

# The Police Commissioner's Handbook: A Guide to Police Governance in Saskatchewan

2025 Edition

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# Introduction

*The Police Commissioner's Handbook: A Guide to Police Governance in Saskatchewan* is provided by the Saskatchewan Police Commission (SPC) to help local boards of police commissioners (BOPC) in fulfilling their duties by summarizing and explaining the legislative framework for the governance of Saskatchewan's municipal police services. The handbook describes the roles and responsibilities of a BOPC, other public officials and agencies involved in municipal policing in Saskatchewan. The handbook is a general guide and does not serve as a substitute for professional advice. *The Police Act, 1990*, together with the regulations made under that Act, govern Saskatchewan's municipal police services. This handbook is extensively footnoted to provide access to relevant legislation and case law.

*The Police Act, 1990*, came into effect on January 1, 1992. The Act, and its subsequent amendments and regulations, reflect the legislature's determination of public policy appropriate to modern policing. The intent of which are to:

- promote a community policing philosophy;
- transition, in structure, from a para-military force towards a professional public service organization;
- enhance external oversight, without compromising the necessary independence of police or the authority of chiefs of police;
- address public complaints, predominantly through the external oversight and review of the Saskatchewan Public Complaints Commission (PCC), while also allowing for internal investigation where required; and,
- advance a discipline regime and process which emphasizes a remedial and progressive approach over punishment alone, strikes an appropriate balance between the need for effective and timely discipline with fairness for those members subject to discipline, independent adjudication of disputed discipline, and greater transparency, all without compromising the high standards expected of police.

These public policy decisions are evident in the provisions of the legislation.

A BOPC is the primary body for effective civilian governance of municipal policing. Your challenge and opportunity as a police commissioner is to represent your community in the delivery of this essential public service.

## Legislative Responsibility

### Constitutional Division of Powers

The *Constitution Act, 1867*, divided legislative powers between the Parliament of Canada and the legislatures of the provinces. Under the Constitution, Parliament is conferred with exclusive legislative authority over criminal law and procedure,<sup>1</sup> while the legislatures have exclusive jurisdiction over "the Administration of Justice in the Province"<sup>2</sup>. "The Administration of Justice in the Province" has been held by the courts to encompass both civil and criminal justice.<sup>3</sup> Provincial authority over the administration of justice includes policing to enforce both provincial laws, including municipal bylaws, and federal laws, including criminal law.

## Municipal Responsibility

The Legislative Assembly of Saskatchewan has, through *The Police Act, 1990*, delegated the responsibility for providing police services to cities (urban municipalities that have a population of 500 or more) and towns operating under *The Northern Municipalities Act*.<sup>4</sup> These urban municipalities have the choice of either contracting with the Royal Canadian Mounted Police (RCMP) to provide policing or establishing their own police service.<sup>5</sup> Section 25 of *The Police Act, 1990*, sets out both the municipal responsibility and the required standards for municipal policing:

### **Municipal Police**

25 A municipality:

- (a) is responsible for the maintenance of law and order within its boundaries;
- (b) shall provide policing services to maintain a reasonable standard of law enforcement; and
- (c) shall provide adequate and reasonable facilities required for the policing services mentioned in clause (b).

## Board of Police Commissioners

The police commissioners constitute a separate department of municipal government; they are invested with special statutory powers and are independent of the municipal council except that they are dependent upon the council for moneys with which to maintain the police force. In providing for such a body to administer the police force, I am of the opinion that it was the intention of the Legislature to ensure a just and impartial carrying out of the duties which devolve upon constables and peace officers and to place the chief of police, the officers and the constables of the force in a position where they are removed from the influence of persons who may attempt to interfere with the due performance of police duties such as the detention and arrest of offenders, the preservation of the peace, the enforcement of laws, and other similar duties with which police officers are entrusted by law.<sup>6</sup>

A BOPC is the governing body of the police service and the vital link between the community and its police. The BOPC provides civilian governance and accountability to civilian authority, as essential features of democratic policing. As a statutory body, the BOPC can look to the statute alone to determine the extent of its jurisdiction and its powers and duties.<sup>7</sup> It may be well, therefore, to review the jurisdiction conferred on the BOPC by *The Police Act, 1990*.

## Mandate

The mandate of a BOPC is set out in section 31 of *The Police Act, 1990*. Subsection 31(1) provides that the BOPC is responsible:

- (a) for the delivery of policing services within the municipality; and
- (b) for:
  - (i) providing general direction, policy and priorities; and
  - (ii) developing long-term plans; for the police service.

To carry out its mandate, the BOPC is also empowered or required to do the following:

- to make directives setting general policy for the governing and administration of the police service, provided such directives must not conflict with the Act or the regulations;<sup>8</sup>

- to develop an annual budget for submission to municipal council;<sup>9</sup>
- to negotiate agreements with employees;<sup>10</sup>
- to appoint and, if necessary, discipline and dismiss the chief of police;<sup>11</sup>
- with the approval of the Minister, to hold inquiries respecting the policies or services of the police service.<sup>12</sup>

In exercising its powers, the BOPC must always act as a body.<sup>13</sup> Police commissioners acting individually have no authority or rights beyond that of any other citizen.

## Corporate Status

The BOPC is a body corporate.<sup>14</sup> This gives it the legal status of a person, with the capacity to contract on behalf of the police service and to sue and be sued in its own name. When considering proposed contracts, the BOPC must take care to remain within its jurisdiction and to respect the separate jurisdiction of others, in particular the chief of police and the municipal council.

## Established by Bylaw

The BOPC must be established by bylaw of municipal council.<sup>15</sup> A BOPC is compulsory where the municipality has a population of 5,000 or more, or has established its own police service.<sup>16</sup> A BOPC is optional for municipalities which have less than 5,000 population and have contracted with the RCMP for policing of the municipality.<sup>17</sup> The bylaw establishing the BOPC should also specify the number of BOPC members, their term of office, and payment of remuneration for those members.<sup>18</sup>

## Membership

Council must appoint at least three BOPC members, one of whom must be the mayor. Where Council appoints three board members only, it must appoint one member of Council, in addition to the mayor, and one member at large. Where Council appoints more than three board members, it must appoint two members of Council, in addition to the mayor, and two or more members at large.<sup>19</sup>

Appointments are to be made annually.<sup>20</sup> If a member of Council who is appointed to the BOPC loses office as a member of Council, then the member also loses office as a BOPC member.<sup>21</sup> Vacancies on the BOPC should be filled within one month of the vacancy.<sup>22</sup> If a BOPC member other than the mayor is incapacitated by illness or other cause, the council may make a temporary appointment to act during the incapacitation of the regular member.<sup>23</sup> If the mayor is similarly unable to act, the person appointed as presiding officer of the council (the acting mayor or deputy-mayor) automatically fills the mayor's position on the BOPC.<sup>24</sup> Although its members may change, the BOPC in law is a continuing board.<sup>25</sup>

## Remuneration

Council may provide for payment of reasonable remuneration to BOPC members.<sup>26</sup> The BOPC cannot authorize payments to its own members beyond that specified in the Council bylaw establishing the BOPC.

## Meetings

Meetings of the BOPC are open to the public.<sup>27</sup> The BOPC may, however, meet in private to discuss matters relating to contract negotiations, personnel, security, and any other matter where,

in the board’s opinion, there are privacy issues that require the matter be dealt with in private.<sup>28</sup> The BOPC may establish its own rules and procedures for meetings.

## Chairperson

The BOPC should appoint one of its members as chairperson and another member as vice-chairperson.<sup>29</sup> Any member can serve in these positions.

## Quorum

Where the BOPC consists of three members, two constitute a quorum; where the BOPC consists of more than three members, three constitute a quorum.<sup>30</sup>

## Oath of Office

Before taking office, BOPC members must take the following oath of office:

I, \_\_\_\_\_, do swear (or solemnly affirm) (name)  
that I will faithfully and honestly fulfill the duties devolving upon me as a member of the Board of Police Commissioners and that I will not ask or receive any sum of money, services, recompense or matter of thing whatever, directly or indirectly, in return for what I have done or may do in the discharge of any duties of my said office, except such remuneration as may be allowed me by law or by lawful order, and further, I will not reveal or disclose any confidential police information that may come to my attention except in relation to the execution of the duties of my office.<sup>31</sup>

## Fiduciary Duties

Section 16(6) of *The Interpretation Act, 1995* provides that BOPC members, when exercising their powers and duties, must:

- (a) act honestly and in good faith and with a view to the best interests of the corporation;
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
- (c) comply with the enactment by or pursuant to which the corporation is governed.

Members are not liable for breach of these duties where they rely in good faith on financial statements or audits or on professional advice, such as a legal opinion.<sup>32</sup>

## Conflict of Interest

Section 17 of *The Interpretation Act, 1993*, requires members of a BOPC to disclose in writing to the board any material interest they or any of their associates have in a material contract being considered by the BOPC. An “associate” is defined as a corporation in which the member holds more than 10% of the voting shares, a partner other than a limited partner, a trust or estate in which the member has a beneficial interest or serves as trustee and any person who has the same residence as the member. Disclosure of the conflict of interest should be made at the BOPC meeting at the first opportunity when the contract comes before the board. Members who declare a conflict should ensure it is recorded by the BOPC secretary and confirm their declaration of conflict appears in the minutes of the meeting when those minutes are approved at the next BOPC meeting. As the saying goes, if it isn’t written down, it didn’t happen.

The BOPC member who declares a conflict cannot vote on the contract. A BOPC member with such a conflict should avoid any discussion about the contract with other members or participation in that part of the meeting at which the contract is considered. That member should also leave the room during the discussion and vote on the contract to avoid any appearance of influence upon the decision of the board. It is a serious matter to fail to declare a conflict or to vote or attempt to influence the vote on a material contract in which a member has an interest. Even if the intent was innocent, the participation by such a member in the decision to contract may undermine public confidence in the entire BOPC and the police service.

## Confidentiality

Police commissioners are bound by their oath of office to not reveal or disclose any confidential police information. Information shared during closed session BOPC meetings should be treated as confidential. Although the BOPC is not entitled to information about specific investigations, the chief of police may wish to share certain information with the board. If the chief cannot rely on the discretion of all BOPC members, the chief's ability to share confidential information and work with the board will be impaired to the detriment of all concerned. The deliberate disclosure of confidential police information has been upheld as grounds for dismissal of police officers and employees.<sup>33</sup> Police commissioners should hold themselves and each other to same exacting standard.

## Education and Training

Police governance is challenging, complex and important. SPC is authorized to require members of BOPCs to attend and complete training.<sup>34</sup>

Continuing education is vital for both new and experienced board members. This handbook is provided as part of the SPC's on-going educational support for local BOPCs. The SPC also periodically sponsors training sessions for BOPC members. BOPC members should take advantage of these and other opportunities to learn how to effectively and properly perform their duties.

## Effective Board Members

The Canadian Association of Police Governance (CAPG) has identified the value of good relationships as key to the success of any BOPC:

### Relationships

Every board relies upon individual members working together in a constructive fashion, and from that, rely upon the board as a whole working together with its Chief of Police. The relationship the board develops internally, and then externally with its Chief, its appointing and funding bodies, and the community it serves, will determine its success.<sup>35</sup>

Historically, the CAPG, has rated characteristics that contribute to effective members.<sup>36</sup> The characteristics rated as most important were "open-minded", "willingness to accommodate time commitment", and "ability to co-operate". Conversely, the most undesirable characteristics in a BOPC member were "lack of commitment", "one issue members" and "inability to be flexible".

Police commissioners must be prepared to invest a great deal of time to serve effectively on their

board. This time commitment may vary depending on the issues of the day. Some tasks, such as selection of a new chief of police, negotiation of collective bargaining agreements, strategic planning, or annual budget review, may require frequent and lengthy meetings.

Police commissioners are not expected to be experts in policing. But police commissioners are expected to display good will, courtesy, common sense, curiosity, and knowledge of their community. Members should come prepared, having read the reports to be considered at the meeting, and willing to express their views. Such preparation is conducive to a full and informed discussion of the issues and leads to better decisions, with awareness of possible implications. Once a decision is made by the BOPC, that decision should be accepted and respected by all members.

## Effective Meetings

The BOPC can act only as a body. BOPC meetings are the forum for all of its official actions and directives. Meetings of the BOPC must, therefore, be properly run. This is chiefly the responsibility of the chairperson, but also of every BOPC member and of the chief of police and any other staff who regularly attend meetings in an administrative function, especially the BOPC's secretary.

Effective meetings achieve well considered decisions capable of implementation. Poorly run meetings waste time, frustrate the participants and often produce vague or ill-considered directions which are difficult or impossible to follow. The BOPC should, therefore, make every effort to develop and maintain both procedures and behaviours conducive to effective meetings.

Features common to effective meetings may include the following:

- an agenda;
- circulation to all members before the meeting of the agenda, with copies of written reports, explaining any proposals and including recommendations from the chief of police, and any recent correspondence to the BOPC to be considered at the meeting;
- adherence at the meeting to rules of procedure, which are enforced by the chairperson to keep the BOPC focused on the item under discussion, allow each member to express their view, while avoiding endless repetition or argument, and bringing the item under discussion to a clear decision;
- consistent display of courtesy and respect between BOPC members and between the BOPC and the chief and others in attendance;
- decisions made through proper motions which are clearly worded and accurately recorded;
- preparation by the BOPC's secretary of minutes which are accurate and complete, including both the text of written reports considered at the meeting and the directives passed by the BOPC. These minutes should then be reviewed, with inaccuracies corrected, and adopted by the BOPC at its next meeting;
- follow-up reports from the chief confirming implementation of BOPC directives.

A standard format for written reports can assist the police administration in writing reports to ensure that relevant matters are addressed in the report. Content, not length, is important. An example of standard headings for a report follows:

- Subject

- Purpose of Report
- Issue
- Background
  - Facts
  - Relevant Legislation
- Analysis
  - Discussion
  - Alternatives
  - Strategic Plan Implications
  - Budget Implications
  - Resource Implications
  - Collective Bargaining Agreement Implications
- Recommendation

Efforts made by BOPC members to promote effective meetings will bring both immediate and lasting rewards.

## Communication

A BOPC can only act as a body. It communicates its collective will through directives passed by a majority of BOPC members at meetings of the board.<sup>37</sup> The BOPC may make directives setting general policy for the governing and administration of the police service. Those directives may not, however, be inconsistent with *The Police Act, 1990*, or the regulations.<sup>38</sup> BOPC directives should be communicated through and implemented by the chief of police.

A BOPC is limited in scope when seeking information from the chief of police in relation to directives. For example, it is not appropriate for a BOPC to inquire into details of criminal investigations being conducted to obtain specific information relating to the employment of members involved in such matters. It is not considered part of a BOPC's mandate to seek such information and a chief of police is not required to provide it. It is also not appropriate for a BOPC to give direction relating directly to law enforcement. However, it is accepted that in some cases, such as for bylaws and highway traffic laws, a BOPC has a right to request special attention for a more significant effort at enforcement and are permitted to obtain statistics relating to the results of the enforcement.

These limitations respect the traditional independence of the police officer, and especially that of the chief of police, in the performance of their common law and statutory duties, in particular in law enforcement. The BOPC must seek to preserve and respect this balance between independence in law enforcement and accountability to civilian authority.

## Budget

The BOPC is responsible for preparing an annual budget for the police service. Council is responsible for funding the police service. Thus, while Council decides how much money will be allocated for policing, the BOPC decides how those monies will be spent.

## Municipal Responsibility

Saskatchewan's municipal police services are governed by *The Police Act, 1990*. A municipal police service is *not* a department of the municipality. The municipal police service and municipal corporation are separate entities governed by different legislation. This point cannot be over-emphasized, since confusion over their status and relationship can and has led to problems.

Under *The Police Act, 1990*, the municipality is responsible for the provision of policing services. This can be accomplished either by contracting with the Province for RCMP policing or by establishing a municipal police service. Where a municipal police service is established, the municipality is responsible for the entire cost of the police service.<sup>39</sup> That cost is borne by the municipality in two ways:

1. through the annual funding appropriation granted by Council for the police budget;<sup>40</sup> and
2. through the responsibility to provide facilities required for the police service.<sup>41</sup>

Capital funding of real property, such as police stations, is a matter for the municipal capital budget, rather than the police budget, which is generally an operating budget. The police budget, therefore, does not represent the entire cost of policing to the municipality.

## Budget Content

The police budget should show all projected expenditures and revenues for the next fiscal year, showing both gross expenditures and the net amount requested from Council in its budget appropriation for the police service. While the BOPC may accept funding from legitimate sources, such as provincially funded programs or positions, which reduce the police budget appropriation request to Council, it is important that Council know the total cost of providing policing services.

## Rules of Public Finance

The BOPC should follow accepted rules of public finances in preparing the police budget. These rules are embodied in section 33 of *The Police Act, 1990* and in provisions of *The Cities Act* and *The Municipalities Act*, which govern Council. These rules include the rule of annuality, the rule of specific appropriation, and the rule of maximum appropriation.

Under the rule of annuality, the amount appropriated by Council for the BOPC and the police service is limited to the fiscal year and the expenditure of the approved appropriation is exclusively for that fiscal year. At the expiry of the fiscal year, any and all unused appropriations are cancelled and the monies remain within or are returned to the general revenue fund of the municipality. Under the rule of specific appropriation, the BOPC cannot, without the prior approval of the Council, expend any part of the appropriation for any matter or purpose that was not included in the police budget estimates presented to Council. Under the rule of maximum appropriation, the BOPC cannot authorize the expenditure of any monies in excess of the gross amount appropriated by the Council. In terms of municipal public finances, these principles have been subsumed within the fundamental concept that the expenditures of each year be borne by the revenues of that year.<sup>42</sup>

In summary, the appropriation of monies for the BOPC and the police service is exclusively within the jurisdiction of the Council. Those monies appropriated are subject to the fundamental rules of public finance which are encapsulated within section 33 of *The Police Act, 1990*. The corollary of the rule of annuality is the required implementation of the approved budget on an annual basis. The

only exception to the requirement that lapsed (or unspent) appropriation be returned to the general revenue of the municipality is the mechanism of reserve fund creation. That mechanism is solely within the jurisdiction of the Council.<sup>43</sup> The purpose for which the reserve fund is established must be one within the jurisdiction of the Council and any expenditure from that fund must have the approval of Council.

## Strategic Plan

While the budget is an important and useful planning tool, it is limited by its annual nature. The BOPC and chief of police must look to the future. The SPC has directed BOPCs to develop a strategic plan for their police service.<sup>44</sup> The process of developing a strategic plan can also be used as an opportunity to involve and consult other members of the community.

If properly conceived, the strategic plan can assist in budget development. The strategic plan should help the chief and the BOPC to link and apply long-term planning to the annual budget cycle.

## Budget Approval

While the BOPC is responsible for preparation of the budget of the police service, Council has the final say in its approval.<sup>45</sup> The BOPC must submit an annual budget to Council by the date set by bylaw of Council. Council may accept or reject the proposed budget, but it cannot amend the budget content. If Council does not approve the budget, it is returned to the BOPC and the BOPC must submit a revised budget for Council's approval. If Council does not approve the revised budget, then Council sets the total amount which will be allocated to the police service and that decision is final.<sup>46</sup>

Those members of the BOPC appointed from Council serve the role of not only ensuring that the police budget is realistic and properly allocated, but also in explaining its contents and impact on policing to their colleagues on Council during debate on its approval.

Once the budget is approved by Council, the BOPC must operate within that budget. It cannot authorize any expenditure beyond the total monies allocated by Council. The BOPC should carefully monitor spending during the year in an effort to stay within its budget allocation. If it appears during the year that the budget will be insufficient, the BOPC must ask Council for approval before authorizing any over-expenditure of its original allocation.<sup>47</sup>

Thus, while the BOPC is responsible for determining where money will be spent in the budget, Council, as the body responsible for raising revenues, retains the power to decide how much money may be spent. Council does not, however, have an entirely free hand. The municipality is required to maintain a certain standard of policing services and police facilities.

## Reasonable Standards

Section 25 of *The Police Act, 1990*, requires that the municipality provide:

- policing services to maintain a reasonable standard of law enforcement; and
- adequate and reasonable facilities required for the policing services.

*The Municipal Police Equipment Regulations, 1991*, prescribes equipment that must be provided to every police officer. *The Municipal Police Training Regulations, 1991*, also prescribes mandatory training for police officers. These are minimum, mandatory requirements for a police service. The BOPC, in preparing the budget of the police service for submission to Council, must strive to

balance fiscal responsibility with an acceptable standard of policing. The SPC may, with the approval of the Minister of Corrections, Policing and Public Safety, conduct an inquiry into the standard of policing and law enforcement and the adequacy of police personnel, equipment and facilities of a police service.<sup>48</sup> The failure to maintain a reasonable standard of policing and law enforcement or to provide adequate and reasonable equipment or facilities for a police service can result in an order by the Minister to remedy the failure.<sup>49</sup>

## Public Funding

The requirement that policing be funded by the municipality seeks to preserve the principle that police are independent and provide impartial service to all members of the public. This also relieves the BOPC from the obligation to seek additional sources of funding for policing services. The SPC has adopted a policy which prohibits private funding of policing.<sup>50</sup>

Individual police officers are prohibited from soliciting or accepting gratuities to avoid any perception of partiality and to protect the integrity and reputation of police.<sup>51</sup>

While law enforcement may generate revenue, that must always be the incidental result and not the purpose of law enforcement. Police action should not be motivated by revenue considerations, since such considerations are generally inappropriate and can skew proper determination of police priorities.

## Labour Relations

### Collective Bargaining

Municipal police officers in Saskatchewan who serve in positions outside management may form unions and bargain collectively with their employer. The ability to form unions extends to members of the Saskatchewan Marshals Service, and RCMP officers have unionized under federal legislation. For the purposes of *The Police Act, 1990*, and *The Saskatchewan Employment Act*, the BOPC is deemed to be the employer of the personnel of the police service and the chief and deputy chief of police are deemed to be agents of the employer.<sup>52</sup> This makes the BOPC responsible for negotiation and administration of any collective bargaining agreement with the members of the police service and other staff.

To ensure continuity of essential services, *The Saskatchewan Employment Act* requires that essential services provided by a public employer must continue during a work stoppage (strike or lockout) and no work stoppage may occur without first establishing an essential services agreement between the employer and union.<sup>53</sup> Such an agreement defines which essential services must be maintained during a stoppage, the classification of workers who must perform the work, the number of positions in each classification to continue working, and other provisions.<sup>54</sup> Most, if not all, employees of a municipal police service will qualify as essential services employees.

To facilitate the negotiation process, which may be difficult, *The Police Act, 1990*, allows either the BOPC or the police association to request conciliation<sup>55</sup> and allows for binding arbitration upon agreement of the BOPC and the police association.<sup>56</sup> Arbitration awards bind the municipality as much as the BOPC.<sup>57</sup>

While the Supreme Court of Canada has ruled that the right to unionize, bargain collectively and strike are constitutionally protected,<sup>58</sup> the essential services provisions of *The Saskatchewan Employment Act* generally prevent striking by police service employees. Notably, should any conflict between the essential services provisions of *The Saskatchewan Employment Act* and the labour relations provisions of *The Police Act, 1990* arise, *The Saskatchewan Employment Act* prevails.<sup>59</sup>

Police associations are required to file copies of their constitution and bylaws with the Minister of Corrections, Policing and Public Safety and the SPC.<sup>60</sup> When a collective agreement is reached, copies of the agreement must be filed with the Minister of Labour. These collective agreements then become public documents.<sup>61</sup> The ability of the BOPC to fulfill its mandate to deliver policing services and for developing long-term plans for the police service may be constrained by the parameters of any collective bargaining agreement. The BOPC must be aware of these parameters when seeking to make changes in the police service. The BOPC must also be mindful of its long-term plans for the police service when negotiating a collective bargaining agreement.

The BOPC (and the police association) must also take care to exclude from contract negotiations matters outside the BOPC's jurisdiction. Otherwise, unnecessary conflict or unfulfilled expectations may result which can harm good relations within the police service.

Unlike ordinary employers, the BOPC's authority is limited by public policy as expressed in the Act and recognized in arbitral decisions and case law. The BOPC must distinguish between matters which are properly the subject of collective bargaining and those which are not. Powers, procedures and standards prescribed by *The Police Act, 1990* or any of its regulations are not matters open to change through collective bargaining. Just as the BOPC cannot make directives that are inconsistent with the Act or its regulations,<sup>62</sup> it cannot agree to contractual terms which are inconsistent. Provisions of collective agreements which conflict with or seek to modify provisions of the Act or its regulations may be null and void.<sup>63</sup>

The BOPC must also respect the independent jurisdiction of the chief of police. In matters of law enforcement, and the appointment, promotion, discipline, and dismissal for cause of police officers, it is the chief of police, and not the BOPC, who has authority. As a general rule, the BOPC must understand that if it could not direct the chief to do something as its agent, then it cannot do so indirectly through the collective agreement.

As much as possible, the BOPC should seek to build consensus and a shared vision with the police association and the chief of police over the future direction of the police service. Their common desire should be the betterment of the community they share and serve together.

## Grievances

The BOPC may hear grievances, pursuant to *The Saskatchewan Employment Act*, with respect to alleged breaches of its collective bargaining agreements. This step in the grievance process allows the BOPC the opportunity to correct any management error in administration of the collective bargaining agreement, before proceeding to grievance arbitration. A typical procedure for the hearing of grievances is as follows:

Issue:

- Have the relevant provisions of the Agreement been breached?

Procedure:

- Hear from Association
- Hear from Management
- Allow reply from Association
- Reserve decision
- Consider issue in private without Management or Association present
- Issue decision in writing

Either party may seek grievance arbitration before an arbitration board to settle a difference between the parties respecting the meaning, application or alleged violation of the collective agreement. The jurisdiction of an arbitration board extends to “a question as to whether a matter is arbitrable.”<sup>64</sup> Even if the issue is outside the scope of the collective agreement, therefore, that question or objection must first be argued before the arbitration board.<sup>65</sup> The costs of the arbitration board are borne equally by the parties.<sup>66</sup>

## Council

The BOPC is not a committee of the municipal council. Just as the municipal police service is not a department of the municipality, but a separate and independent public service, the BOPC is constituted as a distinct governing body. Although Council appoints its members and must approve the police budget, the BOPC is a separate entity operating under separate legislation, namely *The Police Act, 1990*. The BOPC is intended to be independent of Council and, while the BOPC should always strive to maintain a good working relationship with Council, its members must also recognize their responsibility for the separate interests of the police service they govern. The common ground for the BOPC and Council can be their mutual desire to provide public services which promote and enhance the community which both bodies serve. This is the public interest.

In providing that members of Council will serve as members of the BOPC, the legislature has attempted to minimize conflict between the BOPC and Council. Municipal control over the police budget also ensures that those accountable for raising revenues are also responsible for expenditures. In exercising that control, however, Council must bear in mind the duty of the municipality under s. 25 of *The Police Act, 1990* to provide and maintain an acceptable level of policing in the municipality.<sup>67</sup>

## The Chief of Police

The office of the chief of police is established in section 35 of *The Police Act, 1990*, which also states the mandate of the chief of police:

- (2) Subject to the general direction of the Board and to this Act and the regulations, the Chief is responsible for:

- (a) the management, administration and operation of the police service;
- (b) the maintenance of law and order in the municipality; and
- (c) the maintenance of discipline within the police service.

These statutory responsibilities codify the common law duties of chiefs of police. The chief of police is accountable for his or her performance of these primary responsibilities.

The chief of police is subject to the same discipline code and public complaints process as any other police officer, except that the BOPC substitutes for the role usually played by the chief of Police for subordinate police officers.

Although appointed by and accountable to the BOPC, and subject to the general direction, policy, priorities and long-term plans developed by the BOPC for the police service, the chief of police retains a great deal of independence. This independence flows from the duties and powers conferred upon the chief by statute and common law. The chief is not simply the agent of the BOPC.<sup>68</sup>

The classic statement of police independence is found in the 1968 dictum of Lord Denning, which was quoted with approval by the Supreme Court of Canada in a 1999 judgment discussing the independence of the RCMP Commissioner:

33 While for certain purposes the Commissioner of the RCMP reports to the Solicitor General, the Commissioner is not to be considered a servant or agent of the government while engaged in a criminal investigation. The Commissioner is not subject to political direction. Like every other police officer similarly engaged, he is answerable to the law and, no doubt, to his conscience. As Lord Denning put it in relation to the Commissioner of Police in *R. v. Metropolitan Police Comr., Ex parte Blackburn*, [1968] 1 All E.R. 763 (C.A.), at p. 769:

I have no hesitation, however, in holding that, like every constable in the land, he [the Commissioner of Police] should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act 1964 the Secretary of State can call on him to give a report, or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone.<sup>69</sup> (Emphasis in original)

Which is not to say that the courts cannot direct police action where police officers fail to do their duty, as Lord Denning acknowledged in a 1973 judgment involving the same parties:

#### Conclusion

In *Reg. v. Commissioner of Police of the Metropolis, Ex parte Blackburn*, [1968] 2 Q.B. 118, 136, 138, 148-149, we made it clear that, in the carrying out of their duty of enforcing the

law, the police have a discretion with which the courts will not interfere. There might, however, be extreme cases in which he was not carrying out his duty. And then we would.<sup>70</sup>

Conflicts between chiefs and BOPCs have arisen in the past. Those conflicts often found their origin in a misunderstanding of their respective roles and jurisdiction. The SPC has historically commented on this problem:

There is no doubt that both [the Chief] and the Board have as their ultimate goal the efficient and evenhanded law enforcement within [the municipality] and given the good will of the parties and the extension of common courtesies it seems the dual function of the participants need not create difficulties.

It is also apparent a member of the Board who views his or her mandate from the electors as one to oversee the general day-to-day operation of the police force has a misconception of the responsibilities of office. Such misconception is not difficult to understand as it no doubt emanates from a lack of understanding of the role that police play in the evenhanded enforcement of the laws of the country and the built-in factor of independence which is not common to other departments or agencies of government.

It is also apparent that *The Police Act* has been drafted with the acceptance of the view that a proper balance between independence and accountability must be struck.<sup>71</sup>

The SPC also commented on the appropriate division of duties between the chief and the BOPC: ... it is somewhat understandable that one ... might see a significant administrative role to be played by a member of the board of police commissioners in the operation of the police force. Nonetheless ... that role is perceived by this Commission to be quite circumscribed in the interests of all concerned. It is apparent such restriction was also in the mind of the legislature as they have given 'control' to the board which would include the power over general policy, but by providing that daily direction was the responsibility of the chief, they have indicated those decisions which arise with a degree of regularity and have an air of immediacy were to be left to that officer and were not part of the general prerogative of the board.<sup>72</sup>

The Canadian Association of Police Boards has also emphasized this division of authority:

The most important principle of board governance is that the board has one 'employee'. In the police environment, that is the chief of police.

Establishing a mutual understanding of the division of authority between the board and the Chief is crucial. Most provincial acts speak to this point as it relates to operational independence.<sup>73</sup>

The legislature responded to issues that arose over time to clarify the respective roles of the chief and BOPC. For example, one area which sometimes caused friction in the past was the responsibility for hiring and promotions within the police service.<sup>74</sup> *The Police Act, 1990*, now confers that authority on the chief alone.<sup>75</sup> In effect, while the BOPC controls the positions, the chief controls the people.<sup>76</sup>

While the corporate model is not entirely apt, an analogy may be drawn between a board of directors and the chief executive officer of the corporation. The board sets policies and monitors performance to ensure that the interests of the corporation and its shareholders are protected. The chief executive officer runs the corporation in a manner consistent with board policies and his or her own good judgment, which, after all, is presumably why he or she was appointed by the board.

Of course, the chief of police is much more than a chief executive officer. The chief of police must be mindful not only of the BOPC's directions, but also, and primarily, of his or her duty under the Act and common law to keep the peace and to maintain law and order in the municipality and discipline within the police service. It should be recognized that the various capacities and duties of the chief of police will affect his or her legal standing and relationship vis à vis the BOPC, police officers and the Crown.<sup>77</sup>

The SPC has described the appropriate relationship for the Board and the chief:

It seems clear from the evidence given by the Chiefs of Police and the Mayors from other cities that they perform their functions in an atmosphere of mutual respect. These elected officials do not see themselves providing the leadership which a trained police officer is being paid to provide, but instead give their Chief their support and the type of help a well-intentioned municipal politician might be expected to provide. In return, the Chief of Police provides the leadership and daily operational skills he is expected to provide by virtue of his position but who, out of courtesy and respect for his ultimate employer, provides information on developments within the force and seeks help and guidance in the areas in which it can be usefully provided by the Board.<sup>78</sup>

The success of policing in any community will depend to a large extent on the mutual understanding achieved by the Chief and the BOPC and respect shown for each other's position. A police service can have only one Chief of Police. At the same time, that Chief must be accountable to the BOPC.

## Police Officers

The primary duty of police is to keep the peace, protect the public and enforce the law impartially, with compassion and with respect for human dignity.

### Oath of Police

Police officers are appointed to a public office.<sup>79</sup> As such, their primary duties are set out in their oath of office, which is prescribed by regulation:

I, \_\_\_\_\_, do swear (or  
solemnly affirm) (name)  
upon my appointment as a \_\_\_\_\_ in the \_\_\_\_\_  
(position) (police service)  
that I will, without favour or affection, malice or ill-will, to the best of  
my ability and knowledge, well and truly serve His Majesty the King,  
uphold the principles in the **Canadian Charter of Rights and**

***Freedoms***, preserve the peace, prevent crime and other offences, enforce the law and otherwise discharge the duties of my office faithfully and according to the law. So help me God.<sup>80</sup>

## Code of Ethical Conduct

The SPC, in 2005, adopted a Code of Ethical Conduct for police officers. This Code was developed by police for police, reaching consensus through a committee with representation from the Saskatchewan Federation of Police Officers, Saskatchewan Association of Chiefs of Police and BOPCs. It is intended to represent a positive statement of shared police values and is reproduced below:

As police officers we stand for:

- Democracy and Freedom
- Peace and Order
- The Rule of Law
- Public Trust and Due Process
- Safety and Protection

We believe in:

- Honour and Justice
- Duty and Service
- Honesty and Fairness
- Helping and Caring
- Human Dignity and the Equality of all People
- Responsibility and Accountability
- Learning and Professionalism
- The Value of Our Work and Ourselves

We value:

- Courage, Dedication and Forthrightness
- Generosity, Humility and Kindness
- Faith, Compassion and Patience
- Ability, Knowledge and Thoroughness
- Tradition, Teamwork and Leadership

We will:

- Respect the Rights and Freedoms of all People Uphold the Law by Personal Example
- Enforce the Law with Diligence and Competence Be Proactive and Prevent Crime
- Be Willing and Alert Be Fit and Capable
- Be neither Intimidated nor Deterred Be neither Distracted nor Corrupted
- Be Impartial, Non-Partisan, and Unbiased Be Positive and Resist Cynicism
- Be a Part of the Communities We Serve

We need:

- The Public's Confidence and Trust
- The Public's Co-operation and Respect

- The Friendship of the People We Serve

As men and women we:

- Hope, Love, Grieve, Aspire, and Dream
- Are Proud to be Saskatchewan Police Officers

## Independence

Although s. 31(2) of *The Police Act, 1990* deems the BOPC to be the employer of the personnel of the police service for the purposes of that Act and *The Trade Union Act*, police officers occupy a special and unique position. Unlike most employees, their duties are largely imposed independent of their employer. This independence has been described by the Court of Appeal for Saskatchewan as follows:

This does not make them the servants or agents of the city or of the Police Commissioners; they are appointed to perform a public service in which the city has no corporate interest; their duties are derived from the law and not from the city or the Police Commissioners, and in performing their duties they act not in the interests of the city but of the public at large.<sup>81</sup>

.....

The police are, when holding office, largely independent of the Commission. If I may imagine the Commission instructing the police not to enforce the law against certain persons or respecting certain offences, the police would be bound in law and in conscience to disregard such instructions. And as changes in the law impose new duties on the police force, they become bound to discharge the same without any prescription from the commissioners.<sup>82</sup>

The independence of the police is necessary to allow them to “discharge their duties faithfully and according to the law”, as they are sworn to do. The SPC has explained the necessity of police independence and its limits:

In a social structure which operates under the rule of law, a great deal of importance is placed upon the role of the police. Ideally, they are an independent body designated by society to enforce the will of the people as evidenced by the laws enacted by the various law making bodies within the governmental framework. Such independence is essential to be assured that there will be a fair and even handed enforcement which will not be unduly weighted by political, racial, financial or other influences which would serve to distort the process.

Clearly, such independence cannot be entirely accomplished because complete independence could just as easily lead to an autocratic abuse of power which would be unrestrained unless the persons exercising the power are responsible to some authority.<sup>83</sup>

## Accountability

This operational independence is subject to necessary constraints. *The Police Act, 1990*, and other legislation provides mechanisms to ensure police officers can be held accountable for their conduct.

Police officers are subject to the direction of the chief of police, as their commanding officer. When

police officers engage in misconduct or fail to meet the high standards expected of police, the chief of police (or BOPC, in the case of misconduct by a chief of police) can initiate discipline or dismissal proceeding.

A unique aspect of policing is that police officers are expected and required to routinely interfere with the freedom of individuals. Not surprisingly, this can lead not only to public complaints, but also other reviews of police action, including court proceedings against police.

All public complaints against police officers must be investigated and are subject to independent investigation or review by the PCC. Where an internal investigation or the investigation of a public complaint reveals disciplinary default which can be established by admissible evidence, the chief of police (or BOPC, where a chief of police is the subject of the investigation) is required to take disciplinary action.<sup>84</sup> If the investigation indicates contravention of the law, referral to the Attorney General is mandated for an opinion as to whether charges should be laid.<sup>85</sup>

The Saskatchewan Serious Incident Response Team (SIRT) is an independent, civilian-led unit responsible for investigating serious incidents involving police officers in Saskatchewan. Investigations will occur when a person suffers serious injury or death, either in police custody or as a result of a police officer's actions, or in relation to an allegation of sexual assault or interpersonal violence.<sup>86</sup> Police are also required to notify the Chief Coroner anytime a citizen dies as the result of police action or while in police custody.<sup>87</sup> The Minister of Justice and Attorney General has directed that an inquest will be held in such circumstances, which provides a public inquiry into the cause of death.<sup>88</sup>

Courts hearing the prosecution of charges laid by police or as the result of police investigation also provide an ancillary review of police action. Although the issue on such proceedings is whether the evidence establishes the guilt of the accused or defendant, police witnesses and the Crown Prosecutor may also be called upon to explain or justify police actions as lawful.

Finally, any citizen has recourse to the civil courts for harm caused by police officers acting unreasonably or outside the scope of their duties or authority. Police officers are personally liable for any wrongdoing and can be sued as individuals. A civil lawsuit may be brought against a police officer even after the officer was found not guilty in a disciplinary proceeding under *The Police Act, 1990*.<sup>89</sup>

The BOPC, unlike other employers, is not vicariously liable for the acts or omissions of police officers.<sup>90</sup> But where a claim for damages is made or a civil action is commenced against a police officer, the BOPC is responsible for retaining and paying for the services of a lawyer to defend the police officer and to pay any monetary award or settlement.<sup>91</sup> Such actions and awards can arise without warning and present unanticipated expense for the police budget. BOPCs are well advised to plan for such contingencies by obtaining adequate insurance coverage, if available. The BOPC must also be aware of its obligations to both the police officers who are subject to a claim and to the BOPC's insurer. If a claim arises, the BOPC must take steps to ensure both proper conduct of the defence of the claim and appropriate communication between all interested parties.

## Legal Protection

Recognizing that honest mistakes will happen, Parliament and the Legislature have provided police officers with limited immunity from lawsuits, provided they were acting in good faith and in the

course of their lawful duties.<sup>92</sup> When acting properly within the scope of their duties, police officers are entitled and expected to keep the peace and to enforce the law without fear or favour. Interference with that duty is both improper and may, in certain circumstances, constitute an offence under the *Criminal Code* of obstructing a peace officer, obstruction of justice or public mischief.<sup>93</sup>

## Community Policing

The SPC has endorsed the philosophy of “community policing” for police services under its authority.<sup>94</sup>

Historically, members of the community policed themselves. Peace officers were either non-existent or unpaid. The demands of modern society made full-time, paid police officers both necessary and desirable, in preference to the alternatives of the vigilante, the mob or the militia. The professional police officer remains as a surrogate for the citizen, who retains the right and duty to enforce the laws of the land: in the citizen's power of arrest and prosecution; in the duty to assist the police when called upon to do so; and to participate in the court process as witness or juror. If police are to succeed in keeping the peace and enforcing the law, police must rely not only on their legal authority, but also on moral authority and support of their community.

### Peel's Principles

The philosophy of community policing is not new. It was originally and perhaps best expressed in the nine Principles of Policing laid down by Sir Robert Peel, who as British Home Secretary established the London Metropolitan Police in 1829 and is regarded as the founder of the British police system from which our modern police services have evolved. Those principles are reproduced below:

1. To prevent crime and disorder as an alternative to their repression by military force and by severity of legal punishment.
2. To recognize always that the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect.
3. To recognize always that to secure and maintain the respect and approval of the public means also the securing of the willing co-operation of the public in the task of securing observance of laws.
4. To recognize always that the extent to which the co-operation of the public can be secured diminishes, proportionately, the necessity of the use of physical force and compulsion for achieving police objectives.
5. To seek and preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to law, in complete independence of policy and without regard to the justice or injustices of the substance of individual laws; by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing; by ready exercise of courtesy and friendly good humour; and by ready offering of sacrifice in protecting and preserving life.

6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent necessary to secure observance of law or to restore order; and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.
7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interest of community welfare and existence.
8. To recognize always the need for strict adherence to police executive functions, and to refrain from ever seeming to usurp the powers of the judiciary or avenging individuals or the state, or of authoritatively judging guilt or punishing the guilty.
9. To recognize always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

These principles of policing emphasize the relationship of police to the public. These principles, laid down almost two hundred years ago, remain as valid now as then. The modern philosophy of community policing, also called pro-active policing and community-based policing, developed from and is consistent with these principles.

## Public Complaints

It is important that a BOPC be aware of the complaint procedures available to a citizen and be able to explain why they cannot act effectively on a vague and general accusation which the complainant will not document. A complaint can be a matter of great concern to a number of parties, not the least important of which is the offending member, and he has the right to know that specific incident he is called upon to explain and justify.<sup>95</sup>

Police must maintain a high degree of public support to effectively carry out their duties. When a citizen feels he or she has not been treated fairly by a police officer or police service, it is important to address that concern. For that reason, a citizen complaint procedure is established in *The Police Act, 1990*. It is in the best interests of both the public and the police to have citizens' complaints addressed and resolved in order to maintain the spirit of co-operation and mutual respect which is essential for community policing. Justice David Wright wrote of the requirement for impartiality on the part of the police service in the investigation of public complaints and discipline of members by the chief of police in his 2004 *Report of the Commission of Inquiry into matters relating to the death of Neil Stonechild*:

The Saskatoon Police Service, however, has a broader responsibility to the general public to ensure its members observe and enforce the law. This responsibility includes receiving and investigating complaints about its members. In my view, a public body charged with the task of receiving and investigating complaints must never become an advocate for one side or the other.

Certainly, the Saskatoon Police Service must treat its members with respect and dignity and observe the procedural and substantive protections of the law. If, however, the

Saskatoon Police Service becomes an advocate for its members, it assumes a role that is antithetical to its responsibility to the public. In assuming such a partisan role, the Saskatoon Police Service contributes to a public perception that the police cannot police themselves and that complaints against the police are futile.<sup>96</sup>

The Government of Saskatchewan, in part in response to this Report, amended *The Police Act, 1990*, in 2005 to establish the PCC and enhance the independent oversight and investigation of public complaints against police.<sup>97</sup>

## Making a Complaint

Public complaints may be reported at:

- the police station;
- the office of the BOPC;
- the office of the PCC, through their online form, or by mail;
- the Ministry of Corrections, and Policing, Policing Services Division;
- any RCMP detachment; or
- The Federation of Saskatchewan Indian Nations, Special Investigations Unit.

A complainant must complete the prescribed form.<sup>98</sup> Completion of this form is necessary to provide sufficient detail for a proper investigation of the complaint. This form is then provided to the PCC, which provides copies to the BOPC, the Ministry, the chief of police and any police officer who is the subject of the complaint.<sup>99</sup>

The public complaint process is available only to members of the public outside the police service. Police officers cannot resort to these procedures, either directly or through an agent, to air internal grievances.<sup>100</sup> The PCC can also initiate the complaint process on its own or declare an internal investigation to be a public complaint and thereby assume jurisdiction.<sup>101</sup>

A public complaint may concern:

- the policies of or services provided by a police service;
- the actions of a police officer, including allegations that may constitute a public offence; or
- the actions of a chief of police.<sup>102</sup>

The nature of the complaint determines the procedure for its investigation and subsequent action under the governing legislation.

## Public Complaint as to Policies and Services

Where the complaint concerns the policies or services of a police service, the BOPC is responsible for dealing with the complaint as it sees fit.<sup>103</sup> This discretion recognizes the local autonomy of the BOPC with its responsibility for establishing policy and providing policing services to the community.

## Public Complaint against a Police Officer

Where the complaint is against a police officer, the PCC, in consultation with the chief of police, determines who will investigate the complaint.

The complaint may be investigated by the PCC, through its own investigators; by the police service

that is the subject of the complaint, with or without the assistance of an observer appointed by the PCC; by SIRT as required under legislation; or by another police service. Where a public complaint is investigated by a police service, the police service must provide the PCC with a written report of the investigation.<sup>104</sup> Where the PCC investigates the complaint, it must provide a report of its investigation to the chief of police.<sup>105</sup> Whichever agency investigates the complaint, the investigation will be reviewed by the PCC as to thoroughness, fairness and impartiality. If the PCC is not satisfied with the investigation conducted by a police service, it may take over the investigation.<sup>106</sup>

The complainant will receive written confirmation of receipt of the complaint by the PCC. Where the investigation is not completed within 60 days, the complainant will receive a status report every 60 days until the matter is concluded.<sup>107</sup> However the complaint is resolved, the PCC will advise the complainant in writing about the disposition of his or her complaint. The Public Complaints Commission determines public complaints as: substantiated (meaning that the complaint was justified and some element of misconduct was identified); unsubstantiated (meaning the investigation could not make a conclusive finding); or unfounded (meaning the complaint was not justified or based on evidence). The PCC may also, at any time, terminate an investigation, if it finds the complaint is trivial, vexatious, unfounded or made in bad faith,<sup>108</sup> or refer the matter to mediation.<sup>109</sup> Other than a limited review of the decision to terminate a complaint, there is no “appeal” of the PCC’s investigative actions. Any decision as to discipline or remedial action is the responsibility of the chief of police.

## Public Complaint Against a Chief of Police

Where the complaint is against a chief of police, the PCC, in consultation with the BOPC, determines who will investigate the complaint. The investigation process is identical to that of any other police officer, except that the BOPC takes the place of the chief of police with respect to the complaint and discipline process.<sup>110</sup> The BOPC is then responsible for keeping the complainant informed on the progress of the investigation and seeking any extension of time from the Chairperson of the SPC for disciplinary action.<sup>111</sup>

## Resolution of Complaint Against a Police Officer

A public complaint against a police officer may be resolved as follows:

- terminated, if found to be trivial, frivolous, vexatious, unfounded or made in bad faith;
- referral to mediation, at any stage of the proceedings, with the consent of the complainant, subject officer and chief of police (or BOPC, if the chief is the subject);<sup>112</sup>
- resolved informally with the consent of the complainant and the police officer;<sup>113</sup>
- determined by the PCC to be substantiated, unsubstantiated, or unfounded;
- referred to the Attorney General for an opinion on potential charges;<sup>114</sup> or
- disciplinary action (remedial order or discipline charge) initiated by the chief of police (or, in certain limited circumstances, the PCC<sup>115</sup>) under *The Police Act, 1990* and *The Municipal Police Discipline Regulations*.

The investigation of a public complaint may generate one or more of these resolutions. It is important to understand the separate jurisdictions of the public officials involved in these resolutions. The PCC oversees the investigation and determines whether a public complaint is well-founded. The chief of police (or BOPC, where the chief of police is the subject) decides whether to initiate discipline proceedings or other remedial action. The Attorney General, through

the Public Prosecutions Branch, advises whether the actions constitute a public offence, including whether criminal charges should be laid.<sup>116</sup> Each determination involves different considerations. Where a complaint results in a discipline hearing, the hearing officer is required to advise the police officer who is subject to the hearing, the complainant and the PCC of the time, date and place of the hearing.<sup>117</sup> Hearings are open to the public, unless the hearing officer decides to exclude the public.<sup>118</sup>

## Relationship of the Public Complaints Commission and the Saskatchewan Police Commission

The PCC is independent of the SPC. The PCC is, however, required to provide a report to the SPC on the resolution of all public complaints.<sup>119</sup> Although the SPC may, with the approval of the Minister, issue written directions to the PCC regarding the general conduct of its duties, the SPC may not comment on the handling of specific cases.<sup>120</sup> Conversely, the PCC may make recommendations to the SPC or a BOPC about the policies and services of a police service.<sup>121</sup>

## Records of Public Complaints

The PCC publishes an annual report describing its activities over the past year, including summary information about public complaints for all municipal police services. Records of public complaints must be retained by the police service for a minimum of ten years.<sup>122</sup> For the purposes of unrelated criminal proceedings, these are generally considered third party records not subject to Crown disclosure.<sup>123</sup>

## Relief From Duty

Section 53 of *The Police Act, 1990* allows the chief of police to relieve a police officer from duty where:

- (a) there are reasonable grounds to believe the officer has contravened the Discipline Code or has broken the law; or
- (b) suspension of the officer is necessary to maintain
  - (i) public confidence in the police service, or
  - (ii) the security of police operations.

There must also be a pending disposition so that the suspension does not continue indefinitely.<sup>124</sup> An investigation into a possible breach of the Discipline Code or a public offence will constitute a pending disposition to support relief from duty.<sup>125</sup> The BOPC has the same power to relieve the chief of police from duty. Such suspensions are with pay, unless otherwise ordered by a hearing officer on review of the chief's order.

## Purpose of Relief from Duty

The purpose of this power is to allow the chief to remove a member from active service who is under investigation for serious matters or is facing discipline or criminal charges which may impair the efficiency of the officer, the operation of the police service, or public trust in the police. Such a suspension is not disciplinary in nature, but rather a preemptive and precautionary measure to safeguard the public interest. The SPC has recommended that consideration be given to reassignment as an alternative to suspension.<sup>126</sup>

## Review of Relief from Duty

Where a police officer is suspended, the police officer may apply within thirty days to a hearing officer, who then decides whether the suspension should continue or be rescinded and, in either case, whether any conditions should be imposed.<sup>127</sup> (In practice, the application is filed with the Policing and Community Safety Services Division of the Ministry of Corrections, Policing and Public Safety as the administrative authority which coordinates assignment of hearing officers.) In reviewing the suspension, the hearing officer is not expected to determine guilt or innocence of the member on any charge in a pending proceeding giving rise to the suspension.<sup>128</sup>

In conducting the review of the suspension, the hearing officer is acting in a quasi-judicial capacity and has a duty to act fairly.<sup>129</sup> The onus is on the chief of police to justify the relief from duty and any conditions sought.<sup>130</sup> The following procedure may be followed at such a hearing:

- serve notice on suspended officer and the chief of police of the date, time and place the suspension will be reviewed (hearing must commence within 30 days of order)<sup>131</sup>
- hold hearing to determine:
  - (1) if the suspension is to continue or be rescinded (may impose conditions in either case);
  - (2) if suspension is to continue, under what condition, including whether it should be with or without pay.
- hear from chief of police, or his or her counsel, with suspended officer present.
- hear from suspended officer, or his or her counsel.
- allow reply from chief of police.
- reserve decision (suspension continues until decision).
- issue written decision with reasons.

Where the hearing officer determines that a suspension of the police officer should continue, the hearing officer may also decide whether there should be a reduction in pay during the period of relief from duty. This involves a two-step analysis:

1. whether extraordinary circumstances exist; and, if so,
2. considering relevant factors to decide if a reduction in pay is warranted.<sup>132</sup>

In addressing the question of continued pay, the hearing officer should consider the interests of both the suspended officer and the police service, keeping in mind that the public interest is paramount. The hearing officer may wish to consider the following in addressing the issue of pay:

- How long is the suspension likely to continue? This will depend on the nature of the pending disposition. The nature and number of any charges and the involvement of co-accused may affect the likely timeliness of resolution of charges and the ability of the officer to influence the speed of resolution.
- Is the subject police officer likely to be dismissed in the event that the pending disposition is adverse to the officer? If so, would the continued pay appear to the public as profiting from wrongdoing? If not, could the absence of pay be a greater penalty than the potential outcome of the pending disposition? The period of suspension involved in relief from duty is, after all, not intended as a penalty or disciplinary measure.<sup>133</sup>

Finally, it should be noted that the choice is not all or nothing. The hearing officer may choose to

continue the suspension with partial pay.<sup>134</sup>

## Appeal to Saskatchewan Police Commission

Where the hearing officer decides to continue the suspension, the suspended officer may appeal to the SPC for a review of the suspension and/or any terms or conditions of the suspension.<sup>135</sup> The SPC has described its role on such an appeal as follows:

There is no question that under *The Police Act*, S.S. 1990, the local Board of Police Commissioners [now the hearing officer] has the duty and responsibility to make the decision in the first instance whether a suspension should continue and, if so, whether the same should be with or without pay. This Commission acknowledges this original jurisdiction, and as stated in the *Laporte* decision, this Commission should only interfere if, indeed, the reasoning advanced by the Board of Police Commissioners [now hearing officer] is found to be not persuasive, taking into consideration the nature of the alleged offence, the circumstances in which the alleged offence occurred, the public interest, the police service interest and the interest of the individual member.

The role of the Saskatchewan Police Commission is not to determine what it would do if it was exercising initial or original jurisdiction but simply to determine on balance if the local Board of Police Commissioners [now hearing officer] has taken into account all relevant considerations and arrived at a decision that balances the respective interests to be considered, bearing in mind the nature of the alleged offence and the circumstances surrounding the same.<sup>136</sup>

## End of Relief from Duty

Where a police officer is suspended and the pending prosecution or discipline hearing does not result in a finding against the member or, in the case of dismissal, the member's appeal is successful, the member is entitled to return to service and to receive any benefits which were not received during the period of suspension.<sup>137</sup> A hearing officer presiding over a dismissal appeal who orders reinstatement may, however, still choose to deny back-pay as a consequence for established misconduct which fell short of justifying dismissal.<sup>138</sup>

## Discipline

Police constables occupy a special position in a democratic state founded on the rule of law; as patrolmen and patrolwomen, police constables are the frontline officers. They are the police officers who have the most contact with citizens and they are often called upon to risk their personal safety to protect the lives of those they serve. The contribution that police constables make to society cannot be overstated. In light of this important role, the office of Police Constable must only be occupied by trustworthy and honest individuals.<sup>139</sup>

Maintenance of discipline within the police service is the responsibility of the chief of police.<sup>140</sup> Police officers are granted extraordinary powers and much is expected of them in turn. Proper discipline in the police service is vitally important to preserve public respect for and trust in the service and its members. Lack of discipline in a police service undermines police efficiency, prevents good policing, erodes public trust, and may jeopardize the public order and respect for the law which policing is intended to preserve. The SPC and the legislature have, therefore,

established procedures designed to be effective in maintaining good discipline in the police service, while ensuring fair treatment of the individual police officer.

The discipline procedure established under *The Police Act, 1990*, involves the codification of major and minor offences in *The Municipal Police Discipline Regulations, 1991*. Where a police officer is believed to have committed a discipline offence, the chief may either order remedial action (probation, counseling, treatment, training or a reprimand), with the consent of the police officer, or charge the police officer with a discipline offence.<sup>141</sup>

## Remedial Action

The form of remedial orders is not prescribed by regulation but must be made and recorded in writing.<sup>142</sup> In the case of discipline resulting from a public complaint, the chief must obtain the consent of the PCC for the proposed remedial action.<sup>143</sup> Where such remedial action is taken, the PCC, or the BOPC in the case of a disciplined chief of police, is required to give written notice of this resolution to both the subject police officer and the complainant within fifteen days of the disposition.<sup>144</sup>

The chief must forward copies of all remedial orders, whether resulting from internal investigation or investigation of a public complaint, to the SPC.<sup>145</sup> This provides both a central record and allows for SPC review to monitor consistency of discipline amongst municipal police services.

*The Police Act, 1990*, and *The Municipal Police Discipline Regulations, 1991*, constitute a complete code.<sup>146</sup> The parties to a discipline proceeding are usually the subject officer and the chief of police who initiated the proceeding. Neither the BOPC, as employer, nor the member's police association have any standing in a discipline proceeding,<sup>147</sup> but representatives of the police association and the complainant may attend to observe the hearing.<sup>148</sup> (The two exceptions to the chief and subject officer as parties are: 1. where the chief of police is the subject of discipline, in which case the BOPC is the party initiating the discipline and prosecuting the discipline offence;<sup>149</sup> and 2. where the PCC initiates discipline and prosecutes the discipline offence.)<sup>150</sup>

## Formal Discipline Proceeding

A police officer who is charged with a discipline offence is entitled to a hearing before a hearing officer.<sup>151</sup> Hearings are open to the public, unless the hearing officer closes the hearing to the public.<sup>152</sup> The hearing officer is paid by the Minister, while other costs of the hearing are borne by the BOPC.<sup>153</sup> Conviction of a major offence may result in a range of orders, including dismissal.<sup>154</sup> Conviction of a minor offence may result in a period of probation, a suspension without pay for one day, a fine not exceeding \$350, a reprimand or an order for remedial action.<sup>155</sup> Hearing officers are also given some discretion, for both major and minor offences, to "make any order he or she deems fit".<sup>156</sup>

The same procedures apply where discipline proceedings are initiated by the BOPC against its chief of police.<sup>157</sup>

Discipline hearings are intended to be heard in an expeditious manner and decisions are required to be issued without undue delay.<sup>158</sup> The course of discipline proceedings may be summarized as follows:

- Discipline proceedings commenced by a charge laid under Form A<sup>159</sup> and served on subject member.<sup>160</sup> The discipline proceeding must be commenced within any one of the following

alternate time limits:<sup>161</sup>

- six months "from the day on which the alleged charge should have been discovered";<sup>162</sup>
  - "three months from completion of investigation by the Attorney-General" (i.e. Crown opinion on potential criminal charges);<sup>163</sup>
  - three months after receipt of the report from a special inquiry ordered by the Minister under s. 88 of the Act;
  - any later date allowed by the Chairperson of the SPC on application by the chief;<sup>164</sup>
  - within three months from the date of written notice of abandonment of attempted mediation.<sup>165</sup>
- Minister designates hearing officer<sup>166</sup> (hearing must commence within 60 days of designation)<sup>167</sup>
  - Hearing officer serves notice of hearing on subject police officer, any other person that the hearing officer considers appropriate (such as the prosecutor), and, in the case of discipline or dismissal initiated as the result of a public complaint, the PCC and the complainant.<sup>168</sup>
  - Hearing held in public and recorded.<sup>169</sup>
  - At first appearance, the prosecutor<sup>170</sup> presents details of charge in prescribed Form A.<sup>171</sup>
  - Hearing officer reads charge to subject member, asking whether charge admitted or denied.<sup>172</sup>
  - If charge admitted, prosecutor and charged member or counsel speak to offence and, after hearing those representations, hearing officer determines appropriate order for consequences.<sup>173</sup>
  - Hearing officer may adjourn proceedings from time to time, except that no adjournment between a finding of guilt and imposition of punishment may be longer than eight days, unless the parties agree. Adjournments must be to a stated date, except where the hearing is adjourned pending the outcome of a criminal charge.<sup>174</sup>
  - If charge denied by member, hearing officer sets date for trial.<sup>175</sup>
  - Prosecutor must prove charge(s) on a balance of probabilities.<sup>176</sup>
  - After the prosecutor closes their case, the hearing officer must consider whether the prosecutor has established a *prima facie* case, before calling upon the member to respond. (There must be evidence supporting the essential elements of the discipline offence(s) charged.) If prosecutor fails to establish a *prima facie* case, hearing officer to dismiss charge without calling on member to respond.<sup>177</sup> If *prima facie* case established, then hearing officer calls upon member to call evidence in answer to the charge.<sup>178</sup>
  - Hearing officer, after presentation of all evidence and submissions, finds member guilty or not guilty of each discipline offence, with written reasons for decision.<sup>179</sup>
  - If charge established, hearing officer hears submissions from prosecutor and member as to appropriate consequences and then makes order.<sup>180</sup>
  - Notice of decision provided to parties (prosecutor and subject member) and, in the case of discipline or dismissal initiated as the result of a public complaint, to the complainant, the PCC, and the SPC.<sup>181</sup>
  - Chief, member or complainant may apply to SPC for leave to appeal within thirty days of decision of hearing officer, or such additional time not exceeding thirty days as the SPC may allow.<sup>182</sup>
  - Appeal heard on the record after notice to all parties of hearing.<sup>183</sup>
  - Decision of SPC.<sup>184</sup>
  - Record of conviction removed from service record after two years for minor disciplinary offence and five years for major disciplinary offence, provided there has been no further discipline.<sup>185</sup>

# Dismissal

## Dismissal of Police Officer

The chief of police may dismiss a police officer on grounds of unsuitability or incompetence.<sup>186</sup> Dismissal of a police officer on these grounds is not disciplinary in nature and has only to do with the person's unsuitability or incompetency to continue as a police officer.<sup>187</sup> These personal qualifications recognize that police services must maintain a minimum standard of conduct and ability in their officers, both to provide the essential public services and to deserve the public's confidence.

A police officer who is dismissed may appeal that decision, within thirty days, to a hearing officer.<sup>188</sup> In a hearing into the dismissal, the burden of proof lies with the chief.<sup>189</sup> The chief must prove, on a balance of probabilities,<sup>190</sup> that the member had conducted himself or herself in a manner that, despite remedial efforts, renders the member unsuitable for police service or establishes the member as incompetent for police service.<sup>191</sup> Where there is no prior discipline history, the chief of police must also be satisfied that the retention of the officer would be likely to undermine public confidence in the police service, having regard to the officer's conduct. The hearing officer must consider whether the member was made aware of his or her deficiencies and given a reasonable opportunity to bring his or her performance up to an acceptable standard, including whether any appropriate treatment, training, guidance, coaching or counseling was provided to assist the member.<sup>192</sup>

These provisions make it very important that the chief identify potential problems early and take steps both to make the member aware of any shortcoming and to provide appropriate direction for the member to improve those areas of deficiency. If a member is still unable or unwilling to improve performance, then dismissal may be the only option to maintain the high standards of the police service as a whole. The absence of prior remedial efforts, however, will not bar dismissal in appropriate cases.<sup>193</sup> Proof of remedial efforts is only required where it was reasonable in the circumstances to make such efforts.<sup>194</sup>

A police officer may also be subject to dismissal for other reasons under the collective bargaining agreement. In that case, the procedures set out in the collective bargaining agreement must be followed.<sup>195</sup>

## Dismissal of Probationary Constable

Newly appointed police officers are subject to a term of probation set by regulation.<sup>196</sup> The dismissal of a probationary constable by the chief of police is not subject to appeal or review, either under the Act or through the grievance process in a collective agreement.<sup>197</sup> The dismissal of a probationary constable is subject only to the common law requirements of procedural fairness.<sup>198</sup>

## Dismissal of Chief of Police

The BOPC may dismiss the chief for cause, in which case the chief may apply directly to the SPC for permission to appeal the BOPC's decision, or pursuant to the terms of any employment contract between the chief and the BOPC.<sup>199</sup> Where the employment contract is for a fixed term, the decision of the BOPC to not renew the contract at the expiry of the term does not constitute dismissal.<sup>200</sup> Although not expressly authorized by the Act, it would seem that the BOPC may also enter into an employment contract for a fixed term with a deputy chief of

police.<sup>201</sup>

## Special Inquiries

Special inquiries may be initiated by the Minister of Corrections, Policing and Public Safety or, with the approval of the Minister, by the SPC or the BOPC. In each case, the subject and scope of the inquiry is limited by *The Police Act, 1990*.

Special inquiry by Minister into:

- the operation and administration of any police service;
- the conduct of any member; or
- any other matter relating to policing.<sup>202</sup>

SPC inquiry into:

- the extent of crime or standard of law enforcement in any municipality;
- the competency or adequacy of personnel of a police service;
- the adequacy and standard of equipment used by a police service;
- the suitability of accommodation, including lock-up facilities, provided by a police service; or
- any other matter which is related to the standard of policing and law enforcement provided within a municipality.<sup>203</sup>

BOPC Inquiry into:

- the policies of or the services provided by its police service.<sup>204</sup>

The costs of a special or SPC inquiry are borne by the municipality.<sup>205</sup>

Inquiries are open to the public unless the initiating authority directs otherwise.<sup>206</sup>

Inquiries have, in the past, been held to clear the air over disputes between council, BOPCs and chiefs. Inquiries of the SPC have investigated allegations of impropriety within the police service, failure to maintain the required standards for policing and police facilities, and the use of certain resources by the police. The published reports of these and other inquiries have helped resolve local disputes, bring closure to public controversies, supported necessary reforms, and provided future guidance for police leaders.

## Minister of Justice and Attorney General

The Minister of Justice and Attorney General holds a special position in government as both a member of Cabinet and as the official legal advisor of the Crown.<sup>207</sup> The Minister's primary duty is to ensure that government operates according to the rule of law, which is a fundamental principle of our Constitution.

The Minister of Justice and Attorney General of Saskatchewan is responsible for those provisions of *The Police Act, 1990* dealing with the PCC and the appointment of investigation observers, where a person has suffered serious injury or death while in police custody or as the result of police action.<sup>208</sup>

The Minister of Justice and Attorney General is responsible for the administration of justice in Saskatchewan. In carrying out these responsibilities, the Minister acts through the Ministry of Justice. The Minister of Justice and Attorney General of Canada plays the same role in the Government of Canada.

## Legal Advice to Police

The Crown prosecutors in these ministries provide legal advice to police on questions of law related to prosecutions. This advice is subject to solicitor-client privilege, with the chief of police as client.<sup>209</sup>

*The Police Act, 1990*, requires mandatory referral to Saskatchewan's Public Prosecutions for a legal opinion when an investigation indicates that a police officer may have broken the law.<sup>210</sup> This ensures an independent, impartial and professional review is conducted before any charges are laid.

Regardless of who is the subject of the investigation, Crown prosecutors apply a two-fold test when considering whether criminal charges should be laid or continued:

1. whether, having regard to the admissible evidence gathered by police, there is a reasonable prospect of conviction; and
2. whether it is in the public interest to prosecute the offence.

## Minister of Corrections, Policing and Public Safety

The Ministry of Corrections Policing and Public Safety was established in 2007 and fulfills the traditional role of the Solicitor-General, including responsibility for policing services. The Minister of Corrections, Policing and Public Safety has general responsibility for administration of *The Police Act, 1990*, except for those provisions pertaining to the PCC and investigation observers, which are the responsibility of the Minister of Justice and Attorney General.<sup>211</sup>

### Policing and Community Safety Services Division

The Policing and Community Safety Services (PCSS) Division oversees Provincial Protective Services, which is comprised of the Conservation Officer Service, Saskatchewan Highway Patrol, Prisoner Transport and Court Security Deputy Sheriffs, Safer Community and Neighbourhoods (SCAN), and Wascana Park Community Safety Officers. PCSS is also involved in integrated enforcement programs involving the RCMP, municipal police services, First Nations communities and Provincial Protective Services. Additionally, all non-police armed peace officer activity across the province is coordinated by the division.

Services provided by the RCMP pursuant to the Provincial Police Services Agreement between the province and Public Safety Canada fall under PCSS, and staff regularly meet with RCMP senior leadership to discuss ongoing issues.

Other community safety programs, including the province's Witness Protection Program, are also governed by PCSS, and it further develops intelligence and provides investigation services for all Ministry supported operations.

Lastly, PCSS is responsible for the Legislative District Security Unit (LDSU), which is comprised of

special constables who screen visitors and conduct security operations in and around the Legislative building. The LDSU began operating in the fall of 2022.

## Saskatchewan Police Commission

The mandate of the SPC is to promote:

- (a) adequate and effective policing throughout Saskatchewan; and
- (b) the preservation of peace, the prevention of crime, the efficiency of police services and the improvement of police relationships with communities in Saskatchewan.<sup>212</sup>

It is no coincidence that the SPC's statutory mandate is identical to that of the Ministers responsible for *The Police Act, 1990*.<sup>213</sup> Although members of the SPC are appointed by Cabinet,<sup>214</sup> the SPC was created as an independent public body. As such, it provides a further separation of police from political influence, respecting the independence of police while providing appropriate civilian oversight and accountability.

The SPC has administrative, appellate, audit, inquisitorial and legislative capacities. The Supreme Court of Canada has recognized the broad jurisdiction of the SPC in these matters.<sup>215</sup> The SPC, among other things, operates the Saskatchewan Police College, sets standards for the operation of municipal police services, publishes the *Police Procedure Manual*, develops and recommends regulations for approval by Cabinet, audits police services,<sup>216</sup> and hears appeals from the decisions of hearing officers on relief from duty, discipline and dismissal.<sup>217</sup>

The SPC receives copies of discipline decisions relating to public complaints from hearing officers,<sup>218</sup> and all remedial orders of discipline, whether resulting from internal investigation or investigation of a public complaint,<sup>219</sup> as well as statistics on discipline offences from chiefs of police.<sup>220</sup> The PCC is also required to provide a report to the SPC on the resolution of all public complaints.<sup>221</sup> Although the SPC may, with the approval of the Minister, issue written directions to the PCC regarding the general conduct of its duties, the SPC may not comment on the handling of specific cases.<sup>222</sup>

The SPC also receives copies of all police association constitutions and bylaws.<sup>223</sup>

## Saskatchewan Police College

The Saskatchewan Police College (SKPC), located at the University of Regina, provides both basic training to recruits intending to enter a municipal police service in Saskatchewan and advanced training to members of those police services and other law enforcement personnel. The SKPC was established under the authority of the Saskatchewan Police Commission by virtue of *The Police Act, 1990*.

Recruit training lasts 21 weeks for recruits who have been hired and sworn in by a Saskatchewan police service or another approved law enforcement agency. The recruit training program is designed to ensure police recruits develop the knowledge, skills, and abilities required for successful performance of general policing duties. Police services must ensure their hiring procedures are in compliance with *The Municipal Police Recruiting Regulations, 1991*.

The SKPC was established in 1973 by the then Attorney General and later Premier, the Honourable Roy Romanow, Q.C., in cooperation with representatives of the chiefs of police and the Saskatchewan Federation of Police Officers.

The mission statement for the Saskatchewan Police College is to strive to be the provincially recognized leader in the continual development, availability and excellence of a learning network which inspires confidence and meets the evolving and lifelong needs of public officers in policing, community safety and enforcement.

## Hearing Officers

Hearing officers are appointed and paid by the Government of Saskatchewan.<sup>224</sup> To be eligible for appointment, a hearing officer must either be a lawyer with five years' practice or a retired judge.<sup>225</sup> Hearing officers preside over the hearing of discipline proceedings and appeals from dismissal.<sup>226</sup>

Before the enactment of *The Police Act, 1990*, discipline prosecutions were held before internal disciplinary boards composed of senior officers. The appointment of outside hearing officers was intended to provide for a hearing before an impartial person independent of the police service. In all decisions, the hearing officer must consider the interests of not only the subject police officer and the police service, but also the larger public interest, which is the paramount interest.

## Saskatchewan Public Complaints Commission

The PCC was established to oversee the investigation and resolution of all public complaints against a municipal police officer or certain special constables.<sup>227</sup> The PCC receives copies of all public complaints and ensures that they are handled in a manner consistent with the public interest.<sup>228</sup>

The PCC decides who will investigate the public complaint.<sup>229</sup> Public complaints may be investigated by: the PCC; the police service whose member is the subject of the complaint, with or without an outside observer appointed by the PCC; or by another police service. While some complaints are investigated by the police service whose member is under investigation, the PCC may, at any time, assume control of the investigation.<sup>230</sup> Where a public complaint is investigated by a police service, the police service is obliged to provide a written report of the investigation to the PCC. Conversely, where the public complaint is investigated by the PCC, it is obliged to provide a written report of its investigation to the chief of police (or BOPC, where the chief was the subject of the investigation).<sup>231</sup>

The PCC's five members are appointed by the Lieutenant Governor in Council (Cabinet) upon the recommendation of the Minister of Justice, who is required to first consult with the Saskatchewan Association of Chiefs of Police, the Saskatchewan Federation of Police Officers, the Federation of Saskatchewan Indian Nations and the BOPCs. The members must include at least one lawyer, one person of First Nations ancestry and one person of Métis ancestry. Members are appointed for three-year terms and can be reappointed for one additional term.<sup>232</sup>

While the SPC may issue written directions on the general conduct of the PCC's duties, it may not comment on the handling of specific cases.<sup>233</sup> Any police records obtained by the PCC are held in

confidence and are generally treated as third party records not subject to Crown disclosure.<sup>234</sup> No statement or record received by or on behalf of the PCC may be used as evidence in any civil proceeding or a proceeding pursuant to any other Act.

## Serious Incident Response Team

SIRT is an independent, civilian-led unit responsible for investigating serious incidents involving police officers in Saskatchewan. Investigations occur when a person suffers serious injury or death, either in police custody or as a result of a police officer's actions, or in relation to an allegation of sexual assault or interpersonal violence.

SIRT is responsible for investigating serious incidents involving municipal police officers, RCMP officers operating in Saskatchewan, and certain classes of special constables in the province, such as conservation and traffic officers. SIRT's mandate includes both on-duty and off-duty actions of police and special constables.

SIRT releases a public report within 90 days of an investigation ending. The report states what happened and explains the final decision on the file, including whether or not charges have been laid.

SIRT investigations are overseen by a civilian executive director, who is empowered to appoint investigators and gather other resources to achieve SIRT's mandate. Indigenous representation is an important part of the SIRT investigative team. A First Nations or Métis community liaison will be appointed to assist the investigation, which may include facilitating contact with the affected person and/or their family during the investigation, acting as an adviser on community interactions, or reviewing the completed investigation.<sup>235</sup>

## The Courts

There are three levels of courts in Saskatchewan: the Provincial Court; the Court of King's Bench; and the Court of Appeal.

### Provincial Court

The Provincial Court is composed of judges and justices of the peace who are appointed by the Lieutenant Governor in Council (provincial Cabinet). The Provincial Court has jurisdiction over summary conviction offences, which includes all provincial and bylaw offences and the less serious criminal offences, and small claims for debts under thirty thousand dollars. This Court also holds preliminary hearings on some indictable offences, the trial of which is held in the Court of King's Bench.

### Court of King's Bench

The Court of King's Bench is composed of justices appointed by the Governor General in Council (federal Cabinet). It has a broad jurisdiction to hear trials and applications on both civil and serious criminal matters, including judicial review of the jurisdiction and decisions of administrative tribunals, such as the SPC, hearing officers, the PCC, and public officers—such as a chief of police.

## Court of Appeal

The Court of Appeal is composed of justices appointed by the Governor General in Council (federal Cabinet). The Court of Appeal, as its name suggests, hears appeals from the Court of King's Bench, the Provincial Court, and some administrative tribunals. The Court of Appeal is the highest court in the province. The only appeal from a judgment of the Court of Appeal is to the Supreme Court of Canada.

## Conclusion

The police, who are called upon to enforce and uphold the laws of the community, must themselves be scrupulous in their obedience to the law. The BOPC shares this obligation. This handbook is provided to assist BOPCs to operate effectively and lawfully.

The BOPC occupies a special position in policing. The success or failure of the BOPC will directly influence the quality of policing in the community. The efforts of the BOPC and its members are, therefore, vital to the delivery of this essential public service. Police commissioners represent the community which the police serve and protect. The BOPC is the formal link between the community and the police service. It provides civilian governance to a service, the members of which, of necessity, exercise extraordinary powers over the individual citizen. Other bodies, including the SPC, the PCC and the Courts, also play important roles in providing effective civilian oversight of police.

The common goal of all of these bodies and of the Government of Saskatchewan, as expressed in legislation, is to enable police to effectively protect and serve the public, while ensuring police continue to enjoy and deserve the public's trust and confidence. This is the public interest which is at the heart of the legislation. May it also be your common goal.

## Helpful Links

### **Saskatchewan Police Commission**

[saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/saskatchewan-police-commission](https://saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/saskatchewan-police-commission)

### **Saskatchewan Police College**

[saskatchewan.ca/residents/justice-crime-and-the-law/saskatchewan-police-college](https://saskatchewan.ca/residents/justice-crime-and-the-law/saskatchewan-police-college)

### **Saskatchewan Public Complaints Commission**

[saskatchewan.ca/residents/justice-crime-and-the-law/your-rights-and-the-law/make-a-complaint-about-the-police-service](https://saskatchewan.ca/residents/justice-crime-and-the-law/your-rights-and-the-law/make-a-complaint-about-the-police-service)

### **Minister of Corrections, Policing and Public Safety**

[saskatchewan.ca/government/government-structure/ministries/corrections-policing-and-public-safety](https://saskatchewan.ca/government/government-structure/ministries/corrections-policing-and-public-safety)

### **Minister of Justice and Attorney General of Saskatchewan**

[saskatchewan.ca/government/government-structure/ministries/justice](https://saskatchewan.ca/government/government-structure/ministries/justice)

### Serious Incident Response Team (SIRT)

<https://www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/saskatchewan-serious-incident-response-team>

### Saskatchewan Association of Chiefs of Police

[www.sacp.ca](http://www.sacp.ca)

### Saskatchewan Federation of Police Officers

[www.saskpolice.com](http://www.saskpolice.com)

## Saskatchewan Municipal and First Nations Police Services

**Corman Park (R.M. #334) Police Service**

**Dalmeny Police Service**

**Estevan Police Service**

**File Hills First Nations Police Service**

**Luseland Police Service**

**Moose Jaw Police Service**

**Prince Albert Police Service**

**Regina Police Service**

**Saskatchewan Marshals Service**

**Saskatoon Police Service**

**Vanscoy (R.M. #345) Police Service**

**Weyburn Police Service**

**Wilton (R.M. #472) Police Service**

## Authorities Referenced

### Case Law

**Board of Police Commissioners of Saskatoon v. Saskatoon City Police Assoc.** (2001) 213 Sask.R. 224 (C.A.); leave to appeal to S.C.C. refused (2002) 219 Sask.R. 320

**Bruton v. Regina City Policemen's Assoc.** (1945) 2 W.W.R. 273 (Sask. C.A. per: Martin C.J.S.)

**Chambly (City) v. Gagnon** [1999] 1 S.C.R. 8 (SCC)

**Delisle v. Canada (Deputy Attorney General)** [1999] 2 S.C.R. 989 (SCC)

**F.H. v. McDougall**, [2008] 3 S.C.R. 41, 2008 SCC 53

**Gartner v. Regina Police Commissioners** (1989) 81 Sask. R. 318 (Sask. C.A.)

**Gartner v. Regina Board of Police Commissioners #2**, 9 April 1991 (Saskatchewan Police Commission)

**Hartwig at al v. Justice Wright et al** 2008 SKCA 81

**Hashemian v. Wilde** 2005 SKQB 51, 263 Sask.R. 73 (Q.B.): reversed, in part, 2006 SKCA 126, 285 Sask. R. 105 (CA)

**Klein v. Board of Police** (1995) 130 Sask. R. 198 (Q.B)

**Klyne v. Rae** (2002) 218 Sask. R. 141 (Q.B.)

**Johnston v. McKay (sub. nom Regina Police Service v. Saskatchewan)** (1999) 187 Sask. R. 294 (Q.B.)

**Laporte v. Regina Police Service** 28 September 1992 (Saskatchewan Police Commission) **Laporte**

**v. Regina Board of Police Commissioners** (1998) 167 Sask. R. 1 (Q.B.) **Lucas v. Faber**, 2008 SKQB 25, 309 Sask. R. 177 (Q.B. Rothery, J.)

**Lund v. Board of Police Commissioners of Estevan (City)** (1996) 144 Sask. R. 308 (Sask. C.A.)

**Manyfingers v. Calgary (City) Police Service**, 2006 ABCA 162

**Markwart v. Prince Albert (City) et al** 2010 SKQB 312 (Q.B. Popescul, J.)

**McLane v. Saskatoon Police Service** 24 September 1999 (Saskatchewan Police Commission); affirmed on judicial review (2000) 195 Sask. R. 268, at 300 (Q.B.)

**McNabb v. Kosalofski** (2001) 208 Sask. R. 304 (Q.B.)

**Mitchell v. Moose Jaw Board of Police Commissioners** decisions of 26 August 1992 and 24 March 1993 (Saskatchewan Police Commission)

**Munson and Hachen v. Saskatoon Board of Police** 13 April 2000, at p. 14 (Saskatchewan Police Commission)

**Nelson v. Chief of Police of Saskatoon Police Service and the Saskatchewan Police Commission**, August 26, 2019, JC Saskatoon, QBG 1432 of 2017 (Danyliuk, J.)

**Nicholson v. Haldimand-Norfolk Regional Board of Police Commissioners of Police and Ontario** [1979] 1 S.C.R. 311, 88 D.L.R. (3d) 418 (SCC)

**Padar v. Regina (City)** (2002) 222 Sask. R. 170 (Q.B.)

**Pantaluk v. Estevan Police Service** 20 January 2009 decision of hearing officer Silversides **Phillips v. Moose Jaw Police Service** 24 August 1993 (Saskatchewan Police Commission) **Popowich v. Saskatoon Police Service** 30 March 1993 (Saskatchewan Police Commission)

**R. v. Campbell and Shirose**, [1999] 1 S.C.R. 565, 171 D.L.R. (4<sup>th</sup>) 193

**R. v. McNeil** 2009 SCC 3, [2009] 1 S.C.R. 66

**R. v. Metropolitan Police Comr., Ex parte Blackburn**, [1968] 1 All E.R. 763, [1968] 2 Q.B. 118 (C.A.)

**Reg v Police Comr, ex P Blackburn**, (CA) [1973] QB 241

**Regina City Policemen's Assoc. v. Board of Police Commissioners** (1971) 4 W.W.R. 526 (Sask. C.A.)

**Regina City Policemen's Ass'n. v. Saskatchewan Police Commission** (1985) 38 Sask. R. 21 (Q.B.)

**Regina Police Association Inc. and Darlene Hansen v. Board of Police Commissioners of the City of Regina** 29 May 1996 (Arbitration Award of Francine Chad Smith)

**Regina Police Association and Rick Mitchell v. Board of Police Commissioners for the City of Regina** 2006 SKQB 191: upholding **Regina Police Association and Rick Mitchell v. Board of Police Commissioners for the City of Regina** 20 July 2005 (Arbitration Award of Robert Pelton, Q.C.)

**Regina Police Ass'n v. Regina Police Commissioners** [2000] 1 S.C.R. 362, (2000) 183 D.L.R. (4<sup>th</sup>) 14, 189 Sask. R. 23

**Regina Police Service v. Gartner** 22 March 1994 (Sask. Police Commission)

**Regina Police Service v. Cst. Schmidt**, 4 April 2007 (Hearing Officer Silversides)

**Regina Police Service v. Cst. Douglas Woodside** 13 May 1999 (Hearing Officer G.L. Gerrand, Q.C.)

**Sabo v. Board of Police Commissioners of Saskatoon**, (2004) 241 Sask. R. 54, 2004 SKCA 3 (C.A.)

**Saskatoon City Police Assoc. v. Sask. Police Commission** (2001) 212 Sask. R. 70 (Q.B.)

**Selinger v. Regina Police Service** 22 May 2001 (Saskatchewan Police Commission); upheld on judicial review **Selinger v. Saskatchewan Police Commission** (2002) 223 Sask. R. 231 (Sask. C.A.); reversing (2002) 215 Sask. R. 308 (Q.B.)

**Siguenza v. Chief Cal Johnston, Regina Police Service** 30 July 2007 (Hearing Officer Wiebe, Q.C.)

**Smith v. Sabben** 2009 SKQB 496 (Q.B.)

**Stevley v. Regina Police Service** 16 November 2001 (Hearing Officer Silversides)  
**Stevenson v. Bellegarde** (2000) 200 Sask. R. 252 (Q.B. Armstrong, J.)  
**Weimer v. Symons** (1987) 57 Sask. R. 155 (Q.B.)  
**Wilson v. Gritzfeld** (1997) 160 Sask. R. 154 (Q.B.): appeal to Court of Appeal dismissed 17 April 1998  
**Woodside v. Chief of Police Langgard** 4 February 1998 (Saskatchewan Police Commission)

## Reports

Canadian Association of Police Boards **Best Practices – A Framework for Professionalism and Success in Police Board Governance** August 2005  
Canadian Association of Police Boards **Putting the Tools in Place: The Final Report on Phase I of Pursuit of Excellence** November 1994  
Saskatchewan Police Commission **Report of the Saskatchewan Police Commission on its Public Inquiry in respect to the Relationship between the Chief of Police and the Board of Police Commissioners for the City of Estevan** 13 February 1981  
Saskatchewan Police Commission **Report of the Sask. Police Commission on its Public Inquiry held at the request of the Board of Police Commissioners for the City of Moose Jaw**, 27 July 1982  
Wright, Justice David **Report of the Commission of Inquiry into matters relating to the death of Neil Stonechild** October 2004; Inquiry Report upheld on judicial review in *Hartwig at al v. Justice Wright et al* 2008 SKCA 81

## Legislation

**The Cities Act** S.S. 2002, c. C-11.1  
**Criminal Code of Canada** R.S.C. 1985, c. C - 46  
**The Department of Justice Act** S.S. 1983, c. D - 18.2  
**The Government Organization Act** S.S. 1986-87-88, c. G-5.1, s. 5: authority for Order in Council 404/2009 approved 29 May 2009  
**The Interpretation Act, 1995**, S.S. 1995, c. I-11.2  
**The Municipal Police Discipline Regulations, 1991** c. P-15.01, Reg. 4 **The Municipal Police Recruiting Regulations, 1991** c. P-15, Reg. 5 **The Municipalities Act** S.S. 2005, c. M-36.1  
**The Police Act, 1990** S.S. 1990 - 91, c. P-15.01  
**Saskatchewan Police Commission Policy Manual**  
**The Saskatchewan Employment Act**, S.S. 2013, c. S-15.1

## Endnotes

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- <sup>1</sup> s. 91(27) of the **Constitution Act, 1867**  
<sup>2</sup> s. 92(14) of the **Constitution Act, 1867**  
<sup>3</sup> Hogg, Peter **Constitutional Law in Canada** (4th edition) s.19.5(a)  
<sup>4</sup> s. 2(n) and s. 25 of **The Police Act, 1990** (hereafter referred to as “the Act”)  
<sup>5</sup> s. 26 of the Act  
<sup>6</sup> **Bruton v. Regina City Policemen’s Assoc.** (1945) 2 W.W.R. 273, at 285 (Sask. C.A. per: Martin C.J.S.)  
<sup>7</sup> **Gartner v. Regina Police Commissioners** (1989) 81 Sask. R. 318, at 319 (Sask. C.A.)  
<sup>8</sup> s. 31(3) of the Act  
<sup>9</sup> s. 33 of the Act  
<sup>10</sup> s. 31(2) of the Act

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- <sup>11</sup> s. 35(1), 49(1) and 68 of the Act
- <sup>12</sup> s. 90 of the Act
- <sup>13</sup> s. 31(4) of the Act
- <sup>14</sup> s. 27(3) of the Act
- <sup>15</sup> s. 27(1) and (2) of the Act
- <sup>16</sup> s. 27(1) of the Act
- <sup>17</sup> s. 27(2) of the Act
- <sup>18</sup> s. 27 (4), (5), (7) and (13) of the Act
- <sup>19</sup> s. 27(4)(a) of the Act
- <sup>20</sup> s. 27(4) of the Act
- <sup>21</sup> s. 27(6) of the Act
- <sup>22</sup> s. 27(9) of the Act
- <sup>23</sup> s. 27(10) of the Act
- <sup>24</sup> s. 27(11) of the Act
- <sup>25</sup> **Regina City Policemen’s Assoc. v. Board of Police Commissioners** [1971] 4 W.W.R. 526, at 532 (Sask. C.A.)
- <sup>26</sup> s. 27(13) of the Act
- <sup>27</sup> s. 27(14) of the Act
- <sup>28</sup> s. 27(15) of the Act
- <sup>29</sup> s. 27(8) of the Act
- <sup>30</sup> s. 27(12) of the Act
- <sup>31</sup> Form 8 of **The Municipal Police Recruiting Regulations, 1991**
- <sup>32</sup> s. 16(7) of **The Interpretation Act, 1995**, S.S. 1995, c. I-11.2
- <sup>33</sup> **Woodside v. Chief of Police Langgard** 4 February 1998 Saskatchewan Police Commission  
**Regina Police Association Inc. v. Board of Police Commissioners of the City of Regina** 29 May 1996  
arbitration award of Francine Chad Smith
- <sup>34</sup> s. 94.2 of the Act
- <sup>35</sup> **Best Practices – A Framework for Professionalism and Success in Police Board Governance**, at p. 10, August 2005, Canadian Association of Police Boards
- <sup>36</sup> **Putting the Tools in Place: The Final Report on Phase I of Pursuit of Excellence**, at p. 23, November 1994, Canadian Association of Police Boards
- <sup>37</sup> s. 31(4) of the Act
- <sup>38</sup> s. 31(3) of the Act
- <sup>39</sup> s. 31(1)(a) of the Act
- <sup>40</sup> s. 33 of the Act
- <sup>41</sup> s. 25(c) of the Act
- <sup>42</sup> s. 129 and 131 of **The Cities Act**; s. 156 and 159 of **The Municipalities Act**
- <sup>43</sup> s. 127 and 129(1)(e) and (2)(c) of **The Cities Act**; s. 154 and 156(1)(d) and (2) of **The Municipalities Act**
- <sup>44</sup> **Saskatchewan Police Commission Policy Manual** April 2004 AA Strategic Management
- <sup>45</sup> s. 33 of the Act
- <sup>46</sup> s. 33(4) of the Act
- <sup>47</sup> s. 33(6) of the Act
- <sup>48</sup> s. 89(1) of the Act
- <sup>49</sup> s. 89(5) of the Act
- <sup>50</sup> **Policy Manual for Saskatchewan Municipal Police Services**, AC 10.1 Conflict of Interest – Police Service Funding
- <sup>51</sup> **The Municipal Police Discipline Regulations, 1991**, s. 36(e) “corrupt practice”
- <sup>52</sup> s. 31(2) of **The Police Act, 1990**
- <sup>53</sup> S. 7-5 of **The Saskatchewan Employment Act**
- <sup>54</sup> s. 7-4 of **The Saskatchewan Employment Act**
- <sup>55</sup> s. 83 of **The Police Act, 1990**
- <sup>56</sup> s. 84 of the Act
- <sup>57</sup> **Regina City Policemen’s Assoc. v. Board of Police Commissioners** (1971) 4 W.W.R. 526 (Sask. C.A.)

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<sup>58</sup> **Saskatchewan Federation of Labour v. Saskatchewan**, 2015 SCC 4, [2015] 1 S.C.R. 245

<sup>59</sup> s. 7-2 of **The Saskatchewan Employment Act**

<sup>60</sup> s. 86 of **The Police Act, 1990**

<sup>61</sup> s. 6-44 of **The Saskatchewan Employment Act**

<sup>62</sup> s. 31(3) and 90(1)(b)(i) of the Act

<sup>63</sup> s. 31(3) and s. 40(2) of **The Police Act, 1990**  
see: **Saskatoon Police Association v. Saskatoon Board of Police Commissioners**, 2015 SKCA 35;  
upholding 2014 SKQB 7; upholding LRB File No. 068-06, 11 May 2012 decision of Ken Love, Q.C. Chairperson  
**Sabo v. Board of Police Commissioners of Saskatoon** (2004) 241 Sask.R. 54, at 61-62 (paragraph 23)  
(C.A.); reversing (2003) 235 Sask.R. 121 (Q.B.)

**Regina Police Ass'n v. Regina Police Commissioners** [2000] 1 S.C.R. 362, at paragraphs 30 - 31, (2000) 183  
D.L.R. (4<sup>th</sup>) 14, at 30, 189 Sask.R. 23, at 48 (S.C.C.); and

**Gartner v. Regina Police Commissioners** (1989) 81 Sask.R. 318, at 319 (C.A.)

**Mitchell v. Moose Jaw Board of Police Commissioners** 26 August 1992 decision of Saskatchewan Police  
Commission, at pp. 7 - 8

<sup>64</sup> s. 6-45(1) of **The Saskatchewan Employment Act**

<sup>65</sup> **Board of Police Commissioners of Saskatoon v. Saskatoon City Police Assoc.** (2001) 213 Sask.R. 224  
(C.A.); leave to appeal to S.C.C. refused (2002) 219 Sask.R. 320  
see also: **Sabo v. Board of Police Commissioners of Saskatoon**, (2004) 241 Sask.R. 54 (C.A.) (for eventual  
outcome of preceding decision, ruling arbitration board had no jurisdiction to entertain appeal against  
dismissal of probationary constable)

<sup>66</sup> s. 6-51(1) of **The Saskatchewan Employment Act**

<sup>67</sup> see: **Regina City Policemen's Assoc. v. Board of Police Commissioners** (1971) 4 W.W.R. 526 at 533  
(Sask. C.A.) and also: **Public Inquiry into Moose Jaw Police Service** 27 July 1982 (Sask. Police Commission)

<sup>68</sup> **Sabo v. Saskatoon Board of Police** 2004 SKCA 3, 241 Sask.R. 54, at 66 (C.A.)

<sup>69</sup> *R v Campbell*, [1999] 1 SCR 465, at para 33

<sup>70</sup> *Reg v Police Comr, ex P Blackburn* (CA) [1973] QB 241, at 254

<sup>71</sup> **Report of the Saskatchewan Police Commission on its Public Inquiry in respect to the Relationship  
between the Chief of Police and the Board of Police Commissioners for the City of Estevan** 13 February  
1981 at p.12

<sup>72</sup> *Ibid* at p.14

<sup>73</sup> **Best Practices – A Framework for Professionalism and Success in Police Board Governance**, at p. 19

<sup>74</sup> August 2005, Canadian Association of Police Boards  
see, for example: **Regina City Policemen's Ass'n. v. Saskatchewan Police Commission** (1985) 38 Sask.R.  
21 (Q.B.) and: **Report of the Saskatchewan Police Commission on its Public Inquiry in respect to the  
Relationship between the Chief of Police and the Board of Police Commissioners for the City of Estevan**  
13 February 1981 at pp. 14 - 16

<sup>75</sup> s. 35(3)(a) of the Act

<sup>76</sup> s. 26(2)(b) of the Act gives the Board authority over positions; while s. 35(3)(a) gives the Chief the power of  
appointment and promotion  
see, for example: **Regina Police Association and Rick Mitchell v. Board of Police Commissioners for the  
City of Regina** 2006 SKQB 191: upholding **Regina Police Association and Rick Mitchell v. Board of Police  
Commissioners for the City of Regina** 20 July 2005 Bob Pelton, Q.C. Chair - finding of arbitration board that  
it had no jurisdiction to review transfer of police officer by Chief of Police

<sup>77</sup> see, for example: **Sabo v. Saskatoon Board of Police** 2004 SKCA 3, 241 Sask.R. 54, at paragraphs 35 – 39;  
and: **Johnston v. McKay** (1999) 187 Sask. R. 294 at 298-301, at paragraphs 10-23 (Q.B.)

<sup>78</sup> **Report of the Saskatchewan Police Commission on its Public Inquiry in respect to the Relationship  
between the Chief of Police and the Board of Police Commissioners for the City of Estevan** 13 February  
1981 at p. 20 per:  
T.C. Wakeling, Q.C. for the Commission

<sup>79</sup> **Munir v Martin**, 2015 SKQB 250, at paragraph 11

[11] The above cases illustrate the principle that police officers are agents of the public, as opposed to being

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agents of a particular entity. Their duties are public duties.

<sup>80</sup> Form 6 of **The Municipal Police Recruiting Regulations, 1991**

<sup>81</sup> **Bruton v. Regina City Policemen's Ass'n.** (1945) 2 W.W.R. 273 at 285 - 286 (Sask. C.A. per: Martin, C.J.S.)

<sup>82</sup> *Ibid* at 296 per: MacDonald, J.A.

<sup>83</sup> **Report of the Saskatchewan Police Commission on its Public Inquiry in respect of the Relationship between the Chief of Police and the Board of Police Commissioners for the City of Estevan 13 February 1981 at p. 10 (Saskatchewan Police Commission, per: T.C. Wakeling, Q.C., Chairman)**

<sup>84</sup> s. 48(1), 52(1), 54.1(2)(b), 55.1(2)(b) of the Act

<sup>85</sup> s. 47, 51, 54.1(2)(a), and 55.1(2)(a) of the Act

<sup>86</sup> <https://www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/saskatchewan-serious-incident-response-team>

<sup>87</sup> s. 9 of **The Coroners Act, 1999**

<sup>88</sup> s. 21 and 32 of **The Coroners Act, 1999**

<sup>89</sup> **Penner v. Niagara (Regional Police Services Board)**, 2013 SCC 19, [2013] 2 S.C.R. 125

<sup>90</sup> **Munir v Martin**, 2015 SKQB 250, at paragraphs 8 and 12

**Markwart v. Prince Albert (City) et al** 2010 SKQB 312, at paragraphs 34 - 35 (Q.B. Popescul, J.)

**Lucas v. Faber**, 2008 SKQB 25, 309 Sask. R. 177, at paragraph 4 (Q.B. Rothery, J.)

**Padar v. Regina (City)** (2002) 222 Sask.R. 170 (Q.B.)

**Klein v. Board of Police** (1995) 130 Sask.R. 198 (Q.B.)

<sup>91</sup> s. 32 of the Act; see **Padar v. Regina (City)** (2002) 222 Sask.R. 170 (Q.B.)

<sup>92</sup> s. 25, 27 and 28 of the **Criminal Code**; s. 10(3) of **The Police Act, 1990**

see, for example:

**Tataquason v Saskatoon Board of Police Commissioners**, 2017 SKQB 98 (QB)

**Schuler v Bergen**, 2010 SKQB 153, 355 Sask R 146 (QB)

**Stewart v Keating**, 2015 SKQB 108 (CanLII), at paragraphs 27 – 28; affirmed 2016 SKCA 59, at paragraph 14; leave to appeal to SCC refused 22 September 2016 (37032)

**Whatcott v. Schluff**, 2009 SKQB 56 (CanLII), 329 Sask R 24, at paragraphs 55 - 58

**Smith v. Sabben** 2009 SKQB 496, at paragraph 93 - 96 (Q.B.)

**Padar v. Regina (City)** (2002) 222 Sask.R. 170 (Q.B.)

**Klyne v. Rae** (2002) 218 Sask.R. 141 (Q.B.)

**McNabb v. Kosalofski** (2001) 208 Sask.R. 304 (Q.B.)

**Lang v Burch**, [1983] 1 WWR 55 (Sask CA)

<sup>93</sup>ss. 129, 139 and 140 of the **Criminal Code** (Canada)

see, for example: **Hashemian v. Wilde** 2005 SKQB 51, 263 Sask. R. 73at paragraphs 36 - 43: reversed, in part, on other grounds 2006 SKCA 126, 285 SaskR 105 (CA)

<sup>94</sup> **Saskatchewan Police Commission Policy Manual**, April 2004 “**Philosophy of Policing**

“It is the intent of the Saskatchewan Police Commission that police services in Saskatchewan operate in the context of the principles and fundamentals of ‘community policing’.”

<sup>95</sup> **Report of the Saskatchewan Police Commission on its Public Inquiry in respect of the Relationship between the Chief of Police and the Board of Police Commissioners for the City of Estevan** 13 February 1981 at p.18 (Saskatchewan Police Commission, per: T.C. Wakeling, Q.C., Chairman)

<sup>96</sup> **Report of the Commission of Inquiry into matters relating to the death of Neil Stonechild** October 2004, at p. 207; Justice David Wright of the Court of Queen’s Bench for Saskatchewan; Inquiry Report upheld on judicial review in **Hartwig at al v. Justice Wright et al** 2008 SKCA 81, expressing similar concerns at paragraph 57; leave to appeal to Supreme court of Canada refused 18 December 2008

<sup>97</sup> **The Police Amendment Act, 2005** S.S. 2005, c. 25 (Bill 100 of 2005)

see also: **Saskatchewan Hansard** 9 May 2005, at pp. 2919 – 2920 (second reading speech of Minister Quennell, referring to “fundamental changes to the police complaint and investigation process”)

<sup>98</sup> **The Municipal Police Discipline Regulations, 1991**, c. P-15.01, Reg. 4: Form F “Public Complaint”

<sup>99</sup> s. 38(4) and 39(1) of the Act

<sup>100</sup> **Laporte v. Board of Police Commissioners** (1998) 167 Sask.R. 1 (Q.B.)

**Wilson v. Gritzfeld** (1997) 160 Sask.R. 154 (Q.B.): appeal to Court of Appeal dismissed 17 April 1998, C.A. file no. 2877 (unreported)

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<sup>101</sup> s. 38(3) and s. 54(3) of the Act  
<sup>102</sup> s. 43; and s. 45(2) and 49(2).  
<sup>103</sup> s. 43(3)(a) and s. 44 of the Act  
<sup>104</sup> s. 45(7)(a) of the Act  
<sup>105</sup> s. 45(7)(b) of the Act  
<sup>106</sup> s. 45 of the Act  
<sup>107</sup> s. 41 of the Act  
<sup>108</sup> s. 45(5) of the Act  
<sup>109</sup> s. 43.1 of the Act  
<sup>110</sup> s. 43(3) and 49 – 52 of the Act  
<sup>111</sup> s. 45(5) and 49(5) of the Act  
<sup>112</sup> s. 45.1 of the Act  
<sup>113</sup> s. 46 and 50 of the Act  
<sup>114</sup> s. 47 and 51  
<sup>115</sup> s. 45.1(2)(c), 49.1(2)(c), and 74(2) and (3) of the Act  
<sup>116</sup> s. 47 and 51 of the Act  
<sup>117</sup> s. 56(4) of the Act  
<sup>118</sup> s. 56(9) – (9.2) of the Act  
<sup>119</sup> s. 39(10) and s. 42 of the *Discipline Regulations* (Form G)  
<sup>120</sup> s. 39(11) of the Act  
<sup>121</sup> s. 39(12) of the Act  
<sup>122</sup> *The Municipal Police Report Forms and Filing System Regulations, 1991* c. P-15.01, Reg. 6, ss. 16, 21(2) and 21(7)(c)  
<sup>123</sup> *Johnston v. McKay* (1999) 187 Sask. R. 294 (Q.B.)  
But also see: *R. v. McNeil* 2009 SCC 3, as to duty to disclose relevant personnel records.  
<sup>124</sup> s. 53(8) of the Act  
<sup>125</sup> *Laporte v. Regina Police Service* 28 September 1992 decision of Saskatchewan Police Commission, at pp. 8 and 14  
<sup>126</sup> *Ibid* at pp. 13 and 19; and  
Saskatchewan Police Commission *Policy and Procedure Manual* 2004, at AC20 Internal Investigation Process  
<sup>127</sup> s. 53(4) and (5) of the Act  
<sup>128</sup> *Laporte v. Regina Police Service* 28 September 1992 decision of Saskatchewan Police Commission, at p. 18  
<sup>129</sup> *Popowich v. Saskatoon Police Service* 30 March 1993 decision of Sask. Police Commission, at page 10; *Weimer v. Symons* (1987) 57 Sask. R. 155, at 158 (Q.B.)  
<sup>130</sup> *Munson and Hachen v. Saskatoon Police Service* 13 April 2000 decision of Saskatchewan Police Commission, at pp. 13 - 14  
<sup>131</sup> s. 53(3)(b) of the Act  
<sup>132</sup> s. 53(5)(c) of the Act  
see: *Nelson v. Saskatoon Police Service and Saskatchewan Police Commission*, JC Saskatoon, QBG 1432 of 2017, August 26, 2019 unreported decision of Danyliuk, J., at paragraph 82  
<sup>133</sup> *Munson and Hachen v. Saskatoon Board of Police* 13 April 2000, at p. 14 (Saskatchewan Police Commission)  
<sup>134</sup> s. 53(5) of the Act  
See: *Laporte v. Regina Police Service* 28 September 1992, at pp. 19 – 20 (Saskatchewan Police Commission)  
and *Chief of Police of Regina Police Service v. Cst. Schmidt*, 4 April 2007 decision of Hearing Officer Silversides, at pp. 9 – 10 (superseded by amendment Bill 164 of 2010 – 11)  
<sup>135</sup> s. 53(9) of the Act  
<sup>136</sup> *Phillips v. Moose Jaw Police Service* 24 August 1993, at pp. 4 – 5 (Saskatchewan Police Commission)  
<sup>137</sup> s. 53(12) of the Act  
<sup>138</sup> *Pantaluk v. Estevan Police Service* 20 January 2009 decision of hearing officer Silversides, at p. 43

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**Stevely v. Regina Police Service** 16 November 2001 decision of hearing officer Silversides, at p. 38 **Gartner v. Regina Board of Police Commissioners #2**, 9 April 1991 decision of Saskatchewan Police Commission

<sup>139</sup> Hon. David Wright, *Report of the Commission of Inquiry into matters relating to the death of Neil Stonechild*, October 2004 at page 72

<sup>140</sup> s. 35(2)(c) of the Act

<sup>141</sup> s. 48(1) and 54.1(2)(b) of the Act

<sup>142</sup> s. 6(3) and (4) of the **Discipline Regulations**

<sup>143</sup> s. 48(1)(a) and 52(1)(a) of the Act

<sup>144</sup> s. 48(2) and 52(2) of the Act

<sup>145</sup> s. 6(4) of the **Discipline Regulations**

<sup>146</sup> **Sabo v. Saskatoon Board of Police** (2004) 241 Sask.R. 54 at 62 (paragraph 25) (C.A.)

**Selinger v. Regina Police Service** 22 May 2001 decision of Saskatchewan Police Commission, at p. 20 **Regina Police Assoc. and Shotton v. Board of Police Commissioners Commissioners** 2000 SCC 14, [2000] 1 S.C.R. 360, 183 D.L.R. (4<sup>th</sup>) 14, 50 C.C.E.L. (2d) 1, (2000) 189 Sask.R. 23 at 42 (paragraph 31) S.C.C.

<sup>147</sup> **Saskatoon City Police Assoc. v. Saskatchewan Police Commission** (2001) 212 Sask.R. 70, at 80 (Q.B.)

<sup>148</sup> s. 56(9) of the Act

<sup>149</sup> s. 52 or 55.1 of the Act

<sup>150</sup> PCC led discipline is limited to the circumstances provided under sections 45.1(2)(c) or 49.1(2)(c) of the Act

<sup>151</sup> s. 56 of the Act

<sup>152</sup> s. 56(9) – (9.2) of the Act

<sup>153</sup> s. 17(3) of the Act

<sup>154</sup> s. 58(1) of the Act

<sup>155</sup> s. 58(2) of the Act

<sup>156</sup> s. 58(1)(h) and (2)(e) of the Act

<sup>157</sup> s. 52, 55 and 55.1 of the Act

<sup>158</sup> s. 56(3) and 58.1 of the Act

<sup>159</sup> s. 7 of the **Discipline Regulations**; Form A “Notice of Formal Discipline Proceedings”

<sup>160</sup> s. 24 of the **Discipline Regulations**

<sup>161</sup> s. 23 of the **Discipline Regulations**

<sup>162</sup> see: **Selinger v. Regina Police Service** 22 May 2001, at pp. 15 – 16 (Saskatchewan Police Commission) - as to when this limitation period begins to run; upheld on judicial review **Selinger v. Saskatchewan Police Commission** (2002) 223 Sask.R. 231 (Sask. C.A.); reversing (2002) 215 Sask.R. 308 (Q.B.)

<sup>163</sup> see: **Selinger v. Regina Police Service** 22 May 2001, at pp. 16 – 17 (Saskatchewan Police Commission), as to onus on Chief to establish referral to Crown and as to scope of this provision; Commission decision upheld on judicial review **Selinger v. Saskatchewan Police Commission** (2002) 223 Sask.R. 231 (Sask. C.A.); reversing (2002) 215 Sask.R. 308 (Q.B.)

<sup>164</sup> s. 23(3) of the **Discipline Regulations**, see **Saskatoon City Police Assoc. v. Sask. Police Commission** 2001 SKQB 477, (2001) 212 Sask.R. 70 (Q.B.) - on Chair’s discretion to extend time limits; and also **Manyfingers v. Calgary (City) Police Service**, 2006 ABCA 162, as to ability to extend after the deadline.

<sup>165</sup> s. 43.1(3) of the Act

<sup>166</sup> s. 56(2) of the Act

<sup>167</sup> s. 56(3) of the Act

<sup>168</sup> s. 56(4) of the Act

<sup>169</sup> s. 56(9) - (10) of the Act

<sup>170</sup> s. 74 of the Act

<sup>171</sup> s. 10 of the **Discipline Regulations**; Form A Notice of Formal Discipline Proceedings

<sup>172</sup> s. 12 of the **Discipline Regulations**

<sup>173</sup> s. 13 of the **Discipline Regulations**

<sup>174</sup> s. 21 of the **Discipline Regulations**

<sup>175</sup> s. 14 of the **Discipline Regulations**

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<sup>176</sup> ss. 56(13) and 93 of the Act  
<sup>177</sup> s. 16 of **Discipline Regulations**  
<sup>178</sup> s. 17 of **Discipline Regulations**  
<sup>179</sup> s. 18 - 19 of **Discipline Regulations**  
<sup>180</sup> s. 20 of the **Discipline Regulations**; s. 58 of the Act  
<sup>181</sup> s. 59 of the Act  
<sup>182</sup> ss. 59(3) & 69 of the Act/ ss. 30-32 of the **Discipline Regulations**  
<sup>183</sup> s. 70 of the Act/ ss. 34 and 35 of the **Discipline Regulations**  
<sup>184</sup> s. 70 of the Act  
<sup>185</sup> s. 27 of the **Discipline Regulations**  
<sup>186</sup> s. 60 of the Act  
<sup>187</sup> **Regina Police Service v. Gartner** 22 March 1994, at p. 5 (Sask. Police Commission)  
<sup>188</sup> s. 61 of the Act  
<sup>189</sup> s. 61(3) of the Act  
<sup>190</sup> s. 93 of the Act;  
see **F.H. v. McDougall**, [2008] 3 S.C.R. 41, 2008 SCC 53, at paragraph 40, as to single civil standard of proof  
<sup>191</sup> s. 61(1) of the Act  
<sup>192</sup> s. 63 of the Act  
<sup>193</sup> **Roberto Siguenza v. Chief Cal Johnston, Regina Police Service** 30 July 2007 decision of Hearing Officer Wiebe, Q.C., at pp. 62 – 63 **McLane v. Saskatoon Police Service** 24 September 1999, at p. 10 (Saskatchewan Police Commission); affirmed on judicial review (2000) 195 Sask.R. 268, at 300 (Q.B.)  
<sup>194</sup> s. 60(1) of the Act  
<sup>195</sup> s. 60(3) of the Act  
<sup>196</sup> s. 10 of **The Municipal Police Recruiting Regulations, 1991**  
<sup>197</sup> s. 67.1 of the Act  
**Sabo v. Board of Police Commissioners of Saskatoon** 2004 SKCA 3, 241 Sask. R. 54, at 65-66 (C.A.)  
<sup>198</sup> Ibid at 65;  
**Nicholson v. Haldimand-Norfolk Regional Board of Police Commissioners of Police and Ontario** [1979] 1 S.C.R. 311, 88 D.L.R. (3d) 418 (SCC)  
<sup>199</sup> s. 68 of the Act  
see: **Mitchell v. Moose Jaw Board of Police Commissioners** decisions of 26 August 1992 and 24 March 1993 (Saskatchewan Police Commission) – but note 1993 amendment of s. 68(1)(a.1) of the Act  
<sup>200</sup> See **Chambly (City) v. Gagnon** [1999] 1 S.C.R. 8 at 9 (SCC)  
<sup>201</sup> see **Lund v. Board of Police Commissioners of Estevan (City)** (1996) 144 Sask. R. 308 at 314 (Sask. C.A.)  
<sup>202</sup> s. 88 of the Act  
<sup>203</sup> s. 89 of the Act  
<sup>204</sup> s. 90 of the Act  
<sup>205</sup> ss. 88(8) and 89(6) of the Act  
<sup>206</sup> s. 91 of the Act  
<sup>207</sup> s. 9 – 10 of **The Department of Justice Act** S.S. 1983, c. D - 18.2  
<sup>208</sup> Order in Council 404/2009 approved 29 May 2009, under s. 5 of **The Government Organization Act**  
<sup>209</sup> **Stevenson v. Bellegarde** (2000) 200 Sask. R. 252 at 257 (Q.B. Armstrong, J.)  
**R. v. Campbell and Shirose**, [1999] 1 S.C.R. 565; 171 D.L.R. (4<sup>th</sup>) 193, at paragraphs 49 - 54  
**Chief of Police of the Regina Police Service v. Cst. Douglas Woodside** 13 May 1999 ruling of Hearing Officer G.L. Gerrand, Q.C.  
<sup>210</sup> s. 47, 51, 54.1(2)(a), and 55.1(2)(a) of the Act  
<sup>211</sup> Order in Council 404/2009 approved 29 May 2009, under s. 5 of **The Government Organization**  
<sup>212</sup> s. 19(1) of the Act  
<sup>213</sup> compare ss. 18(1) and 19(1) of the Act  
<sup>214</sup> s. 4 of the Act  
<sup>215</sup> **Regina Police Ass'n Inc. v. Regina Police Commissioners** [2000] 1 S.C.R. 362 at 377 – 379, (2000) 183 D.L.R. (4<sup>th</sup>) 14 at 29-30, 189 Sask.R. 23 at 47 (S.C.C.)  
<sup>216</sup> ss. 12 and 19(2) of the Act

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<sup>217</sup> ss. 53(9), 59(3), 68(2) and 69 of the Act

<sup>218</sup> s. 59(1)(e) of the Act

<sup>219</sup> s. 6(4) of the ***Discipline Regulations***

<sup>220</sup> s. 28 of the ***Discipline Regulations***

<sup>221</sup> s. 39(10) and s. 42 of the ***Discipline Regulations*** (Form G)

<sup>222</sup> s. 39(11) of the Act

<sup>223</sup> s. 86 of the Act

<sup>224</sup> s. 17 of the Act

<sup>225</sup> s. 17(1) of the Act

<sup>226</sup> ss. 56(2) and 61(1) of the Act

<sup>227</sup> s. 16 of the Act

<sup>228</sup> s. 38 of the Act

<sup>229</sup> s. 45(3) and 49(3) of the Act

<sup>230</sup> s. 45(6) and 49(6) of the Act

<sup>231</sup> s. 45(7) and (49(7)

<sup>232</sup> s. 16(2) – (4) of the Act

<sup>233</sup> s. 39(11) of the Act

<sup>234</sup> s. 39(5) and (7) of the Act

see also: ***Johnston v. McKay*** (1999) 187 Sask. R. 294 at 302, at paragraphs 24-25 (Q.B.)

<sup>235</sup> <https://www.saskatchewan.ca/government/government-structure/boards-commissions-and-agencies/saskatchewan-serious-incident-response-team>