

Civilian Governance of Police Services

Police Services Board Information Session

Kincardine Police Services Board

Thursday, April 6, 2023

Topics for Discussion



**POLICING IN
ONTARIO**



**SECTION 10
AGREEMENTS**



**BOARD
PROCESS &
ADMIN.**



**BOARD
MEMBER
CODE OF
CONDUCT**



**COMMUNITY
SAFETY AND
WELL-BEING**

Policing in Ontario

- The ***Police Services Act*** sets out the roles and responsibilities for policing.
- The Act identifies five core police functions in delivering **adequate and effective policing**:
 1. Crime prevention
 2. Law enforcement
 3. Assistance to victims of crime
 4. Public order maintenance
 5. Emergency response
- Further defined in the ***Adequacy and Effectiveness of Police Services Regulation (O. Reg. 3/99)***.
- The ministry also maintains the **Ontario Policing Standards Manual** as a support tool in achieving statutory compliance and excellence in policing.

Policing in Ontario

- A number of organizations and entities have responsibilities under Ontario's policing framework:

Ministry of the Solicitor General
Municipality
Police Services Board
Police Service
Ontario Civilian Police Commission
Office of the Independent Police Review Director
Special Investigations Unit

Policing in Ontario

Monitoring and Oversight

Ministry of the Solicitor General

- Monitoring police forces to ensure that adequate and effective police services are provided at the municipal and provincial levels
- Monitoring boards and police forces to ensure that they comply with prescribed standards of service
- Conducting a system of inspection and review of police forces across Ontario
- Provide information and advice to boards and chiefs of police on a wide range of policing issues

Ontario Civilian Police Commission (OCPC)

- Ensure delivery of adequate and effective police services.
- Conducts investigations, inquiries or reviews into policing matters.
- Can direct a police services board or police service to comply with prescribed standards.

Office of the Independent Police Review Director (OIPRD)

- Receives, manages and oversees all public complaints about police in Ontario about the conduct of specific police officers, or the services or policies of a police service.

Special Investigations Unit (SIU)

- Independently investigates interactions with the police that result in death, serious injury or allegations of sexual assault.
- Authority to lay criminal charges where there are reasonable grounds to do so.

Policing in Ontario

Municipalities' Responsibilities

Every municipality is required to provide adequate and effective policing

- Municipalities are required to provide **adequate and effective** policing in accordance with its needs (s.4)
- Municipalities have different **options for providing policing**:
 - ❖ S.5[1] para.5: The council may enter into an agreement under section 10, alone or jointly with one or more other councils, to have **police services provided by the Ontario Provincial Police (OPP)**
 - ❖ Municipalities **fund the cost of policing services it receives**, subject to the terms of its agreement under section 10 of the *Police Services Act*.
 - ❖ In order for a municipality to enter into an agreement under section 10, the municipality must have a **police services board** (s.10[2])

Policing in Ontario

Civilian Police Governance



Police Services Boards under the *Police Services Act*

- Board is an independent governance body for the police service
- Size and composition of the board is governed by the *Police Service Act*
- The board and its members are subject to independent monitoring and oversight by the Ministry of the Solicitor General and the Ontario Civilian Police Commission
- Roles and responsibilities set out in the *Police Services Act* and regulations

Reasons for Civilian Governance of Police Services

- Safeguard the police service from undue influence or interference
- Link community needs to the provision of policing services
- Promote accountability and transparency for policing in their municipality
- Monitor the delivery of police services to ensure the provision of adequate and effective policing

Policing in Ontario

Board's Relationship with Municipal Council

Municipal Council and the Police Services Board have concurrent responsibilities to provide adequate and effective policing

- Municipality is responsible for determining and funding the method of policing service delivery
- Police services board is responsible for governing the provision of policing services
- Ontario Regulation 3/99 sets requirements to facilitate the exchange of information between the board and municipality: Information sharing protocol (s.32[1]); and consultation (s.32[2]).

The Police Services Board is an independent governance body – not a subcommittee of the municipal council

- Council members on the board should not speak on behalf of municipal council, neither are they to speak on behalf of the board to municipal council
- The conduct of board members is governed by Ontario Regulation 421/97 under the *Police Services Act*

Policing in Ontario

Section 10 Police Services Board

Duties of a Section 10 Police Services Board

S.10(9): The board shall **advise** the OPP detachment commander assigned to the municipality, or his or her designate, with respect to police services in the municipality and shall,

- participate in the selection of the detachment commander of the detachment assigned to the municipality or municipalities
- generally determine objectives and priorities for police services, after consultation with the detachment commander or his or her designate
- 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);
- monitor the performance of the detachment commander
- receive regular reports from the detachment commander or his or her designate on disclosures and decisions made under section 49 (secondary activities)
- 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

Section 10 Service Agreement

Role of the OPP Under Section 10 Service Agreements

s.10(6): When the agreement comes into effect, the Ontario Provincial Police detachment assigned to the municipality or municipalities shall provide police services for the municipality or municipalities, and shall perform any other duties, including by-law enforcement, that are specified in the agreement.



Adequacy and Effectiveness of Police Services (O. Reg. 3/99)

s.36(2) This Regulation applies to the Ontario Provincial Police, **with necessary modifications**,

- a) with respect to its undertaking of provincial responsibilities and policing under section 5.1 of the Act;
- b) with respect to agreements under section 10 of the Act;** and
- c) with respect to its responsibilities under section 19 of the Act

Section 10 Service Agreement

Generally Determining Objectives and Priorities:

- Commissioner shall ensure that the Detachment Commander responds appropriately to the Board's objectives and priorities for police services, developed after consultation with the Detachment Commander, pursuant to section 10(9)(b) of the *Police Services Act*.

Monitoring Service Delivery:

- OPP shall undertake and be responsible for ensuring that all mandatory standards of adequate and effective police services as required by Ontario Regulation 3/99 under the *Police Services Act* are met and maintained.
- Board responsible to monitor the delivery of police services to ensure that the provisions of Ontario Regulation 3/99 are satisfied on an ongoing basis.
- Detachment Commander shall provide the Board with reasonable documentation, as agreed upon between the Board and the OPP, to allow the Board to evaluate the services and satisfy itself that adequate and effective standards and policies are in place.

Reporting:

- Commissioner shall cause the Detachment Commander or designate to report to the Board at mutually agreed upon intervals in accordance with the *Police Services Act* regarding the provision of police services in and for the municipality. The OPP will determine the information to be contained in the reports and the format in which they will be provided.

Section 10 Service Agreement

Participating in Detachment Commander Selection:

- Detachment Commander selected from a short-listed pool of candidates as determined by the OPP in accordance with its relevant provincial policies. Following the formulation of the short-list, a joint committee consisting of Board members and persons nominated by the Commissioner, shall select the successful candidate in accordance with the process set out in the OPP's provincial policies.

Cost of Police Services:

- On or before October 1st in each year, Ontario shall prepare and **deliver to the Board for review** and to the Municipality for review and approval, the Annual Billing Statement for the following year, together with sufficient documentation and information reasonably necessary to explain and support the billing.

Revenues:

- The parties agree that **sections 132 and 133** of the Police Services Act will be applied as if the OPP Detachment was a municipal police force, and as if the Detachment Commander was a Chief of Police.

PSA, Section 132: Governs the sale of personal property that comes into the possession of the police services and the Board's use of the proceeds in the public interest.

PSA, Section 133: Governs money that comes into the possession of the police services board under circumstances described in section 132, and rules governing the Board's use of the unclaimed money in the public interest.

Section 10 Service Agreement

Section 10 Agreements and Ontario Regulation 3/99 (Adequacy & Effectiveness)

s.30(1): Every board shall prepare a business plan at least once every three years.

- The OPP develop strategic plans at the corporate and detachment levels.
- Section 10 board is responsible for generally determining objectives and priorities for police services after consultation with the detachment commander or his or her designate

s.32(1): Each board is required to have a protocol with its municipal council that addresses the sharing of information with council, including the type of information to be shared and the frequency.

- Mechanism for boards to assure councils that adequate and effective policing is being delivered in accordance with the terms of the agreement.

s.37(1): Every board shall evaluate the adequacy and effectiveness of the services provided by its police force by comparing those services with the requirements of this Regulation.

s.36(2): This Regulation applies to the Ontario Provincial Police, with necessary modifications with respect to agreements under section 10 of the *Police Services Act*.

Police Services Board Process and Administration

Police Services Act:

s.37: The board shall establish its own rules and procedures in performing its duties under this Act

- Provides structure to meetings (frequency, schedule, place and time), role of the chair, decision making process, minute taking, agenda setting and distribution, and board supports.
- Regularly review local policies and processes to ensure they continue to be effective.

s.28(1): The members of a board shall elect a chair at the board's first meeting in each year

- Elect a chair at the first meeting held each year.
- The board may also elect a vice-chair – s.28(2).

s.35(1): The board shall hold at least four meetings each year

- The Act sets four times a year as a minimum.
- However, a board should hold a sufficient number of meetings to effectively carry out its mandate.

s. 35(2): A majority of the members of the board constitutes a quorum.

Police Services Board

Process and Administration

Board Meeting

Board Proceedings are to be open to the public

s. 35(3): Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

Exception

s. 35(4): The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that,

- a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or
- b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. R.S.O. 1990, c. P.15, s. 35.

Board Member Code of Conduct

Ontario Regulation 421/97

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.
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.

Board Member Code of Conduct

Ontario Regulation 421/97

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.
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 service, 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.

Board Member Code of Conduct

Ontario Regulation 421/97

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 and hearing.
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 Solicitor General 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.

Board Member Code of Conduct

Ontario Regulation 421/97

Police Services Act, Section 25

The Commission may inquire into and report on, on its own motion or at the request of the Ministry, the Independent Police Review Director, a municipal council or a board, investigate, inquire into and report on,

- (a) the conduct or the performance of duties of a police officer, a municipal chief of police, an auxiliary member of a police force, a special constable, a municipal law enforcement officer or a member of a board;
- (b) the administration of a municipal police force;
- (c) the manner in which police services are provided for a municipality;
- (d) the police needs of a municipality.

Community Safety and Well-Being Planning

New requirement under PSA – January 1, 2019 (now July 1, 2021 as per All Chiefs Memo 20-0177)

The council of each municipality to which section 4(1) of the *Police Services Act* applies shall prepare and adopt a community safety and well-being plan.

Community safety and well-being plans shall:

- Identify and prioritize risk factors that contribute to crime, victimization, addiction, drug overdose and suicide and any other prescribed risk factors;
- Identify strategies to reduce the prioritized risk factors; and
- Set out measurable outcomes that the strategies are intended to produce.

Community Safety and Well-Being Planning

What is the role of police services boards?

- As part of the planning process, every municipal council is required to establish, and consult with, a multi-sectoral advisory committee.
- The PSA specifies the minimum membership of the advisory committee, which includes a person who represents the police services board of the municipality, or if there is no board, an OPP detachment commander (or delegate).
- Boards will be encouraged to take any actions the plan requires it to take.

Questions / Discussion



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