

**THE POLICE SERVICES ACT REVIEW
TERMS OF REFERENCE**

BACKGROUND

The passage of Manitoba's *Police Services Act* (PSA) in 2009 brought about long overdue changes to the legislation governing policing and created the framework for modernizing police governance in the province. The PSA defines the role and responsibilities of Manitoba Justice, the Manitoba Police Commission, municipal and First Nation police boards, municipal councils and police services and sets up the interrelationship between the various entities. It sets out direction for the creation of standards for police services as well as a mechanism to ensure compliance. It establishes and sets out the roles and responsibilities for an independent investigation unit that would allow for investigations into alleged criminal/statute offences perpetrated by police officers. It sets out the roles and responsibilities for community safety officers and special constables who assist the community and police in addressing select community safety needs.

Civilian oversight of policing was identified as a cornerstone of a modernized police act. During the development of the PSA, public and stakeholder input was sought through a series of consultation papers and meetings. The consultation focused on three major areas:

- 1) Provincial police commission
 - roles and responsibilities
- 2) Municipal police boards
 - roles and responsibilities, developing strategic plans, administrative policy, setting budgets and hiring and evaluating police chiefs
 - qualifications of members appointed to the board
 - whether police boards should be mandatory
- 3) Police Involved Incidents
 - role and model for investigating fatal force and other serious incidents (Independent Investigation Unit)
 - to whom the model applies
 - investigations of less serious incidents

The consultations helped inform the civilian oversight provisions of the PSA including the establishment of the Manitoba Police Commission, the requirement for mandatory municipal and First Nations police boards and the creation of the Independent Investigation Unit.

Section 90 of the PSA requires the Minister of Justice to undertake a comprehensive review within five years of the Act coming into force and to submit a report on the review within one year after the review is undertaken.

The provisions regarding the Independent Investigation Unit and section 90 came into force on June 18, 2015. However the majority of the Act came into effect on June 1, 2012. As a result, the review can be initiated now.

Review

90 *Within five years after this Act comes into force, the minister must undertake a comprehensive review of it, and must within one year after the review is undertaken or within such further time as the Legislative Assembly may allow, submit a report on the review of the Assembly.*

MANDATE

The Department of Justice requires an independent entity or resource to lead a comprehensive review of the PSA pursuant to section 90.

The reviewer will conduct an objective, independent review of the legislation including a section by section review of the PSA and its regulations and by conducting a thorough cross jurisdictional review, stakeholder interviews and public consultation.

The review will assess whether the PSA supports professional, transparent and effective delivery of policing services and provide recommendations to amend or reform the legislative framework that governs policing in the province.

OBJECTIVES

Legislation

- The reviewer will conduct a gap analysis of all parts of the PSA and its regulations

The Police Services Act

Part 1: Interpretations

Part 2: Administration

Part 3: Responsibility for Providing Policing in Manitoba

Part 4: Municipal Police Service

Division 1 : Police Chief and Officers

Division 2 : Police Boards

Division 3 : Miscellaneous Provisions Re : Municipal Police Services

Division 4 : Regional Police Services

Part 5: First Nation Police Services

Part 6 : Policing Standards

Part 7 : Investigations into Police Officer Conduct

Division 1 : Independent Investigation Unit

Division 2 : Mandatory Investigations by IIU

Division 3 : Investigations by Police Services into Police Officer Conduct

Division 4: Interpretation

Part 7.1: Community Safety Officers

Part 7.2: First Nations Safety Officers

Part 8: Special Constables

Part 9: Miscellaneous Provisions

Part 10: Consequential Amendments, Transitional Provisions, Repeal, Citation and Coming Into Force

The Police Services Act Regulations

146/93 Police and Special Constables Qualifications Regulation

147/93 Police Equipment Regulation

130/2012 Police Board Regulation
99/2015 Independent Investigations Regulation
100/2015 Civilian Monitor Regulation
107/2015 Community Safety Officers Regulation
229/2015 First Nation Safety Officers Regulation

- The reviewer will determine whether the PSA provides sufficient direction to enable police services to provide and for the province to ensure the provision of “adequate and effective policing”
- The reviewer will determine whether a definition of “adequate and effective policing” is required in the PSA
- The reviewer will evaluate whether each stakeholder’s roles and responsibilities are clearly defined in the PSA
- The reviewer will determine whether there is a requirement for further regulations

Governance

Manitoba Police Commission

- The reviewer will determine whether the Manitoba Police Commission’s role and mandate support the delivery of adequate and effective policing
- The reviewer will evaluate whether there is a further role for the Manitoba Police Commission that should be contemplated under the PSA (e.g. a policing standards, compliance function, a conduct complaint oversight body)

Municipal and First Nations Police Boards

- The reviewer will determine whether municipal and First Nations police boards are providing effective civilian governance and oversight of police services
- The reviewer will determine if the duties of police boards are representative of best practices (e.g. role expanded to include participation in the collective bargaining process)
- The reviewer will determine whether police boards should remain mandatory

Police Service Delivery

- The reviewer shall ensure that provisions for providing policing services in the province align with the current rural and urban population composition
- The reviewer shall ensure that the population thresholds remain relevant for the determination of a policing service delivery model
- The reviewer will evaluate if the PSA provides First Nations and municipalities with sufficient flexibility to deliver a range of services (This includes operational needs of the police service as well as addressing community safety needs)
- The reviewer will determine whether the special constable classification is still relevant to current policing models

Oversight

- The reviewer will evaluate whether the province's police oversight model, which includes the Independent Investigation Unit, the Civilian Monitor Program, the Law Enforcement Review Agency (LERA) and police services professional standards units, allows for transparency and appropriate civilian oversight of police-involved incidents
- The reviewer will determine whether there are redundancies between the function of the Independent Investigation Unit, the Civilian Monitor Program, LERA and police services professional standards units
- The reviewer will evaluate whether a standardized code of conduct with corresponding penalties be established in the province for police officers
- The reviewer will determine whether an independent repository/monitoring body is necessary to ensure transparency and consistency in the way a misconduct is addressed in the province

Independent Investigation Unit

- The reviewer will determine whether there are gaps in the legislation that impede the IIU in achieving its mandate
- The reviewer will evaluate whether the types of offences investigated by the Independent Investigation Unit be expanded
- The reviewer will determine whether the Independent Investigation Unit should have a stand alone Act

Civilian Monitor Program

- The reviewer will determined whether there are any gaps in the legislation that impede the civilian monitor program in meeting its mandate
- The reviewer will evaluate whether the Civilian Monitor Program is required

Law Enforcement Review Agency (LERA)

- The reviewer will determine whether LERA allows for sufficient transparency and accountability for allegations of non-criminal/statutory misconduct
- The reviewer will evaluate whether LERA and /or its function be included under the purview of the PSA

Police Services Professional Standards Units

- The reviewer will determine whether professional standards units provide sufficient transparency and accountability for allegations of non-criminal/statutory misconduct

METHODOLOGY

The reviewer will examine program practices, documentation, including policies and procedures, *The Police Services Act* (Manitoba) and its regulations, current governance and oversight models and frameworks. The reviewer will conduct a cross jurisdictional review of legislation, oversight models and best practices. Further, the reviewer will conduct interviews with stakeholders and public consultations with the assistance of the Manitoba Police Commission.

The table below lists regional centres where public consultations will tentatively be held as well as a list of stakeholders that will be interviewed and otherwise consulted.

Public Consultations	Entities and Associations	Police Associations	First Nations Organizations
Winnipeg Brandon Powerview/Pinefalls Dauphin Winkler Selkirk Steinbach Thompson The Pas	Association of Manitoba Municipalities Manitoba Association of Chiefs of Police Municipal Councils	Winnipeg Police Association Brandon Police Association Manitoba First Nations Police Association Boundary Trails Police Association	Assembly of Manitoba Chiefs Southern Chiefs Organization Manitoba Keewatinowi Okimakanak Manitoba Metis Federation Dakota Ojibway Tribal Council
Police Services	Police Boards	Government of Manitoba	
Altona Brandon Cornwallis Manitoba First Nations Morden Royal Canadian Mounted Police Rivers Ste. Anne Springfield Victoria Beach Winkler Winnipeg	Altona Brandon Cornwallis Dakota Ojibway Tribal Council Police Commission Morden Riverdale Ste. Anne Springfield Victoria Beach Winkler Winnipeg	Manitoba Justice Community Safety Division Provincial Municipal Justice Advisory Committee Manitoba Police Commission Independent Investigation Unit Law Enforcement Review Agency	

DELIVERABLES

The reviewer will develop and submit a detailed project plan with timelines and a draft of the written report and a final written report.

The final report shall include at minimum:

- 1) Table of contents
- 2) Executive summary
- 3) Cross jurisdiction comparison of best practice, governance and oversight models; and
- 4) Conclusions and recommendations which will identify gaps and barriers in the PSA (if any) that limit Manitoba from achieving its vision for advancing a modern, professional and transparent, policing services across the province.

The final report shall be delivered no later than March 31, 2020.

REPORTING REQUIREMENTS

The reviewer will report to the Deputy Minister of Justice on a monthly basis regarding plans and project status.

RESOURCES

Within a budget approved by the Minister of Justice, the reviewer may retain counsel, staff or expertise considered necessary in the performance of his/her duties at reasonable remuneration approved by the Minister of Justice. The reviewer and his/her staff shall be reimbursed for reasonable expenses incurred in connection with their duties.