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**Item No. 14.1.5**  
**Halifax Regional Council**  
**June 13, 2017**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:**

Original Signed by 

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Jacques Dubé, Chief Administrative Officer

**DATE:** May 19, 2017

**SUBJECT:** Roles and Responsibilities of the Board of Police Commissioners

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### **ORIGIN**

At the December 6, 2016 meeting of Halifax Regional Council, MOVED by Councillor Walker, seconded by Deputy Mayor Craig:

THAT Halifax Regional Council request that a staff report be prepared to:

1. Review the current governance framework, roles, responsibilities, authorities and budget respecting the Board of Police Commissioners including the Memorandum of Understanding between the Board, HRM and RCMP, Legislation and By-law;
2. Provide police services governance options, including consideration for realignment of the organization reporting structure, and/or responsibility transfer to improve governance, accountability, communication, policy and public service related to police services for the Halifax Regional Municipality and;
3. Provide reporting and funding options for staff support of the Board of Police Commissioners.

### **LEGISLATIVE AUTHORITY**

*Police Act*, S.N.S. 2004, c. 31, s. 55(2):

- 55 (2) With the approval of the Minister, the council, by by-law, may prescribe  
(a) the additional or more specific roles and responsibilities of a board;

By-Law P-100 Police Board

### **RECOMMENDATION**

It is recommended that Halifax Regional Council

1. Direct staff to prepare amendments to By-law P-100 Respecting the Board of Police Commissioners for the Halifax Regional Municipality to
  - a. clarify the accountabilities between the Chief of Police, Halifax Board of Police Commissioners, and Chief Administrative Officer, as set out in this report;
  - b. authorize the Halifax Board of Police Commissioners to oversee any competition for the role of Chief of Police, and to recommend the appointment or contract renewal of the Chief of Police, with the recommendation to then be approved by Council;

- c. allow for member's terms on the Board of Police Commissioners to be renewed up to two times;
- d. specify that the end dates of appointments to the Board of Police Commissioners are to be staggered where possible;
- e. set desired qualifications and expertise for members appointed to the Board of Police Commissioners; and
- f. require the Board of Police Commissioners to provide an annual report to Council outlining its achievements in the past year and work plan for the coming year.

## **BACKGROUND**

Under the *Police Act*, every municipality in Nova Scotia is responsible for the policing of and maintaining of law and order in the municipality, and for providing and maintaining an adequate, efficient and effective police department at its expense in accordance with its needs (s. 35(1)). The Act also provides that this responsibility may be discharged by establishing a municipal police department, or by entering into an agreement with the province, the Government of Canada, or another municipality (s. 36(1)).

Where a municipality elects to establish a municipal police department, as Halifax Regional Council has done, that municipality is required to provide for a Board of Police Commissioners ("Board"). (s.44(1))

This report is intended to clarify the roles and responsibilities of the Board, as well as provide recommendations to improve its effectiveness going forward.

## **DISCUSSION**

### **Current Role and Structure of the Board of Police Commissioners**

The Board of Police Commissioners is an entity that must be created by any municipality that establishes a municipal police department. Its purpose is to provide civilian governance on behalf of the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality; and the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department (*Police Act*, s. 55(1)).

In the case of HRM, since Council elects to share responsibility for policing between Halifax Regional Police ("HRP") and the RCMP, the Board has a dual role. Firstly, it acts as a governing board for HRP. Secondly it acts as an advisory board to the RCMP pursuant to s. 57 (1) of the *Police Act*.

As the RCMP is federally regulated, it is not subject to the jurisdiction of HRM and is not subject to civilian governance. The Board acts in an advisory capacity only. This report therefore will focus on the Board in its capacity as the Board of Police Commissioners to the HRP.

With respect to HRP, the *Police Act* makes it clear that the Board's role is intended to be much more active and significant. It requires that it provide actual governance, administrative organization and policy. Section 55 of the Act sets of the functions of the Board:

55 (1) The function of a board is to provide

- (a) civilian governance on behalf of the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality; and
- (b) the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department,

but the board shall not exercise jurisdiction relating to

- (c) complaints, discipline or personnel conduct except in respect of the chief officer of the municipal

police department;

(d) a specific prosecution or investigation; or

(e) the actual day-to-day direction of the police department.

(2) With the approval of the Minister, the council, by by-law, may prescribe

(a) the additional or more specific roles and responsibilities of a board; and

(b) the rules and regulations governing proceedings of a board,

and the board has sole jurisdiction over the matters so delegated to it.

(3) Without limiting the generality of subsection (1), a board shall

(a) determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community;

(b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;

(c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;

(d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;

(e) act as a conduit between the community and the police service providers;

(f) recommend policies, administrative and organizational direction for the effective management of the police department;

(g) review with the chief officer information provided by the chief officer respecting complaints and internal discipline;

(h) ensure a strategic plan and business plan is in place; and

(i) ensure the department is managed by the chief officer according to best practices and operates effectively and efficiently.

Police Boards are the preferred Canadian method of police governance, and there are many examples cross country. It is relevant to consider the extent to which the Nova Scotian model differs or is similar to other provinces, and therefore the extent to which we may follow other boards' examples. Included as Attachment 1 is a cross country review of Police Board legislation.

Nova Scotia's framework has several differences from those found in other jurisdictions. One of the most significant differences between Nova Scotia and other boards, such as those in Ontario, is how closely the Board is tied to the municipality and its council.

In Nova Scotia, the Board is an emanation of Council, albeit one with its own legislated functions and powers. The municipality is the entity made responsible for providing policing services (s. 35(1)) and to appoint its Chief Officer (s. 38(1)). The municipality establishes the board (s. 44(1)), sets its rules and regulations (s. 55(2)(b)) and most members of the board sit at the will of council (s. 44(7)). The Board governs on behalf of the council (s. 55(1)). Although the Board is responsible for the creation of the police

budget, it has no power to raise revenue on its own behalf, and the budget must be approved by council (s. 53).

In other jurisdictions, such as Ontario and British Columbia, police boards act more independently and are the entity which is directly tasked with providing police services and appointing the Chief Officer. The Nova Scotian framework creates a broader role for the municipality and its council in policing. The mere fact that s. 55(2) allows the municipality to delegate additional roles and responsibilities to its board demonstrates that unless so delegated, the municipality retains some powers over policing.

However, as in other jurisdictions, the Board is clearly more than a mere committee of council advising on the provision of policing. The Board has statutory duties and powers set out in s. 55 that cannot be removed or reduced by Council. It may contract, sue or be sued in its own name (s. 48). Once additional powers have been delegated to it by Council, it then exercises sole discretion over them (s. 55(2)).

The Chair of the Board of Police Commissioners also has certain legislated roles and responsibilities, set out in section 78 of the *Police Regulations*, including presiding over the Board (s. 78(a)), developing an operations and policy manual (s. 78(b)), ensuring the board members are kept informed regarding matters within their jurisdiction (s. 78(c)), acting as the spokesperson for the Board (s. 78(d)), and evaluating the performance of the Chief in consultation with the CAO (s. 78(e)). The Board Chair is appointed directly by the Board itself, not Council (s. 45(2), *Police Act*).

How power over HRP and the Chief of Police is currently distributed is open to reasonable interpretation from a review of legislation, by-laws, and the MOU between HRM, the Board and the RCMP. To prevent confusion, it would benefit from a clear assignment of responsibilities by Council, as set out in the recommendations below. The creation of the operations and policy manual will also assist in clarifying how responsibility over HRP is shared between HRM and the Board.

Aside from the police department's relationship to Council and the Municipality, in many respects the Board's role is very similar to other boards across Canada. As in other jurisdictions, it is the Board's role to provide civilian governance, and to provide policy and administrative direction. The Board has direct responsibilities, enumerated in s. 55 of the *Police Act*, to govern how policing is administered in the municipality.

This is the essence of the role of police boards in most jurisdictions. Therefore, when it comes to improving governance, developing policy and direction, other police boards' experiences and expertise are likely to be helpful.

Based on a review of our current statute and on review of the roles of similar police boards across the country, the responsibilities of the Board fall in five main areas: proposal and review of the budget, policy making and strategic direction, acting as a conduit between the police and public, overseeing the Chief, and oversight of the police department.

#### 1. Budgeting

Section 53 of the *Police Act* places the responsibility for the budget of the police department with the Board. The Board causes the Chief to prepare it, then upon granting approval, forwards it to the Council for approval. The Council has the power to approve or refuse the budget but not to amend it without the Board's approval.

The budgeting process is intended to be policy driven. Section 53(2) requires the Board to ensure that the budget is consistent with its obligations under s. 55(3), which is the enumeration of its responsibilities over the police department. This would include consideration of matters such as programs and strategies to implement the priorities, objective and goals respecting police services, ensuring that community needs and values are reflected in policing, and more. This places the preparation and review of the budget on the level of policy planning rather than mere financial planning.

Currently, this process commences with Council assessing its fiscal capacity and providing an indication to the Board of the amount it is able to fund for the HRP budget, although the Board is not bound by this figure in terms of what it will recommend. HRP staff then prepare a proposed budget, which is presented to the Board over several meetings with opportunities for the Board to direct changes and amendments. Once the budget meets the Board's requirements, it is passed by the Board and sent to Regional Council for approval.

This procedure currently is successful and no change is recommended. It would be beneficial to document the practice in the Board's operation and policy manual.

## 2. Policy making and strategic direction

One of the Board's key roles, and also one of its most challenging, is to provide policy necessary for an adequate, effective and efficient police department. This duty is set out in section 55(1) of the *Police Act* and s. 8(2)(g) of By-law P-100.

Many of the Board's duties under the *Police Act* fall under this umbrella, such as the requirements that the Board:

"(a) determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community;"

"(b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;"

"(f) recommend policies, administrative and organizational direction for the effective management of the police department;"

and

"(h) ensure a strategic plan and business plan is in place;"

The language in 55(3)(f) stating that the Board will *recommend* policies has caused some confusion on whether the Board has the power to impose those policies where a Chief does not take its recommendation. In staff's opinion, the language in 55(1) which requires the Board to *provide* policy, as well as similar language in the by-law and MOU, make it clear that the Board's authority goes beyond mere recommendation of policies.

However, the Board's power in this regard is limited by the exclusion in s. 55(1) which states that the Board shall not exercise jurisdiction relating to the actual day-to-day direction of the police department. This division of responsibilities which places the power over policy making with the Board, while leaving responsibility for day-to-day operations with the Chief Officer, is standard across Canada. This can cause confusion or tension between the parties as the line between operations and policy is not clear and one will necessarily impact the other.

Essentially this distinction can be boiled down to granting the Board the power to determine where the police service is heading, and the end goals and objectives it works towards. The Chief then has the power to determine how those goals and objectives will be met.

In Nova Scotia, due to our differing legislation there is also a role for the municipality itself in directing the police department on administrative issues that are not directly policing related, as the department remains closely tied to municipality. HRP is an HRM business unit and HRP makes use of broader municipal resources. Therefore, HRM's non-policing policies of broad application, such as finance, procurement, and human resources policies still apply to HRP.

Given the Board's role in setting policy for HRP, for additional clarity it would be beneficial if the operations and policy manual prepared by the Board Chair formally recognizes that HRP is bound by HRM corporate policies of broad application.

The Board's directions with respect to policy may be given by way of directing policies be prepared and approved, or by resolutions giving direction to the Chief. The Board may also approve policies that are created on staff's initiative and brought before it for approval. When policy is being approved by the Board, the Chief acts in a similar role as the CAO when taking direction from Council, by providing comment on the policies or motions, potentially challenging the Board if he feels it is acting outside of its jurisdiction, and directing his staff to comply with the Board's directions.

### 3. Acting as a conduit between the police and public

As a civilian governance body, it is essential that the Board act to ensure that community views and values are reflected in its police service. This means not only passing on input from community members, but also ensuring that the goals and strategies of the police department reflect the community values, needs and expectations. This duty is reflected in several clauses s.55(3) of the *Police Act*:

“(3) Without limiting the generality of subsection (1), a board shall

(c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;

(d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;

(e) act as a conduit between the community and the police service providers;”

By-law P-100 also requires the Board to

“(a) co-ordinate public planning process as it relates to community oriented police response to community issues; ...

(i) monitor gender, ethnic and minority group issues and making recommendations concerning these matters to the Chief of Police;

(j) ensure that community needs and values are reflected in policing goals and methods;

(k) act as a conduit between the community and the police service providers.”

These provisions impose a broad requirement on the Board to liaise with its community and ensure that the community's needs, values and expectations are met by the police department. How this will be done in practice is to be determined by the Board itself, and procedures for community consultation and outreach may be included in the Board's operations and policy manual.

### 4. Overseeing the Chief of Police

The relationship between the Board and the Chief is less direct in Nova Scotia than it is in other jurisdictions. As previously stated, unlike in other jurisdictions, the council has the responsibility to appoint the Chief of Police, rather than the Board, and would, therefore, also be responsible for the decision to renew his or her contract. This generally means that the Council also has a role in reviewing the performance of the Chief it appoints based on recommendations from the Board and CAO.

However, the Board also has a significant role in managing the Chief. Section 78(e) of the Police Regulations requires the Board Chair, in conjunctions with board members and in consultation with the CAO of the municipality, to evaluate the performance of the chief officer on a yearly basis.

Additionally, s. 52 of the *Police Act* grants the Board Chair, on behalf of the Board, the authority to give written direction to the chief officer on any matter within the jurisdiction of the board. This power is necessary given the Board's many obligations under s.55(3). Without some direct power over the Chief, the Board would be unable to ensure that any of those requirements were met.

However, likewise, since Council appoints the Chief, and because HRP is part of the administrative structure of HRM, HRM and its CAO retain some power of oversight and direction of the Chief. For example, the Chief is still accountable to HRM to meet its administrative requirements when making use of certain broader HRM resources, such as human resource and finance employees.

Oversight of the Chief is limited to the extent that the Chief retains a legislative power over the day-to-day direction of the police department. However, this does not limit Council or the Board from considering the day-to-day direction when evaluating the Chief's performance.

## 5. Oversight

In addition to forward thinking planning and policy direction, the Board also has an oversight role in responding to issues that arise in the police department. This is a part of its responsibility under s. 55(3)(i) which requires that the Board

- (i) ensure the department is managed by the chief officer according to best practices and operates effectively and efficiently.

It is limited from directly interfering in complaints, discipline or personnel conduct unless it relates to the chief officer. However, issues will arise that don't relate to formal complaints that are nonetheless issues that require oversight, in which the Board would be expected to call the Chief to account.

## Recommendations

It is essential that a police service not be a political entity. Police should seek to serve and uphold the law, rather than acting on behalf of government or particular individuals. There is a tension between allowing sufficient independence for police to ensure they do not become the tools of government, and providing sufficient oversight and accountability to ensure the police do not become a law unto themselves. Civilian governance is one method by which this tension is attempted to be resolved, or at least balanced.

Given what is reviewed above, staff believe that the Board currently has the power to take a much more direct and effective involvement in the governance of HRP under its current structure. The Canadian Association of Police Governance (then, then Canadian Association of Police Boards) prepared in 2005 a list of best practices for Police Boards to improve professionalism and success in police board governance. Many of those recommendations can be implemented under the current structure if the Board so desires. However, there are changes that can be made by Council to clarify the role of the Board and empower it to be more effective.

Staff has recommendations in two areas – first that the role of the Board be clarified to provide a direct reporting relationship between the Chief and the Board, and second, that measures be taken to ensure effective Board members are appointed and remain on the Board.

As a change to the roles and responsibilities of the Board, these amendments to By-law P-100 would require ministerial approval per s. 55(2) of the *Police Act*.

1. Grant the Board direct authority over the Chief with respect to policing

Currently, the reporting structure between the Board, the Chief, the CAO and Council is unclear. It is staff's recommendation that this confusion be resolved by setting out the Chief's accountabilities in By-law P-100.

This would be done by making two changes:

1. First, by amending By-law P-100 to specify that the Chief:
  - a. has legislative authority over the day to day operation of the Police Department;
  - b. is accountable to the Board of Police Commissioners with respect to the provision of policing in the municipality, and
  - c. is accountable to Council through the CAO with respect to the implementation of and compliance with HRM administrative policies and procedures.
2. Secondly, by authorizing the Board to oversee any competition for the role of Chief of Police, or decision to renew the contract of the Chief of Police, and to make the recommendation to Council with respect to the decision to appoint or renew the contract of the Chief of Police, with the Board's recommendation to be approved by Council.

With respect to appointing and renewing the Chief, it is recommended that the Board's decision be approved by Council, in light of the specific language in the *Police Act* that requires Council to appoint the Chief Officer (s. 38(1)).

This recommendation is made because it is staff's opinion that the current unclear reporting structure hinders the Board in meeting its legislative duties. The role of the Board requires it to give direction to the Chief and ensure that police department is being run according to the policies and direction it has provided. However, if the Chief did not comply with a lawful direction, or did not meet the standards expected by the Board, the Board is left with no direct recourse. Confirming that the Board has full authority over the Chief with respect to the provision of policing, except to the extent of day-to-day operations, makes their power more meaningful and real and encourages prompt and meaningful compliance.

In contrast to Council or the CAO, the Board should be more insulated from political influence, and ideally, if sufficient training is provided, have additional expertise to deal with policing matters.

However, as HRP remains a business unit of HRM and is not its own legal entity, it is necessary that the Chief be accountable to the CAO as the administrative head of HRM. This amendment to By-law P-100 would clarify the extent to which the Chief is accountable to the CAO to prevent confusion surrounding the roles of the CAO and the Board.

Legislatively, Council is required to appoint the Chief of Police. However, authorizing the Board to oversee the competition for the role of Chief of Police, and recommend a candidate to be appointed to the role, further cements the Board's authority.

It is rare in Canada for a Council to appoint the Chief, rather than the Board, and for the Council to retain direct authority over the Chief with respect to policing matters. This change would bring Halifax closer to the recognized best practices for police governance across Canada.

2. Ensure Effective Board Representatives

One factor that was mentioned frequently when consulting experts in this area is that the key to the success of any Board is the members on it. Currently we are fortunate to have active and interested members who are looking to revitalize the board and Council should aim to continue that trend.

The structure of the Board is set by the *Police Act* and does not allow for municipal discretion. In the case of a seven-member Board such as HRM's, it will consist of three municipal councilors, three civilians appointed by Council, and one provincial appointee (s. 44(4)). The chair and vice chair of the Board are determined by the Board, and therefore outside the control of Council (s. 45(2)).



However there are areas where Council can seek to improve the effectiveness of the Board.

Short tenures are cited by many of those consulted as problematic on Police Boards. They lead to problems with having necessary expertise on the Board, and a lack of institutional memory. Policing is a specialized area and it is to be expected that it is going to take members time to understand it fully and get to the point of being able to provide meaningful governance. If members only serve two or perhaps three years, by the time they have reached the point of fully understating the police department and their role, they are likely to be nearing the end of their term.

It is therefore recommended that By-law P-100 be amended to allow Board members' terms be set for a minimum of three years, and to be renewable up to two terms. It is also recommended that the by-law specify that Council should aim to stagger terms, so that there is not significant turnover on the Board at one time.

It is also recommended that Council aim for a competency based board by ensuring that members are appointed to the Board who have experience and expertise in diverse areas that will benefit Board governance. For example, when soliciting new members, Council may want to ensure that there is a member on the Board with legal knowledge, and a member with financial knowledge. Council should also consider cultural diversity in appointing the Board, in order to best reflect the community it serves. The Board should be consulted when it comes time for appointments to see what areas they feel they may be lacking knowledge or representation within their current membership.

It is also recommended that the Board be required to provide an annual report to Council reviewing what it has achieved in the past year, and setting their goals and workplan for the coming year. This will assist in ensuring that the Board is living up to its legislative duties, and permit Council to consider changing the composition of the Board if it is not acting effectively.

Training of Board Members is also important to ensure that they are knowledgeable enough to fully meet the obligations of their role. Some of this training will be able to be provided in house at no significant cost, or approved within the current police budget. If additional funds are required, this may be considered by the Board as a part of their budgeting process.

### **Board Staffing**

Council has asked staff to consider reporting and funding options for staff support of the Board. Staff recommends that the current Council practice be maintained for the Board of Police Commissioners.

Under the current practice, the Chief takes on a role with the Board that is analogous to the CAO's role with respect to Council. The Chief may submit reports when directed by the Board, or the Chief may submit staff initiated reports when he wishes to bring matters to the attention of the Board or propose policy. Police staff then act under the Chief's direction to follow the directions of the Board and provide the reports and policies it requires.

Police staff have the necessary expertise to respond to the Board's directions by preparing research, policy, or other reports as required. As police currently have staff members already dedicated to research and to policy drafting, this allows the Board to access existing resources and prevents duplication of effort and expense that may be caused by creating a separate secretariat.

At this time, staff does not have reason to believe that current HRP resources are insufficient to respond to Board's needs, given that currently much of the policy work that might be approved through the Board in future is currently being handled by HRP staff. However, if the Board concludes that as it takes a more active role, there are not sufficient resources allocated to allow HRP staff to respond to its directions in a timely manner, the Board may then seek additional staffing as a part of its ordinary budgeting process.

### **FINANCIAL IMPLICATIONS**

There are no current financial implications. There may be financial implications in future if the Board

concludes that HRP does not have sufficient resources to meet its demands for research, policy, or other reports in a timely fashion.

### **RISK CONSIDERATION**

There are no significant operational or financial risks associated with the recommendations in this Report.

### **COMMUNITY ENGAGEMENT**

In considering its recommendations, staff has consulted the Executive Director of the Canadian Association of Police Governance, Jennifer Malloy, the Secretary of the same organization, Sandy Smallwood, Andrew Graham of Queen's University, who is a recognized academic authority in the area, the current Chair of the Board of Police Commissioners, Commissioner Steve Craig, as well as such literature as is available on the subject.

### **ENVIRONMENTAL IMPLICATIONS**

Implications not identified.

### **ALTERNATIVES**

Council may provide that the Chief of Police will report directly to the CAO and be subject to direction in a manner similar to that of other business unit directors in HRM. If Council prefers this reporting structure, it is nonetheless recommended that By-law P-100 be amended to make the reporting relationships explicit to prevent further confusion and disputes regarding the role of the Board. This structure is not recommended as the Board will retain its legislated powers over the Chief and HRP, creating two competing reporting relationships over the Chief.

Council may authorize the Board to provide for additional non-police staff, dedicated solely to the Board, to provide policies, research or other support the Board. While adding increased independence, this is not recommended as it is likely to create a duplication of effort and expense caused by having individuals both in HRP and in the Board Secretariat creating policy for HRP.

### **ATTACHMENTS**

Attachment 1: Jurisdictional Overview of Police Board Legislation

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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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Attachment 1: Jurisdictional Overview of Police Board Legislation

Jurisdiction	Overview	Legislation
British Columbia	<ul style="list-style-type: none"> <li>- Board directly establishes police department</li> <li>- Department acts under direction of Board</li> <li>- Chief and all officers are employees of the Board</li> <li>- Determines priorities, goals and objectives of the police department</li> </ul>	<p><b>23</b> (1) Subject to the minister's approval, the council of a municipality required to provide policing and law enforcement under section 15 may provide policing and law enforcement by means of a municipal police department governed by a municipal police board</p> <p><b>26</b> (1) A municipal police board must establish a municipal police department and appoint a chief constable and other constables and employees the municipal police board considers necessary to provide policing and law enforcement in the municipality.</p> <p>(2) The duties and functions of a municipal police department are, under the direction of the municipal police board, to</p> <p>(a) enforce, in the municipality, municipal bylaws, the criminal law and the laws of British Columbia,</p> <p>(b) generally maintain law and order in the municipality, and</p> <p>(c) prevent crime.</p> <p>(3) Subject to a collective agreement as defined in the <i>Labour Relations Code</i>, the chief constable and every constable and employee of a municipal police department must be</p> <p>(a) employees of the municipal police board,</p> <p>(b) provided with the accommodation, equipment and supplies the municipal police board considers necessary for his or her duties and functions, and</p> <p>(c) paid the remuneration the municipal police board determines.</p>

Attachment 1: Jurisdictional Overview of Police Board Legislation

		<p>(4) In consultation with the chief constable, the municipal police board must determine the priorities, goals and objectives of the municipal police department.</p> <p>(5) The chief constable must report to the municipal police board each year on the implementation of programs and strategies to achieve the priorities, goals and objectives.</p>
<p>Alberta</p>	<ul style="list-style-type: none"> <li>- Supervises the municipal police service</li> <li>- Allocates budget that Council sets</li> <li>- Has power to issue instructions to chief</li> <li>- Appoints the chief, then ratified by Council</li> <li>- Appoints police officer unless delegated to Chief</li> <li>- May set qualifications for being officer or chief</li> <li>- May terminate an officer for non-disciplinary reasons</li> <li>- Chief is accountable to the commission directly for operation of department, manner in which he/she carries out duties, finances of department, and reporting.</li> </ul>	<p><b>27(1)</b> A municipality that has assumed responsibility for establishing a municipal police service under section 4(2)(d) or (5)(c) shall establish and maintain an adequate and effective municipal police service under the general supervision of a municipal police commission.</p> <p><b>29 (3)</b> The council is responsible for establishing the total budget for the purposes of the police service, and the commission is responsible for allocating the funds provided for under the budget</p> <p><b>31(1)</b> Where a commission has been established, the commission shall, in the carrying out of its responsibilities, oversee the police service and for that purpose shall do the following:</p> <ul style="list-style-type: none"> <li>(a) allocate the funds that are provided by the council;</li> <li>(b) establish policies providing for efficient and effective policing;</li> <li>(c) issue instructions, as necessary, to the chief of police in respect of the policies referred to in clause (b);</li> <li>(d) ensure that sufficient persons are employed for the police service for the purposes of carrying out the functions of the police service.</li> </ul> <p>(2) Every police officer</p> <ul style="list-style-type: none"> <li>(a) is, after the establishment of a commission, subject to the jurisdiction of the commission, and</li> <li>(b) shall obey the directions of the commission.</li> </ul> <p>(3) Notwithstanding subsections (1) and (2), a commission shall not issue an instruction to a police officer other than to the chief of police.</p>

Attachment 1: Jurisdictional Overview of Police Board Legislation

		<p><b>34</b> To be eligible to be appointed as a police officer, other than a chief of police, a person must be a Canadian citizen or lawfully admitted to Canada for permanent residence and meet the other qualifications specified by the regulations and the commission.</p> <p><b>35</b> To be eligible to be appointed as a chief of police of a police service established under section 24 or 27, a person must be a Canadian citizen and meet the other qualifications specified by the regulations and the commission.</p> <p><b>36(1)</b> The commission shall, for a police service,</p> <ul style="list-style-type: none"><li>(a) appoint the chief of police, subject to subsection (1.1), and</li><li>(b) appoint police officers.</li></ul> <p>(1.1) The initial appointment of any individual as chief of police must be ratified by council.</p> <p>(2) Notwithstanding subsection (1), the commission may delegate the power to appoint police officers other than a chief of police to the chief of police.</p> <p><b>37 (2)</b> Notwithstanding the provisions of a collective agreement, the commission may terminate the services of a police officer for reasons other than disciplinary reasons.</p> <p><b>41 (3)</b> The chief of police is accountable to the commission for the following:</p> <ul style="list-style-type: none"><li>(a) the operation of the police service;</li><li>(b) the manner in which the chief of police carries out the responsibilities under subsection (1);</li><li>(c) the administration of the finances and operations of the police service in keeping with the yearly plan or any amendments to it that the commission may make;</li><li>(d) the reporting to the commission of any information concerning the activities of the police service that the commission may request, other</li></ul>
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		<p>than information concerning individual investigations or intelligence files;</p> <p>(e) the reporting to the commission of any complaint made against the police service or its members, the progress of any investigation or informal resolution process regarding the complaint, the reasons for any delays and the manner in which the complaint is resolved.</p> <p>(4) A commission shall not issue an instruction under section 31(1)(c) that is inconsistent with the duties and responsibilities conferred on the chief of police under this section.</p>
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<p>Saskatchewan</p>	<ul style="list-style-type: none"> <li>- Board is directly responsible for providing policing services</li> <li>- Also for providing general direction policy and priorities</li> <li>- May issue directives</li> <li>- Board of the employer of Chief and of officers and appoints the Chief directly</li> <li>- Deals with complaints from the public about policies and services</li> <li>- May relieve the Chief from duty or discipline him for failure to follow directive or other reasons</li> </ul>	<p><b>2(a)</b> “board” means, with respect to a municipality:</p> <ul style="list-style-type: none"> <li>(i) where the municipality has established a board of police commissioners pursuant to section 27, the board of police commissioners;</li> </ul> <p><b>26 (2)</b> Where a municipality establishes its own police service, the police service is to consist of:</p> <ul style="list-style-type: none"> <li>(a) a chief; and</li> <li>(b) any other personnel that the board considers necessary.</li> </ul> <p><b>27(1)</b> Unless the minister directs otherwise in writing, a municipality:</p> <ul style="list-style-type: none"> <li>(a) that has a population of 5,000 or more; or</li> <li>(b) that: <ul style="list-style-type: none"> <li>(i) has a population under 5,000; and</li> <li>(ii) has established a police service;</li> </ul> </li> </ul> <p>shall establish, by bylaw, a board of police commissioners.</p> <p><b>31(1)</b> Where a municipality has established a police service pursuant to section 26, the board is responsible:</p> <ul style="list-style-type: none"> <li>(a) for the delivery of policing services within the municipality; and</li> <li>(b) for: <ul style="list-style-type: none"> <li>(i) providing general direction, policy and priorities; and</li> <li>(ii) developing long-term plans;</li> </ul> </li> </ul> <p>for the police service.</p> <p><b>(2)</b> For the purposes of this Act and Part VI of The Saskatchewan Employment Act:</p> <ul style="list-style-type: none"> <li>(a) a board is deemed to be the employer of the personnel of the police service;</li> </ul>
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		<p>and</p> <p>(b) the chief and any person holding the position of deputy chief of police are deemed to be agents of the employer.</p> <p>(3) Subject to subsection (4), a board may make directives that are not inconsistent with this Act or the regulations, setting general policy for the governing and administration of the police service.</p> <p>(4) No directive made pursuant to subsection (3) is a directive of the board unless it is supported by a majority of the board members.</p> <p><b>35(1)</b> Where a police service is established pursuant to section 24.1 or 26, the board shall appoint a chief of police.</p> <p>(2) Subject to the general direction of the board and to this Act and the regulations, the chief is responsible for:</p> <ul style="list-style-type: none"><li>(a) the management, administration and operation of the police service;</li><li>(b) the maintenance of law and order in the municipality; and</li><li>(c) the maintenance of discipline within the police service.</li></ul> <p><b>44(1)</b> Where a public complaint concerns the policies of or the services provided by a police service, the chief shall immediately on receipt of the public complaint forward the public complaint to the board to be dealt with as the board considers appropriate.</p> <p>(2) On the disposition of a matter by the board pursuant to subsection (1), the board, within 15 days after the disposition, shall give notice in writing to the complainant as to the disposition of the matter that is the subject of the complaint.</p> <p><b>53(2)</b> A board may order a chief to be relieved from duty with pay for up to 30 days where, in the opinion of the board:</p> <ul style="list-style-type: none"><li>(a) there are reasonable grounds to believe that the chief has contravened a provision of:<ul style="list-style-type: none"><li>(i) this Act, the regulations or a board directive made pursuant to section 31; or</li></ul></li></ul>
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		<p>(ii) any other Act or an Act of the Parliament of Canada; or</p> <p>(b) relieving the chief from duty is necessary to maintain:</p> <ul style="list-style-type: none"><li>(i) public confidence in the police service; or</li><li>(ii) the security of police operations.</li></ul>
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<p>Manitoba</p>	<ul style="list-style-type: none"> <li>- Police service acts under direction and supervision of the Board</li> <li>- Board's purpose is civilian governance and administrative direction and organization</li> <li>- Appoints the Chief, who is accountable to the Board</li> <li>- Board may appoint officers or delegate power to the Chief</li> <li>- Responsible for setting priorities and objectives for police service, establishing policies, directing the chief, act as community liaison</li> <li>- Limited from involvement in operational side</li> </ul>	<p><b>21</b> A municipality's police board must appoint a person with prescribed qualifications to serve as the chief of the municipal police service.</p> <p><b>22 (2)</b> The police chief is accountable to the police board for</p> <ul style="list-style-type: none"> <li>(a) carrying out the responsibilities set out in subsection (1); and</li> <li>(b) managing, administering and operating the police service in accordance with the priorities, objectives and policies established by the police board under subsection 28(1).</li> </ul> <p><b>23 (1)</b> The police board may appoint eligible persons to serve as police officers in the police service, or it may delegate that power to the police chief.</p> <p><b>26 (1)</b> Every municipality that operates a police service must establish and maintain a police board in accordance with this Division.</p> <p>(2) A municipal police service must operate under the general direction and supervision of the municipality's police board in accordance with this Part.</p> <p><b>27</b> The purpose of a police board is to provide</p> <ul style="list-style-type: none"> <li>(a) civilian governance respecting the enforcement of law, the maintenance of the public peace and the prevention of crime in the municipality; and</li> <li>(b) the administrative direction and organization required to provide an adequate and effective police service in the municipality.</li> </ul> <p><b>28 (1)</b> The police board must</p> <ul style="list-style-type: none"> <li>(a) after consulting with the police chief, establish priorities and objectives for the police service;</li> <li>(b) establish policies for the effective management of the police service;</li> <li>(c) direct the police chief and monitor his or her performance; and</li> </ul>
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		<p>(d) perform any other prescribed duties.</p> <p>(2) Without limiting the generality of subsection (1), the police board must</p> <p>(a) ensure that the police chief establishes programs and strategies to implement the priorities and objectives established by the board for the police service;</p> <p>(b) ensure that community needs and values are reflected in the policing priorities, objectives, programs and strategies;</p> <p>(c) ensure that police services are delivered in a manner consistent with community needs, values and expectations; and</p> <p>(d) act as a liaison between the community and the police service.</p> <p>(3) The police board may give orders and directions to the police chief, but not to other police officers. No individual member of the board may give an order or direction to any police officer.</p> <p>(4) The police board must not give orders or directions on specific operational decisions, individual investigations or the day-to-day operation of the police service.</p> <p>(5) With the exception of the police chief, the police board has no role with respect to the discipline or personal conduct of any police officer.</p> <p>(6) The police board is not entitled to any information about individual investigations or intelligence files.</p>
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Attachment 1: Jurisdictional Overview of Police Board Legislation

<p>Ontario</p>	<ul style="list-style-type: none"> <li>- Board directly provides police services</li> <li>- Appoints members of the force, sets objectives, priorities, policies</li> <li>- Appoints the Chief of Police</li> <li>- Can direct the Chief of Police</li> <li>- Limited from involvement in operation side</li> </ul>	<p><b>27.</b> (1) There shall be a police services board or, as provided in subsection 5 (3), one or more police services boards, for every municipality that maintains a police force.</p> <p><b>31.</b> (1) A board is responsible for the provision of adequate and effective police services in the municipality and shall,</p> <ul style="list-style-type: none"> <li>(a) appoint the members of the municipal police force;</li> <li>(b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;</li> <li>(c) establish policies for the effective management of the police force;</li> <li>(d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;</li> <li>(e) direct the chief of police and monitor his or her performance;</li> <li>(f) establish policies respecting the disclosure by chiefs of police of personal information about individuals;</li> <li>(g) receive regular reports from the chief of police on disclosures and decisions made under section 49 (secondary activities);</li> <li>(h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;</li> <li>(i) establish guidelines for dealing with complaints under Part V, subject to subsection (1.1);</li> <li>(j) review the chief of police's administration of the complaints system under Part V and receive regular reports from the chief of police on his or her administration of the complaints system.</li> </ul> <p>(1.1) Guidelines in respect of complaints made by members of the public under Part V shall not be established by the board unless they are consistent with,</p>
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		<p>(a) any procedural rules or guidelines for the handling of public complaints established under clause 56 (1) (b) by the Independent Police Review Director; and</p> <p>(b) any procedure, condition or requirement made by regulation under paragraph 26.4 of subsection 135 (1). 2007, c. 5, s. 9 (2).</p> <p>(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.</p> <p>(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.</p> <p>(4) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.</p> <p>(5) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.</p> <p>(6) The board may, by by-law, make rules for the effective management of the police force.</p> <p>(7) The board may establish guidelines consistent with section 49 for disclosing secondary activities and for deciding whether to permit such activities.</p> <p><b>53.</b> (1) With the Solicitor General's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient.</p>
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Attachment 1: Jurisdictional Overview of Police Board Legislation

Quebec	- No Police Boards.	
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Attachment 1: Jurisdictional Overview of Police Board Legislation

<p>New Brunswick</p>	<ul style="list-style-type: none"> <li>- Board responsible for providing police force</li> <li>- Is employer of members</li> <li>- Council decides whether or not to appoint Board – may act directly if chooses</li> <li>- Establishes priorities, objectives and policies</li> <li>- May directly issue instructions to Chief</li> <li>- Is responsible for appointing Chief and members</li> </ul>	<p>“civic authority” means a board, a joint board or, where a board or joint board has not been established, a council, and includes any person designated by the civic authority to act on the civic authority’s behalf;(autorité municipale)</p> <p>3.1(2)A civic authority</p> <p>(a) shall, in consultation with the chief of police, establish the priorities and objectives of the police force,</p> <p>(b) shall establish policies for the police force in accordance with this Act and the regulations,</p> <p>(c) shall issue instructions as necessary to the chief of police but not to any other member of the police force and the instructions issued shall not be in respect to specific operational decisions or not in respect of the day-to-day operations of the police force, and</p> <p>(d) shall ensure that the chief of police carries out his or her duties in accordance with this Act and the regulations and with the priorities, objectives and policies established by the civic authority under this Act.</p> <p>3.1(3)A chief of police</p> <p>(a) shall lead the police force and oversee the operation of the police force in accordance with this Act and the regulations and the priorities, objectives and policies established by the civic authority under this Act,</p> <p>(b) shall have all of the powers necessary to manage and direct the police force so as to fulfill the responsibility of the civic authority to provide and maintain an adequate police force in the municipality or the region, as the case may be, in accordance with this Act and the regulations,</p> <p>(c) shall apply professional police procedures in the day-to-day operations of the police force,</p> <p>(d) shall ensure that the members of the police force carry out their duties in accordance with this Act and the regulations,</p>
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		<p>(e) shall report directly to the civic authority in respect of the operation of the police force and the manner in which the chief of police carries out his or her responsibilities under this Act and the regulations, and</p> <p>(f) shall obey the lawful instructions of the civic authority.</p> <p>7(1) Subject to subsection (1.01) and section 8, there shall be a board of police commissioners for each municipality that by resolution approves the establishment of such a board.</p> <p>(1.1) Notwithstanding paragraph 7(3)(a) or 190.08(1)(a) of the Municipalities Act, the board shall</p> <ul style="list-style-type: none"><li>(a) provide and maintain an adequate police force within the municipality and comply with the provisions of any collective agreement to which it is a party, and</li><li>(b) be deemed to be the employer of the members of the police force and persons employed to serve a police force in matters relating to labour relations.</li></ul> <p>(11) A board, on behalf of the municipality for which it is established and within its budget, may acquire, deal with and dispose of personal property, may enter into contracts and may sue and be sued, and the municipality for which the board is established is liable for the debts of the board arising out of any matter coming within the scope of this Act.</p> <p>(13) A board may make rules consistent with this Act and the regulations for the purpose of performing its responsibilities under this Act and shall file each rule made with the Commission.</p> <p>10(1) Where a board has been established for a municipality, the board, subject to its budget,</p> <ul style="list-style-type: none"><li>(a) shall appoint a chief of police,</li><li>(b) shall provide the police force with such accommodation, arms, equipment, clothing and other items as the board considers necessary, and</li></ul>
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Attachment 1: Jurisdictional Overview of Police Board Legislation

		(c) shall appoint police officers to the police force from candidates recommended by the chief of police pursuant to paragraph (2)(a) or may by resolution authorize the chief of police to appoint police officers.
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Attachment 1: Jurisdictional Overview of Police Board Legislation

PEI	- No police boards	
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Attachment 1: Jurisdictional Overview of Police Board Legislation

<p>Nova Scotia</p>	<ul style="list-style-type: none"> <li>- Chief appointed by Council</li> <li>- Council is responsible for providing policing</li> <li>- Board may give “advice or direction” to the Chief on anything within its jurisdiction</li> <li>- Role is to provide civilian governance on behalf of Council and administrative direction, organization and policy</li> <li>- Limited from involvement in operational side</li> </ul>	<p><b>38</b> (1) The council shall appoint a person to be the chief officer of a municipal police department.</p> <p>(2) For the purpose of selecting and hiring a chief officer, the council shall follow and apply the selection process and qualifications established by the regulations.</p> <p><b>52</b> On behalf of the board, the board chair or the chair’s delegate may give advice or direction, in writing, to the chief officer on any matter within the jurisdiction of the board under this Act, but not to other members of the police department and, for greater certainty, no other member of the board shall give advice or direction to a member of the police department.</p> <p><b>55</b> (1) The function of a board is to provide</p> <p>(a) civilian governance on behalf of the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality; and</p> <p>(b) the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department, but the board shall not exercise jurisdiction relating to</p> <p>(c) complaints, discipline or personnel conduct except in respect of the chief officer of the municipal police department;</p> <p>(d) a specific prosecution or investigation; or</p> <p>(e) the actual day-to-day direction of the police department.</p> <p>(2) With the approval of the Minister, the council, by by-law, may prescribe</p> <p>(a) the additional or more specific roles and responsibilities of a board; and</p> <p>(b) the rules and regulations governing proceedings of a board, and the board has sole jurisdiction over the matters so delegated to it.</p> <p>(3) Without limiting the generality of subsection (1), a board shall</p>
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		<p>(a) determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community;</p> <p>(b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;</p> <p>(c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;</p> <p>(d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;</p> <p>(e) act as a conduit between the community and the police service providers;</p> <p>(f) recommend policies, administrative and organizational direction for the effective management of the police department;</p> <p>(g) review with the chief officer information provided by the chief officer respecting complaints and internal discipline;</p> <p>(h) ensure a strategic plan and business plan is in place;</p> <p>and</p> <p>(i) ensure the department is managed by the chief officer according to best practices and operates effectively and efficiently.</p>
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Newfoundland	- RCMP only	
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