



AACP

Alberta Association of Chiefs of Police

AACP Alberta Police Act

Amendments Committee



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August 2017

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The Alberta Association of Chiefs of Police endorses the Alberta Police Act – Amendments Committee Recommendations as its official position paper on this matter.

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Mandate

- To review the policy objectives of the Alberta Police Act to ensure they are current and adequately address the needs of policing and the community;
- Identify areas of potential legislative improvement, which are required to meet those policy objectives;
- Consider the provisions of the police complaints system, and make recommendations to enhance the integrity, efficiency, and effectiveness of the system to ensure that it is meeting its objectives;
- To consider whether procedures within the Act effectively promote everyday ethics, professional responsibility and transparency in Alberta policing;
- To consider whether current provisions of the Act are sufficiently linked to modern human resource management practices to ensure the best outcomes for police officers and the public, and
- To review the adequacy of current oversight mechanisms.



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Discussion

At the fall 2016 Alberta Association of Chiefs of Police (AACP) meeting, an AACP committee was created to review the Alberta Police Act, and to recommend potential amendments. Since this time, the committee had met twice to review current issues with the legislation, and to identify potential reforms. In addition to reviewing how the Act is meeting its policy objectives, reforms undertaken in other jurisdictions were reviewed and discussed. As result, the committee has identified a number of opportunities and enhancements to current legislation which might assist in modernizing the Act. The committee recommends below a number of potential reforms that would benefit from broad-based community and stakeholder consultations, they would then assist the government in moving ahead with modernizing our governing legislation.

The Alberta Police Act establishes the authority, jurisdiction and legal duties of police officers in Alberta. It defines how police agencies are administered and how they are made accountable to the public. The Police Act and related regulations also provide for the oversight of police professional conduct, including disciplinary procedures and outcomes. However, the framework of the current Police Act in Alberta was largely put into place through legislative provisions introduced in 1990 and earlier. While the Government of Alberta has made incremental changes to the Act and supporting regulations since that time, the Act has not undergone a comprehensive review. Much has changed both within Alberta, and within policing since this time.

An area of significant focus of the current Police Act and related regulations is the professional conduct of police officers. The Act sets out how complaints may be made regarding the conduct of a police officer by the public or their employing police agency. It includes procedures outlining how such complaints are to be brought, investigated and adjudicated. More recent amendments allow for the independent investigation of serious incidents and complaints, with a focus on incidents which resulted in serious injury to, or the death of a person as the result of police actions.

However, the Police Act's general approach to police discipline has not been changed to reflect the current challenges of policing, nor does it promote current human resource management practices. Driving the need for reform, in part, is the archaic underpinnings of the Act's professional conduct provisions, which remain reflective of military court martial procedures imported into Canadian policing at least as far back as 1875.



Recommendations

The AACP subcommittee on Police Act amendments recommends that a comprehensive review of the Police Act is now required, including broad based community and stakeholder consultations. These consultations should include, but not limited to, the following topics:

1. Civilian Oversight of Police Professional Conduct

Public expectations continue to evolve regarding the civilian oversight of policing and the exercise of police powers, such as the power of arrest, and the police use of force. In order to continue to maintain public confidence, enhanced independence and transparency in the oversight of police professional conduct may be required.

Recommendations:

- Police Act review should include consideration of the viability and desirability of establishing an independent civilian led oversight body, responsible for the investigation and adjudication of all complaints regarding the professional conduct of police officers in Alberta;
- Discussion of Police Act reforms should include a review of the policy goals set out in the Act and whether they are clearly set out in the legislation. Importantly, discussion should include how our governing legislation may better promote police professional conduct and prevent unprofessional conduct. Proportionality, procedural fairness and timeliness within the complaint investigation and adjudication process should be important aspects of this debate.

2. Effective, Transparent and Accountable Criminal Investigations

Within the Canadian context, the legitimacy of police powers is derived not only from the law, but also through the consent and support of the public. Fundamental to the legitimacy of Alberta policing is adherence to Charter principles, including the rule of law and respect for fundamental freedoms and democratic principles. Public confidence in policing requires that police officers obey the law, and operate within it. Allegations of criminal misconduct by police officers must therefore not only be effectively investigated, but sufficient transparency and oversight of such investigations are required to continue to maintain a high level of confidence in the police.

Recommendation:

- Police Act amendment consultations should include an examination of whether all allegations of all police criminal misconduct should be investigated by an independent civilian led agency.

3. Public Complaint Process

There is considerable concern that current complaint investigation and adjudication processes are failing to meet their legislative objectives. Investigations are beset by cumbersome procedures, complexity and delay. Complaint resolution times commonly exceed one year. These same factors unnecessarily contribute to unsustainable costs in managing the conduct system, and more importantly, result in a loss of complainant, officer, and public satisfaction and confidence. Delay also results in lost opportunities to prevent future unprofessional conduct.

Recommendation:

Consultations with the public and across the policing sector should:

- Examine opportunities for new streamlined, simplified, fair and timely complaint resolution procedures, including mandatory early resolution, mediation and conciliation;
- Discuss what information is required to be published to the public, in order to provide insight into complaint resolution times, the outcomes of complaint investigations, and common themes and issues that arise during the investigation and adjudication of complaints.
- Include discussions concerning the investigative powers and authorities required to equip investigators to meet their mandate, such as the duty of police officers to cooperate, updated procedures for obtaining officer statements, and procedures for accessing relevant documents and other relevant evidence.
- Discussions regarding process changes should consider the role of a civilian led oversight body within the overall public complaint process.

4. Fair Complaint Adjudications

In some cases, officers subject of complaint adjudications at a hearing have challenged the independence of the process by raising the issue of institutional bias. Currently, the Chief of Police of the employing police agency appoints senior officers or others to both present the case, and to adjudicate it.

Recommendation:

- Procedures for the appointment of presenting and presiding officers for hearings should be examined, including the potential for presenting and presiding officers to be appointed by Minister of Justice and Solicitor General.
- Discussions regarding process changes should reflect a civilian led oversight body within the complaint adjudication process.

5. Indigenous Peoples and Policing

Since the current structure of the Alberta Police Act was set out, we have seen the development of new and growing Alberta First Nations police services. These services are



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experiencing unique challenges in relation to funding, training, and administrative support. Additionally, historical inequities and institutional racism have impacted the level of trust that aboriginal persons have in the police, both within First Nations communities and within urban centres.

Recommendations:

A review of the Police Act should include discussions on how to better support Alberta First Nations Policing, including:

- Alberta should examine opportunities to better support First Nations Police Services through amendments to the Act that address the unique funding, training, administrative challenges, and statutory recognition of First Nations Police Services and
- Cultural competency training for Alberta police officers should be statutorily mandated within the Act, and formally addressed within the police standards provisions of the Act.

6. Enhanced Professionalization of Alberta Police

Reflecting the practice in other professions, the UK has established a College of Policing to support police professionalization and responsibility, and to maintain and update the UK Police Code of Ethics. Alberta does not currently have a Code of Ethics for police officers or civilian employees.

As seen within recent reforms to policing within the United Kingdom, the Police Act can also be a vehicle to further professionalize the police, by setting standards for police training, skills qualifications, professional development, and undertaking best practice research.

Recommendation:

- A review of the Police Act should include discussions on how to further promote professionalism in Alberta Policing, including:
- the potential development of a College of Policing in Alberta, similar to that in place in the United Kingdom and recommended by the Honourable Justice Tulloch in the report, “Report of the Independent Police Oversight Review, 2017: 263”¹;
- the development of a values based Code of Ethics for Alberta police officers;
- the desirability of entrenching integrated values based ethical standards throughout the human resource management continuum, against which to recruit, hire, train, supervise, evaluate and promote police officers within the province, and against which complaints of unprofessional conduct may be adjudicated.

¹ Report of the Independent Police Oversight Review, 2017 at page 263 “I recommend that a College of Policing be established as a professional body responsible for regulating and governing the profession of policing in Ontario”.

