

MANITOBA WILL BE MAKING CHANGES TO *THE PROVINCIAL POLICE ACT* IN 2009.
THE PROVINCE INVITES MANITOBANS TO PROVIDE THEIR COMMENTS TO HELP
SHAPE THE NEW LAW. CONSULTATION PAPERS HAVE BEEN PREPARED TO HELP
OBTAIN THE VIEWS OF MANITOBANS ON THE MAJOR ELEMENTS OF THE NEW ACT.

Background: How Incidents Involving Police are Investigated in Manitoba

Investigating police incidents and police officers

There is a broad range of incidents that police may be involved in and some form of investigation will be warranted. At the most serious end are incidents resulting in death or serious injury to a member of the public. In the middle are criminal allegations that are comparatively less serious, such as general assaults. At the other end of the range are non-criminal allegations; an example would be an allegation that a police officer has been rude or disrespectful. This document provides an overview of how the range of incidents are handled now, with an emphasis on the most serious matters.

1. Protocol for the investigation of serious criminal allegations against police officers

In 2004, Manitoba Justice prepared a protocol to govern how serious criminal allegations against police officers would be investigated and prosecuted when the evidence was sufficient.

Most police services in Manitoba have signed this protocol.

It applies to cases involving death or grave injury to a civilian following contact with a police officer. It also applies to other serious potential criminal offences or events involving a police officer where there is a public interest in activating it. In these cases, the following steps apply:

1. An agency must notify the deputy attorney general of Manitoba Justice about the incident and their intent to activate the protocol.
2. The agency must either request that an outside agency review the results of the investigation or assume conduct of the primary investigation.
3. The results of the investigation are reviewed by independent legal counsel appointed by Manitoba Justice.

The decision to request an external agency to assume conduct of the investigation or review the results of the investigation is the sole decision of the police chief or commanding officer of the police service involved.

2. Public safety co-operation protocol

The Royal Canadian Mounted Police (RCMP) in Manitoba have a signed protocol with the Assembly of Manitoba Chiefs, the Southern Chiefs' Organization

and the Manitoba Keewatinowi Okimakanak that allows civilians to monitor the investigation of police shootings and other serious incidents in First Nations. Under the protocol, the organizations and the RCMP mutually agree on who the community contact person can be. This civilian observer, or monitor, is provided with briefings as the investigation unfolds.

The lead RCMP case investigator can allow or deny a civilian monitor access to observe an interview.

Monitors must agree to a number of conditions including maintaining notes on their involvement and sharing them with investigators. They must be able to testify in any legal proceedings that may happen as a result of the investigation.

3. The Provincial Police Act equipment regulation

The *Provincial Police Act* has a regulation that requires completed investigations of police shootings where there has been an injury or death to be reviewed by a major police department not involved in the incident. This review must be submitted to the Manitoba attorney general's office by the police commission or municipal council involved. The province can require additional investigation, follow-up or clarification on the findings of the investigation.

4. The Fatality Inquiries Act

The *Fatality Inquiries Act* requires inquests to be held in almost all cases where someone dies in police custody, including cases where police have used fatal force. Inquests are conducted by a provincial court judge and can only focus on what happened and make recommendations to help prevent such incidents from happening again.

Between 2000 and 2008, the WPS had eight deaths by police use of force and seven in-custody deaths. The RCMP had one death by police use of force and seven in-custody deaths.

5. Independent prosecutors

Manitoba Justice's Prosecution Service has a policy to use independent legal counsel to review investigations of incidents involving police. Independent legal counsel determine whether criminal charges should be laid against a police officer and prosecute those cases.

6. Judicial inquiries

Police conduct, practices and investigations in Manitoba can also undergo external reviews by independent judicial inquiries or reviews ordered by the Manitoba government. While not always confined to reviewing the conduct of police officers, these inquiries have been launched to determine whether additional investigations should be pursued with respect to a particular officers and officials; the adequacy of certain police investigations; and to identify systemic problems and potential reforms to police practices. Examples of these inquiries include the Aboriginal Justice Inquiry, the Driskell Inquiry and the Taman Inquiry.

7. Police Professional Standards Units (PSU)

These units are responsible for the investigation of alleged criminal offences and breaches of internal regulations by police officers. Larger police services have established Professional Standards Units. Smaller police services may designate a specific officer to conduct these investigations or request that another police service conduct an investigation into a complaint against one of its officers.

8. The Law Enforcement Review Act and agency (LERA)

The Law Enforcement Review Agency has a legislated mandate to receive and respond to public complaints about non-criminal conduct by municipal and local police officers in Manitoba. A separate background document has been prepared on LERA and can be found at: www.gov.mb.ca/justice/policeact/pdf/lera.pdf

9. Commission of Public Complaints (CPC)

Complaints about the conduct of members of the Royal Canadian Mounted Police are dealt with by the federal Commission of Public Complaints. A separate background document has been prepared on the CPC and can be found at: www.gov.mb.ca/justice/policeact/pdf/complaints_against_rcmp.pdf