CIVILIAN GOVERNANCE AND OVERSIGHT
OF POLICING IN CANADA

“The structure of civilian governance for police services seeks to ensure that, on one hand, the police remain sufficiently independent in their responsibility for operational matters within their jurisdiction, while, on the other hand, being suitably accountable to representative civilian authorities (e.g. Police Services Boards) for their overall adequacy and effectiveness.”

The above quote was included in a background paper prepared in advance of a police summit hosted by the Ontario Ministry of the Solicitor General and Correctional Services in 1996.

Civilian governance in policing has a considerable history in Ontario. The Municipal Institutions of Upper Canada Act, 1858 provided for the establishment of a police service and the intent of the Act was that Boards should have a considerable degree of autonomy from municipal Council, no matter its composition. The powers and functions of Boards are not powers and functions delegated by the Council, but statutory powers and functions conferred directly to Boards.

The Constitution Act, 1867 recognized this authority by allowing both the federal and provincial governments jurisdiction over policing. The federal power is to legislate in respect of “peace, order and good government”. The provincial authority is to make law in relation to the administration of justice in each province.

Local Police Boards must be connected to the community to ensure effective democracy. Provincial oversight often becomes the repository of messy situations that cannot be resolved locally and require an agency disconnected from the local community to come in and resolve.

The federal authority for policing is exercised by the Royal Canadian Mounted Police (RCMP). Each Province has had Provincial Police Forces, but only three (3) remain, namely Ontario, Quebec and Newfoundland.

There are 3 key models of civilian governance in Canada:

- Committees of Council
- Provincial Police Commissions
- Municipal Police Commissions and Boards

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1 Police Powers II by Paul McKenna, Page 2
2 Paper titled “Local Police Boards: Invisible, Inevitable, Invaluable by Dr. C. Saldanha, Past President of CAPB, Page 10 (undated)
Civilian Governance has reached its furthest stages of evolution in Ontario. Local governments are to operate their respective police departments by a Board of Commissioners of Police.

The following outlines the current system of oversight of policing in Canada:

**RCMP**

- *Royal Canadian Mounted Police Act*
  - Commissioner appointed by Governor General and operates under the direction of the Solicitor General
  - Minister or Commissioner may appoint a Board of Inquiry to investigate and report on any matter

- Commission for Public Complaints
  - Provides an avenue for citizens to lodge complaints against members of the RCMP in the conduct of their duties. Part VII of the RCMP Act sets out the legislative framework.
  - The Chair of the Commission determines whether the RCMP’s disposition of the complaint is sufficient or whether a review is necessary.

- RCMP External Review Committee to be established
  - To consist of five (5) members
  - To hear and decide matters related to grievances and discipline appeals.

**Ontario**

- *Police Services Act*
  - Section 27 requires there shall be a Police Services Board for every municipality that maintains a police force.
  - Section 10(2) requires that in order for a municipality(ies) to enter into an agreement under this section (contract with OPP for police services), the municipality(ies) must have a board.

- Ontario Civilian Commission on Police Services
  - Decides matters related to appeals of public complaints and discipline matters, conduct inquiries, render decisions regarding budget requests,

- Special Investigations Unit
  - Investigate circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers.

- Ministry of the Solicitor General
  - Monitor Police Services to ensure that adequate and effective police services are provided at the municipal and provincial levels.
  - Conduct inspections of Police Services

**Alberta**

- *Police Act*
  - Province may contract with the RCMP to provide Provincial Police,

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3 Police Powers II, Page 13
• Municipalities with a population greater than 2,500 must provide their own policing, but can either establish municipal or regional policing services or contract with the RCMP
• All Police Services and Peace Officers shall act under the direction of the Minister of Justice and Attorney General
• Law Enforcement Review Board
  • To provide an independent and impartial review into public complaints and for appeals by police officers related to disciplinary action

**British Columbia**

• *Police Act*
  • Minister may with the approval of the Lieutenant Governor in Council may contract with the RCMP to provide Provincial policing
  • 12 municipal police departments
  • Municipalities with a population of more than 5,000 are required to have a Board of Commission – mandate is to provide general direction in accordance with relevant legislation and in response to community needs. Municipal police boards are created independently from municipal Councils and from the provincial government. Main governance functions: 1. employers of sworn and civilian staff, 2. policy and direction setters, 3. financial overseers, and 4. authority for policy and service complaints.
  • Municipalities with a population of more than 5,000 may provide their own police service, enter into a contract with the Minister, or enter into a contract with another municipality to provide policing
  • Office of the Police Complaint Commissioner to hear complaints
    • Commissioner is an Officer of the Legislature

**Manitoba**

• *Law Enforcement Review Act*
  • Law Enforcement Review Agency to investigate public complaints about police performance arising out of the execution of their duties
• *Provincial Police Act* still in existence which allows the Lieutenant Governor in Council to establish a Provincial Police Force, but RCMP provides police services
  • Province may contract with the RCMP to provide police services
  • Municipalities are required to have a Commission if established by the charter of any city or if imposed under any Act of the Legislature.

**New Brunswick**

• *Police Act*
  • Municipalities may enter into an agreement with the Lieutenant Governor in Council for policing by the RCMP
  • A Police Board cannot be established without the consent of the Lieutenant Governor
  • Police Commission and Complaints Commission
    • Investigates and determines any matter relating to any aspect of policing in any area
    • Determines the adequacy of municipal, regional and RCMP forces within the Province
• Responsible for appeals related to complaints and discipline.

**Newfoundland**

- *Royal Newfoundland Constabulary Act*
- Royal Newfoundland Constabulary is the Provincial Police
- Chief appointed by the Lieutenant Governor in Council and reports to Minister of Justice and Attorney General
- Royal Newfoundland Complaints Commissioner appointed to hear complaints

**Nova Scotia**

- *Police Act*
- The Lieutenant Governor in Council may establish a Provincial Police Force
- Every municipality is responsible for policing by either appointing its own members, by agreement with the Province or by the Province itself
- Every municipality that appoints a Police Force shall provide a Board of Commissioners,
- 17 municipal Police Departments with Boards
- Nova Scotia Police Commission
  - Commissioner reports to Attorney General
  - Responsible for conduct and performance of duties by police, administration of police forces, the system of policing and police needs of municipality, and complaints, appeals from disciplinary matters and any inquiries requested by the Solicitor General.

**Prince Edward Island**

- *Police Act*
- A Police Force of police officers and constables to be known as the Prince Edward Island Provincial Police established
- An agreement may be made with the Federal Government for the provision of police services,
- All Officers and members responsible to the Attorney General

**Quebec**

- *Police Act*
- Establishes the Police Force known as the Surete du Quebec (Provincial Police)
- Surete du Quebec is under the authority of the Minister of Public Security
- Chief to be known as Director General
- Municipalities with a population under 50,000 are policed by the Surete du Quebec
- Municipalities over 50,000 must either, create their own police force, pool with other municipalities or link with an inter-municipal Board
- The Police Ethics Commissioner
  - Responsible for processing complaints and disciplinary matters.
Saskatchewan

- Police Act
- Municipal Boards of Commissioners required for municipalities with a population in excess of 5,000 – all members appointed by council
  - Responsibilities – delivery of service, general direction, policies
- Saskatchewan Police Complaints Investigator
  - Deals only with public complaints
- Saskatchewan Police Commission hears disciplinary appeals.

SUMMARY:

- No consistency in civilian oversight across Canada,
- Some Provinces only have civilian governance for public complaints and appeals for discipline matters.
- One principle of policy governance is that "A Board should define and delegate, not react and ratify".

  Individuals need to be told what the expectations are. Otherwise how can someone know how to proceed and how can the outcomes be measured.

Disclaimer: The information contained within this document should not be relied upon without checking its accuracy.