

## CIVILIAN OVERSIGHT IN SASKATCHEWAN

The concept of civilian oversight of complaints against the police was introduced in Saskatchewan by *The Police Act, 1990*. This Act established the office of the Police Complaints Investigator with a mandate to monitor the handling of public complaints and ensure that they are handled in a manner consistent with the public interest.

All complaints respecting municipal police come to this office. The investigation of the complaints is normally handled by the police service involved, with the Police Complaints Investigator monitoring the investigation and carefully reviewing the results. Occasionally the office itself handles the investigation, particularly in very sensitive cases and where the municipal police service lacks the resources to conduct the investigation itself.

Two problems with this method of oversight became obvious over time.

The first was that Indian and Metis people were making very few complaints about police conduct. This seemed rather odd considering that aboriginal people have far more than their share of contacts with the police. Public consciousness about this relationship was ramped up several notches by the Stonechild Judicial Inquiry into the freezing death of a young Indian man in a field in the outskirts of Saskatoon. The Report of Justice Wright found that Stonechild had been in the custody of two police officers on the night of his death.

In response to the public outcry, the Federation of Saskatchewan Indians opened a Special Investigation Unit in Saskatoon. In very short order a huge number of complaints were reported to the Unit, some going back more than a decade, dramatically demonstrating that there were complaints in existence which were not being lodged with the formal system. Obviously aboriginal people in Saskatchewan did not have confidence in the existing office.

The second problem was that people have become very skeptical about police investigating themselves. Whatever may be the reality about such investigations, this skeptical view is widely held. Saskatchewan's reliance on police services to conduct investigations into complaints against their own officers negatively affected the credibility of the process. People simply didn't believe or accept the results of those investigations.

The Deputy Minister of Justice launched a process to review the problems with our civilian oversight, and to design a different approach that would respond to those problems. He set up a working committee consisting of the Chiefs of the major municipal police forces, the Assistant Commissioner of F division of the RCMP, the Saskatchewan Federation of Police Officers, the First Vice-chief of the Federation of Saskatchewan Indian Nations and a senior representative of the Metis Nation of Saskatchewan. This group met regularly over the course of about one year, and reached consensus on a new model for civilian oversight in Saskatchewan.

Legislation was drafted with the help of this group and was presented to the Legislature by the Minister of Justice. It was passed into law this past spring with the support of all parties, and will be proclaimed early in 2006.

I will describe the new process to you in this presentation, and contrast it with the current process. I should make clear that we are still operating under what I will call the current process until the new legislation has been proclaimed.

Under the current process, the Investigator, which for the time being is me, decides whether a complaint is or is not well-founded. That is one person's judgment. Under the new process, this role will be filled by a Commission of five persons. The members of the Commission will be appointed by Cabinet following a prescribed consultation process by the Minister of Justice, and will include at least one person of Indian ancestry, at least one person of Metis ancestry, at least one lawyer, with the remainder of the Commission drawn from the larger Saskatchewan community. The Chair is to be a lawyer.

The staff of the office will be increased from the present level of two full-time employees to six full-time employees in addition to the panel members. There will be three investigators, one supervisor, and two support staff. We have added office in Saskatoon, where two of the investigators will be located.

Our present office is concerned with police conduct of a non-criminal nature. This mandate will be enlarged to include allegations of criminal conduct by members of a municipal police force.

Complaints may be made at the police station (as now), and also at the office of the Commission, the FSIN Special Investigations Unit, any office of the

RCMP, or at the Department of Justice. In addition, the Commission may initiate a complaint itself. All complaints will continue to come to the Commission office regardless of how they arise.

The first decision that will be made by the Commission with respect to a complaint is who will handle it. There will be four options: the Commission's investigators, an outside police service, the home police service, or the home police service with an outside observer to monitor and report on the investigation. Which option is chosen will depend on the nature of the complaint. Sensitive or controversial matters will be handled either by the Commission's investigators or an outside police service. Less sensitive or routine matters will be referred to the home police service. Some of those may require the appointment of an observer to monitor the investigation. Obviously a great deal of thought will be necessary in establishing the criteria guiding the decision of who will handle the complaint.

Where the home police service or an outside police service is conducting the investigation, the Commission's role in providing civilian oversight will continue. As is the case now, the Commission's report on a complaint will be given to the chief of the police service, who is the person responsible for discipline. A report on a criminal matter will involve Public Prosecutions in the Department of Justice.

The Commission will also have the authority to take over an ongoing investigation if it considers that it is in the public interest to do so.

An important new provision in the legislation gives the Commission the power to refer a matter to mediation with the consent of the complainant and the officer concerned. There was nothing in the law preventing this from happening under the former process, but it is significant that mediation had never been used. We have noted the success that Manitoba has had with mediation, and we have tried it in one of our cases with excellent results, and decided to incorporate specific provisions dealing with mediation in the new legislation. We will also encourage the informal resolution of complaints at the point of intake where the complainant and officer may appreciate the opportunity to resolve the complaint without the need for a formal investigation.

The Commission will now be able to make recommendations to the Saskatchewan Police Commission and the local Boards of Police Commissioners respecting the policies of and the services provided by a police service that the Commission considers appropriate.

The public will be fully informed about the new process, including information about where complaints may be laid. The Commission will also ensure that the complainant is kept informed of the progress and outcome of the investigation.

If I may say so, the new process is a giant leap forward, a very significant change. It appears to respond to the problems I referred to earlier. Members of First Nations and the Metis community should find the Commission much more approachable and credible because of the significant involvement of Indian and Metis people in the Commission. The process will be more

transparent and user-friendly. And the problem of police investigating their fellow officers will be a thing of the past in sensitive or controversial complaints.

The new approach has been very well received all around, including the Chiefs of Police of all municipal police services, the Boards of Police Commissioners of all of the cities with their own police services, the aboriginal organizations, both Indian and Metis, and the Saskatchewan Federation of Police Officers speaking for the police unions in each of the cities. It is also significant that the legislation was passed with all-party support in the Legislature.

Every one involved seems satisfied that the province is on the right track with this new process, and that it will deal with the problems I have mentioned. For example, the Mayor of Saskatoon, who is the Chair of their Board of Police Commissioners, has told us that he wants the Commission to handle all complaints against the Saskatoon Police Service. While this will not likely be possible, it is indicative of the level of confidence surrounding our new process.