
Office of the Chief of the Commission and Tribunals

**ALBERTA HUMAN RIGHTS COMMISSION’S WRITTEN SUBMISSION TO
ALBERTA JUSTICE AND SOLICITOR GENERAL’S POLICE ACT REVIEW:
RECOMMENDATIONS FOR POTENTIAL AMENDMENTS TO THE ALBERTA
*POLICE ACT AND POLICE SERVICE REGULATION***

The Alberta Human Rights Commission has reviewed the Alberta *Police Act* and has engaged with many of its stakeholders to identify recommendations that may enhance effective police services that are consistent with human rights principles and Alberta’s strong commitment to the values of diversity and inclusion. It is respectfully submitted that historic and current events, combined with a real or perceived lack of responsiveness to these events and changing demographics, has led to a weakening of public trust and confidence in policing, particularly within many diverse communities. This, in turn, undermines the ability of police services to effectively fulfill their responsibilities, and may undermine community safety and exacerbate social, economic, and other disadvantage. It is, therefore, both timely and critical that meaningful changes are undertaken to address the needs of Alberta’s communities in relation to policing.

In making these submissions, the Commission understands that the *Police Act* does not, and will not, address all of the current issues that relate to policing, community safety, and services. Amendments to the *Police Act* will only be a part of the needed on-going discussion and reforms. Nevertheless, there is an important opportunity to ensure consistency of fundamental values and principles across all police services in Alberta and, where particular approaches may be more appropriate, to ensure that commissions, committees, municipalities, and police services are accountable to strengthening the commitment to address the historic impacts of systemic discrimination and colonialism, as well as ensuring that clear and transparent efforts are made to address these.

Based on input from forty-one diverse stakeholder groups from across the province, representing perspectives from Indigenous, ethno-cultural, faith, disability, 2SLGBTQ+, academic and legal communities, the following general categories of human rights issues could be addressed through changes to the Alberta *Police Act* and Police Service Regulation:

1. Representation of community diversity in commissions, committees, and boards
2. Recruitment of police officers and civilian employees
3. Human rights-related training for police services, commissions, committees, and boards
4. Transparency and accountability in complaints processes
5. Ethical and collaborative collection of disaggregated data
6. Addressing systemic discrimination

1. Representation of community diversity in commissions, committees, and boards

Stakeholders have largely indicated that they do not feel there is sufficient diversity in commissions, committees, and boards. While it must be emphasized that inclusion and diversity in police entities is not a blanket solution to issues of discrimination, it is an important step in creating a police culture that is more representative of the communities being served. Some key considerations in increasing diversity of commissions, committees, and boards is that diversity must be sincere and strive for meaningful representation and experience, not tokenism.

Diversity, as well as understanding of how marginalization and discrimination may affect an individual's experience, in both real and underlying ways, must be seen as essential merit-based criteria. Further, diversity must consider not just racial and ethnicity factors, but also age, gender, sexual orientation, ability, and socio-economic backgrounds.

- A. Section 9(1) directs the Lieutenant Governor in Council to establish and appoint a "Law Enforcement Review Board" comprised of at least three people. Section 9(2) specifies that at least one member of the Board shall be an active member of the Law Society of Alberta, but there are no other mandated criteria for Board appointees to ensure that the Board is representative of the diverse population of Alberta.

Recommendation: That additional selection criteria be included in Section 9 of the *Act* to require that Board members be recommended or nominated by community stakeholder organizations, and that at least fifty percent of the Board be comprised of individuals from equity-seeking groups.

- B. 19.1(1) The Chair may designate any two or more members of the Board, which may include the Chair, to sit as a panel of the Board and may direct that panel to conduct any appeal, inquiry, or review that the Board may conduct.

Recommendation: That the selection of any panel of the Board include diversity considerations.

- C. Section 23(2) authorizes a municipal council who has entered into a policing service agreement with another police service to establish a policing committee, consisting of not fewer than three nor more than 12 members. There are no other criteria for the composition of police committees.

Section 25(1) authorizes two or more municipal councils who have entered into a regional police service agreement to establish a regional police commission.

Section 27(1) mandates that municipal police services be generally supervised by a municipal police commission.

Section 28(3) states that a police commission shall be not fewer than three nor more than 12 members.

Recommendation: That sections 23, 25, 27 and 28 be amended to include additional police committee and police commission selection criteria that ensures adequate representation of the populations being policed, including ethnicity, gender, and race considerations, based on the most recent demographic information available at the time of recruitment. Said criteria should include a requirement that committee and commission members be recommended or nominated by relevant community stakeholder organization(s).

2. Recruitment of police officers and civilian employees

Stakeholders have largely indicated that there is insufficient diversity in police services. Current merit-based criteria and security clearance requirements in recruitment may cause difficulty in increasing diversity. This could be due to: inherent, unconscious bias; overrepresentation of racialized, Indigenous, and economically disadvantaged individuals in the criminal justice

system; and the potential of close personal contacts having interactions with the police, including mental health interactions.

- A. There are no specific requirements for police member recruitment in the *Act* or the Regulations. However, the Alberta Provincial Policing Standards, April 2018 includes the following on recruitment:

PA 1.3 – Police services shall have a written recruiting plan that includes, at a minimum, member requirements accounting for community diversity and a documented process for evaluating the recruitment plan considerations.

Recommendation: That a “Recruitment” section be added to the Police Service Regulation that directs police services to have an overall human resources strategy, which includes recruitment strategies and is founded on strong diversity principles, to improve member representation of the community being policed. Performance measures for chiefs and senior managers should include implementation of said recruitment strategies.

Recommendation: That police services re-evaluate how security clearances are conducted so that qualified individuals are not ruled out or prevented from joining a force by virtue of having a family member who has had previous involvement with police.

Recommendation: That criteria for new recruits include experience working with diverse communities and individuals with mental health and other disabilities.

Recommendation: That, under the above proposed “Recruitment” section in the Police Service Regulation, minimum criteria be established that includes demonstrated knowledge of Alberta’s social history and cultural diversity.

3. Human rights and diversity training for police

We heard from stakeholders that training is one of the most important and foundational areas for improving the relationship between police and the public. A review of the Commission’s statistics on complaint files involving Alberta police services for the last four years found 49% of complaints were related to employment, 47% to services, and 4% to retaliation. It would be prudent for all police sworn and civilian staff members to have human rights training related to

rights and responsibilities under the Alberta Human Rights Act, as well as training on diversity, inclusion, and harassment in the workplace. It has also been suggested that police recruits be trained in inherent bias and undergo exercises to help them understand the concept of systemic and inherent personal bias. In addition to human rights and cultural diversity training, stakeholders stated that police services need to incorporate more intensive training in the areas of effective communication, conflict de-escalation, mental health, and addictions.

Rather than one-off and brief training “sessions,” training needs to be sustained throughout a person’s career. Training should be ongoing and integrated into annual performance plans, and made mandatory for the entire police organization—from boards, committees, and commissions to leadership, frontline officers, and civilian staff. Further, we heard that training needs to be delivered by and in the communities being policed, rather than by police officials in a boardroom or training facility. Immersive training is not only the best way to learn about a culture or community, but can build relationships and trust.

Finally, it is critical that training be responsive to and include the relevant portions of the Truth and Reconciliation Commission (TRC) Calls to Action and the Calls to Justice contained in the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG) report.

- A. The *Act* does not specify any training requirements for boards, commissions, or committees.

Recommendation: That the *Act* be amended to specifically include human rights, diversity, cultural awareness, and disability awareness (including mental disabilities and addictions) education and training resources for boards, commissions, and committees, and that these education and training resources be integrated into ongoing and continued learning initiatives (not just one-time training events).

- B. Section 28.3(2)(d) states that one of the functions of the Provincial Public Complaint Director is to provide education and training resources to the Public Complaint Directors and Regional Public Complaint Directors.

Recommendation: That section 28.3(2)(d) be amended to specifically include human rights, diversity, cultural awareness, and disability awareness (including mental disabilities and addictions) education and training resources, and that these education and training resources be integrated into ongoing and continued learning initiatives (not just one-time training events).

Recommendation: That the Provincial Public Complaint Director consult and collaborate with relevant stakeholders and community organizations on the development of the above noted education and training resources.

- C. Section 3(1) of the Police Service Regulation states that “In order for a person to be appointed as a police officer under section 36 of the Act, the person must, with respect to the carrying out of the duties of a police officer, meet those basic standards of skill and knowledge that are acceptable to the Minister of Justice and Solicitor General.”

Recommendation: That section 3(1) of the Regulation be amended to include mandatory and third-party reviewed training on: human rights and diversity, conflict resolution, inherent bias, vulnerable populations (including mental health and addictions), and Alberta’s social history, including its history of colonization, Indigenous/police relations, slavery, immigration policy, and other relevant historical events that underpin systemic racism in our institutions. This training should be developed in consultation and collaboration with stakeholders and community organizations and integrated into ongoing and continual learning plans for police services.

4. **Transparency and accountability in oversight and complaints processes**

We heard from stakeholders that the public has little faith in complaints processes that entail police investigating police. Many stakeholders would like to see a fully independent, civilian oversight organization with the appropriate authorities and powers to investigate and make decisions regarding complaints against police in Alberta. Other stakeholders have called for hybrid models comprised of both civilians and police representatives. Whatever the model, the avenues and processes for civilian complaints against police need to be made more accessible, timely, and transparent. Civilians need to know to whom they can make a complaint, how to make it, and what the process will entail, including how long it will take. We also heard that

when police wrongdoing is found, there should be more serious repercussions for the offending individuals and that there should be a “no-tolerance” policy throughout Alberta’s policing institutions for racism, sexism, and other forms of discrimination in policing.

Alberta currently has a patchwork of civilian-involved complaints entities that oversee public complaints against police. The national Civilian Review and Complaints Commission for the RCMP handles complaints against RCMP, the civilian-police hybrid Alberta Serious Incident Response Team (ASIRT) independently investigates specific categories of alleged police misconduct, and both Edmonton and Calgary Police Commissions have civilian oversight of their public complaints processes. Further, in September 2020, the Calgary Police Service announced its commitment to having a civilian Executive Director at the helm of their public complaints unit and to report racism and discrimination complaints to the public through the Calgary Police Commission. While the existing civilian-involved structures and processes for public complaints is a positive measure to increase public trust and police accountability, there is a lack of consistency between jurisdictions and, arguably, the existing structures do not go far enough to assure that complainants and the general public feel there is neutrality and transparency in complaint investigations.

- A. Section 28(1) of the *Act* mandates that each police commission and policing committee shall designate a person as a Public Complaint Director. Section 28(2) allows the Public Complaint Director may be
- (a) a member of the commission or policing committee other than a member of the council,
 - (b) an employee of the commission or policing committee,
 - (c) an employee of the municipality,
 - (d) another person, other than a member of the council who, in the opinion of the commission or policing committee, is qualified to serve in that capacity, or
 - (e) a former police officer if the position of Public Complaint Director is not in the same municipality where the former police officer was employed.

Recommendation: That section 28(1) and (2) of the *Act* be amended to require the Public Complaint Director to be an independent, neutral role that is occupied by a person

not currently or previously affiliated with or employed by any police service, commission, or committee within the Province.

Recommendation: That section 28(1) and (2) of the *Act* be amended to specify that all Directors' terms of reference are clear that they have the responsibility and authority to fairly and independently investigate and make recommendations, without influence from any source.

5. Collection of disaggregated data

Several stakeholder organizations raised the lack of consistent and reliable race-based and other demographic data as a barrier to thoroughly understanding and addressing systemic discrimination in policing. Disaggregated data, when collected and handled properly, can be used to identify and reduce disparities in how specific communities are policed, as well as to manage police service performance. Consultation and collaboration with stakeholders and community organizations is key to developing data collection and sharing protocols that benefit both police and civilians.

The utility of carefully and respectfully collected disaggregated data is gaining broad recognition in the human rights field. In 2017, Ontario became the first province to legislate the collection of disaggregated data through its *Anti-Racism Act*. In 2018-19, Statistics Canada established its Centre for Gender Diversity and Inclusion Statistics to begin analyzing and reporting on disaggregated data, as well as developing data standards. In 2020, the British Columbia Human Rights Commission released its report *Disaggregated demographic data collection in British Columbia: The grandmother perspective*. It identified that data can lead to positive change in addressing inequities. The report notes that an important way to know if provincial human rights protections are being met “is by tracking data on protected grounds within these areas, which could reveal incidents or patterns of discrimination.”

Other jurisdictions have begun collecting disaggregated data, primarily in health care, and particularly in relation to the current COVID-19 pandemic. In its September 2020 *Commitment to Anti-Racism, Equity & Inclusion*, the Calgary Police Service committed to collecting and reporting on demographic data and to engaging with community partners on best practices for how to do so.

- A. Section 8(2) states that the duties of the Director of Law Enforcement includes:
- (f) developing, maintaining and managing programs and statistical records and conducting research studies in respect of offences and enforcement practices.

Recommendation: That this section be amended to include the collection of race, ethnicity, age, gender, gender identity/expression, sexual orientation, and disability (including mental disability/health) data that can aid in the analysis of potential systemic issues in policing with respect to various sectors of society.

Recommendation: That prior to implementing any disaggregated data collection initiatives, the Director of Law Enforcement undertake a comprehensive engagement with the relevant stakeholders and community organizations to establish a process that is respectful, transparent, and human rights-informed.

- B. Section 28.3(2)(e) states that one of the functions of the Provincial Public Complaint Director is to gather information and statistical data respecting the types of complaints made, the number of complaints made, and any other information respecting complaints, as required.

Recommendation: That section 28.3(2)(e) be amended to include the collection of race, ethnicity, age, gender, gender identity/expression, sexual orientation, and disability (including mental disability/health) data that can aid in the analysis of potential systemic issues in policing with respect to various sectors of society, and that this disaggregated data be made public on an annual basis.

Recommendation: That prior to implementing any disaggregated data collection initiatives, the Provincial Public Complaint Director undertake a comprehensive engagement with the relevant stakeholders and community organizations to establish a process that is respectful, transparent, and human rights-informed.

- C. The Alberta Serious Incident Response Team (ASIRT), established under s.46.2 of the *Act*, is authorized to investigate police officers whose conduct has caused serious injury or death, or has led to sensitive or serious allegations of police misconduct.

Recommendation: That section 46.2 be amended to specifically direct ASIRT to collect race, ethnicity, age, gender, gender identity/expression, sexual orientation, and disability (including mental disability/health) data that can aid in the analysis of potential systemic issues in policing with respect to various sectors of society, and that this disaggregated data be made public on an annual basis.

Recommendation: That prior to implementing any disaggregated data collection initiatives, ASIRT undertake a comprehensive engagement with the relevant stakeholders and community organizations to establish a process that is respectful, transparent, and human rights-informed.

6. Addressing systemic discrimination

Many stakeholders identified that racism and discrimination are embedded in colonial and western-based practices within law enforcement agencies. Although the recommended changes identified above in the areas of representation, training, transparency, and data collection will improve human rights-related issues in policing, they may not sufficiently impact the underlying systems. Equity, diversity, and inclusion (EDI) principles and plans have been successfully implemented in other sectors to address individual and systemic discrimination issues. In 2020, the Calgary Police Service announced it would be developing an *Anti-Racism, Equity, Diversity and Inclusion Strategy*, supported by an anti-racism committee comprised of 11 community members. In 2019, Ontario passed its Comprehensive Police Services Act (CPSA), which included the following direction on developing “Municipal Diversity Plans.” Section 28 of the CPSA states that:

- (1) Every municipality that maintains a municipal board shall prepare and, by resolution, approve a diversity plan to ensure that the members of the municipal board appointed by the municipality are representative of the diversity of the population in the municipality.
- (2) The plan shall be published on the Internet in accordance with the regulations made by the Minister, if any.
- (3) The municipality shall review and, if appropriate, revise the plan at least once every four years.

- (4) The municipality shall publish reports on the implementation of the plan on the Internet in accordance with the regulations made by the Minister, if any.
- (5) A municipality's first diversity plan under subsection (1) shall be approved before the later of,
- (a) 12 months after the day this section comes into force; and
 - (b) 12 months after the municipality constitutes its municipal board.

A. Section 31(1) directs police commissions to carry out its responsibilities and oversee the police service and for that purpose shall do the following: (a) allocate the funds that are provided by the council; (b) establish policies providing for efficient and effective policing; (c) issue instructions, as necessary, to the chief of police in respect of the policies referred to in clause (b).

Recommendation: That section 31(1) be amended to include a responsibility of police commissions to establish and advance a community-involved equity, diversity, and inclusion plan. These plans should be made publicly available and reported on annually.

Further research, engagement, and action

In addition to the recommendations outlined above, the following supplementary policies, programs, guidelines, and standards would further address systemic issues and positively impact policing in Alberta:

Recommendation: Look into the relationship of rural and regional policing committees with surrounding or neighbouring communities, particularly when those communities are Indigenous, to determine what barriers exist to establishing partnerships, collaborative initiatives, and re-evaluation of police service agreements.

Recommendation: Explore, in consultation with Albertans, implementing province-wide training standards that will result in improved community relationships and that will better equip police to respond appropriately and proactively to situations involving traditionally marginalized groups and individuals experiencing mental health crises.

Recommendation: Explore, in consultation with human rights organizations and anti-discrimination organizations across the province, developing strategies and policies for addressing systemic discrimination in policing.

Recommendation: Establish, in consultation with appropriate community organizations, robust resources and supports for current and future police service members who may be experiencing discrimination based on race, ethnicity, age, gender, gender identity/expression, sexual orientation, and disability.

Finally, over the past number of months, there has been active discussions relating to alternative strategies appropriate for responding to individuals with severe mental health disabilities, gender-based violence, addictions, and the impacts of poverty and homelessness. Some have suggested that emergency response to these types of service calls should be handled by institutions other than the police. Others have suggested that police should be provided sufficient resources to supplement capacity when responding to individuals with mental health or other crisis.

This submission does not address this issue, but the Commission submits that ongoing efforts must be taken to ensure appropriate supports and response services are available in order that individuals who face mental health issues, addictions, homelessness, or gender-based violence are responded to in a compassionate, effective, and supportive way, and that those responsible for responding are properly trained and resourced.

We appreciate the opportunity to provide these submissions and would welcome the opportunity to engage further on this important initiative.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Gottheil", with a large, stylized flourish at the end.

Michael Gottheil, Chief of the Commission and Tribunals

Submitted January 8, 2021