



**Community  
Safety  
Knowledge  
Alliance**

Research to Practice to Alignment

**FINAL REPORT**

# **INDEPENDENT REVIEW OF THE MANITOBA *POLICE SERVICES ACT, 2009***

September 2020

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# REPORT ON THE INDEPENDENT REVIEW OF THE MANITOBA *POLICE SERVICES ACT, 2009*

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The contributions of these individuals and organizations were invaluable and allowed the review team to engage in its work more effectively. This, in turn, allowed us to develop a more representative and meaningful framework from which to develop our analysis, conclusions, and recommendations.

## ABOUT COMMUNITY SAFETY KNOWLEDGE ALLIANCE

CSKA is a non-profit that supports governments and others in the development, implementation, and evaluation of new approaches to community safety and well-being. Through its work, it mobilizes, facilitates, and integrates research and the development of new knowledge that:

- informs how community safety-related work is organized, and delivered;
- informs and improves professional practices across the community safety system;
- informs alignment within the sector; and
- improves safety and well-being outcomes at the individual, community, and policy levels.

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## LIST OF ACRONYMS

APO	Alberta Peace Officers
ASIRT	Alberta Serious Incident Response Team
CMP	Civilian Monitor Program
CPO	Community Peace Officers
CSKA	Community Safety Knowledge Alliance
CSO	Community Safety Officers
FNSO	First Nation Safety Officers
IIO	Independent Investigations Office (British Columbia)
IIU	Independent Investigation Unit
ISO	Institutional Safety Officers
LERA	Law Enforcement Review Agency
MACP	Manitoba Association of Chiefs of Police
MCM	Major case management
MFNPS	Manitoba First Nations Police Service
MMF	Manitoba Métis Federation
MPA	Manitoba Police Association
MPC	Manitoba Police Commission
MPO	Manitoba Peace Officers
OPP	Ontario Provincial Police
PSA	The Police Services Act
PSU	Professional Standards Unit
RSTT	Regional Support Tactical Team
SIU	Special Investigations Unit (Ontario)
WPS	Winnipeg Police Service

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## EXECUTIVE SUMMARY

### INTRODUCTION

*The Police Services Act (PSA)*, which passed into law in 2009, modernized police governance and oversight through greater accountability and transparency to policing in Manitoba. The PSA came into effect during a period of increased attention to social inclusion and social justice issues and broad-based calls for greater transparency, responsiveness, and accountability on the part of the police. Perhaps central to this was the Taman Inquiry into the police-involved death of Crystal Taman, and more particularly, on the flawed police investigation that followed.

The PSA established the Manitoba Police Commission (MPC), police boards, and the Independent Investigation Unit (IIU) and the Civilian Monitor Program (CMP). The legislation also allows municipalities and First Nations to create local community safety officers to complement the work of the police in improving community safety.

To ensure the PSA remains current with evolving standards and practices in policing and police governance, section 90 of the Act requires the Minister of Justice to undertake a comprehensive review of the Act within a specified period. Following a competitive process, the Community Safety Knowledge Alliance (CSKA), a Canadian non-profit organization, was engaged to undertake this independent review.

### METHODOLOGY

The review was designed to assess the extent to which the PSA supports the professional, transparent, and effective delivery of police services and to determine what amendments to the Act may be required.

The key components of the review were:

**A Literature and Documentation Review** that centred on the changing context within which policing and community safety occur and the potential implications for Manitoba. This allowed for a better understanding of the future environment for policing and community safety and well-being, and it served as something of a ‘North Star’ backdrop to guide the research and analysis.

**A Legislative Analysis** that involved a thorough review of the Act and its attendant regulations. A jurisdictional scan of similar legislation and policing, governance, and oversight practices was also completed, focusing mainly on British Columbia, Alberta, Saskatchewan, Ontario, and New Brunswick.

**Stakeholder Consultations** that were conducted with organizations identified in advance by Manitoba Justice, the MPC, and the review team. This included representatives within Manitoba’s policing and police governance oversight systems, First Nations and Métis organizations and

communities, provincial and federal public prosecution services, learning institutions, non-governmental organizations involved in aspects of community safety, and other civil society organizations. Consultations were conducted through a variety of means, including in-person and telephone interviews, focus groups, and small group meetings. The original design also included a public survey; however, in consultation with Manitoba Justice, the survey was eventually excluded when it was determined that the emerging COVID-19 pandemic would make the timing of such a public survey inappropriate.

**Data Review and Analyses** that employed both qualitative and quantitative methods of inquiry and analyses. These, in turn, informed the review team’s conclusions and recommendations.

## THE POLICING LANDSCAPE

Canadian policing is in a period of transition marked by an increasingly complex and interconnected set of trends, including the changing nature of crime and harm, emerging technologies, expanding service demands, the increasing complexity of criminal investigations, the movement toward collaborative, multidisciplinary approaches to community safety, and escalating policing costs. Furthermore, recent national and international events, including broad-based calls for improvements to police accountability, responsiveness and transparency, are magnifying long-standing—often historical—social inclusion and social justice problems in Canada, including:

- economic disparities that leave some in poverty and poor housing conditions;
- mental health and addictions;
- violence against women and girls;
- racial discrimination, and
- over-representation of Indigenous persons in Canada’s criminal justice system.

Many of these social issues have simmered at or just beneath the surface for decades and, despite well-intended efforts, remain largely unresolved. These represent a set of complex adaptive problems that require multi-sectoral responses. The police have an important role to play in many of these issues, but their effectiveness will largely be determined by the extent to which they are able to collaborate, often in new ways, with both traditional and non-traditional stakeholders. This situation should amplify pressure on policy-makers and police leaders to improve the efficacy of policing and community safety services delivery, while containing costs and ensuring accountability and transparency. It also underscores the importance of effective governance and, more particularly, the importance of positive and collaborative police-community relations.

Over the past decade or two, the governance of police agencies has been strengthened through the development of police boards. Independent oversight agencies have also become the norm. Additionally, more jurisdictions have created robust policing standards to guide the increasingly complex roles of police officers and other community safety personnel; these often determine not only how police services should operate but how individual officers must act in the performance of their duties.

Finally, there is a growing multiplicity of law enforcement and community safety service providers that operate in distinct—often niche—areas of community safety.

Another driver of change is the expanding role of the community and other non-traditional actors in determining and providing for their own safety and well-being. Increasingly, policing services and community safety are no longer the purview of isolated institutions; they have instead become part of a wider network of government services, community groups, and non-profit and private organizations, often involved directly in crime prevention and local safety initiatives. This growing interconnection of activities and interests—or the ‘safety and security web’—is increasingly in evidence across North America and Europe (Council of Canadian Academies, 2014).

In Canada and elsewhere, the police are often the first point of contact for many issues which are more social than criminal in nature. It is also clear that the crime-fighting tools available to police services, aside from being costly, are not appropriate to the increasing number of social and social safety net problems they are routinely required to deal with (Millie, 2014). The more forward-looking policy-makers now seek crime prevention strategies based on evidence of greater community and inter-agency collaboration—not crime rates and enforcement statistics. These include policing plans that demonstrate that scarce resources have been leveraged through collaborative efforts and that barriers to service delivery are being actively broken down (Nilson, 2018).

In Canada there are also marked differences between urban and rural policing, as well as between the rates, types, and perceptions of crime in these areas. The perception among rural residents that they suffer disproportionately higher rates of crime is borne out in crime and community perception data from multiple jurisdictions. Statistics Canada data shows that crime is overrepresented throughout rural Canada. For example, although rural residents account for only 17% of the national population, police services in rural parts of the country report 25% of violent crimes, 18% of property crimes, and 24% of other *Criminal Code* offences.

Data also indicate that rural crime rates are 30% higher than urban crime rates (Statistics Canada, 2018). This holds true for the Prairie provinces in particular, with crime being 42% higher in rural Manitoba than in urban areas; 38% higher in rural Alberta; and 36% higher in rural Saskatchewan (Allen, 2018). Higher crime rates in rural areas include violent crime, with homicide rates per 100,000 residents being 40% higher in rural areas than in urban areas. In addition, the proportion of firearms-related deaths were 14% higher in rural Canada, with these differences being most pronounced in Alberta, Manitoba, and Saskatchewan (Beattie, David, & Roy, 2018). These issues are also more prominent in Indigenous communities, which suffer from disproportionately high levels of both being a homicide victim and of being accused of murder; again attendant data on criminal charges and victimization is much higher in Alberta, Manitoba, and Saskatchewan (Beattie et al., 2018).

## ANALYSIS, CONCLUSIONS & RECOMMENDATIONS

### Police and Board Accountability Framework

All effective accountability frameworks provide clear expectations from the governing principal to the service agent. They also provide verification that the agent has met such expectations. Finally, a verification process is carried out by an entity other than the originator and issuer of the instructions. Simply put, it is good practice to separate these functions.

#### **RECOMMENDATION 1**

**That Manitoba Justice adopt accountability frameworks for both police personnel and police organizations, whereby the Director of Policing is responsible for defining and issuing expectations; and independent agencies (e.g., LERA, IIU, and MPC) are responsible for verifying the maintenance of such expectations.**

### Adequate and Effective Policing

The relevant legislation does not define ‘adequate and effective policing’, something that is fundamental to establishing a sound set of standards to give appropriate guidance to policy-makers, governance and oversight agencies, and police services about the strategic intent of the government in keeping with the spirit and intent of the legislation.

Adequate and effective policing has been defined more fully in other jurisdictions, including Ontario, Alberta, and New Brunswick.

While policing standards have created greater consistency and transparency across all of these jurisdictions, Ontario’s experience has typically required police services to invest in a variety of areas, such as training and infrastructure, to achieve the expectations established by the standards (Blanchford, 2004). In times of fiscal constraint, a balanced approach that recognizes certain limitations and a risk-based approach might be considered more appropriate.

#### **RECOMMENDATION 2**

**That Manitoba Justice establish in regulation how it defines and will measure adequate and effective policing. It is further recommended that in doing so, Manitoba Justice adopts the language utilized by both Alberta and New Brunswick, with the only variation being the inclusion of a clause pertaining to the adherence to the *Canadian Charter of Rights and Freedoms* and the *Manitoba Human Rights Code*.**

### Current State of Policing Standards

The current set of police-related regulations are outdated and largely inadequate. The lack of standards impedes the delivery of adequate and effective policing services and represent risks to public safety.

A comprehensive standards framework will support and promote the delivery of adequate and effective policing; reduce overall risks, including unnecessary litigation; and enhance public trust in the police. It will also contribute to improving police legitimacy.

### **RECOMMENDATION 3**

**That, using regulations as sparingly as possible, Manitoba Justice develop a consolidated policing standards framework that is based on the Alberta and New Brunswick models and that contains content similar to those models.**

### **RECOMMENDATION 4**

**That a risk-based approach be taken to develop policing standards, with priority for immediate development given to:**

- **Use of force and arrest,**
- **Investigations (major case management),**
- **Disclosure of evidence,**
- **Critical incident response,**
- **Motor vehicle pursuits,**
- **Intimate partner violence investigations, and**
- **Missing persons (aligned, as appropriate, to the report on the National Inquiry into Missing and Murdered Indigenous Women and Girls).**

## **Priority Standards - Three Key High-Risk Areas**

Three high-risk areas of police practice are in particular need of standards on a priority basis: Major Case Management, Disclosure and Evidence, and Critical Incident Response.

### Major Case Management and Disclosure of Evidence

Major criminal cases are complex and multifaceted. They often cross multiple jurisdictions and involve more than one investigative agency. The stakes are usually high and the costs of failing to follow proper methods can result in wrongful convictions, breaches of *Charter* rights, and other miscarriages of justice. These investigations require skillful leadership and structured coordination.

Emphasizing accountability and a multidisciplinary approach, major case management (MCM) provides sound structures to the investigation, establishes clear lines of responsibility and decision-making, and creates rigorous approaches and infrastructure to record, document, retain, and share information.

MCM also supports effective two-way communication between the investigative agency and Crown counsel, and timely and full disclosure of relevant documentation to the Crown.

**RECOMMENDATION 5**

**That the Ministry of Justice develop a Major Case Management regulation that defines what constitutes a ‘major case’ and that establishes the foundation for the local development of related policies by police boards, from which police chiefs can develop internal policies and procedures.**

**RECOMMENDATION 6**

**That the Ministry of Justice develop a provincial Major Case Management manual, using the Ontario and RCMP manuals for useful and appropriate comparison.**

**RECOMMENDATION 7**

**That appropriate standards regarding the disclosure of evidence be incorporated into the Major Case Management standard.**

Critical Incident Response

Critical incidents are typically unplanned events—e.g., hostage takings, barricaded persons, and other crisis situations. Leading and responding to these incidents requires special leadership, organizational, tactical, and operational skills and abilities.

There are well-established national standards, supported by rigorous curriculum, that provide critical incident commanders, negotiators, and others with the knowledge, skills, and accepted practices essential to the effective planning and direction of such operations. They also reduce unnecessary risk.

**RECOMMENDATION 8**

**That Manitoba Justice should, as a matter of priority and within a broader Policing Standards framework, develop a critical incident response standard.**

**Governance**

Manitoba Police Commission

The MPC’s influence on adequate and effective policing has largely been through responsibilities to develop police board policies and manuals and to provide police board training and mentorship. However, the boards are not mandated to provide adequate and effective policing—this responsibility is assigned to municipalities—and there is confusion over police board policy roles regarding policing operations.

The MPC is further limited in its ability to influence policing because, although it is a quasi-independent body, it has little control or independence over its financial affairs.

Community safety has become an increasingly significant issue of public concern over the past decade, while public trust in the police continues to erode. The government can send a strong signal of the importance it places on effective police governance and oversight by designating the chair of the MPC as an Independent Officer of the Legislative Assembly. This would place police governance and oversight at the same level as children's issues and freedom of information and privacy matters. This would better position the MPC to support legislators and the government with policy development and to lead important changes in policing and community safety.

**RECOMMENDATION 9**

**That the government consider designating the Manitoba Police Commission as an Independent Office of the Legislative Assembly.**

**RECOMMENDATION 10**

**That the Manitoba Police Commission be authorized to manage its own finances once that budget is approved.**

**RECOMMENDATION 11**

**That the Manitoba Police Commission be assigned the additional duties of auditing police services' and police boards' compliance with standards that are developed by the Director of Policing.**

Municipal and First Nation Police Boards

Police boards are well established in Canada and generally engage in six key functions:

- 1) *Strategic planning*, specifically the establishment of policing priorities and objectives;
- 2) *Establishing policies* for the effective and efficient management of the police service;
- 3) *Monitoring and evaluating the performance* of the police service and the chief of police;
- 4) *Establishing police budgets*;
- 5) *Selecting and hiring the chief of police*; and in some cases
- 6) *Engaging (through agents) in collective bargaining* with police personnel (Graham & Kaustinen, 2019, p. 11).

Police board effectiveness often correlates with the clarity of the governing legislation, the provision of routine training to board members, access to critical information and independent expertise, and the availability of codes and standards that govern the boards themselves (Kaustinen, 2016, p. 5).

The Association of Manitoba Municipalities has long advocated that police boards be optional at the discretion of the municipality. That every police service should be governed by a board is supported by the relevant literature, the jurisdictional analysis, and the review team's collective judgement.

Whereas both Ontario and Saskatchewan require police boards to establish strategic plans for local policing, the PSA requires boards to “...establish priorities and objectives for the police service.” This falls short of a comprehensive strategic plan.

The Act also requires the police board to “act as a liaison between the community and the police service.” This can be open to misinterpretation. Although the board should be open to the concerns of all stakeholders, they should never act as go-betweens that represent one party’s views to the other.

### *Independence*

While the relationship between the police board and the municipal council should be both independent and communicative, this is not always the case. Maintaining the board independence vis-à-vis council can be challenging, particularly when it is council that typically approves the police budget.

Most related Canadian legislation highlight the importance of police board independence, and several contain specific provisions to safeguard independence. These typically occur in two ways: (1) through the board’s composition (ensuring that not too many board members are from council); and (2) by allowing boards to select their own chairpersons and to develop their own procedures.

A municipal council’s role should be restricted to appointing some of the police board’s members and to fund—as the legislated ‘tax collector’—the police board’s budget for policing. This role should not extend to ‘co-governing’ the police service or overseeing the police board.

To uphold police board independence and to protect board members from arbitrary dismissal, the tenure of board members is often specified in legislation. Only legitimate reasons, such as voluntary resignations, incapacitation, or code of conduct breaches, are cause for the early termination.

#### **RECOMMENDATION 12**

**That municipal police boards continue to be mandatory.**

#### **RECOMMENDATION 13**

**That the *Police Services Act* clarify the importance of police board independence in their relationships with municipal councils and establish a budget dispute arbitrator such as the Manitoba Police Commission.**

#### **RECOMMENDATION 14**

**That the *Police Services Act* be amended to replace two municipal appointees with two provincial appointees.**



**RECOMMENDATION 15**

That the *Police Services Act* be amended to provide that permissible reasons for early termination of police board appointments be restricted to: (1) voluntary departure, (2) incapacitation, or (3) serious violation of the Board Member Code of Conduct prescribed in regulations.

**RECOMMENDATION 16**

That before a person is appointed to a municipal police board, the appointing authority consider the results of the potential appointee's recent police record check and that the record check be conducted by an agency other than the police service governed by the board for which that person is being considered.

**RECOMMENDATION 17**

That the legislated responsibilities of police boards include:

- 1) the provision of policing in the jurisdiction,
- 2) the overall adequacy and effectiveness of policing, and
- 3) establishing strategic plans for policing in the jurisdiction, taking into account provincial policing priorities and local community safety and well-being plans.

**RECOMMENDATION 18**

That the police board's duty to "act as a liaison between the community and the police service" be removed from legislation and discontinued.

*Board as Employer*

In most Canadian jurisdictions, the boards are the employer of the police chief and all police employees. Manitoba is an exception where municipal councils are the employer. Designating the police board as the employer of the police chief and all police service members is an appropriate indication of police board and police service independence from municipal council.

**RECOMMENDATION 19**

That police boards become the employer of their police chiefs and all sworn and civilian police employees and be responsible to direct and oversee collective bargaining undertaken by agents on their behalf.

**RECOMMENDATION 20**

That police governance performance standards be developed by the Director of Policing and articulated in regulations.

**RECOMMENDATION 21**

**That all board members be required to complete training on their responsibilities prior to voting in a board meeting.**

**Also, as a condition of remaining on the board, that board members complete further training on strategic planning, policy development, performance evaluation of police chiefs and police programs, establishing a mandate of collective bargaining, and financial planning within the first 2 years of their appointment.**

**RECOMMENDATION 22**

**That the Manitoba Police Commission develop and implement a risk-based inspection system of police boards performance relative to performance standards and direct corrective police board action where and when it is needed.**

Community Safety Planning

Community safety and well-being plans are now becoming a major catalyst for inter-agency cooperation. For example, Ontario's *Comprehensive Ontario Police Services Act, 2019* requires that all municipalities (individually or jointly) prepare and adopt such plans. A similar approach would enhance the efficiency and effectiveness of taxpayer-funded human services, including policing, in achieving improved local safety and well-being outcomes.

**RECOMMENDATION 23**

**That the *Police Services Act* be amended to incorporate Community Safety and Well-Being Planning as a mandatory requirement for municipalities.**

Representativeness of Police Boards

**RECOMMENDATION 24**

**That police board policies be revised to specifically state the requirement to have a board composition that is reflective of the wider community and which specifically encourages the membership of representatives of First Nations, Métis, and newcomer communities.**

**RECOMMENDATION 25**

**Given the prominence of Métis communities in the history of Manitoba, that Métis representation on, and engagement with, policing governance and oversight bodies be encouraged.**

## Police Service Standards

There are 11 police services governed by the PSA, along with the RCMP in its provincial and municipal policing roles. Within these agencies are 2,634 permanent police officers, 6 seasonal officers, and 25 auxiliary officers. Of these, 1383 (52%) are with the Winnipeg Police Service; 983 (38%) with the RCMP provincial and municipal policing programs; and the remaining 183 police officers (7%) are with the other municipal police services. Of these, Brandon has the largest police service with 89 police officers; Cornwallis, the smallest police service, has a single officer. The Manitoba First Nations Police Service (MFNPS) is the only Indigenous police service in the province. The majority of Indigenous communities receive policing services from the RCMP.

The efforts of the province's police services are complemented by a variety of other community safety resources with peace officer status. These include sheriffs, Community Safety Officers (CSO), First Nation Safety Officers (FNSO), police cadets and Institutional Safety Officers.

It is unlikely that all of the current police services would meet the requirements of a contemporary suite of policing standards. There are currently no established standards that set out what policing capabilities and capacities should be accorded to police services of different sizes.

A layered and tiered policing model would ensure a tailored approach to address local needs while ensuring that the more sophisticated and complex aspects of policing and law enforcement fall to those agencies that can develop and maintain such capacities. The increasingly complex nature of policing requires a more structured approach to meet standards and reduce risks and potential liabilities.

Drawing on Québec's successful layered policing model, each of Manitoba's 12 current police services would fall into one of four categories, Levels 1 through 4 (with the smallest services designated as Level 1 and the largest as Level 4).

Each level specifies the nature of services that the police agency within that category would be expected to provide, with the complexity of roles and services increasing at each level. For example, a Level 2 police service might investigate street-level drug trafficking, while a Level 3 service would be authorized to investigate both street-level traffickers as well as those who supply them. A Level 4 police service would have the additional authority to investigate high-level suppliers.

Such an approach recognizes that certain services and specializations require a high degree of costly training and expertise and comes with significant risks. In addition, a clear delineation of policing responsibilities takes pressure off of smaller police services to strive to 'be all things to all people.'

<b>Level 1:</b>	These police services would carry out all general policing responsibilities including patrol, response to requests for assistance, crime prevention, traffic and by-law enforcement, and crime scene management, among other things. They would be somewhat limited in the nature of criminal investigations to those involving trespass, mischief, and similar low-risk-to-harm investigations.
<b>Levels 2 – 4:</b>	<p>These services would undertake all of the activities that are set out in lower levels, as well as those additional activities that fall within a particular level. The success of such an approach is based on factors such as:</p> <ul style="list-style-type: none"> <li>• Making clear that it is the responsibility of the police service within a particular level to meet the required standards of that level, either through its own efforts or through contracts or mutual aid agreements with another police service; and</li> <li>• Ensuring that police services designated as Level 4 (RCMP and the Winnipeg Police Service) have the capacities to meet demands for support.</li> </ul>

**RECOMMENDATION 26**

**That Manitoba Justice adopt a layered model for policing in Manitoba and engage key stakeholders in refining some of the particular details of the model.**

**Community Safety Needs**

A key goal set forth in Manitoba Justice’s 2019 *Policing and Public Safety Strategy* was to improve public safety by alleviating extraneous demands on police services. In part, this was to be achieved by exploring opportunities to expand the CSO and FNSO programs.

The CSO and FNSO programs, established in 2013 and 2014 respectively, provide local governments lower cost alternatives to police officers to deal with low-risk issues. Among other things, the programs implement crime prevention strategies and initiatives, connect social service providers with persons in need, and maintain visible presences within their communities. They allow the police officers to focus on higher-order police and investigative functions commensurate with their training and expertise.

Under the Act, FNSOs may provide general assistance to the police when requested to do so, *as long as the assistance does not involve any criminal law enforcement activities*. This is a subtle but important difference to what CSOs can do. As an example, a CSO could not guard a crime scene (which constitutes assistance in relation to a criminal matter), but a FNSO could perform that function since guarding a crime scene is not a criminal law enforcement activity.

**RECOMMENDATION 27**

**That in order to better align CSO and FNSO authorities, Section 77.6 be amended to read:  
“...Community Safety Officers may provide general assistance to the local policing authority when requested to do so by a member of the local police authority, as long as the assistance does not involve any criminal law enforcement activities.”**

There are significant opportunities to expand the CSO and FNSO programs—and indeed other peace officer-based programs—as part of a versatile and effective community safety model that consolidates all of the various peace officer functions in Manitoba to enhance effectiveness and flexibility and to achieve financial efficiencies. In this respect, Alberta’s Peace Officer Program is noteworthy.

The Alberta Peace Officer Program was established in 2007. Complementing the work of police officers as part of a logical tiered continuum, the program supports the community safety enhancement or specialized law enforcement needs of the Government of Alberta, municipalities, First Nations, and quasi-government organizations. Although the duties and functions defined by the program vary, the program is designed to ensure minimum standards of training, accountability, and professionalism. This creates value while reducing demand on the police and allowing police officers to focus on more serious matters that are more in keeping with their training and capabilities.

The program provides for two classes of peace officer: (1) Alberta Peace Officers (APO), which are employed by the Government of Alberta, and (2) Community Peace Officers (CPO), which are employed by municipalities. Over 110 Alberta municipalities have engaged CPOs. Two First Nations have authority to establish programs using CPOs, but as of the time of writing this report had not yet hired any personnel.

Adapting the Alberta model would create a single unified peace officer system of employment standards, qualifications, accountability, and compliance for the 503 peace officers<sup>1</sup> operating in multiple provincial government departments, municipalities, and quasi-governmental organizations. It would also provide an excellent platform to expand the CSO and FNSO programs, with variable levels of responsibility and mandates that attend to the needs of both large and small communities.

**RECOMMENDATION 28**

**That the Government of Manitoba adapt the Alberta Peace Officer model to the Manitoba context and that authorities within each level should be granted based on the needs of the community or hiring organization.**

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<sup>1</sup> This includes CSOs, FNSOs, Conservation Officers, Park Patrol, Public Health Inspectors, and Workplace Health and Safety Officers, among others.

**RECOMMENDATION 29**

That the Manitoba Peace Officer Program be established through its own legislation—*The Peace Officer Act*—and corresponding regulations.

**RECOMMENDATION 30**

That the Manitoba Peace Officer Program encompass all current peace officers appointed under various provincial legislation.

**RECOMMENDATION 31**

That Level 1 MPOs be employed only through the Ministry of Justice and Manitoba Infrastructure (as pertaining to motor carrier enforcement and investigations) to complement the work of the police in:

- ensuring safe roadways throughout Manitoba;
- providing prisoner transport and courthouse security; and enforcing such provincial statutes and sections of the *Criminal Code* pertinent to their mandates.

**RECOMMENDATION 32**

That other government ministries' investigative and enforcement personnel fall under the MPO Level 2 categorization.

**RECOMMENDATION 33**

That the Community Safety Officer, First Nation Safety Officer, and Institutional Safety Officer programs, together with any other public-facing non-by-law enforcement peace officers employed by municipalities or First Nations, fall under the new Community Peace Officer Level 1 designation, thereby ensuring symmetry in programming, standards, and compliance.

**RECOMMENDATION 34**

That the ministry work closely with municipalities, First Nations, and the police boards and police services of jurisdictions to determine the appropriate balance of enforcement responsibilities between the police and Level 1 CPOs in such jurisdictions.

**RECOMMENDATION 35**

That in order to ensure role clarity, joint planning, and mutually-reinforcing deployment strategies, standards in both the *Police Services Act* and the proposed *Peace Officer Act* establish the requirement for the creation of memoranda of understanding to address such matters as information sharing, communications, joint planning, and coordination of enforcement activities.

**RECOMMENDATION 36**

That Level 2 CPOs comprise such functions as parking enforcement officers, police exhibit custodians, and animal control specialists.

**RECOMMENDATION 37**

That a set of standards governing the use of force (with a strong emphasis on de-escalation) be developed to apply to all levels of MPO/CPOs and that align with the use of force standards in place for the police.

**RECOMMENDATION 38**

That Part 8 (Special Constables) of the *Police Services Act* be repealed.

## Oversight

Oversight is fundamentally about accountability and transparency. Manitoba's key police oversight agencies are the Independent Investigation Unit (IIU), the Civilian Monitor Program (CMP), and the Law Enforcement Review Agency (LERA). Larger police services also have Professional Standards Units (PSU).

While the structures and mandates are relatively clear, elements of the oversight system would benefit from adjustments. A more balanced approach, resting on a sound legislative framework, enhance procedural fairness and reduce the costly ebb and flow that can result from changes in police leadership and the competing individual ideologies this can bring.

This might begin with the terminology. Among the current responsibilities of a chief of police, as set out in section 22(1) of the Act, is "the maintenance of discipline in the police service." Contemporary language reflecting professional policing model would be more appropriate.

**RECOMMENDATION 39**

That the government adopt more contemporary language in the legislation to describe the responsibilities of police chiefs with regards to conduct and discipline. As one example, section 22(1)(c) of the PSA should be amended to read, "the maintenance of police professionalism."

The Oath of Allegiance marks the beginning of a police officer's career in public service. It is important that oaths speak to values such as upholding the rule of law, policing without bias, duty of care, being truthful and respectful. All police conduct is grounded in the principles communicated in the Oath.

**RECOMMENDATION 40**

**That Manitoba Justice draft a new *Oath of Allegiance* that will apply to all municipal police officers and peace officers to follow, and to display it prominently in legislation.**

### Uniform Code of Conduct

While the Act provides for the development of a model Code of Conduct for adoption by police services, no such model exists. Nonetheless, police services across the province recognize the importance of standardized codes and have adopted existing codes such as those in use in the RCMP or the Winnipeg Police Service.

**RECOMMENDATION 41**

**That Manitoba Justice develop a uniform Code of Conduct based on existing models, such as the RCMP model, that will apply to all municipal police officers in Manitoba.**

The absence of a similar code of conduct for all peace officers, including but not limited to CSOs and FNSOs, is also a crucial gap that should be closed.

**RECOMMENDATION 42**

**That Manitoba Justice also develop a Code of Conduct that applies to all peace officers in Manitoba.**

Differing standards and interpretations of misconduct, particularly as to their severity, results in differing disciplinary outcomes. This runs counter to one of the fundamental principles of natural justice and can be unfair to affected officers. Furthermore, differing interpretations can lead to grievances and appeals, all of which can lengthen the time it takes to resolve allegations of misconduct.

**RECOMMENDATION 43**

**That the government define levels of misconduct and thresholds between minor and major misconduct either in legislation or subsequent regulations, such as a uniform Code of Conduct.**



## Public Complaints – LERA and Professional Standards Units

A public complaints regime should serve to (i) ensure the highest standard of police officer conduct; (ii) improve police performance; (iii) satisfy the complainant; and (iv) enhance public trust and confidence in the police. These principles are not fully reflected in Manitoba's police complaints system.

In Manitoba, public complaints are received and processed by both municipal police services and LERA. Since little information or data is shared between the entities, there is no comprehensive, province-wide picture of the number, type, disposition, or resolution of public complaints. Few police services provide a sufficient degree of transparency with regard to such complaints to the public.

Many of the issues regarding LERA's role, functions, and efficacy have been clearly identified by LERA itself. These include Manitoba requiring a higher standard of proof than is common elsewhere in Canada and providing only a 30-day period for filing a complaint, rather than the usual six months to one year.

All that said, complainants appear to be at a significant disadvantage at LERA hearings.

### **RECOMMENDATION 44**

**That LERA legislation remain separate from the *Police Services Act* and that, as a first step, the government consider LERA's internal analysis as a guide to how its legislation might be amended (at least in the short term) in order to make the public complaint system more efficient and equitable.**

## Appropriate Dispute Resolution

Most processes for managing allegations of police misconduct in Canada can be characterized as highly bureaucratic and 'one size fits all'. They present significant barriers to Indigenous participation and trust in the system. This review presents an opportunity to embed within the Act expectations for police chiefs to bring Indigenous communities and customs into these processes.

Although too numerous to mention, variable processes—including healing circles and peacemaker courts—to address community concerns might also be considered through the lens of diversity and inclusivity when dealing with other often marginalized communities.

### **RECOMMENDATION 45**

**That Manitoba Justice develop language and guidance for chiefs of police to establish flexible and responsive dispute resolution mechanisms that bring diverse and marginalized communities into the process to address allegations of police misconduct and to address and repair harm in the relationship with those communities. The government should also offer chiefs of police the opportunity to resolve less serious allegations with more appropriate means of dispute resolution.**

Lengthy, cumbersome processes are one of the most frustrating problems in traditional approaches to investigating and addressing allegations of misconduct. Timeliness is particularly important when a principal goal is to change officer behaviour.

**RECOMMENDATION 46**

**That the government adopt prescriptive time requirements, similar to those proposed by the Supreme Court of Canada in *R v. Jordan* (2016), for the meaningful conclusion of investigations of allegations of misconduct.**

The public complaints and discipline systems create important information and data. The province would benefit from a single entity responsible to collect, analyze, and generate appropriate reports on these systems. Patterns of emerging behaviours and trends in the nature of complaints are but two areas that would be of interest to governments, police boards, and police services.

**RECOMMENDATION 47**

**All public complaints be reported to LERA in real time, including their complaint type, disposition, and resolution. LERA should report the aggregate public complaints data to the government and to the people of Manitoba annually.**

**RECOMMENDATION 48**

**That the government embed the requirement for chiefs of police to establish workplace harassment programs. Where appropriate, these should serve to thoroughly and safely address workplace harassment concerns outside the police misconduct system.**

### Independent Investigation Unit

The IIU should be governed under a separate Act, not the PSA. This would give it the same status as LERA, which operates under its own legislation, while reinforcing its independence with the public. Ontario recently established new legislation governing its Special Investigations Unit, which had previously been under *The Police Act*.

**RECOMMENDATION 49**

**That there be separate legislation to govern the Independent Investigations Unit.**

Currently, the IIU has no statutory authority to require compliance by a police officer with legislative mandate nor the ability to enforce such compliance in a meaningful way. The current legislation lacks a clearly stated 'duty to comply' binding police chiefs, police officers, and services. The absence of this clearly stated duty to comply may result in refusals to participate in interviews, the timely production of relevant documents, and full and frank disclosure.

**RECOMMENDATION 50**

That the Act be amended to provide specific direction concerning the requirement for police chiefs, police services, and police officers to comply with all reasonable requests made by the IIU director or investigators.

**RECOMMENDATION 51**

That legislation pertaining to the IIU be amended to provide for the sanctioning of those who fail to meet the duty to comply with IIU investigations.

**RECOMMENDATION 52**

That legislation be amended such that the minister may designate any class or individual peace officer to fall under the relevant provisions compelling their cooperation with the IIU.

**RECOMMENDATION 53**

That the IIU Regulation be amended as follows:

- 12(1) An investigator may make a written request to a police chief to interview a police officer. The request must set out the time and location of the interview.
- 12(2) A subject officer is not required to be interviewed by an investigator, but the officer may voluntarily agree to be interviewed.
- 12(3) Subject to subsection (4), an interview with a witness officer must take place at the time and location specified in the request.
- 12(4) In response to a written request from the police chief, the civilian director may, by written notice, grant the requested postponement of an interview or refuse to postpone an interview.
- 12(5) The police chief must ensure that the witness officer attends an interview as required by this section.

Delegation of Authority

The Act does not permit the civilian director to temporarily delegate any of his or her duties, whether for vacation time or due to incapacitation. An Order in Council is presently required to appoint a replacement.

**RECOMMENDATION 54**

That the Act be amended to provide that the civilian director, in consultation with the director of public prosecutions, may designate a Crown attorney to act as the acting director while the director is absent or otherwise unable to perform the duties of his or her office.

Other IIU-related recommendations include:

**RECOMMENDATION 55**

That section 73(1)(b) be revised so that a police chief must immediately notify the IIU when a police service has any suspicion or is conducting an investigation into the conduct of a police officer and where there is evidence that the officer may have contravened the *Criminal Code* or any other federal or provincial enactment, other than the provisions prescribed under clause 65(1)(c).

**RECOMMENDATION 56**

That Part 7, Division 3 of the Act be amended to also apply to off-duty officers.

**RECOMMENDATION 57**

That the term “immediately” be used in Sections 66(1), 66(2), and 73(1).

**RECOMMENDATION 58**

That the term ‘formal complaint’ be replaced by ‘complaint’ in sections 66(2) and 73(1).

**RECOMMENDATION 59**

That the definitions of ‘incident notes’ and ‘record’ be included in the PSA or in the IIU regulations.

**RECOMMENDATION 60**

That the PSA includes a duty for officers to complete their incident notes as soon as possible with respect to an IIU incident.

**RECOMMENDATION 61**

That public safety reports no longer be required and that Sections 8(1) and 8(2) be repealed.

**RECOMMENDATION 62**

That the definition of ‘serious injury’ be expanded to include fractures to the clavicle, pelvis, and hip and any injury that requires admission to a hospital or health care facility on an in-patient basis.

**RECOMMENDATION 63**

That the IIU continue to allow former police officers to work as investigators but be encouraged to continue to recruit investigators who do not have a police background. The secondment of serving police officers to the IIU should be discontinued.

**RECOMMENDATION 64**

That the IIU be encouraged to recruit investigators from diverse backgrounds with a particular emphasis on people with Indigenous backgrounds.

### Civilian Monitor Program

As presently structured and organized, the CMP lacks the capabilities, experience, and knowledge required for its function. By contrast, the IIU’s investigators are highly experienced. If their work is to be monitored, this should be undertaken by individuals who have similar qualifications.

From a system perspective, the review concluded that the IIU provides sufficient civilian oversight and that the CMP may no longer be required.

**RECOMMENDATION 65**

That Manitoba Justice terminate the Civilian Monitor Program.

In the event that the government decides to retain the CMP, there are a number of ways in which it might be made more effective.

**RECOMMENDATION 66**

Should the CMP be retained, that:

- (a) Civilian monitors be subject to more specific qualifications, preferably with a minimum of investigative or related experience.
- (b) Civilian monitors be subject to background checks prior to their engagement.
- (c) A pool of qualified potential candidates (including of Indigenous descent) be engaged on a casual contract basis to ensure that qualified civilian monitors are available at short notice.
- (d) The civilian monitor reports also be provided to the civilian director, as well as to the minister.

**RECOMMENDATION 67**

**That civilian monitors be provided contemporaneous access to investigations materials.**

Alternatively:

**RECOMMENDATION 68**

**That Manitoba Justice provide the civilian director with the authority to engage a civilian monitor for the purposes of acting as a liaison to the community, particularly for particularly high profile or sensitive investigations, or those involving members of Manitoba’s racialized communities.**

### Community Liaison

At times, members of racialized and Indigenous communities feel unfairly treated by the IIU. This can be easily overcome.

**RECOMMENDATION 69**

**That the *Police Services Act* (or in IIU-specific legislation as proposed in this report) be amended to provide that the civilian director may appoint a community liaison or observer to work with the Independent Investigations Unit in the course of an investigation.**

### Conduct, Discipline and Standards – Comprehensive Analysis and Reporting

There is no single comprehensive analysis or reporting mechanism to consolidate LERA and IIU data and to consider these analyses against the broader backdrop of other trends occurring within the policing and community safety operating environments.

Such analyses would serve the government and the people of Manitoba well by ensuring policy-makers are aware of new or evolving performance, conduct, and discipline-related trends and how environmental factors may be impacting them. Publishing the results of such analyses would enhance transparency and improve trust in government and the key institutions of policing, police governance, and police oversight.

**RECOMMENDATION 70**

**That Manitoba Justice develop the capacity of the office of the Director of Policing to monitor and analyze complaints and conduct-related reports from LERA and IIU, as well as results of standards compliance monitoring inspections to develop a whole-of-system perspective on relevant trends. Furthermore, that the ministry issue an annual report on this matter.**

## 1. INTRODUCTION

### 1.1 Background

*The Police Services Act (PSA)* passed into law in 2009, replacing the *Provincial Police Act* of 1987. The new legislation brought greater accountability and transparency to policing in Manitoba by modernizing police governance and oversight.

The PSA established the Manitoba Police Commission (MPC), municipal and First Nations police boards, and the Independent Investigation Unit (IIU). It defines the role and responsibilities of Manitoba Justice, the MPC, municipal and First Nation police boards, municipal councils, and police services and sets up the interrelationship between these various entities. In addition, the legislation allows municipalities and First Nations to create community or First Nation Safety Officers to complement the work of the police in improving community safety.

Many of the issues addressed through the PSA were identified through government-led stakeholder consultations or from judicial or other reviews, including the Taman Inquiry. The inquiry, which focused on the police-involved death of Crystal Taman and, more particularly, on the flawed investigation that followed, brought forth widespread concerns about police services' investigating their own personnel. The Taman Inquiry report was issued in 2008 and although 12 years have passed, its conclusions and recommendations continue to resonate.

In addition to addressing the importance of independent investigations of allegations of serious police misconduct, the inquiry also shone light on the importance of proper policing standards and training to guide police actions, including during complex criminal investigations. It also represents principles which should guide the development of any new police legislation.

Many of the issues identified by the Taman Inquiry are reflected in the PSA, including the introduction of the MPC and the requirement for any municipality with its own police service to have a police board. Among other things, such boards act as a buffer from real and perceived political interference, provide civilian oversight of policing, establish local policing priorities and objectives, and ensure community input into local policing services. Perhaps the most significant outcome from the inquiry findings was the creation of the IIU, which is mandated to conduct independent investigations into police officer-involved incidents of serious injury or death or allegations of unlawful activities. This is specifically intended to be a stand alone, civilian-led investigation agency with province-wide jurisdiction.

To ensure the PSA remains current and is appropriately assessed and updated to reflect evolving practices in policing and police governance, the PSA includes a provision that requires the Minister of Justice to undertake a comprehensive review of the entire Act within a specified period. Following a competitive process, the Community Safety Knowledge Alliance (CSKA), a Canadian non-profit organization, was engaged to conduct the review.

## **1.2 Methodology**

This review was designed to assess the extent to which the PSA supports the professional, transparent, and effective delivery of police services in Manitoba and to determine what, if any, amendments may be required. The project's design framework incorporated several key principles and mechanisms, including the engagement of a knowledgeable and experienced review team, to ensure the review remained independent from government and other stakeholders in reaching its conclusions and recommendations.

The research design incorporated a comprehensive jurisdictional scan of similar Canadian legislation, police and governance organizations, approaches to delivering policing services across the country, as well as the input of a wide range of stakeholder groups. The original research design also included a public opinion survey to give Manitobans an opportunity to share their views on policing and police governance in the province. However, the survey was eventually excluded when it was determined that the COVID-19 pandemic would make the timing of such a public survey inappropriate. As an alternative, a number of civil society organizations with an interest in policing and justice were contacted to ensure the PSA review was as comprehensive and fulsome as possible under the circumstances.

It should be noted that the Law Enforcement Review Agency (LERA) and its attendant legislation and regulations predate the PSA and are therefore outside the scope of this review. However, because public complaints play a crucial role in ensuring effective oversight and accountability of police services LERA is considered to a certain degree, primarily with respect to how it supports the wider police governance and oversight structure.

The following provides details on each component of the review.

### **1.2.1 Literature Review**

The literature and documentation review explored the changing context within which policing and community safety are occurring and the potential implications for Manitoba. Relevant information from the literature review was also extracted and amalgamated to inform the development of a Manitoba-specific approach these issues. This allowed for a better understanding of the future environment for policing and community safety and well-being, and it served as something of a 'North Star' backdrop to guide ongoing research and analysis throughout the remainder of the project.

The literature review synthesized existing academic and other literature from the broad disciplines of policing and civilian oversight and evidence from the fields of sociology, criminology, public policy, communications, social services, and other sources related to the evaluation of the delivery of professional, transparent, and effective policing.

### **1.2.2 Legislative Analysis**

A thorough section-by-section review and analysis of the PSA and its attendant regulations was completed. Among other things, this considered the impact of the Act on the organizations and



programs it gives rise to, including the MPC, municipal and First Nations police boards, the IIU, and the Civilian Monitor Program (CMP). While LERA and its associated legislation and regulations were outside the scope of this current review, it was addressed with respect to: (1) the role and impact police complaints play in police oversight and accountability as a whole; and (2) the many views, both positive and negative, about LERA that were shared with the review team in the course of its work.

To consider promising approaches elsewhere, a jurisdictional scan of similar legislation, together with policing, governance, and oversight practices in other provinces was also completed. Particular emphasis was placed on British Columbia, Alberta, Saskatchewan, Ontario, and New Brunswick.

### **1.2.3 Stakeholder Consultations**

The literature review and jurisdictional scans were supplemented with data from the field using interview, focus group, and public consultation data. This phase was undertaken in a standard manner and involved direct consultations and detailed discussions with stakeholders identified by Manitoba Justice, the MPC, and the review team. Individuals who were not on the initial list of stakeholders also contacted the review team directly to provide input. Furthermore, the review team received written submissions when stakeholders considered these to be more useful in providing greater detail.

Consultations were conducted through a variety of means, including in-person and telephone interviews, focus group events, and small group meetings. They included representatives from various organizations in Manitoba's policing and police governance system, including provincial and municipal government officials, chairs and members of police boards, chiefs of police, police associations, and representatives from IIU, LERA, and the CMP. Input was also provided from Manitoba's First Nations and Métis organizations, provincial and federal public prosecution services, learning institutions, non-governmental organizations involved in aspects of community safety, and other civil society organizations such as the Criminal Defence Lawyers Association of Manitoba. A full list of participating organizations is provided in Appendix A.

### **1.2.4 Data Review and Analysis**

The review team relied on both qualitative and quantitative methods of inquiry and analysis (Denzin & Lincoln, 2011) and drew on existing theories and syntheses to support its analyses and to identify and develop emerging themes and findings. These, in turn, informed and guided the development of conclusions and recommendations.

A particular degree of scrutiny was paid to police service and other organizational data on police misconduct and discipline systems, especially information regarding public complaints and internal investigations. As a result, the issue of police complaints and the role these play in ensuring transparency, accountability, and good governance in policing is addressed in some detail.

All of the activities described above were complemented by the review team's extensive practical knowledge and field experience in the areas of policing, community safety and well-being, management,

governance, and oversight. This cumulative and direct experience allowed the team to draw on multiple lines of expertise to provide contextualized and specific conclusions and recommendations to inform and support government programming going forward.

### **1.2.5 Peer Review and Challenge**

A panel of senior experts, each knowledgeable and experienced in relevant fields, provided an additional level of independent reflection and deliberation on critical issues at strategic points during the review.

The panel met with the review team at three critical stages of the review process. Due to COVID-19 travel restrictions, these meetings were held virtually. The first meeting took place following the literature and legislative reviews and comparison phases; stakeholder consultations were well underway at this juncture as well. The second meeting, which was held in late March 2020, involved extensive discussions about the findings and emerging conclusions emanating from initial analysis and the stakeholder consultations undertaken to that point. The third and final meeting was held in June 2020 and provided the opportunity for in-depth discussions on conclusions and recommendations emerging from the review and a final review of the draft report.

## **1.3 The Policing Landscape**

Canadian policing is in a period of transition that is marked by an increasingly complex and interconnected set of trends, including growing societal pressures for greater operational and fiscal accountability, the changing nature of crime and harm, emerging technologies, expanding service demands, the increasing complexity of criminal investigations, the Canadian movement toward more collaborative, multidisciplinary approaches to community safety, and escalating policing costs.

Recent national and international events, including COVID-19, the widespread civil unrest centred in the United States, and the police de-funding movement, are magnifying long-standing—often historical—social problems in Canada, including:

- unemployment;
- economic disparities that leave some in poverty and poor housing conditions;
- mental health and addictions;
- violence against women and girls;
- racial discrimination; and
- over-representation of Indigenous persons in Canada’s criminal justice system.

Many of these social issues have simmered at or just beneath the surface for decades and, despite well-intended efforts, remain largely unresolved. The evidence is clear: these issues require whole-of-system responses. The police have an important role to play in many of these issues, but their effectiveness will largely be determined by the extent to which they are able to collaborate, often in new ways, with both traditional and non-traditional stakeholders. This, according to the Council of Canadian Academies (p. 14), presents a challenge for the police because they have not fully developed this competence. This

situation should amplify pressure on policy-makers and police leaders to improve the efficacy of policing and community safety services delivery, while containing costs and ensuring accountability and transparency. It also underscores the importance of effective governance and, more particularly, the importance of positive and collaborative police-community relations.

Over the past decade or two, the governance of police agencies has been strengthened through the development of police boards. Independent oversight agencies have also become the norm. Additionally, more jurisdictions have created robust policing standards to guide the increasingly complex roles of police officers and other community safety personnel; these often determine not only how police services should operate but how individual officers must act in the performance of their duties. Finally, there is a growing multiplicity of law enforcement and community safety service providers that operate in distinct—often niche—areas of community safety.

Another driver of change is the expanding role of the community and other non-traditional actors in determining and providing for their own safety and well-being. Increasingly, policing services and community safety are no longer the purview of isolated institutions; they have instead become part of a wider network of government services, community groups, and non-profit and private organizations, often involved directly in crime prevention and local safety initiatives. This growing interconnection of activities and interests—or the ‘safety and security web’—is increasingly in evidence across North America and Europe (Council of Canadian Academies, 2014).

In Canada and elsewhere, the police are often the first point of contact for many issues which are more social than criminal in nature. It is also clear that the crime-fighting tools available to police services, aside from being costly, are not appropriate to the increasing number of social and social safety net problems they are routinely required to deal with (Millie, 2014). The more forward-looking policy-makers now seek crime prevention strategies based on evidence of greater community and inter-agency collaboration—not crime rates and enforcement statistics. These include policing plans that demonstrate that scarce resources have been leveraged through collaborative efforts and that barriers to service delivery are being actively broken down (Nilson, 2018).

In Canada there are also marked differences between urban and rural policing, as well as between the rates, types, and perceptions of crime in these areas. The perception among rural residents that they suffer disproportionately higher rates of crime is borne out in crime and community perception data from multiple jurisdictions. Statistics Canada data shows that crime is overrepresented throughout rural Canada. For example, although rural residents account for only 17% of the national population, police services in rural parts of the country report 25% of violent crimes, 18% of property crimes, and 24% of other *Criminal Code* offences.

Data also indicate that rural crime rates are 30% higher than urban crime rates (Statistics Canada, 2017). This holds true for the Prairie provinces in particular, with crime being 42% higher in rural Manitoba than in urban areas; 38% higher in rural Alberta; and 36% higher in rural Saskatchewan (Allen & Zayed, 2019). Higher crime rates in rural areas include violent crime, with homicide rates per 100,000 residents

being 40% higher in rural areas than in urban areas. In addition, the proportion of firearms-related deaths were 14% higher in rural Canada, with these differences being most pronounced in Alberta, Manitoba, and Saskatchewan (Beattie et al., 2018). These issues are also more prominent in Indigenous communities, which suffer from disproportionately high levels of both being a homicide victim and of being accused of murder; again attendant data on criminal charges and victimization is much higher in Alberta, Manitoba, and Saskatchewan (Beattie et al., 2018).

### 1.3.1 The Rule of Law

The rule of law is a key consideration in the current context. It is a fundamental principle of Canadian democracy and underpins the *Canadian Charter of Rights and Freedoms*. Among other things, the rule of law means that the law applies equally to everyone. Therefore, regardless of socio-economic status, no one is above the law. Second, it means that the processes by which the law is administered and enforced is accessible and fair.

Trends over the past few years impacting the rule of law in the United States and elsewhere are worrisome. Public faith in government—including the criminal justice system, which includes the police—has eroded, and the federal administration has itself discarded aspects of the rule of law in that country.

The police play an important role in upholding the rule of law. Their independence from government direction in regard to law enforcement functions is crucial. The 1999 SCC decision in *R. v. Campbell* remains the leading case that outlines a principled approach to police independence. This case confers police independence from government direction to law enforcement functions, while recognizing that the police perform many other functions and that “some of these functions bring the (police) into a closer relationship with the Crown than others” (Roach, 2017, p. 16).

In a report prepared for the Ipperwash Inquiry, Professor Roach presented four police-government relations. The inquiry favoured Roach’s *Democratic Policing* model, which among other things, explicitly encourages the use of ministerial directives to the police to ensure transparency and accountability. Furthermore, this model promotes democratic participation by encouraging policing policy to be debated, evaluated, and established in a transparent and accountable manner (Roach, 2017, pp. 18–19).

In the report, Professor Roach goes on to compare provincial legislation across Canada. As pertaining to Manitoba, he states:

Manitoba has perhaps the most advanced legislation in Canada with respect to police-government relations between police commissions and police chiefs. Section 27 and 28 define the purposes and general duties of police boards as politically responsible authorities. Sections 28(3), (4) and (5) then limit police board activities... [that support the independence of the police and the rule of law]. (pp. 30–31)

Determining the appropriate balance between individual officers’ discretion and the guidance and organizational controls that ensure such discretion is properly exercised is at the heart of many of the

changes in Canadian policing over the past few decades. Communities and governments at all levels are paying greater attention to the nature of their interventions in, and controls over, policing and they are continually re-examining and revising definitions of community safety and appropriate police roles.

All of the factors above point to the need for police services to be as flexible and adaptable as possible. The governing structures and frameworks that provide for and oversee policing must be equally aware of the changing context within which policing services are delivered and attuned and adaptable to evolving challenges and pressures.

## **1.4 Organization of the Report**

The report is organized in the following manner:

Part 1 – Introduction provides the background and methodology for the review, as well as an overview of the current policing landscape.

Part 2 - Summary of Findings provides a synopsis of key points and conclusions from the literature review, legislative gap analysis, and consultations. The stakeholder consultations, in particular, represent a core phase of the PSA review, are a crucial source of information and insights, and largely form the basis for subsequent conclusions and recommendations.

Part 3 – Analysis, Conclusions, and Recommendations provides in-depth assessments of the information and data gathered over the course of the review, as well as the conclusions and recommendations that flow from them. The order and sequence of issues addressed in this section is determined by the research questions posed by Manitoba Justice in the Terms of Reference that governed the review. Each issue or question is addressed in turn and, where appropriate, identifies the key principles that underlie a given issue, any relevant practices or approaches, any gaps or particular challenges that might have been identified in the course of the review, and the recommendation and associated rationale that are relevant to that particular issue.

Part 4 closes the report with a summary of all recommendations.

The appendices provide a list of all stakeholders who participated in the consultations and the full text of the literature review and legislative gap analysis components of the review. The proposed level-based policing model is also provided.

## 2. SUMMARY OF FINDINGS

### 2.1 Literature Review Summary

As part of the review, researchers explored academic and policy-based literature on the changing context within which policing and community safety occur. This contributed to an understanding of the potential implications for policing in Manitoba and provided a canvas to guide other aspects of the review. The following is a brief summary of the literature review; the entire literature review is provided in Appendix B.

Policing across the Western world exists in a highly dynamic and constantly evolving operating environment. There is a growing recognition that all police services must manage the rapidly changing social, economic, technological, political, social, and legal contexts affecting their services. Traditional approaches to policing—largely based on reactive methods—have been criticized as being increasingly out-of-date in this fast-paced, technology-driven, and diverse world.

Although some favour the predictability of the status quo, maintaining these traditional approaches may not be feasible given the rapidly increasing costs of policing; the growing public, political, and media-driven scrutiny of police operations; and the recognition that traditional crime reduction strategies have not reduced Manitoba's high crime rates (Moreau, 2019). Recent research also suggests that the internal and external drivers of change affecting policing are not going to subside. Consequently, according to Duxbury et al. (2018), Canadian police services must transform service structures and practices to align with these emerging realities.

Against this evolving context, there has also been a renewed emphasis on police governance (Morrell & Bradford, 2019). Of particular interest are issues related to policy formation and implementation, the determination of priorities and strategies, deployment choices, the allocation of resources, the maintenance of standards, and internal discipline (Walsh & Conway, 2011, p. 62).

#### 2.1.1 External Factors

The following captures some of the external factor highlights from the literature review:

##### 2.1.1.1 Social

Manitoba's increasingly multi-cultural and aging population will place a new set of expectations and demands on its police services. Fully 17.5% of Manitoba's population is of Indigenous ancestry, and about 17% of the population identify as a visible minority.

Manitoba's young Indigenous people deserve particular attention. Indigenous children aged 14 years and younger accounted for 31.2% of the total Indigenous population. Thus, a high proportion of these young people will be entering an age group that tends to have high involvement with the justice system. Responding to their needs and striving to prevent involvement in harm or participation in the criminal justice system will place demands on the human services and justice systems, including the police. For

those residing in smaller and more rural communities, this cohort may also place significant demands on local health, education, and social systems that may lack the capacity necessary to provide support.

Manitobans were significantly less likely than other Canadians to say that the police did a good job of ensuring citizen safety, promptly responding to calls, treating people fairly, enforcing the laws, or providing public safety information (Cottor, 2015, p. 27).

Angus Reid Institute surveys (2018 and 2020) found that Manitobans expressed less confidence in the RCMP, their local municipal police (or RCMP detachment), or the criminal courts than other Canadians. They also found that Indigenous and visible minority populations tend to have less confidence in the police than the general population. This has become a major issue in recent weeks following the George Floyd killing in the US that must be addressed by all police agencies and all levels of government.

#### *2.1.1.2 Economic*

Contemporary policing is an expensive proposition for governments. The 2019 Winnipeg Police Service budget accounts for 26.8% of the City's entire operating budget (City of Winnipeg, 2019, Table 1-4). Many small towns can pay over one-third of their budgets for policing.

Over the past 18 years, policing costs in Canada have been growing at a greater rate than the nation's economy; at 2.97% they were over twice as high as the increases in all other government spending (1.3%) between 2013 and 2018.

In Manitoba, policing expenditures rose by 2% between 2016/17 and 2017/18 (Conor, Robson, & Marcellus, 2019). Different funding arrangements have evolved over time throughout the province, resulting in a lack of consistency in the way that some municipalities are classified in terms of such factors as population, amalgamated status, and proximity to a major city. Such factors influence how much these municipalities are paying for police services (Association of Manitoba Municipalities, 2019).

Kempa (2014) argues that economic uncertainty has always driven transformative changes in policing. During recessionary times, police leaders and policy-makers are forced to reconsider the services they offer, how services are delivered, and to look at new partnership opportunities. Police services in Canada had to confront these issues during and following the Great Recession that started in 2008, though, to some extent, Canadian police services were less affected by the effects of that recession than some of their counterparts in the US and UK.

The impacts of the COVID-19 pandemic on the economy, together with the deep period of government austerity that is likely to follow, are yet to be determined. However, it can be expected the impact will be profound, particularly as it comes on the heels of a decade that some perceive to demonstrate the unsustainable costs of policing (Association of Municipalities, Ontario, 2015; Federation of Canadian Municipalities, 2012; Leuprecht, 2014; Kramp, 2014; Toews, 2013).

### 2.1.1.3 *Technology*

Emerging technologies have both changed criminal patterns and supported police operations.

Between 2014 and 2018, the number of cyber violations reported to the police increased by 117% (Statistics Canada, 2019c). In addition to traditional forms of crime such as fraud and theft, offenders are also engaging in online sexual exploitation, data theft, ransomware, and hacking into agency files.

Solomon (2019) contends that the police have been slow to develop coordinated strategies to respond to these crimes. A senior RCMP official observes that, “Today the volume has gone up, the adoption of technology, the change in society has occurred so rapidly it’s very difficult for policing organizations to adapt at the same rate” (Tunney, 2019, para. 22). Without access to partnerships that provide resources and supports, smaller police services, which lack the specialized knowledge required to address high tech crime, are at a significant disadvantage in their ability to respond to these crimes that pose increasing risk to citizens, local governments, and businesses.

But police services are also using technologies to enhance effectiveness and efficiency. Manning (2018) classifies such technologies into four categories:

- Supporting mobility (e.g., planes, patrol, or armored vehicles);
- Extending human senses (e.g., sight, touch, smell, or sound), such as cameras, radar, DNA, fingerprinting, breathalyzers, and listening devices;
- Permitting the rapid gathering and processing data; and
- Training innovations (e.g., simulation models of interaction and online learning).

New technologies can be controversial. For instance, Stingray technology—where a cellular phone user’s information can be collected without their knowledge—has been used by some Manitoba police services (CTV News, 2019). Stingray and some facial recognition applications are being challenged by civil libertarians (Canadian Civil Liberties Association, 2019).

### 2.1.1.4 *Climate Change and the Environment*

The increased number of forest fires in Canada’s North is attributed to climate change. During the summer of 2019, a number of northern Manitoba communities were evacuated due to forest fires (Hatherly, 2019). The pattern over recent years suggests more demands on police to engage in partnerships with federal and provincial disaster management services over the next decade.

There is also likely to be stricter enforcement of crimes against the environment in the future. Most environmental crimes are related to dumping of toxic wastes, illegal hunting (or poaching), over-fishing, and the illegal harvest of timber on Crown land. Although most environmental crime investigations will be carried out by the personnel of federal and provincial ministries or departments, the police will be called upon to support those investigations or to assure public order in the case of public protests (e.g., where oil and gas are being extracted, during pipeline construction, etc.).



#### 2.1.1.5 *Legal*

Superior and Supreme Court of Canada decisions can have profound implications for policing. *R. v. Jordan* (2016) was a landmark case that placed strict time limits on criminal court proceedings. The court provided a very short period for the criminal justice system to adapt. Hundreds of criminal cases, including at least six homicide cases, were stayed or dismissed as a consequence of the decision. Many police agencies also still struggle with the disclosure of evidence implications of the Supreme Court of Canada decision in *R. v. Stinchcombe* (1991).

Since such decisions sometimes flow from inadequate or poor policing and investigative practices, it is important that police agencies be well versed in evolving trends that may have implications from a legal standpoint. New and emerging technologies such as facial recognition software, big data, and predictive policing are sure to be scrutinized by the courts.

#### 2.1.1.6 *Political*

The operations of the criminal justice system and federal, provincial, and local politics are tightly coupled, and the policies enacted by governments can have a significant impact on policing.

Duxbury et al. (2018) found that political cycles and politics, including the operations of police boards, are key drivers of change in policing. One of the challenges they identified concerned the typical four-year political cycles where decisions made by these governments can impact the operations of the police, courts, and corrections for generations unless overturned by the next government.

### 2.1.2 **Internal Factors**

Police agencies can often control internal variables and trends more so than external environmental factors.

Duxbury et al. (2018) found that workforce demographic factors were the most important driver of change. Their respondents also identified that resource limitations, organizational culture (inertia), resistance to change, inadequate police leadership, and police associations were barriers to change (Duxbury et al., 2018, p. 333). In addition, the Council of Canadian Academies (2014) identified three main internal challenges: (1) human resources, (2) policing costs, and (3) accountability and legitimacy.

Consistent with the work of those researchers, the four internal issues most relevant to this review of the PSA are: (1) human resources, (2) officer workloads, (3) organizational inertia, and (4) partnerships.

#### 2.1.2.1 *Human Resources*

In keeping with Peel's principles of policing, contemporary police agencies depend on deploying a professional workforce that is representative of the general population. Although the Canadian police workforce is more diverse than ever before, there continues to be demands to increase the proportion of women, Indigenous, and visible minority officers to fully reflect the communities served.

The changing mix of categories of employees within policing is noteworthy. Between 2000 and 2018 the number of sworn officers increased by 22.5% while civilian personnel increased by 55.9%. Almost three-quarters of these civilian personnel were women. This trend toward tiered and mixed approaches also involves the increasing use of lower level peace officers or special constables who carry out many low risk police-related duties such responding to antisocial behaviour, enforcing by-laws, and responding to non-emergency calls for service (McKenna, 2014). Such human resource strategies reduce the burdens on sworn officers and serve to help reduce the costs of policing and community safety.

#### 2.1.2.2 *Officer Workload*

Workload considerations are important, particularly in high crime jurisdictions. At 49.8 incidents per officer, Manitoba has the second highest number of *Criminal Code* incidents per officer in Canada; the national average is 29.7. Responding to these offences, however, reflects only a portion of officer workload and does not account for the time they invest in order maintenance, traffic enforcement, and other social service-related duties. One consequence of this is that officers may have less time to invest on upstream crime prevention efforts. Many of society's entrenched social problems (e.g., addictions, poverty, mental health, homelessness) that can lead to crime require specific attention that often involves the police.

#### 2.1.2.3 *Organizational Inertia*

Changing policing priorities and practices—and in some cases, deeper reforms—are necessary given shifting external environmental forces. Reforms in policing, however, are often slow, incremental, and ongoing, and many organizations fail to achieve their intended goals (Schafer & Verano, 2017).

Many police reforms fail because they were not properly conceptualized or communicated, were inadequately funded or supported, or were poorly implemented (Schafer & Verano, 2017). Some reforms are based on ideas developed by civilians that do not account for the nature of police work or organizational culture (Skogan, 2008). Other changes are launched by politicians who lose interest in supporting these reforms several years after their introduction, and these reforms flounder.

As a result, some police leaders are reluctant to engage in changes, which leads to organizational inertia. Canadian research has found that organizational inertia and resistance to change were among the most significant barriers to reforms identified by police officers and agency stakeholders (Duxbury et al., 2018).

One reason why there is such a history of failed changes is the lack of a clear vision for the future of policing, although many academics and police contend that policing needs to be reimagined, reinvented, or transformed (Gascon & Fogelson, 2010; Lum & Nagin, 2017; Millie & Bullock, 2012). For example, a growing number of scholars and policy-makers believe the police need to engage more in partnerships in order to respond to the entrenched social problems that are the source for individuals and families at risk of harm or engaging in crime.

#### 2.1.2.4 *Partnerships*

It has long been recognized that the police have been losing their traditional monopoly over crime control (Bayley and Shearing, 1996). The Council of Canadian Academies (2014) report on the future of policing in Canada focused on the importance of police developing new partnerships as part of what they term the ‘safety and security web’.

According to the Council of Canadian Academies:

- Successful contemporary policing requires the police to acknowledge, adapt to, and leverage specialized capabilities and resources that are typically found in other private, public, non-profit, and academic sectors. Increased professionalism of police and evidence-based policing would enable police to play an optimal role in the safety and security web. The diversity of actors in the web introduces accountability concerns that have yet to be addressed.
- Potential partners in the safety and security web range from local groups (e.g., neighbourhood associations) to global corporations, all acting in a coordinated manner.
- The web represents both challenges and opportunities for the police due to the expectation to engage with non-police partners.

Community Mobilization, also known as the Hub model, is now well entrenched in Manitoba and across Canada and is an example of this type of multidisciplinary collaboration. Engaging in such partnerships is not an easy proposition, however, and requires agency stakeholders (from the police and community agencies) to overcome resistance to change in an ambiguous working environment. These partnership efforts will also require police services to open their working environment to different forms of relationships that require them to be “more collaborative, multi-agency, partnership oriented, networked and cross-jurisdictional” (Murphy & McKenna, 2007, p. 25).

The safety and security web and the expectation to engage with non-police partners represent both a challenge and an opportunity for the police. The challenges of implementing this type of approach include the diversity of Canadian police organizations, their receptiveness to change, and different governance structures.

#### 2.1.3 **Looking Toward the Future**

Van Dijk et al. (2019) say that we are at a “crucial point in policing and that choices need to be made urgently which will not only determine policing for a generation but will also determine in what sort of society we are living” (p. 11). Recent events in Canada, the US, and elsewhere have served to amplify long-standing social and justice issues and have brought a renewed focus on police reform. Against that backdrop, major changes to how policing and community safety services are structured and organized are inevitable. It is often during hard economic times, or uncertain times of any kind, that the roles and

responsibilities of the police are scrutinized (Kempa, 2014). While knowing that such crises will occur, predicting the nature of the next crisis is typically not possible.

But today's police services must be structured and organized to be highly responsive and adaptable to change. The current COVID-19 pandemic presents such a challenge. The unprecedented levels of pandemic-related stimulus and other funding by all levels of government and the dynamics of the post-pandemic 'new normal' are sure to put extraordinary pressures on all public services—including the police—to dramatically reduce costs while maintaining quality of service.

A key theme emerging from this literature review is the opportunity for the government, police boards, police services, and other key stakeholders to establish a vision for the future of policing in Manitoba.

## **2.2 Legislative Gap Analysis**

### **2.2.1 Jurisdictional Review of Legislation**

#### *2.2.1.1 Aim and Scope*

The jurisdictional review of legislation was conducted to identify significant differences in police-related legislation among comparator provinces; a detailed account of the gap analysis is provided in Appendix C. As agreed with Manitoba Justice at the outset of the review, the following provincial acts were considered to be useful and appropriate for the purposes of comparison:

- The *Police Act* of British Columbia (1988)
- The *Police Act* of Saskatchewan (1990)
- The *Comprehensive Ontario Police Services Act* (2019)

In Part 3 (Analysis, Conclusions, and Recommendations) of this report, and where appropriate, policing and related community safety legislation from other provinces was used to review and assess a given issue or concern.

#### *2.2.1.2 Overview*

All four provinces have legislation that address local police governance, police service delivery, and police oversight. Ontario's legislation is the most comprehensive and the most recent; British Columbia's legislation is marked by its particular emphasis on police accountability.

### **2.2.2 Governance**

#### *2.2.2.1 Police Boards*

The legislation in Ontario and British Columbia clearly identifies police boards as being responsible for the provision and/or delivery of policing and empowers boards to create objectives, priorities, strategic plans, and policies. This can include plans and policies related to overall police operations. By contrast, in Manitoba it is the municipalities that are responsible for the provision of policing, rather than police

boards specifically, and therefore the responsibilities and limitations of boards (with respect to overall police operations) are less clear.

#### *2.2.2.2 Police Employers*

Police boards are the employer of police service personnel in British Columbia, Saskatchewan, and Ontario. Only in Manitoba is the municipality identified as the employer.

#### *2.2.2.3 Provincial Commissions*

British Columbia and Manitoba have independent provincial police commissions that develop best practices and undertake studies. The Saskatchewan Police Commission may also establish standards. Ontario is disbanding its independent commission in favour of other new oversight mechanisms—its legislation has created an Inspector General who will be responsible for assessing police boards and police service compliance against adequacy standards. The Inspector General will also ensure police board members are in compliance with their code of conduct.

Ontario also has an independent Arbitration and Adjudication Commission that is responsible for police labour interests and rights, mediation, and arbitration. This Commission is also engaged in budget arbitrations between police boards and municipalities.

#### *2.2.2.4 Police Service Standards and Delivery*

The legislative framework in all four provinces feature options regarding police service delivery such as RCMP or Provincial Police, Special Constables, and others. British Columbia lists a total of seven specific designations for peace officers: Auxiliary Constables, By-Law Enforcement Officers, Designated Constables, Enforcement Officers, Municipal Constables, Special Municipal Constables, and Provincial Special Constables. Manitoba also has a number of public-sector alternatives to police officers: Special Constables, Community Safety Officers, First Nation Safety Officers, and Institutional Safety Officers. Ontario's Act is the only one that addresses not-for-profit and private security alternatives to police officers. It also mandates that all municipalities must create community safety and well-being plans.

British Columbia, Saskatchewan, and Ontario all have full-cost recovery for policing or a legislative mechanism to activate such cost recovery. Manitoba lacks a means to recover the total cost of policing in municipalities under 5,000 persons.

### **2.2.3 Oversight**

#### *2.2.3.1 Independent Investigations*

British Columbia, Manitoba, and Ontario have agencies to investigate the serious death or injury of individuals while in police presence; in Saskatchewan, Investigation Observers are appointed as required. Manitoba is the only jurisdiction where the agency that investigates cases involving injuries to public persons (i.e., the IIU) also investigates alleged criminal acts by police.

### *2.2.3.2 Civilian or Independent Monitors*

Both British Columbia and Manitoba have civilian monitor programs. In British Columbia, civilian monitors are appointed by, and make their report to, the head of the Independent Investigation Office; reports also go to the Deputy Attorney General who may then forward them to the Director of Police Services, as necessary. The civilian monitor's terms of reference and final report may also be released to the public. However, a civilian monitor has only been appointed on one occasion in British Columbia, and this was for a rather unique situation.

In Manitoba, civilian monitors make their reports to the chair of the MPC, who is not responsible for the investigation nor for reporting the monitors' findings to the civilian director of the IIU.

### *2.2.3.3 Public Complaints*

British Columbia, Saskatchewan, Manitoba, and Ontario all have public complaints agencies. These agencies receive all public complaints, either directly from the public or indirectly through police services.

In British Columbia, Ontario, and Manitoba these agencies consider each complaint and, if not deemed frivolous or vexatious, initiate an investigation of the complaint either by themselves, by the police service being complained against, or by another police service.

In all three provinces the public complaints agencies compile statistical information on complainants, complaint dispositions, and outcomes. British Columbia's and Ontario's public complaints agencies may also investigate systemic issues.

## **2.3 Consultations**

The following section outlines the outcomes from the consultation phase of this review. The stakeholder consultations provided context to the information, data, and insights gathered during earlier phases of the review process. They also provided the review team with a broad range of perspectives on the PSA and its practical applications, as well as on the ways in which current policing and police governance structures might be further strengthened.

Given the comprehensive nature of the consultations and the depth and detail of the information gathered, the following is a summary of the interview data. It highlights the indicative findings and suggestions that guided subsequent analyses and evaluations. The issues raised in the consultation summaries are explored in greater detail in Part 3 (Analysis, Conclusions, and Recommendations) of this report. As in other sections, the consultation summaries are organized according to the research questions delineated by Manitoba Justice at the outset of the PSA review.

## Public Opinion

In order to ensure a broad a reach as possible, the review team consulted all of the organizations and individuals that Manitoba Justice had listed as key stakeholders and partners, as well as other interested parties.

Perspectives of the general public were to be obtained through a survey that could be easily accessed by anyone interested in providing their views on policing and police governance. However, the COVID-19 pandemic hit as the survey was about to be launched. In consultation with Manitoba Justice, it was agreed that it would be inappropriate to issue the survey during the pandemic. As an alternative, additional relevant civil society organizations were engaged to make the PSA review as comprehensive and fulsome as possible under the circumstances.

### 2.3.1 Legislation

#### 2.3.1.1 *The Police Services Act*

Among the stakeholders, views on policing legislation were largely informed and direct although as one would expect, views were heavily influenced by the stakeholder's organization or role. In some cases, even knowledgeable and otherwise engaged stakeholders had little awareness or interest in parts of the Act outside their particular area of concern.

In general, the PSA was seen as a significant improvement on the former legislation, which was badly outdated by 2009. Certain aspects of the Act, particularly those concerned with regulation and standards development and compliance, were seen as being somewhat unfulfilled. Furthermore, many aspects of police practice and guidance were identified as remaining undefined. It was frequently pointed out that even if there had been a comprehensive and up-to-date framework of regulations and standards, the compliance inspections regimen provided for in the Act was not yet implemented.

#### 2.3.1.2 *Adequate and Effective Policing*

Many respondents, including those representing police services and police boards, remarked on the absence of a definition for 'adequate and effective' policing. The term is not defined anywhere in the Act or its regulations. Stakeholders consistently cited this definition to be essential for establishing a sound set of standards that provide greater guidance to policy-makers, governance and oversight agencies, and police services about the strategic intent of the government in keeping with the legislation.

Several Indigenous stakeholders remarked on the ambiguity of the term and its limited meaning and relevance in their communities. This perception has only been heightened by circumstances related to COVID-19 and, in particular, some of the extraordinary measures band councils and their community safety personnel undertook to protect their communities.

There was also some confusion among stakeholders as to how adequate and effective policing might be achieved in the absence of clear definitions for the role and function of the governance and oversight organizations established by the PSA.

### *2.3.1.3 Roles and Responsibilities*

In general, stakeholders did not have particularly strong views about the various organizational roles and mandates established in the PSA. Although the Act introduced several new organizations to modernize its governance and oversight architecture, similar bodies elsewhere have operated in environments where their policies and practices are stress tested and refined over the years.

The introduction of police boards was perceived as one of the more impactful changes, at least at the community level (although the Dakota Ojibway Tribal Council has a Police Commission that predates the PSA). However, police boards and other stakeholders had a strong sense that policing in general—and core oversight agencies like the MPC and LERA in particular—had been underfunded, which had diminished capacities over the long term, thus impeding the ability to achieve mandates.

The majority of police chiefs indicated that the board's role and obligations were clear and that they appreciated the degree of separation that police boards provided from municipal councils. However, some chiefs of police noted that roles and responsibilities (particularly between the police service and the police board or between the police board and the municipal council) could become blurred on occasion. For example, a conflict between the board and the municipal council could potentially place the chief in a difficult position. In part this is because the police board holds the chief to account for policing outcomes while the municipality is the chief's actual employer.

### *2.3.1.4 Regulations and Standards*

There were noted concerns about the absence of specific regulations, standards, and guidelines in a number of critical areas including police equipment (including conducted energy weapons), operational practice (including major case management), and training. Police stakeholders specifically noted the absence of a uniform code of conduct for all municipal police officers; as a result, police services are left to their own devices to develop relevant internal policies and guidelines.

In the eyes of many stakeholders, the absence of a consolidated set of policing standards (whether through regulation, standards, or directives), combined with the lack of a compliance inspection regimen, only exacerbates the situation. This has resulted in a policing system that lacks the uniform standards that would ensure adequate and effective levels of policing across the province.

## **2.3.2 Governance**

### *2.3.2.1 The Manitoba Police Commission*

The specific role of the MPC in ensuring the delivery of adequate and effective policing is unclear. Some police board and other stakeholders felt the MPC represented an underutilized structure and that its



statutory role had been somewhat impeded. More specifically, there was a view that the MPC's advice on modernizing standards and regulations had been largely ignored and its impact therefore diminished. In addition, the ministry's direct control of the MPC's budgetary and signing authorities was cited as a potential limit on its independence.

The majority of stakeholders believed the MPC could be more effective if its role was expanded to include greater scrutiny and oversight of police boards, an independent inspection or audit function, or even to serve as a complaints and review body for issues dealing with police boards. The MPC had been central in establishing and functionalizing the police boards, and it is crucial to their ongoing effectiveness. The MPC continues to support police boards through its mandated function and through the dissemination of advice on emerging and promising governance practices.

### *2.3.2.2 Municipal and First Nations Police Boards*

#### Governance and Oversight

Police boards have been in place for over a decade, and most stakeholders see them as functioning more or less as intended. Most believe that the boards, including the Dakota Ojibway Police Commission, are crucial to good police governance and that they have largely evolved into effective and engaged organizations that are genuinely concerned with the safety of their communities.

Even the smallest police boards are keen to achieve their mandates by developing detailed, multi-year policing and community safety plans. Several police chiefs and others remarked on the beneficial role boards play in providing a necessary degree of separation between police services and local elected officials—one of the underlying functions of police boards around the world—and maintaining independence from potential interference in police matters.

#### Police Board Practices

These strengths notwithstanding, several police board members expressed uncertainty as to how they were to support the delivery of adequate and effective policing; they were also uncertain as to what their individual and collective roles were in ensuring any wider regional or provincial community safety objectives. At present, there is no mechanism for developing standardized strategic policing or community safety plans or for contributing to existing safety plans.

Maintaining appropriate separation between police boards and municipal councils was also of concern to many stakeholders. Police board chairs and vice-chairs are designated by the municipal council. It was noted that this may not be an appropriate way to ensure board independence; in other sectors it is standard that boards have the power to select their own chairpersons. Several noted that board member appointments—in particular chairs and council members on boards—could be revoked at any time if members appeared to be out of step with the mayor and/or council. The notable exception is the Dakota Ojibway Police Commission (which predates the PSA) where it is prohibited to be a member of the Commission and the Tribal Council at the same time.

Police board stakeholders also felt that boards lack any real authority, particularly over policing budgets, and that they have very few levers with which they can have a direct impact on their communities' safety and well-being. Stakeholders also identified other challenges including inadequate orientation, training, and ongoing development for board members, despite annual training sessions and on-going offers of assistance from the MPC.

The role of the provincial appointees on the boards was unclear to several stakeholders. Some asked whether such appointees carry a mandate from the province or whether they are to act on the issues before them by relying on their own experience, knowledge, and judgement.

Community safety plans, in particular, were felt to be essential for addressing local and provincial community safety objectives. Many police board stakeholders thought there needed to be clearer links between community safety plans, measurable policing objectives, and police budgets. Ontario's recent legislative requirement for municipalities to develop community safety plans was seen as a promising practice. Stakeholders repeatedly pointed to the evolving nature of threats to community safety and the important role that more strategic and collective plans can play in addressing such risks.

#### Mandatory Police Boards

Manitoba's municipal stakeholders considered police boards to be an imposition on the ability of councils to manage their municipal police services. They believed that boards should be removed entirely or at least be made voluntary. From their perspective, police boards were an additional and unnecessary layer of municipal governance that should be dissolved to allow municipal councils to resume control of policing as had been the case in the past.

However, no other stakeholders were of the view that police boards should be removed or that they had not achieved many of the objectives envisioned in the PSA. In contrast to the views expressed by Manitoba's municipalities, other stakeholders conveyed a desire to strengthen the existing police board structure; they felt that a revised PSA should issue clearer guidelines around board powers and roles, as well as ways of ensuring more collective and coordinated approaches.

Stakeholders acknowledged that the employer of all police employees, including the chief of police, is currently the local municipality. They also acknowledged that greater and more appropriate board independence could be realized if police boards were to become the police employer, notwithstanding the challenges of making such a shift.

### **2.3.3 Police Service Delivery**

#### *2.3.3.1 Rural and Urban Populations*

In the absence of a mechanism for gauging public views on policing (as per the Public Opinion note above), it is difficult to determine with any certainty whether policing services are properly aligned with Manitoba's unique and complex population dynamics. Municipal stakeholders, particularly those from rural areas, expressed greater levels of concern about safety, the threat of crime, and that local police

resources were over-extended. This has become a particularly pressing issue for rural municipalities in the face of a growing methamphetamine problem.

Though it was explained that RCMP service delivery falls outside the scope of this review, smaller municipal stakeholders policed by the RCMP perceived resource constraints within the RCMP to adversely affect their communities' sense of safety. Further concerns were expressed about shifts in the RCMP's policing model (i.e., centralizing resources into so-called 'super hubs') that would only exacerbate gaps in police coverage and response time. This made the development of alternative community safety resources a major concern for municipalities.

In one instance, police service stakeholders noted that combining three existing police services—Winkler, Morden, and Altona—into a single regional service was explored as a means of providing more efficient policing to all three communities. However, the idea was not pursued, although the three services have organized a joint emergency response team.

The PSA does not directly impact the provision of policing in Indigenous communities. The specific legislative and regulatory framework that governs the sole First Nation police service in Manitoba predates the PSA and involves the federal government. While the Act confirms First Nations policing arrangements and provides for other community safety resources (e.g., First Nation Safety Officers), there are no other specific references to First Nations and Métis communities. Beyond the preamble and the specific requirement for the MPC to contain a Métis member, the PSA is entirely silent on Métis communities. It does not reference Métis involvement in any other aspect of policing or police governance, particularly with respect to police boards and any of the other statutory bodies noted on the Act.

#### *2.3.3.2 Population Thresholds*

Many municipal stakeholders felt the current definitions of urban versus rural municipalities could result in disproportionate distribution of policing costs. They have actively sought to have the government's funding model revised to address rising policing and community safety costs—which in some instances is upwards of 20% of local budgets. Aside from the fact that it does reflect the rising costs of policing, municipal stakeholders felt the current grant funding approach lacked equity and transparency and that it was overly cumbersome. One municipal stakeholder noted that funding for their local police service involved a level of complexity that the provision of community safety simply did not warrant.

Funding models for First Nations policing were also raised by stakeholders on numerous occasions. While understanding that this was not solely a provincial or PSA responsibility, First Nations stakeholders indicated that the current funding model was overly rigid and complex and involved participants at three government levels. Moreover, this rigidity made planning and paying for future requirements—particularly critical infrastructure and capital projects like telecommunications or police stations—extremely difficult. The current funding model also made it challenging to launch new or innovative community safety programs.

### *2.3.3.3 Flexible Policing Service Delivery*

The issues around different forms of service delivery were principally raised by municipal stakeholders and related specifically to the need for a more nuanced or ‘tiered’ approach to the provision of policing and community safety services. These stakeholders communicated their desire for enhanced powers for Community Safety Officers (CSO) to provide municipalities with a more affordable means of enforcing municipal by-laws and certain provincial statutes.

There was strong support for developing a provincial peace officer program with more robust authorities and which could contribute to a flexible and cost-effective community safety model. Institutional Safety Officers (ISO) were identified as a positive example that could relieve some of the financial pressure, provide more flexibility, and free up police officers for more urgent tasks.

Many municipal stakeholders noted the revocation of certain special constable authorities in 2012 as a turning point; also, because the CSO program delineated in the PSA lacks the necessary authorities to do the same types of enforcement, it is seen as being of limited value. The exception is in Thompson, where CSOs have been employed with considerable success and are fully integrated into the local community safety structure.

First Nation Safety Officers (FNSO) are considered essential resources in their communities, particularly in northern communities. Many First Nations communities have a pronounced reliance on their FNSOs, and there are many reasons why FNSOs are considered critical to ensuring the safety of their communities. This reliance has only been heightened during the COVID-19 situation. However, stakeholders noted that further government financial support for FNSO resources was crucial to the long-term sustainability of the program.

Stakeholders also remarked on the absence of a clear governance or oversight structure for CSOs and particularly for FNSOs, despite the many duties these individuals are often called upon to perform. Many stakeholders seemed to understand that FNSOs are often employed in ways that stretch both their legal authorities as well as their protections, but that northern and remote communities had little choice in the absence of other policing resources. Many First Nations stakeholders remarked that a more structured approach for oversight and governance should be developed, particularly given the fact that these officers employ equipment and training that involve the use of force and therefore have the potential to harm a member of the public.

## **2.3.4 Oversight**

### *2.3.4.1 The Police Services Act*

#### Appropriate Oversight and Transparency

The independent oversight models provided in the PSA were considered sufficient by most stakeholders. Concerns that were expressed tended to focus on specific ambiguities in the wording of the PSA that lead to differences in interpretation. There were no strong concerns regarding possible role confusion or

duplication of effort among the main oversight mechanisms, although differences in interpretation point to the need for greater clarity.

Stakeholders expressed a strong degree of confidence in, and support for, the IIU. Such confidence did not extend to LERA. Many stakeholders considered the public complaints system overseen by LERA to be somewhat dated and largely ineffective. It was felt that the processes mandated in its legislation placed a disproportionate burden on complainants.

#### Uniform Codes of Conduct

The lack of comprehensive policing standards was a constant theme throughout the consultations. A notable example of this concerned the need for a uniform code of conduct for municipal police officers.

The absence of a similar code and governing structure for CSOs and FNSOs was also identified on a number of occasions, as were the legal and financial risks that this represented for municipal and First Nations governments. Some oversight and civil society stakeholders remarked that the diversity of codes—and therefore the interpretations and ‘thresholds’ of what constitutes either minor or major misconduct—inevitably leads to a divergence in complaints or discipline processes. In addition, the absence of uniform measures and statistical data makes it extremely difficult to track and report on complaints and discipline statistics at a provincial level.

#### Independent Investigation Unit

As noted above, stakeholders including chiefs of police, other officers, and labour representatives had no real concerns with the fundamental purpose or effectiveness of the IIU. Differences revolved around interpretations of parts of the PSA and the subsequent need for greater clarity. Aside from the issue of the rights and obligations of Winnipeg Police cadets that is currently before the courts, differences in interpretation relate to obligations to comply with IIU requests, the designation of officer notes and reports, and the definition of ‘subject’ versus ‘witness’ officers. Stakeholders from the legal community noted a recent British Columbia Court of Appeals decision [*Independent Investigations Office of British Columbia v Vancouver (City) Police Department, 2020 BCCA 4*] which addressed these issues directly.

In addition, both police service and oversight stakeholders agreed that, irrespective of the IIU’s mandate, chiefs of police had to retain a degree of disciplinary authority in their organizations. It was noted that chiefs were being held to account for effective management and that ‘outsourcing’ certain managerial authorities and responsibilities to third parties could only hinder the abilities of chiefs to manage and direct their police services effectively.

Among the challenges identified by IIU stakeholders was the continuing need to educate the general public about its mandate and independence from both the police and the public prosecution service. However, aside from the IIU, no stakeholders advocated for—or articulated a clear need or benefit to—having the IIU operate under its own legislation, separate from the PSA.

### Civilian Monitor Program

Many stakeholders had low levels of understanding about the purpose of the CMP and were uncertain about its continued relevance. Many questioned the effectiveness of the CMP, particularly in relation to the professional backgrounds and qualifications of the monitors and their capacity for identifying any flaws in an IIU investigation.

Another issue was the lack of value in the CMP reporting process; monitoring reports are only seen by a very limited number of people and have no statistical or analytical value. Stakeholders noted British Columbia's similar program as a useful comparator, but further examination highlighted significant differences.

Some stakeholders considered the CMP to be an important oversight mechanism, although they suggested it could be improved. Others felt the CMP had no practical value and that it be ended. However in the event it was retained, these stakeholders suggested it be transferred to the IIU, which would select future civilian monitors and focus their role more on community liaison work, particularly in high profile or sensitive investigations.

### The Law Enforcement Review Agency

Many of the stakeholders consulted felt that LERA was lacking the human and financial resources required to achieve its mandate. Several opined that as a result of these and other reasons, the organization had become largely ineffectual.

Stakeholders noted that LERA itself had identified many of the agency's challenges, particularly those reflected in its legislation. The general view among stakeholders, especially those from the legal defence and civil society communities, was that the current LERA system does not support a high degree of police accountability and is weighted in favour of police officers.

Finally, stakeholders observed that LERA is unable to initiate investigations as an advocate of the public interest, even if it identifies clear trends or patterns in complaints and wishes to determine if problems are based on poor policies, lack of training or supervision, or are the result of more systemic issues.

Although stakeholders agreed that LERA (or something like it) was necessary, subsuming its functions into another agency was never suggested as a viable alternative to the current model. Most importantly, not a single stakeholder advocated for the removal of an independent police complaints agency like LERA; returning the complaints process entirely to police services was seen as regressive and flying in the face of decades of standards and best practice.

### Professional Standards Units

Stakeholders did not have particularly strong views on the ability of Professional Standards Units (PSU) to provide transparency and accountability. However, some remarked that this would be extremely difficult given the absence of minimum discipline standards or public reporting guidelines that apply to every municipal police service.

Police chiefs, in particular, felt that their PSUs (which exist only in the larger services) were integral to the ability of chiefs to manage their police service and to the effective functioning of their organizations. They felt PSUs should be preserved as crucial management and community relations tools and, when coupled with a uniform code of conduct, a means to ensure police boards do not encroach on internal discipline matters.

In one sense the IIU was seen to provide a degree of transparency, primarily through its right to review many, if not most, internal disciplinary matters once it was made aware. However, in the absence of uniform approaches to conduct, complaints, and discipline across the province, police chiefs in particular understood that PSUs would be as varied and unique to their services as the policies and standards they enforce.

From the perspective of stakeholders from civil society and legal defence communities, the absence of clear guidelines for reporting on complaints, internal discipline investigations, and other data makes the public's understanding of these issues extremely limited. Even LERA was not seen as having an entirely complete picture of all complaints or disciplinary outcomes across the province—only those it was made aware of. In addition, there is no other organization or agency tasked with collecting, analyzing, and reporting on complaints and discipline statistics across the province for the benefit of Manitobans and for identifying any weaknesses or concerns in policing that need to be addressed.

## 3. ANALYSIS, CONCLUSIONS, AND RECOMMENDATIONS

### 3.1 The *Police Service Act*, Regulations, and Standards

The fundamental purpose of the PSA is to ensure adequate and effective policing throughout Manitoba. The key responsibilities of police services (i.e., prevent crime, preserve the peace, and enforce the law) are set forth in section 22(1). The governance and oversight structures set forth in the current PSA represent marked improvements in the way Manitoba oversees and governs municipal police services and community safety. Recommended amendments to the Act contained in this report are intended to build upon a generally sound piece of legislation.

As the literature review and legislative gap analysis demonstrate, there is broad accord and consistency in many aspects of provincial policing legislation across Canada, but there are also marked differences. Each police act reflects often temporal political and societal contexts particular to each jurisdiction.

This trend towards greater consistency among Canadian jurisdictions has been taking place for some time, and there are areas where a convergence of approaches is especially marked. This includes the creation of independent oversight agencies to investigate incidents involving police officers in the serious injury or death of a member of the public. The development of comprehensive policing standards and policies to guide the delivery of police services is also widely viewed as a catalyst for achieving adequate and effective policing.

Policing standards—whether in the form of regulation, standards, directives, or guidelines—provide crucial information, parameters, and direction to police boards and police services. They reflect the underlying intent of their guiding legislation and clarify the government’s position on the delivery of policing services.

In whichever form they take, these instruments—and the reliable means of ensuring compliance with them—play a crucial role in ensuring adequate and effective policing. Therefore, a comprehensive and up-to-date standards framework not only serves to ensure a common standard of policing across the province, but also to enhance public trust in the police, maintain police integrity and legitimacy, and significantly reduce overall liabilities and risk of litigation. In short, a police service will be considered adequate and effective if it meets the relevant requirements of the Act and its corresponding standards.

This section examines the key roles and responsibilities laid out in the PSA and the mechanisms for ensuring the delivery of adequate and effective policing services across Manitoba. It also explores the current state of regulations, standards, and guidelines intended to support adequate and effective policing. Conclusions and recommendations for improvement are also provided.



### 3.1.1 Police and Board Accountability Framework

This section presents accountability frameworks for both police personnel and police organizations in Manitoba.

All effective accountability frameworks have these certain fundamental components in common: First, they provide clear instructions from the governing principal to the service agent. Second, they provide verification that the agent has carried out those instructions. Finally, the verification process is carried out by an entity other than the originator and issuer of the instructions. Simply put, it is good practice to separate these functions.

As described throughout this report, democratic societies increasingly demand police accountability. Those expectations relate to both police personnel and police organizations.

The first component—*clear expectations*—is usually achieved by issuing codes of conduct for police personnel and regulations or standards for police organizations.

The second component—*confirmation that expectations have been satisfied*—is typically met through independent investigation of legitimate complaints and serious incidents involving police personnel and inspection/evaluations/audits of policing organizations.

As pertaining to police organizations, both of these components (regulations and inspections) can be scaled and/or phased in accordance with risk, time, resources, and priorities.

#### 3.1.1.1 Accountability Framework for Police Personnel

Manitoba Justice, through the Director of Policing, should establish and articulate the government’s expectations of police personnel through the issuance of codes of conduct. Meanwhile, independent agencies (i.e., LERA, IIU, and MPC) should receive complaints and incidents and cause such investigations as may be warranted. This accountability framework is summarized in the table below:

**Table 1. Accountability Framework for Police Personnel**

	Establish Code of Conduct	Receive Complaints/Incident Notifications and Cause Investigations
Police Officers	Director of Policing	Law Enforcement Review Agency – Public complaints
		Independent Investigations Unit – Death, serious injury and criminal offences
Police Board Members	Director of Policing	Manitoba Police Commission

### 3.1.1.2 Accountability Framework for Police Organizations

The same principles that applied to an accountability framework for police personnel apply to a framework for police organizations. Manitoba Justice, through the Director of Policing, should establish and articulate the government’s expectations of police organizations through regulation, standards, and directives. The MPC should conduct inspections and evaluations relative to those standards. This accountability framework for is summarized in the table below:

**Table 2. Accountability Framework for Police Organizations**

	Establish Policing Standards	Inspect/Evaluate Organizational Performance & Recommend Corrective Actions
Standards for effective policing and effective police governance across all levels of policing	Director of Policing	Manitoba Police Commission

#### **RECOMMENDATION 1**

**That Manitoba Justice adopt accountability frameworks for both police personnel and police organizations, whereby the Director of Policing is responsible for defining and issuing expectations; and independent agencies (e.g., LERA, IIU, and MPC) are responsible for verifying the maintenance of such expectations.**

### 3.1.2 Roles and Responsibilities

One of the key questions driving this review is whether the PSA provides sufficient direction to enable the ministry, police boards, and police services to provide adequate and effective policing. In this regard, the Act prescribes key roles and responsibilities for the minister, the Director of Policing, the MPC, police boards and commissions, and police chiefs. These are summarized below.

#### 3.1.2.1 The Minister

Under section 2, the minister is responsible for ensuring that adequate and effective policing is provided throughout Manitoba.

Regulations, standards, and directives are the key instruments used to support police boards and police services in achieving adequate and effective policing. This is addressed in section 48, which also enumerates certain areas that may be appropriate for regulation, including:

- the minimum number of police officers in a service,
- training,
- standards for facilities and equipment,

- the use of firearms and other prescribed equipment,
- use of force,
- joint police operations,
- information sharing, and
- dress and uniform.

Furthermore, section 91(1) allows the minister to make regulations in a broad range of areas, including in the inspection of police services.

### *3.1.2.2 Director of Policing*

Acting under the general direction of the minister, the Director of Policing is responsible for a range of functions including the oversight and supervision of police services, assessing policing requirements, and coordinating policing across the province.

Under section 49, the Director may develop and issue standards, directives, or guidelines to enhance professional practices that promote effective policing. The Director may also require one or more police services to issue directives, guidelines, or standard operating procedures on specific matters relating to law enforcement and policing.

Furthermore, the Director of Policing can inspect police services to ensure the provision of adequate and effective policing services or to ensure the operations of the police service meet legislative requirements.

### *3.1.2.3 Manitoba Police Commission*

Within its core legislated duties, the MPC provides advice to the minister on regulations, including those prescribing standards for police services and police officers.

### *3.1.2.4 Police Boards (Municipal and First Nation)*

The Act requires that every municipality and First Nation that operates a police service must have a police board. Among other responsibilities, the boards provide police agencies with the “...administrative direction and organization required to provide an adequate and effective police service in the community.”

### *3.1.2.5 Police Chiefs*

Under the Act, police chiefs must ensure that their agencies meet all requirements of the Act and that police officers carry out their duties in accordance with the Act. They must implement policies established by the board, ensure compliance with directives issued under the Act, and ensure cooperation with the Director of Policing on inspections.

### 3.1.3 Adequate and Effective Policing

The cascading responsibilities from the minister to the chief of police all centre on ensuring the provision of adequate and effective policing services across the province. However, nowhere in Manitoba's legislation or regulations is 'adequate and effective policing' defined. As noted by stakeholders during the consultative process, defining the term is fundamental to establishing a sound set of standards to give greater guidance to policy-makers, governance and oversight agencies, and police services about the strategic intent of the government in keeping with the spirit and intent of the legislation.

Adequate and effective policing has been defined more fully in other jurisdictions:

In Ontario, section 11(1) of the Comprehensive Ontario Police Services Act (2019) states:

Adequate and effective policing means all of the following functions provided in accordance with the standards set out in the regulations, including the standards with respect to the avoidance of conflicts of interest, and with the requirements of the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*:

1. Crime prevention;
2. Law enforcement;
3. Maintaining the public peace;
4. Emergency response;
5. Assistance to victims of crime; and,
6. Any other prescribed policing functions.

Ontario's adequacy standards were introduced in 1999 and require police services to meet a basic set of requirements related to core policing functions. The intent of the legislation is further elaborated upon in the *Adequacy and Effectiveness of Police Services Regulation* (Reg. 3/99), which among other things has served to create and support greater consistency across police agencies in Ontario.

Alberta's Provincial Policing Standards state that a police service is deemed to be adequate and effective if the *legislative requirements and policing standards are met*. They also identify certain indicators of adequate and effective policing that can be employed. These include legal requirements, compliance with standards, efficiency (e.g., cost or benefit per unit of service), and timeliness. Only once legislative requirements have been met and standards fulfilled should the community then determine the level of enhanced service that local residents want and can afford.

New Brunswick recently adapted the Alberta model, but it added compliance with operational manuals to the measures and indicators of adequate and effective policing services.

Neither British Columbia's *Police Act* nor its Policing Standards define adequate and effective policing or how it can be measured.

While policing standards have created greater consistency and transparency across all of these jurisdictions, Ontario's experience has typically required police services to invest in a variety of areas, such as training and infrastructure, to achieve the expectations established by the standards (Blanchford, 2004). In times of fiscal constraint, a balanced approach that recognizes certain limitations might be considered more appropriate. Based on the jurisdictional scan and comparison, among other things, the review team believes that adequate and effective policing should be further defined in the PSA.

#### **RECOMMENDATION 2**

**That Manitoba Justice establish in regulation how it defines and will measure adequate and effective policing. It is further recommended that in doing so, Manitoba Justice adopts the language utilized by both Alberta and New Brunswick, with the only variation being the inclusion of a clause pertaining to the adherence to the *Canadian Charter of Rights and Freedoms* and the *Manitoba Human Rights Code*.**

#### **3.1.4 Current State of Policing Standards in Manitoba**

This section considers the current state of police standards in Manitoba. It places an emphasis on the importance of establishing a sound policing standards framework and how that can be accomplished in the near term. For clarity, in this report the term 'policing standards' is meant to encompass a single regulation, standard, directive, or guideline—or a combination thereof—as provided for under sections 48(1) and 49(1) of the Act.

At this point it may also be useful to consider what distinguishes regulations from standards, directives, and guidelines. Primary legislation such as the PSA is often supplemented by subordinate legislation. In Canada, the most common subordinate legislation is in the form of regulations. Regulations set forth rules or policies to further the general intent of the Act. They can provide broad, high-level direction or focus on specific and detailed policies or procedures. Standards, directives, and guidelines are not legislative instruments but rather policy mechanisms to achieve similar ends. Unlike regulations, however, on their own they do not bring the force of law.

The importance of creating a fulsome and comprehensive legislative and standards framework cannot be overstated. An effective structure will support and promote the delivery of adequate and effective policing; reduce overall risks, including unnecessary litigation; and enhance public trust in the police. An effective standards framework will also contribute to improving police legitimacy and help police services adapt to an increasingly complex operating environment.

As demonstrated by the literature review and legislative gap analysis, twenty-first century policing is a complex enterprise. The movement toward a 'safety and security web'—where the police must work in new collaborative models, often with non-traditional partners, to have impact on community safety outcomes—amplifies this complexity. Experts suggest that as a profession, policing must develop relevant capacities in order to be effective in this regard (Council of Canadian Academies, 2014).

The ever-increasing complexity of criminal investigations further exacerbates this situation. Criminal investigations are more multifaceted and time consuming than ever before, and a number of Supreme Court of Canada and other superior court decisions in recent years have emphasized the need for police services to get this right. For example, the Supreme Court of Canada decision in *Hill v. Hamilton-Wentworth Police Services Board* (2007) recognized the right of suspects to sue police officers for being negligent in conducting investigations. While this decision does not expect investigations to be ‘perfect’, the court established that the standard should be applied “in a manner that gives due consideration to the discretion inherent in police investigation. Like other professionals, police officers are entitled to exercise their discretion as they see fit, provided that they stay within the bounds of reasonableness.”

The long-standing requirements to proper and complete disclosure (SCC, *R. v. Stinchcombe*, 1991) is now further informed by the requirements for court cases to proceed within set timescales (SCC, *R. v. Jordan*, 2016). These and other notable cases have placed significant requirements on professional police agencies. Failure to meet appropriate standards can result in miscarriages of justice and bring the administration of justice into disrepute. This is significant in an era in which public confidence in the criminal justice system and the police is near an all-time low (Angus Reid Institute, 2020).

#### The Current State

The promulgation of the PSA constituted a major step in modernizing policing, police governance, and police oversight in Manitoba. However, the current set of regulations are outdated and largely inadequate. There are seven regulations established under the Act:

- Police Equipment (147/93)
- Police and Special Constables Qualifications (146/93)
- Community Safety Officers (107/2015)
- First Nations Safety Officers (229/2015)
- Independent Investigations (99/2015)
- Police Board (130/2012)
- Civilian Monitor (100/2015)

Of these, five were introduced after the new Act came into force in 2009. No additional regulations or standards have been issued since 2015. The regulations that most directly impact the delivery of police services are the *Police Equipment* and *Police and Special Constables Qualifications* regulations, both of which were developed in the early 1990s. Both are now in serious need of renewal.

The lack of standards to support both policing and police governance impedes the delivery of adequate and effective policing services. There are inconsistent practices because police services and boards are largely left to determine which standards to adopt or adhere to. This has led to a wide variety of policies that cover topics from codes of conduct to the use of conducted energy weapons. For example, the absence of up-to-date police equipment standards has led to the procurement and use of certain equipment for which no provincial standard or guidelines exist and without consideration (in a broader context) for the implications of that equipment’s use.

The areas most noted for the absence of regulations and standards include:

- major case management
- evidence and disclosure
- use of force
- critical incidents and emergency response teams
- police pursuits

In this current environment, the net result is overlap, deficiencies, and a lack of consistency in the delivery of policing services across the province. Both police boards and police leaders want a more robust and comprehensive policing standards framework.

In recent years, the MPC reviewed existing regulations and recommended significant changes and amendments, particularly with respect to the outdated 1993 *Police Equipment Regulation*. The MPC has also acknowledged the lack of a consolidated regulatory framework for policing. Delegating policing authority to the municipal level without appropriate parameters to ensure proper governance and oversight on key issues creates substantial risk for government.

This absence of a framework has presented challenges for both the government and police services. Police boards have been left to consider policy development by necessity in areas that, in the view of the MPC, ought to properly be within the domain of provincial regulation. In addition, these gaps in standards—e.g., for the minimum functions that every police service must provide or for authorized police equipment, firearms and conducted energy weapons, and the use of force—represent significant risk to public safety.

### **3.1.5 Policing Standards in Other Jurisdictions**

New Brunswick, Alberta, British Columbia, Saskatchewan, and Ontario were considered with respect to relevant practices in policing standards. Of these jurisdictions, Alberta and New Brunswick were considered the most useful because of their respective frameworks' currency, comprehensiveness, and ease of use.

#### **3.1.5.1 New Brunswick**

The New Brunswick Policing Standards framework, fashioned on Alberta's model, is structured into five thematic areas:

##### **1. Roles and Responsibilities**

This part begins with a brief overview of the legislative framework governing policing, beginning with the *Charter of Rights and Freedoms*. This is followed by a statement of principles to guide the delivery of policing services. Adequate and effective policing is defined, and finally, accountability and compliance measures and a dispute resolution mechanism are outlined.

## **2. Organization**

This section is sub-divided into:

- Community Policing: Community policing is established as the central organizing principle for policing in the province. Minimum standards for engaging with communities are set.
- Planning: Multi-year plans that set out clear goals and objectives with key performance indicators and action plans are required, along with annual reporting to the province.
- Financial Management: Sets the requirement to use generally accepted accounting principles and to align financial accounting with municipal governments. Standards are also set out with respect to purchasing, disbursements, and the management of police equipment.
- Quality Assurance: Police agencies must implement and maintain a risk-based quality assurance regimen and have policies to facilitate reviews and audits by the ministry.

## **3. Personnel**

Standards address all facets of human resource administration and performance management.

## **4. Operations**

Standards and requirements cover a broad range of operational matters.

## **5. Support Services**

Individual standards and requirements are established across a wide range of operational support services, including (but not limited to) victim and witness assistance, crime analysis, forensic identification services, information management, evidence management, high-risk incident response, tech crime investigations.

These specialized services are typically costly, involve perishable skills, and represent significant risk to investigations, the public, and the reputation of a police service. The specific skills and competencies required of these specialized services require both initial induction training and ongoing professional development. Fortunately, well-established professional standards and associated training and education exist for all of these areas.

Any police service which intends to provide these specialized services must have policy statements that describe the specific services, what skills development is required before commencement of such duties, what ongoing professional development is required to maintain or improve relevant competencies, and how these will be provided.

### **3.1.5.2 Alberta**

A distinguishing feature of Alberta's Policing Standards is that in addition to the statements of requirement and standards set out in each section, guidance is provided with respect to how



compliance with a standard will be determined. Additionally, specific standards will refer to requirements to adhere to specific directives or guidelines issued by the ministry. This allows for the timely adaptation of policies and procedures in response to changes in case law, emerging technologies, etc. This an important feature that differentiates the Alberta and New Brunswick models.

### *3.1.5.3 British Columbia*

British Columbia has an extensive 326-page set of highly detailed standards. Among the more notable are standards on inter-agency cooperation and coordination on major investigations and standards on task forces. These are key features which Manitoba Justice should consider as it works to develop its own policing standards framework. These areas will be explored in greater detail below.

### *3.1.5.4 Saskatchewan*

Saskatchewan lacks a comprehensive, single source of police standards although there are a number of regulations issued by the minister. The Saskatchewan Police Commission has also issued a police services policy manual.

### *3.1.5.5 Ontario*

Ontario employs an extensive set of individual regulations that are supported, as in the case of Major Case Management, by other standard documents.

The review determined the urgent need to establish a more up-to-date and comprehensive policing standards framework. Manitoba would be well served by a consolidated, user-friendly framework—adapted from the Alberta and New Brunswick models—to guide boards and police services.

Whether established through regulations, standards, directives, or guidelines, policing standards ultimately provide elaboration and direction to police boards and police services that are consistent with the intent of the legislation and serve to shape police behaviours.

The PSA provides some guidance as to the appropriate blend of regulation and standards that may be considered. Section 48 provides that the minister may make regulations to ensure that police services provide adequate and effective policing. It goes on to enumerate specific areas that may be considered for regulation, including resourcing formulas for minimum police officer numbers, uniform and dress standards, training, facilities and equipment, use of firearms and other equipment, joint police operations, and information sharing.

Contemporary police services are organized and delivered within highly dynamic and evolving operating environments. The rapid pace of change requires high levels of adaptability and responsiveness on the part of policy-makers, governance bodies, police leaders, and practitioners. These individuals must determine how laws and policies are best adapted to this kind of environment.

One of the key risks inherent in a strict regulation-based approach is the inability to respond and adapt to change with the agility that such dynamic times often require. Thus, while regulations might offer

greater stability and benefit from the force of law, standards can be adapted and modified with relative ease.

Therefore, the review team considers a blend of regulation and standards—within a clear provincial policing standards framework—to be the most effective approach. The Ontario major case management example discussed below illustrates a blended approach. Broad directions and purpose, which are unlikely to change, are articulated in a short regulation, while operating details are set forth in a standards document, the *Ontario Major Case Management Manual*.

The appeal of a blended approach is further illustrated from experiences with the COVID-19 pandemic in Manitoba. Adapting to rapidly changing conditions required policy changes across a range of human and social services. Changes involving regulation were far more onerous and time consuming to achieve than those embedded in standards or directives. Based on that, the adoption of a blended approach to regulation and standards is the most compelling option.

### **RECOMMENDATION 3**

**That, using regulations as sparingly as possible, Manitoba Justice develop a consolidated policing standards framework (which can be amended more easily than regulations) that is based on the Alberta and New Brunswick models and that contains content similar to those models.**

### **RECOMMENDATION 4**

**That a risk-based approach be taken to develop policing standards, with priority for immediate development given to:**

- **Use of force and arrest,**
- **Investigations (major case management),**
- **Disclosure of evidence,**
- **Critical incident response,**
- **Motor vehicle pursuits,**
- **Intimate partner violence investigations, and**
- **Missing persons (aligned, as appropriate, to the report on the National Inquiry into Missing and Murdered Indigenous Women and Girls).**

Of course, the process involved in developing a standards framework is important. Co-development with input from key stakeholders will be vital for ensuring comprehensiveness of content as well as buy-in to the model. To that end, it might be helpful for Manitoba Justice to create an advisory committee with representation from stakeholder agencies—including the MPC, the Manitoba Association of Chiefs of Police (MACP), Manitoba Police Association (MPA), and others—to establish the priorities for the development of new standards and to provide the opportunity to work through each standard in detail, engaging subject matter expertise as required.

### 3.1.6 Priority Standards for Three Key Risk Areas

Over the course of the review, a range of stakeholders identified three high-risk areas of police practice they believed to be in need of standards on a priority basis: Major Case Management, Disclosure and Evidence, and Critical Incident Response.

#### 3.1.6.1 *Major Case Management and Disclosure*

Major criminal cases are usually complex and multifaceted. They often cross multiple jurisdictions and involve more than one investigative agency. They may also involve a combination of

- multiple types of crimes involving multiple specialized investigation requirements
- multiple crime locations, possibly in more than one jurisdiction
- multiple victims and/or multiple offenders
- investigative techniques (often specialized) that require the assignment of specialists for extended periods of time
- technical issues

Such investigations require skillful leadership and structured coordination. The stakes are usually high and the costs of failing to follow proper methods can result in the guilty walking free, wrongful convictions (of which Manitoba has had its share over the years), breaches of *Charter* rights, and other miscarriages of justice.

It is not uncommon for major criminal cases to be multi-jurisdictional and to involve more than one police agency. Borne from experience, the importance of common tools, language, and methods have long been acknowledged. Ontario developed its regulation and *Major Case Management Manual* in the wake of the Paul Bernardo case. British Columbia's framework evolved from the Missing Women Commission of Inquiry.

Major case management (MCM) is a proven methodology. There is a national standard overseen by an advisory group of senior experts. The Canadian Police College's MCM course is the standard for training. The model emphasizes accountability and a multidisciplinary approach to complex and serious investigations. Importantly, the approach provides sound structures to the investigation, establishes clear lines of responsibility and decision-making, and creates rigorous approaches and infrastructure to record, document, retain, and share information.

When it comes to multi-jurisdictional investigations involving more than one investigative agency, MCM provides the framework and protocols to ensure seamless and effective conduct of the investigation across boundaries.

Since many major investigations lead to prosecutions, MCM provides the foundation for early and ongoing effective two-way communication between the investigative agency and Crown counsel. The structures provided by MCM support timely and full disclosure and analysis of relevant documentation to the Crown.

### 3.1.6.2 *Disclosure of Evidence*

The long-standing requirements for proper and complete disclosure (*R. v. Stinchcombe*, 1991) that enables a case to proceed through the justice system in a timely manner (*R. v. Jordan*, 2016) is further accentuated by the Supreme Court of Canada decision in *Hill v. Hamilton-Wentworth Police Services Board* (2007), as discussed earlier. Employing the MCM model would go a long way to ensuring that police agencies within the province conduct major investigations in a competent and consistent manner.

Serious concerns were relayed to the review team regarding various aspects of the management of major investigations within one particular police service. These concerns centred on the lack of adherence to well-established national MCM structures and protocols and the corresponding challenges with file disclosure to the prosecution. Some major investigations were described as being haphazardly led and managed to the point where observers were unclear who was in fact leading the investigation. More critically, some described particular police services as unresponsive to advice and suggestions for improvement. According to three highly knowledgeable stakeholders, active prosecutions could be at risk if the situation is not rectified.

## **Jurisdictional Scan**

Ontario and British Columbia offer perhaps the best contrasts in terms of approaches.

### Ontario

Ontario Regulation 354/04 deals exclusively with MCM—the organization and conduct of investigations of serious and complex criminal matters. The regulation itself establishes minimal policies for directing police boards to establish policies for major cases and for directing police chiefs to establish procedures for major investigations. The regulation directs the reader to the *Ontario Major Case Management Manual*, which is published and maintained by the Ministry of Community Safety and Correctional Services. The manual contains comprehensive guidance, direction, and standards, while providing investigative teams the flexibility necessary to adapt to specific contexts.

### British Columbia

The BC Policing Standards enumerate the minimum adherence to the principles of MCM to be applied. Mechanisms are provided to assess compliance. There is no standard operating manual.

Senior officials of the Manitoba Prosecution Service indicate a preference for the Ontario model, to which others agree. Based on analysis and experience, the review team also agrees that adapting Ontario's approach to the Manitoba context would more than adequately serve the interests and needs of Manitoba policing and the broader criminal justice system. To that end, a two-pronged approach is recommended, which involves a basic regulation supported by a ministry-developed MCM manual that sets out detailed standards.

**RECOMMENDATION 5**

**That the Ministry of Justice develop a Major Case Management regulation that defines what constitutes a ‘major case’ and that establishes the foundation for the local development of related policies by police boards, from which police chiefs can develop internal policies and procedures.**

**RECOMMENDATION 6**

**That the Ministry of Justice develop a provincial Major Case Management manual, using the Ontario and RCMP manuals for useful and appropriate comparison.**

**RECOMMENDATION 7**

**That appropriate standards regarding the disclosure of evidence be incorporated into the Major Case Management standard.**

*3.1.6.3 Critical Incident Response*

Critical incidents are typically unplanned events—e.g., hostage takings, barricaded persons, and other crisis situations that significantly impact community and responder safety. Leading and responding to these incidents requires special leadership, organizational, tactical, and operational skills and abilities.

There are well-established national standards, supported by rigorous curriculum, that provide critical incident commanders, negotiators, and critical incident scribes with the knowledge, skills, and commonly accepted practices and procedures essential to the effective and efficient planning and direction of such operations.

The only current standard pertaining to critical incident response is found in section 13(1) of the *Police Equipment Regulation*, which states that the chief of a major police department (defined as a police service responsible for policing a population of 10,000 or more) may:

- Designate certain members as an emergency team; and
- Authorize such members to carry any firearm or other equipment in the performance of their duties as an emergency team that might be required to respond to emergency situations.

The Winnipeg Police Service, Brandon Police Service, and the RCMP all have critical incident response capabilities. Furthermore, over the past five years Altona, Morden, and Winkler police services have coordinated their efforts into a joint Regional Support Tactical Team (RSTT), which provides elements of critical incident response.

A 2015 review of the *Police Equipment Regulation* by the MPC set forth a number of recommendations to bring most aspects of the regulation up to date. The MPC also recommended that the regulation be folded into a new comprehensive use of force regulation. The MPC review did not address the risk

associated with the absence of a standard pertaining to critical incident response, but the overall recommendations—which were developed in concert with key policing stakeholders—remain valid and should be taken into consideration in developing a fulsome set of policing standards for Manitoba.

The lack of an appropriate provincial standard related to critical incident response was of concern to some stakeholders, who were apprehensive over the unnecessary risks posed should organizations form relevant capacities that fall short of established standards. Furthermore, the costs associated with creating and maintaining the competencies of such teams are significant. It is the view of the review team that this is an area with associated high levels of risk that warrants clear guidelines.

#### **RECOMMENDATION 8**

**That Manitoba Justice, as a matter of priority and within a broader Policing Standards framework, develop a critical incident response standard.**

## **3.2 Governance**

### **3.2.1 Manitoba Police Commission**

The preamble to the PSA outlines key principles that the legislation is intended to uphold and promote. Among other things, the Act highlights the importance of civilian governance and oversight and of improving police transparency and accountability.

Experience elsewhere shows there are several aspects that must be fully addressed if accountability in policing is to be achieved. Patten (1999) identifies the core elements of accountability as (1) democratic accountability, (2) transparency, (3) legal accountability, (4) financial accountability, and (5) internal accountability.

*Democratic accountability* ensures that selected or elected representatives of the community tell the police what kind of service they want and then hold the police to account for delivering that service.

Through *transparency* the community is kept informed and can ask questions about what the police are doing and why.

Through *legal accountability* the police are held to account if they misuse their powers.

*Financial accountability* is provided through audits and by holding police services to account for the manner in which they use public funds.

*Internal accountability* is achieved by holding police officers to account within the police service and by ensuring that information from complaints, internal discipline, and other conduct data is used by police chiefs and government to manage police services (Patten, 1999).

The duties of the MPC, set out in sections 6 through 12 of the Act, include:

- Providing advice to the minister on regulations dealing with the operation of police services and the conduct of police officers, including regulations prescribing standards for police services and police officers;
- Consulting with the public on matters relating to law enforcement and policing, and providing the results of those consultations to the minister;
- Developing a policy and procedures manual for police boards and a code of ethical conduct for members of police boards;
- Arranging for training to be provided to members of police boards and civilian monitors; and,
- Performing any other duties assigned by the minister.

In addition, the minister may direct the MPC to conduct studies on specific issues relating to law enforcement or policing.

The MPC has fulfilled its first legislative duty by providing advice regarding regulations dealing with the operation of police services and the conduct of police officers. This has included regulations prescribing standards for police services and police officers, though regulations in these areas have not yet been adopted.

The MPC's influence on adequate and effective policing has largely been through its third and fourth duties: developing police board policies and manuals and providing police board training and mentorship. However, police boards in Manitoba are not mandated to provide adequate and effective policing—this responsibility is assigned to municipalities—and there is confusion over the police board policy role regarding policing operations in general. This will be addressed in greater detail in the section on police boards below.

The MPC is further limited in its ability to influence policing because, although it is a quasi-independent body, it has little control or independence over its financial affairs. For example, it must seek Ministry of Justice approval to expend resources. It is suggested that the role of the MPC would be enhanced if it were allowed greater independence. As discussed elsewhere in this report, community safety has become an increasingly significant issue of public concern over the past decade, while public trust in the criminal justice system—and the police—continues to erode. The Government of Manitoba can send a strong signal that it takes the current challenges to governance and oversight of, and trust in, police agencies very seriously by designating the chair of the MPC as an Independent Officer of the Legislative Assembly. This would raise the issue of police oversight to the same level as children's issues, freedom of information and privacy matters, and government fairness monitoring. In that capacity, the MPC would be better positioned to support legislators and the government with policy development and to lead change in policing and community safety.

## Jurisdictional Scan

Subject to the approval of the Lieutenant Governor, the Saskatchewan Police Commission may make regulations regarding policing standards and officer conduct. It may also conduct audits regarding police service compliance with legislation and, by extension, with regulations. To this end, the SPC has published a two-volume policy manual and conducts inspections in accordance with its risk assessment.

In British Columbia, the functions of the Director of Police Service include establishing policing standards and inspecting police services against those standards. Policing standards are established through a combination of regulations and the *Policing Standards Manual*, which are the basis for the province’s inspection program.

In Ontario, the Assistant Deputy Minister responsible for policing establishes the standards and the new Inspector General of Policing inspects police services and police boards against those standards. Ontario now subscribes to the concept that government should say what it wants accomplished and that an independent party should confirm that the government’s expectations are being met. This independent audit concept is reflective of many other sectors in Canada today.

All three of these jurisdictions have established policing standards and inspection programs; Manitoba is the exception in both these areas. The determination and development of policing standards, and who inspects against those standards, varies by province and is summarized in the following table:

**Table 3. Role-based responsibility for policing standards development and compliance.**

	Responsible for Establishing Policing Standards	Form of Policing Standards	Responsible for Compliance Inspections
<b>Manitoba</b>	Director of Policing	Regulations	Director of Policing
<b>Saskatchewan</b>	Saskatchewan Police Commission	Two-volume Policy Manual	Saskatchewan Police Commission
<b>British Columbia</b>	Director of Police Services	Regulations and Policing Standards Manual	Director of Police Services
<b>Ontario</b>	ADM Policing	Regulations, supported by manuals and guidelines	Inspector General



Based on the legislative and jurisdictional analyses, detailed consultations, and the review team's own experience and views, it is believed the MPC's role could be usefully expanded. The review team was not alone in considering the MPC to be an under-utilized resource of significant potential. The assignment of certain compliance and audit duties, for example, combined with greater financing discretion and independence from the ministry would allow the MPC to have a far greater impact on community safety and policing in Manitoba.

**RECOMMENDATION 9**

**That the government consider designating the Manitoba Police Commission as an Independent Office of the Legislative Assembly.**

**RECOMMENDATION 10**

**That the Manitoba Police Commission be authorized to manage its own finances once that budget is approved.**

**RECOMMENDATION 11**

**That the Manitoba Police Commission be assigned the additional duties of auditing police services' and police boards' compliance with standards that are developed by the Director of Policing.**

### **3.2.2 Municipal and First Nations Police Boards**

One of the principal objectives of the PSA is to determine appropriate structures for governing police services and for holding them to account for their performance and actions. One of the more useful definitions of adequate and accountable policing clearly recognizes that in order to be effective policing must also be based on consent across the community. More specifically,

The community recognizes the legitimacy of the policing task, confers authority on police personnel in carrying out their role in policing and actively supports them. Consent is not unconditional, but depends on proper accountability, and the police should be accountable in two senses: The subordinate or obedient sense and the explanatory and cooperative sense. (Marshall et al. in Patten, 1999, p. 22)

In the subordinate sense, police are engaged by the community to provide a service, and the community should have a means of ensuring that it gets the service it needs and expects and that its money is wisely spent. Police services are also subordinate to the law, and there should be robust arrangements in place to ensure that this is so and is seen to be so. In the explanatory and cooperative sense, the police and the public must communicate with each other and work in partnership, both to maintain trust between them and to ensure effective policing, because policing is not a task for the police alone. (Patten, 1999, p. 22)

One of the most effective mechanisms for achieving these objectives are police boards or commissions. These represent a key aspect of most police governance structures in parliamentary systems and are well established in Canada. The literature notes that police boards are generally engaged in six primary functions:

- 7) *Strategic planning*, specifically the establishment of policing priorities and objectives;
- 8) *Establishing policies* for the effective and efficient management of the police service;
- 9) *Monitoring and evaluating the performance* of the police service and the chief of police;
- 10) *Establishing police budgets*;
- 11) *Selecting and hiring the chief of police*; and in some cases
- 12) *Engaging (through agents) in collective bargaining* with police personnel (Graham & Kaustinen, 2019, p. 11).

Police boards play an important role in ensuring public confidence in local police. For the most part, they operate in public and are directly accountable to the public—the only exceptions usually involve personnel matters, which are dealt with confidentially. Police boards, therefore, have to take a whole-of-community view even though they are related to and, in some instances, erroneously seen as extensions of municipal governments. This is a difficult balance to achieve in practice, and police boards must ensure they are not perceived as puppets of municipal councils, voices of special interest groups, or cheerleaders for the police services they are meant to oversee (Graham, 2008, p. 9).

As noted in the literature, police boards themselves are dynamic organizations that require support and development as they navigate the complex, sensitive, and increasingly specialized domain of public policing. In fact, the effectiveness and ‘success factors’ of police boards often correlate directly with the clarity of their governing legislation, the provision of routine training to board members, access to critical information and independent expertise, and the availability of codes and standards that govern the boards themselves (Kaustinen, 2016, p. 5).

This is also reflected in other work dealing with police oversight structures. In his comprehensive study of Ontario’s structures, Justice Michael Tulloch noted some of the concerns that focused on the selection and training of board members. To address this issue, he recommended that selection criteria be established for board members through legislation or regulation. This would ensure that individuals from diverse professional and personal backgrounds are attracted to apply. He suggested these not be overly prescriptive but, “Take into consideration core competencies of board members, such as strategic planning and analysis, critical thinking, performance evaluation, and financial literacy. Efforts also should be made to recruit applicants who reflect the diversity of the communities they serve” (Tulloch, 2017, p. 202).

### *3.2.2.1 Mandatory Police Boards*

Police boards are a relatively recent addition to policing in Manitoba. The legislative and jurisdictional analysis clearly shows that police boards have operated in comparator provinces for many decades, serving their communities by ensuring that local policing is impartial, transparent, and generally

operates with the consent of the community. As such, police boards have provided significant value to their communities. The Association of Manitoba Municipalities has long advocated for the Province to rescind the mandatory clause for establishing police boards in the PSA.

The literature also demonstrates the growing relevance for the functions of transparency, impartiality, and ensuring the needs, values, and expectations of the community to be reflected in police objectives, priorities, and actions, regardless of the size of a jurisdiction's population. Furthermore, with these democratic principles in mind, if a municipal police service is expected to fulfill a province's policing standards, then it follows that it should be governed by a local board which has the mandate and capacity to focus exclusively on policing and community safety.

This view that every police service should be governed by a police board, regardless of size, is plainly supported by the literature review, the jurisdictional analysis, and the review team's collective judgement.

#### **RECOMMENDATION 12**

**That municipal police boards continue to be mandatory.**

##### *3.2.2.2 Police Board Independence*

The literature identifies the need for a relationship between the police board and the municipal council that is both independent and communicative and that this is clearly understood by all parties. However, both common practice and experience, as well as the views of many stakeholders, show that this is not necessarily true. In fact, in most cases maintaining that independence between the board and council (as well as the police service) can be very challenging particularly given that in the majority of jurisdictions the municipality must approve the police budget.

Regardless of the challenges involved, much of the legislation dealing with police boards and commissions is phrased in ways that highlight the importance of police board independence; several of the police acts reviewed contained specific provisions intended to safeguard the independence of police boards. These tend to address the board's independence in two ways:

- 1) through the board's composition (ensuring that not too many board members are from the local council), and
- 2) by allowing boards to select their own chairpersons and develop their own procedures.

Alberta's police legislation goes so far as to specifically prohibit council's interference in affairs that are the proper purview of the police board. Section 28(5) states that where a police board has been established, "The council shall not ... perform any function that the [police board] is empowered to perform."

Both the legislative analysis and the literature ultimately recognize that the potential manipulation or co-option of a police board, whether by composition or other forms of interference, not only obstructs

the police board's independence but also thwarts any chance of a healthy relationship between the police board and the council. Indirect tensions or conflicts between a board and council can also spill over into the police service itself and hamper its ability to operate effectively.

A municipal council is a key stakeholder in the provision of police services to the community. However, a council's role should be restricted to appointing some of the police board's members and to fund—as the legislated 'tax collector'—the police board's budget for policing. This role should not extend to 'co-governing' the police service or overseeing the police board.

Both British Columbia and Ontario have significantly more provincial appointees on their police boards to help ensure independence from municipal council. Furthermore, the legislation in both provinces include budget dispute arbitration mechanisms, specifically because their police boards are independent of municipal council.

To uphold police board independence and to protect board members from arbitrary dismissal, the tenure of board members is often specified in legislation rather than left to councils. Alberta and British Columbia both specify the tenure of police board members at an initial three and four years respectively, while Ontario's legislation states that the term of office shall be set out by resolution of council. Only legitimate reasons, such as voluntary resignations, incapacitation, or code of conduct breaches, are permitted for the early termination of police board appointments.

**RECOMMENDATION 13**

**That the *Police Services Act* clarify the importance of police board independence in their relationships with municipal councils and establish a budget dispute arbitrator such as the Manitoba Police Commission.**

**RECOMMENDATION 14**

**That the *Police Services Act* be amended to replace two municipal appointees with two provincial appointees.**

**RECOMMENDATION 15**

**That the *Police Services Act* be amended to provide that permissible reasons for early termination of police board appointments be restricted to: (1) voluntary departure, (2) incapacitation, or (3) serious violation of the Board Member Code of Conduct prescribed in regulations.**

**3.2.2.3 *Police Board Member Background Checks***

Currently, the Manitoba Police Board Regulation requires that a prospective board appointee provide the appointing authority with signed consent authorizing inquiries into justice system databases

regarding their person. The Regulation also requires that the appointing authority be satisfied that the person is, among other attributes, of good character before they are appointed to a municipal police board.

Across Canada, an appointment to a police board is typically preceded by a ‘successful’ police record check, though what constitutes ‘successful’ is not clearly defined. It is recognized best practice that police record checks are conducted by independent third parties, rather than the police service that will inherit the board appointee. This is the same principal that requires investigations into police chiefs and serving police board members to be conducted by independent third parties.

It is also best practice to limit police record checks to justice system databases and to refrain from interviewing friends, families, and colleagues. These broader interviews are typically reserved for security background checks, which is not a requirement for appointment to a police board.

#### **RECOMMENDATION 16**

**That before a person is appointed to a municipal police board, the appointing authority consider the results of the potential appointee’s recent police record check and that the record check be conducted by an agency other than the police service governed by the board for which that person is being considered.**

#### *3.2.2.4 Police Board Roles*

The literature and legislative analyses show that the success criteria for police boards should include a clear understanding among all stakeholders of a board’s role, which should include the provision of adequate and effective policing in their jurisdiction. The PSA appropriately assigns police boards the responsibility of ensuring that community needs and values are reflected in policing priorities, objectives, programs, and strategies; they are further responsible for ensuring that police services are delivered in a manner consistent with community needs, values, and expectations.

Many police board members consulted during this review interpreted this to mean that police boards were responsible for strategic planning, although this is not clear in the PSA. By contrast, both Ontario and Saskatchewan require every police board to establish strategic plans for policing their jurisdiction. The PSA also differs from its counterparts in that it describes police boards more as enablers rather than as responsible authorities.

Section 28(2)(d) of the Act requires the police board to “act as a liaison between the community and the police service.” However, it is unclear whether the intent is that the police board represents the police to the public or the public to the police. In either case, as currently phrased, this section is open to misinterpretation and risks placing the police board between the police service and the public, which could be highly counter-productive. Although the police board should be open to the concerns of stakeholders, they should never act as go-betweens that represent one party’s views to the other.

The lack of role clarity blurs the lines of governance and runs counter to the principles of transparency and accountability that are essential to policing in a democracy. It also further erodes police board independence.

**RECOMMENDATION 17**

**That the legislated responsibilities of police boards include:**

- 4) the provision of policing in the jurisdiction,**
- 5) the overall adequacy and effectiveness of policing, and**
- 6) establishing strategic plans for policing in the jurisdiction, taking into account provincial policing priorities and local community safety and well-being plans.**

**RECOMMENDATION 18**

**That the police board’s duty to “act as a liaison between the community and the police service” be removed from legislation and discontinued.**

*3.2.2.5 Police Employer*

Most police collective agreements in Canada feature significant management rights and restrictions. Among other things, these include minimum staffing, two-officer cars, call-back and vacation scheduling, and paid duty selection systems. From a continuity-of-governance perspective, it would make little sense for a party that does not govern the police service to be its employer and bargaining agent.

To ensure clear lines of accountability, most other Canadian jurisdictions have legislated the police board as the employer of the police chief and all police employees. Manitoba is an exception, where municipal council is the police employer.

Designating the police board as the employer of the police chief and all police service members is an appropriate indication of police board and police service independence from municipal council; it is also a key component of the continuity-of-governance. Like the boards that operate in other Canadian private and public sectors, police boards should also direct and oversee collective bargaining undertaken on their behalf, rather than directly participate in it themselves (or carried out by municipal council).

Assigning employer responsibility to police boards will be a significant undertaking and will need to be appropriately supported with board training and expert assistance. It is nonetheless an important improvement to the continuity of police governance.

**RECOMMENDATION 19**

**That police boards become the employer of their police chiefs and all sworn and civilian police employees and be responsible to direct and oversee collective bargaining undertaken by agents on their behalf.**

One of the success criteria of police boards is the presence of policing standards that serve as benchmarks for determining whether adequate and effective policing is being provided and to help orient local police oversight bodies. In the absence of policing standards and their clear articulation of government's expectations for police services, police boards cannot ensure that police services are held to account for providing adequate and effective policing.

### *3.2.2.6 Police Governance Standards*

Just as policing standards are required to ensure that government's expectations of police services are understood and carried out, police governance standards are a necessary component of an effective accountability framework. Such standards clarify what police boards are expected to do and how they are expected to do it. Without such standards, police board training and police board performance are, at best, an interpretation of what is expected by the province. In addition, without such standards it is impossible to assess police board successes or, conversely, needs for improvement.

Because they represent the expectations of government, the responsibility for developing performance standards for police boards is typically assigned to the minister or the equivalent of the Director of Policing, rather than an independent oversight body.

#### **RECOMMENDATION 20**

**That police governance performance standards be developed by the Director of Policing and articulated in regulations.**

### *3.2.2.7 Police Board Training*

Education and training is another success criterion that directly impacts police board effectiveness. Police board training requirements encompass skill development in the six key police governance functions: (1) strategic planning, (2) policy development, (3) hiring the chief of police, (4) evaluating performance of the service and chief, (5) establishing the mandate for collective bargaining, and (6) financial planning. Although the PSA assigns the task of training police boards to the MPC, the Act is silent on what specific training is required.

In the course of the review it became clear that the training undertaken by board members was very inconsistent and/or that retention of skills development was very low. This was to the extent that many board members lacked the tools necessary to ensure that they could contribute effectively to good police governance. With respect to comparator jurisdictions, British Columbia has a mandatory comprehensive five-day training program for police board members. In Ontario, board members will soon have to complete training before voting at board meetings; this approach will likely be phased in over time with some online training required prior to voting and additional interactive training required within one to two years of appointment as a condition of remaining on the board.

**RECOMMENDATION 21**

**That all board members be required to complete training on their responsibilities prior to voting in a board meeting.**

**Also, as a condition of remaining on the board, that board members complete further training on strategic planning, policy development, performance evaluation of police chiefs and police programs, establishing a mandate of collective bargaining, and financial planning within the first 2 years of their appointment.**

*3.2.2.8 Police Board Performance Evaluations*

To be effective, accountability systems must contain some mechanism with which to verify compliance and performance. The evaluation of police board performance is another success criterion that directly impacts the effectiveness of police boards and, by extension, the effectiveness of police services. Police governance standards and performance evaluations of police boards (relative to those standards) are a critical means of ensuring provincial expectations, board capabilities, and board performance are aligned.

Typically, the organizations that conduct the inspections and evaluations are independent of those which develop the required standards. In some instances, this ‘oversight of the overseers’ is achieved by having provincial authorities assess police board performance, provide feedback, and address any shortcomings.

Governance standards also assist board members themselves to determine whether or not their board is actually doing what is expected of it. In addition, inspections of police board performance can provide important insights into future training requirements for board members.

Evaluations can take different forms and do not have to include all aspects of the police board’s role in every inspection. Instead, inspections often focus on areas of higher risk such as those involving operational policies, policing objectives and priorities, and strategic planning.

**RECOMMENDATION 22**

**That the Manitoba Police Commission develop and implement a risk-based inspection system of police boards performance relative to performance standards and direct corrective police board action where and when it is needed.**

Given the current absence of governance performance standards and evaluations of police board performance, it is impossible to definitively ascertain whether or not municipal and First Nations police boards in Manitoba are performing their governance role effectively. This is not to say that police boards are not functioning well—it is clear that the police board members consulted during this review took on their tasks with sincere goodwill and perseverance. However, in the absence of a more systemic level of



direction and support, it is arguably difficult for police boards to be as effective as they could be (and should be). In turn, systemic support should be focused on a number of areas, including:

- Police board role clarity,
- Police board independence,
- Policing standards,
- Police governance standards,
- Ongoing training, and
- Police board performance evaluations.

### *3.2.2.9 Community Safety and Well-being Plans*

Since its inception in Saskatchewan a decade ago, the transformational concept of collaboration between local human service agencies as a means of mitigating harm to the community (based on assessment of case-by-case risk factors) has gained momentum across Canada. Community safety and well-being plans are now becoming a major catalyst for inter-agency cooperation for community risk and harm reduction.

Ontario's *Comprehensive Ontario Police Services Act, 2019* requires that all municipalities (individually or jointly) prepare and, by resolution, adopt local community safety and well-being plans. In developing their plans, each municipality must establish an advisory committee (individually or jointly). The Act specifies the minimum composition of such committees; police boards and police chief representation is mandatory.

A similar approach would certainly benefit Manitoba and the safety of its communities. It would also enhance the efficiency and effectiveness of taxpayer-funded human services, including policing, in achieving improved safety and well-being outcomes at the individual, family, and community levels. Some adaptations to the Ontario model, to reflect Manitoba's size and unique context, may be required.

#### **RECOMMENDATION 23**

**That the *Police Services Act* be amended to incorporate Community Safety and Well-Being Planning as a mandatory requirement for municipalities.**

## **3.3 Police Service Delivery**

### **3.3.1 Rural and Urban Populations**

Determining whether policing services are properly aligned with Manitoba's current rural and urban population composition is difficult to determine with any degree of certainty. This is due in some part to the fact that much of the province is policed by the RCMP under the Provincial Police Service Agreement or, in the case of some larger municipalities, Municipal Police Service Agreements. As such, only limited aspects of the PSA directly impact RCMP service delivery.

Among the rural stakeholders consulted during this review, there was certainly a view that the fear of crime was higher in rural parts of the province. This perception is borne out in related crime data—for example, Statistics Canada reports that rural crime was especially prevalent in the Prairie provinces. In the majority of provinces, rural crime rates were almost identical to or lower than those recorded in urban areas. The exceptions were Newfoundland and Labrador, Manitoba, Saskatchewan, and Alberta; while Newfoundland and Labrador posted the smallest difference between rural and urban crime rates (11%), the rural crime rates in the three Prairie provinces were almost 40% higher than in urban areas (Statistics Canada, 2017).

Many of those interviewed expressed concerns about diminishing levels of coverage and response times, particularly in more remote areas or where a community was far from an RCMP detachment. With respect to northern First Nations communities, distance from police services and the need for more local community safety responses highlight the importance of FNSOs—a need which has been even more starkly emphasized during the COVID-19 pandemic.

Many stakeholders also expressed deep concern over the growing methamphetamine problem that plagues many communities and which may be exacerbating both crime statistics and perceptions of crime. Compared to heroin use, regular meth use tends to be associated with a higher risk of violent crime (Darke, Torok, et al., 2010). In a California study, Cartier, Farabee, and Prendergast (2006) observed that meth use was predictive of self-reported violent criminal behaviour and general recidivism. Its damaging impacts on the Prairie provinces is well documented in recent studies.

This highlights the importance of appropriate distribution, deployment, and responsiveness of policing resources for tackling methamphetamine and other related crime and the need to focus on preventative and root cause issues. With this in mind, it is perhaps not surprising that those from remote or isolated communities feel they are under greater threat than before, not least because they know the police cannot respond quickly.

A review of government-generated police data shows that in April 2020 there were 11 police services governed by the PSA, along with the RCMP in its provincial and municipal policing programs. Within these police agencies there were 2,634 permanent police officers, six seasonal officers, and 25 auxiliary officers.

**Table 4. Manitoba Police Agencies – Sworn Officer Establishment (April 2020)**

<b>Agency</b>	<b>Establishment Permanent</b>	<b>Incremental - Seasonal</b>
<b>Altona</b>	8	
<b>Brandon</b>	89	
<b>Cornwallis</b>	1	
<b>Morden</b>	16	
<b>Rivers</b>	4	
<b>Springfield</b>	4	
<b>Ste. Anne</b>	5	** supported by 25 auxiliary constables
<b>Victoria Beach</b>	1	6
<b>Winkler</b>	19	
<b>Winnipeg</b>	1383	
<b>Manitoba First Nations Police Service</b>	36	
<b>RCMP Federal</b>	85	
<b>RCMP Provincial</b>	734	
<b>RCMP Municipal</b>	187	
<b>RCMP FNCP &amp; ACCP</b>	62	
<b>TOTAL</b>	<b>2634</b>	<b>6</b>

*Note: Excludes 14 CN and CP Railway police officers*

As depicted in Table 4, 1383 (52%) police officers are with the Winnipeg Police Service; 983 (38%) are with the RCMP provincial and municipal policing programs; and the remaining 183 police officers (7%) are with the other municipal police services. Of these, Brandon has the largest police service with 89 police officers; Cornwallis, the smallest police service, has a single officer.

Table 5 illustrates the number of police officers relative to the populations they serve and the physical size of their jurisdictions. This is not to say that the population beyond greater Winnipeg is dispersed evenly; there are concentrations of both population and police officers in different parts of the province. In fact, RCMP detachments and other municipal police services are not only scattered across the rest of the province but also ring the City of Winnipeg. Similar data for British Columbia are provided for the purposes of approximate comparison.

**Table 5. Number of police officers by population and size of jurisdiction.<sup>2</sup>**

MANITOBA							
# Police		% Total	# Population	% Total	Police : Population	Area/km <sup>2</sup>	Distribution
All Police	2,634	100%	1,369,000	100%		647,797 km <sup>2</sup>	
Winnipeg	1,383	52.5%	763,900	55.8%	1 : 552	464 km <sup>2</sup>	2.98 Cst./1 km <sup>2</sup>
RCMP	1,068	47.5%	605,100	44.2%	1 : 484	647,333 km <sup>2</sup>	1 Cst./517 km <sup>2</sup>
Other munic.	183						
BRITISH COLUMBIA							
# Police		% Total	# Population	% Total	Police : Population	Area/km <sup>2</sup>	Distribution
All Police	9,246	100%	4,341,446	100%		944,735 km <sup>2</sup>	
Vanc. & Vict.	1,584	17.1%	729,890	16.8%	1 : 460	134 km <sup>2</sup>	11.8 Cst./km <sup>2</sup>
RCMP	6,800	82.9%	3,611,556	83.2%	1 : 471	944,601 km <sup>2</sup>	1 Cst./123 km <sup>2</sup>
Other munic.	862						
SASKATCHEWAN							
# Police		% Total	# Population	% Total	Police : Population	Area/km <sup>2</sup>	Distribution
All Police	2,167	100%	671,537	100%		651,900 km <sup>2</sup>	
Sask. & Reg.	875	40.4%	502,925	74.9%	1 : 575	408 km <sup>2</sup>	2.1 Cst./km <sup>2</sup>
RCMP	1,091	59.6%	168,612	25.1%	1 : 131	651,492 km <sup>2</sup>	1 Cst./504 km <sup>2</sup>
Other munic.	201						

\* The number of RCMP police officers in British Columbia is based on 2018 data.

Given the wider areas that police services have to cover in rural parts of the province, First Nations communities rely heavily on their local community safety resources, whether a First Nations Police Service officer or a local FNSO. This is also why First Nations and other communities advocate so persistently for CSOs and FNSOs to have more robust selection processes, training, equipment, and especially legal powers and protections as a means of keeping communities safer. The critical role of CSOs and FNSOs and recommendations relating to those roles will be addressed in greater detail below.

### 3.3.2 Population Thresholds

In determining whether population thresholds are relevant to defining a policing service delivery model, it should be noted that population thresholds are usually the key variable in how the costs of policing

<sup>2</sup> Table 5 represents a high-level analysis of police to population ratios and police officer distributions and is intended purely for illustrative purposes. Because each province tabulates its policing resources differently, particularly RCMP resources, appropriate comparisons between different provincial police data is challenging. Anything more than high level analyses and approximations is extremely difficult; however this also presents a strong case for developing concise definitions and consistent categorization for analytical purposes.

are equitably distributed. The use of absolute population numbers—usually thresholds of 500, 5,000 or 20,000—is a common approach.

Section 3(1) of British Columbia's *Police Act (1996)* stipulates that the government must provide policing and law enforcement services for rural areas and municipalities with a population of less than 5,000. Under section 3(2) municipalities with a population of more than 5,000 can contract with the minister to engage the RCMP or can provide policing directly either by establishing their own municipal police service or by entering into an agreement with another municipality with a police service. With respect to covering policing costs for small communities, the legislation allows the government to levy a tax in what it considers 'contributing areas' for communities that, due to their size, do not provide policing and law enforcement services under sections 3(1) or 3(2).

Similarly, section 2 of Saskatchewan's *Police Act (1990)* stipulates that the government must provide policing services in rural municipalities, municipalities with a population of less than 500, and municipalities with a population of at least 500 that are located in what is considered the Northern Saskatchewan Administration District. This is defined and governed through the *Northern Municipalities Act (2010)*. Section 23(1) states a municipality with a population between 5,000 and 20,000 can secure policing services through a contract with the RCMP.

In addition to population thresholds, Saskatchewan's *Police Act* and regulations provide a mathematical formula to determine the appropriate distribution of policing costs for smaller and more remote communities. For example, the distribution of annual policing costs in rural municipalities of less than 500 persons is determined by the formula:  $C = (B \times P) - A$ , where 'C' is the cost to be paid by the municipality, 'B' is the baseline cost for the municipality, 'P' is the municipality's population, and 'A' is an adjusted dollar amount per resident that is calculated separately.

By contrast, section 5(1) of Ontario's *Police Services Act (1990)* stipulates that it is a municipality's responsibility to provide police services, either by establishing a police service, entering into an agreement with another municipality with a police service, agreeing with other municipalities to create a regional police service, or entering into an agreement with the government to have policing services provided by the Ontario Provincial Police (OPP).

In communities policed by the OPP, The *Comprehensive Ontario Police Services Act, 2019* has an added stipulation that both police boards and the OPP are responsible for providing adequate and effective policing. Section 10(4) further stipulates that any area of Ontario where policing services are not provided by a local police services board automatically falls under the responsibility of the OPP.

As in all of the policing legislation reviewed, budgets for municipal policing services in Ontario are the responsibility of either the governing municipality or the police services board, although in each case government grants may be available. However, a separate costing model exists for areas that are policed by the OPP. This divides the majority of policing costs into two main categories of service provision: Base Services and Calls for Service, plus certain additional costs.

More specifically, base services cover costs associated with policing infrastructure, supervision, administration, and front-line policing, and are allocated among municipalities on an equal ‘per property’ basis<sup>3</sup>. Among other things, calls for service cover costs associated with individual usage levels, enforcing provincial statutes such as the *Mental Health Act* and *Trespass to Property Act*, or responding to crime calls or motor vehicle collisions. Additional costs cover services associated with court security, prisoner transport, etc.

Based on the legislative review, the legal definition of a municipality is a key variable in determining an equitable distribution of policing costs. For example, whether a community is designated as an urban municipality or a rural municipality may well determine how much a community has to pay for its policing services—or perhaps more pertinently, how much it can expect from the government in the form of grants to help it cover its contribution to overall policing costs.

There is broad consensus among Manitoba municipalities that the current definitions of urban versus rural municipalities under *The Municipal Act (1996)* are no longer accurate. As a result, the government’s funding model and formula for determining both policing costs and the allocation of grant funding is seen by those constituencies as being both unfair and lacking in transparency.

Municipalities expressed a clear sense of urgency, driven largely by escalating costs of policing, in their desire to have this situation rectified. Police costs now represent the largest line item in many municipalities’ operating budgets. Some face higher—and perhaps disproportionate—policing costs only because of how they are defined in *The Municipal Act*.

Although *The Municipal Act* itself falls outside the scope of this review, this issue is nonetheless pertinent. Curbing the rising costs for police may require further structural innovations to support adequate, effective, and affordable policing as part of a broader construct that serves to improve community safety outcomes. Many of these issues have been addressed effectively in other jurisdictions.

With this in mind, it might prove helpful to consider the models that are based on property assessments (such as those employed by Saskatchewan and Ontario) to ensure a more equitable and transparent distribution of policing costs, particularly for smaller or more remote communities.

### **3.3.3 Indigenous Community Safety and Policing**

Among the questions the PSA review was intended to answer was: Does the PSA provided First Nations and municipalities with sufficient flexibility to deliver a range of services? It goes without saying that community safety and the provision of policing services in Indigenous communities is a complex and

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<sup>3</sup> The count is comprised of household, commercial, and industrial properties. By way of example, the allocated cost for 2017 was \$191.84 per property. This figure is reviewed and updated annually. (Source: OPP Presentation to Municipalities)

sensitive issue—one with a long history of divergence of opinion and expectations. Never has this issue been more pressing and relevant than at the present time, and the ongoing protests against aggressive policing already noted, particularly from the perspective of racialized communities, have served to galvanize and energize Canadian perspectives on these issues.

The decisions and systems put in place now—particularly as they touch on Indigenous policing and community safety—will potentially have ramifications and impacts for generations to come. Any policy-makers who have the opportunity to review and revise their policing systems and approaches (with the view of Indigenous communities and their particular needs in mind) may help to avert far more serious problems and pressures in the future.

Most of the complex arrangements involving federal, provincial, and First Nations governments that aim to provide effective policing services to Indigenous communities predate the PSA and are beyond the scope of this review. Notwithstanding, the Terms of Reference for this review asks specific questions about the policing needs of Indigenous communities, including the one that leads off this section.

These issues are important in a Manitoba context, and many of the recommendations in this report are focused on Indigenous policing and the specific community safety circumstances and needs of Indigenous communities in the province.

The degree to which First Nation and Métis representatives participated in this review is a testament to how deeply they feel about community safety and the role of policing in their communities. The Government of Canada also recognizes this. In late June 2020, the Federal Minister of Public Safety reiterated the government’s intention to declare First Nations policing as an essential service; Indigenous leaders advocated for this position for several years.

First Nations policing is generally established and regulated through tripartite agreements involving the federal government, however there are also self-administered agreements. The Manitoba First Nations Police Service (MFNPS) is the only Indigenous police service in the province. Together, the MFNPS and its police commission have developed the organization according to strategies that reflect community objectives.

The MFNPS has developed as a police service to the point where even relatively distant communities—in this instance the Opaskwayak Cree Nation—are working to contract policing services with the MFNPS, even when these communities are not geographically contiguous with its traditional jurisdiction.

The growth of the MFNPS and the interest of others in it clearly demonstrate that First Nations policing is both a viable and attractive option to provide the responsive and innovative community safety services Indigenous communities require—to some, it is the only option. This also reflects many of the findings and recommendations of previous studies on Indigenous community safety, including the Aboriginal Justice Inquiry, the Aboriginal Justice Implementation Commission, and more recently the National Inquiry into Missing and Murdered Indigenous Women and Girls.

However, policing services for the majority of Indigenous communities in Manitoba are provided by the RCMP. In some remote communities that do not have their own RCMP detachment, the immediate local community safety services are provided by FNSOs. While the roles and functions of FNSOs are addressed in greater detail below, recent COVID-19 lockdown restrictions in many Manitoba First Nation communities has heightened awareness about their critical roles.

Unfortunately, COVID restrictions also brought the helplessness that many communities felt into stark relief. In the face of this unprecedented threat, they had to rely on their own internal resources to enforce travel and other pandemic-related restrictions. FNSOs took on responsibilities to control traffic, enforce physical distancing guidelines, and contribute to other pandemic-related plans. Manitoba Justice supported these efforts by quickly providing FNSOs with the expanded legal authorities required to carry out these additional responsibilities.

Indigenous stakeholders acknowledged these temporary extended authorities as being crucial to their ability to use their local community safety resources effectively. However, they also commented that some communities would benefit if these authorities were made permanent and that many local community safety outcomes were best achieved at the FNSO level.

All policing is local, which is to say that policing and community safety priorities vary from community to community. Indigenous organizations representing both southern and northern communities were consistent in their calls for the provision of locally appropriate legal authorities and protections for FNSOs so they can more effectively support of community safety priorities.

The Manitoba Métis Federation (MMF), in a formal submission, advocated for greater inclusion and representation on governing bodies for policing, the development of policing standards and policies that differentiated between different Indigenous groups, and the specific inclusion of Métis participation in the IIU and CMP.

These issues are important to both Métis and other Indigenous communities. Relative to their proportion of Canada's population, Indigenous people are overrepresented in the criminal justice system and as victims of crime<sup>4</sup>. Some of the MMF's recommendations are not new; some of those brought forward in this review had been provided to the government during the drafting of the PSA in 2009, but which MMF representatives felt had not been properly reflected in the legislation.

Although there were significant differences in the perspective and positions put forward by the various groups consulted in the course of this review, there was also a marked degree of concurrence. This was most pronounced in the call for greater representation and inclusion of Indigenous people on the police governing bodies aside from the MPC (including police boards, the IIU and the CMP). In many cases it

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<sup>4</sup> 2019/2020 figures for federal penitentiaries show that 30% of all inmates are Indigenous and that 41% of all women inmates are Indigenous.



was suggested that greater representation by Indigenous people on these bodies be made mandatory, although there was also recognition that in the case of smaller services or police boards or depending on their location, this might prove difficult in practice.

In addition, all of the groups consulted called for direct involvement in the development of training for the statutory agencies, police boards, and police services. There were also very strong views about the inclusion of more specific references to differentiated Indigenous groups in the PSA. The concerns of First Nations and Métis communities should both be clearly acknowledged in the Act. These notions and definitions should also be reflected in new policing regulations and standards, as should policing practices which require explicit cognizance of First Nations and Métis needs and circumstances.

Another area of significant concurrence was the need for greater authorities and protections for FNSOs and the enhanced capabilities these would provide in the performance of their duties. The development of a more structured governance and accountability framework was also mentioned with respect to FNSOs to ensure minimum standards for recruitment, initial training, and equipment and in-service training, among other things. These and related issues are addressed in greater detail below.

All of the Indigenous organizations represented advocated for more financial resources to support FNSOs, whether in the form of direct subsidies or via financial support to purchase policing support, including mental health services, training, and infrastructure (including modern communications equipment).

Finally, they identified the need for improved interoperability between FNSOs and the police services of jurisdiction—this is an increasingly important issue in the complex world of community policing safety.

#### **RECOMMENDATION 24**

**That police board policies be revised to specifically state the requirement to have a board composition that is reflective of the wider community and which specifically encourages the membership of representatives of First Nations, Métis, and newcomer communities.**

#### **RECOMMENDATION 25**

**Given the prominence of Métis communities in the history of Manitoba, that Métis representation on, and engagement with, policing governance and oversight bodies be encouraged.**

Rarely has there been a time when so much public attention is focused on reforms and improvements in policing and community safety. Nowhere is this need more pressing than for Indigenous communities. The government has a unique opportunity to leverage this momentum to move First Nations policing and locally-engaged community safety resources into a mode appropriate to the twenty-first century. This will ensure that policing and community safety are fit-for-purpose and address the unique needs and desires of Indigenous communities.

### **3.3.4 Policing Service Delivery**

#### *3.3.4.1 Applying Standards Across Police Services*

It is unlikely that all of Manitoba's current police services would meet the requirements of a contemporary suite of policing standards. For example, the one-person police service serving the RM of Cornwallis is, for all intents and purposes, the municipality's by-law enforcement arm, yet it is categorized as a police service. As the MPC stated in its 2016 *Modernization of Policing Report*, the absence of a policing standards framework has resulted in a patchwork of municipal and First Nations police services, which, in some cases, overlap with RCMP jurisdictions. This lack of jurisdictional and role clarity impedes the consistent delivery of adequate and effective policing.

A layered and tiered policing model is one way to ensure a tailored approach to address local needs while ensuring that the more sophisticated and complex aspects of policing and law enforcement (e.g., those that carry higher levels of risk or require specific expertise that is both costly and involves specialized training and ongoing practice) fall to those agencies that can develop and further refine such capacities through regular use.

As noted in Table 4, Manitoba's police population is comprised of 2,634 permanent municipal and RCMP police officers who are supported by six seasonal police officers and 25 auxiliary officers. The efforts of the province's police services are further enhanced by a variety of other community safety resources established under the PSA. These include sheriffs, CSOs, FNSOs, police cadets, and ISOs, among others.

#### *3.3.4.2 Ensuring Adequate and Effective Policing*

The number of police services in Manitoba is relatively small, however the range in terms of size and capacity are considerable. There are currently no established standards that set out what levels of policing—with specific emphasis on investigations and support services—should be accorded to police services of different sizes. Furthermore, as the work of keeping communities safe increasingly involves other types of resources, including peace officers such as CSOs, FNSOs, and sheriffs, it is important that the legislation governing these roles is not only up-to-date, but also reflects a structure that allows for the increased coordination between police services and between police agencies and others that employ peace officers.

Providing a seamless structure that ensures those operating within the policing and peace officer spheres have the appropriate capabilities and capacities to support community safety and well-being is of paramount importance. For example, when Ontario introduced Regulation 3/99 (Adequacy and Effectiveness of Police Services), there was a dramatic reduction in the number of police services in the province. Many of the smaller services were simply unable to meet the adequacy standards requirements and either merged with neighbouring services or saw their jurisdictions taken over by the OPP.

Similarly, in 2001 Québec introduced a six-level model of policing as a way of ensuring greater standardization among the 109 police services that existed at the time. The model took a population-based approach, with the six levels of policing service further sub-divided into four categories of police activity: (1) general policing, (2) investigations, (3) support services, and (4) emergency measures (Québec Ministry of Public Safety, 2014). This approach has generally met with the approval of Québec's police leaders who find the model very effective from the police operations and planning standpoint.

The following analysis draws directly from Québec's highly successful approach and demonstrates how it might be adapted to a Manitoba context. According to this model, the province's 12 existing police services would be divided into four categories, Levels 1 through 4 (with the smallest services designated as Level 1 and the largest as Level 4). Each level specifies the nature of services that the police agency within that category would be expected to provide, with the complexity of roles and services increasing at each level. For example, a Level 2 police service might investigate street-level drug trafficking, while a Level 3 service would be authorized to investigate both street-level traffickers as well as those who supply them. A Level 4 police service would have the additional authority to investigate high-level suppliers.

In many respects, Manitoba has benefitted from a relatively informal, relationship-based approach for ensuring the provision of effective policing across the province, and there is nothing inherently flawed with such an approach. However, considering the increasingly complex nature of policing, a more structured and consistent approach is necessary to meet standards and reduce risks and potential liabilities. Put another way, while the levels of collegiality and cooperation among police services across Manitoba are admirable, the risks of not providing more structure and clarity are simply too significant to ignore.

The proposed approach recognizes that the greater the complexity of the investigation and support services, the greater the cost. It also recognizes that certain services and specializations not only require a high degree of training and expertise, but also come with significant risks. In addition, the clear delineation of policing responsibilities takes pressure off smaller police services so they no longer have to strive to 'be all things to all people.'

**Table 6. Levels of Policing**

<b>Level 1:</b>	These police services would carry out all general policing responsibilities including patrol, response to requests for assistance, crime prevention, traffic and by-law enforcement, and crime scene management, among other things. They would be somewhat limited in the nature of criminal investigations to those involving trespass, mischief, and similar low-risk-to-harm investigations.
<b>Levels 2 – 4:</b>	<p>These services would undertake all of the activities that are set out in lower levels, as well as those additional activities that fall within a particular level. The success of such an approach is based on factors such as:</p> <ul style="list-style-type: none"> <li>• Making clear that it is the responsibility of the police service within a particular level to meet the required standards of that level, either through its own efforts or through contracts or mutual aid agreements with another police service; and</li> <li>• Ensuring that police services designated as Level 4 (RCMP and the Winnipeg Police Service) have the capacities to meet demands for support.</li> </ul>

This proposed approach and model are provided as a starting point for further consultations and refinements with key stakeholders, including chiefs of police, police boards, police associations, and others. The model is further illustrated in Appendix D.

**RECOMMENDATION 26**

**That Manitoba Justice adopt a layered model for policing in Manitoba and engage key stakeholders in refining some of the particular details of the model.**

**3.3.5 Community Safety Needs**

In its 2019 *Policing and Public Safety Strategy*, Manitoba Justice set forth a compelling vision for the future of policing in the province. The strategy included the goal of improving public safety by alleviating extraneous demands on police services. In part, this was to be achieved by:

- Exploring opportunities to support and expand the CSO and FNSO programs; and
- Supporting police services in exploring initiatives to further civilianize non-core police functions.

Governments across Canada and most of the Western world have long been seeking ways to contain the rising costs of policing. Manitoba municipalities share this concern and as noted above, policing now constitutes one of the highest costs for municipalities. Upwards of 86% of these costs are related to personnel, including salaries, benefits, and pension plan contributions. As such, reducing the rising costs of policing services rests on two crucial variables: (1) the nature of the issue requiring police attention

and (2) the individual undertaking the work. Only the second, determining who should undertake the work, can be modified.

Manitoba's CSO and FNSO programs were developed to provide municipalities and First Nations lower cost alternatives to fully sworn police officers to deal with lower level, low-risk-to-harm work. By employing peace officers, these programs allow fully sworn and trained police officers to focus their expertise on higher-order policing and investigative functions. Meanwhile, CSOs and FNSOs are able to address issues that might otherwise be left unattended if they were the sole domain of the police (due to the many competing priorities that often overworked police officers routinely face).

The CSO program was introduced in 2013 through a legislative amendment allowing municipalities to operate a CSO program under the Act. Section 77.2 stipulates that CSOs are to work in collaboration with the local policing authority and to enhance public safety by:

- (a) Implementing crime prevention strategies and initiatives;
- (b) Connecting social service providers with persons in need; and
- (c) Maintaining a visible presence within the community.

CSOs must be municipal employees. They may be authorized by the minister to enforce certain laws and while doing so, enjoy the powers and protections of a peace officer (section 77.5). At present, the City of Thompson is the only municipal jurisdiction to have implemented the CSO program. Thompson's three CSOs work closely with the local municipal RCMP detachment to address low-risk-to-harm matters, mostly involving intoxicated persons in the downtown area. The local RCMP commander considers the CSOs to be indispensable and allow his members to focus their finite energies on higher-order priorities.

Under section 77.6, a CSO may provide general assistance to the local policing authority *in relation to non-criminal matters*, when requested to do so by a member of the policing authority.

The FNSO program was introduced in 2014. It allows a First Nation community to engage FNSOs in role similar to that of CSOs (with slight variations). The role of FNSOs is set out in section 77.13:

First Nation Safety Officers are to work in collaboration with the local policing authority to enhance public safety in a First Nation community or group of First Nation communities by:

- (a) Implementing crime prevention strategies and initiatives;
- (b) Connecting persons in need with social service providers;
- (c) Maintaining a visible presence within a first nation community or group of first nation communities; and
- (d) Providing information to the local policing authority on ongoing or emerging public safety issues.

As in the case with CSOs, the minister may authorize FNSOs to enforce prescribed provincial enactments. While acting in these capacities, FNSOs enjoy the powers and protections of a peace officer (section 77.15).

Under section 77.16, FNSOs may provide general assistance to the local police when requested to do so, *as long as the assistance does not involve any criminal law enforcement activities*. This is a subtle but important difference to what CSOs can do. As an example, it would appear that a CSO could not guard a crime scene (which constitutes assistance in relation to a criminal matter), but a FNSO could perform that function since guarding a crime scene is not a criminal law enforcement activity.

**RECOMMENDATION 27**

**That in order to better align CSO and FNSO authorities, Section 77.6 be amended to read:**

**“...Community Safety Officers may provide general assistance to the local policing authority when requested to do so by a member of the local police authority, as long as the assistance does not involve any criminal law enforcement activities.”**

There are significant opportunities to expand and repurpose the CSO and FNSO programs to support a more versatile, efficient, adequate, and effective community safety model for Manitoba. In this vision, CSO and FNSO personnel would work in partnership with local police to deal with a broad range of low-risk community issues.

In examining this issue, CSOs and FNSOs are but two elements of a much broader community of peace officers operating in Manitoba. It is important to consider how these various and seemingly disparate peace officer roles and functions might be brought together under a system that offers opportunities to enhance effectiveness and flexibility and greater financial efficiencies. To that end, it is instructive to look at Alberta’s relatively seamless tiered model—the Alberta Peace Officer Program—which numerous stakeholders cited as an exemplar.

**3.3.5.1 The Alberta Peace Officer Program**

The Alberta Peace Officer Program was established in 2007. It brings greater clarity to the continuum of roles along the spectrum from peace officer to police officer, aligns standards and compliance, and provides greater public profile to the peace officer role. The program supports the community safety enhancement or specialized law enforcement needs of the Government of Alberta, municipalities, First Nations, and quasi-government organizations.

The program is founded in *The Peace Officer Act* through which the Ministry of Justice and Solicitor General can designate agencies and provide individuals with peace officer status for specific job functions. Although the duties and functions defined by the program vary, the program is designed to ensure minimum standards of training, accountability, and professionalism.

The program provides for two classes of peace officer: (1) Alberta Peace Officers (APO), which are employed by the Government of Alberta, and (2) Community Peace Officers (CPO), which are employed by municipalities.

The APO and CPO categories are further segmented into two levels of responsibilities:

Alberta Peace Officers

<b>Level 1</b>	<ul style="list-style-type: none"> <li>• Employed by the Ministry of Justice, these peace officers are mostly sheriffs and conservation officers. Their primary roles include:                             <ul style="list-style-type: none"> <li>○ fish and wildlife enforcement;</li> <li>○ highway traffic enforcement;</li> <li>○ prisoner transport and court security; and</li> <li>○ protection services for Premier, Lieutenant Governor, and designated VIPs.</li> </ul> </li> <li>• Of all peace officers, they carry the most authority.</li> <li>• They are uniformed and authorized to carry a baton, pepper spray, or a firearm or a combination thereof.</li> <li>• They are authorized to enforce provisions of provincial statutes and certain sections of the <i>Criminal Code</i>.</li> <li>• They work with police to enforce traffic violations on provincial highways.</li> </ul>
<b>Level 2</b>	<ul style="list-style-type: none"> <li>• Employed by other government ministries, these officers work mostly in plain clothes and are responsible for a range of duties, including fraud investigations, conservation and environmental investigations, and inspection and compliance duties under provincial statutes.</li> <li>• Some Level 2 APOs are required to carry firearms, for example to dispatch injured animals.</li> </ul>

Community Peace Officers

Governments or quasi-governmental agencies may apply to engage CPOs. Quasi-governmental agencies include post-secondary educational institutions, health regions, commissions or boards that report directly to a government ministry, or any other group designated by a federal or provincial ministry to carry out enforcement of legislation. The CPO program is divided into two categories:

<b>Level 1</b>	<ul style="list-style-type: none"> <li>• Providing safe and secure environments for staff and students at post-secondary institutions</li> <li>• Enforcing provincial statutes and local by-laws for municipalities or First Nations communities</li> <li>• Responding to non-urgent community calls for service</li> <li>• Assisting in investigations under the direction of a police officer</li> <li>• Enforcing traffic violations on primary and secondary highways and on local roads within the municipal jurisdiction</li> <li>• Investigating property damage and minor injury motor vehicle collisions that do not require emergency response</li> <li>• Trained in conflict resolution to reduce or diffuse potentially serious situations</li> <li>• Arresting and releasing persons on outstanding provincial arrest warrants and <i>Criminal Code</i> arrest warrants</li> </ul>
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**Level 2**

- Back office and administrative functions for police services, including exhibit room custodians and process servers
- Parking enforcement
- Photo radar
- Animal control specialists

Over 110 municipalities across Alberta have engaged CPOs. The role attracts many former police officers as well as younger people interested in gaining experience to eventually join a police service. Most are from the communities they serve and possess good local knowledge and contextual understanding. Two First Nations have authority to establish programs using CPOs, but as of the time of writing this report had not yet hired any personnel.

While private sector organizations are not eligible to engage peace officers under the legislation, many municipalities and police services use private organizations to provide security personnel. For example, the Corps of Commissionaires provide CPO Level 2 personnel to the Edmonton Police Service to fulfill detention facility work; many are employed at the same level as photo radar technicians. While the client organization provides the training to standards, the private agency is responsible for hiring and administering individual employee affairs.

A common uniform and vehicle markings are standardized across the province. CPOs enforce provincial statutes and local by-laws, and their mandates and jurisdictions are clear. For example, when a routine traffic stop uncovers a driver who is impaired, CPOs can either issue a 24-hour license suspension under provincial law or request the local police service to attend and investigate under the *Criminal Code* (Daoud, 2019).

It is noted that certain CPOs have been authorized to undertake some limited and low-risk criminal investigation under the *Criminal Code*, such as mischief or theft under \$5,000. In addition, under section 13(1) of the *Alberta Peace Officers Act*, the minister can, in consultation with the hiring organization, expand APO and CPO authorities or jurisdictions for a period of time to deal with any emergencies in the province.

### *Training*

All CPOs that have public-facing roles, regardless of whether they are Level 1 or 2, are now trained to the Level 1 standard. Those Level 2 personnel that do not have public-facing roles (e.g., those engaged in photo radar or who work inside a police service) do not receive this enhanced training.

### *Salaries*

CPO salaries and benefits are set by the hiring municipality. Annual salaries are driven by market conditions and therefore range considerably across Alberta. Ministry of Justice officials advise that, in



general, this represents an annual saving of approximately \$25,000 when compared to the cost of a sworn police officer in Alberta.

One of the risks associated with APOs and CPOs is the issue of ‘scope creep’, and the desire of many APOs and CPOs to take on responsibilities that are outside their specific mandates. This is a long-standing issue in any tiered policing system, but the implications of not holding firm on mandates is that eventually, through bargaining and arbitration processes, the economies realized through tiered policing programs are lost as the lower tiers demonstrate that they operate at or close to what a sworn police officer is mandated to do. This issue is continually monitored by the ministry, which has been steadfast (through policy and audits) in maintaining clear parameters.

### *3.3.5.2 The Way Forward*

The future of policing across Canada invariably involves tiered models. This is only amplified by what is expected to be a prolonged period of deep austerity as governments strive to adjust their finances following unprecedented levels of stimulus and other COVID-19 related spending. There will be extraordinary pressure on all public services, including the police, to dramatically reduce costs. Structural reforms such as those described above may appeal to most stakeholders, including the police.

The Alberta Peace Officer Program is a mature, well-designed program. It is not a replacement for police officers, but rather it complements the work of police officers as part of a logical tiered continuum. This creates value while reducing demand on the police and allowing police officers to focus on more serious matters that are more in keeping with their training and capabilities.

Adapting the Alberta approach to the Manitoba context would create a single unified peace officer system of employment standards, qualifications, accountability, and compliance for the 503 peace officers<sup>5</sup> operating in multiple provincial government departments, municipalities, and quasi-governmental organizations. It would also provide an excellent platform to expand the CSO and FNSO programs across the province, with variable levels of responsibility and mandates that attend to the needs of communities both large and small.

#### **RECOMMENDATION 28**

**That the Government of Manitoba adapt the Alberta Peace Officer model to the Manitoba context and that authorities within each level be granted based on the needs of the community or hiring organization.**

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<sup>5</sup> This includes CSOs, FNSOs, Conservation Officers, Park Patrol, Public Health Inspectors, and Workplace Health and Safety Officers, among others.

**RECOMMENDATION 29**

That the Manitoba Peace Officer Program be established through its own legislation—the *Peace Officer Act*—and corresponding regulations.

**RECOMMENDATION 30**

That the Manitoba Peace Officer Program encompass all current peace officers appointed under various provincial legislation.

Manitoba Peace Officers (MPO)

**RECOMMENDATION 31**

That Level 1 MPOs be employed only through the Ministry of Justice and Manitoba Infrastructure (as pertaining to motor carrier enforcement and investigations) to complement the work of the police in:

- ensuring safe roadways throughout Manitoba;
- providing prisoner transport and courthouse security; and
- enforcing such provincial statutes and sections of the *Criminal Code* pertinent to their mandates.

**RECOMMENDATION 32**

That other government ministries' investigative and enforcement personnel fall under the MPO Level 2 categorization.

Community Peace Officers

**RECOMMENDATION 33**

That the Community Safety Officer, First Nation Safety Officer, and Institutional Safety Officer programs, together with any other public-facing non-by-law enforcement peace officers employed by municipalities or First Nations, fall under the new Community Peace Officer Level 1 designation, thereby ensuring symmetry in programming, standards, and compliance.

**RECOMMENDATION 34**

That the ministry work closely with municipalities, First Nations, and the police boards and police services of jurisdictions to determine the appropriate balance of enforcement responsibilities between the police and Level 1 CPOs in such jurisdictions.

**RECOMMENDATION 35**

That in order to ensure role clarity, joint planning, and mutually-reinforcing deployment strategies, standards in both the *Police Services Act* and the proposed *Peace Officer Act* establish the requirement for the creation of memoranda of understanding to address such matters as information sharing, communications, joint planning, and coordination of enforcement activities.

**RECOMMENDATION 36**

That Level 2 CPOs comprise such functions as parking enforcement officers, police exhibit custodians, and animal control specialists.

**RECOMMENDATION 37**

That a set of standards governing the use of force (with a strong emphasis on de-escalation) be developed to apply to all levels of MPO/CPOs and that align with the use of force standards in place for the police.

With respect determining whether the special constable classification remains relevant to the current policing model, given the issues noted above, a specific special constable designation is no longer considered necessary.

**RECOMMENDATION 38**

That Part 8 (Special Constables) of the *Police Services Act* be repealed.

### 3.4 Oversight

Oversight is all about accountability and transparency. Approximately 200 years ago Sir Robert Peel, the originator of public policing as we know it, put forward a number of key principles that remain relevant today. One of Peel's principles is that the power of the police to fulfill their functions and duties, "...is dependent on public approval of their existence, actions, and behaviours, and on their ability to secure and maintain public trust."

The need for the police to remain highly transparent and accountable is critical to their roles within the community. Notions of appropriate transparency and accountability apply to both the actions and behaviours of individual officers, as well as to the police organization itself. One of the most visible and intimate demonstrations of accountability is through the delivery of processes and outcomes relating to how allegations of police misconduct are addressed.

The importance of police accountability and transparency is identified in the PSA preamble and is a key theme throughout this review. True transparency occurs when police are open and informative about their work and welcome community questions and scrutiny. Continuous accountability and transparency

build community trust and pre-empt deteriorating relations. This is especially important with community elements that have been marginalized, including racialized groups in general and with Indigenous communities in particular. “Transparency...is important if the police are to command public confidence and active cooperation. Secretive policing arrangements run counter not only to the principles of a democratic society but also to the achievement of fully effective policing” (Patten, 1999, p. 25).

Internal accountability is often seen as a matter of discipline, however it should more appropriately be seen as a matter of management: “Police managers, from the top of the organization downwards, should define clearly for all their staff the role that is expected of each of them in meeting the objectives agreed for the police service as a whole.” More importantly: “Those who fall short of what is required should be helped through coaching and training as appropriate. If the performance is still inadequate, then administrative action becomes necessary, but good management should reduce the need for this” (Patten, 1999, p. 59).

Manitoba’s legislated structure for the independent oversight of police services includes the IIU, the CMP, and LERA. Larger police services also have established Professional Standards Units.

The model is considered sufficient to allow for transparency and appropriate civilian oversight of police-involved incidents and public complaints. In addition, since each of these entities has a fundamentally different role and function, there are no marked redundancies between them. However, while the structure and mandates are relatively clear, these organizations—and more particularly how they function in relation to one another—could benefit from being further clarified and, in some instances, strengthened or developed anew.

A fairer, more just, and more timely process to address community concerns relating to police conduct can also serve to address the ever-growing conditions of occupational stress injuries that police officers experience. A more balanced approach, resting on a sound legislative framework, could begin to address some of these issues, including enhanced procedural fairness and a reduction of the costly ebb and flow that can result from changes in police leadership and the competing individual ideologies this can bring.

Achieving a more balanced and less adversarial conduct and discipline scheme should begin with an examination of the language adopted within legislation. Among the current responsibilities of a chief of police, as set out in section 22(1), is “the maintenance of discipline in the police service.” Adopting more contemporary language such as “the maintenance of police professionalism” should be considered. After all, maintaining the competence or skill expected of a professional—including the conduct expected of a professional—aligns better with a professional model of policing than does maintaining discipline.

**RECOMMENDATION 39**

**That the government adopt more contemporary language in the legislation to describe the responsibilities of police chiefs with regards to conduct and discipline. As one example, section 22(1)(c) of the PSA should be amended to read, “the maintenance of police professionalism.”**

### **3.4.1 Oath of Allegiance**

The single most distinguishing characteristic that defines a police officer as an important public official is when she or he is sworn in through acceptance of the Oath of Allegiance. This is a watershed moment for every officer and marks the commencement of their career in public service. It is important that oaths speak to values such as upholding the rule of law, policing without bias, duty of care, being truthful, respectful, and so on.

All police conduct and behaviour is grounded in the principles communicated in the Oath. The Oath is an officer’s acceptance of the overarching responsibility to the rule of law and to the communities they serve. The principles contained in the Oath should also set the foundation of a more detailed code of conduct that applies to all municipal police officers (see recommendations in section 3.3.4 Police Service Delivery above).

**RECOMMENDATION 40**

**That Manitoba Justice draft a new Oath of Allegiance that will apply to all police officers and peace officers to follow, and to display it prominently in legislation.**

### **3.4.2 Codes of Conduct**

The critical importance of providing a clear and enforceable framework of policing standards cannot be overstated. Such frameworks assist and support not only police services and individual officers, but also police boards and oversight agencies.

Section 50 of the *Police Services Act* authorizes the Director of Policing, in consultation with police chiefs, to prepare a model code of conduct for police officers for adoption by police services. Currently no such model exists.

The absence of a uniform code of conduct means that each police service is free to select its own code and that police officers may potentially be held to drastically varying degrees of conduct. Even determining what would constitute an act of minor versus major misconduct becomes extremely difficult, since no agreed threshold exists with which to differentiate between the two. Fortunately, police services across the province recognize the importance of uniform or standardized codes and have voluntarily adopted existing codes such as those in use in the RCMP or the Winnipeg Police Service.

**RECOMMENDATION 41**

**That Manitoba Justice develop a uniform Code of Conduct based on existing models, such as the RCMP model, that will apply to all municipal police officers in Manitoba.**

The absence of a similar code of conduct for all peace officers, including but not limited to CSOs and FNSOs, is also a crucial gap that should be closed.

**RECOMMENDATION 42**

**That Manitoba Justice also develop a Code of Conduct that applies to all peace officers in Manitoba.**

### **3.4.3 Categorization of Misconduct**

Differing standards and interpretations of misconduct, particularly as to their severity, results in differing disciplinary outcomes. This runs counter to one of the fundamental principles of natural justice and can be unfair to affected officers.

In the absence of clearer guidelines in legislation, regulations, and standards, differing interpretations can lead to workplace grievances, appeals, and even judicial reviews, all of which can exponentially lengthen the time it takes to resolve allegations of officer misconduct.

**RECOMMENDATION 43**

**That the government define levels of misconduct and thresholds between minor and major misconduct either in legislation or subsequent regulations, such as a uniform Code of Conduct.**

### **3.4.4 Public Complaints - Law Enforcement Review Agency and Professional Standards Units**

In his comprehensive review of the police complaints system in Northern Ireland, Dr. Maurice Hayes outlined the fundamental purpose, objective, and principles of a police complaints process are to:

- a) Ensure the highest standard of conduct for individual police officers;
- b) Improve police performance;
- c) Satisfy the complainant; and
- d) Enhance public confidence in the police (Hayes, 1997, p. 10).

In a review of the British Columbia complaints system, Professor Philip Stenning concluded that an effective process for handling public complaints against the police should be, “Accessible, fair to complainants and police officers, respectful of human rights and dignity, open and accountable, timely, thorough, impartial, independent and should take account of both the ‘public interest’ and the interests of the parties involved in the complaint” (Stenning as quoted in Patten, 1999, p. 37). He recommended that the system be, “Appropriately balanced between formal and informal procedures for resolving

complaints, between remedial and punitive dispositions, and between internal management and external oversight. It should provide appropriate systemic information to police management and governing authorities” (p. 37).

Although the circumstances and jurisdictions of these two examples were immensely different—and the fact that both reviews were written in the 1990s—their reflections and recommendations not only concur but also underscore objectives and principles which remain entirely relevant to this day.

The information and evidence gathered during the course of this review indicated that these key principles are not fully reflected in the Manitoba police complaints system.

In Manitoba, public complaints about police are received and processed by both municipal police services and LERA. These agencies are autonomous from one another, and data are not shared between them. Accordingly, there is no comprehensive, province-wide picture of the number, type, disposition, or resolution of public complaints.

Although a member of the public may have commenced a disciplinary proceeding by making a complaint, from that point forward their input is hardly required. Only in the rarest of cases—even if a complaint is upheld—will the complainant discover the disciplinary consequences of their complaint. In light of these concerns, it would be difficult to argue that police services, or their PSUs, provide a sufficient degree of transparency and accountability to the public.

Police actions are now subject to almost immediate public scrutiny through the exponential rise of digital video and social media; every exercise of police judgement and discretion or evidence of human fallibility is instantly available for public review and assessment. In those instances where a police officer was seen to be at fault, the officer and the community are then thrust into an aging and arguably inefficient system of police misconduct processes that may no longer serve either party particularly well.

Many of the issues regarding LERA’s role, functions, and efficacy have been clearly identified by LERA itself. The agency had put forwarded a number of formal proposals to amend the LERA legislation to enable it to become both more effective and more responsive to complainant concerns. These proposals were put forward in 2012, 2014, and 2017 and consistently focused on a number of key areas that needed to be resolved, including:

- Complainants seldom have counsel, and there is no mechanism for a public interest advocate. However, in the majority of cases police officers are represented by their association;
- Police officers are not compellable and enjoy a right of silence in hearings;
- Manitoba uses a higher standard of proof than is common: ‘clear and convincing evidence’ rather than the usual ‘balance of probabilities’;
- The 30-day time limit for filing a complaint, rather than the usual six months to one year.

Even in LERA's own estimation, the nature of its legislation in combination with the issues it raised put complainants at a significant disadvantage at hearings. These issues, particularly the time limit, also led to a number of complaints being summarily dismissed. Furthermore, there was an extremely low (LERA emphasis) number of findings against police officers in proportion to the number of complaints received (LERA, 2017, p. 2).

It is difficult to assess whether the public complaints system has the 'sufficient' transparency and accountability required of this kind of agency, particularly if complaints are intended to improve rather than aggravate relations between the public and the police. It is concluded, however, that there is significant room for improvement.

#### **RECOMMENDATION 44**

**That LERA legislation remain separate from the *Police Services Act* and that, as a first step, the government consider LERA's internal analysis as a guide to how its legislation might be amended (at least in the short term) in order to make the public complaint system more efficient and equitable.**

#### *3.4.4.1 Community Representation and Appropriate Dispute Resolution*

The present review is an opportunity to establish processes that address police accountability and allegations of police misconduct and that are more representative of the communities being served. This is particularly true with respect to the relationships between the police and Indigenous communities.

Within Canada, the vast majority of processes and structures for managing allegations of misconduct are based on a 'one size fits all' model. These more colonial and bureaucratic processes present significant barriers to Indigenous communities to come forward, participate in, and trust that they are being appropriately heard. Manitoba legislators have the unique opportunity to speak to a contemporary approach to address the growing environment of distrust between police and many Indigenous peoples. By embedding expectations for police chiefs (within the legislation) to bring the Indigenous communities they serve into the processes, there exists a significant platform to structurally address historical harm.

Parallels here might align to those processes used in Indigenous communities such as, but not limited to, healing circles or peacemaker courts. Although too numerous to mention, variable processes to address community concerns might also be considered through the lens of diversity and inclusivity when dealing with other marginalized populations such as gender and sexually diverse communities.

Another means of improving transparency and consistency in the way a misconduct is categorized and addressed is to ensure that data is managed by a single organization. This will ensure more consistent approaches to data collection, categorization, and analysis and also allows for greater public transparency through the release of comprehensive and reliable statistics. For example, LERA releases an annual report on police complaints, but it only includes those complaints it has been made aware of.



Complaints that were made directly to a police service and which were resolved by the police service itself, may never have been communicated to LERA and would not be reflected in its annual statistics.

Complaints should, as a general rule, be resolved as quickly and at the lowest level possible. This is only good practice and ensures that police-community relations are not overly affected but does little for the generation of comprehensive statistics. Such statistics are crucial from oversight and transparency perspectives—they show whether complaint numbers rise or fall from one year to the next and analysis of the types of complaints made and the allegations they contain can identify patterns and trends in police officer conduct. In turn, analyzing emerging patterns and trends can identify gaps in training, supervision, or other areas that need to be addressed.

Although LERA's reports will likely cover the majority of complaints made in a given year, there is no similar body which monitors and analyzes cases of internal police discipline (which did not result from a complaint). In the review team's opinion, the Director of Policing could fulfill such a role. As the unit responsible for developing and promulgating uniform policing standards, it seems only logical that it should also be responsible for monitoring, analyzing, and reporting on all complaints and discipline actions across the province. Furthermore, the monitoring and analysis process would allow the Director of Policing to determine which standards are being adhered to effectively and which might be in need of review and revision.

#### **RECOMMENDATION 45**

**That Manitoba Justice develop language and guidance for chiefs of police to establish flexible and responsive dispute resolution mechanisms that bring diverse and marginalized communities into the process to address allegations of police misconduct and to address and repair harm in the relationship with those communities. The government should also offer chiefs of police the opportunity to resolve less serious allegations with more appropriate means of dispute resolution.**

#### *3.4.4.2 Delays of Justice*

One of the bedrock principles in the administration of effective justice is that of reasonableness and, specifically, reasonableness in time. Yet lengthy, cumbersome processes are one of the most frustrating and indefensible problems in historical approaches to investigating and addressing allegations of misconduct. In some police complaints and discipline cases, time limit extensions and procedural delays can result in an average complaint taking in excess of a year to resolve; in some cases, it might take years before matters are brought to a conclusion.

At this point neither the complainant nor the subject officer will walk away satisfied or consider themselves well served by the system. More importantly, such delays not only represent an assault on the morale of police officers but also give rise to greater loss of public trust and confidence. Timeliness in responding to allegations of police misconduct is particularly important when police organizations are attempting to change their behaviour.

In 2016, the Supreme Court of Canada’s decision in *R. v. Jordan* found that the traditional acceptance of long delays in criminal court would no longer be accepted and established presumptive time ceilings ranging from 18 to 30 months. The principle behind this decision was section 11(b) of the *Canadian Charter of Rights and Freedoms*: “Any person charged with an offence has the right to be tried within a reasonable time.” In addition, the justices noted that courts exhibited a systemic culture of “complacency and delay” as well as an “unspeakable bureaucratic lethargy” which clearly offended the Charter’s principle.

Although the issue of time delays and injustice was considered in a criminal matter, the review team believes it is only a matter of time before this test is applied to administrative processes, including those which govern complaints, internal discipline, and all professional standards processes. This review represents an opportunity to define a structure to capture allegations of misconduct fairly and to render decisions with a focus on presumptive time ceilings similar to those proposed in *R. v. Jordan*. This approach would represent a proactive commitment to procedural fairness. In addition, and perhaps most importantly, it would serve to improve relationships with the community.

The file management involved in addressing even minor misconduct—including investigative documentation, management of witnesses, invocation of rights to legal counsel, the detailed writings of investigative conclusions, and a myriad of avenues of appeal—burdens the system. It represents significant organizational and community costs and leads to serious time delays, which frustrates the public’s trust and impacts its confidence in the police.

#### **RECOMMENDATION 46**

**That the government adopt prescriptive time requirements, similar to those proposed by the Supreme Court of Canada in *R v. Jordan* (2016), for the meaningful conclusion of investigations of allegations of misconduct.**

#### *3.4.4.3 Complaints and Discipline Data*

As discussed, in the absence of minimum discipline standards and reporting guidelines for police services, it is extremely difficult to develop a province-wide picture of complaints and discipline statistics, and it makes full transparency in complaints and discipline almost impossible. As recommended above, there should be a single body—e.g., the Director of Policing— to collect, register, and analyze relevant data. Stenning’s review of the system in British Columbia also highlighted the importance of appropriate systemic information for police management and governing authorities.

Unless a more centralized system is established to address the somewhat fractured state of data collection currently in place, there is no effective way to identify patterns and trends in complaints and discipline as they develop. There will also be less opportunity to follow up on how trend information is used and on what kinds of information should be released to the public to ensure transparency.

Trend and pattern analyses yield important information that can assist the government, police boards, and police services in developing better standards and policies; it can also support appropriate managerial or organizational responses by identifying trends in complaint patterns. Even a cursory analysis of available complaints data will indicate noteworthy patterns or trends, although not necessarily positive depending on one's perspective.

In LERA's most recent annual report, which covers 2018, complaints data show that the top five allegation categories arising from 98 public complaints against police officers were (in order):

- 1) Abuse of authority,
- 2) Unnecessary use of force,
- 3) Discourtesy and incivility,
- 4) Oppressive or abusive conduct or language, and
- 5) Differential treatment without cause.

In 2018 these five categories made up over 85% of all allegations against police officers—a relatively high percentage given that there are 16 allegation categories in total. In addition, the same level is shown consistently over several years; in 2017 these five categories made up roughly 84% of all allegations and over 87% for both 2016 and 2015.

From an organizational management and oversight perspective, these kinds of data—and particularly the concentration and consistency they demonstrate for specific kinds of police behaviour—arguably warrant further analysis and more proactive responses. As the source of most complaints revolve around public perceptions of unnecessarily forceful or abusive behaviour, this does little to address growing public disaffection with police services. This is especially true in light of the many recent anti-police statements, public demonstrations, and allegations of differential treatment—a polite euphemism for perceived police bias by members of racialized communities. The fact that these complaints categories have remained consistent over four years should also be a cause for concern for police managers and public policy-makers (see Recommendation 70 below regarding the establishment of a centralized function for the collection, analysis and dissemination of provincial complaints and discipline data).

#### **RECOMMENDATION 47**

**That all public complaints be reported to LERA in real time, including their complaint type, disposition, and resolution. LERA should report the aggregate public complaints data to the government and to the people of Manitoba annually.**

#### **RECOMMENDATION 48**

**That the government embed the requirement for chiefs of police to establish workplace harassment programs. Where appropriate, these should serve to thoroughly and safely address workplace harassment concerns outside the police misconduct system.**

This approach would provide better support to police officers and provide chiefs of police with new accountabilities to address these matters expeditiously. Where appropriate, chiefs would be encouraged to address concerns outside the slow and costly hearing models currently in place. While continuing to hold the chief of police accountable, this approach would also free up time to address other concerns. It could also potentially stop police officers from using the current system to frustrate workplace harassment issues, which prevent these matters from being addressed quickly and effectively.

### **3.4.5 Independent Investigation Unit**

The IIU was established in Part 7 of the PSA and is also governed by the *Independent Investigations Regulations* (99/2015). There has now been sufficient experience with the PSA and the regulations to suggest improvements that would make the IIU an even more effective organization with respect to investigating serious incidents involving injuries or death to members of the public and possible breaches of the *Criminal Code* by police officers. These improvements would ultimately increase public confidence in Manitoba's police services through effective oversight.

Many of these changes were outlined in a submission prepared by the IIU specifically for this review; others were taken from similar oversight agencies in other provinces and from the questions asked by Manitoba Justice at the outset of this review. Although a number of recommendations are made about the IIU below, it is suggested these be further developed in consultation with the IIU, police services, the MACP, MPA, and others.

#### **3.4.5.1 IIU Independence**

In its submission to the review team the IIU requested that it be governed by a separate Act rather than under the PSA. This would give it the same status as LERA, which operates under its own legislation, while reinforcing its independence with the public. The argument in this instance is that the IIU is not a police agency and that its inclusion in the PSA may lead the public to question its independence from the police. The IIU also has a reporting relationship to the Assistant Deputy Minister, Community Safety as well as to the Director of Policing for budget and financial matters, both of which link the IIU to policing to some degree.

This has also been an issue elsewhere. Tulloch's report on police oversight in Ontario concluded that removing oversight bodies such as the Special Investigations Unit (SIU) from the *Ontario Police Act* would communicate its independence from the police to the public. Justice Tulloch also recommended that the SIU be made an arm's length agency accountable to the Ministry of the Attorney General. This recommendation was subsequently adopted in the new *Ontario Special Investigations Unit Act* (2019), although the Act has not yet come into force.

#### **RECOMMENDATION 49**

**That there be separate legislation to govern the Independent Investigations Unit.**

### 3.4.5.2 *The Duty to Comply*

A major issue publicized in the media and identified in our consultations with IIU staff is that some police chiefs, police officers, and police services have been reluctant to comply with requests made by the IIU. In response to this problem, the IIU noted:

Currently, the IIU has no statutory authority to require compliance by a police officer with legislative mandate, nor the ability to enforce such compliance in a meaningful way. The current legislation lacks a clearly stated 'duty to comply' binding police chiefs, police officers and services. The absence of this clearly stated duty to comply may result in refusals to participate in interviews, timely production of relevant documents and full and frank disclosure. Should a police officer, affiliate or service choose not to cooperate with an IIU investigation, the IIU has no legislative authority to compel cooperation.

Unlike some other provinces, the Manitoba IIU regulation does not say 'fully cooperate' but only that an interview must be scheduled with a witness officer within 24 hours of a request from the civilian director (unless the civilian director agrees to an extension). By contrast, British Columbia has developed far more specific direction in this respect. Section 38.101 of its *Police Act* (1990) directs that a police officer must cooperate fully with:

- a) the chief civilian director in the chief civilian director's exercise of powers or performance of duties under this Act, and
- b) an [Independent Investigations Office] investigator in the IIO investigator's exercise of powers or performance of duties.

In addition, a 2020 British Columbia Court of Appeal decision ruled that it was the IIO rather than the police which has the right to determine what 'cooperate fully' means (*Independent Investigations Office of British Columbia v. Vancouver (City) Police Department*, 2020 BCCA 4). The new *Ontario Special Investigations Act, 2019* although not yet in force, also clearly stipulates the duty to comply in section 31:

- (1) The following persons shall comply with any reasonable direction or request received from the SIU Director or an investigator in relation to an investigation under this Act, immediately or as otherwise specified under this Act, unless it is unlawful or impracticable to do so:
  1. An official, other than a subject official [The new Act broadens the scope of IIU investigations to people other than police officers. The term 'officials' refers to police officers and the new categories included under the Act. Thus 'subject official' replaces the former 'subject officer'].
  2. A designated authority or a person to whom powers or duties are delegated under section 30.
  3. Any person over whom a designated authority has authority, including any employees.

4. An appointing official.
5. Any other person who may be prescribed.

#### Notification

(2) The SIU Director shall immediately advise an official and the official's designated authority respecting a failure to comply with subsection (1) and, in so doing, shall inform each of them of the penalty to which a person is liable...

Manitoba would benefit from similar duty to comply legislation.

#### **RECOMMENDATION 50**

**That the Act be amended to provide specific direction concerning the requirement for police chiefs, police services, and police officers to comply with all reasonable requests made by the IIU director or investigators.**

#### *3.4.5.3 Penalties for Failing to Comply*

As noted, there have been a number of instances where the IIU has had to rely on the courts to seek compliance. This is not only costly but also adds significant delays to the investigation.

Section 31 of the *Ontario Special Investigations Unit Act, 2019* further provides that:

- (3) A person who fails to comply with subsection 1 [duty to comply] is guilty of an offence and on conviction is liable,
  - (a) In the case of a first offence, to a fine of not more than \$5,000, to imprisonment for a term of not more than one year or to both; or
  - (b) In the case of a second or subsequent offence, to a fine of not more than \$10,000, to imprisonment for a term of not more than one year, or to both.

The administration of justice in Manitoba would benefit from similar clauses.

#### **RECOMMENDATION 51**

**That legislation pertaining to the IIU be amended to provide for the sanctioning of those who fail to meet the duty to comply with IIU investigations.**

#### *3.4.5.4 Scope of IIU Oversight*

The inability of the IIU to designate police cadets, who are not police officers, as witness officers has become a high profile issue in Winnipeg and is the subject of ongoing court proceedings. The IIU also noted the potential for similar issues arising with CSOs and FNSOs, as well as members of the Winnipeg Police Service (WPS) Central Processing Unit who have responsibility for prisoners held by the WPS.

This issue has arisen elsewhere and was the subject of a specific recommendation in the Tulloch Report (2017). The recommendation proposed that the SIU legislation explicitly specify that the duty to cooperate with the SIU also applies to civilian members, special constables, or auxiliary constables employed by a police service.

In the words of Justice Tulloch:

After all, these special constables and auxiliary members may have significant interactions with the public. And they perform duties that may make them, in the eyes of the public, indistinguishable from police. Finally, they work with the police and, as such, investigations by the police into their conduct may raise similar concerns about independence and bias. (Clause 95)

The new *Ontario Special Investigations Unit Act* partially followed this recommendation, and it uses a new category of ‘official’ which is defined as:

- (a) A police officer;
- (b) A special constable employed by the Niagara Parks Commission; and,
- (c) A person designated as a peace officer for the purposes of the Legislative Assembly Act [referring to the Legislative Protection Service].

Saskatchewan’s *Police Act, 1990* provides that the minister’s appointment of a special constable will state whether that peace officer (by the nature of their specific duties) will fall under the provisions of Part IV of *The Police Act* (Complaints and Discipline). There is a logic that any public-facing peace officer whose normal duties could reasonably involve the use of force—either directly or indirectly—against another person should fall under similar provisions insofar as investigations or reviews of such conduct.

Extending IIU oversight to peace officers and other police service personnel is particularly compelling where those persons are authorized to use force against members of the public in the performance of their duties.

#### **RECOMMENDATION 52**

**That legislation be amended such that the minister may designate any class or individual peace officer to fall under the relevant provisions compelling their cooperation with the IIU.**

#### *3.4.5.5 Interviews*

Sections 12(1) through 12(5) of the IIU Regulations address the scheduling of interviews for witness officers. As noted in the IIU’s submission to the review team, the current regulations mean that if the witness officer cannot attend an interview within 24 hours, the civilian director may extend the time by written notice to the police chief and must record the reasons for granting an extension of time. This actually places the onus on the IIU rather than on the chief of police.

**RECOMMENDATION 53**

**That the IIU Regulation be amended as follows:**

**12(1) An investigator may make a written request to a police chief to interview a police officer. The request must set out the time and location of the interview.**

**12(2) A subject officer is not required to be interviewed by an investigator, but the officer may voluntarily agree to be interviewed.**

**12(3) Subject to subsection (4), an interview with a witness officer must take place at the time and location specified in the request.**

**12(4) In response to a written request from the police chief, the civilian director may, by written notice, grant the requested postponement of an interview or refuse to postpone an interview.**

**12(5) The police chief must ensure that the witness officer attends an interview as required by this section.**

*3.4.5.6 Delegation of Authority*

The Act does not permit the civilian director to temporarily delegate any of his or her duties. This makes holidays subject to disruption and would be a more serious issue if the civilian director was incapacitated because of illness or injury. An Order in Council would be required to appoint a replacement. Thus, it is necessary to provide for the appointment of an interim director. The IIU has suggested the following addition to the PSA:

The civilian director may, in writing, delegate any of his or her powers or duties under this Act to an employee in the IIU, subject to such conditions or restrictions as the civilian director may set out in the delegation.

This is also the practice in Ontario's SIU. However, given the backgrounds and number of IIU staff, as compared with the SIU, and the restriction stating that the civilian director must not have served as a police officer, this may be too limited.

The practices in both Nova Scotia and in Newfoundland is that the civilian director, in consultation with the director of public prosecutions, can designate a Crown attorney to serve as the acting director while the civilian director is absent or unable to perform his or her duties. The review team views this approach to have merit in that it serves to ensure the independence of the civilian director position during such absences.



**RECOMMENDATION 54**

**That the Act be amended to provide that the civilian director, in consultation with the director of public prosecutions, may designate a Crown attorney to act as the acting director while the director is absent or otherwise unable to perform the duties of his or her office.**

*3.4.5.7 Discretionary Investigations Issues*

Division 3 of Part 7 of the PSA deals with the role of the IIU in cases where police services have received a complaint that a police officer has engaged in conduct that constitutes a contravention of the *Criminal Code* or any other federal or provincial enactment, other than those which the IIU must deal with mandatorily. In its submission, the IIU set out some issues with respect to section 73(1)(b), which stipulates that:

A police chief must, as soon as practicable, notify the Independent Investigation Unit when the police service is conducting an investigation into the conduct of a police officer and there is evidence that the officer may have contravened the *Criminal Code* (Canada) or any other federal or provincial enactment...

The problem with this phrasing is that agencies do not believe they have to report the matter to the IIU if they do not conduct an investigation. Also, there are issues with the question of who determines whether there is sufficient evidence to support a notification.

**RECOMMENDATION 55**

**That section 73(1)(b) be revised so that a police chief must immediately notify the IIU when a police service has any suspicion or is conducting an investigation into the conduct of a police officer and where there is evidence that the officer may have contravened the *Criminal Code* or any other federal or provincial enactment, other than the provisions prescribed under clause 65(1)(c).**

Furthermore, that Division 2 (Mandatory Matters) refer specifically to the on- and off-duty status of police officers. This should also be the case in Division 3.

**RECOMMENDATION 56**

**That Part 7, Division 3 of the Act be amended to also apply to off-duty officers.**

*3.4.5.8 Terminology Issues*

“Immediately/As Soon as Practicable”

In section 65(1) on Notice of incident, the IIU is to be *immediately* notified in accordance with prescribed procedures. However, section 66(1), Notice of Investigation of police officer reads:

When a police service is conducting an investigation into the conduct of a police officer and there is evidence that the officer may have:

- (a) caused the death of another person;
- (b) caused a serious injury to a person; or
- (c) contravened a prescribed provision of the Criminal Code (Canada) or a prescribed provision of another federal or provincial enactment;

the police chief of the police service must, *as soon as practicable*, notify the independent investigation unit.

The term ‘as soon as practicable’ also appears in 66(2) and 73(1). There does not appear to be a rationale for this difference and IIU has suggested that the term ‘immediately’ be used in both circumstances.

**RECOMMENDATION 57**

**That the term “immediately” be used in Sections 66(1), 66(2), and 73(1).**

*3.4.5.9 ‘Formal Complaint’ versus ‘Complaint’*

Sections 66(2) and 73(1) use the term ‘formal complaint’ which is not defined in the Act. The IIU’s submission suggests that ‘complaint’ would be sufficient and is the preferred term. This would make it clear that a complaint does not have to be on a form and could even be verbal.

**RECOMMENDATION 58**

**That the term ‘formal complaint’ be replaced by ‘complaint’ in sections 66(2) and 73(1).**

*3.4.5.10 Definitions of Notes and Reports*

In its submission the IIU discussed some of the problems their investigators have had in getting some types of information from police services. To facilitate this process, ‘notes’ and ‘records’ could be defined in the legislation or regulation as follows:

*Incident Notes* means the contemporaneous notes made by a police officer with respect to his or her involvement in, or observations of, an investigation, event, or occurrence.

*Record* means a record of information in any form and includes information that is written, photographed, recorded, or stored in any manner, on any storage medium, or by any means including graphic, electronic, or mechanical means.

**RECOMMENDATION 59**

**That the definitions of ‘incident notes’ and ‘record’ be included in the PSA or in the IIU regulations.**

**RECOMMENDATION 60**

**That the PSA includes a duty for officers to complete their incident notes as soon as possible with respect to an IIU incident.**

*3.4.5.11 Public Safety Reports*

Section 8(1) of the PSA requires that public safety reports be completed by the police service and provided to an IIU investigator as soon as practicable. The IIU’s submission noted that these reports were rarely required, and the notification form now contains the information that was required by the public safety report.

**RECOMMENDATION 61**

**That public safety reports no longer be required and that Sections 8(1) and 8(2) be repealed.**

With respect to the potential need for other offences not currently investigated by the IIU to be considered, it should be noted that the scope of investigations in Manitoba is broader than in many other provinces. Most do not include the prescribed sections of the *Criminal Code*, although Alberta does include “matters of a serious or sensitive nature”, which has been interpreted by Alberta Serious Incident Response Team (ASIRT) to include matters that would bring the administration of justice and the police service into disrepute; this would encompass Manitoba’s designated offences. Newfoundland and Labrador include a similar phrase: “any matter of significant interest.” The only other specifically named offences that are investigated in other provinces are sexual assault and domestic violence (Newfoundland and Labrador) and sexual assault (Nova Scotia and Ontario).

More specifically, in section 65(1) the PSA gives the following direction about the offences that must result in notice being provided to the IIU:

Notice of incident

When a police officer is at the scene of an incident where it appears that:

- (a) the death of a person may have resulted from the actions of a police officer;
- (b) a serious injury to a person may have resulted from the actions of a police officer; or
- (c) a police officer may have contravened a prescribed provision of the *Criminal Code* (Canada) or a prescribed provision of another federal or provincial enactment;

the independent investigation unit is to be immediately notified in accordance with prescribed procedures.

In 65(2):

Notice even if officer not on duty

Notice must be given under subsection (1) even if the police officer involved in the incident was not on duty at the time of the incident.

The prescribed sections of the *Criminal Code* involve section 131 (perjury), section 136 (contradictory evidence), section 137 (fabricating evidence), and section 139 (obstructing justice).

In addition, the *Independent Investigations Regulation 99/2015* defines 'serious injury' as:

- (a) a fracture of the skull, jaw, vertebrae, rib, humerus, radius, ulna, femur, tibia, or fibula;
- (b) burns, cuts or lacerations that require admission to a hospital on an in-patient basis;
- (c) the loss of any part of the body;
- (d) the loss of vision or hearing;
- (e) internal injuries that require admission to a hospital on an in-patient basis; or
- (f) any injury caused by the discharge of a firearm.

Based on its experience over its first five years of operation, the IIU has found the current definition too restrictive and has suggested expanding the definition of serious injury that requires IIU notification.

#### **RECOMMENDATION 62**

**That the definition of 'serious injury' be expanded to include fractures to the clavicle, pelvis, and hip and any injury that requires admission to a hospital or health care facility on an in-patient basis.**

The review team has no view on whether additional offences such as domestic violence and sexual assault should be added, other than to note that Division 3 of Part 7 of the PSA deals with the role of the IIU in cases where police services have received a complaint that a police officer has engaged in conduct that constitutes a contravention of the *Criminal Code* or any other federal or provincial enactment, other than those which the IIU must deal with mandatorily. This provides very broad scope for the IIU to investigate offences that are not included in the section on mandatory investigations.

Although not specifically part of the review team's scope, the inclusion of former police officers as investigators for independent investigations agencies such as LERA and the IIU has arisen in a number of provinces. More specifically, some people are of the view that former police officers will be biased in favour of the police officers they investigate and that public confidence would be higher if none of the investigators had police backgrounds. Another perspective is that investigators for these kinds of

oversight agencies need to be highly skilled and qualified in order to effectively investigate the kinds of serious police misconduct that generally fall to such agencies—who other than former police officers are likely to have these qualifications?

In fact, all similar oversight agencies in Canada are made of both former police officers and those with civilian backgrounds, although some do allow for the secondment of serving police officers. Justice Tulloch (2017) also considered this issue and, citing several other government reports to support his views, ultimately concluded that:

Eliminating former police officers is not the solution to ensuring unbiased police oversight. Rather, a more promising approach would focus on two things:

First, the oversight bodies should focus on selecting and developing individuals that are best-suited to conducting effective, unbiased oversight investigations. The goal, after all, is to prevent biased oversight investigators, whether they were former police officers or not. This, to me, would be better achieved through hiring practices that attract and screen in quality candidates, and through education, training, and ongoing performance evaluation.

Second, the oversight bodies should attempt to attain a more appropriate balance in the composition of their investigative teams. While the oversight bodies should not exclude former police officers, they should do more to attract and develop quality investigators that do not have a background in policing. This would enhance their appearance of independence. It also would promote variety and balance in the perspectives and skills brought to bear by individual investigators. (Clause 142, 143, and 144)

#### **RECOMMENDATION 63**

**That the IIU continue to allow former police officers to work as investigators but be encouraged to continue to recruit investigators who do not have a police background. The secondment of serving police officers to the IIU should be discontinued.**

A proactive approach can support success in this area. According to the Tulloch Report, one-third of SIU investigators were not former police officers, and in 2017 British Columbia's IIO had an equal number of investigators with and without policing backgrounds.

#### *3.4.5.12 Diversity of Investigators*

Another staffing issue relates to the diversity of investigators. The media have frequently noted that Indigenous groups felt excluded from police oversight agencies, particularly from the IIU. This was also observed during consultations; while many of the incidents investigated by the IIU involved Indigenous people who had been killed or injured by police officers, the oversight agencies did not have Indigenous staff.

In the current climate of distrust of police, it is particularly important that racialized groups feel their interests are represented in police oversight agencies. In Manitoba, this is particularly true for Indigenous people.

**RECOMMENDATION 64**

**That the IIU be encouraged to recruit investigators from diverse backgrounds with a particular emphasis on people with Indigenous backgrounds.**

### 3.4.6 Civilian Monitor Program

A number of issues were raised with respect to the CMP throughout the course of this review. These include appropriate qualifications for civilian monitors and whether these needed to be specified in legislation; whether the CMP was still required or whether the IIU provided sufficient oversight; and whether civilian monitors should be granted access to investigative materials in real time.

In terms of the specific functions of civilian monitors, section 70(1) of the PSA stipulates that:

The civilian director must ask the chair of the MPC to assign a civilian monitor to monitor an investigation ... if a police officer may have caused the death of a person or in any other case where the civilian director considers it to be in the public interest to involve a civilian monitor.

The civilian director of the IIU may also assign a civilian monitor to an investigation being conducted by a police service. In either circumstance the report of the civilian monitor will be submitted to the chair of the MPC.

Since the inception of the CMP the MPC has interviewed, security cleared, and trained 14 civilian monitors who have monitored 39 IIU investigations. To date all investigations monitored by civilian monitors have involved the death of a person. The CMP is considered relatively low profile; it was only raised by a few of the stakeholders interviewed, although there was little consensus with respect to their views. For example, while police chiefs questioned the relevance of the CMP and noted that without proper training and experience the program lacked credibility, the MPC was more concerned with ensuring the civilian monitor's report went beyond the chair of the MPC. The civilian director of the IIU suggested that the CMP be ended altogether, or if not ended that the civilian director have the sole discretion to select a civilian monitor.

British Columbia is the only other province that has legislation that provides for civilian monitors. The BC system is very different from that of Manitoba in that the use of a civilian monitor is completely at the civilian director's discretion. The BC IIO has used a civilian monitor for only one case, which involved the death of Gregory Matters. This was an unusual case in that the death occurred on the first day the IIO was in operation and the civilian monitor's investigation resulted from a complaint made two years later by the person who was the chief IIO investigator in the case. The investigation was conducted by an

experienced criminal lawyer, and the civilian monitor did not monitor the investigation as it was going on but rather reviewed it after the investigation had been completed.

Saskatchewan has ‘investigation observers’, but their function is different than that of the monitors in BC and Manitoba. Saskatchewan does not have an independent civilian investigations unit, so incidents that would be investigated by the IIU or its counterparts in other provinces are investigated by a police agency in Saskatchewan. This can be either an outside agency or the agency that was involved in the incident—the determination is made by the Public Complaints Commission. Thus the investigation observers are monitoring an investigation by a police agency rather than a civilian-led investigations unit.

According to 91.1 of the *Saskatchewan Police Act*:

A police service or detachment of the Royal Canadian Mounted Police providing police services within a municipality shall, as soon as reasonably possible, request the Deputy Minister of Justice to appoint an investigation observer who is a serving or retired member from another police service or detachment of the Royal Canadian Mounted Police if:

- a) a person has suffered a serious injury or died while in the custody of that police service or detachment; or
- b) a person has suffered a serious injury or died as a result of the actions of a member or officer of that police service or detachment of the Royal Canadian Mounted Police.

The investigation observer is given full access to the investigation and is required to submit a confidential report on the investigation to the Deputy Minister of Justice.

In mid-June of 2020 the government introduced legislation to amend improve police oversight in Saskatchewan. The most relevant of the proposed amendments include:

- Requiring the appointment of a second investigation observer of First Nation or Métis ancestry when incidents involve First Nation or Métis individuals;
- Allowing people who are not serving or retired police officers to fulfill this role; and
- Requiring the online publishing of summaries of investigation observer reports.

Manitoba’s CMP is simply not perceived as credible, largely due to the monitors’ lack of specific investigative or related expertise. The current roster of civilian monitors is made up of individuals who are part of the Manitoba civil service internship program for future managers. While all civilian monitors on the roster undergo a short training program, none have a background in investigations. They participate in the program as part of their internships, so they cannot devote full time to monitor duties. Also, because they stay in the program for a short period of time (12 to 18 months), there is a high turnover and relatively little continuity.

Moreover, there are presently no Indigenous civilian monitors nor are there policies in place to ensure culturally-relevant monitoring in cases involving Indigenous persons or communities. This issue was of significant concern to First Nations stakeholders.

By contrast, the IIU's investigators are among the most experienced in the province. If their performance is to be monitored, then this task should be undertaken by individuals who have similar qualifications and skills to the IIU investigators whose work is being monitored. More appropriate candidates might be former prosecutors or individuals with an extensive background in conducting and leading investigations.

However, engaging people with this level of training and experience also represents a significant potential cost, and there is little evidence that this expense is warranted or that it would significantly improve the oversight provided. Given these facts, it is the opinion of the review team that the IIU provides sufficient civilian oversight and that the CMP may no longer be required.

As noted above, the civilian monitor reports go to the chair of the MPC and not to the civilian director of the IIU or the Minister of Justice. The same is true of a report written when a civilian monitor is assigned by the civilian director to an investigation being conducted by a police service. This greatly limits the utility of the civilian monitor's report, as nobody responsible for the IIU is given any feedback about the quality of its investigations.

It is suggested that any value derived from the CMP can be achieved through other means as is discussed further in the report.

#### **RECOMMENDATION 65**

**That Manitoba Justice terminate the Civilian Monitor Program.**

In the event that the government decides to retain the CMP, there are a number of ways in which it might be made more effective. For example, the government may consider adopting some of BC's practices in this regard, which allows the civilian director to order a review of an investigation that might appear to be problematic.

#### **RECOMMENDATION 66**

**Should the CMP be retained, that:**

- (a) Civilian monitors be subject to more specific qualifications, preferably with a minimum of investigative or related experience.**
- (b) Civilian monitors be subject to background checks prior to their engagement.**
- (c) A pool of qualified potential candidates (including of Indigenous descent) be engaged on a casual contract basis to ensure that qualified civilian monitors are available at short notice.**
- (d) The civilian monitor reports also be provided to the civilian director, as well as to the minister.**



In addition, a 2017 evaluation of the CMP conducted by the MPC found that civilian monitors considered a lack of access to these materials hindered their ability to monitor the progress of an investigation effectively.

**RECOMMENDATION 67**

**That civilian monitors be provided contemporaneous access to investigations materials.**

Alternatively:

**RECOMMENDATION 68**

**That Manitoba Justice provide the civilian director with the authority to engage a civilian monitor for the purposes of acting as a liaison to the community, particularly for particularly high profile or sensitive investigations, or those involving members of Manitoba’s racialized communities.**

For example, in certain contexts or depending on the nature of the IIU investigation, it might be helpful to assign an Indigenous civilian monitor to these investigations.

### **3.4.7 Community Liaison**

Members of racialized groups are involved in many of the interactions with police that result in IIU investigations. Many of these citizens are from Indigenous and newcomer communities. Indigenous groups have sometimes complained that their members are not treated fairly by the IIU and that their lack of confidence in police institutions now extends to the IIU as well (Assembly of Manitoba Chiefs, 2020).

One way of addressing this issue was recommended by the Manitoba Ombudsman in a report on the inquest into the 2008 death of Craig Vincent McDougall at the hands of police. The inquest into Mr. McDougall’s death had recommended that:

When the IIU is conducting an investigation into the death of an Indigenous person at the hands of a police officer, consideration should be given to whether there is an appropriate member of the Indigenous community who could be appointed as the civilian monitor. (Manitoba Ombudsman, 2018, p. 3)

The Ombudsman then inquired into and reported on the status of the recommendations. In his report, the Ombudsman noted that Manitoba Justice had explained the role of the civilian monitor was not one that fit the needs expressed by the inquest judge. However, Manitoba Justice also indicated its concurrence with the judge’s view that it was important to build trust and confidence between the police service and the community and expressed its willingness to appoint a member of the affected community to act as a liaison between the IIU and that community.

In Newfoundland and Labrador, section 12 (f) of *The Serious Incident Response Team Act* provides for the appointment of a community liaison or observer to work with the Serious Incident Response Team in the course of an investigation. The review team views this to be a reasonable approach.

**RECOMMENDATION 69**

**That the *Police Services Act* (or in IIU-specific legislation as proposed in this report) be amended to provide that the civilian director may appoint a community liaison or observer to work with the Independent Investigations Unit in the course of an investigation.**

### **3.4.8 Conduct, Discipline, and Standards – Comprehensive Analysis and Reporting**

LERA and IIU collect and analyze extensive data in relation to their respective mandates and file annual reports with the government. However, there is no single comprehensive analysis or reporting that consolidates these perspectives and data or considers these analyses against the broader backdrop of other trends occurring within the policing and community safety operating environments.

Such analyses would serve the government and the people of Manitoba well by ensuring policy-makers are aware of new or evolving performance, conduct, and discipline-related trends and how environmental factors may be impacting them. Publishing the results of such analyses would enhance transparency and improve trust in government and the key institutions of policing, police governance, and police oversight.

Fulfilling such responsibilities could fall within the current mandate of the Director of Policing, as set forth in 4(1) of the PSA. Within the overall framework provided in this report, the ministry would be responsible for establishing standards, codes, and requirements, but the monitoring and evaluation functions would devolve to MPC, IIU, and LERA. We suggest that the Director of Policing would now be well placed to undertake an annual review of the data and analyses as presented above and lead the development of a ministry report to the public.

**RECOMMENDATION 70**

**That Manitoba Justice develop the capacity of the office of the Director of Policing to monitor and analyze complaints and conduct-related reports from LERA and IIU, as well as results of standards compliance monitoring inspections to develop a whole-of-system perspective on relevant trends. Furthermore, that the ministry issue an annual report on this matter.**

## 4. SUMMARY OF RECOMMENDATIONS

#	SECTION	RECOMMENDATION
1	3.1.1. Police Board Accountability Framework	That Manitoba Justice adopt accountability frameworks for both police personnel and police organizations, whereby the Director of Policing is responsible for defining and issuing expectations; and independent agencies (e.g., LERA, IIU, and MPC) are responsible for verifying the maintenance of such expectations.
2	3.1.3 Adequate and Effective Policing	That Manitoba Justice establish in regulation how it defines and will measure adequate and effective policing. It is further recommended that in doing so, Manitoba Justice adopts the language utilized by both Alberta and New Brunswick, with the only variation being the inclusion of a clause pertaining to the adherence to the Canadian Charter of Rights and Freedoms and the Manitoba Human Rights Code.
3	3.1.5 Policing Standards in Other Jurisdictions	That, using regulations as sparingly as possible, Manitoba Justice develop a consolidated policing standards framework (which can be amended more easily than regulations) that is based on the Alberta and New Brunswick models and that contains content similar to those models.
4	3.1.5 Policing Standards in Other Jurisdictions	That a risk-based approach be taken to develop policing standards, with priority for immediate development given to: <ul style="list-style-type: none"> <li>▪ Use of force and arrest,</li> <li>▪ Investigations (major case management),</li> <li>▪ Disclosure of evidence,</li> <li>▪ Critical incident response,</li> <li>▪ Motor vehicle pursuits,</li> <li>▪ Intimate partner violence investigations, and</li> <li>▪ Missing persons (aligned, as appropriate, to the report on the National Inquiry into Missing and Murdered Indigenous Women and Girls).</li> </ul>

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#	SECTION	RECOMMENDATION
5	3.1.6 Priority Standards for Three Key Risk Areas	That the Ministry of Justice develop a Major Case Management regulation that defines what constitutes a ‘major case’ and that establishes the foundation for the local development of related policies by police boards, from which police chiefs can develop internal policies and procedures.
6	3.1.6 Priority Standards for Three Key Risk Areas	That the Ministry of Justice develop a provincial Major Case Management manual, using the Ontario and RCMP manuals for useful and appropriate comparison.
7	3.1.6 Priority Standards for Three Key Risk Areas	That appropriate standards regarding the disclosure of evidence be incorporated into the Major Case Management standard.
8	3.1.6 Priority Standards for Three Key Risk Areas	That Manitoba Justice, as a matter of priority and within a broader Policing Standards framework, develop a critical incident response standard.
9	3.2.1 Manitoba Police Commission	That the government consider designating the Manitoba Police Commission as an Independent Office of the Legislative Assembly.
10	3.2.1 Manitoba Police Commission	That the Manitoba Police Commission be authorized to manage its own finances once that budget is approved.
11	3.2.1 Manitoba Police Commission	That the Manitoba Police Commission be assigned the additional duties of auditing police services’ and police boards’ compliance with standards that are developed by the Director of Policing.
12	3.2.2 Municipal and First Nations Police Boards	That municipal police boards continue to be mandatory.
13	3.2.2 Municipal and First Nations Police Boards	That the <i>Police Services Act</i> clarify the importance of police board independence in their relationships with municipal councils and establish a budget dispute arbitrator such as the Manitoba Police Commission.
14	3.2.2 Municipal and First Nations Police Boards	That the <i>Police Services Act</i> be amended to replace two municipal appointees with two provincial appointees.

REPORT ON THE INDEPENDENT REVIEW OF THE MANITOBA *POLICE SERVICES ACT, 2009*

#	SECTION	RECOMMENDATION
15	3.2.2 Municipal and First Nations Police Boards	That the <i>Police Services Act</i> be amended to provide that permissible reasons for early termination of police board appointments be restricted to: (1) voluntary departure, (2) incapacitation, or (3) serious violation of the Board Member Code of Conduct prescribed in regulations.
16	3.2.2 Municipal and First Nations Police Boards	That before a person is appointed to a municipal police board, the appointing authority consider the results of the potential appointee’s recent police record check and that the record check be conducted by an agency other than the police service governed by the board for which that person is being considered.
17	3.2.2 Municipal and First Nations Police Boards	That the legislated responsibilities of police boards include: <ol style="list-style-type: none"> <li>1) the provision of policing in the jurisdiction,</li> <li>2) the overall adequacy and effectiveness of policing, and</li> <li>3) establishing strategic plans for policing in the jurisdiction, taking into account provincial policing priorities and local community safety and well-being plans.</li> </ol>
18	3.2.2 Municipal and First Nations Police Boards	That the police board’s duty to “act as a liaison between the community and the police service” be removed from legislation and discontinued.
19	3.2.2 Municipal and First Nations Police Boards	That police boards become the employer of their police chiefs and all sworn and civilian police employees and be responsible to direct and oversee collective bargaining undertaken by agents on their behalf.
20	3.2.2 Municipal and First Nations Police Boards	That police governance performance standards be developed by the Director of Policing and articulated in regulations.

#	SECTION	RECOMMENDATION
21	3.2.2 Municipal and First Nations Police Boards	<p>That all board members be required to complete training on their responsibilities prior to voting in a board meeting.</p> <p>Also, as a condition of remaining on the board, that board members complete further training on strategic planning, policy development, performance evaluation of police chiefs and police programs, establishing a mandate of collective bargaining, and financial planning within the first 2 years of their appointment.</p>
22	3.2.2 Municipal and First Nations Police Boards	That the Manitoba Police Commission develop and implement a risk-based inspection system of police boards performance relative to performance standards and direct corrective police board action where and when it is needed.
23	3.2.2 Municipal and First Nations Police Boards	That the <i>Police Services Act</i> be amended to incorporate Community Safety and Well-Being Planning as a mandatory requirement for municipalities.
24	3.3.3 Indigenous Community Safety and Policing	That the police board policies be revised to specifically state the requirement to have a board composition which is reflective of the wider community and which specifically encourages the membership of representatives of First Nations, Métis, and newcomer communities.
25	3.3.3 Indigenous Community Safety and Policing	Given the prominence of Métis communities in the history of Manitoba, that Métis representation on, and engagement with, policing governance and oversight bodies be particularly encouraged.
26	3.3.4 Policing Service Delivery	That Manitoba Justice adopt a layered model for policing in Manitoba and engage key stakeholders in refining some of the particular details of the model.
27	3.3.5 Community Safety Needs	That in order to better align CSO and FNSO authorities, Section 77.6 be amended to read: "...Community Safety Officers may provide general assistance to the local policing authority when requested to do so by a member of the local police authority, as long as the assistance does not involve any criminal law enforcement activities."

#	SECTION	RECOMMENDATION
28	3.3.5 Community Safety Needs	That the Government of Manitoba adapt the Alberta Peace Officer model to the Manitoba context and that authorities within each level be granted based on the needs of the community or hiring organization.
29	3.3.5 Community Safety Needs	That the Manitoba Peace Officer Program be established through its own legislation—the <i>Peace Officer Act</i> —and corresponding regulations.
30	3.3.5 Community Safety Needs	That the Manitoba Peace Officer Program encompass all current peace officers appointed under various provincial legislation.
31	3.3.5 Community Safety Needs	That Level 1 MPOs be employed only through the Ministry of Justice and Manitoba Infrastructure (as pertaining to motor carrier enforcement and investigations) to complement the work of the police in: <ul style="list-style-type: none"> <li>▪ ensuring safe roadways throughout Manitoba;</li> <li>▪ providing prisoner transport and courthouse security; and</li> <li>▪ enforcing such provincial statutes and sections of the <i>Criminal Code</i> pertinent to their mandates.</li> </ul>
32	3.3.5 Community Safety Needs	That other government ministries’ investigative and enforcement personnel fall under the MPO Level 2 categorization.
33	3.3.5 Community Safety Needs	That the Community Safety Officer, First Nation Safety Officer, and Institutional Safety Officer programs, together with any other public-facing non-by-law enforcement peace officers employed by municipalities or First Nations, fall under the new Community Peace Officer Level 1 designation, thereby ensuring symmetry in programming, standards, and compliance.
34	3.3.5 Community Safety Needs	That the ministry work closely with municipalities, First Nations, and the police boards and police services of jurisdictions to determine the appropriate balance of enforcement responsibilities between the police and Level 1 CPOs in such jurisdictions.

#	SECTION	RECOMMENDATION
35	3.3.5 Community Safety Needs	That in order to ensure role clarity, joint planning, and mutually-reinforcing deployment strategies, standards in both the <i>Police Services Act</i> and the proposed Peace Officer Act establish the requirement for the creation of memoranda of understanding to address such matters as information sharing, communications, joint planning, and coordination of enforcement activities.
36	3.3.5 Community Safety Needs	That Level 2 CPOs comprise such functions as parking enforcement officers, police exhibit custodians, and animal control specialists.
37	3.3.5 Community Safety Needs	That a set of standards governing the use of force (with a strong emphasis on de-escalation) be developed to apply to all levels of MPO/CPOs and that align with the use of force standards in place for the police.
38	3.3.5 Community Safety Needs	That Part 8 (Special Constables) of the <i>Police Services Act</i> be repealed.
39	3.4 Oversight	That the government adopt more contemporary language in the legislation to describe the responsibilities of police chiefs with regards to conduct and discipline. As one example, section 22(1)(c) of the PSA should be amended to read, “the maintenance of police professionalism.”
40	3.4.1 Oath of Allegiance	That Manitoba Justice draft a new Oath of Allegiance that will apply to all police officers and peace officers to follow, and to display it prominently in legislation.
41	3.4.2 Codes of Conduct	That Manitoba Justice develop a uniform Code of Conduct based on existing models, such as the RCMP model, that will apply to all municipal police officers in Manitoba.
42	3.4.2 Codes of Conduct	That Manitoba Justice also develop a Code of Conduct that applies to all peace officers in Manitoba.
43	3.4.3 Categorization of Misconduct	That the government define levels of misconduct and thresholds between minor and major misconduct either in legislation or subsequent regulations, such as a uniform Code of Conduct.



#	SECTION	RECOMMENDATION
44	3.4.4 Public Complaints - LERA and PSUs	That LERA legislation remain separate from the <i>Police Services Act</i> and that, as a first step, the government consider LERA's internal analysis as a guide to how its legislation might be amended (at least in the short term) in order to make the public complaint system more efficient and equitable.
45	3.4.4 Public Complaints - LERA and PSUs	That Manitoba Justice develop language and guidance for chiefs of police to establish flexible and responsive dispute resolution mechanisms that bring diverse and marginalized communities into the process to address allegations of police misconduct and to address and repair harm in the relationship with those communities. The government should also offer chiefs of police the opportunity to resolve less serious allegations with more appropriate means of dispute resolution.
46	3.4.4 Public Complaints - LERA and PSUs	That the government adopt prescriptive time requirements, similar to those proposed by the Supreme Court of Canada in <i>R v. Jordan</i> (2016), for the meaningful conclusion of investigations of allegations of misconduct.
47	3.4.4 Public Complaints - LERA and PSUs	That all public complaints be reported to LERA in real time, including their complaint type, disposition, and resolution. LERA should report the aggregate public complaints data to the government and to the people of Manitoba annually.
48	3.4.4 Public Complaints - LERA and PSUs	That the government embed the requirement for chiefs of police to establish workplace harassment programs. Where appropriate, these should serve to thoroughly and safely address workplace harassment concerns outside the police misconduct system.
49	3.4.5 Independent Investigation Unit	That there be separate legislation to govern the Independent Investigations Unit.
50	3.4.5 Independent Investigation Unit	That the Act be amended to provide specific direction concerning the requirement for police chiefs, police services, and police officers to comply with all reasonable requests made by the IIU director or investigators.

#	SECTION	RECOMMENDATION
51	3.4.5 Independent Investigation Unit	That legislation pertaining to the IIU be amended to provide for the sanctioning of those who fail to meet the duty to comply with IIU investigations.
52	3.4.5 Independent Investigation Unit	That legislation be amended such that the minister may designate any class or individual peace officer to fall under the relevant provisions compelling their cooperation with the IIU.
53	3.4.5 Independent Investigation Unit	<p>That the IIU Regulation be amended as follows:</p> <p>12(1) An investigator may make a written request to a police chief to interview a police officer. The request must set out the time and location of the interview.</p> <p>12(2) A subject officer is not required to be interviewed by an investigator, but the officer may voluntarily agree to be interviewed.</p> <p>12(3) Subject to subsection (4), an interview with a witness officer must take place at the time and location specified in the request.</p> <p>12(4) In response to a written request from the police chief, the civilian director may, by written notice, grant the requested postponement of an interview or refuse to postpone an interview.</p> <p>12(5) The police chief must ensure that the witness officer attends an interview as required by this section.</p>
54	3.4.5 Independent Investigation Unit	That the Act be amended to provide that the civilian director, in consultation with the director of public prosecutions, may designate a Crown attorney to act as the acting director while the director is absent or otherwise unable to perform the duties of his or her office.

#	SECTION	RECOMMENDATION
55	3.4.5 Independent Investigation Unit	That section 73(1)(b) be revised so that a police chief must immediately notify the IIU when a police service has any suspicion or is conducting an investigation into the conduct of a police officer and where there is evidence that the officer may have contravened the Criminal Code or any other federal or provincial enactment, other than the provisions prescribed under clause 65(1)(c).
56	3.4.5 Independent Investigation Unit	That Part 7, Division 3 of the Act be amended to also apply to off-duty officers.
57	3.4.5 Independent Investigation Unit	That the term “immediately” be used in Sections 66(1), 66(2), and 73(1).
58	3.4.5 Independent Investigation Unit	That the term ‘formal complaint’ be replaced by ‘complaint’ in sections 66(2) and 73(1).
59	3.4.5 Independent Investigation Unit	That the definitions of ‘incident notes’ and ‘record’ be included in the PSA or in the IIU regulations.
60	3.4.5 Independent Investigation Unit	That the PSA includes a duty for officers to complete their incident notes as soon as possible with respect to an IIU incident.
61	3.4.5 Independent Investigation Unit	That public safety reports no longer be required and that Sections 8(1) and 8(2) be repealed.
62	3.4.5 Independent Investigation Unit	That the definition of ‘serious injury’ be expanded to include fractures to the clavicle, pelvis, and hip and any injury that requires admission to a hospital or health care facility on an in-patient basis.
63	3.4.5 Independent Investigation Unit	That the IIU continue to allow former police officers to work as investigators but be encouraged to continue to recruit investigators who do not have a police background. The secondment of serving police officers to the IIU should be discontinued.
64	3.4.5 Independent Investigation Unit	That the IIU be encouraged to recruit investigators from diverse backgrounds with a particular emphasis on people with Indigenous backgrounds.

#	SECTION	RECOMMENDATION
65	3.4.6 Civilian Monitor Program	That Manitoba Justice terminate the Civilian Monitor Program.
66	3.4.6 Civilian Monitor Program	Should the CMP be retained, that: <ul style="list-style-type: none"> <li>a) Civilian monitors be subject to more specific qualifications, preferably with a minimum of investigative or related experience.</li> <li>b) Civilian monitors be subject to background checks prior to their engagement.</li> <li>c) A pool of qualified potential candidates (including of Indigenous descent) be engaged on a casual contract basis to ensure that qualified civilian monitors are available at short notice.</li> <li>d) The civilian monitor reports also be provided to the civilian director, as well as to the minister.</li> </ul>
67	3.4.6 Civilian Monitor Program	That civilian monitors be provided contemporaneous access to investigations materials.
68	3.4.6 Civilian Monitor Program	That Manitoba Justice provide the civilian director with the authority to engage a civilian monitor for the purposes of acting as a liaison to the community, particularly for particularly high profile or sensitive investigations, or those involving members of Manitoba’s racialized communities.
69	3.4.7 Community Liaison	That the <i>Police Services Act</i> (or in IIU-specific legislation as proposed in this report) be amended to provide that the civilian director may appoint a community liaison or observer to work with the Independent Investigations Unit in the course of an investigation.

#	SECTION	RECOMMENDATION
70	3.4.8 Conduct, Discipline, and Standards - Comprehensive Analysis and Reporting	That Manitoba Justice develop the capacity of the office of the Director of Policing to monitor and analyze complaints and conduct-related reports from LERA and IIU, as well as results of standards compliance monitoring inspections to develop a whole-of-system perspective on relevant trends. Furthermore, that the ministry issue an annual report on this matter.

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## APPENDIX A: STAKEHOLDER CONSULTATIONS

Representatives from the following organizations were consulted during this review:

- Aboriginal Council of Winnipeg
- Alberta Solicitor General
- Altona Police Service
- Assiniboine Community College
- Association of Manitoba Municipalities
- Brandon Police Service
- City of Thompson
- City of Winnipeg
- Commissionaires Manitoba
- Commissionaires Northern Alberta
- Cornwallis Police Service
- Dakota Ojibway Tribal Council
- Former Ministry Officials
- GardaWorld Canada
- Independent Investigation Unit
- Law Enforcement Review Agency
- Manitoba Association of Chiefs of Police
- Manitoba Chambers of Commerce
- Manitoba Criminal Defence Lawyers Association
- Manitoba First Nations Police Commission
- Manitoba First Nations Police Service
- Manitoba Human Rights Commission
- Manitoba Keewatinowi Okimakanak Inc. (MKO)
- Manitoba Métis Federation
- Manitoba Organization for Victim Assistance
- Manitoba Police Association
- Manitoba Police Commission
- Ministry of Justice
- Ministry of Justice - Public Prosecutions
- Morden Police Service
- Municipal Police Board Chairs (Winnipeg, Brandon, RM of Cornwallis, Ste. Anne, Winkler, Manitoba First Nations Police Commission, Springfield, Morden, Altona, Rivers, Victoria Beach)
- Public Prosecution Service of Canada
- RCMP D Division
- RCMP National Police Federation
- RCMP Thompson Detachment
- Retail Council of Canada (Winnipeg)
- Rivers Police Service

- Saskatchewan Ministry Corrections & Policing
- Saskatchewan Public Complaints Commission
- Southern Chiefs Organization
- Springfield Police Service
- Ste. Anne Police Service
- Thompson Community Safety Officers
- University of Manitoba
- Victoria Beach Police Service
- Wilfred Laurier University
- Winkler Police Service
- Winnipeg Airport Authority
- Winnipeg Metropolitan Region
- Winnipeg Police Board
- Winnipeg Police Service

## APPENDIX B: FULL LITERATURE REVIEW

**Manitoba Police Services Act: Literature Review****I. Introduction**

The forthcoming review of Manitoba's *Police Services Act* is a task that about one-half of the provinces have undergone since 2010. This can be a difficult and time-consuming undertaking considering the competing visions about the futures of policing, the distinctive needs of different municipalities, the challenges of rural policing, and the priorities of different stakeholder groups. In addition to these different viewpoints is a growing recognition that all police services must manage the rapidly changing social, economic, technological, political, social, and legal contexts affecting their services. The traditional approach to policing—a reactive model based on neighbourhood preventative patrol—has been criticized as increasingly out-of-date in our fast-paced, technology-driven and diverse world. Although some police leaders and their staff favor the predictability of the *status quo*, maintaining these traditional roles may not be feasible given the rapidly increasing costs of policing; the growing public, political, and media-driven scrutiny of police operations; and the recognition that traditional crime reduction strategies have not reduced Manitoba's high crime rates (see: Moreau, 2019).

Given the different policing priorities and the changing social context, there has been a renewed emphasis on the broader issue of police governance (Morrell & Bradford, 2019). Of specific interest are issues related to policy formation and implementation; the determination of priorities and strategies; deployment choices; the allocation of resources; the maintenance of standards; and internal discipline (Walsh & Conway, 2011, p. 62). Various stakeholder groups will place different priorities on these issues, and some may oppose any changes. Duxbury, Bennell, Halinski, and Murphy (2018, p.317), however, say that the internal and external drivers of change affecting policing are not going to subside, and that reforms are inevitable. Consequently, Canadian police services must transform their structures and practices to align with these realities.

One of the obstacles to overcome before considering any new approaches to policing, however, is that we lack a clear vision of the future of policing. This is not a new observation and police priorities have been scrutinized in Canada and abroad for over two decades. Bayley and Shearing (1996), for instance, argued that the police were undergoing an identity crisis due to shifting roles and responsibilities that were being driven by external actors, including the emergence of competing agencies, such as private security firms that were encroaching on traditional policing roles. Recently, there has been an interest in police involvement in community partnerships and breaking down the barriers to service delivery to work with at-risk populations (McFee & Taylor, 2014). Other ideas about the futures of policing include evidence-based, intelligence-led, neighbourhood, reassurance, and smart policing. In many respects the police have been searching for a new guiding philosophy for policing for over a decade, or what Crank, Kadleck, and Koski (2010) call the “next big thing.”

Although the focus of our work is policing in Manitoba, law enforcement organizations across the globe are grappling with the same issues, and a number of task forces have defined these challenges, including *Policing Canada in the 21<sup>st</sup> Century: New policing for new challenges* (Council of Canadian Academies, 2014); the report on U.S. policing commissioned by Barack Obama; the *President’s Task Force on 21<sup>st</sup> Century Policing* (U.S. Department of Justice, 2015); *Rekindling British Policing* (Walton & Falkner, 2019), and the examination of policing in the Netherlands entitled *Running on empty: Reinvigorating policing through ‘what matters’* (van Dijk, Hoogewoning & Punch, 2019). Patterson and Williams (2019, p. 12) observe that “policing develops in different ways at different times and to differing demands.” Consequently, solutions to these policing-related challenges, and the desirability of different approaches are apt to look differently in Thompson, as compared with Brandon or Winnipeg, and the changing local context for policing can be as important as the national and provincial trends affecting all police services. Yet, Kempa (2014) also reminds us that with challenges also come opportunities to create new visions of policing that enable police services to better respond to future demands.

In what follows, we examine the changing context of policing and how external forces drive changes in Canadian policing. That section is followed by a description of the internal drivers of policing change, and a short description of the current crime rates in Manitoba. Although every



police leader and agency stakeholder recognizes that these factors influence their operations, there is far less agreement about how police services should respond to these contextual changes, and whether there is the need to change the nature of their services, what changes should be introduced, and if reforms are introduced, how they will be planned, funded, implemented, and overseen. Updating the *Police Services Act* gives police leaders, policy-makers and other agency stakeholders an opportunity to ask these questions in non-critical times, which in turn enables them to develop strategies to proactively control the future of policing in Manitoba.

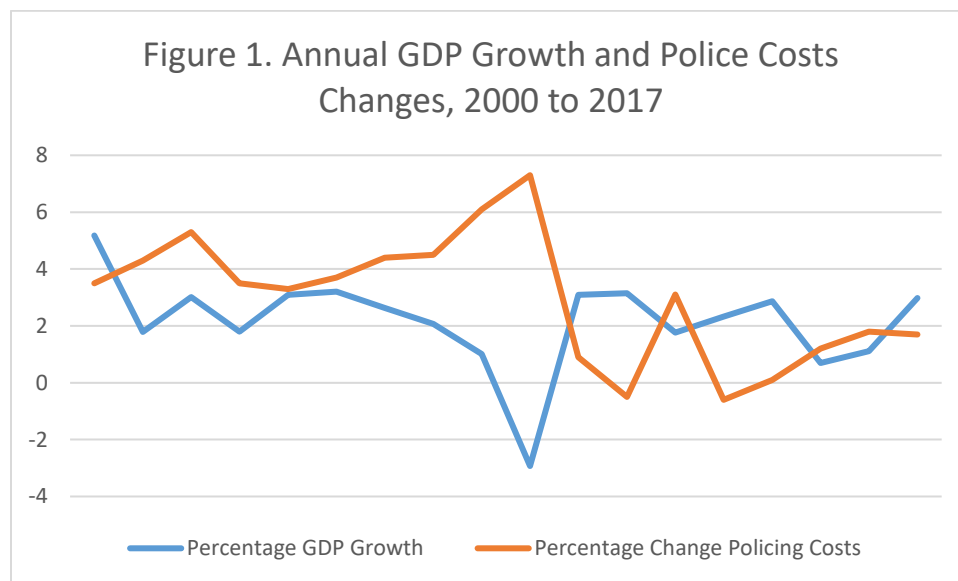
## **II. Changing Context for Policing: External Drivers of Change**

Since the first uniformed big city police services were founded in Paris, London, Toronto, and New York in the early 1800s these organizations have always been at the mercy of external factors over which they have very little control, including; (a) the economics of policing; (b) changing social conditions; (c) technological changes; (d) political changes; (e) environmental factors, and; (e) legal changes, including those driven by Supreme Court decisions. Each of these factors are important in their own right, and influence different aspects of police operations. These conditions may also influence the willingness of police services to engage in different initiatives with other community-based organizations. The following section summarizes these six factors:

### **Economics of Policing**

Kempa (2014) argues that economic uncertainty has always driven transformative changes in policing. During recessionary times, police leaders and policy-makers are forced to reconsider the services they offer, how these services are delivered, and whether other community or governmental organizations can share responsibility for order maintenance and crime control. Kempa also observes that definitions about public safety and the roles of the police in maintaining public safety are questioned during times of economic insecurity or uncertainty. Police services in Canada and abroad have been forced to confront these issues since the Great Financial Recession (GFR) that started in 2008. To some extent, Canadian police services were less affected by the effects of the GFR, as we did not experience the widespread layoffs of police personnel during that recession that occurred in the United States and United Kingdom.

Although the worst of the financial shocks of the GFR that started in 2008 are becoming a distant memory Canadian policy-makers throughout 2010-2014 sponsored a series of meetings throughout the country about the economics of policing. The key point in many of these meetings was that contemporary policing arrangements were financially unsustainable (Association of Municipalities, Ontario, 2015; Federation of Canadian Municipalities, 2012; Leuprecht, 2014; Kramp, 2014; Toews, 2013). There is no shortage of organizations that drew out attention to the funding of municipal agencies. With respect to the Winnipeg Police Service, for example, the large number of officers receiving over \$100,000 in salaries was called unsustainable by the chair of the Winnipeg Police Board and the prairie director of the Canadian Taxpayers Federation (Coubrough & Marcoux, 2016). The Association of Manitoba Municipalities (2018, p. 10) also asked the provincial government to address rapidly increasing policing costs they called unsustainable.



Sources: Conor, Robson, and Marcellus (2019), and World Bank (2019)

One way we can assess the sustainability of policing expenditures is to compare the annual increases in policing costs against the growth in Canada’s gross domestic product (GDP), which is a measure of the size of Canada’s economy (the monetary value of all finished goods and services made each year). Figure 1 shows the annual percentage growth in gross domestic product (GDP) and policing costs from 2000 to 2017 (in constant 2002 dollars). During this era

policing costs peaked in 2008 and 2009, decreased, and have been increasing since 2014. For the entire time period, Canada's GDP has been growing at 2.15% per year, whereas policing costs are increasing at 2.97%. Statistics Canada (2019a) reveals that between 2013 and 2018, government spending at all levels increased by an average of 1.3% per year. Phrased another way, policing costs for the past 18 years have been growing at a greater rate than the nation's economy, and were over twice as high as the increases in all other government spending between 2013 and 2018.

The national averages presented in Figure 1 masks the differences in the changing policing costs between the provinces, and the one-year percentage change from 2016/17 to 2017/18 ranged from no growth in Quebec to increases of 13% in British Columbia and Nova Scotia. With respect to Manitoba, policing expenditures rose by 2% between 2016/17 and 2017/18 (Conor, Robson, & Marcellus, 2019). There is also some variation within provinces and a review of the Association of Manitoba Municipalities (AMM) documents reveals that different funding arrangements have evolved over time throughout the province. As a result, there is a now a lack of consistency in the way that some municipalities are classified in terms of their population, amalgamated status, proximity to a major city, and those factors influence how much these municipalities are paying for police services (AMM, 2019, p. 8).

In some respects policing costs are related to the size of the jurisdictions being policed and Canada's largest cities have some advantages when it comes to paying for police services. The City of Toronto, for example, pays approximately 11% of their municipal budget for police services, while mid-sized cities such as Saskatoon and Regina pays 21% and 25% of their municipal budgets for policing. The 2019 budget for the Winnipeg Police Service accounts for 26.8% of the entire operating budget (City of Winnipeg, 2019, Table 1-4). Many small towns and rural municipalities receiving contract policing, however, can pay over one-third of their budgets for policing, and those contract policing costs have been increasing (Berman, 2018). Many local government leaders in communities contracting with the Royal Canadian Mounted Police are worried that the ability of their officers to bargain collectively will further increase costs.

When it comes to questions about the economics of policing, another question that many stakeholders were asking was why police costs were increasing at the same time that national crime rates were decreasing? This raises the issue of whether the police could continue to work as independently as they did in the past, or whether they could engage in more collaborative efforts with other public, private, and community-based partners to leverage their resources.

Although there was considerable interest in the economics of policing between 2010 and 2014, the final word about the economics of policing during this era was the report on the futures of Canadian policing written by the Council of Canadian Academies (2014). These 12 experts defined a new approach to policing they called the safety and security web, which was an interconnected set of organizations involved in community safety and crime reduction. These organizations include the police but also publicly-funded health, educational, and social service agencies, as well as corporate enterprises, including security agencies. A key point of their report was that these agencies had to act in a more coordinated manner to maximize their efforts, rather than acting independently. We discuss the possibility of police-community partnerships in the section that follows.

### **Changing Social Conditions**

Duxbury (2014) observes that an increasingly multi-cultural, multi-racial, multi-sexual, and aging population will place a new sets of expectations and demands on Canadian police services. Statistics Canada (2017a) reports that 17.5% of Manitoba's population was of Indigenous ancestry, and about 17% of the population were a member of a visible minority group. With respect to Manitoba, the population of young Indigenous people deserves special attention. Statistics Canada (2017b) reports that Indigenous children aged 14 years and older accounted for 31.2% of the total Indigenous population; which was almost twice as high as the proportion of youth in the non-Indigenous population (16.7%). Thus, a high proportion of these young people will be entering an age group that has high involvement with the justice system, as arrests for Canadian youth peaks for males and females at 17 years (Savage, 2019). A high proportion of these young people live in rural areas and responding to their needs will place demands on the justice system, including self-administered Indigenous police services and the Royal Canadian Mounted Police (RCMP). Moreover, this group of young people will also place significant

demands on health, education, and social systems in rural communities that may not have the capacity for these growing populations. Perhaps a more important question is how we can provide long-term educational and vocational opportunities for these youth if they are unwilling or unable to move to larger places.

Changes in the population composition can have an impact upon the trust and confidence in the police. Conor (2015, p. 22) found that Manitobans had the lowest amount of confidence in the justice system and courts in all of Canada, although their confidence in the police was slightly higher than the national average. When Canadians were asked about police performance, however, Manitobans were significantly less likely to say than other Canadians that the police did a good job of ensuring citizen safety, promptly responding to calls, treating people fairly, enforcing the laws or providing the public with public safety information (Conor, 2015, p. 27). An Angus Reid Institute (2018, p. 5) survey also found that Manitobans expressed less confidence in the RCMP, their local municipal police (or RCMP detachment), or the criminal courts than other Canadians.

Angus Reid (2018, p. 3) found that visible minority respondents expressed less confidence in the RCMP, their local police, and the courts. Indigenous and visible minority populations tend to have less confidence in the police than the general population. This mistrust might lead some people to join activist or protest groups and examples include the *Idle No More* movement in 2012, and the *Black Lives Matter* group that had a more visible presence throughout 2014 to 2016. The activities of these advocacy and activist groups tends to wax and wane and although they have been relatively silent in 2018-2019, these groups and movements can emerge rapidly in response to a single act, such as a perceived or actual injustice, or rally around a single cause, such as pipeline development. An important characteristic of these social movements is the speed at which information can be relayed around the globe via social media; thus enabling them to quickly mobilize.

Braga, Brunson, and Drakulich (2019, p. 535) point out that the police need the support of the public and their cooperation in order to effectively control crime. They observe, however, that there are rifts between the police and minority communities they serve. These researchers

attribute these rifts to what they call a policing paradox, where communities that receive the most aggressive policing also have the lowest levels of trust and confidence in the police, but they are also the most dependent on those services (Braga et al., 2019, p. 549). In order to ensure that their practices are not discriminatory or unfocused, police services must carry out sophisticated analyses of their responses to crime.

### **Technological Changes**

Technology has changed criminal behaviours and police operations. Offenders were quick to embrace technologies that increased their proceeds from crime and enabled them to carry out their illicit activities with lower risks of apprehension (Police Executive Research Forum, 2018). Although few of these crimes are new the internet can be used to commit traditional crimes such as fraud and theft on a large scale, thus increasing the number of victims. The Director General of the RCMP's financial crime and cybercrime observes that, "Today the volume has gone up, the adoption of technology, the change in society has occurred so rapidly it's very difficult for policing organizations to adapt at the same rate" (Tunney, 2019, para. 22). As a growing number of offenders involved in these offences are living in other nations, and this leads to additional barriers for Canadian investigators responding to these crimes.

Between 2014 and 2018, the number of cyber-violations reported to the police increased by 117% (Statistics Canada, 2019c). Few of these crimes, however, are actually reported to the police (Tunney, 2019). In addition to traditional forms of crime such as fraud and theft, offenders are also engaging in online sexual exploitation, data theft, ransomware, and hacking into agency files. Solomon (2019) contends that the police have been slow to develop coordinated strategies to respond to these offences and the RCMP's cybercrime co-ordination unit will not be fully operational until 2023. Without access to partnerships that provide resources and supports, smaller police services are at a significant disadvantage in their ability to respond to these crimes.

The police have also used technology to increase their effectiveness and efficiency. Manning (2018, p. 292) classifies police technologies into four categories that: (a) support mobility (e.g., planes, patrol or armored vehicles); (b) extend human senses (such as sight, touch, smell, or

sound), such as cameras, radar, DNA, fingerprinting, breathalyzers and listing devices, and; (c) permit gathering and processing data quickly, and; (d) training innovations such as simulation models of interaction and online learning. All these categories are currently affecting police operations and will continue to have an impact on the profession. In some cases, the changes might be far-reaching and Schulz (2018) reports that police officials in Nevada predict that there will be an unmanned aerial vehicle (UAV, or drone) in every police vehicle by 2025.

The introduction of new technologies can also be controversial as they can shape the way police interventions are conducted, including the use of big data and especially since the size of databases containing information about us are increasing (Ferguson, 2017). There is also an increased acceptance for using software that predicts where crimes might occur, such as PredPol (Haskins, 2019). Other controversial technological applications include Stingray technology—where a cellular phone user’s information can be collected without their knowledge—which is already used by some Manitoba police services (CTV News, 2019). The police use of Stingray and facial recognition applications are being challenged by civil libertarians (see Canadian Civil Liberties Association, 2019). Some technological applications, such as ShotSpotter, a gunshot detection system, became controversial in Toronto after some residents claimed that this technology may be a violation of the *Charter’s* protection from unreasonable search and seizure (Janus, 2019).

A less controversial technological innovation has been the police use of social media. Most police services use applications such as Twitter to communicate directly with the public, which enables them to bypass the media. Larger agencies deploy sworn officers and civilian personnel to manage the flow of information to the public. These efforts can be successful and Ruddell, Britto, and Jones (2019) found that the Winnipeg Police Service (WPS) had amongst the highest number of Twitter followers per capita in Canada. Other social media platforms, such as FaceTime, are being pilot tested by the WPS to enable victims to report property crimes directly to the police, thus making the process more efficient for the victims and police.

### **Environmental Factors**

There are a number of environmental issues that will indirectly shape the future of police operations. While some Canadian cities might be affected by rising sea water and coastal flooding there may be other subtle changes that impact the police and associated agencies. Increased melting ice in the North, for example, could open up the Northwest Passage to more shipping, which in turn might place a greater demand on search and rescue services. The increased number of forest fires in Canada's north has also been attributed to climate change, and during the summer of 2019, a number of northern Manitoba communities were evacuated due to the risk of these fires (Hatherly, 2019). As a result, we also predict there will be more demands for the police to engage in partnerships with federal and provincial disaster management services over the next decade.

Given the interest in the issue of climate change in the 2019 federal election, there is likely to be more interest in stricter enforcement of crimes against the environment. Most environmental crimes are related to dumping of toxic wastes, illegal hunting (or poaching), over-fishing, and the illegal harvest of timber on Crown land. Although most responses to confronting environmental crimes will be carried out by federal and provincial officials from environmental and conservation agencies, the police will be called upon to support those investigations. The police role in responding to environmental matters may also increase if there are protests occurring in places where oil and gas are being extracted or during pipeline construction.

### **Legal Changes**

Duxbury et al. (2018, p. 319) observe that most police reforms are top-down initiatives that are driven by external forces ("top-down and outside-in"). These changes are often piecemeal or incremental and despite the modest expectations for changes, there is a long history of failed police reforms (Schafer & Verano, 2017). The need for change is often shaped by the outcomes of highly publicized cases, or after public inquiries (Council of Canadian Academies, 2014).

Exceptions to these piecemeal changes are when reforms are outcomes of Supreme Court decisions. In a study of Canadian officers and stakeholders, Duxbury et al. (2018, p. 323) found that these respondents considered the Courts as a primary driver of change and one of them said



that “From the *Charter* to case law, when the law changes we have to change how we enforce it” (p. 327). Failure to abide by the Court’s rulings can have devastating impacts on public safety and *R. v. Jordan* (2016) was a landmark case that placed strict time limits on bringing the accused before the courts. Delays resulted in nearly 800 cases being stayed or dismissed, including at least six homicide cases (Russell, 2019). It is likely that issues related to emerging police technologies, such as the use of facial recognition software, big data, predictive policing, or Stingray technology will be scrutinized by the courts.

Although court decisions might be a significant driver of police reform, there are also examples changes in provincial legislation that affects police operations. Most of these reforms have occurred on the front lines and have resulted in changes in operational activities and have not required any meaningful strategic or tactical changes. There are, however, some exceptions and since 2010 British Columbia has been using administrative penalties to reduce the number of impaired drivers on the road. Between September 20, 2010 and August 31, 2019, almost one-quarter million drivers have received an immediate roadside prohibition or other driving prohibition (Road Safety British Columbia, 2019a). Although there was a drop in the number of people charged with impaired driving during the same era (2010 to 2018), Road Safety British Columbia (2019b) reports that alcohol related driving deaths decreased by one-half. Manitoba will be implementing similar legislation in December 2019 (Gibson, 2019).

### **Political Changes**

The operations of the criminal justice system, and federal, provincial, and local politics are tightly coupled, and the policies enacted by these governments can have a significant impact on police operations. The election of the Liberal government in 2015, for example, placed the brakes on Prime Minister Harper’s tough on crime agenda, and since 2015 a number of crime control strategies were rolled back. Other laws changed, and a year after the legalization of marijuana in October 2018, anecdotal accounts suggest that the impact has been less serious than many had anticipated. However, it will most likely take several years before the full implications of this legislative change are realized including the use of marijuana by minors, whether trafficking offences have increased, and whether legalization shrank the black market.

In their study of Canadian police officers, Duxbury and colleagues (2018, p. 323) found that political cycles and politics, including the operations of police boards, are key drivers of change in policing. One of the challenges that emerges from their observation is that most politicians work in four-year cycles whereas their decisions can impact the operations of the police, courts, and corrections for generations.

The 9/11 attacks, which we place in the political category, forced police services across the globe to examine their mandates and operations. Although the global war on terrorism seems far removed from Manitoba, these initiatives have had a profound impact on public safety resource allocation, which has had ripple effects on policing we are still experiencing. Conor, Robson, and Marcellus (2019) report there are almost 69,000 officers in Canada, and if only one percent of them were transferred to national security activities, almost 700 officers are no longer deployed on the streets.

With respect to the RCMP, Quan (2015) estimates that about 500 RCMP investigators were transferred from organized crime into counter-terrorism work. There are practical implications of those decisions. Freeze (2017, para. 1) reports that the RCMP sidelined over 300 investigations into organized crime and reallocated about \$100 million in funding to national security. These practices have impacted local policing. British Columbia's Attorney General says that despite the problem with the large scale laundering of drug money in that province there were no RCMP officers in the entire province in March 2019 who were working on the anti-money laundering file (see Nuttall, 2019, para. 4).

Reducing the number of investigators devoted to organized crime may have had led to the proliferation of gangs and other organized crime groups throughout the country. Although we lack clear evidence of this relationship, police leaders throughout the country are speculating that the increased prevalence of gang violence is related to these different groups jockeying for control of the drug trade. This might have impacted the number of gang-related shootings throughout the country. Caruk (2019) reports, for instance, that the drug trade is the driving factor behind gun violence, including homicides, in Winnipeg. This may also have affected the

number of crime-involved firearms recovered by the WPS; which increased 45% between 2014 and 2018 (Winnipeg Police Service, 2019a).

One issue straddling the boundaries of the political and legal drivers of change is the expectation that police operations are accountable and transparent to the public. There is considerable variation across Canada in the ways that police operations are overseen by independent bodies. For example, most provinces require that municipalities deploying their own police services or that contract with other agencies to provide police services establish police boards or police commissions. These independent bodies vary in terms of functions and formality. Toronto, for example, has an police board with a full-time salaried chairperson whereas most board members throughout the country are volunteers. Murphy and McKenna (2007, p. 7) observe that leaders in some police organizations can feel threatened by the oversight exercised by these external bodies, and some have resisted the imposition of these accountability structures on their operations. Some communities have also expressed frustration with the need for police boards and the AMM (2019, p.7) has advocated that the issue of mandatory police boards, which is a requirement for any Manitoba municipality that has their own police service, be revisited.

While police advisory boards are the most commonly encountered forms of oversight, most provinces have also founded agencies to act upon citizen complaints or investigate the police involvement in incidents resulting in serious injuries or deaths. In addition to these provincial agencies, the federal government also established the Civilian Review and Complaints Commission for the RCMP. A literature review reveals that it can be difficult to balance the needs of public for accountability against the burdens placed on a police service in responding to citizen concerns. Writing about external oversight agencies in the United Kingdom, Walton and Falkner (2019, p. 13) observe that they place a burden on policing and those scholars advocate for a single “independent oversight body (dealing with police performance, inspection, review, complaints investigation and discipline),” rather than multiple agencies acting in oversight roles.

### **III. Changing Context for Policing: Internal Drivers of Change**

Although the police have relatively little control over the six external forces described above, there are also internal drivers of change, and police services can exercise more control over these

factors. Perhaps more importantly for any discussion about potential changes to police governance structures and operations, these internal factors must align with the police service's goals. In their survey of police officers and stakeholders Duxbury and colleagues (2018) found that workforce demographic factors was the most important driver of change. By contrast, their respondents also identified that resource limitations, organizational culture (inertia), resistance to change, inadequate police leadership, and police associations were barriers to change (Duxbury et al., 2018, p. 333). By contrast, the Council of Canadian Academies (2014) identified three main internal challenges: human resources, policing costs, and accountability and legitimacy. Consistent with the work of those researchers we briefly address the four internal issues we see as most relevant to the work that Manitoba is currently conducting: (a) Human resources; (b) Officer workloads; (c) Organizational inertia; and (d) Partnerships.

## **Human Resources**

### *Representative workforce*

Like any other public service that wants to be responsive to the increasingly diverse populations they serve, police services depend on deploying a healthy, professional, and well-motivated workforce that is representative of the general population. The nature of the police workforce has changed significantly over time and where it was once almost exclusively “male and pale” the number of women, Indigenous, and visible minority officers and civilian personnel has been increasing. Conor, Robson, and Marcellus (2019, p. 3) report that women now account for 22% of all officers, 4% of officers self-identified as Indigenous, and 8% identify as a member of a visible minority group. Although the police workforce is more diverse today, there will be more demands to increase the proportion of women and non-White officers.

Like their counterparts in the community, police officers are also aging, and almost one-fifth (18%) of officers in 2018 were 50 years or older, and 11% of Canadian officers were eligible to retire in 2018 with an unrestricted pension (Conor et al., 2019, p. 3). An aging workplace population has several implications for these agencies, including the prospects of high rates of retirement and this can result in the loss of experience and institutional memory.

### *Officer wellness*

Officer wellness is a significant issue confronting all Canadian police services: Conor et al. (2019) reported that 5% of the permanent employees were on authorized leave of 12 weeks or longer and most of them (62%) were for medical reasons. One reason for these officers being on leave are psychological injuries. Carleton and colleagues (2018a) found that over one-third (36.7%) of municipal or provincial police officers and one-half of RCMP officers (50.2%) report having one or more symptoms of mental health disorders such as anxiety, depression, alcohol abuse, or PTSD. Extrapolating those proportions to the entire nation, the effectiveness of one third to one half of Canadian officers is somewhat diminished due to some form of mental disorder.

Some of officers suffering from psychological injuries have significant troubles and Carleton and colleagues (2018b) found that about 10 per cent of their sample of public safety personnel had thought about suicide in the prior year and about 4 per cent of the sample had developed a plan to kill themselves; 18 of their respondents had attempted suicide. The suicide of two Ontario officers in October 2019 drew national attention to developing better responses to address the unmet needs of the police workforce. Police organizations with an unhealthy workplace culture, including agencies with high rates of bullying and harassment might make it difficult for these officers to seek help (Sawa, Ivany, & Kelley, 2019). A growing number of officers are on medical leaves for psychological injuries, and Conor, Robson, and Marcellus (2019, p. 14) report there were over 5,000 permanent employees who were on leave for 12 weeks or more (for all causes), and about two-thirds of them were sworn officers. Given the human and financial costs of these psychological injuries, there will be much attention paid to this issue in the near future, and especially in organizations that have high rates of self-reported operational stress injuries, such as the RCMP.

### *Civilianization*

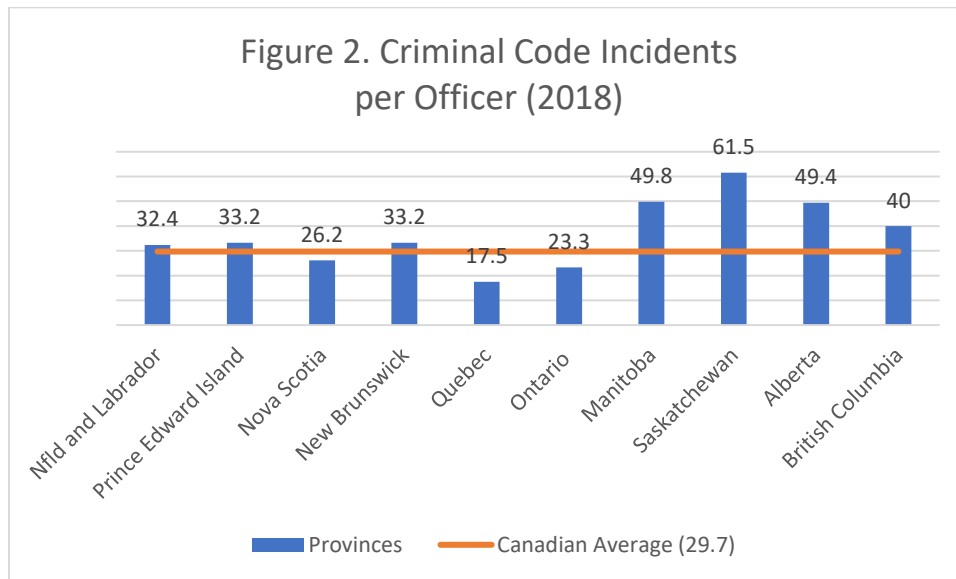
Conor, Robson, and Marcellus (2019) found that the proportion of non-sworn police personnel in Canada has been increasing over time, and between 2000 and 2018 the number of sworn officers increased by 22.5% while civilian personnel increased by 55.9%. Almost three-quarters of these civilian personnel were women. A growing number of these non-sworn personnel are uniformed

special constables who carry out many police-related duties, such as responding to antisocial behaviour, enforcing bylaws, directing traffic around collisions, and responding to non-emergency calls for service (McKenna, 2014, calls these ‘non-core’ duties). The Winnipeg Police Service deployment of cadets is one such example, and the results from an operational review suggests that these personnel can reduce the burdens on sworn officers, and that they have been well accepted throughout the police service (Griffiths & Pollard, 2013).

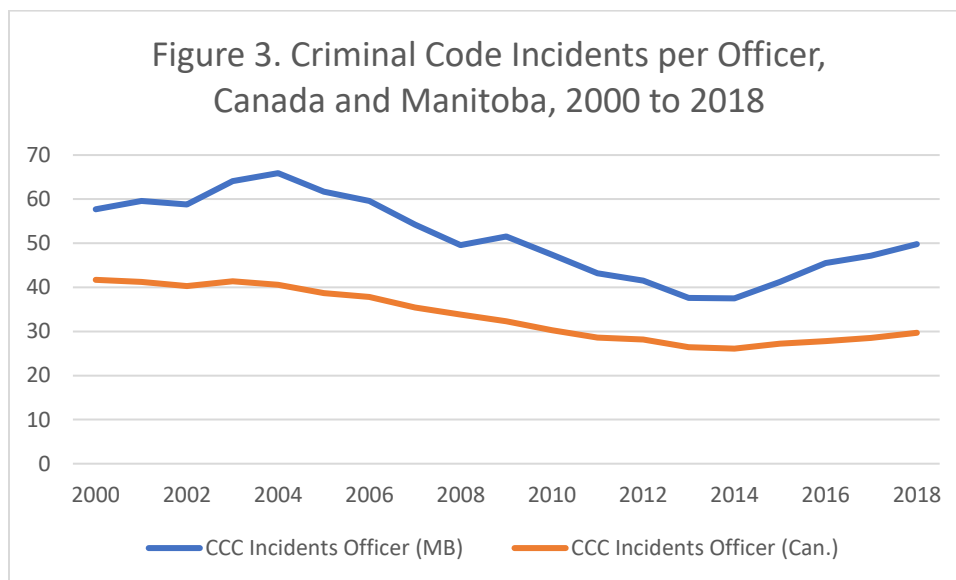
Kiedrowski, Ruddell, and Petrunik (2019) point out that current policing models have been called unsustainable because of the high costs of using sworn officers to carry out non-investigative or emergency response tasks that could be conducted by less trained and lower paid officials, such as the Winnipeg cadets. Yet, utilizing non-sworn officials can become controversial and some scholars argue that policing should only be carried out by fully trained and certified law enforcement officers (van Dijk et al., 2019). In the United Kingdom, for example, police services invested heavily in non-sworn uniformed officers they called police community support officers (PCSO) in 2008 (De Camargo, 2019). As part of their austerity measures after the 2008 recession the PCSO positions were amongst the first police personnel to be cut, and between 2010 and 2019, the number of these personnel dropped by 46.3% (Allen & Zayed, 2019).

### **Police Workload**

Issues of officer workload are important in jurisdictions with high crime rates, and Figure 2 reveals that Manitoba has the second highest number of *Criminal Code of Canada* offences per officer. This figure shows that Manitoba officers are stretched thin (49.8 offences per officer) compared with the national average of 29.7 offences when we use this measure. Responding to these offences, however, reflects only a portion of officer workload and does not account for the time they invest in order maintenance, traffic enforcement, and other social service-related duties. This finding also suggests that because Manitoba officers are devoting more time, energy and resources into responding to crime than officers in other provinces, they may have less time to invest in crime-prevention strategies.



Source: Statistics Canada (2019b)



Source: Statistics Canada (2019b)

Figure 3, by contrast, shows the change in the ratio of officers to offences between 2000 and 2018 for Manitoba and Canada. This figure shows that both the national average and Manitoba offences decreased from a peak in the early 2000s, stabilized for several years, and then has been increasing since 2014.

Excessive workloads over the long-term takes a toll on officers. Commenting on officer workloads, Chief Smyth of the WPS commented that “the stress of this environment is taking a toll on our community and the wellbeing of our members,” and that solutions to these problems lie outside the justice system:

I have said constantly that this is not a problem that policing can resolve alone. This is a health problem. We can enforce the laws, and we can intervene to help people recover from trauma and stress, but we need to be able to divert people to the help they need to recover. We know there are not enough shelters, stabilization units, and treatment centres to help those struggling with addiction. (Winnipeg Police Service, 2019b, p. 2).

One of the challenges that police leaders and agency stakeholders confront is that their agencies cannot resolve the entrenched social problems—such as addictions, poverty, and people with untreated mental health problems—that can lead to crime. Thus, while the police are often criticized for providing a reactive service, they have very little influence on the structural conditions and social problems contributing to high crime rates.

### **Organizational Inertia**

Changing operational priorities and practices are inevitable given the shifting economic, political, technological, social, and environmental forces reported above. Those forces are not unique to Canada and Hoggett, Redford, Toher and White (2013, p. 7) point out that every police service in the world is aware of the imperative of change. Reforms, however, are often slow, incremental, and ongoing, although many fail to achieve their stated goals (Schafer & Verano, 2017). One of the challenges of agency leaders and stakeholders advocating organizational change is the long history of police reforms that includes community policing, problem-oriented policing, broken windows policing, hot-spots policing, Smart policing, intelligence-led policing, predictive policing, and evidence-based policing. While all of those approaches have merits, there is a limit to how many of these approaches can (or should) be implemented.

Some police agencies have undergone so many organizational changes that Bayley (2008) calls them the flavor of the month. Many police reforms fail because they were not properly conceptualized or communicated to the personnel, they were inadequately funded or supported



by the organization, or were poorly implemented by people who lacked the leadership skills to involve key constituents or secure officer buy-in (Schafer & Verano, 2017). Some reforms are based on ideas developed by civilians that do not account for the nature of police work or organizational culture (Skogan, 2008). Other changes are launched by local, provincial, and national politicians who lose interest in supporting these reforms several years after their introduction, and these reforms flounder. Regardless of the source of the reform, after experiencing several cycles of changing priorities and transformation that are not nurtured over the long-term, it is easy to see why officers are cynical toward subsequent changes.

As a result, some police leaders are reluctant to engage in changes and this has been called organizational inertia by some scholars (Duxbury et al., 2018). Canadian research has found that organizational inertia and police resistance to change were among the most significant barriers to reforms identified by police officers and agency stakeholders (Duxbury et al., 2018). Front-line police officers are often cynical about the changes they are asked to make. The ongoing failure to achieve the goals of reforms can make officers cynical about future reforms. Hong (2017) uses the term reform fatigue to describe this process. Writing about rank and file officers Hoggett et al. (2013, p.8) say that “their voice has often been missed, ignored or dismissed.” As a result, it is not surprising that it is difficult to get officer buy-in when it comes to potential changes (Duxbury et al., 2018).

All of the internal drivers of policing change and everyday police operations are associated with governance, which is defined as the efforts to operate a police service efficiently and effectively. Governance can be an all-encompassing term and Walsh and Conway (2011, p. 63) include the following “policy formation and implementation; the determination of priorities and strategies; deployment choices; the allocation of resources; the maintenance of standards; and internal discipline.” In their discussion of governance, Morrell and Bradford (2019, p. xiv) contend that the police are traditionally seen as society’s last resort because of their authorization to use force, but remind us that by seeing policing as a public good helps us that they are more closely connected to other public services than the public realizes.

While there is recognition of the changing context of policing there is far less consensus about how the police should respond to these contextual changes, the need for reform, what changes—if any—should be enacted, and if changes are needed, how will these proposed reforms be planned, funded, implemented, and overseen. One reason why there is such a history of failed changes is there is no clear vision of the futures of policing. There are a large number of academics who contend that policing needs to be reimaged, reinvented or transformed (Gascon & Fogelson, 2011; Lum & Nagin, 2017; Millie & Bullock, 2012). A growing number of scholars and policy-makers believe that the police need to engage in partnerships to leverage their resources in order to respond to the entrenched social problems that are a source of individuals and families at risk of engaging in crime.

### **Police Partnerships and Community Well-Being**

One of the key points identified by the expert panel from the Council of Canadian Academies, (2014) was the importance of establishing partnerships, and the role of the police in the safety and security web. This web includes the different organizations—both private and public—that are involved in crime control and prevention activities. Examples of these non-police partners include the security personnel working in schools and colleges, hospitals, and transit organizations. Other security personnel are employed in different roles by private corporations, from insurance to transportation companies and they work in loss prevention in retail stores and guard the money transported by armored car companies. These personnel work for local, provincial, national, and international employers.

It has long been recognized that the police were losing their traditional monopoly over crime control and Bayley and Shearing (1996) call those relationships plural policing. Many of these organizations have traditionally operated independently of each other and have not established shared goals to collaborate together, which could leverage their respective resources and therefore maximize their combined efforts. The main findings of the Council on Canadian Academies (2014, pp. xi-xiv) are summarized as follows:

- The current structure of Canadian police organizations needs to fully adapt to the changing context in which the police now work and to better reflect the rapidly evolving knowledge base.

- Successful policing models require police to acknowledge, adapt to, and leverage the specialized capabilities and resources in the safety and security web.
- Increased professionalism of police and evidence-based policing would enable police to play an optimal role in the safety and security web.
- The diversity of actors in the safety and security web introduces accountability concerns that have yet to be addressed.
- There are still significant gaps in our knowledge about how to maximize the operation of the safety and security web.

The potential partners in the safety and security web, as described by the expert panel, ranges from involving local groups such as neighbourhood associations and can also include the participation of global corporations. A key point of the expert panel was that these agencies had to act in a more coordinated manner to maximize their combined efforts, rather than acting individually. The examples provided by the Council of Canadian Academies focus on traditional responses to crime control, including those delivered by security firms and the police.

Ultimately, the safety and security web represents both a challenge and opportunity for the police due to the expectation to engage with non-police partners (Council of Canadian Academies, 2014). Murphy and McKenna (2007) observe that these arrangements will require police leaders to work with public and private partners from diverse groups with whom they share common interests. Engaging in those partnerships is easier said than done, and implementing these collaborative approaches is shaped by the diversity of Canadian police organizations, their receptiveness to change and their governance structures.

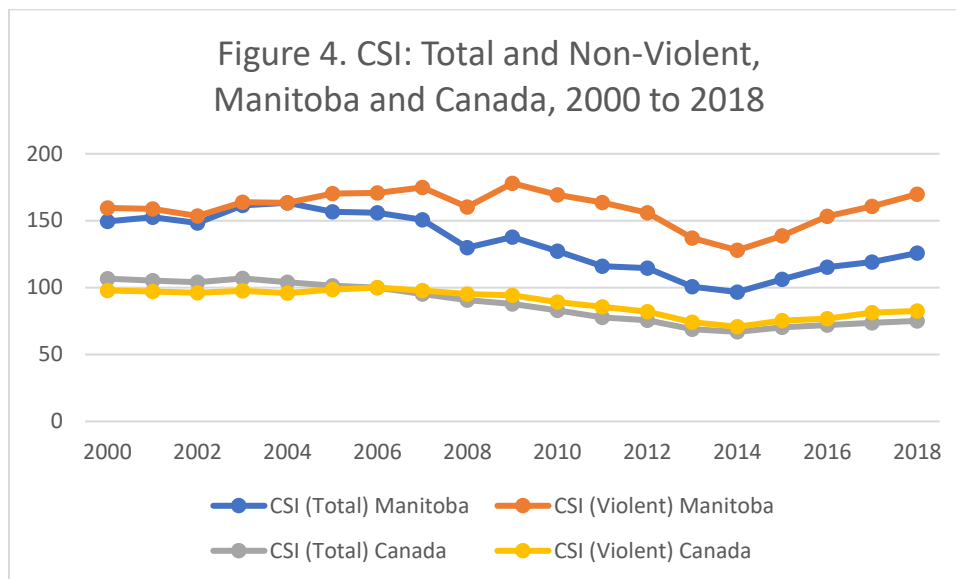
There are also a growing number of police services participating in community mobilization efforts where the police and health, education, and social service agencies engage in partnerships that focus on helping individuals and families who are at-risk of involvement in the justice system as offenders or victims. Whereas the expert panel approach focuses on organizations that are already involved in crime prevention efforts McFee and Taylor (2014) extended the definition of community partners to include organizations that have no formal enforcement orientation, such as educational, health, and social service agencies. The police developed these

partnerships after realizing that some individuals and families were at-risk of becoming involved in the justice system. The notion behind community mobilization was that if a number of agencies could provide these individuals with the proper resources to respond to their unmet needs, their risks of being involved in crime would also decrease.

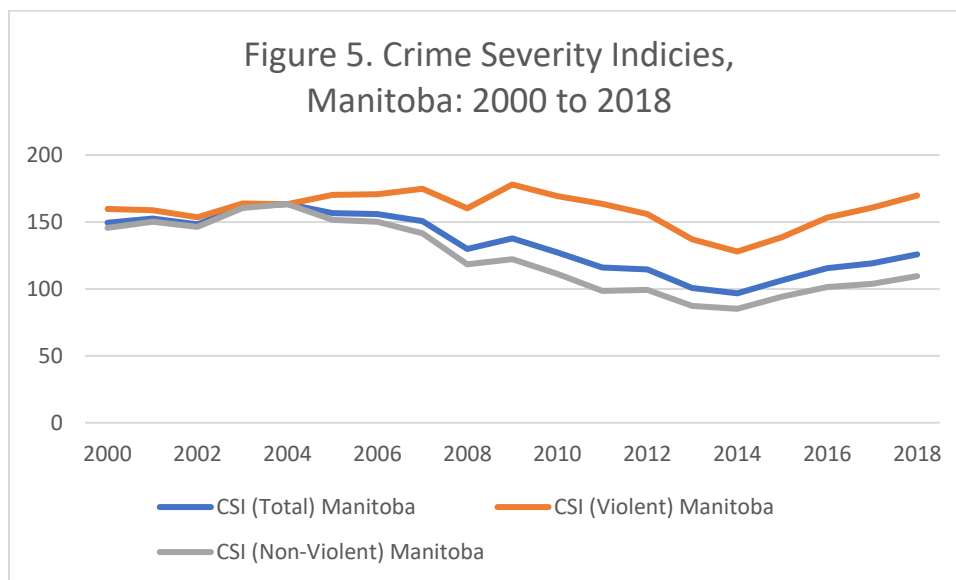
McFee and Taylor describe the short-term police-community interventions that offer services to at-risk individuals and families in their Hub model, which are called Situation Tables in Ontario. This approach to working with at-risk people has been adopted throughout Canada, and Corley and Teare (2019) report that over 115 communities have adopted the Hub model. One of these is Winnipeg's Thunderwing Project. While this approach has only existed for about a decade, it may serve as a prototype for other police-community partnerships. Engaging in these partnerships is not an easy proposition, however, and requires agency stakeholders (from the police and community agencies) to overcome resistance to change in an ambiguous working environment. These partnership efforts will also require police services to opening their working environment to different forms of relationships that require them to be "more collaborative, multi-agency, partnership oriented, networked and cross-jurisdictional" (Murphy & McKenna, 2007, p. 25). The safety and security web represents both a central challenge and opportunity for the police due to the expectation to engage with non-police partners. One of the challenges of implementing an approach is the diversity of Canadian police organizations, their receptiveness to change and different governance structures.

#### **IV. Crime in the Manitoba Context**

Regardless of changes in the external environment or the ability of police leaders to manage the internal drivers of change, the primary goals of Manitoba's police services are to respond to crime and engage in crime prevention strategies. Similar to the other Prairie provinces and the Territories, rates of crime in Manitoba are amongst the highest in the country. Figure 4 reveals that Manitoba's total violent crime severity index (CSI) is more than twice the national average, and the total CSI was 42% higher than the national average. After the CSI bottomed in 2014, there has been an uptick in the CSI in Manitoba in the past four years.



Source: Moreau (2019)



Source: Moreau (2019)

Police-reported crime rates in rural Manitoba are much higher than the urban rates, and are second only to Saskatchewan, which has the highest rural crime rate in the nation. These statistics can be somewhat deceptive as crime rates in a relatively small number of Northern communities can have impact the entire provincial average. Thus, crime rates in the provincial North are high and many rural Southern communities are safer than the cities. Members of rural

populations may be more vulnerable to victimization than city residents. Rotenberg (2019) found that young women and girls (under 24 years of age) in rural Manitoba had the second highest violent victimization rates in the country (second only to Saskatchewan).

Table 1. Urban and Rural Crime Rates, Canadian Provinces, 2017.

Province	Total Crime Rate per 100,000 Residents (Excluding Traffic)		Total Violent Crime Rate per 100,000 Residents	
	Urban	Rural	Urban	Rural
Newfoundland	5,182	5,765	1,386	1,228
Prince Edward Island	4,348	3,549	904	869
Nova Scotia	5,211	4,696	1,281	1,194
New Brunswick	5,618	4,373	1,299	1,203
Quebec	3,357	3,377	979	1,314
Ontario	3,810	3,703	824	987
Manitoba	7,964	11,309	1,521	2,933
Saskatchewan	10,138	13,829	1,445	3,118
Alberta	7,920	10,964	1,158	1,870
British Columbia	7,546	6,418	1,070	1,367
All provinces	5,051	6,210	990	1,532

Source: Perreault (2019)

Table 2 shows that homicide rates per 100,000 residents in rural Canada are about 40% higher than in the cities (2.4 and 1.7 respectively). Beattie, David, and Roy (2018, p. 31) found that people of Indigenous ancestry had the highest rates of involvement in homicide as victims and offenders. In terms of victimization, an Indigenous person was about six times more likely than a

non-Indigenous person to be murdered (8.8 and 1.4 persons per 100,000 residents respectively). With respect to persons accused of homicides, by contrast, people of Indigenous descent are 11 times more likely to be charged than non-Indigenous persons (11.1 and 1.0 persons per 100,000 residents). These rates of victimization and being charged are much higher in Alberta, Manitoba, and Saskatchewan than the rest of the country.

Table 2. Urban and Rural Homicide Rates, Canadian Provinces, 2017

Province	Homicide Rate per 100,000 Residents (Rates are rounded)		Firearm Homicide Rate per 100,000 Residents (Rates are Rounded)	
	Urban	Rural	Urban	Rural
Newfoundland	1.1	.4	0.0	0.0
Prince Edward Island	0.0	0.0	0.0	0.0
Nova Scotia	2.2	2.2	0.6	1.2
New Brunswick	0.6	2.5	0.4	1.1
Quebec	1.0	1.5	0.4	0.4
Ontario	1.4	1.5	0.6	0.3
Manitoba	3.1	4.4	0.8	1.4
Saskatchewan	2.2	4.9	0.7	1.2
Alberta	2.6	3.4	1.0	2.0
British Columbia	2.5	2.2	1.2	1.1
Canada Homicide Rate (including territories)	1.7	2.4	0.7	0.8

Source: Beattie, David, and Roy (2018)

Altogether, a review of national and provincial crime statistics shows that the demands on the police in Manitoba are high in both rural and urban areas, and there are no indications that crime rates or officer workloads are decreasing. This observation has short- and long-term implications for the police. In the short-term officers will be overworked and this contributes to higher levels of stress, and may manifest itself in having a greater number of officers on long-term medical leaves. This creates long-term implications for funding agencies and the need for a larger workforce, or deploying officers in new or innovative ways that maximizes their effectiveness.

## **V. Indigenous Policing**

A recent report by the Council of Canadian Academies (2019) has highlighted many of the issues involved in providing policing services to Indigenous communities. The Council's panel maintains that many Indigenous communities do not receive adequate policing services and that change is essential. In the future, the police must be more responsive to the desire of Indigenous communities for self-determination and of the need to recognize Indigenous laws and rights. First Nations policing must be considered an essential service rather than following the program model set out by the First Nations Policing Program. The panel also suggests that police services broaden their vision from law enforcement to collaborating with other agencies to promote community safety and well-being, a vision which is compatible with the holistic values of Indigenous cultures (Council of Canadian Academies, 2019).

## **VI. Conclusions: Looking Toward the Future**

Van Dijk and colleagues (2019, p. 11) say that we are at a "crucial point in policing and that choices need to be made urgently which will not only determine policing for a generation but will also determine in what sort of society we are living." While these researchers may be overstating the urgency of the need for reform, we know that changes to policing are inevitable given the changing contextual factors. We also know that the questions about the roles and responsibilities of the police often happen during an economic crisis (Kempa, 2014). Although we know these crises will occur, we cannot predict the nature of the next crisis, how long it will persist, the external forces that will impact service delivery, or how police services will adapt to these challenges.



Almost two centuries after the formation of the first urban police services in the 1820s the police continue to grapple with questions about their roles, responsibilities, mandate, and futures. These questions typically arise during economic crises. Consequently, a key theme emerging from this literature review is that the police and their stakeholders can act in a proactive manner to establish a vision for the future of policing in Manitoba. Reviewing the *Police Services Act* during a time when policing is not undergoing a crisis enables stakeholders to consider different possibilities for the future. A number of questions that might be addressed in the review of Manitoba's *Police Services Act* include: What is policing? What really matters in policing? What is good policing? [and] What community partners should be involved in community safety, including crime control? Answering these questions about the futures of policing will have implications for the roles and functions of the police sector.

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## APPENDIX C: LEGISLATIVE GAP ANALYSIS

The following is a summary of legislative and regulatory comparisons between Manitoba, British Columbia, Saskatchewan, and Ontario.

<b>1. Policing Standards</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>• The minister is responsible for ensuring that adequate and effective policing is provided throughout Manitoba.</li> <li>• The Minister <u>may</u> create adequacy standards.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>• The minister shall ensure that an adequate and effective level of policing is maintained throughout the Province.</li> <li>• Director <u>must</u> create adequacy standards and <u>may</u> inspect police services in relation to those standards.</li> </ul>
<b>SK 1990</b>	<ul style="list-style-type: none"> <li>• The Minister <u>shall</u> promote: adequate and effective policing, and the preservation of peace, the prevention of crime, the efficiency of police services and the improvement of police relationships with communities.</li> <li>• Saskatchewan Police Commission (SPC): <u>may</u> “develop and maintain programs” and “make regulations” under the <i>Police Act</i>.</li> <li>• SPC development of a comprehensive Policy Manual to: “provide direction to each police service, and ensure the policy framework is consistent throughout the province”.</li> <li>• The Policy Manual details around 100 written policies on: administration, response, ERT, investigations, forensics, use of force, custody, community relations and others.</li> <li>• Police services are <u>responsible for operationalizing</u> each policy through written procedure, although chiefs can supplement policies (upon SPC review).</li> <li>• Detailed 1991 regulations on: clothing and rank, equipment, recruiting, and training.</li> </ul>

<b>ON 2019</b>	<ul style="list-style-type: none"> <li>• The Lieutenant Governor in Council <u>may</u> make regulations prescribing policing standards, including the policing standards that <u>must</u> be met in providing adequate and effective policing.</li> <li>• Police boards are responsible to provide adequate and effective policing in their jurisdictions.</li> <li>• The Inspector General inspects police services and boards against established standards and may order corrective action.</li> </ul>
<b>DEDUCTIONS</b>	<ul style="list-style-type: none"> <li>• The development of policing standards is mandatory in BC and SK, and optional in ON and MB. ON established policing standards in 1994.</li> <li>• SK, BC and ON have well-established standards and inspections systems, rooted in legislation.</li> </ul>
<b>2. Service Delivery</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>• Special constables, community safety officers, cadets and institutional safety officers exist in legislation.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>• Special constables exist in legislation.</li> </ul>
<b>SK 1990</b>	<ul style="list-style-type: none"> <li>• Special constables exist in legislation.</li> <li>• Special Constable Peace Officers with the File Hills First Nations Police Service.</li> <li>• A recent Provincial Protection and Response Team (PRT) since August 2017. This involves Highway Patrol and Conservation Officers with expanded powers, equipment and training to assist municipal officers and RCMP.</li> <li>• The PRT consists of 258 armed officers, made up of 90 existing police officer positions, 30 new positions, 40 Highway Patrol Officers, and 98 Conservation Officers (figures are for March 2019).</li> <li>• General roles include: improving response to emergency service calls (including property crimes in progress), enhancing uniform visibility and presence in rural areas, increasing drug enforcement on roadways, and enhancing road safety.</li> </ul>

	<ul style="list-style-type: none"> <li>Enforcement powers include: arrest and detention, responding to 911 calls, investigating impaired drivers, enforcing speed limits and other traffic violations, responding to motor vehicle accidents, and taking action when offences are committed.</li> </ul>
<b>ON 2019</b>	<ul style="list-style-type: none"> <li>Special constables and non-police special constable employers (e.g. universities, transit systems, etc.) exist in legislation. Additionally, there are allowances and limitations on police service use of private and not-for-profit security for community safety purposes.</li> </ul>
<b>DEDUCTIONS</b>	<ul style="list-style-type: none"> <li>All jurisdictions have some service delivery options. MB has the most public-sector alternatives to police officers. ON features not-for-profit and private security alternatives.</li> </ul>
<b>3. Funding Models</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>Every municipality whose population is greater than 5,000 must pay for its municipal policing services.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>Every municipality whose population is greater than 5,000 must pay for its municipal policing services.</li> <li>Additionally, the Minister may require municipalities with populations under 5,000 to pay some or all of their municipal policing costs.</li> </ul>
<b>SK 1990</b>	<ul style="list-style-type: none"> <li>The Government <u>shall</u> cause policing services to be provided in: rural municipalities, municipalities with a population less than 500, and the Northern Saskatchewan Administration District, s. 20</li> <li>Municipalities also noted in s. 22, and the determination and distribution of costs of police services in s. 23</li> <li>This is also addressed in a specific 1993 amendment to the Police Act on municipal population sizes.</li> <li>Other implicated legislation: <i>Northern Municipalities Act 2010, Rural Municipality Act 1989 and Urban Municipality Act 1984.</i></li> </ul>

<b>ON 2019</b>	<ul style="list-style-type: none"> <li>• All municipalities must pay for municipal policing services, regardless of population.</li> <li>• Property owners in unincorporated territories must pay for their share of municipal policing services as well.</li> </ul>
<b>DEDUCTIONS</b>	<ul style="list-style-type: none"> <li>• BC, SK and ON all have full-cost recovery for policing, or a legislative mechanism to activate such cost recovery. MB has no mechanism to recover costs of policing in municipalities under 5000 persons.</li> </ul>
<b>4. Local Police Governance</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>• The province appoints 1 board member (2 for Winnipeg) and municipality appoints remainder, at least half of which must not be members or staff of council.</li> <li>• A municipal police service must operate under the general direction and supervision of the municipality's police board.</li> <li>• The purpose of a police board is to provide civilian governance respecting the enforcement of law, the maintenance of the public peace and the prevention of crime in the municipality; and the administrative direction and organization required to provide an adequate and effective police service in the municipality.</li> <li>• The police board must             <ul style="list-style-type: none"> <li>(a) after consulting with the police chief, establish priorities and objectives for the police service;</li> <li>(b) establish policies for the effective management of the police service;</li> <li>(c) direct the police chief and monitor his or her performance;</li> <li>(d) ensure that police services are delivered in a manner consistent with community needs, values and expectations;</li> <li>and</li> <li>(d) act as a liaison between the community and the police service.</li> </ul> </li> <li>• The municipality is the employer of police service members.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>• Municipalities appoint the Mayor and one other board member. The province appoints the remainder.</li> <li>• Every board shall make rules not inconsistent with this Act and the regulations respecting the</li> </ul>

	<p>(a) standards, guidelines and policies for the administration of the municipal police force;                  (b) prevention of neglect and abuse by its municipal constables, and                  (c) efficient discharge of duties and functions by the municipal police force and municipal constables.</p> <ul style="list-style-type: none"> <li>• Police board is employer of police service members.</li> </ul>
<p><b>SK 1990</b></p>	<ul style="list-style-type: none"> <li>• A municipality is responsible for the maintenance of law and order within its boundaries, and <u>shall</u> provide policing services to maintain a reasonable standard of law enforcement (its own service, RCMP, or entering into a regional agreement), as well as adequate and reasonable facilities, s. 25</li> <li>• A municipality that has a population over 5,000 or has established a police service <u>shall</u> provide for policing and establish a board of police commissioners.</li> <li>• Where a municipality establishes its own police service and board of police commissioners, the police service is to consist of a chief and any other personnel the board considers necessary.</li> <li>• The board is responsible for the delivery of policing services within the municipality, and for providing general direction, policy and priorities, and developing long-term plans for the police service.</li> <li>• The board is deemed to be the employer of the personnel of the police service and the chief and any person holding the position of deputy chief of police are deemed to be agents of the employer.</li> <li>• A board may make directives setting general policy for the governing and administration of the police service.</li> <li>• A board <u>may</u> conduct an inquiry respecting the policies of or the services provided by its police service, and take any action arising from an inquiry conducted that the board considers appropriate.</li> <li>• The chief is responsible for the management, administration and operation of the police service, the maintenance of law and order in the municipality, and the maintenance of discipline within the police service.</li> </ul>

<b>ON 2019</b>	<ul style="list-style-type: none"><li>• Municipalities appoint 2 to 4 councillors, including head of council. Province appoints equal number. Municipalities also appoint one citizen. Each board selects own chair.</li> <li>• A police service board shall:<ul style="list-style-type: none"><li>• (a) provide adequate and effective policing in the area for which it has policing responsibility as required by section 10;</li><li>• (b) employ members of the police service;</li><li>• (c) appoint members of the police service as police officers;</li><li>• (d) recruit and appoint the chief of police and any deputy chief of police and determine their remuneration and working conditions, taking their submissions into account;</li><li>• (e) prepare and adopt a diversity plan to ensure that the members of the police service reflect the diversity of the area for which the board has policing responsibility;</li><li>• (f) monitor the chief of police’s performance;</li><li>• (g) conduct a review of the chief of police’s performance at least annually in accordance with the regulations made by the Minister, if any;</li></ul></li> <li>• A police service board shall establish policies respecting,<ul style="list-style-type: none"><li>• (a) the administration of the police service;</li><li>• (b) the provision of adequate and effective policing in accordance with the needs of the population of the area for which it has policing responsibility;</li><li>• (c) disclosure by the chief of police of personal information about individuals;</li><li>• (d) disclosure of secondary activities under section 89 and decisions under that section;</li><li>• (e) the handling of discipline within the police service;</li><li>• (f) subject to subsection (4), the indemnification of members of the police service for legal costs; and</li><li>• (g) any other prescribed matters.</li></ul></li></ul>
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	<ul style="list-style-type: none"> <li>• In addition to the policies required by subsection (1), a police service board may establish policies respecting any other matters related to the police service or the provision of policing.</li> <li>• The police service board shall, in accordance with the regulations, if any, prepare and adopt a strategic plan for the provision of policing</li> <li>• The police service board shall not direct the chief of police with respect to specific investigations, the conduct of specific operations, the discipline of specific police officers, the day-to-day administration of the police service or other prescribed matters.</li> </ul>
<b>DEDUCTIONS</b>	<ul style="list-style-type: none"> <li>• ON and SK legislation clearly identifies police boards as responsible for policing, and authorizes them to create objectives, priorities, strategic plans and policies – including those related to overall police operations. . Neither BC or MB are clear about the board’s responsibilities and limitations vis-à-vis overall police operations.</li> <li>• Police boards are identified as the police employer in BC, SK and ON. In MB, the municipality is the employer.</li> </ul>
<b>5. Investigating Incidents Involving Injuries to Members of the Public</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>• The Independent Investigations Unit (IIU) is established in the <i>Police Services Act</i>. Police chiefs are obligated to contact the IIU in the event that a member of the public is seriously injured (or dies) in the presence of police, or police are suspected of committing a criminal act. Police witnesses have a duty to cooperate with IIU investigators.</li> <li>• Civilian Monitors review IIU investigations, and report findings to the Police Commission Chair.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>• The Independent Investigations Office (IIO) is established in the <i>Police Services Act</i>. Police chiefs are obligated to contact the IIO in the event that a member of the public is seriously injured (or dies) in the presence of police, police are suspected of committing a criminal act. Police witnesses have duty to cooperate with IIO investigators.</li> <li>• Civilian Monitors review IIO investigations, and report findings to IIO Director.</li> </ul>
<b>SK 1990</b>	<ul style="list-style-type: none"> <li>• There is no separate statutory investigative agency.</li> </ul>

	<ul style="list-style-type: none"> <li>• Deaths and serious injuries involving police <u>may</u> be investigated by another police service.</li> <li>• If a person has suffered a serious injury or died as a result of the actions of a member or officer of a police service or detachment of the RCMP, or has suffered a serious injury or died while in the custody of a police service or the RCMP, the police service or RCMP detachment providing policing services within the municipality <u>shall, as soon as reasonably possible</u>, call the Ministry of Justice and Attorney General and request the appointment of an investigation observer (who can be a serving or retired member from another police service or detachment of the RCMP).</li> <li>• A police service or RCMP detachment <u>shall</u> grant the investigation observer full access to the investigation conducted respecting the serious injury or death. The investigation observer <u>shall</u> provide the Deputy Minister of Justice and the Deputy Minister of the department with a confidential report respecting the results of an investigation.</li> <li>• At the request of a police service or RCMP detachment conducting an investigation the Deputy Minister of Justice <u>may</u> appoint an investigation observer for an investigation if the Deputy Minister is satisfied that the matter being investigated is of a publicly sensitive nature and in the public interest.</li> </ul>
<b>ON 2019</b>	<ul style="list-style-type: none"> <li>• The Special Investigations Unit (SIU). Is established in separate legislation. director and unit. Police chiefs are obligated to contact the SIU in the event that a member of the public in seriously injured (or dies) in the presence of police, except when police administer naloxone in an attempt to prevent an overdose death. Police witnesses have a duty to cooperate with SIU investigators.</li> <li>• There are no civilian monitors.</li> </ul>
<b>DEDUCTIONS</b>	<ul style="list-style-type: none"> <li>• BC, MB and ON have agencies to investigate serious death or injury in police presence.</li> <li>• BC and MB have civilian monitors.</li> <li>• BC civilian monitors make recommendations to the IIU Director responsible for all such investigations. MB monitors make reports to the MPC Chair, who is not responsible for such investigations.</li> </ul>

<b>6. Public Complaints</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>• Public complaints legislation is separate from the <i>Police Services Act</i> and establishes LERA.</li> <li>• LERA considers and may investigate public complaints that it receives.</li> <li>• Municipal police chiefs are not required to report public complaints, or their dispositions or outcomes, to LERA.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>• Legislation on the public complaints process, and officer discipline, is extensive. BC Complaints Commission is notified of all public complaints and their resolution. Investigations are conducted, and resolutions found, by local police services.</li> <li>• The Commission can initiate its own investigations or assign any investigation to a third party.</li> </ul>
<b>SK 1990</b>	<ul style="list-style-type: none"> <li>• The Public Complaints Commission (PCC) is established under the Police Act, s. 16</li> <li>• The PCC also has jurisdiction over members of the Protection and Response Team (PRT).</li> <li>• The PCC consists of 5 persons (at least one First Nations, at least one Métis, and at least one lawyer).</li> <li>• The PCC can initiate complaint investigation when it is in the public interest.</li> <li>• The PCC cannot lay charges and findings are not always public.</li> </ul>
<b>ON 2019</b>	<ul style="list-style-type: none"> <li>• Law Enforcement Complaints Agency (LECA) receives, directly or indirectly, all public complaints, and reviews and determines whether to investigate or note, and subsequently conducts the investigation, directs the police chief to investigate the complaint, or directs another police chief to investigate the complaint.</li> <li>• The Complaints Director, <ul style="list-style-type: none"> <li>(a) shall deal with public complaints made under Part X in accordance with that Part and the regulations;</li> <li>(b) shall implement programs and services to assist members of the public in making complaints under Part X;</li> </ul> </li> </ul>

	<p>(c) shall publish statistical reports for the purpose of informing the evaluation, management and improvement of policing in Ontario and the management of public complaints under Part X; and</p> <p>(d) shall perform the duties, and may exercise the powers, that are set out under this Act, including any additional duties and powers that may be prescribed.</p> <ul style="list-style-type: none"> <li>• The Minister shall not direct the Complaints Director, a deputy Complaints Director or any investigator appointed by the Complaints Director with respect to the performance of their functions under this Act.</li> <li>• Review of systemic issues</li> </ul> <p>133 (1) The Complaints Director may examine and review issues of a systemic nature.</p>
<b>DEDUCTIONS</b>	<ul style="list-style-type: none"> <li>• BC, SK, MB, and ON all have complaints agencies.</li> <li>• BC and ON complaints agencies receive all complaints, directly or indirectly through police services. They consider and assign investigations as determined. They also compile statistical information on all complainants, their dispositions and outcomes.</li> <li>• ON and BC complaints agencies may also investigate systemic issues.</li> <li>• In MB, municipal police chiefs are not required to report public complaints, or their dispositions or outcomes, to LERA.</li> </ul>
<b>7. Other Oversight Mechanisms</b>	
<b>MB 2009</b>	<ul style="list-style-type: none"> <li>• Manitoba Police Commission duties include:             <ul style="list-style-type: none"> <li>(a) providing advice to the minister on regulations dealing with the operation of police services and the conduct of police officers, including regulations prescribing standards for police services and police officers;</li> <li>(b) consulting with the public on matters relating to law enforcement and policing, and providing the results of those consultations to the minister;</li> <li>(c) developing a policy and procedures manual for police boards and a code of ethical conduct for members of police boards;</li> <li>(d) arranging for training to be provided to members of police boards and civilian monitors</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• The minister may direct the commission to conduct a study on a specific issue relating to law enforcement or policing.</li> <li>• IIU may also investigate allegations of criminal acts by police.</li> </ul>
<b>BC 1998 (2003)</b>	<ul style="list-style-type: none"> <li>• Legislation allows for optional police committees for municipalities with populations under 5000. These committees are advisory and have no powers.</li> </ul>
<b>SK 1990</b>	<ul style="list-style-type: none"> <li>• The Saskatchewan Police Commission’s (SPC) stated ‘Philosophy of Policing’: client focus, consultation and collaboration, quality service, and continuous improvement.</li> <li>• The SPC <u>shall</u> promote: adequate and effective policing throughout the province, preservation of peace, prevention of crime, efficiency of police services and improvement of police relationships with communities.</li> <li>• The SPC <u>may</u> develop and maintain programs on: enhancing community understanding of policing, crime prevention, conduct research, improve policing services, facilitate co-ordination and cooperation among police services, operate the Saskatchewan Police College.</li> <li>• The SPC <u>may</u> conduct audits and reviews of police services, develop policy and procedure manuals for boards, chiefs and police services, establish and maintain a central information and statistics service for all police services.</li> <li>• The SPC <u>may</u> make regulations and standards on: minimum standards for selection, police training programs, code of conduct for police services, orientation program and code of conduct for board members, communications systems, <u>minimum number of police officers a municipality shall employ</u> (and the formula), police records, requirements for the appointment of special constables, uniform disciplinary code, police service dogs, discipline hearing procedures, code offences, penalties, discipline appeals, terms and conditions for financial aid to boards, councils or police services for training, minimum number of board meetings, any other thing considered necessary to fulfil its duties.</li> <li>• The SPC <u>may</u> audit police services to ensure procedures are in place that meet the standards of each policy.</li> <li>• The SPC <u>may</u> conduct an inquiry respecting the extent of crime or standard of law enforcement in any municipality, the competency or adequacy of personnel of a police service, the adequacy and standard of equipment used by a police service, the suitability of accommodation, including lock-up facilities provided by a police service, or any other matter</li> </ul>

	<p>which is related to the standard of policing and law enforcement provided within a municipality, and take any action arising from the inquiry that it considers appropriate.</p>
<p><b>ON 2019</b></p>	<ul style="list-style-type: none"> <li>• The Inspector General (IG) is responsible to inspect police services against adequacy standards and investigate allegations of police board member misconduct. The IG has the power to direct corrective action in either case.</li> <li>• Ontario Police Arbitration and Adjudication Committee assigns arbitrators for labour interests and rights disputes and adjudicates budgetary disputes between municipalities and police boards.</li> <li>• Ontario is disbanding its Ontario Civilian Police Commission.</li> </ul>
<p><b>DEDUCTIONS</b></p>	<ul style="list-style-type: none"> <li>• SK and MB have independent, provincial commissions that develop best practices and undertake studies. The SK commission may also establish standards. ON is disbanding its independent commission in favour of other new oversight mechanisms.</li> <li>• ON legislation creates an inspector general, responsible for assessing compliance with adequacy standards and police board member compliance with the code of conduct. It also has an independent Arbitration and Adjudication Commission.</li> <li>• ON mandates that the municipalities must create Community Safety &amp; Well-being Plans.</li> <li>• MB is the only jurisdiction where the agency that investigates injuries to public persons (IIU) also investigates alleged criminal acts by police.</li> </ul>

**APPENDIX D: PROPOSED LEVEL-BASED POLICING MODEL**

<b>Level One</b> – suggested organizations include Cornwallis, Rivers, Springfield, Victoria Beach	
<b>General Policing</b>	<ul style="list-style-type: none"> <li>• Patrol</li> <li>• Response to public requests for assistance</li> <li>• Traffic enforcement                             <ul style="list-style-type: none"> <li>○ Highway</li> <li>○ Off-road</li> </ul> </li> <li>• Recreational boating safety</li> <li>• Transportation of in-custody persons</li> <li>• Crime/harm prevention programs and activities</li> <li>• Crime scene – secure and contain</li> <li>• By-law enforcement</li> <li>• Custody and processing of exhibits</li> </ul>
<b>Investigations</b>	<ul style="list-style-type: none"> <li>• By-laws</li> <li>• Trespass and mischief</li> <li>• Other low-risk to harm investigations (TBD)</li> </ul>
<b>Support Services</b>	
<b>Emergency Measures</b>	<ul style="list-style-type: none"> <li>• Initial response to local disasters</li> <li>• Search and rescue</li> </ul>

<b>Level Two</b> – suggested organizations include Altona, Morden, Ste. Anne, Winkler, FNPS	
<b>General Policing</b>	
<b>Investigations</b>	<ul style="list-style-type: none"> <li>• Sexual assaults and sexual offences</li> <li>• Child pornography (when caught in act)</li> <li>• Assault</li> <li>• Robbery</li> <li>• Auto theft</li> <li>• Break and enter and other property offences (theft, possession stolen property, etc.)</li> <li>• Frauds, false pretences (non-organized)</li> <li>• Arson/fire – non-fatal</li> <li>• Drug offences at local/street level</li> <li>• Prostitution</li> <li>• Impaired driving</li> <li>• Gang-related street crime</li> <li>• Counterfeit money – use of,</li> <li>• Death under unknown circumstances</li> <li>• Missing persons and runaways</li> </ul>
<b>Support Services</b>	<ul style="list-style-type: none"> <li>• Low-risk dynamic intervention (critical incident response)</li> <li>• Records Management System</li> <li>• Basic forensic identification – e.g., crime scene examination (e.g., fingerprints, collection, photography)</li> <li>• Collecting and processing DNA samples</li> <li>• Gathering/analysis of tactical/ops criminal intelligence related to persons, groups affecting local jurisdiction</li> <li>• Human source development and management</li> <li>• Contributions to ViCLAS, CISM</li> <li>• Court liaison</li> <li>• Warrant management</li> <li>• Use of force expert</li> <li>• Police service dog team (drugs, tracking)</li> <li>• Breath analysis technician</li> <li>• Information collection for registration of sex offenders under the <i>Sex Offender Information Act</i></li> </ul>
<b>Emergency Measures</b>	<ul style="list-style-type: none"> <li>• Intervention involving armed/barricaded person where no shots fired, no hostages involved</li> <li>• Peaceful crowd control</li> <li>• Emergency response to local disaster and rescue operations</li> </ul>



<b>Level Three</b> - suggested organizations include Brandon	
<b>General Policing</b>	
<b>Investigations</b>	<ul style="list-style-type: none"> <li>• Homicide where suspect known and in near-immediate custody</li> <li>• Attempted murder</li> <li>• Death or serious bodily harm threatening the life of a child under 3 years of age</li> <li>• Criminal negligence causing death</li> <li>• Kidnapping</li> <li>• Extortion</li> <li>• Fatal workplace incidents</li> <li>• Bank or armored vehicle robbery</li> <li>• Fire involving fatality</li> <li>• Arson – multiple (serial)</li> <li>• Major fire involving commercial, government or community buildings</li> <li>• Illegal lottery</li> <li>• Criminal offence causing death or life-threatening injuries committed while driving a motor vehicle</li> <li>• Production, trafficking, possession of illegal drugs involving suppliers of local or street dealers</li> <li>• Freight/cargo theft</li> <li>• Criminal offences committed by organized crime groups</li> <li>• Proceeds of Crime</li> <li>• Aircraft accident</li> </ul>
<b>Support Services</b>	<ul style="list-style-type: none"> <li>• Crime scene and forensic identification expert</li> <li>• Bertillonage</li> <li>• Collision reconstruction expert</li> <li>• Arson investigation expert</li> <li>• Auto theft expert</li> <li>• Drug recognition expert</li> <li>• Tech-crime expert</li> <li>• Gathering/analysis of strategic criminal intelligence related to persons, groups affecting local jurisdiction</li> <li>• Critical incident command and response capacity (at national standard)</li> <li>• Internal affairs</li> </ul>
<b>Emergency Measures</b>	<ul style="list-style-type: none"> <li>• Crowd control involving high risk of significant disturbance or riot</li> </ul>

<b>Level Four</b> – suggested organizations include Winnipeg and the RCMP	
<b>General Policing</b>	
<b>Investigations</b>	<ul style="list-style-type: none"> <li>• Homicide</li> <li>• Kidnapping – international (in cooperation with RCMP)</li> <li>• Terrorist incident management</li> <li>• Importation and exportation of illicit drugs (in cooperation with RCMP)</li> <li>• Weapons and explosives trafficking</li> <li>• Criminal offences committed by organized crime groups operating across provincial jurisdictions</li> <li>• Criminal offences committed by organized crime groups operating internationally (in cooperation with CMP)</li> <li>• Production, trafficking, possession of illegal drugs involving high-level suppliers</li> <li>• Theft, illegal use or possession of explosives</li> <li>• Child pornography</li> <li>• Computer data theft, fraud or mischief</li> <li>• Cyber crime</li> <li>• Judicial, public official or public servant corruption</li> <li>• Keeping common gaming house</li> <li>• Commercial or real estate fraud</li> <li>• Commercial or real estate fraud committed by a person or an entity referred to in the <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i> (S.C. 2000, c. 17) and its Regulations</li> </ul>
<b>Support Services</b>	<ul style="list-style-type: none"> <li>• Forensic Identification services – full capacity</li> <li>• Undercover operations</li> <li>• Physical surveillance teams</li> <li>• Database retrieval</li> <li>• Underwater diving</li> <li>• Explosives expert - technical defusing and handling of explosives</li> <li>• Polygraph</li> <li>• Police service dog team (including explosives)</li> <li>• Witness protection</li> <li>• Use and handling of agents</li> <li>• VIP protection</li> </ul>
<b>Emergency Measures</b>	<ul style="list-style-type: none"> <li>• Helicopter and/or fixed wing air operations</li> <li>• Full Critical incident command and response capacity (national level)</li> </ul>

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