



**Community
Safety
Knowledge
Alliance**

Research to Practice to Alignment

Police Operational Independence and the Rule of Law: Improving police governance and accountability

FINAL REPORT

May 2023

Police Operational Independence and the Rule of Law: Improving police governance and accountability

Report Authors

Cal Corley, MBA

Mark Reber, MA

Rick Linden, PhD

Expert Review Panel

This project was supported by a senior peer review panel, comprising:

Kevin Fenwick, LLB

Former Deputy Minister of Justice and Deputy Attorney General, Province of Saskatchewan

Michael Kempa, PhD

Associate Professor of Criminology, University of Ottawa

Cathy Palmer

Principal, LEAD Consulting and former President, Canadian Association of Police Governance

The Honourable Raymond E. Wyant

Former Chief Judge of the Provincial Court, Manitoba

This report was reviewed in draft form and discussed by the panel, which brought diverse perspectives and expertise to bear on improving the final report. They have not yet seen the final report - the authors alone are responsible for the final contents of this report.

About the Community Safety Knowledge Alliance

CSKA is a non-profit that supports police leaders, governments, and others in developing, implementing, and assessing new approaches to improving community safety and wellbeing outcomes. Through its work, CSKA 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 wellbeing outcomes at the individual, community, and policy levels.

Our independence and objectivity are important values at CSKA. Our success is based on values- and respect-based relationships with clients and other key stakeholders. The nature of these relations allows us to find the professional balance between independence and cooperation.

For further information on the Community Safety Knowledge Alliance, please contact:

Shannon Fraser-Hansen, Manager
Community Safety Knowledge Alliance
Tel: (306) 917-7556
Email: sfraserhansen@cskacanada.ca
Web: www.cskacanada.ca

Table Of Contents

About The Community Safety Knowledge Alliance	3
Executive Summary	5
Introduction	6
Research Methodology	8
Findings And Analysis	9
<i>THE POLICE GOVERNANCE AND ACCOUNTABILITY ECOSYSTEM</i>	10
<i>THE POLICE</i>	13
<i>POLICE SERVICES BOARDS AND COMMISSIONS</i>	17
<i>ELECTED AND SENIOR OFFICIALS</i>	21
Conclusions And Recommendations	24
Appendix A: Selected Mass Casualty Commission Recommendations	28
Appendix B: About the Authors	30
References and Sources	31

Executive Summary

The operational independence of the police is an important, yet not well understood, feature of the rule of law in our country. It is a quasi-constitutional principle established in Canadian law through a number of superior court decisions, most notably the Supreme Court of Canada decision in *R. vs Campbell (1999)*.

While governments – generally through police boards – decide important policy issues about policing, they must refrain from providing direction to the police on matters such as whether and whom to investigate, prosecute, or arrest. In our liberal democracy, such operational decisions rest solely with the police. But as the literature, multiple public inquiries, and court decisions have illustrated, the principle is generally not well understood – including among the police, police boards and elected/senior government officials. Interpretations of the principle have evolved over time, and the doctrine is not absolute.

The police must carefully balance being accountable to government, while at the same time ensuring that certain types of operational policing decisions (e.g., whether and whom to investigate, arrest or prosecute) are completely independent of external influence. This is important because in the absence of appropriate independence, there is a real risk of politicizing policing. Alternatively, too much independence on the part of the police can alienate the police from the communities they serve, and risk bringing about unwanted police and political excesses.

The central focus of this study is on municipal policing. Municipal police agencies are unique within local government in Canada. In their law enforcement capacities, police agencies are independent

of local government. Unlike other municipal departments, they cannot be directed by the mayor and council, or the city's chief administration officer on the aforementioned types of investigative or enforcement issues.

Notwithstanding, police agencies must maintain relationships with local government, their police service boards – and, through the boards, with their provincial governments. We refer to this as the *police governance and accountability ecosystem*.

When functioning properly, the police governance and accountability system serves to uphold the rule of law, foster public trust and confidence, and support ethical decision making and problem solving. But when it is out of balance, public trust and confidence are affected and there is a corrosive effect on the rule of law. Furthermore, conditions are created in which any of the ecosystem constituents can act inappropriately – even when it is with 'noble cause'.

This report aims to clarify the relevant Canadian jurisprudence and provide an understanding of how knowledge and understanding of the doctrine, together with its practical application, can be improved. The report provides a synthesis of established law, and interpretations of the law by a series of major commissions of inquiry, largely confirmed through an extensive interview program undertaken for this study.

Introduction

The *Charter of Rights and Freedoms* states that the rule of law is one of Canada's founding principles. It recognizes that we need laws to manage society and live together peacefully.

The rule of law means that no one is above the law. Everyone, including politicians, police officers and wealthy individuals are treated to the same standards and must obey the law. Furthermore, it means that political influences have no part in criminal justice processes. In the Supreme Court of Canada decision on *Reference re. Secession of Quebec*, [1998], 2 S.C.R. 217, the court stated that,

“The rule of law vouchsafes (accords) to the citizens and residents of the country a stable, predictable and ordered society in which to conduct their affairs. It provides a shield for individuals from arbitrary state action.” (para. 70).

Police operational independence is a central element of the rule of law. It is similar to the independence granted to the judiciary and prosecutors.

- Judicial independence means that judges are able to make decisions based solely on the facts and the law - free from external influences.
- Prosecutorial independence also flows from the rule of law. While the exercise prosecutorial decision-making often involves consultation with others, Attorneys General and their prosecutors exercise complete discretion regarding the prosecution of criminal offences.

Police operational independence is a matter of growing interest and importance in Canada. For the chiefs of police who are members of CSKA, few issues hold more profound implications for the multi-sectoral work they are leading in an increasingly complex era of policing and community safety.

The operational independence of the police is a quasi-constitutional principle established in Canadian law through a number of superior court decisions, most notably the Supreme Court of Canada decision in *R. vs Campbell* (1999). While governments – generally through police boards – decide important policy issues about policing, they must refrain from providing direction to the police on matters such as whether and whom to investigate, prosecute, or arrest. In our liberal democracy, such operational decisions rest solely with the police. Constructive dialogue between the police and elected officials, or between elected officials and police boards, should be encouraged. But the parties need to be aware of the boundaries in law that should frame such discourse.

Concerns and issues pertaining to police operational independence are as old as modern policing itself, and the principle has been subject of considerable review and discussion in Canada over recent decades. This includes the 1981 McDonald Commission Report concerning certain RCMP national security-related activities; the 2007 Ipperwash Inquiry (Linden) Report; the 2012 Morden Report concerning events at the 2010 G20; the 2021 Epstein Report into missing persons investigations in Toronto, and most recently; the February 2023 Public Order Emergency Commission (Rouleau) report concerning the 2022 protests in Ottawa and elsewhere across Canada, and the March 2023 report of the Nova Scotia Mass Casualty Commission.

Notwithstanding the jurisprudence and multiple inquiries addressing the relevant issues, the application of the doctrine of police operational independence – particularly as it applies to more subtle, nuanced, efforts at directing the police – is not generally well understood. Furthermore, police leaders and practitioners, together with those responsible for police governance, must also be able to distinguish between legitimate dialogue among the parties versus inappropriate efforts to influence the police and/or police boards.

This research project was undertaken in support of this group of police chiefs. Complementing the learnings derived from these reviews and other research, this study aims to clarify Canadian jurisprudence pertaining to this important principle, discuss the reasonable limits of political influence on police policy and operations, and provide practical advice on how those seized with police governance and police leadership responsibilities can protect themselves from inappropriate political influence.

To accomplish this, the research team explored the relevant jurisprudence and key emerging interpretations of police operational independence. It also examined some of the structural issues in a Canadian and international context that may have a bearing on the matter.

This report provides a synthesis of the established jurisprudence, together with the interpretations of such jurisprudence through major inquiries over the past few decades. The knowledge and experiences of those interviewed for this study serve to provide additional practical insights that supported our analysis, conclusions and recommendations.

Our team is particularly grateful for the timely and important insights and recommendations in the recent Public Order Emergency Commission and Nova Scotia Mass Casualty Commission reports. This report builds on many of the relevant themes, analyses and recommendations reflected in these commissions' reports. We hope this report will contribute to the national discourse and the improvements to the status quo that are so necessary.

Objectives

The principal objectives of this study are:

- to clarify Canadian law and jurisprudence pertaining to this important principle;
- to discuss the reasonable limits of political influence on police policy and operations; and
- to provide practical advice on how those seized with police leadership and police governance responsibilities can better protect themselves against inappropriate political influence.

This report is intended to be informative and illustrative in nature, and is meant to allow a closer examination of some of the issues and challenges that arise from ensuring both police operational independence as well as effective police governance. The report is therefore purposely brief in order to communicate these issues and challenges as succinctly as possible. Furthermore, the extensive interview program undertaken in support of this study yielded a richness of insights on the issues related to further improving police governance in Canada. While this report provides an overview of those findings, it is our intention to further explore the interview data to examine these issues in more depth.

Research Methodology

The research team conducted a thorough review of the relevant academic literature and publicly available media. In addition, the team reviewed the pertinent Canadian jurisprudence and key emerging interpretations of police operational independence. This includes a close examination of the final reports and recommendations of the many public commissions of inquiry which have investigated these issues over the decades. The research team also examined some of the statutory and structural factors that influence police governance in Canada, as well as in the United Kingdom and the United States.

A comprehensive interview program was also undertaken. Over 40 interviews were conducted over a two-month period, with individuals either currently or recently involved in policing or police governance at the municipal, provincial, First Nations and federal levels. Those interviewed included current and former police chiefs, police services board members, and senior government and elected officials. In addition, interviews were conducted with policing practitioners and experts on the UK and the United States to permit a broad comparison and contrasting of the issues of effective police governance and police independence in similar jurisdictions. These detailed discussions represent a rich and unique source of data, and elicited wide-ranging and candid insights into these complex issues.

Findings and Analysis

It is important to consider some of the key trends that, collectively, are shaping the police operating environment and which make the doctrine of operational independence of particular importance at this time in the evolution of policing and community safety in Canada.

The Evolving Policing Landscape

Over the past decade, there have been significant global, international, national, and sub-national shifts occurring within the policing and community safety operating environments that are relevant to the present discussion concerning police operational independence and political responsibility for the police in Canada.

The nature of crime and harm is changing and becoming increasingly complex. Much of the most insidious harm, such as cyber- and internet-based crime, drug and human trafficking is borderless and stretches the abilities of law enforcement agencies to adapt and respond effectively. Furthermore, criminal investigations have become increasingly complex and time consuming, the costs of policing continue to escalate, and public confidence in the police continues to decline (Canadian Council of Academies, 2014).

Compounding this are expectations by an increasingly sophisticated, diverse, technological, and knowledge-based society for greater responsiveness and accountability on the part of the police (Walsh and Conway, 2011). This has in part been driven by a multitude of reviews and inquiries into policing – from the one into illegal activities by the RCMP during the 1970's (McDonald Commission),

to Ipperwash (Linden), to the events at the 2010 G20 Summit in Toronto (Morden), to the independent civilian review into Toronto missing person investigations (Epstein), and most recently the Public Order Emergency Commission (Rouleau) and the Nova Scotia Mass Casualty Commission reports.

Traditionally, the police have been at the centre of the public safety model (Kelling, 1988). Evidence strongly suggests that we are evolving to what we might consider a post-community policing era in which the police, while an integral to community safety, are no longer the main actor. Increasingly, other public, private, and community-based non-profit service providers are part of the blend of agencies engaging in the practice of collaborative community safety and wellbeing. As Kempa (2014) noted, such periods of transition are typically marked by considerable experimentation and the challenging of traditional approaches and methods.

At risk of further complicating matters, historically and in general terms, police leaders have controlled the relationships with political masters – police boards and elected officials (CBC, 2003). The traditionally closed culture of policing, with its considerable inside knowledge and data holdings, amplified by a lack of understanding of police operational independence on the part of all concerned, have been contributing factors.

Finally, a critical trend within the political sphere has considerable importance to any discussion on police operational independence in a democracy. Broad-based calls for social change over recent years (e.g., Black Lives Matter, Truth and Reconciliation Commission) have intensified expectations on the police and others to bring greater attention to issues of social justice and social inclusion. In somewhat of a counterbalance, the growth of an authoritarian form of

populism in Canada follows similar trends in the United States, the United Kingdom and elsewhere. This populism movement - xenophobic, anti-science and holding unsympathetic views toward gender and equity issues – has become a significant political force in Canada. Some estimate that upwards of 34 percent of Canadians hold such political views. This movement “rests on the belief in a corrupt elite, and the idea that power needs to be wrested from this elite and returned to the people. Oriented toward authoritarianism, ordered populism emphasizes obedience, hostility toward outgroups, a desire to turn back the clock to a time of greater order in society, and a search for a strongman type to lead the return to a better time” (Graves & Smith, 2020).

Many of those holding such beliefs are deeply mistrusting of government, have amplified senses of external threats (e.g., immigration – especially by visible minorities), and often believe in increasing police powers at the expense of civil liberties. Populist governments may take actions such as rescinding or diminishing police oversight mechanisms, or focusing on ‘hard on crime’ policing – with an emphasis on already marginalized communities (Graves & Smith, 2020; Plows, 2020). Maintaining operational independence in such circumstances is ever the more important.

In recent years, governments, the private and non-profit sectors, academia and others across Canada have been begun thinking differently about how social and human services – including policing – are organized and delivered (Corley & Teare, 2019). This coincides with some experts pointing to evidence that we are between eras of policing (Kempa, 2014) – one in which “most of the vexing problems that will face our communities will not fit nicely within the mandate

or realm of any single organization, and traditional structures will not easily align with most of the pressing issues affecting at-risk individuals, families, and communities” (Taylor et al., 2022, p. 107).

It is clear that in the main, the police, police boards and elected officials are sincerely interested in constructive dialogue to both ensure adequate and effective policing, and to help shape the future of policing and community safety more broadly. It should not be surprising that, on occasion, roles and responsibilities can become confused and boundaries breached.

Canadian jurisprudence has attempted to establish guideposts and boundaries aimed ensuring that these and other efforts respect the principle of police operational independence.

The Police Governance and Accountability Ecosystem

Municipal police agencies play a unique role within local government. Using Ottawa as the example, Justice Rouleau earlier this year described police services as “not simply another department of the municipal government. It is an independent law enforcement agency that has a relationship not only with the City of Ottawa, but also with the Ottawa Police Services Board and, through it, the Government of Ontario.” (Rouleau, Vol. 2, p. 156).

Police operational independence occurs within specific, usually local, contexts, but always within what we refer to as a *police governance and accountability ecosystem* (Figure 1).

THE POLICE GOVERNANCE AND ACCOUNTABILITY ECOSYSTEM: POLICE OPERATIONAL INDEPENDENCE

IN BALANCE



OUT OF BALANCE Risks & Implications



When operating as it should, the police governance and accountability system serves to uphold the rule of law, foster public trust and confidence in these public institutions, and support ethical decision making and problem solving. But if it is out of balance, as has been described by the Public Order Emergency and Mass Casualty commissions, public trust and confidence can be affected. There is also a corrosive effect on the rule of law. Moreover, when out of balance, it creates conditions in which any of the ecosystem constituents can act inappropriately – even with ‘noble cause’.

Political interference with police operational independence can occur along a continuum that ranges from lower level subtle and often unintended actions that constitute inappropriate or undue influence, through to more serious actions that represent abject political interference.

Cases of abject interference (e.g., when an elected official calls the chief of police asking for a traffic ticket to be withdrawn) are well understood and easy to spot. But the more subtle and nuanced incidents of undue influence are arguably cause for greater concern: first, they can be difficult to discern as they are occurring, and; over time they can have the same corrosive effect on public trust and confidence as more direct instances of interference. Such situations represent somewhat of a grey area. The key for those at the police – governance nexus to be able to effectively navigate these more subtle, nuanced situations and ensuring such interactions remain principled, is awareness.

General Observations - Understanding the Principle

Over recent decades, the various inquiries and reviews noted earlier in this report have to one degree or another addressed the issue of

police operational independence. The two most recent of these, the Public Order Emergency Commission (POEC) and Mass Casualty Commission (MCC), have brought to the fore the general lack of understanding of police operational independence across the ecosystem – not just on the part of the police themselves. For example,

“Senior public servants...were unclear as to what they were allowed to request or expect from the police relating to information, and what police were obligated to provide. They were aware, in general terms, of the principle of operational independence, the concerns identified during the Ipperwash Inquiry, and that government had infringed on this principle in the past. However, a number of them expressed a sense of real frustration that there was information they should have received...but did not. They were very cautious for fear of crossing a line that neither they, nor law enforcement, fully understood.” (Rouleau, Vol. 3, pp. 305-306)

Constructive engagement and dialogue between the police, governance bodies and elected officials are important and necessary features in our democratic system. Examples of such positive engagement abound: elected officials regularly engage with police leaders to better understand local crime trends, policing tactics, and to share ideas and concerns. This is as it should be, and as both recent Commissions observed, positive and principled exchanges of information and dialogue are important to improving policy and operational decision-making. The Mass Casualty Commission noted, however, that all concerned would be well

served by the codification of key roles and responsibilities together with protocols on such exchanges.

“In a matter as fundamental to democracy as police / government relations, the police, the government, and the public are not well served when they depend on convention alone” (MCC, Vol. 5, p. 441).

While it is not possible or desirable to codify every form of interaction, the MCC provided three clear recommendations to improve upon the status quo. While these recommendations focused on the RCMP, in our view they are relevant to most police agencies and boards across Canada.

MCC Recommendation P.38 states that directions given to the chief of police should be in writing and made available to the public in a reasonable time.

MCC Recommendation P.39 proposes that police legislation be strengthened to provide that police boards and police agencies develop and implement complementary policies that set out their respective roles and responsibilities, mutual expectations in terms of their working relationship.

MCC Recommendation P.40 is intended to protect the operational levels of the police service from direct influence. Clear police agency policy should clarify that boards and others are to provide direction or advice only to the chief of police.

For ease of reference, the actual MCC recommendations are provided verbatim at Appendix A of this report.

The Police

“In every democracy, individuals and organisations which are intended to have only certain well-defined executive functions are likely, if unchecked, to acquire a very undesirable independent power. This is especially true of the police.” (Russell, 1957, p. 295)

The police are one of the most visible agencies of our democratic form of government. Canadians are more likely to see and to interact the police than with any other part of government. The police are also the gatekeepers to the criminal justice system. Their mandate includes the ability, when necessary, to use force and to deprive individuals of their liberty.

It is therefore important to democracy that the police are subject to the rule of law, and not to the interests or dictates of political or business interests. They must be accountable for their actions. Therefore, under the rule of law and as elaborated upon by the Supreme Court of Canada, in *R. v. Campbell*, [1999] 1 S.C.R. 565, the police are not considered “a servant or agent of the government while engaged in a criminal investigation”. In these circumstances, acting as public office holders and not subordinates, constables make independent decisions such as whether to arrest or prosecute. As Aust (2012, p. 48) noted, the distinction between two types of policing roles is important:

“In their role as holders of a public office under a statute, the independent exercise of the peace officer’s broad discretion while conducting a criminal investigation or arrest is limited only by the legal principles that such duties be exercised reasonably and in accordance with the

Constitution. The other role is when, as a member of the (police service) executes duties such as transporting prisoners or directing traffic, in which they are subordinate to the orders of their superiors. This places the member in a more traditional role as a subordinate public servant.”

Over the course of the numerous interviews conducted as part of this research, both current and former senior police executives lamented the relative lack of understanding of the principle of police operational independence at all levels of policing – particularly the case when it comes to the more nuanced and subtle manifestations of ‘undue influence’. Several cited a culture in which their beliefs and understandings are based on generally poor or outdated understandings of the principle passed down from predecessors. In one interesting twist, a former deputy chief lamented that in their view, many senior police leaders tended to view the findings and recommendations emanating from the Morden, Epstein and similar reports as applying to such major events as those that spawned such inquiries – and not in the context of day-to-day policing.

While it is important to enhance the collective understanding within the ecosystem, we argue that since the police are the last line of defence in protecting the doctrine of police operational independence, they must have unsurpassed levels of knowledge and understanding of the principle and its application in highly pragmatic terms. This applies to all levels of policing – from the chief of police through all levels of management and supervision, to the frontline patrol officers and major crime investigators. As Stenning noted, in such operational circumstances, “it is improper for elected political authorities (such as government ministers or other police

governing authorities) to give, **or for police to accept from them** (emphasis ours), any direction or control, or even significant influence or input” (Pue, 2000, p. 92).

Police Executives

The role of a police executive as a public office holder will often conflict with their role as an employee and ‘subordinate’ of the police board. At times this can come at a heavy cost, including risks of retribution (such as being fired or their employment contract not being renewed) – a concern that was expressed by several of the senior police executives interviewed for this research. The tensions inherent in normal police chief – board relations are best managed through enhancing the trust between a police chief and the board.

As one chief with several years at the helm of his agency put it, “... (after these years as chief) it’s probably easier for me to push back, because I know the landscape better than perhaps a newer chief. He added, “even myself, in my first year as chief, you’re still trying to find your way and when it comes to pushing back, you have to be a little bit more subtle about it ...you’re thinking about self-preservation as well.”

Another stated that, “For my first two or three years as chief I thought it (police operational independence) was really cut and dried. And I really didn’t understand my role as a chief vis-à-vis the board’s role as a governance body.” Similar sentiments were repeated by others interviewed for this research. Another chief added that in the absence of more in-depth understanding of the principle’s application, some senior leaders tend to respond inappropriately to questions or inputs from boards or elected

officials. This leads “to some of us chiefs pushing back where we shouldn’t.”

Another chief of police likened his role in this context to that of a goalkeeper. He knows where the line is – as dynamic as it sometimes can be. This chief encourages his community, elected officials and board members to ask him any questions, confident that given his depth of knowledge and experience, he is able to discuss issues and answer questions without “crossing the line”.

When it comes to external efforts to outright interfere in operations, all senior police leaders recognize it for what it is, and can act appropriately. But it is the more nuanced or subtle efforts (whether intended or not) to inappropriately influence operations that present the greater challenge for police leaders.

Several police chiefs and others we interviewed raised the issue of employment contracts for senior police executives, and the additional layer of risk such contracts bring when the police executive strives to rebuff even perceived attempts to unduly influence police operations. During such encounters, police leaders are aware of the possibility of employment contracts not being renewed over their postures vis-à-vis the doctrine.

In October 2021, the Peel Regional Police hired its first manager of government relations, with the view to improving communications and working relations with its board and all three levels of government. Operating within the chief’s office, this government relations expert supports the chief and executive in its bilateral relations with its board, local governments and the provincial government in interactions on issues of mutual interest or concern – all in a non-partisan way. According to the chief of police, the

addition of this expertise has gone a long way to improving these important relationships for the betterment of both the police service and the communities it serves.

Frontline Officers

The principle of operational independence applies equally to all police officers, whether a constable just out of recruit training, or the police executive. The vast majority of those interviewed for this research did not believe the principle, or its application in real terms, is adequately understood across the police spectrum. As noted earlier, the frontline police officer conduct two distinct types of policing activities:

- the first type is during the conduct of a criminal investigation. In this role, they are acting as public office holders under a statute (e.g., the *Criminal Code*). In this capacity, the constable’s discretion as to whether to conduct an investigation, or to arrest or prosecute is limited only by the legal principles that such duties be exercised reasonably and in accordance with the Charter of Rights and Freedoms.
- the second type occurs in such the conduct of non-enforcement or non-investigative functions (e.g., transporting prisoners, directing traffic). In such instances, the constable is subordinate to the orders of a superior.

Echoing the Ipperwash Inquiry findings, the Mass Casualty Commission noted that it was important that critical incident commanders and major crimes investigators “be buffered from

direct knowledge of government discussions while an investigation is ongoing.” (Vol. 5, p. 436)

Greater awareness and understanding of these principles are needed.

Police Associations

An examination of the issue of police operational independence must take into account the role of police associations. While historically, democratic policing has been apolitical, associations have become politically involved in recent decades. For example, the Ottawa Police Association (OPA) has had an on-again off-again involvement in local and provincial politics.

- In 2006, it had backtracked on a plan to endorse candidates during the municipal election after being cautioned that such endorsements would have called into question the political independence of the police;
- In 2018, the OPA had endorsed the Progressive Conservatives during the provincial election campaign;
- During the 2022 municipal election, it had denounced one particular mayoral candidate because they had previously voted to shift some police funding to other community services. (Lapierre, 2022)

In 2022, the Vancouver Police Association also endorsed a candidate in the local municipal election. (Shantz, 2023). As Shantz observed, such involvement in politics raises questions about the separation of policing and politics, and that political support for one elected official over another can at times come with expectations of a quid pro quo. To some new Canadians this can also have a chilling effect,

in that “politically active police evoke memories of ‘police states’ they left behind” (Freeze, 2000).

While police associations are private entities, separate from the police agencies themselves, they are an important component of the police governance and accountability ecosystem. The average citizen may have a hard time distinguishing their overt political interests from those of the apolitical police agencies.

In order to be effective in its roles, the police must enjoy a high degree of public trust and confidence. These have been in decline in recent years (Ruddell, 2022). Citizens who believe the police lack legitimacy are less likely to follow the law (Tyler, 2006) and may “be less likely to become involved in collaborative efforts to improve relationships between the police and community” (Griffiths & Clark, 2017, p. 561).

A set of recent studies examined the impacts of politicization on a number of institutions, including the police. The research by Clark et al found that:

“...the perceived politicization of institutions - the extent to which institutions were perceived as allowing their political values to impact their work - was associated with lower trust toward those institutions, as well as lower willingness to support and defer to their expertise.”

The researchers also suggested that, “once an institution is perceived as politicized, it might be very difficult to undo that perception” (Clark, et al., p. 48).

At one level, one might argue that as private entities, police associations should be free to exercise their democratic rights to

support political candidates or otherwise engage in politics. However, given the potential line of sight on public trust and confidence in the police, such involvement in our liberal democracy warrants further study and consideration. Such further analysis is beyond the immediate scope of this study.

Police Services Boards and Commissions

Police service boards (or police commissions as they are known in some provinces) play an important role in ensuring public confidence in the police and achieving community safety objectives. They typically perform six key functions:

1. strategic planning, establishing policing priorities and objectives;
2. setting policies for the effective and efficient management of the police service;
3. monitoring and evaluating the performance of both the service and the chief of police;
4. establishing police budgets;
5. selecting and hiring the chief of police; and in some cases,
6. collective bargaining with police personnel (Graham & Kaustinen, 2019, p. 11).

Police boards were originally created by legislation to insulate the police from the direct governance of local elected municipal officials and to convey the image of legitimacy (Laming & Valentine, 2022, p. 8; Caul, 2009, pp. 82-83). Their independence is important, but in such a complex and multifaceted field such as community safety, their ability to make sound independent decisions requires boards

to consult and engage with others – most notably, the police executive, police associations and elected officials.

Sossin (2014, p 18) argues that in some jurisdictions, police boards have become a “focal point for political disputes involving the police.” Nowhere is this more evident than the area of police budgeting. While the police boards in most municipalities are responsible for both strategic planning and budgeting, it is the elected municipal councils that must approve budgets. Not surprisingly, many elected officials want greater and more granular involvement in the financial aspects of such a high-cost enterprise.

It is a well-functioning board - that is both independent and communicative, and whose roles, responsibilities and independence are well understood by all concerned – that should be able to skilfully navigate such situations.

Much of the provincial legislation dealing with police boards and commissions strives to support board independence through such measures as prescribing board compositions, and allowing boards to select their own chairpersons. Some legislation goes further – for example in Alberta, section 31(5) of the *Police Act* stipulates that a municipal council “shall not perform any function or exercise any power in respect of the police service that the (police) commission is empowered to perform or exercise, or issue any instructions to a police officer.”

The interviews conducted for this study, supported by much of the literature, paints a picture of police board governance in most places across Canada as somewhat ineffective in providing adequate and effective local policing.

Provincial legislation, board composition, continuity, and a general lack of understanding of the concept and practical application of the precept of police operational independence each plays a role in what some have characterized as lacklustre performance of many boards (Spratt, 2023; Sears, 2022; Kelcey, 2022). Furthermore, police leaders have historically controlled the relationships with political masters – both with police boards and elected officials (CBC, 2003). The traditionally closed police culture with its inside knowledge and data holdings, amplified by a lack of understanding of police operational independence on the part of all concerned, have been contributing factors that sustained this situation for decades. Certain vestiges of this former reality survive today, according to some of those we interviewed.

A typical corporate board overseeing a complex and costly enterprise like a police service would give considerable attention to the collective capabilities of the board (e.g., law, accounting, corporate finance, strategy, risk, stakeholder relations) and individual board member attributes (e.g., prepared, logical, curious, critical thinking). But when it comes to police boards, membership is often “an awkward mix of councillors and citizens appointed by both cities or provinces, serving with little staff or legal support.” (Kelcey, 2022). Board member appointment processes often lack transparency (Roach, 2022, p. 89). Two-year terms are typical, but generally expire with political cycles which means that boards often lack continuity. Under the Saskatchewan *Police Act*, local police commissioners are appointed to just one (1) year terms.

To uphold board independence and to protect board members from arbitrary dismissal, the tenure of board members is often specified in legislation. 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 (e.g., voluntary resignations, incapacitation, or code of conduct breaches) provide for the early termination of police board appointments.

Police board members are often provided very little by way of initial orientation and ongoing learning support. Furthermore, boards generally operate without significant secretariat support. In some cities, police boards must rely on the City for legal advice, and strategic planning is most often carried out by the police service on behalf of the board (e.g., Sinclair, 2018, p. viii). There are of course exceptions. Probably the most noteworthy is the Toronto Police Services Board, which has a full-time chairperson and is supported by a well-staffed secretariat.

One of the key challenges in allocating adequate resources to the governance function is that, typically, boards are funded from the overall police budget. Boards are often hesitant to allocate more funds to enhance board effectiveness and functionality at the expenses of frontline policing services. But the complexities and risks inherent in contemporary policing require highly effective governance.

It is somewhat surprising that, more than 10 years after the Morden report, many police boards remain largely ineffectual in accomplishing their mandates, and are often viewed as subservient to the police service executive (Spratt, 2023). For example, the Public Order Emergency Commission found that the Ottawa Police Service Board “had a diminished view of its own role” during the 2022 trucker convoy protests in the national capital. As noted by the

Morden report some years earlier, the Ottawa board was not only within its authority to set policing priorities, but also to receive and discuss with the police executive its operational intentions and plans. When the police refused to share the requested information with the board, the board acquiesced, apparently preferring to maintain a collaborative relationship with the police executive (Rouleau, Vol. 3, pp. 187 – 189).

Interviewees noted that one of the most powerful concepts with respect to police governance in Canada remains the policy-versus-operations distinction. This is meant to maintain the balance between police governance and accountability on the one hand, and police operational independence on the other. However, many interviewees felt that the distinction was essentially meaningless, being too vague and abstract to be helpful. Morden (2012) also cautioned against the widespread acceptance of this policy – operations divide. The actual relationship between boards and police services is not only far more dynamic, but is one which must be worked out on a continuous basis (Sossin, 2004). In addition, some of those interviewed felt that the policy-versus-operations distinction is still maintained because it allows boards and elected officials to avoid any real responsibility for policing, particularly when things have gone wrong (see also Roach, 2022, p. 75).

While most interviewees acknowledged that most board members are community oriented and well intentioned. However, most boards are simply not equipped with the overall capabilities, knowledge, and confidence to understand and provide effective governance in an increasingly complex environment.

Some of those we interviewed reported that there was an increasing tendency for municipal politics to extend into police

services boards. This was also well documented in previous research (Sossin, 2004; Oppal, 1994) and was highlighted again in the recent Public Order Emergency Commission report. Several interviewees observed that city councillors appointed to police service boards at times would not ‘leave their councillor hats at the door.’ One asked rhetorically why the same councillor would have no such inclination if appointed to the local SPCA board – at which he or she would focus on providing proper and effective governance independent of their municipal council role, but were seemingly incapable of this when appointed to the police services board. One interviewee, a former citizen appointee to a board, lamented of having to remind a new municipal councillor appointed to the board, that they were all equal under the legislation after being told by the same councillor that his/her inputs carried more weight in discussions.

This situation demonstrates the need to improve the governance of police in Canada. Many boards rely on the police service for advice, guidance and coaching. In fact, several interviewees noted that it was often the chief of police who found him/herself essentially coaching new board members on their respective roles and on police governance more generally. This is simply not how police governance is meant to function.

Police boards are typically under-resourced. A case in point is the Halifax Board of Police Commissioners, which is responsible for a \$95M police operating budget and a complex policing arrangement involving its own police service and the RCMP, which polices parts of the Halifax Regional Municipality and for which the Board of Police Commissioners also oversees in a capacity as a police advisory board. In 2021, the Board of Police Commissioners received less than \$14,000 to operate, rendering it dependent on

the Halifax Police Service and the municipal government for key services, such as legal advice, administrative and research support (MCC, Vol. 5, p.536).

It is clear both from the interviews and from the literature that there continues to be a need to improve board governance. Boards must be appropriately funded and provided adequate resources (e.g., secretariat support) commensurate with the size of the police agency, in order to carry out their responsibilities. A permanent executive director, supported by appropriate staff would provide a measure of continuity and develop an internal corporate knowledge on good governance and the host of important issues such boards deal with. Finally, this would also support improving effective governance relations with the police service and allow a board to prepare and support new board members.

What both the literature (e.g., Oppal, 1994, Honsberger and Moreash, 2016) and our interviews specifically highlight is that to make police services boards more effective, governments need to:

- 1) Take greater care in selecting board members;
- 2) Provide boards with clear statutory frameworks;
- 3) Provide board members with better in-depth training;
- 4) Assure board members of longer terms of office, and;
- 5) Protect board members from attempts or threats of arbitrary dismissal.

As one interviewee, an expert in corporate governance, observed that in their view, “You are better off having commissioners that have a good solid understanding of governance and how to practice it, than you are having a commission full of people who don’t. And I

would take the one over the other in a heartbeat - because one’s dangerous and other one’s not.”

Board members must be protected from politically-motivated reprisals. A high-profile recent example involved former Ottawa Police Services Board chair, Diane Deans, who at the time was also a municipal councillor. During the convoy protests of 2022, Ottawa Mayor Watson was in contact with Chair Deans. He told her “that he had not yet decided whether he had lost confidence in her. While Mayor Watson acknowledged in his testimony that hiring a chief of police lies within the exclusive jurisdiction of the OPSB, he clearly implied that “his continued confidence in Chair Deans depended on the Board changing course regarding the hiring of the interim chief of police” (Rouleau, Vol. 3, p. 129). Deans was ultimately dismissed from her role on the board (Postmedia, 2022).

In the end, those responsible for policing, whether elected officials or board members, need to be less deferential to the police and far more accountable for the provision of community safety (Roach, 2022, p. 190). Both the interviews and the literature (e.g., Roach, 2022, p. 185) confirm that the unchecked intrusion and interference of local political agendas can only lead to the kinds of governance and policing failures experienced at Ottawa in February 2022.

The Mass Casualty Commission report (Vol. 5, pp. 539 – 542) made a strong and comprehensive recommendation (Recommendation P.61) with the aim of improving police governance in Nova Scotia. The Commission recommended that the provincial government be responsible for the design and delivery of mandatory standardized training in police governance to all parties across the police governance and accountability system. The MCC further stated that:

- The training be mandatory for all municipal police chiefs, provincial and municipal civil servants whose work includes the administration of policing, and police board members.
- The training addresses governance, oversight and democratic accountability and addresses findings and lessons learned set out in the Mass Casualty Commission report, the Ipperwash Report, the Morden report, the Thunder Bay Police Services report, the Epstein report, and the Public Order Emergency Commission report, among others.
- The training should explain the respective roles and responsibilities of boards, board members, police leaders, and government officials;
- Municipalities should provide adequate funding to police boards to enable them to properly discharge their functions, including conducting research and obtaining independent legal advice;
- Police boards should be staffed through robust recruitment initiatives for qualified and diverse candidates able to make the necessary time commitment;
- Board members should be fairly compensated for their work if they are not serving as part of another paid role.

This, in our view, would set a standard for jurisdictions across Canada.

Elected and Senior Officials

Governments have an obligation to concern themselves with matters of public safety and policing. As Roach (2022, p. 185) noted, it is often the absence of appropriate political direction – not its presence – that leads to policing problems. Furthermore, it would be unrealistic to expect a ‘politics-free zone’ for policing. Take the example of police budgets – often an issue of considerable debate and disagreement. As one interviewee put it, “It’s the councillor who has to face an angry local taxpayer, not the police board member”.

The tendency for politics to extend into local police service boards is well documented (Rouleau, 2023; Sossin, 2004; Oppal, 1994). Safeguarding the police and police boards from political interference or undue influence must be weighed against the legitimate ability of elected officials, both to provide general policy direction to the police and to ensure that the police are held accountable. Finding the equilibrium between appropriate political direction and police independence requires a ‘delicate balance’ (Roach, 2011, pp. 188-199). Unfortunately, the delicate balance between the two can all too easily be upset (Sossin, 2004, p. 7).

Virtually every municipal government is elected in part with a specific law and order agenda as part of their platform, and yet there are usually scarce public resources available to fulfill that agenda. The distinction between the executive’s view on the ‘public interest’ and its own partisan interests may often appear blurred.” The police - government relationship, can be a difficult territory to navigate, particularly if one does not possess a corresponding ‘political compass’ (Sossin, 2004, p. 37).

Add to this the 24/7 news cycles, citizen journalists armed with cell phone cameras and the ability to drive out messaging on social media and quickly garner immediate national or even international attention. This places enormous pressure on elected officials to respond. So, it is easy to see why many elected officials often weigh in – appropriately or not – on policing issues.

Constructive dialogue between police leaders, boards and municipal and provincial governments is important to good governance (Morden, pp. 82-3). The ‘politics’ around policing and community safety are often too immediate and too compelling for elected and senior officials to stand back completely. Many of the police chiefs interviewed for this study spoke of the importance of keeping their respective mayors and council routinely informed regarding policing community safety issues. This allows mayors and councillors an appropriate level of awareness on key trends and even specific strategies, tactics and operations the police are undertaking, while ensuring appropriate lines are not crossed and that the police board is always acknowledged as the legitimate governing authority.

As discussed earlier, since municipal police boards typical include councillors and at times mayors, it is important that such elected officials have a heightened awareness of the principle of police operational independence and can,

1. Differentiate their responsibilities and obligations on the board from those on the municipal council;
2. Understand that the police board is not an extension or sub-committee of council, and;
3. Know that the fact that they are elected officials appointed to the board does not bring additional authority of powers than are accorded any other member of the police board.

Realistically – and as supported by our interviews as well as the literature (e.g., Sossin, 2004; Roach 2022) - regardless what additional rules or protocols are in place, there is likely to always be potential for politics to bleed over into police governance in ways that could be considered undue influence. Again, this heightens the importance of increased awareness and appropriate guidance to support democratic policing and the rule of law.

The classic double-bind of police-to-government relationship is how to guard against one extreme without inviting the other (Sossin, 2004, p. 7). It is widely understood that it would be wrong for an elected official to contact a judge. However, the situation is somewhat more complex with respect to that official contacting the police (Roach, 2022, p. 5). This has recently occurred in a recent case involving a provincial Minister of Justice reaching out to a chief of police to discuss circumstances around his having received a traffic ticket. An independent review of the matter concluded that the minister had attempted to interfere with the administration of justice:

“(The Minister) said that he was looking for assurance from the Chief that the traffic stop was not motivated by illegal surveillance or racial profiling. The logical next step would mean that he expected the Chief to respond to his concerns about his ticket. There is a process that the Minister knows well to address questions of police conduct. It does not start with a phone call to the Chief of Police.” (Kent, 2022)

The interviews conducted as part of this study and the conclusions of the numerous independent reviews and inquiries set out herein have shown that elected and senior government officials often lack

understanding of both the principle of police operational independence, and how it is applied in practice. For example,

- At the 1997 APEC conference, there were direct attempts on the part of a senior official within the Prime Minister's Office to direct and influence police operations. Justice Hughes described the official had "inexcusably thrown his weight around" (Hughes, p. 66).
- More recently, testimony at the Public Order Emergency Commission clearly illustrated the lack of understanding among senior government officials. During testimony, the Prime Minister's National Security and Intelligence Advisor "stated that it was sometimes difficult to know how to interact with law enforcement agencies due to concerns about their operational independence. Apprehension about federal officials not crossing the line meant that, in her view, there was useful information that could have been provided to decision makers but was not." (Rouleau, Vol. 1, p. 105)

These challenges are amplified by local electoral cycles and the corresponding changes in local governments, requiring appropriate orientation for new councillors and mayors. The level and quality of the training - as pertaining to their interactions with the police - offered the elected and senior government officials — has often been brought into question (Kent, 2022).

As noted earlier, the Mass Casualty Commission recommended mandatory standard training across the police, governance and oversight bodies, together with municipal and provincial public servants whose roles involved the administration of policing – to

ensure a heightened awareness and understanding of these very relevant issues (MCC, pp. 539 -542). As three particular interviewees with extensive experience at the senior levels of government noted, a key role senior officials play in supporting their mayor or (provincial) minister is to help keep them out of trouble in regard to matters of police operational independence. Coupled with evidence at the Public Order Emergency Commission that spoke to a general lack of understanding of the principle among senior federal public servants, this underscores the importance of a mandatory training program across the police governance ecosystem.

Conclusions and Recommendations

There is truth to the aphorism that *policing is not a political activity, but all of policing activity is political*.

In Canada's liberal democratic system, the police must perform a delicate balancing act – being accountable to government, while making certain operational decisions completely independent of government and of their governing boards.

Police operational independence is a quasi-constitutional principle established in Canadian law through a number of superior court decisions, with our interpretations and application of the jurisprudence evolving over time. Such operational independence is not absolute - it is clear from the numerous inquiries over recent years that there is plenty of room for improved dialogue and engagement among police, boards and elected/senior officials, while providing for police decisions on certain matters to be made independently. As Justice Rouleau noted,

“While governments decide important questions about policing, their control over police is not absolute. This is important. If a government has too much control over the police, there is a risk that the law will not be applied impartially. If a government has too little control over the police, there is a risk that the police will become self-governing. As a result, police need to be accountable to democratic institutions, while still making many decisions independently of government. This latitude is often referred to as “operational independence.” (Rouleau, Vol 2, p. 69)

Police operational independence occurs within specific contexts, but always within what we refer to as a *police governance and accountability ecosystem* (Figure 1). When in balance and operating

as intended, the system serves to uphold the rule of law, fosters public trust and confidence in these public institutions, and supports ethical decision making and problem solving. But when out of balance, as seen in the events resulting in recent inquiries (notably the recent Public Order Emergency Commission and Mass Casualty Commission reports), public trust and confidence are affected. There is also a corrosive effect on the rule of law. Finally, it creates conditions in which any of the constituents with the ecosystem can act inappropriately – even at times with ‘noble cause’.

We can consider police operational independence along a spectrum from undue or inappropriate influence through to abject political interference. Cases of abject interference (e.g., when the mayor calls the chief of police asking for a traffic ticket to be withdrawn) are widely understood for what they are, and appropriate responses are similarly well understood. It is the more subtle and nuanced incidents that are cause for greater concern, for over time they can have the same corrosive effect as outlined above.

Getting police governance right has arguably never been more important. Determining appropriate levels of police funding to meet current needs and expectations, while shaping new collaborative approaches to improve community safety and well-being outcomes expectations are complex and inherently political tasks. The rapidly rising costs of policing, the changing nature of crime and harm, together with broad-based calls for social change are among a number of key trends shaping the discourse between police leaders, their boards and elected officials. But beyond these are the multitude of tactical and operational issues that occur at the same intersection of policing, governance and politics.

Productive positive engagement and dialogue between the police, governance bodies and elected officials are important and necessary features in our democratic system. Successive commissions of inquiry have suggested improvements to the exchange of information and dialogue to improve policy and operational decision-making.

The tensions inherent in these relationships are natural and to be expected, with police budgeting one of the most common areas of friction. It is incumbent on all those involved to acknowledge such tensions and work through them to ensure the boundaries are respected and the discourse contributes to improved outcomes.

From the evidence gathered through this review, it is clear that improvements can and should be made within each element of the police - governance nexus.

The Police

Senior police leaders are clear on what constitutes attempts at abject interference, but much less so in regard to more nuanced or subtle efforts on the part of boards, politicians, or senior government officials to unduly influence decisions. Most of those interviewed for this research indicated that much more could be done to prepare senior police leaders in this respect – starting with leadership and executive development programs.

Understanding the principle of operational independence is central to a senior leader's political acuity and overall effectiveness in dealing with boards, elected and senior government officials, and the communities served. A codification of key roles and responsibilities on the part of senior police leaders, their governance bodies and elected/senior government officials would

serve to ensure that the contemporary understanding of the principles of police operational independence are well understood and inappropriate behaviours minimized. As one experienced police chief said, "I am the ultimate gatekeeper. Government officials and my board can ask me any question they like, or provide any comment, but it is incumbent on me to have the most in-depth understanding and knowledge of the law, and know how to handle such situations to protect the integrity of police operational independence."

One potential barrier to independence that surfaced several times during the research concerned senior police leader employment contracts, and more specifically, the lack of a clause supporting operational independence.

Police Boards and Commissions

The Canadian model of municipal police governance, variations of which are in place in most provinces, has often been described as flawed and in need of repair, beginning with modernization of provincial legislation, and extending to the way police service boards are staffed, organized and its functions delivered.

Elected and Senior Government Officials

It was evident during the Public Order Emergency Commission hearings that elected and senior officials would also benefit from an improved understanding of the principle of police operational independence.

Senior government officials in particular play important role, in ensuring their elected officials (e.g., ministers/mayors) take well-informed actions when dealing with matters directly involving

policing. They must be particularly well informed on matters of police independence.

Recommendations

The following recommendations are provided for the consideration of the member chiefs of CSKA with the hope that, if agreeable, they act both individually and collectively to influence their respective police leadership associations, provincial solicitors general and others to bring about changes that will serve to enhance police operational independence in Canada.

Recommendation #1: That provincial departments of justice develop and provide mandatory standardized training in police governance, and that such training be mandatory for:

- All municipal police chiefs
- All police board members
- Provincial and municipal public servants whose work includes the administration of policing or community safety.

This recommendation echoes that of the Mass Casualty Commission Recommendation P.61. As the MCC noted, such training should:

- address the governance, oversight, and democratic accountability functions of police boards;
- incorporate the lessons learned from other inquiries and reviews, including the Mass Casualty Report, the Ipperwash Report, the Morden Report, the Thunder Bay Police Services Report, the Epstein Report and the Public Order Emergency Commission Report; and

- explain the respective roles and responsibilities of board members, police leaders, and public servants.

This standardized learning regimen – particularly as pertaining to police chiefs and executives, and police board members – should be ongoing and cyclical, and not a one-time event.

Recommendation #2: That police training institutions ensure their curricula provides sufficient attention to the principle and doctrine of police operational independence.

This should apply to recruit training, most in-service operational training courses, as well as leadership and executive development programs.

Recommendation #3: That provincial police legislation be strengthened to provide that:

- Police boards may provide direction to the chief of police, but shall not direct any other member of the police service;
- Police boards shall not direct the chief of police with respect to specific investigation, the conduct of specific operations, the discipline of specific police officers, the day-to-day administration of the police service or other prescribed matters.
- Such directions shall be in writing, and a copy of any such written direction given to the chief of police must be published within a reasonable time.

This is consistent with Mass Casualty Commission Recommendation P.38, as well as Section 62(1) of Ontario's *Community Safety and Policing Act, 2019* (not yet in force).

Recommendation #4: That provincial police legislation be strengthened to provide that:

- **Police boards and police services develop and implement complementary written policies that set out their respective roles, responsibilities, and mutual expectations in police-board and police-government relations.**
- **Such policies should reflect the relevant findings of the Mass Casualty Commission set forth in Volume 5, Chapter 10 (Policing), including as pertaining to the following specific issues: police operational responsibilities; board and government policy responsibilities; policy of operations, and; information sharing between the police service and the board/government.**
- **Such policies be publicly posted on their respective websites.**

This recommendation flows from Mass Casualty Commission Recommendation P.39.

Recommendation #5: That police chiefs ensure that their employment contracts provide sufficient enumeration and clarity on the respective roles and responsibilities of the chief and the police board.

This recommendation aligns with Recommendation #4 above.

Recommendation #6: That police services establish local policies and procedures to protect investigators, incident commanders and frontline officers from exposure to direct government or direct police board intervention or advice.

This recommendation echoes Mass Casualty Commission Recommendation P.40.

Recommendation #7: That municipalities provide police boards with sufficient be provided sufficient funding to enable the full range of activities required to exercise proper governance.

Recommendation #8: That as a matter of practice, municipal and provincial governments confer with one another to ensure mutual understandings of the extant capability and capacity requirements of a police board when preparing to select new police board members.

Impact of Recommendations

Contemporary policing occurs within an often fast paced, complex environment. The recommendations outlined above are by no means new, nor are they particularly novel. But the implementation of this suite of recommendations would serve to ensure a greater chance that the police governance and accountability system is operating as intended – and that the police are afforded the independence required to ensure their operations are undertaken free of political influence, whether real or perceived, while assuring appropriate accountability to our democratic institutions.

Appendix A Selected Mass Casualty Commission Recommendations

Recommendation P. 38

MINISTERIAL DIRECTIONS TO THE RCMP COMMISSIONER

The Commission recommends that

(a) Federal Parliament should amend section 5(1) of the RCMP Act to provide:

The Governor in Council may appoint an officer, to be known as the Commissioner of the Royal Canadian Mounted Police, to hold office during pleasure, who, **subject to this Act and any written directions of the Minister, is responsible for** the control and administration of the Force.

(b) The RCMP Act be further amended to include the following provisions:

(a) The Minister must cause a copy of any such written direction given to the Commissioner to be:

- (i) published in the Canada Gazette within eight days of the date of the direction; and
- (ii) laid before the Senate and the House of Commons within six sitting days of the direction if Parliament is then in session, or, if not, within six sitting days after the commencement of the next session of Parliament.

(b) No Ministerial direction may be given to the Commissioner in relation to the appointment, transfer, remuneration, discipline, or termination of a particular person.

Recommendation P.39

POLICIES GOVERNING THE ROLES AND RESPONSIBILITIES OF THE RCMP AND MINISTER OF PUBLIC SAFETY

The Commission recommends that

(a) The RCMP and the minister of public safety should adopt complementary written policies that set out their respective roles, responsibilities, and mutual expectations in police / government relations. These policies should adopt the principles and findings on police / government relations outlined in Chapter 10 of Volume 5, Policing, of this Report, including specific provisions on the following issues:

- (i) police operational responsibilities;
- (ii) government policy responsibilities;
- (iii) policy of operations; and
- (iv) information exchanges between the RCMP and the government.

(b) These policies should be posted on the RCMP and the Public Safety Canada websites.

Recommendation P.40**PROTECTING POLICE OPERATIONS**

The Commission recommends that

(a) The RCMP should establish policies and procedures to protect incident commanders, investigators, and frontline members from exposure to direct government intervention or advice.

Recommendation P.61**POLICE GOVERNANCE IN NOVA SCOTIA**

The Commission recommends that

a) The provincial Department of Justice design and provide mandatory standard training in police governance.

IMPLEMENTATION POINTS

This training should be mandatory for:

- every municipal police chief, H Division RCMP commanding officer, and detachment commander;
- provincial and municipal civil servants whose work includes the administration of police; and
- police board members and police advisory board members.

This training should:

- address the governance, oversight, and democratic accountability functions of police boards and police advisory boards;

- incorporate the eight principles of policing;
- address findings, lessons learned, and recommendations set out in this report, the Marshall Report, the Ipperwash Report, the Morden Report, the Thunder Bay Police Services Report, the Epstein Report, the Wortley Report, and the Public Order Emergency Commission Report; and
- explain the respective roles and responsibilities of board members, police leaders, and civil servants.

(b) The Nova Scotia Department of Justice should prepare a police board manual and police advisory board manual.

IMPLEMENTATION POINTS

This manual should:

- be published on the Nova Scotia Department of Justice website;
- address the governance, oversight, and democratic accountability functions of police boards and police advisory boards; and
- set out the roles and responsibilities of board members, police leaders, and civil servants.

Appendix B About the Authors

Cal Corley, MBA

Cal is the CEO of the Community Safety Knowledge Alliance.

He is a former Assistant Commissioner of the RCMP. From 2008 – 2014, he was head of the Canadian Police College and during that time served as the RCMP's Senior Envoy to Mexico and the Americas.

Over the course of his career, Cal gained extensive experience in both operations and executive management, serving in such areas as community policing, major crime, drug enforcement, national security, criminal intelligence, strategic planning, human resources, and leading major organization-wide reform initiatives. He also served on secondments at the Privy Council Office's Security and Intelligence Secretariat, and at Public Safety Canada.

Mark Reber, MA

Mark is a senior policing and governance expert with over 25 years of professional experience working with governments and others in Canada and abroad. He is a former Civilian Member of the RCMP who worked in the areas of internal affairs among other duties. His subsequent work was in international police and governance reform particularly in post-conflict countries, including Northern Ireland, Colombia, Sierra Leone, Ukraine and Bosnia.

Mark holds a Post Graduate Diploma in Management Practice from Ulster University, Belfast, where he was also a Visiting Professor in the School of Criminology from 2013 to 2018, and a Master of Arts degree in

International Relations from the Norman Paterson School of International Affairs.

Rick Linden, PhD

Rick Linden is Distinguished Professor of Sociology and Criminology at the University of Manitoba. He is the author of over 60 published papers and reports and four books including Canada's best-selling Criminology text which is currently in its 9th edition. He has taught at the Canadian Police College and the Winnipeg Police Academy, and has conducted many studies in the area of policing. He also served as the first chair of the Manitoba Police Commission.

References and Sources

- Aust, A. E. (2012). *The Challenge and the Royal Canadian Mounted Police. Report of the Independent Inquiry into the Mandate, the Structure and the Operations of the Royal Canadian Mounted Police Pay Council*. RCMP, Ottawa, ON. August 28, 2012.
- Aust, A.E. & Aust, T.L. (2013). *Reflections on Police Independence, Governance and Evolution*. Presentation to Canadian Association of Police Boards, Saskatoon, SK, 15 August 2013.
- Barber, M. (2022). *A New Mode of Protection: Redesigning policing and public safety for the 21st century*. The Police Foundation. https://www.policingreview.org.uk/wp-content/uploads/srpew_final_report_summary.pdf
- Caul, D. (2009). *Municipal Police Governance In Canada: An Examination Of The Relationship Between Board Structure And Police Independence*. Simon Fraser University.
- CBC Ideas. (2003). *The Power of the Police*. Part 5, In Search of Security Series, CBC Radio One, available at <https://www.davidcayley.com/podcasts/2018/2/26/in-search-of-security> (accessed 26 May 2022).
- Chakrabarti, S. (2008). *A Thinning Blue Line? Police Independence and the Rule of Law*. The Police Foundation. 02 July 2008. <https://www.police-foundation.org.uk/2017/wp-content/uploads/2010/10/jhml2008.pdf>
- Clark, C.J., Isch, C., Everett, J.A.C. & Shariff, A.F. (2023). *Even when ideologies align, people distrust politicized institutions* [Manuscript in preparation]. University of Pennsylvania. https://www.researchgate.net/publication/370025043_Even_When_Ideologies_Align_People_Distrust_Politicized_Institutions
- Cooper, B. (2006). *Bureaucrats in Uniform: The Politicization and Decline of the Royal Canadian Mounted Police*. The Fraser Institute. <https://www.fraserinstitute.org/studies/bureaucrats-in-uniform-politicization-and-decline-of-royal-canadian-mounted-police>
- Graham A., & Kaustinen, F. (2019). *Police Governance at a Crossroads*. Canadian Association of Police Governance, Annual Conference Report: Community Safety, Community Service, Community Strength, Calgary, AB, August 2019. Accessed at: <http://capg.ca/wp-content/uploads/2019/10/2019-CONFERENCE-REPORT-FINAL.pdf>
- Graham, A. (2015). *Leading practice in police governance: Canada and abroad*. School of Policy Studies, Queen's University.
- Graham, A. (2019). *Governance at a Crossroads: The Sinclair Report Implications for Police Governance in Canada*. School of Policy Studies, Queen's University.

- Graves, F., & Smith, J. (2020). Northern Populism: Causes and Consequences of the New Ordered Outlook. University of Calgary, School of Public Policy Publications, June 2020, Vol. 13, Issue 15.
https://d3n8a8pro7vhmx.cloudfront.net/cdfai/pages/4588/attachments/original/1610483508/Northern_Populism_Causes_and_Consequences_of_the_New_Ordered_Outlook.pdf?1610483508
- Green, T. & Gates, A. (2014). *Understanding the Process of Professionalisation in the Police Organisation*. Police Journal: Theory, Practice and Principles, Vol. 87, pp. 75-91
- Head, R.H.D. (1999). *Politicization of the RCMP*. <https://dokumen.tips/documents/politicization-of-the-rcmp-robert-head-a-comm-rettd.html?page=4>
- Hewitt, E. J. (1991). *Operational independence myth or reality*. Police Journal, 64(4), 321-332.
- Howell, M. (2023). *Q&A: Vancouver police chief talks decriminalization, Heiltsuk Nation apology, crime trends*. January 27, 2023. Vancouver is Awesome. <https://www.vancouverisawesome.com/local-news/qa-vancouver-police-chief-talks-decriminalization-heiltsuk-nation-apology-crime-trends-6447623>
- Johnson, L. (2022). *Madu back in cabinet portfolio after investigation into phone call to police chief*. The Edmonton Journal, 25 February 2022.
<https://edmontonjournal.com/news/politics/madu-back-in-cabinet-after-investigation-into-phone-call-to-police-chief>
- Kelcey, B. (2022). *Ottawa's police board crisis is just the tip of Canada's police-governance problem*. The Globe and Mail, 14 March 2022.
<https://www.theglobeandmail.com/opinion/article-ottawas-police-board-crisis-is-just-the-tip-of-canadas-police/>
- Kelling, G. (1988). *Police and Communities: the Quiet Revolution*. Perspectives on Policing. Harvard Kennedy School. June 1988.
- Kempa, M. (2014). *Understanding the Historical Relationship between Economics and Change in Policing: A Policy Framework*. Ottawa (ON): Canadian Police College.
- Kent, A. (2022). *Report on the investigation of a phone call, March 10, 2021 from the Honourable Kaycee Madu, Q.C. to the Chief of the Edmonton Police Service*. <https://www.alberta.ca/external/news/kent-report-final.pdf>
- Laming, E. & Valentine, G. (2022). *Police governance in Canada: Variations and disparities among police service boards*. Canadian Public Administration, 65:1 (March 2022), pp. 7 – 27.
- Linden, S. B. (2007) *The Ipperwash Inquiry Report*. Government of Ontario. <https://www.ontario.ca/page/ipperwash-inquiry-report>
- Longstaff, Abie. (2009, March 24). *Politics and the Police*. Oxford Policing Policy Forum, The Police Foundation. All Souls College, Oxford, UK.
<https://www.police-foundation.org.uk/2017/wp-content/uploads/2017/08/oppf6.pdf>

- Mass Casualty Commission (2023). *Turning the Tide Together: Final Report of the Mass Casualty Commission: The Joint Federal/Provincial Commission into the April 2020 Nova Scotia Mass Casualty*. 30 March 2023. <https://masscasualtycommission.ca/final-report/>
- McDonald, D. C. (1981). *Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police - Volume 2: Freedom and Security Under the Law*. Government of Canada, Privy Council Office. <https://www.securitepublique.gc.ca/cnt/rsrcls/lbrr/ctlg/dtls-en.aspx?d=PS&i=367909>
- McKay, B. (2023). *New Zealand police minister resigns after radio gaffe*. The Canberra Times, 14 March 2023. <https://www.canberratimes.com.au/story/8122162/new-zealand-police-minister-resigns-after-radio-gaffe/>
- Morden, J.W. (2012). *Independent Civilian Review Into Matters Relating To The G20 Summit*. Toronto Police Services Board. [REPORT ICR Morden executivesummary.pdf \(tpsbc.ca\)](https://www.tpsb.ca/REPORT_ICR_Morden_executivesummary.pdf)
- Muir, R. (2008). *What do we mean by police independence?*. Institute for Public Policy Research.
- Newburn, T. (2016) *Revisiting the classics: Robert Reiner: the politics of the police*. Policing and Society, 26 (7). pp. 841-849.
- Police Federation of England and Wales. (2018). *The Office of Constable: The bedrock of modern day British policing*. The Police Federation. <https://www.polfed.org/media/14239/the-office-of-constable-with-links-2018.pdf>
- Postmedia News. (2022). *Ottawa mayor asks police services board chair to step down over hiring of new chief*. The National Post, 16 February, 2022. <https://nationalpost.com/news/canada/ottawa-mayor-asks-police-services-board-chair-to-step-down-over-hiring-of-new-chief>
- Pue, W. (2001). *The Prime Minister's Police? Commissioner Hughes' APEC Report*. Osgoode Hall Law Journal, Vol. 39:1, Spring 2001. <https://core.ac.uk/download/pdf/232617176.pdf>
- Raycraft, R. (2022). *How much influence should politicians have over police?* CBC News, 25 June 2022. <https://www.cbc.ca/news/politics/police-politicians-direction-1.6500795>
- Reiner, R. (2010). *Politics of the Police in Britain*. (4th edition). Oxford University Press.
- Roach, K. (2022). *Canadian Policing: Why and How it Must Change*. Toronto: Delve Publishing, Irwin Law.
- Roach, K. (2017). *The Overview: Four Models of Police-Government Relationships*. https://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/meetings/pdf/Roach.pdf
- Roach, K. (2018, December 10). *Is police independence at risk in Ontario?* The Globe and Mail. <https://www.theglobeandmail.com/opinion/article-is-police-independence-at-risk-in-ontario/>

- Roach, K. (2022). *Canadian Policing: Why and How it Must Change*. Delve Books.
- Rouleau, P.S. (2023). *Report of the Public Inquiry into the 2022 Public Order Emergency*. Ottawa, ON.
<https://publicorderemergencycommission.ca/final-report/>
- Russell, B. (1957). *Power: A New Social Analysis*. London: Allen and Unwin Ltd. pp. 61-86.
- R. v. Campbell, [1999] CanLII 676 (SCC), 1 SCR 565. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1692/index.doc>
- Sears, R. V. (2022). *The situation in Ottawa shows our police governance is broken*. The Toronto Star, February 20, 2022.
<https://www.thestar.com/opinion/contributors/2022/02/20/the-situation-in-ottawa-shows-our-police-governance-is-broken.html>
- Shearing, C. (2001). *A nodal conception of governance: Thoughts on a policing commission*. Policing and Society: An International Journal, 11:3-4, 259-272
- Sossin, L. (2004). *The Oversight Of Executive Police Relations In Canada: The Constitution, The Courts, Administrative Processes And Democratic Governance*. Ipperwash Inquiry document. <https://ssrn.com/abstract=1911409>
- Spratt, M. (2023). *Municipal police boards should do their job of holding the cops to account*. Canadian Lawyer, 10 March 2023.
<https://www.canadianlawyermag.com/news/opinion/municipal-police-boards-should-do-their-job-of-holding-the-cops-to-account/374319>
- Stenning, P. (2000). *Someone to Watch Over Me: Government Supervision of the RCMP*, in W. Wesley Pue (ed) *Pepper in Our Eyes: The APEC Affair* (Vancouver: UBC Press, 2000), 87–106 at 92
- Stenning, P. (2007). *The Idea Of The Political “Independence” Of The Police: International Interpretations and Experiences*. *Police and Government Relations: Who’s Calling the Shots?*, edited by Margaret E. Beare and Tonita Murray, Toronto: University of Toronto Press, 2007, pp.183-256. <https://doi.org/10.3138/9781442684690-008>
- Taylor, N., Corley, C., McFee, D. & Torigian, M. (2022). *Improving Community Outcomes and Social Equity Through Leveraged Police Leadership*. In: Bartkowiak-Théron, I., Clover, J., Martin, D., Southby, R.F., Crofts, N. (eds) *Law Enforcement and Public Health*. Springer, Cham.
https://doi.org/10.1007/978-3-030-83913-0_7
- Tunnell, K.D., & Gaines, L. (1992). *Political Pressures and Influences On Police Executives: a Descriptive Analysis*. American Journal of Police (Vol 11, No. 1), pp. 1-16. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/political-pressures-and-influences-police-executives-descriptive>
- Uitermark, J., & Nicholls, W. (2014). *From Politicization to Policing: The Rise and Decline of New Social Movements in Amsterdam and Paris*. Antipode Vol. 46, No. 4, 2014 ISSN 0066-4812, pp. 970–991.

UK Home Office. (2010). *Policing in the 21st Century: Reconnecting police and the people*.

<https://www.gov.uk/government/publications/policing-in-the-21st-century-reconnecting-police-and-the-people>

Walsh, D.P. & Conway, V. (2011). *Police governance and accountability: overview of current issues*. Crime Law and Social Change, Vol. 55(2).

Weber, B. (2015). *The Police Forces in BiH: Persistent Fragmentation and Increasing Politicization*. The Bosnia Daily, 19 November 2015, pp.8-9.

http://www.democratizationpolicy.org/pdf/BDaily_Persistent%20Fragmentation%20and%20Increasing%20Politicization_pp.8-9.8-9.pdf

Winsor, T. P. (2013) *Operational independence and the new accountability of policing*. The Police Foundation, John Harris Memorial Lecture, 11 July 2013. <https://www.justiceinspectorates.gov.uk/hmicfrs/media/hmcic-tom-winsor-john-harris-memorial-lecture.pdf>

This page is intentionally left blank