



BILL 68, SCHEDULE 1: COMMUNITY SAFETY AND POLICING ACT, 2019

RECOMMENDATIONS FOR CERTAIN PROVISIONS

Section/Issues/Recommended Change	Rationale
<ul style="list-style-type: none"> • Section 33: <ul style="list-style-type: none"> ○ Require that the “appointing person or body” consult with the individual board to identify what competencies the board requires of its appointees? <ul style="list-style-type: none"> ▪ Suggest adding a new subsection 33(1)(c): "(c) any specific competencies identified by the board." 	<p>Concern is that if a board needs a certain expertise – i.e. mental health, finance – this should be considered by the appointing body in making appointments. The requirements of each board are unique and change from time to time depending on the composition. Boards are best placed to identify gaps in competencies.</p>
<ul style="list-style-type: none"> • Section 37: <ul style="list-style-type: none"> ○ The requirement in the current PSA (s. 31(1)(b) - generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality) should be re-incorporated ○ (f) should also include “Deputy Chief(s) or their civilian equivalent(s)” ○ (g) should also include “Deputy Chief(s) or their civilian equivalent(s)” 	<p>While the strategic planning process contemplated by the Bill includes consultation by the board with the Chief of Police on objectives and priorities, there is no ongoing duty on the board to engage in this consultation. Objectives and priorities change with time and in response to events – including this in the list of board duties would ensure constant consultation, which is in the public interest. This board duty is assigned to OPP detachment boards (section 68), and we suggest it should also be assigned to municipal boards in section 31.</p> <p>The need for effective oversight by the board requires that the board be able to monitor performance and conduct reviews of those it hires and determines remuneration for. This includes Deputy Chiefs and civilian equivalents, such as the chief administrative officer (in the case of the Toronto Police Service).</p>
<ul style="list-style-type: none"> • Section 38: <ul style="list-style-type: none"> ○ (5) should read: “<u>a</u> specific investigation, the conduct of <u>a</u> specific operation...” • Section 69: <ul style="list-style-type: none"> ○ (2)2 should read: “must not relate to <u>a</u> specific investigation, the 	<p>The provision as currently worded may have the unintended consequences of preventing boards from engaging in core aspects of their governance and oversight roles. Two examples illustrate how this provision, if unchanged, could preclude the very type of policy development boards should be engaged in this:</p>

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<p>conduct of <i>a</i> specific operation...”</p>	<ul style="list-style-type: none"> • ‘carding’ practices could be immune from policy review if it fits within the definition of “specific investigations” or “the conduct of specific operations.” This should be more focused on a specific matter, rather than a broader practice. • for missing persons investigations, a board may want to develop a general policy that applies to that type of investigation, but would <i>not</i> get into a specific missing persons investigation (i.e. an investigation into suspect X).
<ul style="list-style-type: none"> • Section 40: <ul style="list-style-type: none"> ○ (4) should read: “<u>a</u> specific investigation, the conduct of <u>a</u> specific operation...” ○ (8) gives the Police Chief a complete veto without transparency or review – <ul style="list-style-type: none"> ▪ Our recommendation is to remove subsection (8) completely. ▪ At the least, there should be a review mechanism if a board and Chief do not agree that declining to provide the requested information is in compliance with the regulations. The dispute could be escalated, perhaps to the Inspector General. ○ (9) need to have an exception for publication if the direction is provided to the Chief in a closed meeting 	<p>The addition of the word "a" should be the same as in the Bill’s s. 38 – see comments above.</p> <p>Currently, the Chief can refuse to follow an unlawful direction or a direction on a specific matter. This is already covered by the Bill’s s. 40(4) and (7). Subsection (8) leaves it to the Minister to pass regulations to set out what, in addition, can and cannot be directed. The Independent Civilian Review into Matters Relating to the G20 Summit concluded boards need full access to information to serve their important oversight and governance functions. If a board cannot even ask for information on certain subjects (as this is a direction, under the Act), these subjects become entirely immune from civilian governance.</p> <p>As well, the requirement for a board to publish directions should include an exception so as to ensure directions provided in closed meetings would not need to be published, so as to preserve confidentiality.</p>
<ul style="list-style-type: none"> • Section 48: <ul style="list-style-type: none"> ○ (1) should also include staff of 	<p>Staff of the board (executive director, etc.) are not members of the service, and under the</p>

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<p>the board</p> <ul style="list-style-type: none"> ▪ Suggest this read "...shall be instituted against a member <u>or an employee</u> of a police service board for any act..." 	<p>Bill's proposed wording, could be exposed to liability for good faith acts they have undertaken at board direction and in the course of their employment.</p>
<ul style="list-style-type: none"> • Section 50: <ul style="list-style-type: none"> ○ (9): arbitrator should be required to consider whether an agreement under section 14 would be inconsistent or undermine the implementation of the Board's Strategic Plan in making this determination. <ul style="list-style-type: none"> ▪ Suggest "...the arbitrator shall, <u>after considering whether an agreement under section 14 would be inconsistent or undermine the implementation of the board's strategic plan</u>, not find that the budget..." 	<p>This suggested change would ensure the arbitrator's determination is not solely about cost, but also gives some weight to the board's strategic plan and the local, unique needs it has identified.</p>
<ul style="list-style-type: none"> • Section 88: <ul style="list-style-type: none"> ○ A hearing into the accommodation process should be based on appeal, and should be held by a qualified panel convened by the Ministry of Labour, or the courts, as is the case for workers in all other sectors. Police boards are not suited to this role. 	<p>Police boards have no involvement in an officer's personnel matters after approval of the hiring already performed by management. This board accommodation hearing requirement is inconsistent with all other board tasks and limitations under the Act (or any other governing body for that matter). Such matters should be settled by the chief, who has all other authorities for individual personnel matters, and any appeal hearing should be held by qualified external parties – like is done for every other sector.</p>
<ul style="list-style-type: none"> • Section 106(7): <ul style="list-style-type: none"> ○ There should be criteria as to when costs can be charged <ul style="list-style-type: none"> ▪ Suggest this read "The Inspector General may charge the <i>reasonable</i> costs of an investigation into whether a member of a police service 	<p>This would ensure only reasonable costs are charged and only where misconduct has been substantiated.</p>

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<p>board...has committed misconduct, <i>where a finding of misconduct has been substantiated</i>, to the board the person is a member of."</p>	
<ul style="list-style-type: none"> • Section 171(2) <ul style="list-style-type: none"> ○ Currently there is no cost-recovery for misconduct investigations by outside investigators, and our preference is for this practice to continue. In the alternative, there should be criteria as to when costs can be charged <ul style="list-style-type: none"> ▪ Suggest this read "The <i>reasonable</i> cost of an investigation <i>where a finding of misconduct has been substantiated</i>, ...shall be paid by the police service board that employs the police officer...." 	<p>The continuation of no cost-recovery for misconduct investigations by outside parties has no budgetary impact, and is preferable. If the Government insists on a cost-recovery process, our suggestion would ensure only reasonable costs are charged and only where misconduct has been substantiated, and therefore have minimal budgetary impact.</p>
<ul style="list-style-type: none"> • Section 250: <ul style="list-style-type: none"> ○ (8) this should also refer to the board's Strategic Plan, so that it is taken into consideration and, where possible, there is alignment between it and the CSWBP <ul style="list-style-type: none"> ▪ Suggest this read "shall consider <i>the board's strategic plan</i>, and available information related to..." 	<p>This ensures the strategic plan is also a factor considered in developing a community safety plan.</p>