



**The following *draft* Minutes of the special meeting of the Toronto Police Services Board held on JUNE 16, 2004 are subject to adoption at its next regularly scheduled meeting.**

**MINUTES OF THE SPECIAL PUBLIC MEETING** of the Toronto Police Services Board held on **JUNE 16, 2004** at 6:00 PM in Committee Room 1, Toronto City Hall, Toronto, Ontario.

**PRESENT:**

**Mr. A. Milliken Heisey, Q.C.**, Chair  
**Ms. Pam McConnell**, Councillor & Vice Chair  
**Mr. John Filion**, Councillor & Member  
**Dr. Benson Lau**, Member  
**The Honourable Hugh Locke, Q.C.**, Member  
**Mr. Case Ootes**, Councillor & Member

**ALSO PRESENT:**

**Mr. Julian Fantino**, Chief of Police  
**Mr. Albert Cohen**, City of Toronto - Legal Services Division  
**Ms. Deirdre Williams**, Board Administrator

**THIS IS AN EXTRACT FROM THE MINUTES OF THE SPECIAL PUBLIC MEETING  
OF THE TORONTO POLICE SERVICES BOARD HELD ON JUNE 16, 2004**

**#P178. REVIEW OF THE POLICE COMPLAINTS PROCESS**

The Board met to receive deputations from members of the public and community groups regarding the Board's *Models for Police Complaints Review: A Discussion Paper*. A copy of the discussion paper is appended to this Minute for information.

The following persons were in attendance and made deputations to the Board:

- Inspector Bob Genno \*  
Vice-President, Toronto Police Service – Senior Officers' Organization
- Ms. Estella Muyinda & Ms. Margaret Parsons  
African Canadian Legal Clinic
- Mr. A. Alan Borovoy \*  
General Counsel, Canadian Civil Liberties Association
- Mr. Kurt Wildman \*
- Mr. Kevin Lee \*  
Executive Director, Scadding Court Community Centre
- Ms. Zanana Akande \*  
President, Urban Alliance on Race Relations
- Mr. Barry Rieder  
Jane-Finch Community Ministry
- Mr. David Bayliss \*  
Toronto Director, Criminal Lawyers' Association
- Mr. Bill Turner
- Dr. Karen Mock \*  
Canadian Race Relations Foundation
- Ms. Dyanoosh Youssefi, Mr. Mark Wainberg & Mr. Ken Stuebing \*  
The Law Union of Ontario

cont...d

- Ms. Vickie McPhee  
Rights Watch
- Mr. Oliver Zielke
- Ms. Angela Wilson  
Independent Education and Human Rights/Advocacy
- Mr. Samuel Wilkes  
Toronto Residents in Partnership
- Ms. Shannon Slaterly  
Parkdale Community Legal Clinic
- Mr. Michael Kerr  
National Anti-Racism Council
- Mr. Winston LaRose  
Concerned Citizens of Jane-Finch
- Mr. Danny Anckle  
Director of Family Services  
Central Neighbourhood House

\* written submission also provided; copies on file in the Board office.

**The Board approved the following Motions:**

1. **THAT the deputations and written submissions be received and referred to Chief Fantino for review and that he provide a report to the Board with his comments following the review along with his views as to an appropriate alternative complaints system (previously requested in Board Minute No. P34/04);**
2. **THAT, given that the Honourable Patrick LeSage, Q.C., has been appointed by the province to conduct a review of the complaints system and has invited the Board to provide a submission to him as part of his review, and given that the Board has been advised that its submission must be provided to Mr. LeSage by August 16, 2004, the Board request Chief Fantino to submit the report noted in Motion No. 1 by July 12, 2004;**

cont...d

- 3. THAT, following receipt of Chief Fantino's report noted above, the Chair prepare a final report, taking into consideration the comments contained in the Chief's report, and any other views on changes to the complaints system, including those made by the deputants at the June 16, 2004 special meeting, and that this report be provided to the Board for approval at its July 29, 2004 meeting and then submitted to Mr. LeSage; and**
- 4. THAT copies of the Board's final report noted in Motion No. 3 be provided to the deputants who attended the June 16, 2004 meeting so that they may have a further opportunity to make deputations, if necessary, at the July 29, 2004 meeting.**



**TORONTO POLICE SERVICES BOARD**

**Models for Police Complaints Review: A Discussion Paper**

*March 2004*

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Basis for Discussion Paper and Public Consultations:

The Toronto Police Services Board, at its February 26, 2004 meeting, approved, among others, the following motions:

THAT Board staff re-format the [report on the Complaints System] into a discussion paper containing the “Principles of an Effective Complaints System” and circulate it to interested stakeholders, including the Toronto Police Association;

THAT the Board schedule a special evening meeting in April to receive deputations on the discussion paper; and

THAT Chief Fantino be requested to provide his views as to an appropriate alternative complaints system following the April meeting.

Background to the Complaints Report:

At its meeting on January 6, 2004, the Board approved the following recommendations (Board Minute No. P4/04 refers):

- |                    |   |
|--------------------|---|
| Recommendation (1) | Board staff prepare a report on alternative models to the current complaints system for the Board’s February 26, 2004 meeting; and  |
| Recommendation (2) | the Board, after receiving the report from Board staff noted in Recommendation (1), invite the Chief of Police and interested stakeholders to provide their views as to an appropriate alternative complaints system. |

As a way of background, a history of the complaints system in Ontario, as well as a summary of the current complaints system has been prepared. This report is appended at Appendix A. The report as requested in Recommendation (1) on alternative models to the current complaints system is appended at Appendix B. Models include those in use in other cities and provinces in Canada, the model used by the RCMP and models used in other countries (England, Australia and South Africa).

As the Board has asked Board staff to prepare a report on alternative models to the current complaints system, it is important first to provide the background of the Board’s past actions with respect to reviewing the complaints system.

## History of Board's Review of Complaints System:

### *City Audit*

In November 1996, the Board adopted a recommendation that called for an annual audit of the discipline and public complaints process. The Board subsequently requested the City Auditor to conduct a review of the administration of the complaints system. On September 10, 2002, the Board received from the City Auditor a report of the Performance Audit of the Public Complaints Process of the Toronto Police Service. The report included 27 recommendations; some were directed to the Board, others to the Chief. At its meeting on November 21, 2002, the Board, as part of one of its motions, requested the then-Ministry of Public Safety and Security to review submissions by deputants "with the intention of amending the present complaints process to create a more independent civilian-oriented complaints process." (Board Minute No. P292/02 refers.)

### *Response from Provincial Government*

Following the meeting, correspondence with respect to the issue was sent to the then-Minister of Public Safety and Security. A response, dated May 8, 2003 was received in which the then-Minister indicated that "[t]he current complaints system is a vast improvement over the previous process" but that he has taken steps to make the public complaints system "even more independent and accountable."

The new provincial government has committed to reviewing the complaints process, as reiterated in the media repeatedly in recent weeks. An article in the *Toronto Star* dated January 16, 2004 quoted Attorney-General Michael Bryant as indicating that the government would soon be passing new legislation to change the current complaints system.

### *Police Services Act Amendments Working Group*

The Board has also considered changes to the complaints system as part of other reviews and initiatives. A Working Group, comprised of Board staff and Service members, is currently reviewing the *Police Services Act* and its Regulations and drafting proposed amendments to this legislation. These *Police Service Act* amendments include changes to the current complaints system (contained in Part V of the *Act*) and will be presented to the provincial government.

### *Race Relations Joint Working Group*

In addition, in November 2002, the Board created a Race Relations Joint Working Group (JWG) consisting of Board members, Board staff and Service members. The mandate of the JWG was to continue a comprehensive review of the race relations policies, practices and procedures of the Service, originally ordered by the Chief after the *Toronto Star* published a series of articles containing allegations of racial profiling, or racially biased policing, by police officers.

In its consideration of its mandate, the JWG addressed issues and concerns surrounding the current complaints system. Access to and awareness of the complaints system by the public is a theme that appeared frequently in comments by members of the community. Toronto City Council, several groups and individuals from the community and deputants to the Board all indicated concerns with the current process. In light of this, the final report of the JWG will likely include recommendations for changes to the current complaints system.

#### Principles of an Effective Complaints System:

In analyzing alternative models to the complaints system, the Board deemed it useful to first articulate those principles that the Board views as the hallmarks of a successful system. Board staff reviewed complaint system models in use in other jurisdictions and drafted the list below. At its February 26, 2004 meeting, the Board adopted the following list as representative of these fundamental principles:

- An open and accessible system that is accountable to the public
- Thorough and comprehensive investigations
- The use of highly trained investigators
- Public awareness of the availability of the system and how the process operates
- Public confidence in the system
- A system that is fair and appears to be fair to both complainants and to the police
- Investigations completed within a timely manner and within prescribed timelines
- Complaints dealt with consistently in accordance with uniform principles
- Mechanisms to deal with a multiplicity of proceedings arising from the same incident
- Avenues for review and appeal of decisions

In addition, the report added the Chair's personal observation that there is a need to streamline the complaints system in terms of dealing with the variety of proceedings that may arise out of a single incident. This is an issue for both complainants and police officers alike. Some of the alternative models described in Appendix B directly address this important concern.

As the Board has adopted the above principles, input on the operationalization of these principles in alternative models to the complaints system is now being solicited from both the Chief and from the community. As discussed above, at the Board's request, alternative models in use in other jurisdictions are described in Appendix B.

## Appendix A The Complaints System in Ontario

### History of the Complaints System in Ontario:

In 1981, the provincial government created a pilot project entitled the “Metropolitan Toronto Police Public Complaints Test Project”. Pursuant to the *Metropolitan Toronto Police Complaints Act, 1981*, the Office of the Public Complaints Commissioner was created. This Office was given jurisdiction only over the sworn officers of the Metropolitan Toronto Police Force. At that time, Toronto was the only police force in Ontario that was subject to legislation governing the processing and investigation of public complaints about the police.

The project legislation provided that, in most circumstances, police would retain initial responsibility for the investigation of public complaints. The legislation also required the Toronto force to set up a Public Complaints Investigation Bureau (PCIB) which used regular reports to update parties on the status of investigations. These reports were also sent to the Public Complaints Commissioner (PCC) who could monitor police progress and maintain public confidence in the system. When an investigation was completed, the PCIB sent a final report to the parties, the PCC and the Chief who could then decide either that the matter required no further action or that discipline of an officer was warranted.

The complainant had a right of appeal to the PCC. After conducting a review, the PCC could decide that no further action was required or could, alternatively, order a hearing by an independent civilian board of inquiry, the composition of which was variable depending on the matter. Where the board found misconduct, it could impose a penalty – ranging from a reprimand to dismissal from the force – directly on the officer. A party to a hearing could appeal a decision to Divisional Court.

In addition, the legislation gave the PCC the power to make recommendations with respect to the practices or procedures of the force, or any law affecting the resolution or prevention of public complaints.

The Office of the Public Complaints Commissioner was made permanent three years later, pursuant to the *Metropolitan Toronto Police Complaints Act, 1984* and for the next six years was Ontario’s sole civilian oversight body.

### *Police Services Act, 1990*

The *Police Services Act, 1990* (the Act) was proclaimed in force on December 31, 1990. Part VI of the Act repealed the former *Metropolitan Toronto Police Complaints Act, 1984* and, instead, established a province-wide complaints system. The legislation expanded the jurisdiction of the newly-named Office of the Police Complaints Commissioner to cover all municipal and regional forces in the province including the Ontario Provincial Police (O.P.P.). This body, which reported to the Attorney-General, was an independent civilian agency with the power to investigate public complaints against the police and to hold disciplinary hearings.

The *Act* required all police forces in Ontario to form a Public Complaints Investigation Bureau. Provisions in the legislation provided that the Commissioner, himself or herself, had the discretion to lodge a complaint to initiate the process or to review the decision of a Chief of Police on a complaint.

The legislation also provided for the creation of a provincial tribunal to be headed by a full-time Chair with a permanent staff. Provisions for hearing panels were also included in the legislation.

### Changes to the Complaints System Under Bill 105

The *Police Services Amendment Act, 1995* (Bill 105) came into force on November 27, 1997 and made significant changes to the complaints system with the intention of simplifying and streamlining the process. Changes resulted in the merger of the internal discipline process and the public complaints process. The new system encouraged informal resolution, which is available throughout the process. The position and office of the PCC were terminated and much of its authority was transferred to the Ontario Civilian Commission on Police Services (OCCPS), an independent civilian agency that reports to the Minister of Community Safety and Correctional Services and oversees the handling of the public complaints system. All police services and police services boards in the province are accountable to the public through OCCPS.

### The Current Complaints System:

The administration of public complaints is governed by Part V of the *Police Services Act*. It regulates the complaints process by defining what constitutes a complaint, who can make a complaint and how the complaint should be handled. In addition, Part V describes the remedial and punitive powers of both the Chief and the Board.

Under the legislation, the Chief is responsible for administering complaints concerning the conduct of police officers as well as complaints related to the policies of or services provided by the Service. The Board is responsible for establishing policy and guidelines for the effective management of the complaints process and for reviewing the Chief's administration of the process.

### *Processing of Complaints*

Initially, the Chief must determine if the complaint concerns the policies of or services provided by the police service or the conduct of an officer. The complaint must be in writing and must be signed by the complainant. Third party or anonymous complaints are not investigated under this system. The Chief may decide not to deal with any complaint if the complaint is made more than six months after which the facts on which it is based have occurred. In addition, the Chief may decide not to deal with any complaint that the Chief considers to be "frivolous or vexatious or made in bad faith." Lastly, the Chief may decide not to deal with the complaint if the complainant is not "directly affected" by the complaint.

The Chief must determine within 30 days as to how a complaint is to proceed. If the Chief decides that a complaint is unsubstantiated or that misconduct occurred but was not of a serious nature, the complainant may request a review by OCCPS, which may uphold the Chief's decision, refer it back to the Chief for further investigation or assign it to another police service for investigation. In addition, OCCPS may, at any stage of the complaints process, act on its own initiative and direct the Chief to process the complaint or assign the complaint to another police service.

### *Policy or Service Complaints*

The Chief may classify a complaint as relating to the policies of or services provided by a police service, rather than officer conduct. The Chief will notify the complainant in writing of the classification and will further notify the complainant that he or she has 30 days to request OCCPS to review the classification. If the complainant disagrees with the decision after an investigation into a policy or service complaint, the complainant may request the Board to review it.

### *Conduct Complaints*

If the complaint concerns officer conduct, the Chief will ensure that the complaint is investigated and may ask another police service to carry out the investigation. OCCPS may also direct that another police service carry out the investigation. After the investigative report is completed, the Chief may

- (i) Settle the matter through informal resolution if the misconduct or unsatisfactory work performance of the officer was not of a serious nature;
- (ii) Find that the matter is unsubstantiated;
- (iii) Find the officer guilty of misconduct and impose a penalty without a formal hearing if the misconduct is not serious. If the officer does not accept the proposed penalty, a police disciplinary hearing is held; or
- (iv) Decide the complaint should be heard by a police disciplinary hearing.

The Chief must hold a disciplinary hearing if the officer's actions are believed to constitute serious misconduct or unsatisfactory work performance.

### *Board's Role in Delay Applications for Conduct Complaints*

The Board may be asked to determine whether a notice of hearing shall be served on an officer, despite six months having elapsed since the facts on which a complaint is based having first come to the attention of the Chief or the Board.

### *Off-Duty Conduct Complaints*

A complaint may be filed about the conduct of an off-duty police officer. However, there must be a connection between the conduct and either the duties of a police officer or the reputation of the police service.

### *Withdrawal of Complaints*

A complainant may withdraw an allegation in any time, in writing. However, the Chief may continue to deal with the complaint if it is felt that the allegation requires further action.

### *Complaints Against Chief or Deputy Chief*

The Board has the responsibility under the *Act* to review every complaint made about the conduct of the Chief or of a Deputy Chief. The Board may decide not to deal with the complaint if it considers the complaint to be frivolous, vexatious or made in bad faith. The Board may also decide not to deal with the complaint if it was made six months after the facts on which it was based occurred or if the complainant was not directly affected by the complaint. In all cases, the complainant may appeal the Board's decision to OCCPS.

If after the review, the Board is of the opinion that the Chief or Deputy Chief's conduct may constitute an offence, misconduct or unsatisfactory work performance, the Board is required to ask OCCPS to have the complaint investigated by another police service. If another police services is of the opinion that the conduct may constitute misconduct or unsatisfactory work performance, the Board is required to hold a hearing into the matter. The Board may also choose to resolve the matter through informal resolution if it is of the opinion that the conduct is not of a serious nature.

### *Complaints Against Board Members*

Under the *Act* and its Regulations, OCCPS may investigate, inquire into and report on the conduct or performance of a Board member. After conducting its investigation, OCCPS may hold a hearing and if it is decided that a Board member is guilty of misconduct or is not performing or is incapable of performing his or her duties in a satisfactory manner, OCCPS may remove or suspend the Board member.

### *Ontario Civilian Commission on Police Services*

As outlined above, a complainant may request OCCPS to review a decision. On review, OCCPS may confirm the Chief's decision, overturn the decision or return the file to the involved police service or another police service for further investigation. It should be noted that OCCPS has broad powers of disposition, including the right to call a public inquiry as well as a right to make recommendations concerning the nature and delivery of police services in a community. A decision made by OCCPS can be appealed by either party to Divisional Court.

Appendix B  
Alternative Models to the Current Complaints System

*England*

England has recently created a new complaints procedure that will come into effect in April 2004. Its cornerstone is a new Independent Police Complaints Commission (IPCC), replacing the Police Complaints Authority, which will cease to exist on March 31, 2004. The new Commission which has overall responsibility for the complaints system, is more independent and proactive than the previous body. The scope of the new complaints system covers all members (both uniform and civilian) irrespective of rank. The system deals with complaints of direction and control as well as conduct. Third-party complaints are permitted.

Under the new system, local resolutions replace the informal resolution process and are intended to be fast, efficient and conciliatory. Local resolutions are used for allegations which, if proved, would not lead to criminal or disciplinary proceedings. It is viewed as a no-consequence process; local resolution does not constitute a finding against the person complained against. The local resolution system is flexible and will be strengthened to provide a range of different approaches. Management resolution is similar to the current informal resolution process, restorative conference involves the parties agreeing to come together and speak openly and mediation is similar to the informal resolution process but with the addition of an independent mediator. The IPCC oversees the local resolution process and has the power to review how well it is functioning and to call for regular information from police services on use and outcomes of the process. In addition, complainants unsatisfied with the local resolution process have a right of appeal to the IPCC.

The IPCC may investigate or supervise cases falling into specified categories, whether or not a complaint has been made. It also has the discretion to investigate or supervise other complaints. The IPCC has its own independent investigation teams made up of both police and non-police members. Each IPCC investigation team will be overseen by an Independent Commissioner and managed on a day-to-day basis by an independent civilian investigation manager. Initially, it was planned that IPCC investigators would not be given full powers of a constable. Instead, the teams should be able to function by relying on the police powers of the officers in the teams combined with the obligations placed by statute on chief officers to provide access to police premises, documents and other material.

It was felt that, in order to function effectively as a body independent from the police, there is a need for a clear separation of powers and responsibilities. The Chief Officer or Police Authority is responsible for providing the complainant with a full written account of the outcome of a formal investigation into the complaint. Complainants have a right of appeal to the IPCC against the decision by the Chief Officer or Police Authority. In conducting an appeal, the IPCC undertakes a comprehensive review of the case and has broad disposition powers.

The IPCC has discretionary powers to present or observe cases it investigated or cases investigated by the police. In all disciplinary cases arising from a complaint, one of the three members of the panel must be independent from the police. The question of whether or not the disciplinary hearings should be public remains unsettled. When a civil action is commenced, an immediate review of all associated disciplinary and criminal issues is initiated, with investigation if necessary. The IPCC will be responsible for determining whether a case is submitted for consideration as a criminal prosecution.

The new England model for dealing with complaints aims to incorporate many of the fundamental principles of a complaints system as outlined above. In particular, provisions dealing with third-party complaints as well as those concerning multiple proceedings arising out of a single incident may prove useful in reviewing the complaints system in Ontario and possible alternatives.

### ***Victoria, Australia***

The Ombudsman Victoria is an independent and impartial investigator responsible to Parliament. It works completely independently of the police to investigate selected complaints against the police. In cases where the complaint is handled by the police, the Ombudsman acts independently of the police to monitor and review the management of the complaint.

The Office of Ombudsman was established in October 1973 under the *Ombudsman Act 1973* to inquire into or investigate complaints against Victorian government departments, public statutory authorities and the officers of local councils. As part of this mandate, the Ombudsman investigates complaints relating to police.

Complaints about police are lodged both with the Ombudsman and directly with the police. The *Ombudsman Act* requires that all complaints be made in writing. In some cases, where a person has difficulty in expressing his or her thoughts or has difficulty with the English language, the Ombudsman may accept a statement made by the complainant at an interview. Interpreter services are available. It is only under special circumstances that complaints more than twelve months old will be investigated by the Ombudsman.

The Ombudsman investigates some complaints, but refers most of them to the police for inquiry and investigation. The Ombudsman independently reviews the police investigation of all complaints and where necessary, investigates independently or requests the police to investigate further. In addition, the Ombudsman independently reviews all internally generated police internal investigations of serious police misconduct. To investigate police complaints independently, the Ombudsman has extensive investigative powers. The Ombudsman provides written responses to all complaints.

The Ombudsman model is an interesting one and is used in many parts of the world as part of civilian oversight. It is found on national, state and local levels.

## *South Africa*

Police complaints in South Africa fall under the jurisdiction of the Independent Complaints Directorate (ICD). The goals of the ICD are to develop public confidence in the efforts of the South African Police Service and the ICD to prevent inappropriate police conduct as well as to facilitate the criminal prosecution of officers who have engaged in criminal conduct.

The ICD considers complaints or allegations relating to:

1. Deaths of persons in police custody or deaths resulting from police action.
2. The involvement of police members in criminal activities such as robbery, theft and assault; and
3. Police conduct prohibited by the governing legislation.

While the ICD attempts to register, investigate and/or monitor all complaints regarding police conduct, due to the volume of complaints coupled with scarce resources, the ICD has adopted a strategy of classifying complaints based on the degree of seriousness of the alleged misconduct. Complaints alleging the death of a person in custody or as a result of police action, complaints referred to the ICD by the government or complaints alleging a serious criminal offence or which resulted in serious bodily injury are actively investigated by the ICD. Complaints in which an officer is alleged to have committed a less serious offence or act of misconduct in violation of police regulations are referred to the South African Police Service for investigation under ICD supervision and monitoring.

Complaints that should more properly be dealt with by another institution or department, or through another process, are not accepted by the ICP. Complaints more than a year old or complaints relating to incidents which occurred prior to the opening of the ICD on April 1, 1997 will also not be dealt with. The ICD will not deal with complaints that are frivolous or vexatious in nature or allegations in which a factual gap exists, rendering the likelihood of a successful conclusion unlikely. In addition, the ICD will not accept complaints relating to misconduct where the complainant has not yet taken all reasonable steps to request the appropriate level of South African Police Service management to remedy the problem.

It should be noted that the Ontario police complaints system has been used as a model to those developing the structure and strategy of the ICD in South Africa. Changes to policy and procedure as well as the communications plan of the ICD have come about as a result of consultation with representatives from Ontario.

In addition, South Africa has a National Public Protector (formerly the Ombudsman), which is independent of government or of any political party. The Public Protector is appointed by Parliament under the terms of the Constitution and has the power to investigate, recommend corrective action and issue reports. Those that can be investigated by the Public Protector include government at any level and any person performing a public function, such as a police officer.

## ***Calgary, Alberta***

Police complaints in Calgary are dealt with by the Calgary Police Commission (CPC), which is funded by the municipal government and reports both to City Council and to the Provincial Department of Justice.

Complaints may be lodged in person, or by telephone, but must ultimately be filed in writing with either the CPC or the police service itself. Complainants are provided with a brochure outlining the complaints process; this brochure is widely distributed in the community. In addition, community-based forums are held to conduct outreach with the community.

Complaints are investigated by the internal affairs branch of the Calgary Police Service; however, copies of all public complaints are forwarded to the CPC. The CPC does not have the authority to take over the conduct of a complaints investigation from the police service. However, the CPC monitors all investigations. There is no established time frame within which complaint investigations must be completed.

The Chief of Police makes the decisions arising from complaint investigations and has the power to dismiss the complaint or impose penalties on an officer, ranging from a warning through to dismissal from the service. Informal or alternative dispute resolution is permitted at the initial stages of a complaint investigation and is carried out using outside mediators. Legal or other representation is permitted throughout the process. The CPC has the authority to give policy direction to the Chief, who is required to accept these recommendations subject to the governing legislation.

Decisions made by the Chief may be appealed to the CPC or the Alberta Law Enforcement Review Board (see below). Appeals to the appellate bodies may result in the Chief's decision being overturned, varied or allowed to stand. Decisions of the CPC may be appealed to the Court of Queen's Bench. Decisions of the Law Enforcement Review Board may be appealed to the Court of Appeal on a question of law only and with leave of the Court.

The Calgary example is an interesting one as it includes civilian oversight of public complaints against the police at both a municipal and a provincial level (see below).

## ***Alberta***

The Law Enforcement Review Board (LERB) oversees all Alberta municipal police services, pursuant to the Alberta *Police Act* and operates separate and apart from police services. It provides an independent means of reviewing public complaints about police conduct. It also hears appeals by officers who have had action taken against them resulting from a complaint. The principal activity of the LERB is to hear appeals from citizens who have filed a complaint regarding the actions of a police officer and who are not satisfied with the disposition of their complaint.

The LERB conducts independent hearings where the complainant and the officer give evidence under oath. Either party may call witnesses. The complainant has the legal burden of proof on appeal, i.e., the person who filed the appeal must satisfy the LERB that the allegations of the complaint are established by sufficient evidence. All proceedings are open to the public, except in the case of exceptional circumstances. A written decision is provided by the Board. A decision of the LERB may be appealed to the Alberta Court of Appeal on a question of law only; leave of the Court is required.

### ***RCMP***

The Commission for Public Complaints Against the RCMP (“the Commission”) has jurisdiction over the sworn members of the Royal Canadian Mounted Police (RCMP). The Commission reports to Parliament through the Solicitor General and submits an annual report.

Complaints about the police can be lodged in person, in writing or by telephone. The complainant receives a brochure explaining the complaint and review process when a complaint is lodged. Complaints are then sent to the internal affairs section of the relevant RCMP detachment, which conducts an investigation into the complaint. There are no time frames for the completion of the investigation. The Chair of the Commission has the discretion to take over any complaint and to investigate it in the public interest.

If the complainant is satisfied with the results of the RCMP investigation, the complainant is notified that no further action will be taken and the case is closed. If the complainant is dissatisfied with the results of the complaint, the complainant may request a review of the case by the Chair of the Commission.

If the Commission does not agree with the results of the RCMP investigation, the Chair will send an interim report to the RCMP Commissioner. That interim report will provide an explanation of the facts of the case, the findings of the Commission and the recommendations for avoiding similar problems in the future. It will also indicate whether the Commission believes that the RCMP members should apologize for their actions in that specific case.

The Commissioner of the RCMP must respond to the interim report and clearly indicate whether he or she accepts or rejects the findings and the recommendations. In instances in which the Commissioner rejects the findings and the recommendations, the legislation requires him or her to provide detailed and compelling reasons for so doing. In cases in which the Commissioner accepts the recommendations, he or she must indicate how and when the recommendations will be implemented.

The Commission can make also recommendations to police practices or procedures through reports to the Solicitor General of Canada and the RCMP Commissioner although there is no requirement by either to accept the recommendations.

Review decisions made by the Chair of the Commission can be appealed to the Federal Court, Trial Division.

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OF THE TORONTO POLICE SERVICES BOARD HELD ON JUNE 16, 2004**

**#P179. ADJOURNMENT**

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A. Milliken Heisey, Q.C.  
Chair