

27 May 2017

**INDEPENDENT POLICE OVERSIGHT REVIEW (IPOR) CHAPTER 9 – OAPSB RESPONSE**

IPOR RECOMMENDATION	ISSUES	OAPSB RESPONSE
9.6 The legislation should authorize the SIU to comment on and refer conduct matters to the OIPRD and policy and service matters to the chief of police of the relevant force. Any cross-referral should be noted in the SIU’s public report.	Justice Tulloch; “it is a waste of investigative and intellectual resources to bar the SIU from raising matters of concern with the OIPRD or police services simply because they do not fall squarely within the SIU’s core function.”	Policy and service matters should be referred to the <b>police services board</b> of the relevant force, and the chief of police.
9.8 In addition to conducting all first instance hearings from public complaints, the OCPC should adjudicate any other proceeding as directed by the Ministry of Community Safety and Correctional Services and the Ministry of the Attorney General.	Justice Tulloch suggested that OCPC should be an adjudicating body only, and should not also be responsible for investigating matters. He also suggested that the primary focus of OCPC’s adjudications should be related to public complaints.	Concur
9.9 The OCPC’s authority to approve the establishment, maintenance, and regulation of municipal detention facilities under section 16.1 of the Police Services Act should be eliminated.	Justice Tulloch: “These approvals are essentially an operational and regulatory function. They should be performed by a body with experience in this area, namely the Ministry of Community Safety and Correctional Services.”	Concur
9.10 The OCPC’s powers relating to the adequacy and standards of police services under sections 9, 23, and 24 of the Police Services Act should be eliminated.	Justice Tulloch: “The OCPC submitted that these regulatory functions are more appropriately performed by the Ministry of Community Safety and Correctional Services. There is no need to insert an independent adjudicative agency, namely the OCPC, between the ministry responsible for policing and the police services and boards.”	Concur

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<p>9.11 The OCPC’s investigative, inquiry, and reporting powers under sections 25 and 26 of the Police Services Act should be eliminated.</p> <p>[Section 25 deals with the conduct and performance of police personnel and board members, administration of a police force, the manner in which police services are provided, and the police needs of a municipality. Section 26 deals with inquiries into and reporting on matters relating to crime and law enforcement.]</p>	<p>Justice Tulloch:</p> <p>A. OIPRD should investigate conduct and performance of all police personnel, including special constables and auxiliary members</p> <p>B. MCSCS should investigate conduct and performance of special constable employed by non-police agencies, interprovincial constables and board members</p> <p>C. Municipalities should investigate conduct and performance of bylaw enforcement personnel</p> <p>D. Investigations, inquiries, and reports on the administration of a municipal police force, the manner in which police services are provided for a municipality, the police needs of a municipality, and matters relating to crime or law enforcement, should be conducted by the Ministry of Community Safety and Correctional Services or an outside police service, or otherwise dealt with under the <i>Public Inquiries Act</i></p>	<p>A&amp;B. OIPRD should investigate conduct and performance of all police personnel, including special constables and auxiliary members, <b>AND</b> special constables employed in non-police agencies [because, from the public perspective, they have similar special powers and should therefore have the same oversight]. Given OIPRD’s investigative role regarding police personnel conduct, by logical extension <b>OIPRD should also be responsible to investigate board member conduct.</b></p> <p>C. Concur that Municipalities should investigate <b>non-criminal</b> conduct and performance of bylaw enforcement personnel</p> <p>D. Investigations, inquiries, and reports on the administration of a municipal police force, the manner in which police services are provided for a municipality, the police needs of a municipality, and matters relating to crime or law enforcement, should be conducted by MCSCS</p>
<p>9.12 The OCPC’s powers regarding budgetary disputes and the structure of police services under sections 5(1)(6), 6, 8, 9, and 40 of the Police Services Act should be eliminated.</p> <p>[Current OCPC powers are:</p> <ul style="list-style-type: none"> <li>• Approving a municipal council’s decision to adopt a different method of providing police services (subsection 5(1)(6));</li> </ul>	<p>Justice Tulloch: “These are essentially policy-making functions ... Ministry of Community Safety and Correctional Services has responsibility for policing in Ontario and should be the body determining policy issues in that regard. Moreover, determinations about the structure and budgets of police forces are policy and operational matters ....It is not appropriate for an adjudicative tribunal like the</p>	<p>Concur. MCSCS is responsible to establish policies and standards regarding policing, and evaluate compliance with those policies and standards. These issues relate to how a municipality opts to establish the policing capacity and fund it. MCSCS is the most appropriate agency to determine whether or not those municipal decisions are congruent with the provincial legislation, policies and standards of</p>

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<ul style="list-style-type: none"> <li>• Approving any agreement between two or more municipalities to amalgamate their police forces (subsection 6(3));</li> <li>• Approving the creation of a new police force in a municipality not obligated to provide police services (subsection 8(1));</li> <li>• Resolving budgetary disputes between police services boards and municipalities (subsection 39(5)); and</li> <li>• Consenting to terminating a member of a police force’s employment for the purpose of abolishing the force or reducing its size (subsection 40(1)). ]</li> </ul>	<p>OCPC to be interjected between municipalities and local police services boards.”</p>	<p>which MCSCS has carriage.</p>
<p>9.13 The OCPC’s power to hear appeals from employees of a police force discharged or retired for becoming disabled under section 47 of the Police Services Act should be eliminated.</p>	<p>Justice Tulloch: “Such appeals would be better heard by a specialized tribunal with expertise in the area, such as the Human Rights Tribunal of Ontario.”</p>	<p>Concur</p>
<p>9.14 The OCPC’s appointment, suspension, and termination powers with respect to First Nations Constables under section 54 of the Police Services Act should be eliminated.</p>	<p>Justice Tulloch: “This regulatory function is inconsistent with the role of the OCPC as an adjudicative body.”</p>	<p>Concur</p>
<p>9.15 The OCPC’s power to direct internal complaints under section 78 of the Police Services Act should be eliminated.</p>	<p>Justice Tulloch: “Irrespective of the internal complaints model, the OCPC should not have the authority to direct internal complaints.”</p>	<p>Concur</p>
<p>9.16 The OCPC’s powers to conduct employment status hearings and approve the creation of different bargaining units under sections 116 and 118 of the Police Services Act should be eliminated.</p>	<p>Justice Tulloch: “They are specialized labour relations functions ... should be exercised through arbitration or before the Ontario Labour Relations Board.”</p>	<p>Concur</p>