

# Section 10 Handbook

## **Board Governance of OPP Contract Policing**

**Version 2013-1**

Published: March 2013

Prepared by: Fred Kaustinen, Executive Director, OAPSB



*Leaders in Community Safety*

## **Table of Contents**

- 1.0 [Introduction](#)
- 2.0 [Policing Principals](#)
- 3.0 [Municipalities' Responsibilities](#)
- 4.0 [OPP Contracts](#)
- 5.0 [Reasons for Civilian Governance of Police](#)
- 6.0 [Police Services Board Responsibilities](#)
- 7.0 [Board Relationship with Council](#)
- 8.0 [Relationship with the Detachment Commander](#)
- 9.0 [Characteristics of an Effective Police Services Board](#)
- 10.0 [Policies and By-Laws](#)
- 11.0 [Policy Development & Evaluation Process - Policies Related to Police Operations](#)
- 12.0 [Triggers for Policy Review](#)
- 13.0 [Typical Responsibilities of Board Chair](#)
- 14.0 [Conflict of Interest](#)

## **Appendices**

Appendix A - [Code of Conduct](#)

Appendix B – [Sample Policy Index](#)

## **1.0 Introduction**

The purpose of this Handbook is to help guide Section 10 police services boards in the execution of their governance responsibilities.

Update to this handbook will be provided as and when required. Refer to the OAPSB web-site for the most up-date version, as well as other valuable information and tools.

Suggestions are always welcome. Please address them to: [admin@oapsb.ca](mailto:admin@oapsb.ca).

## **2.0 Policing Principals<sup>1</sup>**

Police services shall be provided throughout Ontario in accordance with the following principals:

- The need to ensure the safety and security of all persons and property in Ontario
- The importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedom and the Human Rights Code
- The need for co-operation between the provider of police services and the communities they serve
- The importance of respect for victims of crime and understanding of their needs
- The need for sensitivity to the pluralistic, multi-racial and multicultural character of Ontario society
- The need to ensure the police forces are representative of the communities they serve

## **3.0 Municipalities' Responsibilities<sup>2</sup>**

Every municipality is required, by law, to provide for adequate and effective policing.

Council has the following options:

- Solely or jointly with other councils, enter into an agreement (contract for services) with the Ministry for the provision of police services for the municipality or municipalities by the OPP (i.e. "Section 10", contract for services).
- Opt for OPP service without an agreement (i.e. "Section 5.1; no contract)

---

<sup>1</sup>*Police Services Act (PSA) s1*

<sup>2</sup> S10, *Police Services Act*

- Enter into agreement with another municipality for the provision of police services

When municipalities opt for a contract with the OPP (Section 10), a police services board will be established. The board is legislated to set policies and objectives, and evaluate organizational performance.

Municipalities that opt for OPP service under Section 5.1 (no contract) may establish a Community Policing Advisory Committee (CPAC), which may provide advice but lacks the legislative authority to set policies and objectives, and evaluate organizational performance.

Regardless of option chosen, the municipality must pay for the police services it receives.

#### **4.0 OPP Contracts**

In addition to provincial policing responsibilities, OPP provide municipal policing services to:

- ~172 municipalities under section 5.1, on a non-contract, as required, pay-as-you-receive-service basis
- ~150 municipalities under section 10, on a contractual level-of-service basis, governed by ~120 police services boards

In 2011, municipalities paid just over \$335K for OPP municipal policing services – roughly 35% of the total OPP budget.

In the current OPP policing model, police officers are generally not dedicated exclusively to municipal activities; their activities migrate between municipal and provincial activities on an hour-to-hour or shift-to-shift basis. Officers use the Daily Activity Report (DAR) to account for their time spent on each activity. This is the basis by which municipalities, be they Section 5.1 (no contract or board) or Section 10 (contract) are billed/reconciled at year's end.

The OPP use the same formula to bill municipalities for policing services, whether that municipality is Section 5.1 (no contract or board), 10(contract) or 31(own police service). The billing rate at the constable level is roughly \$100 per hour, regardless of the activity undertaken. In 2012, this rate was based on:

- Salaries & benefits = \$120,445
- Apportioned overhead salaries & benefits = \$10,689
- Other direct operating expenses = \$17,805
- Total cost per constable FTE = \$148,939
- FTE is based on 1467 hours
- $\$148,939 / 1467 \text{ hours} = \sim \$100 \text{ per hour}$



*Leaders in Community Safety*

The billing rate (~\$100 per hour of police activity) is driven primarily by:

- The cost of wages and benefits
- The apportionment of overhead costs

The number of FTEs (each being 1467 hours of police officer activity) is driven primarily by:

- Local crime rates
- Crime complexity
- Downloading of other federal/provincial responsibilities (e.g. mental health, natural resources' conservation)
- Social disorder (rather than crime) for which police respond (which accounts for 60-70% of calls for service in Ontario; half of which are related to mental health issues)
- Deployment restrictions (e.g. shift schedule limitations/inflexibility as per collective agreements)

For more information, refer to the OPP web-site paper:

<http://www.opp.ca/ecms/files/268766874.2.pdf>

## **5.0 Reasons for Civilian Governance of Police**

Civilian governance of police exists:

- To ensure that police activities and results reflect the needs, values and expectations of the community, by:
  - Orienting police operations and activities, through policies, business plans and resolutions, towards those community needs, values and expectations
  - Monitoring and evaluating police organizational performance, and holding police leadership accountable for organizational outcomes and adherence to board direction
- To ensure police services in their municipality are adequate and effective by provincial standards
- To oversee the provision of police services in accordance with principles established in the *Police Services Act* (refer to section 2.0 above)
- To ensure that ongoing police investigations and other ongoing police operations are free of undue political, governance or other interference
- To ensure that police leadership, activities and results are free of undue influence from any single person or organization

The current Police Service Board structure is an ideal form of governance because:

- They comprise local representatives
- There is more than two board members
- There is more than one appointing authority (Council for some members, Provincial Government for others)
- It is independent of both police services and council
- It is accountable to the community it serves
- Oversight of boards is exercised by the Ministry of Community Safety (in the form of audits), and by the Ontario Civilian Police Commission (with regard to investigations into alleged misconduct, service disbandment, and impasses with council regarding budgets)

## **6.0 Police Services Board Responsibilities**

According to the *Police Services Act*: “If one or more municipalities enters into an agreement under this section (10), the board or joint board shall advise the Ontario Provincial Police Detachment Commander assigned to the municipality or municipalities, or his or her designate, with respect to police services in the municipality or municipalities and shall:<sup>3</sup>

- a) participate in the selection of the Detachment Commander of the detachment assigned to the municipality or municipalities;
- b) generally determine objectives and priorities for police services, after consultation with the Detachment Commander or his or her designate;
- c) establish, after consultation with the Detachment Commander or his or her designate, any local policies with respect to police services (but the board or joint board shall not establish provincial policies of the Ontario Provincial Police with respect to police services);
- d) monitor the performance of the Detachment Commander;
- e) receive regular reports from the Detachment Commander or his or her designate on disclosures and decisions made under Section 49 (secondary activities);

---

<sup>3</sup> PSA s10(9)



*Leaders in Community Safety*

- f) review the Detachment Commander's administration of the complaints system under Part V and receive regular reports from the Detachment Commander or his or her designate on his or her administration of the complaints system."

Additionally, the Adequacy Regulation requires that each police services board:

- Establish a protocol with council regarding the sharing of information
- Have a skills development and learning plan
- Developing procedures for the investigation of complaints
- Implementing a quality control assurance (audit) process relating to the delivery of adequate and effective police services, and compliance with the PSA and its regulations
- Produce a business plan every three years

## **7.0 Board Relationship with Council**

The municipality is responsible to fund the provision of police services and the police services board is responsible to govern the police services. They are linked but operate independently.<sup>4</sup>

Clearly there is a very real need for council and the police services board to understand and respect each other's roles, and to work collaboratively to ensure each has the best information to make their own decisions.

The link between the community and the detachment commander is the police services board.

The Adequacy Standard requires that each police services board and its associated municipal council establish a protocol addressing:<sup>5</sup>

- The sharing of information with municipal council, including the type of information to be shared and frequency for sharing such information
- The dates by which the business plan and annual report shall be provided to municipal council
- The responsibility for making public the business plan and annual report, and the dates by which the business plan and report must be made public

---

<sup>4</sup> OAPSB e-learning S10 Session 1 [http://www.oapsb.ca/members/elearning/sect\\_1\\_Intro\\_08-04-11\\_Sect10/index.html](http://www.oapsb.ca/members/elearning/sect_1_Intro_08-04-11_Sect10/index.html); developed with MCSCS &OPP

<sup>5</sup> Ontario Regulation 3/99 *Adequacy and Effectiveness of Police Services*, article 32



*Leaders in Community Safety*

- If the municipal council chooses, jointly determining, and participating in, the consultation processes for development of the business plan

Council, the police services board, the detachment commander, and the public each have a role to play. It is in the best interests of public safety that each party learn and fulfill their appropriate roles and responsibilities.

Municipal council is responsible to provide adequate and effective police services in accordance with its needs, in this case through a contract for services with the OPP. The police services board is required, after consultation with the detachment commander, to generally determine objectives and priorities for police services for the community. It makes eminent sense, therefore, that council would consult the police services board before entering into a contract with the OPP, and that the police services board would consult council before setting the annual objectives and priorities. Certainly such exchange of information and ideas would be in the community's best interest.

## **8.0 Relationship with the Detachment Commander**

The relationship between board members and the Detachment Commander should *collegial*, characterized by:

- Common purpose; different roles
- Respect for each other's abilities to work toward the common purpose by fulfilling their own assigned role
- Cooperative interaction, including a free-flowing sharing of relevant, timely information
- Collaborative development of strategic policies and plans

It is **not** appropriate for the relationship between board members and the Detachment Commander to be characterized by:

- Cheerleading
- Blind trust, or mistrust
- Acrimony
- Subservience
- Apathy

Police Services Board members are board members outside of the board room as well as within it. Relations and activities outside the board room must be congruent with





*Leaders in Community Safety*

conduct expectations inside the board room, including relationships with the Detachment Commander and conforming to the board's policy on official spokesperson.

## **9.0 Characteristics of an Effective Police Services Board**

- Has enacted a Procedural Policy (or by-law) which addresses public and in-camera meeting procedures, decision-making processes, and records
- Develops meaningful, well-articulated policies which effectively inform both police and board activities
- Understands and embraces its fiduciary role as representing the community
- Plans strategically and consultatively, and adeptly establishes operational policies, objectives and priorities
- Engages the community and stakeholders transparently, proactively and with unbiased integrity
- Rigorously monitors organizational performance regarding operational outcomes and adherence to board policies
- Actively provides input into the selection and the monitoring of the Detachment Commander
- Actively participates in local contract discussions with Council and OPP
- Monitors expenditures
- Acts according to and within the law
- Actively participates in advocacy programs that serve local, provincial and national best interests

## **10.0 Policies and By-Laws**

Police Services Boards PSBs represent their communities. The Board job is to translate community values, needs & expectations into measurable direction for the police service.

Policies and by-laws are the primary way by which a police services board:

- governs the provision of police services in their jurisdiction

- establishes its own rules and procedures for governing

Policies do not need to be lengthy or cumbersome. In fact, “less is more” is often most appropriate. They must speak to, however briefly, all of the business of the board and the activities of its police service provider(s) for which it is responsible. To be effective, policies must:

- Reflect the community’s needs, values and expectations
- Address all the outcomes the board expects the service provider to achieve, to whom, at what relative cost, and within what limitations
- Have the input, buy-in and commitment of the Detachment Commander
- Speak to all police and police governance activities that will or may occur
- Be clear, concise, consistent, relevant, and achievable
- Be transparent and readily-accessible by the public
- Form the framework for all board decision-making
- be the framework for rigorous compliance monitoring
- Be regularly reviewed and amended as appropriate

A sample policy index is appended to this manual.

### 11.0 Policy Development & Evaluation Process - Policies Related to Police Operations

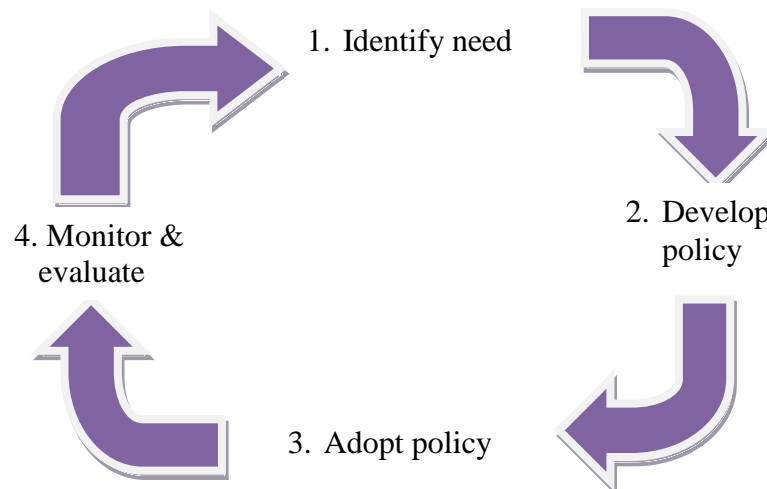


Figure 1 – The Policy Development Process

### 11.1 Identify the Need

- Identify community values, needs & expectations for policing services
- Who are the stakeholders?
- Ask: what type of organizational or governance behavior is the board/community seeking to influence? What outcomes do we desire?
- Must have a longer range vision, i.e. multi-year
- Expectations must be achievable and measurable

### 11.2 Develop the Policy

- Start with the broadest perspective first (e.g. what should the totality of police services provided result in, in our community), then consider specifics (e.g. what will be results of law enforcement activities? What will be the results of crime prevention activities?)
- 3 Policy components must be addressed:
  - **Results** - impact, difference, change, benefit or outcome
  - **Recipients** – who receives/benefits from the “Results”
  - **Cost** - relative worth or priority of the “Results”
- **Results:**
  - state the outcome or benefit without describing how to achieve it; this statement describes what the police service is For, not what it Does
  - Describe any limitations to how results may be achieved (e.g. without endangering lives; without infringing on basic human rights; without risking public safety elsewhere; etc.)
  - Do NOT describe good intention, action or motivation (e.g. do not use words like “support”, “assist”, “advocate”, “protect”); these are not measurable
- **Recipients:** typically residents and visitors to the jurisdiction
- **Cost:** the value of the “Results” in quantifiable or relative terms. E.g.:
  - “at a cost that is comparable to that of other similar communities”
  - “at a cost of no more than 10% of the approved operating budget”



*Leaders in Community Safety*

- “this result shall have priority over all other results except.... e.g. emergency response and victims assistance
- Clearly assign responsibility and authority to a single source to meet the policy expectation. e.g. Detachment Commander
- Check that the policy is achievable and measurable
- Establish a monitoring system, in policy, for the purposes of verifying compliance

### **11.3 Adopt the Policy**

- Adopt the written policy through the motion process in a public board meeting
- Record the adoption in the board meeting minutes
- Communicate the new policy to the Detachment Commander, the public and key stakeholders (e.g. council)
- Amend the board’s policy manual accordingly

### **11.4 Monitor and Evaluate Policy Compliance**

Policy is of little value if compliance is not monitored and evaluated, and adjustments made accordingly. Monitoring of each policy should occur in accordance with a schedule of reporting (the schedule itself being a policy), or at any other time where circumstances warrant the board’s request for specific policy compliance report.

A monitoring report, prepared by the Detachment Commander for the board, should be a public document comprising primarily:

- The Detachment Commander’s interpretation of the policy requirements (what does the policy mean to them? How does it direct operations? What activities are seen as excluded from the policy, if any?)
- Evidence regarding the degree to which the policy outcomes have/have not been achieved
- Evidence regarding the degree to which policy limitations have/have not been breached
- An outline of remedial action planned, if any

- Any other recommendations for board consideration

In response to the Detachment Commander's monitoring report, the board should:

- Address the reasonableness of the Detachment Commander's interpretation of the policy (i.e. reasonable, not reasonable, or largely reasonable with notable exceptions listed)
- Evaluate the evidence regarding outcomes and limitations; does the evidence prove compliance?
  - If so, deem organizational performance to be compliant with policy
  - If not, deem organizational performance to be not yet proven to be compliant with policy
- Validate the policy's achievability and measurability
- Consider any other recommendations proposed

## **12.0 Triggers for Policy Review**

Boards should have a schedule for review of each policy, as well as the flexibility to review policy should circumstances require it. Policy review should itself be addressed in policy.

Examples of circumstances that may trigger a policy review include:

- New circumstances related to the policy are emerging, and will be enduring
- New operational activities are envisioned, for which existing policies are silent
- Experience has shown that the policy is out-dated
- Changes in legislation or government policy may lead to board policy changes
- Inquiry, judicial review or audit results may lead to board policy changes
- Existing policy expectations are no longer achievable
- Existing policy limitations are no longer valid
- New policy limitations need to be considered

### **13.0 Typical Responsibilities of Board Chair**

The Board Chair is responsible for the overall board performance, which typically includes:

- Planning, organizing, attending and following-up on meetings of the board
- Chairing board meetings, ensuring as process leader that:
  - the agenda is followed
  - all board members participate in discussion of the issues before the board
  - the board is properly informed in its decision-making
  - the board conducts itself in accordance with its own rules
  - board decisions are informed, relevant, timely, comprehensive and recorded
- Managing the information flow to other board members
- Ensuring that board members undergo any training that may be provided or required by the Minister of Community Safety and Correctional Services<sup>6</sup>
- Ensuring the orientation of new members
- Ensuring members comply with the Code of Conduct, and acting on reports of breaches in accordance with article 15 of the Code
- Managing the Policy Development & Monitoring Process
- Liaising with key municipal and external stakeholders, including the applicable OAPSB Zone Director
- Acting as sole spokesperson for the Board (if so designated by the Board)

### **14.0 Conflict of Interest<sup>7</sup>**

A police services board is a “local board” as defined within the *Municipal Conflict of Interest Act*, and therefore members must comply with the Act’s requirements.

---

<sup>6</sup> O Reg 421/97

<sup>7</sup> Source: Halton Regional Police Service Board Information package



*Leaders in Community Safety*

Police services board members must adhere to the provisions of the Act by disclosing the existence and general nature of a pecuniary interest in a matter prior to any consideration of the matter at a meeting, and the member must:

- refrain from discussing or voting
- leave the meeting if it is not open to the public
- not attempt to influence a decision before, during or after the meeting

A conflict of interest or, pecuniary interest as it is properly known as, may be either direct or indirect. A direct pecuniary interest relates to the financial gain or loss of a member in a particular matter. An indirect pecuniary interest exists if:

- the member or their nominee is a shareholder in, or a director or senior officer of a corporation that does not offer its securities to the public, and that has a pecuniary interest in the matter
- the member or their nominee has a controlling interest in, or is a director or senior officer of a corporation that offers its securities to the public and that has a pecuniary interest in the matter

A controlling interest exists if the member beneficially owns, directly or indirectly, or exercises control or direction over, equity shares carrying more than 10% of the voting rights attached to all equity shares of the corporation:

- is a member of a body that has a pecuniary interest in the matter
- is a partner of a person that has a pecuniary interest in the matter
- is in the employment of a person or body that has a pecuniary interest in the matter

Under the Act, the direct or indirect pecuniary interest of a parent, spouse or any child of the member, if known to the member, is deemed to be the pecuniary interest of the member.

The Act does contain some exceptions, including:

- an interest that a member may have as a user of any public utility service supplied to the member by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members
- by reason of the member having a pecuniary interest which is an interest in common with electors generally; or

- by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member



## **Appendix A - Code of Conduct – Members of Police Services Boards<sup>8</sup>**

Police Services Board members are board members outside of the board room as well as within it. Relations and activities outside the board room must be congruent with conduct expectations inside the board room, including relationships with the Detachment Commander and conforming to the board's policy on official spokesperson.

1. Board members shall attend and actively participate in all board meetings.
2. Board members shall not interfere with the police force's operational decisions and responsibilities or with the day-to-day operation of the police force, including the recruitment and promotion of police officers.
3. Board members shall undergo any training that may be provided or required for them by the Ministry of Community Safety and Correctional Services.
4. Board members shall keep confidential any information disclosed or discussed at a meeting of the Board, or part of a meeting of the Board, that was closed to the public.
5. No board member shall purport to speak on behalf of the Board unless he or she is authorized by the Board to do so.
6. A board member who expresses disagreement with a decision of the Board shall make it clear that he or she is expressing a personal opinion.
7. Board members shall discharge their duties loyally, faithfully, impartially and according to the Act, any other Act and any regulation, rule or by-law, as provided in their oath or affirmation of office.
8. Board members shall uphold the letter and spirit of the Code of Conduct set out in this regulation and shall discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the Board.
9. Board members shall discharge their duties in a manner that respects the dignity of individuals and in accordance with the Human Rights Code and the Charter of Rights and Freedoms (Canada).
10. Board members shall not use their office to advance their interests or the interests of any person or organization with whom or with which they are associated.

---

<sup>8</sup> Ontario Regulation 421/97



*Leaders in Community Safety*

11. (1) Board members shall not use their office to obtain employment with the Board or the police force for themselves or their family member.  
  
(2) For the purpose of subsection (1), “family member” means the parent, spouse or child of the person, as those terms are defined in Section 1 of the Municipal Conflict of Interest Act.
12. A board member who applies for employment with the police force, including employment on contract or on fee for services, shall immediately resign from the Board.
13. Board members shall refrain from engaging in conduct that would discredit or compromise the integrity of the Board or the police force.
14. (1) A board member whose conduct or performance is being investigated or inquired into by the Commission under Section 25 of the Act or is the subject of a hearing before the commission under that section shall decline to exercise his or her duties as a member of the Board for the duration of the investigation or inquiry.  
  
(2) If the applicant of subsection (1) results in a board not having enough members able to exercise their duties in order to constitute a quorum during an investigation inquiry or hearing under section 25 of the Act, the chair of the commission may appoint that number of persons necessary to constitute a quorum, who shall act in the place of the members who are unable to exercise their duties.  
  
(3) The chair of the Commission,
  - (a) shall specify in an appointment made under subsection (2) that the appointee may only exercise such duties as are necessary for the effective operation of the board during the investigation, inquiry or hearing and, for such purpose, may specify the duties the appointee may or may not exercise; and,
  - (b) shall cancel an appointment made under subsection (2) as soon as a member of the board who declined to exercise his or her duties under subsection (1) resumes exercising his or her duties or is replaced under subsection 25(8) of the act.
15. If the Board determines that a board member has breached the Code of Conduct set out in this Regulation, the Board shall record that determination in its minutes and may,
  - (a) require the member to appear before the Board and be reprimanded;

- (b) request that the Ministry of the Community Safety and Correctional Services conduct an investigation into the member's conduct; or
- (c) request that the Commission conduct an investigation into the member's conduct under Section 25 of the Act.

## **Appendix B - Sample Policy Index (Section 10)**

### **Ends (Outcomes)**

- Global Ends
- Law Enforcement
- Crime Prevention
- Emergency Response
- Assistance to Victims of Crime
- Public Order

### **Executive Limitations**

- Global Executive Limitations
- Strategic and Financial Planning
- Treatment of Residents and Visitors
- Asset Protection
- Communication and Support to the Board

### **Board-Detachment Commander Linkage**

- Global Governance - Management Connection
- Delegation to the Detachment Commander
- Accountability of the Detachment Commander
- Unity of Control
- Monitoring Chief of Police Performance

### **Governance Process**

- Global Governance Commitment
- Board Job Description
- Governing Style
- Relations with Council
- Board Committee Principles
- Chair's Role
- Board Members' Code of Conduct
- Board Staff
- Strategic Business Planning