer access by making registration available over the telephone. Undoubtedly, this makes life much easier for start-up businesses, small sub-contractors, and others. It also makes it feasible for the WCB to deal with the volume of turnover (around 15 to 20 percent annually according to WCB statistics) among the employer population in the province.

- **Strategy of Targetted Audits:** Both the gross revenue and net revenue change resulting from audits has increased substantially due to the Department’s strategy to target audits more closely on those accounts where there is believed to be substantial recovery potential. The result is that the likelihood of audit has declined significantly over the decade (22.5% of registered firms were audited in 1982; only 8% in 1994) but there is greater revenue per audit.

The 1996 Inventory had only one observation about the appropriateness of the **tools** and **support** available to the function’s staff. It was noted that Department managers were concerned that reviews of Relief of Costs applications could not be done with appropriate assurance of correctness due to the poor quality of information available in the claims file and the lack of computerized procedures to handle the recalculations.

The 1996 Inventory also commented on the appropriateness of the appeals mechanisms. These observations and recommendations are included in our Chapter which focuses on the dispute resolution function.
Issue Three: Achievement of Intended Results

The 1992 Inventory concluded, with somewhat contradictory and incomplete evidence, that the assessment system had achieved one of its key outcomes, namely that it was “fundamentally fair and equitable.” The 1996 Inventory did not provide conclusions about the achievement of that particular goal but commented on these other results:

- **Not Maintaining the Accident Fund:** The assessment system has not achieved its objectives of generating sufficient revenues to administer the Accident Fund. There has been a shortfall of 3 to 4 percent annually in recent years and the total underfunding was approaching $400 million at the end of 1994. In the early 1990s, the WCB was trying to attain a fully funded position without dramatic increases in assessment rates. However, the drain of rapidly rising pension and health care costs kept that goal elusively out of reach.

- **Inconclusive Quality of Classification Decisions:** There are no data available with which to make a credible evaluation of the adequacy of initial classification decisions.

The 1996 Inventory noted that it was still not clear whether or not the Department’s contentious ERA policy had achieved its intended outcomes. It recommended that the WCB conduct a carefully designed, definitive study to determine the actual impacts of the ERA Program. For example, it recommended that such an evaluation examine empirically the movements in merits/demerits and OSH inspection results to reveal whether employers are behaving as if they find sufficient incentives in the current system to motivate their behaviors.

Issue Four: Client Satisfaction

The 1996 Inventory involved interviews with five representatives of employer groups; no individual employers were interviewed. Its major source of information on employer satisfaction was a mail survey of 4,500 firms conducted by Coopers & Lybrand for the WCB in the first half of 1995. This survey had a response rate of 37% and observed that:

- Only 3% of respondents rated the Assessment Department as “below average” or “poor.”

- Only 14% believed that they were improperly classified and rated.

- 58% of responding employers agreed with the statement “My annual assessment is an appropriate reflection of my firm’s claims experience and that of my industry.”

The 1996 Inventory concluded that the survey results indicate a very good level of employer acceptance and that the Assessment Department had made a lot of progress with its external image in the three years since the last Inventory in 1991. They applauded the substantial turnaround and pointed out that the Assessment Department is one contrary example to an otherwise gloomy picture of external community relations. (Note: The report does not contain valid evidence to support this latter conclusion.)

The Inventory had no recommendations on this issue.
Issue Five: Working Environment

In contrast to the 1992 Inventory in which nearly half the staff had been interviewed, the 1996 Inventory relied on interview results from only four Department managers and three staff. Their only observation concerning the Department’s working environment concerned the New Directions project which was launched in March of 1994 to review the Department’s business focus, organizational structure, and work processes. The authors of the 1996 Inventory noted that the project had begun to generate a new spirit of cooperation and a sense of teamwork among the 15-member Project Team that was a major contrast from the past. (Note: The report does not indicate how many of the 15 Team members were interviewed to reach this conclusion nor does it indicate if the Team’s attitude is representative of the much larger Department.) The Inventory contained no relevant recommendations.

Issue Six: Monitoring and Reporting

The 1996 Inventory noted that the Department has conducted a Client Satisfaction Survey and again noted the absence of reports on the adequacy of the initial classification decisions. There were no relevant recommendations.

3.4 WHAT “HIGH PROFILE” FINDINGS COULD BE CITED AND/OR CHALLENGED?

The 1992 and 1996 Inventories contain views and findings that may be cited or challenged by defenders or critics of the system. Exhibit 3.2 contains such high profile statements plus our comments on the extent to which the statements are supported in the report by valid evidence.
EXHIBIT 3.1
NOTEWORTHY THEORIES OR CRITERIA USED BY THE INVENTORIES IN EXAMINING THE ASSESSMENT FUNCTION AND ITS ASSOCIATED POLICY ISSUES

1. **Input:** Input from both employer and employee groups should be used when designing the appropriate incentive policies needed to encourage socially desirable behaviour.

2. **Classification Structures:** The method of classifying employers for assessment purposes should be fair and be perceived to be fair. Ongoing vigilance should take place to ensure that inequities, either real or perceived, do not creep into the system.

3. **Public Review:** There should be a periodic public consideration of the appropriateness of the entire classification system.

4. **Contribute to Prevention:** Classification and assessment policies should contribute to, not detract from, the prevention of workplace injury and disease.

5. **Openness:** Assessment information about all employers should be readily available.

6. **Public Disclosure:** There should be public disclosure, review and explanation of all assessment policies, practices and procedures.

7. **Core Activities:** An effective assessment function should include this set of activities:
   - Classify employers into the correct class and/or sub-class.
   - Calculate the merit/demerit (if an economic incentive system is being used).
   - Audit employers, especially in a self-reporting system.
   - Educate employers about their rights and obligations.
   - Collect delinquent employer accounts (i.e., those that have fallen behind in their WCB assessment payments).
   - Communicate and Explain the assessing agency’s policies, methods and procedures.
   - Register new employers.

8. **Classification:** Because of its critical impact on employers, the classification activity should especially be appropriate. That activity should be supported by:
   - an appropriate sub-class structure;
   - clear policies interpreting it;
   - adequate training and support for personnel involved in classification decisions; and,
   - an adequate review mechanism to catch the inevitable errors.

9. **Audit:** The audit function should ensure that all employers are meeting their reporting requirements and payment obligations in an accurate and timely manner; audits should contribute to equity by assuring the employers of BC that everyone is carrying their fair share of the load.

10. **Required Skills:** If an assessment agency has a new strategy of public disclosure and public review of its practices and procedures, then its staff should have the skills for this new way of doing business.
11. **Responding to Change:** Registration Officers should keep current on changes in technology and industrial organization.

12. **Linkages Within the Agency:** There should be links between the assessment function (and its process of generating financial rewards and penalties) and the agency’s safety and prevention activities in order to:
   - improve the acceptability of economic incentives among organized labour;
   - create better synergy between these two important parts of the agency’s organization and mission.

13. **Linkages External to the Agency:** The assessment agency should have strong linkages to its key stakeholder group, the employers. In particular:
   - There should be a high level of trust between the assessment agency and its major stakeholder group.
   - Employers should have the information they need to determine whether or not they are being dealt with fairly.
   - Employers should be given an effective voice in determining how they will be treated by the assessment agency.
   - Employer groups should have an opportunity to provide input to the agency’s WCB’s decision making on major policy issues.

14. **Productivity Measures:** Several indicators should be used to measure the costs and productivity of an assessment function.
   - average number of active accounts per departmental employee, plus the trend
   - total administrative costs per active registered firm (adjusted for inflation), plus the trend
   - net revenue generated per year per Assessment Officer, plus the trend
   - total administrative costs as a percent of annual assessment revenues.

15. **Orderly and Equitable:** In order to achieve the objective of having an “orderly and equitable” assessment function, these criteria should be met:
   - **Policy Framework:** The underlying policy framework should be supportive of the agency’s objectives.
   - **Structure:** The classification structure, including the number and structure of sub-classes, should be appropriate and should not lead to imbalances.
   - **Decisions:** The classification decisions should be adequate, appropriate and accurate.
   - **Audit:** An appropriate level of audit activity should take place to ensure that all employers are meeting their reporting requirements and payment obligations in an accurate and timely manner. (This contributes to the equity function by assuring employers that everyone is carrying their fair share of the load.)
   - **Collection:** An appropriate portion of overdue accounts should be collected in a timely fashion in order to improve equity across employers and to improve the public’s perception that dollars are not being left on the table.
EXHIBIT 3.1
NOTEWORTHY THEORIES OR CRITERIA USED BY THE INVENTORIES IN EXAMINING THE
ASSESSMENT FUNCTION AND ITS ASSOCIATED POLICY ISSUES  (Cont’d)

- Rates: The resulting assessment rates (and thus the resulting costs to employers) should be reasonable in relation to the benefits paid.
- Access: Employers should know, and have easy access to, the information used by the WCB in making its classification decisions.
- Costs: The administrative costs to collect such funds should be reasonable.
- Contributing: The collection activity and assessment policies should naturally achieve their own specific objectives but should also contribute to, not detract from, the agency's overall objectives, particularly the prevention of workplace injury and disease.

16. Role of Staff: Staff should be included in decision-making and consulted about decisions that will affect their job performance.

17. Performance Measures: The following indicators should be used to monitor and report on the overall performance of the assessment function:
   - The employer community’s attitudes and levels of satisfaction concerning departmental performance (e.g., are they being treated fairly in the classification process).
   - The adequacy and error rates of classification decisions.
   - Administrative costs per active registered firm.
   - The level of audit activity and the likelihood of being audited.
   - Success in collecting delinquent accounts.
   - The total dollar value of overdue accounts expressed as a percentage of total assessment revenue from rateable groups.
# HIGH PROFILE FINDINGS THAT COULD BE CITED OR CHALLENGED

<table>
<thead>
<tr>
<th>HIGH PROFILE CRITERIA, OBSERVATIONS, OR RECOMMENDATIONS (Plus Date of Inventory)</th>
<th>TO WHAT EXTENT IS THIS FINDING SUPPORTED IN THE REPORT BY VALID EVIDENCE?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Concept of Economic Incentives: Notwithstanding labour’s position opposing the very concept of experience rating, the policy of using economic incentives in setting assessment should be favoured (because employers overwhelmingly favour it as a matter of equity); 1992.</td>
<td>This is the author’s opinion based on his interpretation of the literature plus his knowledge of employers’ views. (However, the literature does not appear to be conclusive.)</td>
</tr>
<tr>
<td>2. Linkage of Economic Incentives to OSH and Prevention: In general, there should be a policy link between safety and prevention activities and the employer’s financial rewards and penalties. Financial incentives should be used to re-enforce safety performance. For example, the results of OSH activities should be used in setting an employer’s merit or demerit; 1992.</td>
<td>This is the author’s opinion; there is no supporting evidence cited in the report.</td>
</tr>
<tr>
<td>3. ERA’s Contribution to Prevention: Even though ERA does produce employer “interest” in claims, and even though inappropriate claims avoidance behaviour by employers can defeat the Act’s goal of fair and effective compensation for injured workers, the WCB’s ERA Program does help to focus additional employer attention on safety and injury prevention, it does encourage individual employers to create safer workplaces, and it does so without unduly compromising the principle of collective liability; 1992.</td>
<td>This conclusion is not supported. Indeed, the Inventory calls for an evaluation to find out if ERA has been effective.</td>
</tr>
<tr>
<td>4. Turnaround in Client Satisfaction: There has been a substantial turnaround in employer acceptance and the Department is one contrary example to an otherwise gloomy picture of external community relations; 1996.</td>
<td>These conclusions and comparisons are based on an inappropriate sample size in 1992 and are not valid.</td>
</tr>
<tr>
<td>5. Reasonable Rates: Costs to employers, as measured by average assessment rates, seem very reasonable, especially in comparison to other provinces; 1996.</td>
<td>This is based on the assumption that “average assessment rate” is a valid indicator; that may not be true, especially when BC’s industrial structure is different from other provinces.</td>
</tr>
<tr>
<td>6. Falling Administrative Costs: The Assessment Department raises the funds for the WCB and related organisations at a cost of $70 to $80 per active registered firm per year. In real terms, after considering inflation, this means that the Department’s administrative costs per firm have declined by 3.4% per year from 1982 to 1994; 1996.</td>
<td>This analysis and conclusion are based on incomplete data. The Inventory’s cost analysis did not include the Department’s significant and rising overhead costs, especially its facility costs and its investment in computers.</td>
</tr>
</tbody>
</table>
EXHIBIT 3.2 (Cont’d)
HIGH PROFILE FINDINGS THAT COULD BE CITED OR CHALLENGED

7. **Increase Staffing**: Increase the staffing across the Department to respond to the new spirit of openness; 1992

   This is based on the author’s debatable assumption that it simply will take more people to do things in an open, responsive manner than it did in the past to conduct business behind closed doors.

8. **Fundamentally Fair and Equitable**: The assessment system in BC is fundamentally fair and equitable; 1992

   It is hard to determine, based on the somewhat contradictory and incomplete evidence in the report, how the author made this conclusion; (Note: The 1996 Inventory did not make a similar statement.)
CHAPTER FOUR:  
CORE FUNCTION: ADMINISTER CLAIMS

4.1 WHAT INVENTORIES HAVE REVIEWED THIS FUNCTION?

Two Inventories have assessed the operations and policies of the claims administration function, as carried out by the WCB’s Compensation Services Division. The first Inventory was completed in 1991 and a follow-up Inventory was submitted in 1996. Both Inventories looked at other core functions besides claims administration.

In this Chapter, we focus on the supportable observations and recommendations from the most recent, 1996 Inventory, making comparisons to the 1991 Inventory when it is relevant to do so. (In a separate report, we identify the core recommendations from both the 1991 and 1996 Inventories and describe the WCB’s response to those recommendations.)

4.2 WHAT THEMES OR CRITERIA DID THE INVENTORIES USE TO ASSESS THE FUNCTION’S PERFORMANCE AND POLICIES?

Both Inventories used several implicit criteria to assess the performance and policies of the claims administration function. Although not as extensive nor as possibly-controversial as the criteria used in the OSH Inventories, the authors’ standards and criteria listed in Exhibit 4.1 at the end of this Chapter represent a useful source of principles for the Commission to consider.

4.3 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE OF THE CLAIMS ADMINISTRATION FUNCTION?

The 1996 Inventory addressed five performance issues:

Issue One: Appropriateness of Design

The 1996 Inventory had these observations about the appropriateness of the benefits available to injured workers:

- **Similar in Scope**: British Columbia pays benefits that are found in most jurisdictions in North America, that is, health care, short term disability, long term disability, disfigurement, survivor’s, and rehabilitation benefits. Most, though not all, benefits for compensable injuries or illnesses are associated with the worker’s level of earnings at the time of the injury.

- **Unknown Adequacy and Equity**: There has been no general review of the adequacy and equity of the workers’ compensation benefit structure in BC. Although BC should be proud of providing maximum benefits that are among the best in North America, no one knows how injured workers at different earning levels and in varying family situations are faring. A generous maximum benefit is not enough.
• **Out-of-Step:** BC’s benefits are usually set at a percentage of the worker’s gross level of earnings at the time of injury. However, most other Canadian jurisdictions have gone to net earnings replacement formulas for basic income maintenance benefits.

The 1996 Inventory assessed the range of **service delivery models** being used and tested. It made these observations about their appropriateness:

- **Support for the Queuing Model:** The “queuing model” for assigning claims among adjudicators makes sense. It attempts to address internal work flow issues and to honestly and openly “own” the adjudication delays at the WCB. While there may need to be some standards developed for individual performance levels, the queuing model has the potential to reduce the time pressure on adjudicator decisions, thus contributing to greater job satisfaction and improved decision making.

- **Concern Over Delays and Bias of the “Linear” Adjudication Model:** There are problems with this innovation. The problems with creating another point of hand-off between initial and ongoing adjudicators, is that no case management is occurring during the time when the case is waiting to surface on the second adjudicators desk. This “linear case processing” is already a major problem at the WCB, which will be attacked with the e-file program. But, the initial/ongoing adjudication model adds yet another source of delay that gets in the way of early intervention for maximum recovery potential. In addition, the encouragement of quick decisions by initial adjudicators clearly creates a subtle bias in favour of granting benefits. No one will complain if the initial adjudicator just says yes, but eventually some one will have to deal with the expectations that have been created.

The 1996 Inventory examined the appropriateness of the **level of resources** in the Division. In 1991, it had concluded that the system assigns too many claims, both new and old, to the adjudicators, the primary decision maker in the entire system. That initial report observed that the result of “heaping an excessive burden on these people” was payment errors, client complaints, and costly appeals, even though the agency functions quite well most of the time. (The report lacked evidence to prove that such problems were due to onerous caseloads.)

The 1991 Administrative Inventory reported that the adjudicators felt crushed by the continuous flow of cases onto their desks. In the 1996 Inventory, the authors observed no major change. For example, a typical SDL unit in Richmond continued to handle approximately 15,000 wage-loss claims per year, plus perhaps another 1,500 re-openings. As a result, most decision-makers are still adjudicating over 1,300 initial claims per year, more than 100 per month, about 5 per working day.

The 1996 Inventory reported that because of the pressure to reach a decision and move on to the next file, most adjudicators express frustration with the inadequate time and resources to make the judgments called for, without fear of mistake or reversal on appeal.

In order to improve the design of the claims administration function, the 1996 Inventory had these **recommendations**:

- **Formula:** Review the formula for determining basic income maintenance benefits, given that other Canadian jurisdictions use a formula based on net (versus gross) earnings; at the same time, review the issue of benefit coordination or “stacking”.

• **Adequacy and Equity:** Review the adequacy and equity of the benefit structure to determine how injured workers at different earning levels and in varying family situations are faring; compare the results to other Canadian jurisdictions.

• **Eliminating Subtle Bias:** Review the practice of encouraging quick initial decisions, since this creates a subtle bias in favour of granting benefits.

**Issue Two: Achievement of Intended Results**

The 1996 Inventory examined this attribute using several measures:

• **Increasing Appellate Activity:** The BC workers’ compensation system is fairly free of litigation, at least by North American standards. However, it appears that the trend to more litigious behaviour is taking root in BC. For example, disputed claims are increasing more than four times as fast as employment in BC and more than eight times as fast as new claims registered with the WCB.

• **Disappointing and Deteriorating Paylag Performance:** The primary measure of promptness of payment that is used by the WCB is the paylag statistic, the percent of wage-loss claims where payment is made within 17 days of the first lost work day. For the entire WCB, 42% of short term disability (STD) claims were paid within 17 days in 1994; the lack of improvement in paylag in recent years, despite the addition of considerable resources and no significant increase in initial claims activity, is a disappointment. The paylag situation seems to continue to deteriorate.

In looking at the above timeliness indicators, the 1996 Inventory concluded that doing the same old things in the same old ways will not turn this situation around. The authors commended the new WCB management and existing staff for moving to attack the timeliness problem in a number of ways. However, in their view, until concrete, tested and proven solutions are implemented, the problem remains critical to WCB performance as experienced on the street.

**Issue Three: Reasonable Costs and Productivity**

The 1996 Inventory expressed disappointment over the function’s recent productivity. Using paylag as its main criterion, it observed that significant staffing growth had not resulted in significant performance gains in the adjudication or management of claims.

**Issue Four: Responsiveness**

The 1996 Inventory reviewed the response made by the claims administration function to emerging pressures and problems. It concluded that the record compiled by the Compensation Services Division since 1991 in attacking bureaucratic excesses is not an inspiring one. As an example, it noted that the Division’s “Transition Project” of 1992 and 1993 was launched with great expectations and it ended as a costly and demoralizing failure.

Nevertheless, the Inventory noted that there is great enthusiasm among the new management team at the Division over a series of promising new initiatives that were in various stages of development at the time of the Inventory. Those initiatives included:
• The Service Delivery Strategy (SDS) Project which is designed to improve the quality, value, and level of service provided to clients.

• The move towards the “queuing model” of claim assignment among individual adjudicators.

• An experiment to handle repetitive strain injuries in the individual SDLs.

• A project to use the provincial Medical Services Plan to generate health care payments.

• The “excellent” idea of using one SDL as a “test site” for new claims adjudication and management techniques.

• The development of a new performance management system.

The authors concluded that each of these initiatives has potential and they all show promise of alleviating some of the claims adjudication and administration shortcomings of the past. However, the Division’s past performance in responding to the need for positive change tempered the authors’ enthusiasm for the new initiatives. It recommended that the entire SDS effort be carefully managed and nurtured as a critical part of the WCB’s long-term commitment to customer service and value, as well as employee satisfaction and productivity.

**Issue Five: Monitoring and Reporting**

The 1996 Inventory noted that several criteria, not just paylag (the percentage of cases where the first payments are made within 17 days of the injury) should be used to evaluate the performance of the claims function. Such additional performance measures should incorporate a broader range of institutional goals since an undue emphasis on timeliness may lead to some sacrifice in quality of decision making. (Note: The authors did not suggest the measures to be used.)

**4.4 WHAT “HIGH PROFILE” FINDINGS COULD BE CITED AND/OR CHALLENGED?**

Both Inventories contain views and findings that may be cited or challenged by defenders or critics of the system. Exhibit 4.2 contains such high profile statements plus our comments on the extent to which the statements are supported in the report by valid evidence.
1. **Simplicity**: Although fairness in compensation may sometimes require complicated benefit schemes to insure that the social objective is accomplished, the need for simplicity should be kept in mind. There is a virtue in being able to explain to a worker or dependant what the basis is for a given level of compensation.

2. **Equity**: Benefits should be both equitable and efficient across the entire injured worker population. A generous maximum benefit is not enough.

3. **Attention**: Each claim and each claimant should receive the individual attention they deserve.

4. **Use of Lawyers**: The overall system should be fair and equitable and should be designed so that lawyers are not needed to represent the interest of the parties involved.

5. **Representation**: Injured workers and their dependants should have access to sufficient, qualified representation.

6. **Median Paylag**: The median (versus mean) paylag should be used to more adequately measure the “typical” performance in adjudicators’ efficiency.

7. **Trends in Appeal Levels**: Significant numbers of appeals should not be cited as conclusive evidence of structural shortcomings in the claims administration function. Instead, the number of appeals and their sources should be monitored continuously because rapid increases in appeals can be symptomatic of less effective adjudication or communication with the client at an earlier level.

8. **Performance Measures**: Several criteria, not just paylag (the percentage of cases where the first payments are made within 17 days of the injury) should be used to evaluate the performance of the claims function. Such additional performance measures should incorporate a broader range of institutional goals since an undue emphasis on timeliness may lead to some sacrifice in quality of decision making. (Note: The authors did not suggest the measures to be used.)
## EXHIBIT 4.2
### HIGH PROFILE FINDINGS THAT COULD BE CITED OR CHALLENGED

<table>
<thead>
<tr>
<th>HIGH PROFILE CRITERIA, OBSERVATIONS, OR RECOMMENDATIONS</th>
<th>TO WHAT EXTENT IS THE FINDING SUPPORTED BY VALID EVIDENCE?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Excellent Performance as of 1991:</strong> When viewed as a system, in all its detail, it must be conceded that the WCB does an excellent job of handling the burden of the claims process. It is clear that mistakes are made in individual cases, and these mistakes need to be found and corrected, but on the whole the system performs very well. (1991)</td>
<td>It is not clear which measures the Inventory uses to make such a positive conclusion, especially given some of the problems highlighted in the 1991 report. There are no comparisons to other jurisdictions to support the authors’ views.</td>
</tr>
<tr>
<td><strong>2. Declining Administrative Costs:</strong> From 1984 to 1990, administrative costs in the Compensation Services Division have declined by almost one percent per year in constant dollars. This is a very impressive performance particularly in the face of escalating wage levels and increasing administrative complexity. (1991)</td>
<td>This conclusion is based on incomplete evidence. The Inventory’s cost analysis did not include the Division’s significant and rising overhead costs, especially its facility costs and its investment in computers.</td>
</tr>
<tr>
<td><strong>3. Disappointing Performance:</strong> The staffing growth in the Division over the last several years cannot be demonstrated to have resulted in significant performance gains in the adjudication or management of claims. (1996)</td>
<td>This is well supported, but is based on using paylag as the sole measure of performance. In the previous Inventory, the authors had urged the use of additional performance measures.</td>
</tr>
<tr>
<td><strong>4. Doubts About Ability to Respond:</strong> There are a number of new initiatives designed to remedy the situation but past performance must temper our enthusiasm for these changes. (1996)</td>
<td>Examples are cited to support this view.</td>
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CHAPTER FIVE:
CORE FUNCTION: REHABILITATE INJURED WORKERS

5.1 WHAT INVENTORIES HAVE REVIEWED THIS FUNCTION?

Three Administrative Inventories have examined the way the WCB rehabilitates injured workers.

- In 1991, the Hunt report examined the overall Compensation Services Division, which included the Vocational Rehabilitation Department.

- In 1993, Fulton’s Administrative Inventory focussed on the Rehabilitation Centre (which is not part of the Vocational Rehabilitation Department) and also examined the WCB’s Medical Programs, especially as they are used in the vocational rehabilitation function.

- In 1996, Hunt’s team returned for a follow-up Inventory and again examined the vocational rehabilitation function as part of its review of the Compensation Services Division. In doing so, it also reviewed some aspects of the Rehabilitation Centre.

In this Chapter, we concentrate on what the 1996 Inventory said about the vocational rehabilitation function, making comparisons to the 1991 Inventory when it is relevant to do so. Exhibit 5.1 at the end of this Chapter summarizes what Fulton said in 1993 about the Centre and the WCB’s Medical Programs.

5.2 WHAT THEORIES OR CRITERIA DID THE INVENTORIES USE TO ASSESS THE FUNCTION’S PERFORMANCE AND POLICIES?

The key author (Leahy) of the 1991 and 1996 Inventories of the vocational rehabilitation function had a Ph.D. in vocational rehabilitation and had 15 years of field experience in delivering vocational rehabilitation services.

According to his report and our subsequent interview with him, he utilized four “generally-accepted” principles in assessing the WCB’s vocational rehabilitation function. (Note: We have not probed whether indeed such principles are generally accepted in the vocational rehabilitation community or whether they are evidence-based):

- Employment Versus Employability: The favoured outcome should be return-to-work, whenever that is feasible (versus the outcome of rehabilitating the injured worker to the state where he or she is “employable.”)

- Skills Required: In order to effectively perform the multifaceted professional role of providing individualized services to injured workers with various backgrounds, functional impairments, and needs, the vocational rehabilitation consultant should have an array of competencies. This includes knowledge and skills in vocational assessment and planning, vocational and personal adjustment counseling, case management and coordination, and employer development and job placement. In addition, the consultant is required to have knowledge of the functional and psychosocial impacts of disability, the ability to utilize occupational and labour market information, and detailed
knowledge of the agency’s policies and procedures. These skills can be best acquired via specialized training and education, preferably at a post-graduate level.

- **Early Intervention Strategy:** The agency’s rehabilitation strategy should focus on early intervention efforts.

- **Disability Management:** The agency should use disability management techniques because it appears that such techniques can be used to attack successfully both the incidence and the duration of disability. Ultimately, it appears that this approach also leads to fewer cases of the self-defeating psychology of learned disability.

### 5.3 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE OF THE VOCATIONAL REHABILITATION FUNCTION?

The 1996 Inventory addressed eight performance issues:

#### Issue One: Clarity of Management Direction

The 1996 Inventory observed that the lack of clear direction was still a problem:

- **Lack of Progress in Clarifying Direction:** Much of the activity generated since 1991 to clarify policy issues and set service delivery expectations came to an abrupt halt with the dissolution of the Departmental infrastructure. Some of these initiatives, such as efforts to clarify the employment/employability issue and the initial design of case management standards and performance profiles, are very much needed by managers and consultants today.

- **Unclear Mission and Expected Outcomes:** Because of this lack of progress, the function’s expected outcomes are still unclear. Is it the WCB’s mission to provide services to injured workers to enhance “employability” or to focus on “placement” and the return to actual employment? A related and even more relevant question is at what point in the process have sufficient services and resources been applied to terminate the case without an employment outcome.

- **Impact of Unstable Leadership and Direction:** The instability in the function’s leadership (seven Directors in a 10-year period and no leadership for the past two years) coupled with very mixed messages regarding service delivery expectations appear to have impacted performance and morale. This includes an uncertainty and a general lack of commitment during the past year to developing strategic plans for future departmental development, problems in setting clear goals and expectations of performance for managers and consultants, difficulty in securing the required level of resources to meet the departmental mandate, delays in implementing and utilizing sufficient management information systems to monitor performance, and an inability to control and explain the program’s exploding costs. This means that there is a lot of remedial work to be done.

- **Impact of Pursuing the “Employment” (Versus Employability) Goal:** If the policy of the WCB was to enhance the commitment to return to work services with placement as the goal, then it could be anticipated that a number of changes would result. For instance, a greater proportion of consultant time would be devoted to employer
development and placement related services, which may affect current staffing patterns and professional training needs.

The 1996 Inventory made the same basic recommendations that had been made in the first Inventory in 1991:

- **Clarify Goals:** Determine whether enhanced “employability” or a return to work is the function’s primary goal. (The author urged the WCB to pursue the “employment” goal.)

- **Clarify Expectations:** Develop clearer guidelines, expectations, and standards of practice regarding the provision of vocational rehabilitation services within the WCB.

### Issue Two: Appropriateness of Design

Here is what the 1996 Inventory concluded about the appropriateness of the WCB’s rehabilitation policies:

- **Outstanding Range of Benefits:** The broad array of rehabilitation benefits is outstanding. (Note: The Inventory describes the full range of such benefits but the report does not compare that set of benefits to other jurisdictions. It is the author’s informed opinion based on his knowledge of other jurisdictions, that such benefits are “outstanding.”)

- **Potential Over-Use of the “Deeming Process” Policy:** A key policy question is at what point in the process have sufficient services and resources been applied to terminate the case without an employment outcome? A problem that could be exacerbated by these issues is when permanent disability loss of earnings pensions are based on “deemed” jobs rather than actual post-injury employment. The deeming process is used in situations where the consultant, using all available information, makes the judgment that a worker is capable of performing a particular job or occupation, and that the job is reasonably available to the worker. Once the consultant has “deemed” the job, the worker is treated by the WCB as if this is an accomplished fact. While there is certainly a legitimate need for such a procedure in cases of last resort, significant potential exists for over-use of the “deeming process” in situations where the policy focus is on developing employability rather than actual placement (particularly in the absence of clear standards and expectations).

The 1996 Inventory also examined the appropriateness of the strategies used in the WCB’s vocational rehabilitation function. It made these observations:

- **Lack of Strategic Planning:** There has been a lack of commitment to developing strategic plans for future departmental development

- **Progress in Achieving Early Intervention by Teams:** In relation to promoting early intervention efforts at the Board, certain types of impairments such as spinal cord injuries and other severe disabilities (e.g., traumatic brain injuries, amputations) received immediate attention by the consultants. For example, in units of the Rehabilitation Centre which specialize in providing services to severely injured workers, vocational rehabilitation consultants join an interdisciplinary team early in the total rehabilitation process to provide consultation and assist with problem solving.
• **Barriers to Enhanced Early Intervention**: Throughout the WCB, while there appears to be general agreement regarding the potential value of early intervention efforts by the consultant, there are also some serious barriers to this involvement that require attention. These include natural time delays in the claims adjudication process, situations where there are discrepancies between worker complaints and medical evidence, caseload demands, and a growing trend, where consultants are spending more of their time working at their desks and less time with employers (in this case particularly the accident employer) and in the community.

• **Infrequent Use of Disability Management**: In British Columbia, the incentives for disability management are very much attenuated. Private employers do not have any real incentive to reduce the duration of cases that will be over two years in length. The WCB has the incentive, but because of the inefficiencies of linear processing, attends to the situation far too late in most cases to make a significant impact on recovery and return to work possibilities.

The 1996 Inventory also examined the appropriateness of the function’s model of service delivery. It reached the same conclusions as the original Inventory in 1991:

• **Comparable Model**: WCB’s vocational rehabilitation process involves five sequential phases of what is termed vocational exploration. It appears very similar to most hierarchical models used in workers’ compensation return to work programs.

• **Well-Developed (But Inconsistent) Referral Process**: The referral process for vocational rehabilitation services, along with criteria and procedures are well-developed. There does however appear to be great variability experienced in the timing of the referral to the vocational rehabilitation consultant and in the level of effort by the consultant to intervene quickly once the referral has been made. As a result, claims management activities are now characterized by periods of benign neglect.

• **Comprehensive Services**: The WCB Rehabilitation Centre located in Richmond provides a comprehensive array of services and programs. This state of the art facility provides comprehensive physical and occupational therapy services, as well as physical conditioning (e.g., work hardening) and assessments in 10 unique industrial workshops. Specialized rehabilitation services are provided through the Amputee Unit, Hand Unit, Head Injury Assessment Unit, Functional Evaluation Unit and the Back Evaluation and Education Programs.

• **Unique Services**: While all therapeutic areas of the Centre are, or could be, significant contributors to the rehabilitation process, a few of these programs stand out for their unique services offered in vocational assessment and preparation for return to work. These programs would include the Occupational Therapy Program, Psychology Department, Functional Evaluation Unit, and Job Search Program.

• **Unsuccessful Attempt to Extend the Job Search Program**: In response to an evaluation of the Job Search Program, management developed a comprehensive proposal to develop an Employment Resource Centre which would house the job search program along with an orientation program, resource library, assessment services (which included a specialized team that would perform employability assessments), and a research component. The focus of the proposed Centre was to provide not only job seeking skills, but also provide the information and support to assist with job placement for injured workers referred to this resource by consultants. Unfortunately, for budgetary
reasons this proposal was not funded. However, the original Job Search Program was redesigned to include a career exploration component and re-named the Career Redirection and Job Search Skills Program.

The 1996 Inventory paints a useful history of the many changes in the function’s organizational structure and provides these observations on the appropriateness of that structure:

- **Negative Impact of Organizational Changes:** During the past four year period (1991-1995) there have been numerous organizational changes that have negatively affected services provided to injured workers and the support required by the vocational rehabilitation consultants in carrying out their multifaceted role. The changes’ net result was the implementation of a structure without any technical support for vocational rehabilitation consultants within the SDLs. This was also the point at which the Vocational Rehabilitation Services Department was dissolved and the entire professional infrastructure supporting vocational rehabilitation services ceased to exist. These structural and management changes appear to have contributed greatly to the general loss of focus and morale among the consultant group, a significant and sustained increase in spending patterns, and what is generally perceived to be an overall decline in the quality and accountability of vocational rehabilitation services provided to clients.

- **New Structure in 1995:** By early 1995, the problems experienced as a result of the lack of structure, oversight and support for vocational rehabilitation services were recognized within Compensation Services, and a decision to reinstate a centralized departmental and management structure in support of vocational rehabilitation services was made. The actual implementation of the new departmental and management structure occurred in June of 1995.

- **Continuing Excessive Demands on Rehabilitation Management:** Within the new Departmental structure the seven front line managers within the Department supervise vocational rehabilitation consultants with an average supervisory ratio of nearly 1 to 13, and when you add the additional responsibilities for supervising vocational coordinators and case assistants that ratio increases to approximately 1 to 15. This ratio alone, considering the varying levels of experience, education, and training among the vocational rehabilitation consultants would appear to be excessive. However, when one considers the added factor that vocational rehabilitation consultants are physically located in separate units within the WCB Richmond office and also located throughout the Province in area SDLs, the demands on vocational rehabilitation management take on even greater significance. These management challenges are further exacerbated by the nearly non-existent oversight, support and supervision provided to consultants over the past two and one-half years and the high proportion of newly hired and inexperienced consultants within the system.

- **Negative Impact on Clinical Supervision and Standards of Practice:** Given the fact that there was virtually no structure to provide supervision over the past two years combined with the limited experience of a number of consultants (e.g., 43 percent with less than three years job tenure), systematic clinical supervision, ongoing training and quality assurance appear critically deficient. Addressing this concern appears to be a high priority of the new management structure in the department. However, even with the newly designed organizational structure there are serious barriers to effectively carrying out these important supervisory tasks.
• **New Initiatives:** With the implementation of the new management structure in June 1995, the senior level and front line management staff began a series of initiatives to further assess this situation. They intend to implement a series of intervention and support activities to clarify expectations, establish a stronger foundation of skills and knowledge of policy in the field, and get back to the basics in relation to the role and function of the consultant in case management and return to work services. For example, the process of approving budgets and case review was modified to occur at certain time frames within the rehabilitation process for individual cases rather than being solely prompted by exceeding a specified spending level per case. While it is too early to assess the sustained impact of these initiatives, the initial response from both management and staff and consultants was quite positive.

The 1996 Inventory also assessed the appropriateness of the function’s **level and allocation of resources.** It made these observations:

• **Inequitable Deployment:** There has been over-centralization of vocational rehabilitation services. The range of services available in area offices is more limited than those existing in Richmond. Area offices are therefore at a disadvantage in relation to accessible services and programs.

• **Under-Resourced but Noteworthy Research and Development:** The research and development section of the Department appears to be operating with minimal staff and resources. The fact that they have been able to develop, implement and maintain systems to assist the consultants and the overall Department is noteworthy.

• **Questionable Allocation of Consultant Time:** A number of issues and trends that have emerged in recent years appear to have significantly affected the way that consultants perform their roles and the amount of time they devote to various functions involved in the vocational rehabilitation process. For example, a consistent observation made by consultants during the interview process was that they now spend more time than ever working at their desks rather than in the community in the performance of their roles. Some estimates of the proportion of time devoted to community based activities (e.g., working directly with accident employers, employer and community resource development, on site client visits) were as low as 20 percent. Evidence in support of this change in recent years is the significant decrease noted in travel reimbursement and the number of miles put on WCB vehicles by consultants, even in the outlying area SDLs. Documentation requirements, increased demands for service coordination (external referrals), and more complex and demanding cases were cited as the primary reasons for this change by consultants.

• **Negative Impact of Decreased Time in the Field:** The result of decreased time in the field appears to have directly impacted the consultants’ ability to intervene early with the accident employer, actively assist with employer development and placement activities and develop meaningful relationships with external providers and resources that could further support rehabilitation efforts in the community.

• **Unsuccessful Efforts to Reallocate Time:** Partially in response to the above issues, the Department created the position of vocational coordinator within each of the SDLs to assist consultants with managing and expediting rehabilitation expenditures for clients on their caseloads. While this is almost uniformly acknowledged by consultants as an improvement in the system, it does not appear to have had a significant impact on
freeding up additional time for consultants to spend in the field in the performance of their responsibilities.

- **Difficulty in Setting Appropriate Resource Levels:** Because of the lack of outcome data related to vocational rehabilitation expenditures, it is difficult to know how much of its resources WCB should devote to rehabilitation and return to work services.

The 1996 Inventory also commented on the appropriateness of the skills used to deliver the function as well as the efforts made to ensure that such skills were adequate. (Note: The first five observations had also been made in the 1991 Inventory):

- **Missing Management Skills:** There has been a lack of formal training for new and continuing management staff. This is especially important given the daunting task of managing professional staff in a matrix management system.

- **Professional Preparation:** There is a critical need for improved formal training for new consultants; over 20% of the current consultants were trained and employed in the field during a time (1993-1995) when there was virtually no formal clinical supervision or rehabilitation management support.

- **Limited Experience With WCB:** A substantial portion of the vocational rehabilitation staff have had limited experience with their present role. This is especially significant because of the lack of direct pre-service preparation and the limited resources available for orientation training.

- **The Need for Ongoing Professional Development:** At the present time, the official job description for the vocational rehabilitation consultant requires only a bachelors degree in social sciences, humanities, and/or commerce and does not specify a preference for, or requirement of, certification (CCRC) or professional membership. These requirements and the subsequent level of education attained by the majority of consultants at the WCB (76 percent at the bachelors level or below) underscore the critical need for the Department to address the ongoing professional development of consultants through systematic continuing education and in-service training programs.

- **Limited Professional Development:** For the more experienced consultant, efforts to formally expand professional competency levels through continuing education and in-service training appear very limited. In addition, at the management level, there currently is no formal training program to orient the new manager to their respective role or provide specific managerial skill enhancements on a regular ongoing basis.

- **Noteworthy Efforts to Develop Training Tools and Resources:** One very important improvement in recent years was the development by the Training and Educational Centre (TEC) of a comprehensive Vocational Rehabilitation Services Procedure Handbook. This handbook provides consultants with detailed information and procedural requirements of vocational rehabilitation services. The handbook is used extensively during the formal training phase and then as a reference guide for consultants once they begin practice in the field. During the past few years the formal training available at the WCB for new consultants has undergone considerable revision and enhancement. Unfortunately, the TEC has recently been dismantled, at least for the present time, with all but one of the trainers reassigned back to claims and consultant roles throughout the Province.
• **Barriers to Effective In-Service Training:** In terms of the formal training program that had been developed for vocational rehabilitation consultants, there has been over the past few years attempts made to enhance the practical or field based experience associated with the core training curriculum. This was apparently in response to the need to create a balance between core training and practicum, as well as to make the training more competency based and individually driven. In response, the training staff began to introduce casework at a much earlier stage in the 12-week class portion of the core training process, and simultaneously developed more focus on longer term practicums with mentorship. Some of the key problems encountered by the training staff with this model were the limited, or sometimes non-existent, standards of performance for consultants in the field, and the fact that they lost control of the quality of the training (and selection of appropriate mentors) once the individual began the field-based portion of the overall training curriculum.

• **Uncertain Outcomes of Graduate Training:** While there has been a substantial amount of development activity performed by a number of local professionals, including WCB personnel over the years, to develop a graduate training program in vocational rehabilitation counseling at a university in British Columbia, the outcome of these efforts is uncertain at this time.

The 1996 Inventory examined the appropriateness of the function’s **external linkages** and noted that during the past few years some progress has been made to develop an external advisory mechanism for the vocational rehabilitation services provided at the WCB. In 1993, in accordance with the revised Chapter 11 of the Rehabilitation Services and Claims Manual, the Vocational Rehabilitation Services Advisory Council was established and regular quarterly meetings began. The Advisory Council was designed to represent community participants in the vocational rehabilitation process at the WCB. While the development of the Advisory Council appears to have been a very important step forward, it was implemented during a period of great instability, which clearly restricted its impact during the first two years of operation.

The 1996 Inventory assessed the appropriateness of the **tools, mechanisms and facilities** used to support the vocational rehabilitation function. It observed:

• **First Rate Facility:** WCB clients have not been short-changed in the facilities available for worker rehabilitation. The WCB Rehabilitation Centre in Richmond provides a comprehensive array of services and programs. It is a first rate facility, among the finest in North America.

• **Missing Management Tools:** The Department lacks effective marketing tools, management information systems, and ongoing research on outcomes and program evaluation.

• **Out of Date Computer Tools:** There is a critical need to upgrade the level of computer support available to consultants in performing their responsibilities. Current job matching and exploration programs and the case management computer tracking system are in critical need of upgrading/and or replacement. For example, the Vocational Rehabilitation Program, which was developed internally in 1987, to assist with job matching, is in critical need of updating.

• **Inadequate Handbook:** While the recent development of the new Vocational Rehabilitation Services Procedure Handbook represents a major step forward in providing uniform guidance in relation to procedural requirements, it does not
adequately address expectations, provide guidelines for dealing with various case management issues and problems, nor set clear standards of performance for the consultants.

In order to improve the appropriateness of the function’s overall design, the 1996 Inventory made an extensive set of recommendations, as outlined in Exhibit 5.2 at the end of this Chapter.
Issue Three: Achievement of Intended Results

The 1991 Inventory observed that the Vocational Rehabilitation Department lacked an adequate system to determine the total effectiveness of services provided to injured workers. It also pointed out that the last cost benefit studies were conducted in 1981 and 1984. The 1996 Inventory reached a similar conclusion and stated:

“There is a paucity of information available regarding the effectiveness of services provided and outcomes achieved.”

The 1991 Inventory reported that a new Case Management System was being implemented to help track the outcomes of vocational rehabilitation services. The 1996 Inventory used the data from the system to provide information on the two performance measures tracked by the system, namely total expenditures for services provided and the single benefit indicator of return to work, by type of outcome. It calculated placement rates for 1994 and 1995 under various assumptions and concluded that

“Generally speaking, these (placement) rates (of about 30%) would be roughly comparable to the average workers’ compensation program where vocational services are either provided or purchased externally. They indicate moderate effectiveness in returning injured workers to employment.”

The 1996 Inventory also examined outcomes in relation to expenditures. It noted that:

“These expenditure patterns seem to demonstrate that during the past 4-year period more emphasis has been given to the return to work objective. However, as noted previously these efforts do not appear to have substantially changed the placement rates attained by the Department.”

The 1996 Inventory concluded that rehabilitation performance figures are only “average” in spite of exploding expenditures and excellent facilities. In order to be more effective in achieving its intended results, the 1996 Inventory made 10 major recommendations, all of which are included in this Chapter under the relevant performance issue.

Issue Four: Client Satisfaction

The authors of the 1996 Inventory met with four advocates who expressed concerns about:

- The lack of early intervention efforts with the client and the employer.
- Attempting to maintain worker attachment.
- The need to put more pressure on employers to participate in return to work efforts.
- Delays in the system and their impact on Departmental costs.
- Too much focus on wage loss as opposed to providing rehabilitation services.
• The entire claims and rehabilitation process, pointing out the negative effects of the linear nature of the process and the fact that only one issue at a time is dealt with, as opposed to bringing together all available resources to address the issues in an efficient and effective manner.

• The qualifications, training and credentials of the vocational rehabilitation consultants.

Because of the small sample size of this group, it is not known whether their views are representative of the population of workers who are or who have been the function’s clients. It is also unclear whether or not there has been a shift in satisfaction over the past four years.

**Issue Five: Costs and Productivity**

Neither Inventory assessed the Department’s administrative costs. However, both Inventories examined program costs and observed that there has been a “significant and sustained increase in (vocational rehabilitation) spending patterns,” concluding in 1996 that “much of the growth in expenditures appears to be related to return to work efforts.” The 1996 Inventory used the following evidence to support its conclusions about “exploding” program costs:

• **Accelerating Expenditures, Decreasing Referrals:** In 1994, which represents the last calendar year of complete data, the WCB spent $68.6 million on injured workers through its provision of vocational rehabilitation services. This represents a 50 percent annual rate of increase in expenditures from 1991. Further, this dramatic increase occurred during a period where new referrals for services actually decreased by 9.4 percent per year. (Total expenditures in 1986 were only $4.6 million.)

• **Increasing Share of WCB Payments:** Vocational rehabilitation expenditures accounted for approximately 9 percent of all accident fund payments by the WCB in 1994, up from just 4 percent in 1991.

• **Allocation:** A large proportion of vocational rehabilitation expenditures were for a fairly small proportion of workers. (For example, 8% of the clients represented 40% of the expenditures.) There is no current way to judge whether this is an appropriate ratio. (The Inventories make no comparisons to other jurisdictions.)

• **Changing Patterns:** Of the 12 expenditure categories, four grew at rates far above the average during the period 1991 to 1994. For example, job search allowances (which represent the single greatest expenditure type) grew 81% annually during 1992 and 1993 and at a rate of 39% in 1994.

• **Unexplained Explosion:** Vocational rehabilitation expenditures have exploded at rates that no one can adequately explain.

The 1996 Inventory concluded that the “underlying causes (for exploding expenditures) are not so difficult to ascertain in this instance.” The author blamed the lack of leadership for the previous two years and the fundamental lack of consensus about the mission of vocational rehabilitation. In a subsequent interview, he pointed to the growing assertiveness of workers and their access to advocates (e.g., Workers Advisers) who assist them.
Issue Six: Responsiveness

The 1996 Inventory identified several issues that the WCB needed to respond to and described progress (or lack thereof):

- **Emerging Service Provision Issues:** There are a number of emerging issues related to service provision, such as preventative rehabilitation, non-compensable issues, psychological issues (e.g., depression, chronic pain and subjective complaint) and substance abuse that require policy clarification for consultants and clearer guidance and expectations regarding how the consultants deal with these issues on their caseloads.

- **Internal Factors:** The constant change in leadership and the lack of consensus over a vision for vocational rehabilitation are internal issues that require a planned response.

- **External Employment Factors:** The WCB has not allocated enough attention to the changing nature of the labour market and of available opportunities for workers displaced by virtue of disability to re-enter and sustain suitable employment. These issues are also affecting other vocational rehabilitation service providers in the private sector within the Province. They have experienced a drop in their placement rates in recent years and report more difficulty locating appropriate employment opportunities for the clients they serve.

- **Changing Demographics:** The impact of these external employment factors is further exacerbated by ongoing changes in the demographics of the workforce and of those individuals who sustain work related injuries and illness. As the workforce ages, more and more older workers are being served by the Department. Oftentimes these individuals present unique challenges to vocational rehabilitation efforts, including limited education and transferable skills and other non-compensable aspects of the injury that present significant barriers to re-establishing employment. These may act as further worker disincentives for early return to work and positive employment outcomes. The WCB will need to spend more attention on changes in the labour market, demographics and the non-compensable barriers to employment that injured workers often present.

- **Unique Needs of Remote Areas:** Although the vocational rehabilitation process is utilized throughout the WCB, there are some unique geographic and industry factors that greatly affect employment opportunities and resources available in some of the more remote areas of the province. These issues are characterized by a general limitation of opportunities for reemployment following injury, and typically result in expanded consultant time on complex cases, extensive travel, and the need for creative problem solving. For the injured worker in these locations, the vocational rehabilitation process becomes very difficult as well, particularly if they were previously employed in high wage occupations (e.g., fallen, logging industry), have limited formal education, and/or do not wish to relocate their families to more urban areas where expanded opportunities for training and reemployment may exist.

- **Problematic Response to Changes in Advocacy Levels:** Another external factor which appears to have had a growing impact on vocational rehabilitation efforts and services provided over the past four-year period is the increase in the level and sophistication of outside advocacy efforts. Advocates and workers are more knowledgeable about the system and are more likely than ever to exercise their rights in
advocating for their preference of services and outcomes in the process. While as a whole this can be viewed as a positive development, the reaction of the vocational rehabilitation consultants to these new factors has been problematic. For example, many consultants cited this issue as driving the need for increased levels of internal documentation in order to justify decisions that may be appealed in the future. Others felt that consultants were most likely to respond to worker preferences than to provide an objective assessment of needs, to avoid confrontation and the appeals process.

- **Lack of Management Information:** Management staff lack reliable and timely information to analyze trends so that they can respond to them.

- **Lack of Response to Critical Issues:** A few years ago management developed a comprehensive plan to address these issues, however, the plan was not implemented due to budgetary constraints. Today these needs are even more critical.

- **Lack of Response to the 1991 Inventory:** During the past four - year period (1991 - 1995) there have been numerous organizational changes that have affected services provided to injured workers and the support required by the vocational rehabilitation consultants in carrying out their multifaceted role. As a result, many of the issues originally documented in this area in the 1991 Administrative Inventory have not been adequately addressed. Now, some four years later, these issues and other developing internal and external factors are in critical need of address and resolution. For example, much of the activity generated since 1991 to clarify policy issues and set service delivery expectations came to an abrupt halt with the dissolution of the Departmental infrastructure. Some of these initiatives, such as efforts to clarify the employment/employability issue and the initial design of case management standards and performance profiles, are very much needed by managers and consultants today.

- **Noteworthy Exception:** There has been one exception to the general lack of response to the 1991 Inventory. Recently, in addition to extensive preparation efforts related to attaining program accreditation, the management and staff of the WCB Rehabilitation Centre have been involved with the development and management of a preferred provider network and the further development of program evaluation capacities at the Centre. For the past two years, the Rehabilitation Centre has managed a fairly large preferred provider network throughout the Province. Development and management activities associated with these initiatives have included very detailed standards setting procedures, and a comprehensive quality management system. The Centre’s Provincial Work Conditioning and Worksite Reintegration Program is an example of recent initiatives in this area.

- **New Initiatives:** As part of the new departmental and management structure, there are a number of new initiatives planned (e.g., the “case management” model) to address and respond to the problems and barriers described above. (The Inventory describes these initiatives but does not comment on their appropriateness.)

The 1996 Inventory had these recommendations for responding to emerging issues:

- **Ongoing Research:** Promote research efforts to provide the Department with the kind of information required to appropriately inform future policy and practice. Given the rapid changes in the labour market, demographics and the non-compensable barriers to employment that injured workers often present, there is a critical need to study these complex issues on an ongoing basis.
• **Policy Clarification:** Provide clear policies, guidance and expectations to consultants concerning the impact of these emerging issues on their caseloads.

• **Responding to the Lack of Job Options:** Because of the increased difficulty in locating new employment options for injured workers, optimize the workers’ attachment to the accident employer. This requires that consultants and the entire adjudication/rehabilitation process focus more on early intervention techniques consistent with established disability management principles. These earlier disability management efforts would also occur during the two-year period when there are still financial incentives (e.g., assessment rates) for the employer to participate in return to work efforts. (After two years the employer no longer bears the individual responsibility for claim costs under the ERA system.)

• **Responding to Changes in the Job Market:** Given the growing complexity and change within the job market, acquire additional resource tools, software and technology that are needed for consultants to access labour market information, and employment leads, as well as to perform transferable skills analyses and job matching.

**Issue Seven: Working Environment**

Both Inventories observed the low morale amongst consultants and the high turnover at the manager level. According to the 1996 Inventory, the low morale in the field is due to lack of supervision, training, direction, oversight and accountability.

For example, the authors reported that

> “Many consultants we spoke to indicated that they had not had a performance evaluation in the last two or three years, and were uncertain what the performance expectations actually were. Most consultants reported a sense of professional isolation within the SDLs that contributed further to a sense of confusion, lack of direction and lessened confidence that they were practicing in accordance with expected guidelines.”

**Issue Eight: Monitoring and Reporting**

The 1991 Inventory concluded that the Department:

> “Does not possess the capability to produce essential management information (and) does not have an adequate system to determine the total effectiveness of services provided to injured workers.”

For example, professional staff (managers and consultants) were unable, either collectively or in relation to individual caseloads, to report their placement rate.

The 1991 Inventory also noted that the Department had recently implemented a computerized client tracking system. The authors believed that:
“*This system appears to have enormous potential to track and aggregate data related to services and outcomes … and could provide the Department, if development and testing continue, with the type of management information required to evaluate the effectiveness and cost benefit of vocational rehabilitation services provided.*”

The 1991 Inventory therefore called for the full development of a management information system, plus ongoing research on outcomes and program effectiveness.

When the authors returned four years later, they made exactly the same observations that they had made in their 1991 Inventory, namely that the Department still does not have an adequate system to determine the total effectiveness of services provided to injured workers.

The 1996 Inventory concluded that:

> “*Without comprehensive data on inputs and outcomes it is not possible to make an adequate assessment of the total effectiveness, quality, or cost benefit of services provided. This lack of program evaluation data and management information is critical to the effective delivery of vocational rehabilitation services and needs to be addressed immediately.*”

The Inventory also noted that

> “*While the Department does have the Case Management System which produces some basic information on services and outcomes, this system is viewed by everyone interviewed as insufficient. For example, there is a lack of clarity regarding the types of expenditures that are lumped together within each of the codes. This is even more problematic when trying to estimate the cost and effectiveness of services and the cost benefit ratios of successful outcomes.*”

The authors of the 1996 Inventory identified two exceptions to “the paucity of information” regarding the effectiveness of services provided and outcomes achieved:

- The Centre’s Program Evaluation and Research Unit (PERU) has designed and carried out a number of operational evaluations in recent years. These evaluations have provided the basis for the management of quality, both within the Centre, and in the preferred provider network.

- There was a more comprehensive evaluation study of vocational rehabilitation conducted in 1993 through the Internal Audit and Evaluation Program at the WCB. This study, titled “Vocational Rehabilitation Interventions Evaluation Study (Back Injury Claims)” was published in 1994. The Purpose of the study was to evaluate the delivery, impacts and costs associated with the Board’s provision of vocational rehabilitation services. The study employed various methodologies in the evaluation, from a review of the literature to a survey of workers and employers served by the Department. Such a study also represents the first large scale evaluation study of vocational rehabilitation services at the WCB. These types of evaluation efforts are critical to further analyze the effectiveness of the system.

The 1996 Inventory echoed exactly the same recommendations from the 1991 Inventory, calling for the full development of a management information system, plus ongoing research on outcomes and program effectiveness. Its three specific recommendations were:
• **Timely and Reliable Management Information:** Provide reliable and timely information to management staff to analyze trends and monitor performance in the future.

• **Program Evaluation:** Design a program evaluation system that provides meaningful management information on both process and outcomes related to the delivery of vocational rehabilitation services. Multiple performance indicators or measures need to be developed and longer term follow-up mechanisms should be established.

• **Ongoing Research:** Promote research efforts to provide the Department with the kind of information required to appropriately inform future policy and practice. Given the rapid changes in the labour market, demographics and the non-compensable barriers to employment that injured workers often present, there is a critical need to study these complex issues on an ongoing basis.

### 5.4 WHAT “HIGH” PROFILE FINDINGS COULD BE CITED AND/OR CHALLENGED?

The three Inventories summarized in this chapter contain views and findings that may be cited or challenged by defenders or critics of the system. Exhibit 5.4 contains such high profile statements plus our comments on the extent to which the statements are supported in the report by valid evidence.
EXHIBIT 5.1
FINDINGS FROM THE 1993 INVENTORY ABOUT MEDICAL PROGRAMS AND THE REHABILITATION CENTRE

In 1993, a five-person team headed by Dr. Jane Fulton examined the WCB’s Medical Programs and its Rehabilitation Centre. The report has a large number of recommendations, woven into the text, some of which flow logically from the evidence and observations found in the report. Three overall themes emerge in terms of the changes that were recommended at the time of the report:

The Need to Become More Current

The report noted that in the areas examined, the WCB is out of date and slow to change. According to the Inventory, the WCB should:

• Put less emphasis on the “medical model” of care.
• Increase its use of, and respect for, interdisciplinary teams.
• Acquire more specialists in rehabilitation medicine.
• Give more attention to the highest professional standards and research.
• Be more sensitive to the clients’ needs (e.g., where and how examinations are conducted) and to the changing face of people at work (i.e., women and new Canadians).
• Update its systems and procedures.
• Eliminate the attitude that “the WCB knows best.”
• Improve its communication among all staff.
• Look beyond narrow “compensable” issues.
• Support early intervention and make every effort to reduce waiting time for claimants’ access to rehabilitation.
• Pursue accreditation for the Centre’s key programs.

The Need to Be Program Managers Versus Service Deliverers

The second theme calls on the WCB to “steer more and row less.” Instead of delivering a service, the WCB should focus on managing the program to ensure that it achieves its desired outcomes. In particular, this means that the WCB should consider:

• Contracting out more.
• Giving more emphasis to “closer to home” (regional) delivery.
• The need for a possibly-different role of the Residence.
• Using a community hospital or private contractor to manage the Centre.

The Need to Be Outcome-Focussed

The third theme echoed what many of the other Inventories said: focus more on outcomes and less on processes. This would include more outcome-based program evaluations and performance appraisals.
EXHIBIT 5.2
RECOMMENDATIONS TO IMPROVE THE DESIGN OF THE REHABILITATION FUNCTION

1. **Policy Research**: Given the numerous changes in external factors (demographics, job market, economy, etc.), conduct ongoing research to provide the Department with the kind of information required to appropriately inform future policy and practice.

2. **Early Intervention**: Explore possible service delivery options throughout all WCB operations, and via team approaches, to enhance early intervention efforts and to secure more effective return to work performance.

3. **New Models**: Develop and test new models of service delivery (e.g., case management model) that enhance early intervention, attachment to the workforce and return to work outcomes consistent with emerging disability management principles.

4. **Disability Management**: Develop mechanisms to actively manage disability for the benefit of the injured worker and his/her employer. Only in this way can the true cost of disability be minimized for the benefit of the entire society.

5. **Clinical Supervision**: Increase the level of clinical supervision provided to each consultant through the establishment of lower management to consultant ratios, or the development of lead consultant positions within service delivery locations that would act as a unique clinical resource for consultants requiring assistance with individual cases.

6. **Additional and Decentralized Service Capacity**: Develop additional service capacity and referral relationships in the community to address injured worker service delivery needs. This is a more critical issue in the area offices, however guidance in terms of how relationships are established and monitored would be very helpful. It is recommended that the process utilized by the Rehabilitation Centre in developing, evaluating, and monitoring its referral network throughout the Province be used as a potential model for the Vocational Rehabilitation Services Department.

7. **The Importance of Training for New Staff**: Given the expanding knowledge and skill competencies required of vocational rehabilitation consultants to effectively address the potentially complex needs of the injured worker, and given the lack of pre-service educational programs available to specifically prepare individuals for these roles, ensure that there is an appropriate orientation and training program for new employees.

8. **Coordination of Training**: Develop a mechanism where training, policy development and activities in the field are coordinated. Standards of performance and clear expectations need to be set at all levels so there is a close relationship between training and the demands and expectations of practice, and so that each of these components helps inform the other.

9. **Professional Development Focus**: Implement a professional development focus within the Vocational Rehabilitation Services Department that addresses the continuing educational needs of practising consultants in the field in order to upgrade their knowledge and skills in providing services to injured workers. Also, develop continuing educational programs for new management staff to develop additional management and supervisory competencies.

10. **Professional Preparation**: Over the long term, raise the professional preparation of vocational rehabilitation consultants, both by supporting efforts in the community to develop additional educational resources and by raising the job requirements for the individuals hired.

11. **TEC Unit**: Because of the critical need for formal training for new consultants, re-open the TEC Unit.

12. **Enhanced Technology**: Update the Vocational Rehabilitation Program and provide the vocational rehabilitation consultant with additional technology and software tools required to provide effective services. For example, consultants should be able to access transferable skills analysis and job matching software among other resources.
### Exhibits

#### Note 5.3

**EXHIBIT 5.3**

**Noteworthy Findings that Could be Cited or Challenged**

<table>
<thead>
<tr>
<th>Noteworthy Criteria, Observations, or Recommendations</th>
<th>To What Extent Is the Finding Supported by Valid Evidence?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Benefits:</strong> The broad array of rehabilitation benefits is outstanding. (1996)</td>
<td>The range of benefits is described in detail. There are no comparisons to other jurisdictions. The observation is therefore based on the author’s own experience and opinion.</td>
</tr>
<tr>
<td>2. <strong>Rehabilitation Facilities:</strong> The Comprehensive Rehabilitation Centre in Richmond is one of the jewels in the WCB crown. (1996)</td>
<td>The author was describing the Centre’s facilities, not its performance, based on his experience with similar Centres in other jurisdictions. There was no intention to infer that the Centre has exemplary outcomes.</td>
</tr>
<tr>
<td>3. <strong>Rehabilitation Results:</strong> Rehabilitation performance figures seem only average. (1996)</td>
<td>The performance is described but the report has no comparisons to other jurisdictions. We must rely on the author’s opinion, based on his knowledge of results in other jurisdictions.</td>
</tr>
<tr>
<td>4. <strong>Costs:</strong> Vocational rehabilitation expenditures have exploded. (1996)</td>
<td>The 1996 Inventory provides extensive detail to support this observation.</td>
</tr>
<tr>
<td>5. <strong>Job Requirements:</strong> Over the long term the WCB should raise the job requirements for the individuals hired as vocational rehabilitation consultants. (1996)</td>
<td>This is based on the author’s view that it is generally accepted that specialized training, and possibly a graduate degree, are more effective in fulfilling the diverse job demands of a vocational rehabilitation consultant.</td>
</tr>
<tr>
<td>6. <strong>Disability Management:</strong> The WCB needs to develop mechanisms to actively manage disability. (1996)</td>
<td>This is based on the author’s assertion that disability management techniques are generally accepted and are being used effectively in the private sector. The relevant studies are not cited.</td>
</tr>
<tr>
<td>7. <strong>Employment not Employability:</strong> The favoured outcome of the WCB’s vocational rehabilitation activity should be return-to-work, whenever that is feasible. (1996)</td>
<td>This is the author’s opinion, based on what is now (apparently) generally accepted practice in the vocational rehabilitation profession.</td>
</tr>
<tr>
<td>8. <strong>Quality of Board Physicians:</strong> Some Board Doctors are out-of-date, from the old school, arrogant and part of the “old boys network.” (1993)</td>
<td>The Team members were physicians and interviewed several Board physicians. However there are few if any examples to support this conclusion. Further, there is no indication as to the size of the problem (i.e., what does “some” mean?)</td>
</tr>
<tr>
<td>9. <strong>Lower Program Productivity:</strong> The productivity of the WCB’s activation programs is below that of physiotherapy and occupational therapy program in the community. (1993)</td>
<td>There is no evidence in the report.</td>
</tr>
<tr>
<td>10. <strong>Lower Administrative Productivity:</strong> When the workload of similar administrative and support positions in other health facilities is compared to WCB, the productivity at the Board is lower while the salaries and benefits at the Board are higher than in the marketplace. (1993)</td>
<td>There is no evidence in the report.</td>
</tr>
</tbody>
</table>
CHAPTER SIX: 
CORE FUNCTION: RESOLVE DISPUTES

6.1 WHAT INVENTORIES HAVE REVIEWED THIS FUNCTION?

Six different Inventories have examined various aspects of the system’s process for resolving disputes:

- Hunt’s 1991 and 1996 Inventories reviewed the appeal-related activities, policies and performance of the WCB itself, the Appeal Division, the WCRB, and the Medical Review Panels. Those reports focussed primarily on non-medical disputes arising from decisions about claims, with some analysis of how medical disputes were handled.

- In 1992, Jenkins produced a stand-alone report on Medical Review Panels and their role in resolving medical disputes.

- In Hunt’s 1992 Inventory of the assessment function, he examined the process for employers to appeal assessment decisions.

- In the 1992 and 1997 Inventories of the OSH/prevention function, the authors address how prevention-related disputes are dealt with by the system.

In this Chapter we concentrate on what the 1996 Inventory said about the resolution of medical and non-medical disputes, utilizing the findings of the other Inventories when it is relevant to do so.

6.2 WHAT THEORIES OR CRITERIA DID THE INVENTORIES USE TO ASSESS THE FUNCTION’S PERFORMANCE AND POLICIES?

None of the Inventories explicitly stated the standards that they believe ought to be applied in assessing a dispute resolution function. Instead, such theories and criteria were used, but they are integrated into the authors’ various observations and recommendations.

We have identified the key theories or criteria in Exhibits 6.1 (for non-medical disputes) and 6.2 (for medical disputes) at the end of this Chapter.

6.3 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE AND POLICIES OF THE DISPUTE RESOLUTION FUNCTION FOR NON-MEDICAL DISPUTES?

The 1996 Inventory addressed three performance issues concerning the resolution of non-medical disputes.
Issue One: Appropriateness of Design

The 1996 Inventory pointed out that the British Columbia workers’ compensation system is fairly free of litigation, at least by North American standards. However, the authors had a number of concerns about the design of the dispute resolution/appeal system, echoing many of the issues raised in their initial 1991 Inventory:

- **Numerous Levels of Appeal:** It is difficult to conceive of a system that permits more levels of appeal than this one. Aggrieved parties have numerous bites at the apple. Aside from requesting that a finding be reconsidered by an adjudicator, the appellant has access to the Manager Review, the Workers’ Compensation Review Board, the Appeal Division, possibly the Medical Review Panel, and potentially to the courts. Under most situations, a favourable decision for a claimant at any of these levels is decisive.

- **Implicit Encouraging of Appeals:** In most cases, the appeal is essentially costless to the worker. Some workers appear without any representation and the majority of those who are represented need not pay for it. For example, access to union representatives and worker advisers means that most worker or dependent appellants incur no out-of-pocket costs in pursuing appeals. Consequently, workers that are dissatisfied with any decision made by a WCB officer about their claim have little or no disincentive to appeal it. Indeed, it is intriguing why more workers do not avail themselves of the fullest measure of the appeal process. The upshot of these design features is that the system implicitly encourages appeals. That is a policy choice made by the Provincial Government and the WCB and it represents an adaptation of the non-adversarial system. However, it suggests that significant numbers of appeals cannot be cited as conclusive evidence of some structural shortcoming at the WCB. (Note: This conclusion was originally made in the 1991 Inventory. It was also made, but in less detail, in the 1996 Inventory.)

- **Problems With Manager Reviews:** This level of appeal is not considered to be a part of the official appeal process. Nevertheless, a dissatisfied claimant or employer is able to secure a review by a manager of any decision. In practice, it appears that very few reversals by managers occur, and then rarely on the basis of differences in judgment. Manager reviews have been controversial. Some parties believe that the reviews are pro forma and rarely overturn an adjudicator. Thus, they are considered by those persons as nothing more than another source of delay in what can be a lengthy process. Some managers find the reviews to be an important drain on their time. It also can be a source of friction between them and an adjudicator whose judgment is being questioned. Some persons argue that the presence of manager reviews might cause an adjudicator to devote less attention to a claim, since responsibility is likely to be shifted to the manager where a party is dissatisfied with the original decision.

- **Frustrating Lack of Clarity Over the Appeal Division’s Policy Role:** It is not clear whether or not the Appeal Division is or should be in the business of setting policy. The Appeal Division’s role in interpreting WCB policies and practices and the underlying statute is viewed very differently by the contending parties. One would suppose that so fundamental an issue would have been decisively resolved or clarified by now. Unfortunately, the matter remains contentious. Until a way is found for the matter to be clarified legislatively, the contending parties will continue to be frustrated with each other’s position.
• Ongoing Lack of Clarity over the Independence of the Chief Appeal Commissioner: It is apparent that the question of the independence of the Appeal Division was not adequately settled in the drafting of Bill 27, nor by the Munroe Commission report that preceded it. The debate over whether the Chief Appeal Commissioner is an independent, external reviewer, or a part of the top management of the WCB, obliged to enforce WCB policy as he or she interprets it, continues to this day. Ultimately, it may be beyond the capacity of the WCB Board of Governors, or its replacement, to resolve the issue of whether the structural relationship between the WCB and the Appeal Division, as it exists today, is appropriate. It may require legislative resolution at this point. But the WCB must get beyond this critical structural issue if it is to re-enlist stakeholder participation and mobilize resources to attack the other problem areas in its mission.

• Tension Between the Appeal Division and the WCRB: The relationship between these two appellate bodies has not been helped by those who predicted that only one of the two appellate bodies was likely to survive. However, the basis of the tension seems to be neither personal nor a simple desire to protect one’s employment. Instead, it is based on the fundamental relationship that the law established. Consider an example. In one situation the Review Board denied that the Appeal Division had jurisdiction to hear an appeal over a refusal by the WCRB to grant an extension of time to a claimant. As such, the Review Board said that it would not implement a decision of the Appeal Division to allow such an extension. There is little to be done to ensure that the Review Board does not continue to follow the practice in question. In such cases, the standoff is unlikely to end without judicial or legislative intervention.

On the positive side, the 1996 Inventory had these observations on the design of the appeals system:

• Potential Usefulness of Manager Reviews: A strong theoretical case for manager reviews is that it will uncover errors and slip-ups in the adjudication of a claim, without the necessity of a Review Board appeal. In so doing, it reduces the Review Board’s workload and speeds up decision making for all involved parties. Also, a manager review, particularly when it is done by a local manager, means that the manager necessarily will observe the quality of the work of the adjudicators and officers by reviewing individual case files.

• Successful Avoidance of Lawyers: While litigious attitudes appear to be growing very rapidly in British Columbia, it is still a plus that extensive involvement by lawyers has been avoided. The offices of the Employers’ Adviser and the Workers’ Adviser seem to be meeting the needs of their constituents without resorting to the more expensive and time consuming private lawyer representation used in the United States.

• Usefulness of WCRB’s 2-Part Scheme: The WCRB’s use of the 2-part appellate scheme serves several purposes. It reduces the number of hearings canceled due to “no shows,” it means the parties are more likely to be prepared for their hearing, and it eases the scheduling process. It also serves to measure more effectively the promptness with which the Review Board functions. Certainly, it does seem more appropriate to gauge the Review Board’s pace from the time that the Part 2 has been filed by the applicant to the time that the panel’s findings are mailed.

• Improving Relationship Between the WCB and the WCRB: Relations between the WCB and the Workers’ Compensation Review Board seem to have substantially
improved from the situation in 1991. While the adjudication demands on the Review Board continue to spiral upward, bureaucratic fighting with the WCB does not provide a further drain on resources any longer. The virtual elimination of “reconsiderations” of the WCRB decisions by the WCB has obviously been very important. The Appeal Division treatment of the WCRB as a separate, independent appellate body also seems to have helped.

The 1996 Inventory had these recommendations for improving the design of the dispute resolution function:

- **Policy Role of the Appeal Division:** Resolve and clarify the fundamental issue of the Division’s independence and its role, if any, in setting policy.

- **Manager Reviews:** Eliminate the manager reviews since their value is questionable. No doubt there are some situations where they are productive, but the bulk of opinion, both inside and outside the WCB, is that they do not serve any useful purpose as an appeal from the original decision. With the manifold other appeal avenues available to WCB claimants, and the increasing burden on SDL management, they are not worth the effort.

The 1997 Inventory of the prevention function also examined the design of the appeal system from an OSH perspective and concluded that:

> “The appeal process is formal but flexible enough to encourage participation by both employers and workers or their representatives,” noting that “only a small portion of notified worker representatives have actually participated in Prevention Division appeals.”

The same Inventory observed that although workers and their unions have the right to participate in all formal and informal appeal processes, there are no legislative or policy provisions for workers to:

- appeal the failure of a field officer to recommend a penalty; or

- contest administrative reductions in penalty assessments by the Prevention Division prior to Variance and Sanction Review.

### Issue Two: Achievement of Intended Results

None of the Inventories described the actual objectives and goals of the dispute resolution system, perhaps because the system’s intended results had not been articulated by the various players. In the absence of agreed-upon results, the 1996 Inventory analyzed several dimensions (timeliness, quality, consistency), focusing on both the Appeal Division and the WCRB. For example, it had these observations and concerns about the results being achieved at the WCRB:

- **Delays at the WCRB:** Delay at the Review Board has been a widely held concern. The 2-part appeal process was initiated in 1994. The new procedure helps focus attention on the source of the delays at this step in the appellate process. According to the WCRB, the average time from receipt of Part 1 to Part 2 was 7.4 months in 1994. From the receipt of Part 2 to the date of findings in appeals with hearings, about 6 - 7 months elapsed, with the higher end more likely in the out-of-town hearing cases. In read and
review cases, the average time in 1994 from Part 2 receipt to findings rendered was 5.7 months.

- **Potential for Inconsistency at the Review Board:** The WCRB sees as its goal to balance the principles of consistency in adjudication and the independence of panels. The law does not require that the Review Board operate on the basis of precedent. Yet, it is decidedly awkward if different panels consistently adhere to inconsistent practices. The Review Board panels cherish their independence. Any efforts to impose consistency can be expected to meet with resistance. However, the Review Board can be damaged, externally, if it does not achieve consistency in its adjudication. It seems quite clear that the challenge for the WCRB goes beyond simply improving its record of timeliness in resolving appeals.

- **Lower “Allow Rate” at the Review Board:** It seems noteworthy that the Review Board has allowed a lower rate of worker appeals each year since 1991. If this decline is more than a random movement a number of hypotheses could be consistent with it. One possibility is that the increase in employer concern about workers’ compensation costs may have affected decision making by some of the panels. It was noted that employers can be present and more frequently play a role in challenging worker appeals than was formerly the case. Another possibility is the Review Board is aware that the Appeal Division represents a later stage in the appeal process. Hence, a disallow decision by the Review Board does not absolutely doom the claimant’s appeal effort. Prior to June 1991, decisions of the Review Board could be appealed to the Commissioners. Those appeals became mired in the long delays and the Commissioners were perceived, fairly or otherwise, as less “claimant friendly” than is the Appeal Division. The result could be that in Review Board decisions that involve “close calls,” the panel is more willing to deny the employee, knowing that another opportunity exists for reversal. Yet another possibility, not necessarily inconsistent with others, is that the quality of initial adjudication at the WCB has improved. It is also possible that appeals are being brought on shakier grounds than was true in earlier years.

The 1996 Inventory also examined the results generated by the Appeal Division and made these observations:

- **Timely Decisions at the Appeal Division:** The rule that decisions be issued within 90 days, or the longer period designated by the Chief Appeal Commissioner, has been rigorously observed by the Appeal Division.

- **Elimination of the Backlog at the Appeal Division:** By June 1992, the entire backlog, but for 21 cases, had been decided. Moreover, from its inception the Appeal Division was meeting the 90-day time requirement on decisions from appeals begun since June 3, 1991. In addition, the Appeal Division has generated two or three more times the number of decisions than did the Commissioners during their last three calendar years. These achievements occurred even as newly established procedures, Appeals Commissioners, and staff were put into place. The Board of Governors committed substantial resources to accomplish these ends. As the backlog was eliminated, the Appeal Division cut back on the number of staff and somewhat on its number of Appeal Commissioners.

- **Higher “Allow Rates” for Workers at the Appeal Division:** The allow rates for worker/dependent appeals under the Appeal Division has been much higher than under the Commissioners. For example, the allow rate for worker/dependent appellants of
Review Board findings rises from the range of 7-8 percent (in 1998-1990) to 33-35 percent (in 1992-1994). In contrast the allow rate for employer appeals of Review Board findings fell off substantially from the 1988-1990 period to the 1992-1994 period under the new Appeal Division. The very clear picture that emerges is that the chances for winning an appeal were higher for the employer than for the worker/dependent under the former Commissioners, and that this has substantially been reversed under the Appeal Division. The number of appeals by workers has always been much higher than by employers. The higher success rate by claimants has occurred as the number of appeals by them seems to have increased.

- Lower or Stable “Allow Rates” for Employers Appealing OSH Decisions: An analysis of the Appeal Division’s denial rate for appeals on OSH penalty cases shows that across time, the employer denial rates seem to rise. The rather high rate of denials may account for the decline in the number of employer appeals. The allow and denial rates in assessment and relief of cost appeals have been stable over time. Employers win their appeals in about one of every six cases. The number of these appeals has also declined over time.

- Employers’ Lack of Confidence in the Chief Appeal Commissioner: The confidence of all stakeholder interests in the fairness and impartiality of Appeal Division decisions is vitally necessary. The Chief Appeal Commissioner became a symbol of the deep divisions between worker and employer points of view, sort of a lightning rod for the policy disagreements that currently characterize the British Columbia system. Thus, employers assigned responsibility for decisions they do not like to the Chief Appeal Commissioner and her alleged pro-worker bias. Employer distrust of the individual selected as Chief Appeal Commissioner in 1991 has contributed to the acrimony of the debate about the role and independence of that position.

- Possible Reasons for Employer Discontent: Some unhappiness with the Appeal Division findings may actually be a result of dissatisfaction with either the statute or the policies of the Board of Governors. As such the Appeal Division and its decisions can serve as a lightning rod. In such instances those that quarrel with the Division might better seek to recast either the law of its application as developed by the Governors.

On some key issues, the 1996 Inventory did not make its own conclusions, observing that:

- Unknown Impact of Reversals on Subsequent Adjudication Decisions: The impact of the Appeal Division extends well beyond the numbers of its reported findings. On a day-to-day basis, the truly critical impact of the Appeal Division is where it affects the decisions made by Board Officers. In theory, these individuals simply make decisions in accordance with the policies of the Board, such as those found in the Rehabilitation Services and Claims Manual. It seems inevitable, however, that some officers, adjudicators, and managers allow their decisions to be shaped by the findings that flow down from the Appeal Division. There were marked differences of opinion on the extent to which Review Board or Appeal Division reversals impact subsequent adjudication decisions.

- Unknown Quality or Bias of Decisions: Although allegations of biased decisions continue to be heard, it is beyond the bounds of an Administrative Inventory to evaluate the quality of the decisions by the Appeal Division. Some persons will search the outcomes of the Appeal Division’s findings for confirmation of their views regarding its ideological leanings, if any. Conflicting interpretations almost always can arise from
analyses of the same set of data. Given the quantity of decisions and the number of panel decisions, it is unfair to either entirely credit or blame the Chief Appeal Commissioner for the outcomes in most cases. This is not to rule out the possibility that some Appeal Commissioners may be ideologically oriented, and indeed, the structure of the representational panels could suggest that to some critics. The representational panels do serve to assure some variety of experience among Commissioners, however.

After looking at all the above factors, the 1996 Inventory, in a carefully worded conclusions, stated that:

“The Appeal Division has been well run; it may be the best in North America in terms of the timeliness of reasoned, written appellate decisions.”

As evidence for this positive, cited, and possibly contentious conclusion, the author referred to the reduction in the backlog, the large volume of appeals, and the rare number of court reviews. He also noted that in his experience, no other jurisdiction in North America operates within a 90-day time frame (as does the Appeal Division) in providing written decisions, with reasons. He described the decisions as “reasoned,” not “reasonable” nor “well-reasoned.”

**Issue Three: Client Satisfaction**

The 1996 Inventory, like all Inventories, did not interview a representative sample of workers and employers. However, it did note that the Appeal Division has sought feedback from the community in two different ways:

- **Group Meetings:** In May and June of 1994, Appeal Commissioners met with 13 groups representing both worker and employer interests. Information that the Appeal Division obtained through these sessions resulted in some procedural modifications by the Division.

- **Surveys:** In a 1994 survey of 230 persons who had dealt with the Division, about one-half of individual worker respondents and 40 percent of individual employer respondents found that overall, the Division’s performance was not satisfactory. These results are troubling, but suffer from a low response rate and the lack of comparative standards from other jurisdictions.

### 6.4 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE AND POLICIES OF THE DISPUTE RESOLUTION FUNCTION FOR MEDICAL DISPUTES?

As was mentioned at the beginning of this Chapter, three different Inventories (in 1991, 1992 and 1996) examined the role of Medical Review Panels in resolving medical disputes. Three performance issues were addressed.
Issue One: Appropriateness of Design

The 1991 Inventory concluded that:

“The organization of the Medical Review Panels seems to work well, aside from the substantial delays that have been experienced. Fortunately, the process appears to have been speeded up in recent years. It seems designed to assure that an aggrieved party receives a fair assessment by an impartial set of qualified experts.”

In 1992, the Jenkins report on the MRP process was presented to the Board of Governors. It contained 132 recommendations, 70 of which were administrative and 52 would have required either a statutory or policy change. According to the 1996 Inventory, public response to the Jenkins recommendations had been sought. Public hearings were held and submissions were invited, approximately 400 of which were elicited. A 3-person committee drawn from the organized labour sector, the employer community and the WCB staff helped develop policy changes that the Board of Governors approved in May 1995.

Issue Two: Achievement of Intended Results

The 1996 Inventory used a statistical analysis to show that beginning in 1991, the process began to experience backlogs and significant delays, as had happened several years earlier. The staff of the unit was expanded, but alarming delays in securing an MRP decision worsened and became unacceptable. By 1994, the average time to process the appeal (from the date an appeal is initially received until the date that the decision of the panel is implemented) had grown to 723 days; of that amount, 384 days (73% of the entire process) passed before the scheduling of the panel.

In the hope of speeding up the entire process, the 1996 Inventory noted that in May 1995 the policy was changed to end the practice of regularly preparing a statement of non-medical facts. In the future this will be done only in “unusual cases.”

The 1996 Inventory also pointed out that increasing delays were accompanied by increasing costs. For example, the average cost per panel in 1994 was 29% above the 1993 average cost of $5,163.

The 1996 Inventory also pointed out that the appellant has approximately a 50% chance of winning at the MRP level. This means that the WCB is found to be wrong in about one-half of these medical disputes. The report also noted that:

“When viewed by the standard of all medical decisions made by the WCB, reversals in the range of 100-150 cases per year may suggest that there is no underlying problem here.”

Issue Three: Client Satisfaction

The 1996 Inventory reported on a 1994 survey of 378 persons who had participated in the MRP. Usable responses were obtained from 141 (37 percent), 64 percent of whom were workers. Fifty-two percent of respondents were not satisfied with the specific panel decision and 50 percent indicated that they were not satisfied in their overall assessment of the Medical Review Panel Department’s performance.

The 1996 Inventory made these recommendations:
• Continually monitor the backlog and delays, as well as the mounting utilization of MRPs.

• Explain the high rate of reversals at the MRP of WCB’s medical decisions. Does this indicate a difference of standards, insufficient information, or the imperfect state of medical knowledge?

6.5 WHAT “HIGH PROFILE” FINDINGS COULD BE CITED AND/OR CHALLENGED?

The various Inventories contain views and findings that may be cited or challenged by defenders or critics of the system. Exhibit 6.3 contains such high profile statements plus our comments on the extent to which the statements are supported in the report by valid evidence.
EXHIBIT 6.1
NOTEWORTHY THEORIES OR CRITERIA USED BY THE INVENTORIES IN EXAMINING THE DISPUTE RESOLUTION FUNCTION FOR NON-MEDICAL DISPUTES

1. **Focus of Attention**: Attention should be paid to changes in the number of appeals as a symptom of ineffective or insufficient adjudication or communication with the client at an earlier level.

2. **External Review of Decisions**: An appeal body should have its decisions reviewed for consistency and timeliness.

3. **External Evaluation of Performance**: Any public program of this magnitude (i.e., the appeal system) warrants periodic and independent evaluation of its performance to assure that it is operating with fairness and with efficiency in compliance with its charge.

4. **The Need for Stakeholder Confidence**: It is vitally important that all stakeholders have confidence in the fairness and impartiality of decisions made by the appeal body.

5. **Ability to Assess Fairness**: Employers should have the information they need to determine whether or not they are being dealt with fairly.

6. **Options**: Employers should have adequate appeal options from the decisions and actions of the assessing agency. For example, there should be a credible initial review within the assessing agency.

7. **Decisions**: Decisions from the appeal body should be thorough, timely and consistently reasoned.

8. **Perceptions**: Appeal processes should be perceived by employers as fair-minded and well-reasoned.

9. **Joint Participation**: The formal appeal process should be flexible enough to encourage participation by both employers and workers or their representatives.

10. **Parity**: There should be parity between worker and employer rights in the sanction review and appeal processes.

11. **Worker Participation**: Workers or their representatives should be involved in, or have the right to be involved in:

    - Contesting the revocation or non-issuance of orders.
    - Informal review meetings to contest the imposition of a penalty assessment.

12. **Worker Appeals**: There should be legislative or policy provisions for workers to appeal the failure to recommend a penalty or to contest reduction in penalty assessments.

13. **Role of Courts**: Review and appeal processes which lead to lengthy and costly recourse to the courts should be avoided.

Note: The last 4 theories or criteria were integrated into the OSH Inventories and are probably contentious and may not be agreed-to by all stakeholders, especially employers.
EXHIBIT 6.2
NOTEWORTHY THEORIES OR CRITERIA USED BY THE INVENTORIES IN EXAMINING THE DISPUTE RESOLUTION FUNCTION FOR MEDICAL DISPUTES

1. Authority: The decision of the panels should be binding.

2. Credibility: Panellists and chairmen should be credible: there should be guidelines for appointment and termination with cause (chairmen); the appointment process should be non-political.

3. Quality: The quality of the panels’ work should be monitored; the number of appeals that require subsequent clarification, interpretation, reconvening or are deemed null and void should be minimised.


5. Independence: The MRP process should be, and be seen to be, independent of the Board as much as possible. For example:
   - The MRP Chairman/Registrar should have access to independent legal counsel when it is felt that the Board is usurping jurisdiction of the Panel or when there is disagreement with the Board in matters of law.
   - The Registrar should not be an employee of the WCB but should be contracted on a consultative basis, reporting to the Board of Governors.
   - Consideration should be given to separating the MRP completely from the WCB, on separate premises with the Registrar reporting to the Minister.

6. Role of Representatives: A representative of a worker or employer should be allowed to launch an appeal.

7. Role of Non-Physicians: The following principles should guide the role of non-physicians:
   - Non-physician health care givers should not be able to raise an Enabling Certificate (to establish a bone fide medical dispute.)
   - MRP should be encouraged to make more use of outside resources and consult with Specialists in other areas of medicine or other non-medical fields, such as psychologists and epidemiologists.
   - Non-physician health-care givers should not be appointed to panels.

8. Common Knowledge Base: There should be a common knowledge base for chronic pain syndrome, post traumatic stress and psychogenic stress post-trauma for MRP/WCB/workers/employers and representatives.

9. Feedback: Feedback on the implementation of panel certificates should be provided to chairmen.

10. Timeliness: There should be no unreasonable delays in scheduling a panel hearing nor in reaching and communicating a decision; this performance measure should be monitored because of its importance to appellants.

Note: We can not comment on the extent to which these theories and criteria are possibly contentious.
# EXHIBIT 6.3
## HIGH PROFILE FINDINGS THAT COULD BE CITED OR CHALLENGED

<table>
<thead>
<tr>
<th>HIGH PROFILE CRITERIA, OBSERVATIONS, OR RECOMMENDATIONS</th>
<th>TO WHAT EXTENT IS THE FINDING SUPPORTED BY VALID EVIDENCE?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Best in North America:</strong> The Appeal Division has been well run and it may be the best in North America in terms of the timeliness of reasoned, written appellate decisions. (1996)</td>
<td>This carefully-worded conclusion is supported in the report and in subsequent conversations with the author (Hunt); however, the reader must rely on the author’s knowledge of other North American jurisdictions since no comparisons are provided in the report.</td>
</tr>
<tr>
<td><strong>2. Excellent Performance in Resolving OSH Disputes:</strong> The Appeal Division has been run efficiently and effectively. Its decisions are timely and well-reasoned. We hope that the excellent performance of the Division will not be obscured by the enmity around the first Chief Appeal Commissioner. (1997)</td>
<td>In a subsequent interview with the authors, we were told that this conclusion refers only to the Appeal Division’s role in resolving a relatively small number of OSH-related disputes. Although other Inventories stated that it is beyond the scope of an Administrative Inventory to assess the quality of appeal decisions, the authors of the 1997 Inventory did review all of the Division’s OSH decisions and made this conclusion based on the quality and timeliness of those written decisions.</td>
</tr>
<tr>
<td><strong>3. Manager Reviews:</strong> Eliminate this level of appeal since their value is questionable and they are not worth the effort. (1996)</td>
<td>The author points out the advantages and disadvantages and makes a reasoned and supportable conclusion.</td>
</tr>
<tr>
<td><strong>4. Implicit Encouraging of Appeals:</strong> Because dissatisfied workers have little or no disincentive to appeal a WCB decision, the system implicitly encourages appeals. (1996)</td>
<td>The author provides a supportable rationale for this conclusion.</td>
</tr>
<tr>
<td><strong>5. Distress and Alarming Delays at the MRP:</strong> The MRP process seems to be still in distress. The delays in securing an MRP decision are unacceptable. (1996)</td>
<td>The report provides detailed statistics to support this conclusion.</td>
</tr>
<tr>
<td><strong>6. Role of Courts:</strong> Retain the noteworthy feature of avoiding lengthy and costly recourse to the courts. (Rest; 1992)</td>
<td>This is based on the authors’ own standards and theories concerning effective dispute resolution. Such principles may be contentious.</td>
</tr>
<tr>
<td><strong>7. Worker Rights:</strong> Establish a mechanism for worker representatives or their unions to contest the non-issuance of orders and penalty recommendations, and the granting of requests for variances. (Rest; 1992)</td>
<td>This is based on the authors’ own standards and theories concerning effective dispute resolution. Such principles may be contentious.</td>
</tr>
<tr>
<td><strong>8. Worker Participation:</strong> Establish a mechanism for worker representatives or their unions to participate in the informal review process within the OSH Division. Options include: 1) actual participation in the process; 2) presence, but not participation, in the process; or, 3) submission of written comments or questions to the OSH Division Variance and Sanction Review section for use during the process. (Rest; 1992)</td>
<td>This is based on the authors’ own standards and theories concerning effective dispute resolution. Such principles may be contentious.</td>
</tr>
<tr>
<td>HIGH PROFILE CRITERIA, OBSERVATIONS, OR RECOMMENDATIONS</td>
<td>TO WHAT EXTENT IS THE FINDING SUPPORTED BY VALID EVIDENCE?</td>
</tr>
<tr>
<td>---------------------------------------------------------</td>
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<tr>
<td>9. Worker Appeals: Allow worker representatives or their unions to appeal to the Appeals Division decisions of the OSH Division not to impose or to reduce a penalty assessment. (Rest; 1992)</td>
<td>This is based on the authors’ own standards and theories concerning effective dispute resolution. Such principles may be contentious.</td>
</tr>
</tbody>
</table>
CHAPTER SEVEN:
THE OVERALL SYSTEM

7.1 WHAT INVENTORIES EXAMINED THE OVERALL SYSTEM?

In the 1991 and 1996 Inventories, Hunt focussed on the Compensation Services Division but also had a range of comments and recommendations on the progress and performance of the overall workers’ compensation system in BC. Rest’s 1997 Inventory of the prevention function concentrated on WCB’s OSH activities but also had a small number of findings on the overall system. In this Chapter, we have focussed on Hunt’s findings from the 1996 Inventory, with some references to Rest’s observations from the 1997 Inventory.

7.2 WHAT THEORIES OR CRITERIA DID THE INVENTORIES USE TO ASSESS THE OVERALL SYSTEM?

In assessing the overall system, Hunt used these criteria:

• **The Need for an Integrated Mission:** The overall mission of a workers’ compensation agency should be understood by all to be to prevent injuries first, rehabilitate injured and diseased workers and return them to work second, and compensate those who cannot be prevented from permanent impairment last. It is not only more humane, it is more economical as well. The agency should strive to achieve the benefits of such an alliance of integrated goals.

• **The Need for Planning:** Large and sophisticated operations, such as a workers’ compensation agency, should undertake some form of planning. The process can lead to the creation of operations standards, the measurement and periodic assessment of goals and the re-allocation of resources within the agency.

• **The Need for Research:** A workers’ compensation agency should have a research function which can help identify alternative structures and policies that could be developed to meet institutional challenges.

• **The Need for Program Evaluation:** Management information systems and internal audit should not be viewed as alternatives or substitutes for program evaluation. Program evaluation should be used to continually answer such questions as: Are the programs cost effective? What explains why some units function better than others? What types of claims are more likely to be appealed?

• **The Need for Staff Development:** In a service-oriented business like a workers’ compensation agency, staff development cannot afford to be last on the priority list.

• **The Need for Empowerment:** A workers’ compensation agency should train its staff in the goals and objectives of the organization and then empower them to get the job done.

• **The Need for Performance Evaluation:** Any significant public program or organization should undergo periodic and independent evaluation of its performance to
assure that it is operating with fairness, and with efficiency in compliance with its charge.

- **The Need for Timeliness:** Although much more attention is usually paid to the adequacy of benefits, it is probably timeliness of payment that is more important to the typical injured worker.

- **The Need to Measure System Outcomes:** The outcomes of a workers’ compensation system should be assessed via the following performance measures:

  ⇒ Number of new claims registered, by type, plus the trend, (actual number as well as adjusted for employment levels.)
  ⇒ Total lost workdays paid per 100 workers, plus the trend.
  ⇒ Timeliness of payments (e.g., paylag) plus the trend.
  ⇒ Average duration of disability, by severity category, plus the trend.
  ⇒ Number and rate of appeals (especially in comparison to number of wage-loss claims), plus the trend.
  ⇒ Administrative costs and staffing levels, adjusted for inflation and employment levels, plus the trend.
  ⇒ Total Accident Fund payments, adjusted for inflation, by type, plus the trend.
  ⇒ Total revenues to the Accident Fund by type, plus the trend.
  ⇒ Real rates of return on investment.
  ⇒ The size of the resulting surplus or deficit at the end of each year.
  ⇒ The average, minimum and maximum assessment rate paid by employers, plus the trend (plus comparisons to other jurisdictions.)
  ⇒ Waiting periods for wage-loss benefits (plus comparisons).
  ⇒ Maximum and minimum weekly benefits for temporary total disability as a percentage of the average industrial wage (plus comparisons).
  ⇒ The various features of permanent or long-term disability benefits (plus comparisons).
  ⇒ The number of rate groups whose assessment rates increased in a year versus the number whose rates decreased (plus comparisons.)
  ⇒ The number of rateable sub-classes in deficit position versus the number in surplus.

### 7.3 WHAT DID THE MOST RECENT INVENTORY SAY ABOUT THE PERFORMANCE OF THE OVERALL SYSTEM?

The 1996 Inventory addressed nine performance issues concerning the overall system:
Issue One: Clarity of Management Direction

The 1996 Inventory noted that the WCB had made progress in clarifying its direction by initiating a comprehensive strategic planning effort in 1995. However, the Inventory concluded that the WCB had still not met the challenge of achieving a clear focus on demonstrable outcomes rather than process or activity.

Issue Two: Appropriateness of Design

The 1996 Inventory examined the appropriateness of the process used to establish WCB policies. It noted that the addition of an evaluation component to the Internal Audit Department was a commendable step in incorporating research and evaluation into policy development. However, it concluded that a “major deficit” still existed:

“There is still no unit at the WCB that is asking the critical policy questions, the “why” questions, and then gathering the information and doing the analysis required to answer those questions … Ultimately the WCB cannot take control of its destiny unless it can define its own problem areas and ways to resolve them. Without an effective policy research function, the WCB is dependent on others to define its failures.”

Because of what the authors viewed as a “desperate” need for a deeper level of research and quantitative analysis to support policy development, the 1996 Inventory made this recommendation:

“Establish a policy unit with both an external and internal mission. Externally, build credibility with stakeholder interests and with government authority. Over time, this can be done only if the WCB becomes the source of truthful, authoritative analysis that informs stakeholder opinion. Internally, provide analytical capacity to explain (WCB’s) own performance.”

None of the Inventories commented on the appropriateness of the WCB’s governance structure. However, both Hunt (1996) and Rest (1997) traced the sequence of events leading up to the change in the WCB governance structure.

The 1996 Inventory also summarized what the authors viewed as the major accomplishments of the Board of Governors during their four year tenure, including:

- The commissioning of the first Administrative Inventory of any Canadian workers’ compensation system to provide a baseline measurement of WCB performance, thereby committing themselves to public measurement and accountability. (Note: There is some disagreement as to whether or not the resulting Inventories actually did establish such a measurable baseline.)

- The introduction of a new climate of openness and accountability.

- The efforts to focus public attention on the prevention of work-related accidents and illnesses.

- The launching of a comprehensive and public regulation review and development process.
• A review of published policy on vocational rehabilitation.

However, as noted above, the 1996 Inventory provided no comments on the appropriateness of that particular governance structure, other than noting that:

• **Bold But Failed Experiment:** The act of bringing together labour and management to the table to govern the system together was a bold experiment and by doing so, legislators in BC demonstrated their faith in industrial democracy. At this point, the experiment must be regarded as a failure. The structural changes of 1991 apparently did not achieve the desired result of giving ownership to the system’s stakeholders, at least not in a way that enabled them to govern jointly.

• **Future Opportunities:** The gridlock that resulted from a collective bargaining approach to policy making will not disappear overnight. But it may create the opportunity for a more pro-active WCB role that seeks to define and resolve policy issues through leadership and analysis, rather than interest group bargaining.

• **Barriers to Effective Governance:** With partisan critics waiting for any opportunity to embarrass the WCB and the current government, it will be even more difficult to address the legitimate policy concerns of the stakeholders. With the current attitudes of the organized employer and labour communities, it will be hard to reach consensus on desirable system changes.

The 1996 Inventory commented on the design of the WCB’s external linkages. It concluded that progress was “disappointing”:

“The WCB of 1995 is vastly more open and responsive than it was four years ago. More information is available and greater access is provided. Still, while a great deal of effort has gone into improving access for stakeholders at the WCB since 1991, the yield has been disappointing. Attitudes of suspicion and distrust are all too prevalent, particularly between employer groups and worker groups. Neither trusts the motives of the other side when dealing with policy issues. Many times the WCB gets caught in the middle and ends up earning the enmity of both sides.”

**Issue Three: Achieving Intended Results**

None of the Inventories articulated their understanding of the system’s intended results, possibly because the system itself had not provided such direction. Instead, they used (implicitly) their own views as to what the system’s outcomes ought to be and how those outcomes ought to be measured.

In this section, we focus on what the 1996 Inventory observed about what the authors labeled “system outcomes.” That Inventory concluded that:

“There has been little or no demonstrable improvement in system performance since 1991 (and) various shortcomings have plagued the realization of the goals of the new WCB.”

The first measure used by the 1996 Inventory in reporting on overall performance and system outcomes is the level of claims. It made these conclusions:
• **Drivers of Claims Activity:** Changes in the number of new claims registered at the WCB reflect a complex mix of secular, cyclical and policy trends. For example, the secular trend of employment by sector is leading to declining exposures to traditional risks of injury in the workplace.

• **Declining Trend Overall:** There appears to be a long term declining trend in wage loss claims on a “per worker” basis.

• **Upward Trend in Long Term Disability Claims:** The key exception to the overall declining trend in the rate of wage loss claims is the significant increase in the number of long term disability claims. Such claims are much more time consuming administratively and will have very long payment durations, some up to 50 years.

“Duration of disability” is the second measure of performance used in the 1996 Inventory. The authors observed that the total lost workdays paid by the WCB per 100 workers has trended up significantly since the mid 1980’s. For example, in the mid 1990’s, the WCB is paying two lost work days per worker per year, up from 1.5 a decade earlier.

The authors concluded that given sectoral employment trends and WCB prevention efforts, this represents a “disappointing picture” since one would hope to see a declining burden of disability due to workplace injury and illness. Instead, the data reveals that average durations have been rising rapidly in every severity category in recent years.

The Inventory’s third measure for measuring outcomes is the level and rate of appeal activity. The 1991 Inventory noted that BC’s workers’ compensation system is fairly free of litigation but questioned whether recent rends threaten that state of affairs. For example, it pointed out that appeals from WCB decisions had been a major growth areas in the 1980’s.

The 1996 Inventory observed an “overwhelming” upward trend in appellate activity, noting that disputed claims are increasing more than four times as fast as employment in BC and more than eight times as fast as new claims registered with the WCB.

It concluded that, unfortunately, the trend to more litigious behaviour is taking root in BC. On the positive side, it noted that this is being done without domination by lawyers, as is characteristic of most United States jurisdictions.

As background to its fourth outcome measure, the Inventory pointed out that a major focus of workers’ compensation systems around the world is on the timely payment of benefits, especially wage loss benefits, to injured workers. The authors noted that although much more attention is usually paid to the adequacy of benefits, it is probably timeliness that is more important to the typical injured worker.

The primary measure of promptness of payment that is used by the WCB is the paylag statistic, the percent of wage-loss claims where payment is made within 17 days of the first lost work day. The authors supported the relevance of this measure because of its direct relationship to perceived customer service performance and because the trend in paylag over time can signal improvement or deterioration in average timeliness.
For 1994 (the most recent year for which data was available), the 1996 Inventory revealed that for the entire WCB, 42% of short term disability claims were paid within 17 days; individual SDL performance varied from 30 percent to over 70 percent. The authors were “troubled” by an apparent deterioration in paylag performance across most adjudication units from 1991 through 1994, with no change in performance into mid 1995, despite the mobilization of the Department to attack the problem.

To address the fifth measure of system outcomes, the authors of the 1996 Inventory used data collected and analyzed by the Association of Workers’ Compensation Boards of Canada and the Employment Standards Administration of the U.S. Department of Labour, plus their own knowledge of North American jurisdictions, to provide a detailed comparison of BC’s benefit structure. They provided the following evidence to support their conclusion that BC provides “generous” benefits that “rank among the best in Canada.”

- **Waiting Period**: There are no waiting periods for workers compensation benefits in BC. (This is similar to all other Canadian provinces except New Brunswick and Nova Scotia; no U.S. jurisdiction matches the generosity of the British Columbia practice.)

- **Maximum Earnings Covered**: As of January 1, 1995, only Ontario covers earnings to a higher level than British Columbia (BC’s maximum was $52,400, Ontario’s was $55,400.)

- **Maximum Weekly Benefit**: The above “maximum earnings covered” translate into the maximum weekly benefit for temporary total disability. BC and the Yukon, at around $750 per week, are far above the other Canadian Boards in maximums; no U.S. jurisdiction comes close.

- **Maximum Compared to Average**: Because the maximum weekly benefit is not the typical or average benefit, another measure should be used to examine adequacy. By taking the maximum weekly compensation rate for temporary total disability benefits as a percentage of the average industrial aggregate weekly wage, it reveals that BC again ranks first, as it maintains the highest maximum benefit relative to average wage levels of any province. BC, at nearly 134 percent of average wages, is trailed by Saskatchewan at 116 percent and Ontario at 112 percent.

- **Minimum Compared to Average**: In a similar fashion, the analysis can be repeated for the minimum weekly benefit payable for wage loss due to temporary disability. This reveals that BC still falls near the top with a minimum benefit at about 47% of the average industrial wage; the highest is Saskatchewan at 51% and the lowest is Nova Scotia at 30%.

- **Disability Benefits**: Permanent or long-term disability benefits are considerably more complicated than temporary or short-term benefits. If benefits are inadequate, temporarily injured workers will suffer somewhat greater economic hardship during their recovery; but permanently disabled workers will be impoverished. So inadequate workers’ compensation benefits will lead to demands on other income maintenance programs, or additional suffering on the part of those who have already been made to suffer on account of their accident or illness and resulting disability. Therefore, the adequacy of permanent disability benefits are critically important from a social policy perspective. Although it is difficult to make any overall judgment, BC maintains permanent disability benefits that are comparable to the best available in North America.
A **sixth performance measure** is total payments from the Accident Fund. The 1996 Inventory had these observations:

- **Rising Payments**: Total Accident Fund payments have increased by 9.6 percent annually from 1981 through 1994, from $232 million in 1981 to $769 million in 1994. Further, this represents a sizable increase of 7.5 percent per year in payments per employed worker.

- **The Impact of Rising Pension Payments**: Fund payments began to rise significantly in 1985 and accelerated in 1991. It appears that wage-loss payments, health care benefits and pension payments have all contributed substantially to these increases. However, over the entire period, pension payments grew the fastest, at 12.4 percent per year (in real terms, adjusted for inflation). The significance of this trend is clear, especially since pension payments are of long duration and thus keep building into the base of expenditures year after year.

For its **seventh performance measure**, the 1996 Inventory examined the system’s costs to those who must pay for it, the employers of BC. The Inventory used “average assessment rate” to support its conclusion that costs to employers are “very reasonable.” In doing so, it recognized that each province is unique, and the rates are not directly comparable due to differing industrial structure, differing benefits, and differing administrative regimes. However, the authors believe that these figures do provide an overall sense of the cost of the workers’ compensation system, particularly when considered in tandem with the benefit comparisons provided earlier. British Columbia stands in the lower middle of the pack, with an average assessment rate of $2.26 in 1995. The lowest rates are in the Yukon and New Brunswick at $1.61 and $1.70 respectively. The highest average rates in Canada are in Newfoundland at $3.07 and Ontario at $3.00 per $100 of payroll. Alberta and Manitoba fall slightly below British Columbia at $1.97 and $2.15 respectively. The authors’ summary judgment is that:

> “British Columbia gets benefits that rank among the best in Canada at a cost that seems very reasonable.”

(Nota: Appendix B contains our own analysis of the validity and completeness of this statement.)

For its **eighth performance measure**, the 1996 Inventory examined the financial status of the WCB. These observations are included in a later section of this Chapter.

In our view, the eight measures described above paint a useful, but incomplete picture of the overall system. Given that the authors of the 1996 Inventory believe (see Section 7.2) that the two primary goals of any workers’ compensation system are prevention and rehabilitation, it is surprising that in examining and reporting on system outcomes, they do not cover the system’s results in those two critical areas. This gap may be due to the fact that the WCB’s data does not readily enable that kind of analysis.

**Issue Four: Client Satisfaction**

The 1996 Inventory concluded that although a great deal of effort has gone into improving access for stakeholders at the WCB, the employers’ previous and notable indifference to WCB matters has been replaced by troubling antipathy. It observed that attitudes of suspicion and distrust are all too prevalent, particularly between employer groups and worker groups. For example it said that:
“The most remarkable feature of the WCB to outside observers in 1991 was the relative dearth of interest shown by employers in the system. That has very definitely changed, and changed dramatically. This is due, in part, to the governance changes at the WCB. But it also reflects broader political, social, and economic trends that have shaped the system over the past five years. It also is a manifestation of policy changes put in place earlier, such as the imposition of the near-universal experience rating system (ERA) in the late 1980s.”

The 1996 Inventory also referred to statistics from the Office of the Ombudsman which revealed that:

- **Rising Complaints:** In 1994, the Ombudsman received 1,031 complaints about the WCB, up from 772 in 1990. The WCB represented about 10% of their caseload.

- **Nature of Complaints:** The most common complaints are about the delays in making decisions regarding claims, and the inability to learn about the status of a claim. A significant number of complaints occur when claimants are unable to understand what has been communicated to them.

**Issue Five: Costs and Productivity**

The 1996 Inventory contained a detailed analysis of the **program costs** associated with the WCB’s benefits to injured workers. It gave several examples to support its view that the costs of such benefits were “exploding” and “alarming.”

- **Alarming Increases in Health Care Payments:** Aggregate health care costs increased by 90% from 1991 to 1994, or 24% per year. This alarming growth in medical care costs is a problem throughout North America, but many jurisdictions have moved more rapidly than British Columbia to implement cost control techniques for medical expenditures. Not only has British Columbia come late to the case management model, but there is evidence of perverse incentives in the substantial form fees negotiated by the WCB with the BC Medical Association in 1991.

- **Rapid Increases in Wage Loss Payments:** The average duration of wage loss payments is increasing rapidly in every severity category in recent years.

- **Possibly-Preventable Income Support Payments:** It seems that the delays imposed by the employability assessments and other deliberative processes involved in setting permanent pension benefits routinely create the need for income support to bridge the gap between medical plateau and permanent pension award.

- **Problematic Increases in Pension Payments:** The number of pensions has grown vastly more rapidly than the number of new wage-loss claims, particularly for the more expensive loss of earnings (LOE) cases. Because of their long duration, the expenditure and reserve levels of these awards will be a problem for the WCB for many years to come.

The 1996 Inventory also noted that the WCB is unable to provide a satisfactory explanation for the rising durations of disability and for the “enormous” level of growth in LOE pensions; as a result, it is impossible to design an effective strategy to reverse the situation.
To address this issue of exploding and inexplicable increases in costs the 1996 Inventory made these recommendations:

- Examine the relationship between subsequent visit form fees and the apparent increase in subsequent visits, including the possible linkage to the unexplained rising durations of disability.

- Give greater priority to understanding the reasons behind the rising durations of disability.

- Determine the underlying causes of the enormous level of growth in LOE pensions.

- Speed up the determination process to reduce delays involved in setting permanent pension benefits (to reduce the level of income support payments and to maintain the return-to-work possibility.)

The 1996 Inventory also examined WCB’s administrative costs (versus program costs) and made these observations:

- **Rising Costs Are Starting To Be Controlled:** WCB’s administrative costs have grown substantially faster than inflation since 1987. For the entire period, administrative costs grew at an unadjusted rate of 10.0 percent. After adjusting for general inflation and increases in employment, the real growth rate per capita is revealed to be 3.2 percent per year. This growth began well before the change in WCB administration in 1991 and the upward spiral ended in 1994. Control of administrative costs is a priority of the current WCB management.

- **The Uneven Record in Controlling Costs is Being Addressed By the Planning Process:** The WCB has compiled a very uneven record in controlling administrative costs. During the contraction of the mid 1980s, administrative costs were probably too tightly controlled. The result was a rebound that began well before the implementation of the new governance structure in 1991. Now the WCB has entered a period of stringent cost control again. This cyclical pattern is unfortunate and ultimately counter-productive. However, the annual budgeting and strategic planning process that has been introduced over the past two years at the WCB should make a major contribution by providing the predictability to resolve the stop-go method of funding. This has been long overdue and the WCB deserves credit for this substantial improvement.

**Issue Six: Responsiveness**

The 1996 Inventory was positive about WCB’s willingness to change, but not so optimistic about its chances of success. For example, it observed that:

> “(There is a) very tangible feeling of progress that characterizes top management thinking. That spirit of change at the WCB is still alive, despite the reverses of the past year.”

However, it also concluded that because of WCB’s previous lack of success in making positive changes,
“It remains to be seen whether the trends (declining service quality and increasing administrative costs) can be turned around. (As a result) the WCB will struggle toward an uncertain future.”

Issue Seven: Working Environment

The 1996 Inventory concluded that the WCB still had an opportunity to develop, empower and use its staff more effectively:

- **Staff Development:** The WCB has a tremendous reservoir of talent among its staff. Unfortunately, that talent is neither encouraged nor consciously developed as a regular part of doing business at the WCB. Staff development seems to be treated as an add-on; but service-oriented businesses cannot afford to put staff development last on the priority list. The WCB management needs to empower their employees, since they are the ones with the potential to make the WCB a better organization. Admittedly, this is a different style of leadership than has characterized the WCB in the past. However, this is the key to better performance at lower cost in the long run.

- **Empowerment of Staff:** Instead of relying on rules and handbooks, the WCB should train employees carefully in the goals and objectives of the organization, and then empower them to get the job done. There is a risk of inconsistency of course, but there is also the chance of making real breakthroughs in procedure. As business process reengineering spreads through the WCB, management needs to trust the intelligence and good will of the employees, sometimes in place of management prerogatives. This will be a difficult cultural change, particularly for middle managers. But it offers the potential for the WCB to move beyond its current organizational limitations.

- **Collective Bargaining Relationship:** There is a great deal of improvement possible in the relationship between the WCB and the CEU. If the WCB is going to become a high-performance organization, the collective bargaining relationship will need to become a more cooperative, mutual relationship that focuses on final organizational outcomes rather than narrow self-interest. The potential seems to be there, but there is a lot of baggage from the past that needs to be discarded by both sides. This needs to become a major internal priority for both union and management leaders at the WCB in the next few years.

Issue Eight: Financial Performance

The 1996 Inventory provided a detailed description of the WCB’s financial performance over a 15 year period. It noted that during the last decade, the WCB’s financial performance had been commendable:
“While the size of the unfunded liability is a source of criticism by stakeholders, in fact the (financial) performance of the WCB over the last decade has been very good. The investment returns from the nearly fully reserved future obligations have contributed substantially to this record. There is always a tension between benefits for workers and costs for employers in workers’ compensation systems. Achieving a balance between these two opposing objectives is difficult. The combination of generous benefits at reasonable costs has been pursued very responsibly in our opinion.”

The 1996 Inventory noted that a key contributor to the WCB’s financial performance was its investment income. It made these points and warnings:

- During the latter half of the 1980s, the annual investment return on reserves exceeded the WCB discount rate (2.375 percent until 1993) by more than the rate of inflation. Real rates of return on WCB investment ranged from 5.4 to 7.8 percent annually over this period, making a very tangible contribution to WCB income and permitting lower assessment rates than otherwise would have been necessary.

- Since 1990, the investment returns have continued to rise substantially but they have played a diminishing role in WCB funding because of the rapid rise in WCB costs.

The 1996 Inventory also observed that in the early 1990s, the WCB was trying to attain a fully funded position without dramatic increases in assessment rates. However, it noted that the drain of rapidly rising pension and health care costs “kept that goal elusively out of reach.” The authors pointed out that current plans at the WCB call for attaining annual funding balance by 1997 and a return to full funding by the year 2000.

**Issue Nine: Routine Monitoring and Reporting**

The 1996 Inventory again voiced its concern that the WCB lacks adequate analysis about causes and consequences. It noted that the information generally is available, but it has not been analyzed and presented in a way that can contribute to resolving issues; as a result the WCB is in “desperate” need of the analytical capacity to explain its own performance. It concluded that:

> “Ultimately, the WCB cannot take control of its destiny unless it can define its own problem areas and ways to resolve them. Without an effective policy research function, the WCB is dependent on others to define its failures.”

The 1996 Inventory recommended that the WCB establish a unit to conduct the required research and evaluation. According to the authors, one of its most urgent tasks is to analyze the significant increase in long term disability payments and in the duration of claims so that appropriate policy responses can be developed.
7.4 WHAT HIGH PROFILE FINDINGS COULD BE CITED AND/OR CHALLENGED?

Hunt’s 1991 and 1996 Inventories contain several “high profile” observations and recommendations. Exhibit 7.2 contains such statements, plus our comments on the extent to which the findings are supported in the report by valid evidence. (We also comment on the validity of comments made in Rest’s 1992 and 1997 Inventories concerning the WCB’s overall performance.)
### HIGH PROFILE STATEMENTS THAT COULD BE CITED OR CHALLENGED

<table>
<thead>
<tr>
<th>HIGH PROFILE CRITERIA, OBSERVATIONS, OR RECOMMENDATIONS</th>
<th>TO WHAT EXTENT IS THE FINDING SUPPORTED BY VALID EVIDENCE?</th>
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<tbody>
<tr>
<td>1. <strong>Unexploited Potential for Synergy:</strong> There is no other situation in North America where there is greater potential to demonstrate the synergy between a compensation system, a rehabilitation facility, and an occupational safety and health program. The WCB should strive to achieve some of the potential benefits from this alliance. (1991)</td>
<td>The need for such synergy is the authors’ opinion; the extent to which other jurisdictions have such an opportunity is based on the authors’ knowledge of how such systems are structured.</td>
</tr>
<tr>
<td>2. <strong>Failed Experiment in Governance:</strong> The experiment that put representatives of workers and employers at the table to govern the WCB together must be regarded as a failure. (1996)</td>
<td>The report’s evidence of “failure” is that the experiment was stopped, not that it failed to produce results.</td>
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<tr>
<td>3. <strong>Decentralization:</strong> One must wonder if complaints regarding the WCB’s services would decline if more claims were dealt with by smaller and more accessible offices. It is clear that WCB’s area offices deserve more attention as models. (1991)</td>
<td>The authors provide a rationale, plus some evidence on outcomes, to support this need for greater decentralization.</td>
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<tr>
<td>4. <strong>Costs Versus Benefits:</strong> The summary judgement is that BC gets benefits that rank among the best in Canada at a cost that seems very reasonable. (1996)</td>
<td>This is based on the assumption that “average assessment rate” is an appropriate measure for costs. If so, then BC does stand in the lower middle of the pack. Supporting evidence is given on the relative generosity of BC benefits compared to other Canadian provinces. (See Appendix B for a more complete analysis of this statement.)</td>
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<td>5. <strong>Responsible Financial Performance:</strong> The combination of generous benefits at reasonable costs has been pursued very responsibly. (1996)</td>
<td>There is good support for characterising benefits as “generous” and for characterising the costs as “reasonable.” However, it should be remembered that this statement was looking at the last decade, not the current year’s performance.</td>
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<tr>
<td>6. <strong>Best In North America:</strong> British Columbia is among the very best systems in North America for both injured workers and their employers. (1996)</td>
<td>This is based on the authors’ knowledge of the other systems in North America and how they perform. However, key comparative outcome measures (e.g., paylag, level of client satisfaction, return to work rate, etc.) are not provided in the report. (Appendix B examines this highly quoted statement in greater detail, commenting on its validity, context and completeness.)</td>
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<tr>
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<td>7. Exemplary System: The WCB in BC is an exemplary system, arguably the best in Canada. (1997; Rest)</td>
<td>The report contains no evidence to support this conclusion. In a subsequent interview, the authors indicated that even though their analysis had focussed on the OSH function, they were impressed with the key design features of the overall BC system. They said their conclusion was not based on outcomes, but on their knowledge of how systems are designed in U.S. jurisdictions, coupled with their own anecdotal evidence of other Canadian jurisdictions.</td>
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APPENDIX A:
NOTEWORTHY THEORIES OR CRITERIA USED BY THE INVENTORIES IN EXAMINING THE PREVENTION FUNCTION

ISSUE: CLARITY OF MANAGEMENT DIRECTION

1. Overall Clarity: The mission of an OSH program should be clear to all parties so that it can be reflected in all subsequent policies and regulations.

2. Individual Units: The mission of the individual organizational units working in an OSH program should also be clear and agreed-upon.

ISSUE: RELEVANCE OF GOALS AND OBJECTIVES

1. Key Goal: The fundamental mission of a prevention function should be the prevention of accidents, injury and disease in the workplace. (Compliance with regulations should be viewed as just one, albeit an essential, contributing factor.)

2. Linkages: The activities of a prevention function should also contribute to environmental protection, economic growth, and employment. That is, the prevention agency should be an aggressive and equal partner in the industrial transformation which is necessary and inevitable for economic survival.

ISSUE: APPROPRIATENESS OF PREVENTION POLICIES AND REGULATIONS

1. Practical: OSH policies and regulations should be clear, useful, and understandable by employers, workers, and officers of the OSH agency.

2. Consistent: OSH policies and regulations should be applied consistently.

3. Clear, Consolidated Authority: It should be clear to all parties as to who has decision-making authority for OSH policies and regulations. Such authority should be consolidated in order to extend the best and most effective and protective regulation to workers within the OSH agency’s jurisdiction.

4. Broad Purpose: Industrial development should be guided by OSH policies and regulations that co-optimize economic growth, environmental protection and worker health and safety. Workplace health and safety issues should be linked with the broad issues of environmental protection and plant safety. (Environmental initiatives are now focusing on what is called “pollution prevention” which requires fundamental technological changes to prevent the creation of pollution in the first place. The industrial firm is faced with a unique opportunity to undertake technological change which can, at the same time, prevent external pollution and significantly reduce if not eliminate worker exposures to toxic materials and unsafe work conditions, as well as minimize if not eliminate the possibility of explosions, fires, and other traumatic events.)

5. Parity: OSH policies and regulations should reflect parity in worker and employer rights, ranging from the appeal process to worker participation in the inspection closing conference.
In addition, small businesses and unorganized workers should have the same rights and opportunities to contribute to OSH policy decisions as large industry and organized labour.

6. **Hazardous Work:** Adequate and responsive policies, regulations and legal mechanisms should be in place to safeguard workers who refuse hazardous jobs from retaliatory action by employers. The legal processes and procedures for addressing possible discrimination should not be burdensome nor should they create a chilling effect on the exercise of the right, even in the absence of actual discrimination.

7. **Internal Responsibility for Health and Safety:** Because no regulatory system can ever have the resources required to police the workplace 24 hours a day, the concept of internal responsibility for health and safety should drive many policy decisions. This should include:

   - a broad role for health and safety committees
   - rewards for employers with excellent programs, committees and accident experience
   - the expansion of workers’ rights to refuse hazardous work to a collective right
   - the provision of grants-in-aid for developing the institutional capacity of firms, trade associations, and unions.

8. **Health and Safety Programs:** For the concept of internal responsibility to really work, OSH policies and regulations should ensure that workplace-based health and safety programs, including joint health and safety committees, are operational and effective. This means that regulations concerning such programs should be in place and the regulations should address the requirements for experience, training, information, resources, respect, support, and authority.

9. **Role and Scope of Health and Safety Committees:** OSH policies and regulations should:

   - require health and safety committees in all workplaces;
   - vest the committees with expanded authority (with appropriate safeguards to prevent possible abuse);
   - require that committees have adequate knowledge and skills to fulfill their roles;
   - mandate specific training for committee members.

10. **Wide Scope:** OSH policies and regulations should recognize and address the hazards and problems in the service, health care, and retail industries as well as those in other non-traditional employment settings, including self-employed workers and out-workers.

11. **Thorough Coverage:** OSH policies and regulations should be wide-ranging and should cover all issues which affect workplace health and safety. This includes:

   - the organization of work
   - the involvement of labour in the production process
• the establishment of action levels that require employers to conduct environmental sampling and/or biological monitoring as well as to notify and train exposed workers

• the linkages between ergonomics and engineering

• an appropriate number of situations for which there is mandatory consideration of penalty assessments. These could include lack of an operational health and safety committee or program, lack of fall protection, and exposure to toxic substances above permissible concentrations.

12. **Emerging Issues:** OSH policies and regulations should address all emerging issues that affect workplace health and safety.

13. **Complementary Nature:** OSH policies, regulations and mechanisms to enhance internal responsibility should supplement, not replace, OSH activities in inspection, enforcement, education, consultation and technical assistance.

14. **Induce Technological Change:** Governmental intervention, via OSH policies and regulations, should attempt to force and encourage technological changes using technology-forcing regulations. That intervention should induce a fundamental rethinking and redesign of the technology of production. It should involve significant input from ergonomics and engineering.

15. **Current and Relevant:** OSH policies and regulations should be current and should be reviewed and revised regularly. Needed changes in, or clarification of, OSH policy and procedures should not be hamstrung by a time-consuming and bureaucratic process.

16. **Linkages:** In revising OSH policies and regulations, ergonomic and engineering considerations should be linked.

17. **Economic Incentives:** OSH policies and regulations should include strong economic incentives which should be used to supplement, but not replace, enforcement activities.

18. **Recourse to Courts:** To prevent years of costly and acrimonious judicial proceedings, OSH regulations should not be appealable in the courts.

19. **Criteria for “Effective” Regulations:** The following parameters and characteristics should guide the development and assessment of OSH regulations in any jurisdiction:

   • **Scope** – do they cover both safety and health hazards (where health is both physical and psychological).

   • **Coverage** – do they extend protection to workers in most employment sectors? If there are exclusions, is the rationale defensible in terms of worker health?

   • **Clarity** – are the regulations understandable to workers and employers? Are they written in plain language? Do they require supporting documentation or guidelines for effective implementation?
• Accessibility – can employers and workers obtain the regulations and any necessary supporting documents easily? Can they easily identify the regulations that pertain to them?

• Consistency – are the regulations internally consistent? Are they consistent with [or at least not in conflict with] regulations issued by other regulatory agencies?

• Achievability – can employers and workers achieve compliance with the regulations over time? Are there ways that employers and workers can assess and monitor their compliance?

• Flexibility and Specificity – do the regulations employ an effective approach to both performance and specification regulations? There is a place for both types of regulations in an occupational health and safety regulatory system. Regulators should be guided by the hazard being regulated and the nature of the risk when choosing an approach.

• Enforceability – can the regulations be enforced by compliance officers? Are officers trained to recognize non-compliance and to provide advice on how to achieve compliance?

• Cooperation and Participation – do the regulations promote and/or establish mechanisms for joint labour/management cooperation around workplace health and safety?

• Ongoing Review – does the regulatory system provide a mechanism for ongoing review of the regulations to ensure that they keep up with changes in workplace technology and advances in the knowledge base of preventing occupational injury and illness?

**ISSUE: APPROPRIATENESS OF PREVENTION STRATEGIES**

1. **Informed and Evidence-Based Strategies:** Data should be used to target, plan, and evaluate all compliance and prevention-oriented activities, at both a micro and macro level. For example, in developing evidence-based strategies at a micro level, employer-generated accident reports should be formally analyzed to target specific firms as well as overall sub-classes. Similarly, if claims data for industry classes or occupational categories reveal injury or disease incidence (or rates) higher than those in other provinces or countries, a look at the adequacy of relevant regulations, regulatory policy (e.g., the OSH Policy Manual or the standard practice manuals), or education/consultation activities should take place.

2. **Information Strategy:** There should be a co-ordinated information strategy for the collection, processing, and use of data.

3. **Information on Causes:** In mapping out its OSH strategy, information should be collected on the causes of occurrences that result in injuries and disease.

4. **Employer-Supplied:** Employers should be required to provide the data (e.g., worker-hours of exposure) that is needed for such planning and targeting purposes.

5. **Targets:** Preventive activities/strategies in occupational safety and health should have different subjects or “targets” in mind: 1) industries; 2) individual firms; 3) specific
occupations; 4) specific injuries/diseases, such as repetitive strains or silicosis; and, 5) specific hazards, i.e., sources of injury/disease such as chain saws or ethylene oxide.

6. **General Versus Specific**: Two forms of targeting should be used in setting strategies for OSH activities. Targeting can be either “general” (e.g., deciding how often to inspect high-risk industries, such as sawmills) or it can be “specific”, (e.g., using data to target particular firms, such as sawmills with a history of serious injuries or accidents). Thus, a distinction can be made between establishing general policy for inspection, consultation, and education and red-flagging a firm for special, non-routine attention. Both are essential.

7. **Inspection Data**: As a basis for formulating strategy, data from inspection activities should be used to identify problems in industries, occupations, and particular firms as well as problems with regulations, guidance documents, and education/consultation initiatives.

8. **Proactive**: OSH strategies should emphasize a proactive approach toward the prevention of accidents, injury and disease in the workplace. For example, OSH staff should alert stakeholders to potential problems and provide guidance in preventing and/or addressing them.

9. **Wide Focus**: The focus of OSH’s proactive approach should not be limited to the prevention of injuries and disease but should also include within its scope the accidents and exposure that preceded them. In addition OSH should not focus on the technology as given, because this results in missed opportunities to link workplace health and safety with broader issues of environmental protection and plant safety.

10. **Interventionist**: In order to reduce injuries, government intervention should attempt to force or encourage technological changes as well as changes to existing methods of production.

11. **Longer Term Perspective**: Because technological transformation and changes in the organization of work require long term, concerted action, OSH regulatory activity should have a longer term focus and be aimed at:

   - changing technology (via technology-forcing regulations)
   - the organization of work
   - the role of labour in workplace health and safety and in those technological changes being considered by the firm.

12. **Broad Scope**: OSH’s strategy should be to guide industrial development in ways that co-optimize economic growth, environmental protection, and worker health and safety. This means for example that OSH leaders should advocate for and participate in efforts to develop legislation and regulations that focus on toxins-use reduction and pollution prevention.

13. **Integrated Approach**: Ergonomics and engineering concepts should be integrated (e.g., into education materials, presentations and courses). Similarly, in order to have an integrated approach to workers and environmental protection, governmental activities to promote workplace health and safety and the protection of the environmental should be mutually reinforcing.
14. **Equity in Service**: OSH strategies should place appropriate and equitable emphasis on non-traditional industries, health care and service sectors, and new industries. Small employers, marginal firms, and unorganized workplaces should receive equitable services from the WCB.

15. **Coordination**: OSH should co-ordinate its strategies and activities with those of environmental authorities and ministries with related missions.

16. **Collaboration and Integration**: OSH should identify and exploit innovative collaborative opportunities with other organizational units, both inside and external to WCB, to enhance OSH’s educational mandate. For example, the expertise and materials residing in these other units should be integrated into OSH’s education, training and consulting activities.

17. **Committed Colleagues**: OSH should ensure that those WCB units which provide services to OSH (e.g., Legal Services) should be familiar with, have expertise in, and be committed to OSH.

18. **Linkages and Leverage**: OSH should have strong linkages to other OSH-oriented organizations and should obtain maximum leverage from them. This means that OSH should:

   - Build OSH expertise in employer and worker organizations through the provision of training, technical assistance, materials, and financial assistance as appropriate.

   - Encourage academic institutions and other scientific and research bodies to focus on occupational injury/accident and disease prevention and to make full use of the data collected (or collectable) by the prevention agency. (This is because it is unlikely that the WCB will develop its own in-house resources to conduct the needed epidemiological studies of occupational injury and disease or to conduct other studies and research programs relating to injury and disease prevention.)

   - Work with the private sector to ensure that their initiatives supplement and enhance the Board’s efforts to educate, inform, and provide assistance to workers and employers about OSH.

   - Use Health and Safety committees to play a key role in enforcement activities.

19. **Outreach**: OSH physicians should be available, encouraged, and promoted to provide training and educational presentations to industry, health care professionals, university students, and other WCB staff.

20. **Image Enhancing**: In order to enhance the image of the Board’s OSH physicians, such physicians should have routine contact with outside groups, especially peers in the medical community as well as employers and workers.

21. **Consistency**: Because employers and workers (as well as field officers) have a legitimate need to expect a high degree of consistency in the OSH Division’s enforcement functions, OSH should strive for consistency among its field officers and Regional Managers.

22. **Primary Prevention**: The over-riding strategy should be continual focus on primary prevention by the WCB and by the employer and labour communities. The strategy should be to ensure that all OSH activities clearly address and reflect this focus.
23. **Aggressive Leadership:** Because OSH staff are in the best position to promote the mission of prevention within the WCB, OSH should be proactive and aggressive in pursuing interaction with other WCB units; OSH should not be isolated from other WCB activities.

24. **Strategic Planning:** OSH’s planning of its strategies should be co-ordinated to ensure that they are consistent and mutually re-enforcing.

25. **Targeting:** OSH should target prevention criteria on industry classes or occupational categories whose injury or disease rates are higher than others or higher than other provinces.

26. **Special Projects:** OSH’s targeting activities should not be limited to the firms or industries identified through the analysis of claims. Instead, special projects, such as the targeting of pulp and paper manufacturing, should be used to generate concerted, attention-getting effort over a short time period. These special projects need not focus on industries or occupations with extraordinary problems. Targeting of this sort simply represents a periodic, concentrated effort at intervention.

27. **Mix of Intervention Strategies:** OSH intervention strategies should consider a diverse mix of carrots (i.e., consultation and education) and sticks (i.e., enforcement via penalties, warning letters), even though such a strategy leaves the WCB open to the possible criticism of inconsistency in approach. (Such differences may actually achieve the best results in accident prevention.) Although a mix of intervention strategies is essential, they must be underpinned by a strong enforcement program. Employers must know that the consequences of regulatory non-compliance are serious.

28. **Enforcement versus Education/Consultation:** These two strategies should go hand in hand and one should not be abandoned in favour of the other because both are powerful strategies for getting to the bottom line: prevention and compliance. However, without a strong enforcement program, employers may delay remediation of a hazardous situation or neglect it altogether and the regulations will have no real teeth.

29. **Engineering Solutions:** Engineering can and should play a critical role in the prevention and control of occupational injury and illness through the design and modification of industrial equipment, processes, activities, and operations, as well as through the development of standards and dissemination of technical information. WCB should be a visible, quality leader in promoting engineering solutions to problems of workplace health and safety.

30. **Cost Recovery:** In order to recover certain costs, OSH should look for and explore appropriate opportunities to provide certain services on a fee-for-service basis.

31. **Claims Data:** Claims data should not dominate the targeting strategy. Attention must be paid to other factors associated with the risk of work-related disease and injury, including worksite hazards, the firm’s compliance history, workplace technologies and work organization, the functioning of health and safety committees, worker involvement in health and safety programs, and industrial relations, among other things.
1. **The Right Mix:** An OSH Program should carry out an array of activities to achieve its prevention goals. These core activities should include:

   - Inspection and enforcement (to act as a “stick” to generate compliance) of all regulations, including WHMIS and First Aid.
   - Regulation development and review processes (to ensure that the regulatory framework is current, relevant and responsive).
   - Community-based education of health care professions by WCB Medical Officers.
   - Technical assistance to employers and workers.
   - Data collection and analysis (to target and plan its activities).
   - Sampling and laboratory services.
   - Education, training and consultation to employers and workers.
   - Accident investigation.
   - Complaint investigation.
   - Certification of individuals who perform inherently dangerous jobs.
   - Certification of individuals who must perform technical functions with a high degree of accuracy.
   - Engineering analysis.
   - Financial assistance (to develop institutional OSH capabilities).
   - Research on primary prevention.

2. **The Right Approach:** All of the above prevention activities should have an integrated, organized and coordinated approach; there should be collaboration between all interested and affected parties.

3. **Proper Enforcement:** This key activity should be well-designed. In particular:

   - There should be a high degree of consistency.
   - Field Officers should make optimal effort to secure employer compliance with WHMIS Regulations and with First Aid Regulations.
• The activities should be targeted.

• Inspection and enforcement should not be done in isolation; they should inform other activities.

• Health and safety committees should play an important role in enforcement, assuming that appropriate checks and balances on committee powers are in place.

4. **Technical Assistance:** Employers should be encouraged and facilitated to consult with the WCB for advice and technical assistance.

5. **Data Collection and Analysis:** The collection, processing and use of WCB data should be based on an information strategy that reflects the unique needs of various units and groups but which is also coordinated to ensure efficiency and effectiveness. The resulting data should then be used to:

• Improve or establish regulations and regulatory policy.

• Secure compliance.

• Monitor and evaluate OSH activity and performance.

6. **Sustained Sampling:** A sustained program of collecting, submitting and analyzing industrial hygiene samples should be in place to adequately assess compliance with regulations.

7. **Education and Consultation:** This workplace-based activity should be encouraged, supported, well-planned and provide clear direction to officers. In particular:

• Employers should provide opportunities for this to occur at the workplace. (Such education is critical because it is often there that the most teachable moment occurs.)

• Ergonomic and engineering concepts should be integrated into educational materials, presentations and courses.

• OSH leaders, Regional Managers, and Officers should have a firm commitment to this function.

8. **Accident Investigation:** Accidents should be investigated properly, firms should submit accident investigation reports that find their way into the OSH firm file, and such reports should be formally analyzed for statistical, targeting or epidemiology purposes.

9. **Valued Engineering:** The potential contribution of engineering to the primary prevention of accidents, exposure, injury and disease in the workplace should be fully appreciated.

10. **Regular Reviews:** There should be a mechanism for the ongoing review of regulations to help ensure that regulations keep up with changes in technology and advances in the knowledge base of preventing occupational injury and disease. There should also be a mechanism or process by which regulations that cannot or should not wait for revision be “fast-tracked.” (This may include the ability to establish emergency, temporary regulations.)
11. **Financial Assistance:** Programs should be in place to provide grants-in-aid for developing the OSH institutional capacity of firms, trade associations and unions.

12. **Scope:** OSH activities should influence most BC industries, and at a minimum should impact those industries that are covered by the agency’s compensation policies.

13. **Coordinated:** All OSH activities should be coordinated with other agencies’ activities aimed at economic growth, environmental protection and worker health and safety.

**ISSUE: APPROPRIATENESS OF ORGANIZATIONAL STRUCTURE**

1. **Single Authority:** In order to have an efficient regulatory system, there should be one final authority to promulgate workplace health and safety regulations; multi-jurisdictional approaches for developing and enforcing workers health and safety regulations should be avoided.

2. **Locus of Responsibility:** Employers, workers and interest members of the public should quickly be able to discern the locus of governmental responsibility for OSH in BC.

3. **Integrated:** Prevention, compensation and rehabilitation functions should be placed in the same organization.

4. **Role of Courts:** Courts should not be involved in, or a resort for, the establishment of regulation, the conduct of enforcement activities, and the appeal sanctions.

5. **Participation:** Structures and mechanisms should exist so that employers, workers and representatives of the public have ongoing and meaningful participation in charting the direction and policy of the OSH program.

6. **Materials Production:** There should be a centralized, coordinated system for developing and disseminating those written materials used by employers and workers to explain and implement OSH regulations.

7. **Research and Analysis:** The OSH unit should have, or have access to, a research and data analysis group which:
   
   a) provides timely information about needs and trends;
   
   b) helps track changes in technology and shifts in industrial activity; and,
   
   c) compares injury and disease data for specific industries/occupations with those in other jurisdictions.

8. **Linkages:** Organizational units that are working towards the same OSH objectives should have appropriate mechanisms to facilitate communication, co-ordination and cooperation.

9. **Authority:** The decision-making authority of each OSH unit and organizational level should be clear so that “good” and informed decisions are made in an expeditious manner.

10. **Proactive:** The structure should enable, not hamper, the Board’s ability to act quickly and proactively.
ISSUE: APPROPRIATENESS OF RESOURCE LEVELS AND ALLOCATION

1. **Monitoring:** The WCB should routinely examine the level and allocation of resources within the system to ensure that prevention activities receive appropriate resources. For example, OSH staffing levels should be continually monitored to ensure that they are consistent with the level of OSH activity and the OSH mission.

2. **Balance:** There should be a proper balance between recruiting new staff and “training up” existing staff.

3. **Equitable Allocation:** Resources should be allocated so that small business, marginal firms, self-employed workers, out-workers, and workers in unorganized workplaces receive an equitable level of service and attention.

4. **Mix:** A proper mix of specialist and generalist field officers should be maintained.

5. **Utilization:** Those resources which have the potential to make a significant contribution to OSH objectives should be utilized.

6. **Affirmative Action:** Affirmative action should be adapted in OSH hiring policies.

7. **Profile:** OSH should strive to develop a personnel profile reflective of the client communities it serves.

ISSUE: APPROPRIATENESS OF SKILLS

1. **Officer Training:** Because workers and employers expect well-trained field officers to enforce regulations and to provide the education and consultation necessary for compliance:

   • The classroom and field portions of the officer training programs should be evaluated on a continuing basis.
   
   • Resources should be provided to develop and deliver consistently excellent officer training programs.
   
   • In order to ensure consistent and quality, there should be ongoing reinforcement, adequate supervision and support, and opportunities to upgrade and update knowledge and skills for not only field officers, but also for all professional and support staff.

   • Field officers should be trained to use the different compliance strategies.

2. **Language Skills:** OSH staff who deal regularly with employers and workers should have appropriate language capabilities. OSH should have the personnel, especially among the field staff, to interact effectively with the workers and employers who speak languages other than English.

3. **Continuing Education:** Because Workplace technology and organization are evolving rapidly, prevention staff should be able to keep abreast of these important changes and developments in order to effectively perform their compliance, education, technical assistance, and consultation functions. This is especially critical for staff with direct field responsibilities, including safety and hygiene officers, engineers, and ergonomists; OSH staff
should have appropriate opportunities to upgrade and update their knowledge and skills; formal programs of continuing education should be in place for field officers and other professional staff.

4. Sectoral Knowledge: OSH officers should have the knowledge, skills, resources and sensitivity needed to assist workers and employers in all sectors (including resource, health care, service, retain, many of which are essentially female-dominated industries.)

ISSUE: APPROPRIATENESS OF EXTERNAL LINKAGES

1. Linkages With Other Regulatory Agencies: The WCB is not the only agency in the province that regulates workplace health and safety and undertakes activity to help prevent occupational injury and illness. OSH should maintain strong linkages and establish methods of procedural cooperation with these agencies in order to reduce any confusion that can arise from such a multi-jurisdictional structure.

2. Linkages With Non-Regulatory Agencies: There are numerous other stakeholders and non-regulatory agencies in the OSH system, including unions, academic institutions, and the private sector. They should all be tapped to help prevent workplace injury and disease in the province. OSH should encourage, facilitate, assist, and interact with these organizations.

3. Linkages With Other WCB Divisions: The OSH agency should be proactive and aggressive in pursuing interactions with other WCB Divisions. Relationships should be firmly established and cultivated. The OSH agency should not become isolated from other activities of the Board.

ISSUE: APPROPRIATENESS OF TOOLS AND SUPPORT

1. Core Tools: Field officers should have ready access to the tools they need to do quality work. This includes:

   - Computerized data base which provides complete and meaningful information about the causes of accidents.
   - One comprehensive regulation document in easily accessible formats and/or with subsets of regulations for specific industries, industrial processes, and occupations.
   - A sufficient supply of worksite-based educational materials in other languages and at a variety of literary levels.

2. Data Systems: The data systems used to generate data for targeting and planning OSH activities should be integrated, client-driven, coordinated, easily accessible and user-friendly.

3. Documents: The various documents that serve as supporting guidelines for officers, employers and workers (to help secure compliance with Regulations) should not be murky nor should they cause confusion. For example, standard practice manuals should be clear, simple, direct and easy to use.

4. Evaluation: The usefulness and effectiveness of OSH educational and training materials should be assessed periodically.
5. **Space:** OSH units should be housed together in order to facilitate interaction and coordination.

**ISSUE: ACHIEVING INTENDED RESULTS**

1. **Indicators for Measuring Prevention:** A prevention agency should use these indicators to measure the extent to which it is achieving its intended results in the area of prevention.
   - number of workers who die in a year as a result of their workplace injuries or as a result of industrial disease
   - new claims for work injuries
   - total cost of compensation
   - injury and accident rates
   - incident rates (i.e., events or “near misses” with the potential for serious injury)
   - trends and comparisons in all of the above, by industry, occupation and jurisdiction.

2. **Indicators for Measuring Compliance and Workplace Safety:** The authors provide no indicators for measuring industry’s overall compliance with OSH regulations or for measuring workplace safety at a micro or macro level.

**ISSUE: SATISFACTION**

1. **Indicators:** The Inventory’s authors did not articulate any specific indicators which should be used to measure workers’ and employers’ satisfaction with an OSH function.

**ISSUE: COSTS AND PRODUCTIVITY**

1. **Courts:** To be efficient the regulatory model should **not** involve resorting to the courts.

2. **Materials:** To be efficient, there should be a centralized, coordinated system for developing and disseminating training and educational materials.

**ISSUE: RESPONSIVENESS**

1. **Emerging Issues:** An OSH function (including its regulations) should constantly anticipate and respond to emerging issues generated by changes in technology, better scientific understanding of health effects of toxic substances, federal legislation (e.g., WHMIS), and shifts in the province’s economic, industrial and labour profile.

2. **Use of Data:** An OSH function should systematically use a wide variety of data sources (claims, inspection results, accident reports, etc.) to identify needs and to develop responsive strategies, for the Division’s enforcement, education and consultation activities.
3. **Early Warning:** An OSH function should alert the system’s leaders, officers, employers and workers about potential problems and provide guidance in preventing and/or addressing them.

4. **Research Unit:** An OSH function should have a small research and data analysis unit to provide timely information about needs and trends.

**ISSUE: WORKING ENVIRONMENT**

1. **Role of Employees:** The organization should pay careful attention to nurturing, supporting, empowering, valuing, and listening to its employees.

2. **Rotation:** OSH officers should rotate periodically through the various education, consultation and inspection jobs. Such rotation is in the best interests of the officers, the WCB, and the client community. It also precludes the possibility of some sections becoming a convenient “dumping ground” for “problem officers.”

3. **Penalties:** OSH officers who devote significant portions of their time to education and consultation activities should not be financially penalized.

4. **Certification:** OSH staff who wish to obtain professional certification in their fields should be supported by their employer.

**ISSUE: MONITORING AND REPORTING**

1. **Use of Data:** Performance data should be collected and used to:
   - improve or establish regulations and regulatory policy;
   - secure compliance through inspections/enforcement, education, consultation and technical assistance; and,
   - monitor and evaluate OSH activity and performance.

2. **Scope:** All OSH activities should be monitored in this manner, including enforcement, education and consultation.

3. **Linkage to Inspection:** Outputs from inspection activities should be used to provide meaningful data for identifying problems in industries, occupations, particular firms, as well as problems with regulations, guidance documents, or education/consultation initiatives.

4. **Quality:** The quality (versus quantity) of inspections and other field activities should be assessed regularly, using agreed-upon criteria.

5. **Evaluation:** The impact of OSH activities on such outcomes as injury and disease rates should be evaluated (even though it is difficult to do so). For example, the use, adequacy and effectiveness of educational materials, courses and training programs should be evaluated.

6. **Causes:** The causes of occurrences that result in injuries and diseases should be known.
7. **Proactive:** Health effects data should be used to identify opportunities for a more proactive approach to prevention.

8. **Measures:** There should be regular monitoring and reporting of the following measures:
   - accident, injury and disease rates; and,
   - worker-hours of exposure (which is significantly more meaningful than payroll.)

9. **Accident Reports:** Employer-generated accident reports should be formally analyzed for statistical, targeting or epidemiologic purposes.

10. **Injury Rates:** Injury rates should be monitored to identify particularly dangerous or “high risk” firms or industry sub-classes or for comparing injury rates across sub-classes, for education and enforcement purposes.

11. **Comparisons:** Injury and disease data (both numbers and rates) for specific industries and occupations should be compared with those in other jurisdictions. If higher, this should spark a look at the adequacy of relevant regulations, regulatory policy, and education/consultation activities.

12. **Staffing:** Staffing levels should be continually monitored to ensure that they are consistent with the mission and level of activity.

13. **Unit:** There should be an organizational unit whose job it is to conduct such research and analysis.

14. **Data Systems:** The data systems used to do all of the above should be integrated, client driven, easily accessible and user-friendly.

15. **Denominator:** “Worker-hours of exposure” (instead of payroll) should be used as the denominator to calculate and monitor rates of injury and disease.

16. **Other Data:** If the ultimate goal is to limit worker exposure, more than occupational exposure data should be collection. Other important data elements include occupational titles and job/task descriptions, work area information, process and operation information, engineering controls, and personal protective equipment, to name just a few.
APPENDIX B:
BENEFITS TO WORKERS VERSUS COSTS TO EMPLOYERS

CORE ISSUE

Are the benefits paid by the WCB to injured workers and the cost to employers reasonable compared to other jurisdictions?

WHY IS THIS ISSUE IMPORTANT?

For workers, the amount of benefit paid in the event of an industrial injury is a key indicator of the level of security provided by the Workers’ Compensation System. For employers, the assessments paid are a major component of the financial impact of the system.

WHAT DOES THE INVENTORY CONCLUDE?

The 1996 Inventory “The Workers’ Compensation System of British Columbia: Still in Transition” reaches the following conclusion:

“There is always a tension between benefits for workers and costs for employers in workers’ compensation systems. Achieving a balance between these two opposing objectives is difficult. The combination of generous benefits at reasonable costs has been pursued very responsibly in our opinion. British Columbia is among the very best systems in North America for both injured workers and their employers.”

The last sentence of this quotation is highlighted in the 1995 Annual Report of the WCB.

The summary statement in Chapter 8 of the Inventory is slightly different:

“The summary judgment is that British Columbia gets benefits that rank among the best in Canada at a cost that seems very reasonable.”

The Inventory published in November 1991 entitled “Workers’ Compensation in British Columbia: An Administrative Inventory at a Time of Transition,” prepared by the same authors reached a similar conclusion:

“All across North America, concerns have mounted regarding the costs of workers’ compensation. By contrast, British Columbia is able to provide strong levels of benefits and a high quality of service to most injured workers, without having employer costs explode.”

ARE THE INVENTORY’S CONCLUSIONS SUPPORTED BY EVIDENCE?

The analysis supporting this conclusion is contained in Chapter 8 of the more recent Inventory entitled “System Outcomes.”

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2 Page xxix of the Executive Summary of the report under the heading Financial Performance.
3 Page 216.
4 Page xxviii of the Executive Summary.
Benefits

The Inventory compares wage-loss benefits paid in British Columbia with those paid in all other Canadian jurisdictions, as follows:

- **The maximum earnings covered for workers’ compensation purposes** (as of January 1, 1995). It concludes that “Only Ontario covers earnings to a higher level than British Columbia.”

- **The maximum weekly benefit for temporary total disability** (for 1995). It concludes that “British Columbia and Yukon around $750 per week are far above the other Boards in maximums.”

- **The maximum weekly compensation rate for temporary total disability benefits as a percentage of the average industrial aggregate weekly wage** (no date quoted). It concludes that “British Columbia, again, ranks first.”

- **Permanent or long-term disability benefits** (no date quoted). The report notes that the comparison to other jurisdictions is complicated by differences in benefit structure. “A majority of Canadian jurisdictions provide both periodic wage-loss payments and lump sum payments for impairment. British Columbia, ... are exceptions to this rule. However, in British Columbia’s case, this is reflected in a more generous maximum benefit for wage-loss payments. In addition, other jurisdictions have, at best, annual automatic adjustment of benefit levels for changes in price levels, while British Columbia adjusts benefits for inflation twice annually.” Despite the difficulties in comparison, the Chapter concludes that “British Columbia maintains permanent disability benefits that are comparable to the best available in North America.”

The Chapter also compares wage loss benefits in Canada to those provided in the United States. It reports that “U.S. jurisdictions generally use two-thirds of gross earnings to calculate ... wage loss benefits.” In BC the figure is 75%. Most provinces in Canada calculate benefits as a percentage of net earnings up to a maximum. The report notes that where U.S. jurisdictions use the net earnings approach, “none approaches the standard of 90 per cent net wage loss replacement.”

On longer term benefits the report notes that:

> “U.S. jurisdictions vary widely in permanent disability benefit structures. Some are comparable to Canadian practice, while others fall far short of the Canadian standard. While weekly maximum benefits may be higher, inflation protection is generally less adequate. In addition, most U.S. jurisdictions are more aggressive than British Columbia in offsetting long-term disability benefits with other income maintenance payments, such as unemployment insurance, federal disability insurance, and even retirement pensions.”
Assessments

The Inventory discusses various aspects of the assessment system but uses average assessment rates as “the bottom line from the employer perspective.” While recognizing that “rates are not directly comparable” across jurisdictions, the Inventory makes a comparison of average 1995 assessment rates for all provinces and concludes the “British Columbia stands in the lower middle of the pack.” No comparison is made with assessment rates in the U.S.

While comparison of average assessment rates is useful, it is incomplete for the following reasons:

- **Assessment Rates Vary by Rate-Group:** The rate paid varies considerably by rate-group (type of industry). Hence for an employer in a particular industry the assessment rate could be considerably higher or lower than that changed in other provinces.

- **The Rates are Modified by the ERA:** The actual rate paid by an employer depends on the experience rating adjustment applied.

- **Maximum Assessable Earnings are Relevant:** The amount paid by an employer on behalf of each worker depends on the assessment rate and the assessable earnings of that worker, up to a defined maximum assessable earnings. In British Columbia the 1995 maximum is higher than all other Canadian jurisdictions other than Ontario. Therefore, employers with relatively highly paid workers could be paying considerably more in assessments than comparable employers in other jurisdictions.

- **The Unfunded Liability Needs to Be Recognized:** The 1995 assessment rates do not reflect the underlying costs of the workers’ compensation system in BC because the WCB had an unfunded liability in the order of $300 million. A more complete comparison of assessment rates among provinces would include an adjustment for unfunded liabilities or surpluses in each province.

**ARE THE INVENTORY’S CONCLUSIONS ON THIS ISSUE REASONABLE?**

Based on the evidence presented in the report, it is reasonable to conclude that in BC in 1995 benefits paid were among the best in Canada and North America and that the cost to employers was reasonable compared to other jurisdictions. However, some care should be taken in using this conclusion for the following reasons:

- **Keep It In Context:** The conclusion that “British Columbia is among the very best systems in North America for both injured workers and their employers” is sometimes quoted out of context. It is not a commentary on the whole of the workers compensation system but simply a conclusion with respect to the balance between wage loss benefits and assessment costs.

- **Other Factors are Important:** Even within the realm of benefits, the level of payment is only one aspect of the adequacy of the system for injured workers. For example, timeliness of payment may be as important as the level of benefits.

- **No Explanation Is Given:** The report does not cogently explain how it is possible for BC to sustain high benefits at modest cost. What are the underlying factors that allow BC to be in such a fortunate situation? The Inventory alludes at some possibilities,
such as the investment performance of the claims fund; a full explanation is not provided.

- **The Situation May Not Be Sustainable:** The Inventory discusses some trends that could, unless corrected, change the balance between benefits and costs. For example, the Inventory notes that “long term disability claims rose 4.6 percent per year during the decade of the 1980s, but even faster in the 1990s. This is a very significant increase, with important implications for WCB benefit costs and staffing levels.” Also, “the total lost workdays paid by the WCB per 100 workers has trended up significantly since the mid 1980s”. These trends, if they continue could seriously compromise the WCB’s ability to maintain its current benefits levels without an increase in employer assessments.

**WHAT ADDITIONAL ISSUES WARRANT ATTENTION?**

The Inventory’s analysis of costs and benefits raises these additional issues that warrant the attention of the Royal Commission:

- Why “in principle” should there be a maximum on the benefit level? If a highly paid person suffers an injury why should they receive substantially less in compensation than they could have earned at work?

- Should the benefits be calculated as a percentage of net earnings (i.e., after tax and payroll deductions) rather than gross earnings? Most other provinces use the net earnings calculation.

- Is there a good balance between long term and short term benefits? Are long term benefits as generous as short term benefits?