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Oversight in Selected Canadian Jurisdictions: New Brunswick

I want to thank the Board of Directors of CACOLE for allowing me to participate on this panel and explain the role and responsibilities duties of our small Police Commission in New Brunswick. We are an independent oversight commission, which investigates and resolves citizens' complaints concerning the conduct of police officers and any other aspect of policing. We also assess the adequacy of police forces within New Brunswick.

BACKGROUND:

The New Brunswick Police Commission was established in 1977 under the *New Brunswick Police Act*. At that time, the *Police Act* granted extensive authority to the Commission in relation to the supervision of delivery of policing services in the Province of New Brunswick.

The Commission was unable to exercise all its statutory powers and responsibilities bestowed in the *Act*. This was due largely to a deficiency of resources allotted to the Commission and a parallel establishment of a policing services branch within the Department of Justice. The branch eventually assumed some responsibilities that overlapped the Commission's jurisdiction, e.i. organizing training for police officers, write policies, and instituting different programs such as 911, dealing with municipalities, firearm legislation, and crime prevention.

When I first joined the Commission in 1989, there were 26 regional and municipal police forces in New Brunswick. Today because of RCMP take over, there are 448 police officers in the nine (9) remaining police forces left in the Province. This number, of course, does not include RCMP officers.

In 1991, amendments were made to the *Police Act* that reduced the jurisdiction of the Commission to its present mandate.

Our present duties are now defined in three (3) categories:

- 1) The investigation and determination of complaints by any person relating to the conduct of a member of a municipal or regional police force. This is the category that occupies most of our time.
- 2) The investigation and determination of any matter relating to any aspect of policing in any area of the Province, either on its own motion, or at the direction of the Minister of Public Safety. This category involves most matters. We have the authority to investigate on our own motion and must investigate when directed by the Minister.
- 3) The determination of the adequacy of municipal, regional and Royal Canadian Mounted Police forces within the Province, and whether each municipality and the Province is discharging its responsibility for the maintenance of an adequate level of policing.

I will now explain the Commission's involvement in each category.

Our *Police Act* specifies that a person who has a complaint relating to the conduct of a member of a police force, except for the RCMP, may state his/her complaint in writing to the Chairman of the Commission. A person also may file his/her complaint with the local Chief of Police or local municipal council.

The incident that gave rise to the complaint must have occurred within twelve (12) months of the date of the incident. However, the Commission may make an exception and grant extensions of time to file the complaint.

The Commission may investigate the complaint itself and appoint an investigator or the Commission may refer a complaint to the Chief of Police where the complaint originated, unless the Chief is the subject of the complaint.

When the Chief of Police is the subject of the complaint, the Commission may refer the matter to Council for investigation or to a board of Police Commissioners, if there is one established.

An investigator has 20 calendar days to investigate a complaint and submit his/her report. He/she can get a 20 days extension from the person who appointed them. Once the investigation report is received, the Council, the Chief of Police, or the Commission have 30 days to determine how the complaint shall be dealt with by:

- a) taking no further action;
- b) counselling of the police officer by an officer of a superior rank;
- c) holding a disciplinary hearing

If an adjudicator appointed by a chief of police finds a police officer guilty of a major violation, as the defined in the *Act* the adjudicator may impose the following sanctions:

- 1) issue a written warning to the member,
- 2) suspend the member without pay for a period not exceeding ten days;
- 3) reduce the member in rank, seniority or in pay;
- 4) dismiss the member, but if he is entitled, to place him in retirement;
- 5) request the member to resign and if he does not do so within seven days to dismiss the member, or
- 6) impose cumulatively any punishments set out above.

If a police officer is guilty of a minor violation of the code, the chief or his delegate may impose the following sanctions:

- 1) issue a written warning to the member;
- 2) suspend the member without pay for a period not exceeding three days, or
- 3) impose cumulatively either of these two punishments.

Any member of a police force found guilty of a minor or a major violation of the code may appeal by serving, within thirty (30) days after the date upon which the member was served with the notice of decision, a notice of appeal upon the Adjudicator setting forth the grounds upon which the appeal is based.

The appeal is heard by an arbitration board composed of a chairperson and two other members.

The arbitration board can decide the appeal on the written record received from the Adjudicator and may, where it considers necessary, consider additional evidence. Alternatively, the board may conduct a new hearing where, in its opinion, the written record is insufficient to conduct a proper appeal.

The arbitration board may:

- 1) Dismiss the appeal;
- 2) Allow the appeal in whole or in part and may vary the decision or sanction or both.

With respect to the second category of our duties, the investigation and determination of any matter relating to any aspect of policing, it usually stems from complaints against the police force in general, e.i. poor response time, failing to solve crimes, spend too much time at coffee shops, etc. the *Act* grants the Commission the authority to conduct a hearing with respect to any matter that is the subject of an investigation. The Commission may also perform the function of a public inquiry when directed by the Minister of Public Safety.

With respect to the category of the determination of the adequacy of a police force, the Commission is in a position to perform this task by utilizing:

- operational audits;
- examination of the volume and nature of citizen's complaints
- meeting with selected members of the police force
- meeting with the civic authority (Mayor and Council)
- meeting with selected members of the public
- investigation
- public hearing

The present membership of the New Brunswick Police Commission is composed of five (5) individuals who are appointed by the Lieutenant-Governor in Council. The term of appointment is usually for (3) three years. These appointments can be renewed.

After saying all of this, amendments to the *Police Act* have been submitted in this session of the Legislature and are awaiting Royal Assent. Since the amendments have not yet been proclaimed, we are still guided by the present *Police Act*.

In summary, we feel that we provide a useful service to the citizen in our Province. It gives the people who feel that they were improperly dealt with by the police a recourse to have their concerns looked after. Our involvement and investigation is also welcome by the police officers as they can refer the people to our office when they are not satisfied with the investigation of their complaints carried out by the local police force.

Thank you very much!