

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.

Consultation Paper: Municipal and First Nation Police Boards

Introduction

The Manitoba government believes that civilian oversight of policing should be a cornerstone of the new act. This paper focuses on police boards (the current act uses the term “police commission”) and the role they can play in providing civilian oversight and management of municipal and local police services.

This document also asks you questions about whether and how Manitoba’s new police act should deal with civilian oversight of local police services. Your answers to these questions will assist the government to prepare the new police act.

Police Boards in Manitoba

Currently, a police board may:

- provide a formal point of contact for the minister to consult and advise local bodies on policing issues
- hear appeals from police officers on disciplinary action taken against them by a police chief or deputy chief
- serve as the point of contact for labour bargaining by senior officers’ associations
- address liability provisions for acts or omissions by police chiefs and officers

Manitoba has 12 municipal and First Nation police services. Only the Dakota Ojibway Tribal Council has formed a specific police board. Municipalities use their city/town councils as the local police board. Some municipalities, such as the City of Winnipeg, have also set up different committees or boards to provide advice to city council on policing and public safety issues. This includes the City of Winnipeg’s police advisory board that was recently established.

Municipalities policed by the Royal Canadian Mounted Police (RCMP) are not required to have police boards because the RCMP is established under federal law and have agreements between provinces and the federal government. Provincial police acts cannot legislate how the RCMP operates or how it is controlled.

As an alternative, municipalities using the RCMP can establish advisory boards that work with local RCMP detachments on public safety priorities and emerging issues within their communities.

Other Provinces

Police acts in most other provinces require municipalities that have their own police services to create local police boards. British Columbia, Alberta, Saskatchewan and Nova Scotia, for example, have made it mandatory for municipal police boards to be established to oversee municipal police services.

Some provinces, like Alberta, specifically allow municipalities to establish advisory committees for the local RCMP. Regional advisory committees can also be established for groups of municipalities that receive police services from the RCMP. The powers and duties of these advisory committees are more limited than police boards which oversee municipal police services.

This table summarizes the police board provisions in other provinces’ police acts:

Municipal Police Boards in Other Provinces					
	British Columbia	Alberta	Saskatchewan	New Brunswick	Nova Scotia
Required?	Yes	Yes	Yes	No	Yes
Composition	Provincially weighted. Mayor is chair and deciding vote.	Municipally weighted with limits on number of councilors and municipal employees appointed.	Municipally weighted. Mayor and at least one councilor required to be members.	Municipally weighted. Mayor or mayoral designate must serve on board. Chief is a non-voting member.	Municipally weighted. 5 or 7 members including 2 or 3 council members.
Qualifications	No	No	No	No	No
Ineligibility	Councillors and those ineligible to run for council.	No	No	No	No
Code of conduct	No	No	No	No, but dismissal for cause	Yes
Functions	<ul style="list-style-type: none"> - Establish municipal police department - Appoint chief and officers - Priorities and objectives - Budget - Rules for: police administration, prevention of neglect and abuse by officers, efficiency - Study, investigate and report on policing 	<ul style="list-style-type: none"> - Appoint chief - Designate a Public Complaint Director - Budget and annual policy plan - Oversee police - Allocate funds - Establish policies to provide for efficient and effective policing - Ensure sufficient personnel - Conduct inquiries into the police service or the conduct of an officer 	<ul style="list-style-type: none"> - Appoint chief - Deliver policing services - General admin. policy - General direction, policy and priorities - Budget 	<ul style="list-style-type: none"> - Appoint chief and officers - Provide and maintain an adequate police force - Make rules for performing its functions 	<ul style="list-style-type: none"> - Advise chief - Budget - Civilian governance of policing - Admin. direction, organization and policy for an adequate, effective and efficient police department - Priorities and objectives - Oversee the chief - Act as a conduit between the community and police - Establish policy re: extra-duty and off-duty employment of officers

Issues and Questions

The provincial government believes that civilian input into policing is important in ensuring effective, efficient policing for all Manitobans. Civilian oversight is critical and must be properly exercised to prevent such things as interference in specific investigations.

The current police act establishes boards but has limited detail about what they should do. It sets no qualifications or restrictions on who can be appointed to these boards and does not refer to codes of conduct or rules on what members can and cannot do.

Your answers to questions on the following major issues will help the government prepare a new police act:

Police Boards: Mandatory or Discretionary?

Most provincial police acts contain provisions requiring municipalities to ensure adequate and effective policing by selecting from a range of legislated options. Where a municipality chooses to establish its own police service to meet these requirements, most provincial police acts make it law that municipalities have to establish local police boards to oversee their municipal police services.

Functions of Municipal Police Boards

Mandates of police boards vary across provinces, but generally deal with staffing (ex: hiring police chiefs), setting or administering budgets, approving police service policies and ensuring that the police service complies with the provincial police act. Police boards are explicitly, or through practice, prohibited from directing individual investigations or daily operations of a police service.

Some of the duties and functions of police boards are not overly controversial (ex: notice of meetings, number of meetings, appointment of board executive, etc.). However, other functions are particularly critical:

Hiring police chiefs and executives

Police boards in some provinces hire police chiefs and other members of the executive of a municipal police service.

Direction of chiefs of police by police boards

The extent to which municipal police boards can direct chiefs of police continues to be one of the most controversial aspects of this issue. The recent trend has been to specifically define the duties and powers of boards and chiefs so that boards can direct chiefs on policy matters, but not on operational matters.

Budgets

The police budget process varies widely across jurisdictions. Ontario and BC provide an arbitration mechanism to address disputes between boards and councils.

Alberta's act gives police boards the power to allocate police budgets set by municipal councils as part of the overall municipal budget. This process recognizes that elected municipal councillors are responsible for setting municipal budgets for a wide range of services, including policing.

Complaints

Some jurisdictions let municipal police boards be involved in monitoring some aspects of the police complaints process.

Ontario's act requires boards to establish guidelines for dealing with complaints and boards must review the police chief's administration of the complaint system.

Police Board Membership

Different provinces have different practices when it comes to which level of government appoints people to local police boards. Manitoba is considering whether the appointment process should be outlined in the new police act. Most provincial police acts allow municipalities to make most or all of the appointments to local police boards. Other jurisdictions allow the provincial government to make some appointments, with the majority made by the local municipality. For example, a municipality would appoint three or four people to its police board while the provincial government would appoint the remaining one or two positions on a police board.

Qualifications to sit on a Municipal Police Board

The qualifications and restrictions on who can be appointed to local police boards is a key issue. Qualifications generally include a requirement for residency in the municipality, good character and a clean criminal record check.

Some jurisdictions allow a mayor, city councillor and/or municipal employee to sit on police boards in either a full or limited capacity. Some provincial police acts prohibit certain people from being appointed to a board, such as current judges, criminal defence counsel or current and former police officers. Other provincial police acts have no restrictions on who can be appointed.

Questions

You can respond to the questions below by completing the online questionnaire at:
www.gov.mb.ca/justice/policeact/questionnaire.html

You can also download the questionnaire at:
www.gov.mb.ca/justice/policeact/pdf/questionnaire.pdf
and send it by mail, e-mail or fax.

Should Manitoba's new police act make it mandatory for municipalities to establish local police boards if they have or set up their own police service?

What role, if any, should municipal police boards have in:
– hiring police chiefs and executives?
– police service policy?
– police budgets?

What qualifications should be established for appointments to a municipal police board and what restrictions, if any, should be imposed on who can be appointed?