

PUBLIC ORDER EMERGENCY COMMISSION

INSTITUTIONAL REPORT

SUBMITTED BY THE OTTAWA POLICE SERVICES BOARD

OCTOBER 11, 2022

Introduction: The Role of a Police Services Board in Ontario

This Institutional Report is intended to briefly summarize the role of a police services board in Ontario. The information and commentary provided herein is of a general nature. It does not reflect the legal position of the Ottawa Police Services Board in any matter.

The Police Services Act¹

1. The police services board is a creature of statute, the *Police Services Act* (the “PSA”), so generally, its duties, powers, role and responsibilities are those attributed to it by the Legislature.

2. The objectives for law enforcement in Ontario are described in Section 1 of the *PSA*:

Police services shall be provided throughout Ontario in accordance with the following principles:

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
3. The need for co-operation between the providers of police services and the communities they serve.
4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve.

3. These objectives have remained constant for several decades. At the highest level, the objectives inform how decisions are made as to how to provide police services in a community.

4. Of course, the safeguarding of fundamental rights is an objective which policing seeks to achieve in its interactions and approaches with all members of the community.

¹ R.S.O. 1990, c. P. 15

The Obligation to Provide Police Services

5. The obligation to provide police services is initially an obligation of the municipality.
6. Section 4 of the *PSA* states, in part,
 - 4 (1) Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.
 - (2) Adequate and effective police services must include, at a minimum, all of the following police services:
 1. Crime prevention.
 2. Law enforcement.
 3. Assistance to victims of crime.
 4. Public order maintenance.
 5. Emergency response.
 - (3) In providing adequate and effective police services, a municipality shall be responsible for providing all the infrastructure and administration necessary for providing such services, including vehicles, boats, equipment, communication devices, buildings and supplies.
7. A municipality has a number of choices as to how the Section 4 obligation is going to be discharged. In fact, it is theoretically possible for the municipality to adopt a methodology that is not one of those listed in the *PSA*, provided the Ontario Civilian Police Commission (the “OCPC”) approves.
8. Section 5 of the *PSA* provides, in part:
 - 5 (1) A municipality’s responsibility to provide police services shall be discharged in one of the following ways:
 1. The council may establish a police force, the members of which shall be appointed by the board under clause 31 (1) (a).
 2. The council may enter into an agreement under section 33 with one or more other councils to constitute a joint board and the joint board may appoint the members of a police force under clause 31 (1) (a).

3. The council may enter into an agreement under section 6 with one or more other councils to amalgamate their police forces.
 4. The council may enter into an agreement under section 6.1 with the council of another municipality to have its police services provided by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality.
 5. The council may enter into an agreement under section 10, alone or jointly with one or more other councils, to have police services provided by the Ontario Provincial Police.
 6. With the Commission's approval, the council may adopt a different method of providing police services.
9. In larger municipalities, the typical decision of the municipality is to establish a municipal police force pursuant to subsection 5(1)1.
10. Where the municipality does not provide police services through the means described in section 5, the Ontario Provincial Police shall provide police services in the municipality. See section 5.1 in this regard.²

The Police Services Board

11. Once the municipality decides to discharge its responsibility to provide police services by establishing a municipal police force (section 5(1)1)), a police services board is automatically created.
12. Section 27 of the *PSA*, provides, in part:

27 (1) There shall be a police services board or, as provided in subsection 5 (3), one or more police services boards, for every municipality that maintains a police force.
13. The size and composition of the police services board is determined by the *PSA*. The number of board members is always an odd number between three and seven. The size of the population of the municipality determines the size of the Board, however, approval is required to have a seven person board.
14. The largest of municipalities often have a seven person board, whose composition is dictated by subsection 27(9):

² This situation is not one in which the existing municipal police service is failing to provide services.

(9) The council of a municipality whose population according to the last enumeration taken under section 15 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;
- (b) two members of the council appointed by resolution of the council;
- (c) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and
- (d) three persons appointed by the Lieutenant Governor in Council.

- 15. The head of council (often the Mayor) is always entitled, as of right, to be a member of the police services board. It varies around the province as to whether the head of council actually decides to serve on the board.
- 16. Members of council appointed to the board have a term of office which is specified by the council resolution which appointed them. The term cannot exceed the term of council (see subsection 27(10.1)).
- 17. The current composition of municipal police services boards sees an equal number of elected officials and provincial appointees. The last member is appointed by council. Prior versions of the *PSA* had the number of provincial appointees exceeding the number of elected officials (i.e. four provincial appointees on a seven person board).
- 18. At times, one hears the expression that the current *PSA* composition of police services boards means that the municipal council “controls” the police services board. This is not the case.
- 19. The board and the municipal council are entirely separate and distinct entities. Neither controls or directs the other in any meaningful way.

The Position of Members of Council on the Board

- 20. The role of members of municipal council who are at the same time members of the police services board is often not well understood.

21. In 2014, the OCPC issued a decision in its inquiry into the activities of a mayor who was also a member of the police services board³.
22. The Bennett decision contains a number of useful statements which clarify the role of elected officials who are also members of the police services Board:

17. In his testimony Mayor Bennett repeatedly made comments that his role as mayor was more significant than his role as a Board member. He made comments that his role as mayor was "paramount", that the mayor's "hat sits on top" of all other hats and he consistently stated that "I am head of Council and Mayor. That trumps many aspects of what I do."

18. While we understand Mayor Bennett's commitment to his role as mayor, we find that this demonstrates a misunderstanding of the Act and the obligations it places on all Board members.

19. Counsel for Mayor Bennett argued that his role as mayor supersedes and overrides the obligations placed on Mayor Bennett by the Act.

20. We do not accept this argument. The Code of Conduct and more generally the Act **applies to all members** of the Board, regardless of appointment status or other obligations the Board member may have.

21. All board members are required to carefully reconcile their roles and responsibilities without compromising their obligations under the Act.

22. The legislature in providing for PSB's ensured that no one level of government would control a PSB. This is reflected in the composition of PSBs. Members are appointed by both municipal councils and the Province. Municipal appointments consist of both council members and a community who is neither a member of council nor employed by council.

25. While a PSB is funded by the municipality it is not a "committee" of Council. It is a separate and distinct entity with responsibilities set out in s. 31 of the Act and in other provisions of Part III of the Act.

26. Municipal Councils are governed by The Municipal Act, 2001, 5.0. 2001, c. 25. PSB's are governed by the Act. Both are provincial statutes. The legislation is separate but equal in force and effect. One Act is not more important than the other. Neither Act "trumps" the other.

27. All PSB members are bound by the obligations and responsibilities of the Act as long as they are members of the PSB. There is no exception or distinction in the Act.

³ In the matter of a hearing under s. 25 of the Police Services Act, R.S.O. 1990, C.P. 15, as amended, into the conduct of Mayor Daryl Bennett, member of the Peterborough Lakefield Police Services Board, 2014 ONPC 2504 (OCPC-INQ #14-05) The "Bennett" decision.

Therefore, when a mayor is a member of a PSB he or she is bound to abide by the Act and relevant Regulations.

28. While Mayor Bennett is the head of the Peterborough municipal council, there is no requirement for the Board to report to him or to follow any of his individual directives.

31. In the hearing and in closing submissions Mayor Bennett described the positions of being mayor and a member of the Board as akin to wearing two separate hats and that the mayor's hat was higher and always sat on top of his Board member hat. This analogy does not fully represent the situation that Mayor Bennett is in. Unlike wearing a hat, once appointed to the role of a PSB member, the role, is not freely adorned or discarded as a member wishes.

32. Mayor Bennett, in choosing to serve as a Board member while he was mayor, chose to fulfill two important roles.

33. While he could have decided not to act as a member, once he took on that role he could not shirk his responsibilities. Instead, it was incumbent upon him to find a way to fulfill his obligations as mayor and Board member simultaneously.

34. A major part of these obligations include the responsibility of abiding by the provisions of the Code of Conduct.

35. The Act gave Mayor Bennett the option of choosing not to be a member of the Board so that the City Council could appoint another member of City Council to the Board. Once he chooses to be a member of the Board, the Act does not give him the option of choosing his role as mayor over his role as a member of the Board.

36. We find therefore that Mayor Bennett's argument that his role as mayor trumped his role as a Board member is unsupported and incorrect. This is not a defense for his conduct.

260. In *Oliver*, supra, the Commission articulated the balance that a Board member must strike when the Board member has potentially competing roles. The Commission stated:

A police services board is not an elected body. Its members are not directly accountable to the citizens who cast their votes for them. In this sense, the role has an institutional focus, not a political one. The focus is to ensure the adequacy and effectiveness of the community's policing services. This is so even if police services boards are comprised, in part, of elected officials. Although elected to municipal Council, those members are appointed to the police services board, and when they engage in board business, they are bound by their oath to respect the provisions of the Act and the Code of Conduct. Their role is one of oversight of policing activities in the community but in doing so they must also ensure that the public's respect for and

confidence in the Police Service is maintained to the highest level possible.
(emphasis added)

23. One of the major influences which the municipal council will have on the provision of police services in the community is through the approval of a budget for the police service.

24. Section 39 of the *PSA* states:

39 (1) The board shall submit operating and capital estimates to the municipal council that will show, separately, the amounts that will be required,

(a) to maintain the police force and provide it with equipment and facilities; and

(b) to pay the expenses of the board's operation other than the remuneration of board members.

(2) The format of the estimates, the period that they cover and the timetable for their submission shall be as determined by the council.

(3) Upon reviewing the estimates, the council shall establish an overall budget for the board for the purposes described in clauses (1) (a) and (b) and, in doing so, the council is not bound to adopt the estimates submitted by the board.

(4) In establishing an overall budget for the board, the council does not have the authority to approve or disapprove specific items in the estimates.

(5) If the board is not satisfied that the budget established for it by the council is sufficient to maintain an adequate number of police officers or other employees of the police force or to provide the police force with adequate equipment or facilities, the board may request that the Commission determine the question and the Commission, shall, after a hearing, do so.

25. It is noteworthy that municipal council's role is limited to approving (or not) the budget for the police service as a whole. Unlike the board, the municipal council cannot approve (or not approve) certain expenditures within the proposed budget.

The Board's Role

26. The *PSA* outlines the role of the board in section 31:

31 (1) A board is responsible for the provision of adequate and effective police services in the municipality and shall,

(a) appoint the members of the municipal police force;

- (b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;
- (c) establish policies for the effective management of the police force;
- (d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;
- (e) direct the chief of police and monitor his or her performance;
- (f) establish policies respecting the disclosure by chiefs of police of personal information about individuals;
- (g) receive regular reports from the chief of police on disclosures and decisions made under section 49 (secondary activities);
- (h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;
- (i) establish guidelines for dealing with complaints under Part V, subject to subsection (1.1);
- (j) review the chief of police's administration of the complaints system under Part V and receive regular reports from the chief of police on his or her administration of the complaints system.

27. The restrictions in subsections 31(3) and (4) are very significant and often the subject of concern. They state:

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

(4) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

28. These provisions are easily stated in the abstract but they are not always easily applied in all circumstances.

29. While it lies outside of the scope of this document to address it in detail, there is a tension between the desire for the preservation of the independence of the police, the need for police accountability and a sense of effective civilian oversight of the police.

30. The independence question has specifically arisen in the context of protests and the policing approach to protests.^{4 5}
31. It also lies outside of the scope of this document to discuss, or attempt to fully explore, the legal basis and scope of police independence.⁶
32. However, concepts of police independence, the experience of policing protests and the role of a police services board are all in play when one tries to examine the board's role when a protest is imminent or ongoing in a community.
33. For example, the Morden Report states, in part,

c. Policy and operations

It is sometimes said, in simple and general terms, that policies are for the Board and operations are for the chief of police and that the two must always be kept separate. Apart from being impossible to apply in its own terms, this statement does not represent what the statute provides. I refer, in particular, to the following provisions in the Police Services Act, all of which have been set forth in the preceding part of this chapter: sections 31 (1)(b) and 31 (1)(c). Section 31 (1)(b), together with its reciprocal, section 41 (1)(a), captures the significant feature of the relationship between the Board and the chief of police with respect to the making of policy and its implementation by the chief. The word "consultation" in "after consultation with the chief of police" in section 31 (1)(b) means a form of a dialogue, or discussion, between the Board and the chief of police on the subject of what is required, in the circumstances of the particular situation being dealt with, to provide adequate and effective police services. No doubt "objectives and priorities with respect to police services in the municipality" are central features of the policies that the Board makes in carrying out the general mandate and section 31 (1)(b) requires that the chief of police be involved in the initial stages of policy formulation.

As far as the subject matter of board policies is concerned I accept, of course, that they cannot breach the prohibitions in section 31 (4). They can, however, set out a context or framework within which police operations take place. I agree with the general statement in the Toronto Police Service Board's Background Material to the Ontario Association of Police Service Board's Handbook:

Section 31 (4) of the [Police Services Act] is intended to prevent direct Board interference in the actual policing function but not to prevent the Board from

⁴ For example, APEC, Ipperwash and the G20.

⁵ For some academic commentary of these issues, see, for example, The Idea of the Political "Independence" of the Police: International Interpretations and Experiences, and The Overview: Four Models of Police-Government Relationships.

⁶ See, for example, *ex parte Blackburn* [1968] 1 ALL E.R.; *R. v. Campbell and Shirose* [1999] 1 S.C.R.; *Odhavji Estate v. Woodhouse* [2003] 3 S.C.R. 263; and *R. v. Chief Constable of Sussex ex parte International Traders Ferry Ltd.* [1999] 2 A.C. 418

making decisions governing the structure and environment in which those policing functions occur.

In the course of our consultation meetings with Chief William Blair he said that he agreed with this general statement, among others, that were put to him from Board materials.

d. The independence of the police force

It is worth noting that section 31 (4) of the Police Services Act gives expression to a very important common law principle relating to police independence from political, and other, interference with its law enforcement responsibilities. In *R. v. Campbell*, Binnie J. said for the Supreme Court of Canada in a case concerned with the scope of the powers of the Commissioner of the Royal Canadian Mounted Police:

While for certain purposes the Commissioner of the RCMP reports to the Solicitor General, the Commissioner is not to be considered a servant or agent of the government while engaged in a criminal investigation. The Commissioner is not subject to political direction. Like every other police officer similarly engaged, he is answerable to the law and, no doubt, to his conscience. As Lord Denning put it in relation to the Commissioner of Police in *R. v. Metropolitan Police Comr., Ex parte Blackburn*, [1968] 1 All E.R. 763 (C.A.), at p. 769:

I have no hesitation, however, in holding that, like every constable in the land, he [the Commissioner of Police] should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act 1964 the Secretary of State can call on him to give a report, or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone.⁷

There is no need here to discuss the full reach of the common law principle of police independence. It is sufficient for present purposes to note that it is reflected in section 31 (4) of the Police Services Act, the terms of which speak for themselves, and to ask whether it could apply to the matter of discussions between the Board and the chief of police on operational matters. Section 42 (3) of

⁷ *R. v. Campbell*, 1999 CanLII 676 (SCC), [1999] 1 SCR 565 at para 33.

the Police Services Act, referred to briefly above, has a potential bearing on this question. It provides that “[a] police officer has the powers and duties ascribed to a constable at common law.”

34. The Morden Report expresses the following view about how to put these concepts into practice:

There is an important distinction that should be made between defining *what* the operation is going to be, versus *how* the operation is going to be executed. With respect to the former decision – the *what* of the operation – the police board has a vital and statutorily-required role to play. The Toronto Police Service should always maintain the autonomy to make and execute the particular decisions during an operation. However, the initial determination of *what* the Toronto Police Service’s objectives and priorities will be for a given operation, event, or organizationally significant issue is for the Board to ultimately make, after appropriate consultation with the chief of police.

In practice, the Board has taken its section 31(b) responsibility in the *Police Services Act* – to consult with the chief of police and determine the police service’s objectives and priorities – to mean that it should engage in long-term planning and articulate the general priorities and objectives for the Toronto Police Service to achieve in the upcoming several years. This long-term planning process is a useful exercise that should continue, as it helps identify overarching goals for the Toronto Police Service in its service to the community. However, I do not interpret the Board’s statutory mandate to set objectives, priorities, and policies as giving it a role with respect to long-term planning only. Rather, where a critical point arises, the Board’s role to set objectives, priorities, and policies is immediately engaged. I will use two examples to illustrate my point.

First, I give the example of an organizationally-significant issue. If particular neighbourhoods in a municipality were being affected by violent crime, the police board may consult with the chief of police about what is occurring. The police board may then decide that a policing response to these incidents should be a priority. Once the priority is articulated, the police board may define more specific objectives that it wishes the police service to achieve in addressing this issue, such as, for example, developing anti-violence interventions in partnership with the local community. The board may also create policies that will provide a framework for the decisions the police service will make in selecting from the law enforcement options that are available to address the situation. All of these are elements of the “what” of the operation. However, when it comes to deciding on the tactical response to this criminal activity and then implementing it – the “how” of the operation – the police board has no role to play.

Second, I give the example of a major event or operation, such as a major international sporting event taking place in Toronto. When a major event of this nature is on the horizon, the Board should begin consultations with the chief of police at the earliest possible stage. This consultation should be governed by the protocol I have recommended so that the Board can obtain relevant operational and other information in order to understand details of the major event, determine what legislation and other legal

requirements may apply to the policing of the major event, and become familiar with the role other organizations may play in the major event. For example, the Board may decide that the Toronto Police Service should prioritize the policing of the City of Toronto and seek the assistance of other law enforcement bodies to police the areas in which the athletes and other event delegates are housed. Through this consultation and with the benefit of the chief of police's expertise, the Board can identify the objectives and priorities that the Toronto Police Service is in a position to adequately and effectively achieve.

These two examples demonstrate that only through a consultative process that begins at the very outset can the Board actually fulfill one of its central roles: defining what the objective and priorities of the operation, event, or organizationally-significant issue will be.

Once the Board defines the general objectives and priorities of the critical point, the Toronto Police Service can create the operational plans required to conduct the policing mission and achieve the objectives. The Board must remain engaged through the life of this process as well. In particular, the Board should conduct a review of the Toronto Police Service's operational plans not in respect of their technical elements, but to ensure that:

- they are consistent with the mission or objectives stated by the Board, and
- they have the benefit of an adequate policy framework.

In his consultation with the Review, Professor Michael Kempa used the hypothetical scenario of the police service planning an operation to seize firearms and arrest those in possession of them. In explaining the types of questions a police board could put to a chief of police about the operational planning for an operation of this sort, Professor Kempa stated:

Yes, the role for the [police board] in the framework that we're describing would be to say 'can we explain how we ended up with this particular plan? Was anything else considered? What...are the reasons to believe that this plan presented is going to work? Was there any evidence [of a] particular plan being used somewhere else to good effect? Is there something unique about what's going on in [this] situation that would lead you to believe that this is the best solution or are we simply working on the basis of a hunch here that [we are] going to try this approach and just see what happens which could be legitimate if [there are] no other options,' but the point is, it would then be explained [to the police board].

In our consultation with Professor Andrew Graham, he discussed the same concept, and put it this way:

Does the board have the right to sit down...in advance and ask the chief, 'What are we planning? Give us enough detail and information to know so that we are comfortable with where you are going.' Absolutely...Is the board responsible, should the board do that? Absolutely...[S]ometimes only when that devil in the

detail[s] emerges do you understand the full policy implications [...] What it does is it gives [the police board] the responsibility to use that information to identify the policy implications, the performance implications

Again, following the recommended consultation during the operational planning development process ensures that the Board provides the Toronto Police Service with adequate direction concerning the priorities and objectives to achieve and minimizes the potential of policy vacuums that could compromise the mission or objectives that have been defined by the Board. I also suggest that by remaining appropriately engaged in the operational planning process, the Board could also provide recommendations to the Toronto Police Service where it believes that a particular aspect of the operational plan is out of synch with applicable legal requirements or community norms and values. These recommendations serve to provide further guidance that stops short of being direction to the chief of police on the specific operational decision to make. Through consultation, the chief of police can understand the Board's recommendation on a particular matter and then accept or reject the recommendation as the chief of police sees fit. Professor Kempa explained this process as follows:

[T]here's also, I would argue, an accountability mechanism leading up to the event where the Board would be having that public debate with the chief [of police] as to why or why not he or she is accepting or rejecting all of the board's or some of the board's recommendations, right? Now in the end...the chief and command levels of the police have the ability to walk away from every single one of those recommendations.

Of course, a consultation between the Board and chief of police that follows an event and includes information about specific operational decisions would not be held in public. I refer to section 35(4)(a) of the Police Services Act and O. Reg. 421/97, which have been dealt with earlier in this chapter under the sub-heading "Confidentiality of operational information."

As I will explain below, after the operation is over the principle of operational responsibility would mean that the chief of police may be held accountable by the police board, on behalf of the public, for the decisions that were made.

35. Taking the benefit of the Morden Report, the board adopted a policing concerning Major Events, C.R. 17.

36. Policy C.R. 17 states, in part,

1. Communication & Consultation with the Board

It is the policy of the Ottawa Police Services Board with respect to the planning and policing of Major Events that the Chief of Police will ensure that:

1. The Board is informed as soon as is practicable when there is a reasonable possibility that the Ottawa Police Service may be involved in the policing of a major event.
2. The Board is provided, at the earliest possible stage, with sufficient relevant operational and other information to allow it to understand details of the major event, what legislation and other legal requirements may apply to the policing of the major event, the role that other organizations may play, any existing Board policies that may apply, or any new policies that might be required.
3. The Board is consulted in determining the mission and appropriate objectives, priorities and policies for the major event. Once these have been defined, the Police Service will maintain the autonomy to develop and execute the appropriate operational plans.
4. The Board is provided with sufficient information to allow it to ensure that operational plans:
 - a. Are consistent with the mission and objectives;
 - b. Are consistent with applicable Board policies; and
 - c. No additional policies are required to provide guidance to the Police Service.

Through this review process the Board may provide recommendations to the Chief where it believes the mission, objectives and priorities are not being achieved. However, the Chief remains free to accept or reject the Board's recommendations.

5. The Board is advised of what mechanisms exist to capture, during the planning process, the input of those who will have operational decision-making responsibilities during the event, and what testing of the operational plans will be conducted before the event.

6. The Board is advised of continuity of service plans so that it can assure itself that the rest of the City will be adequately and effectively policed during the major event.

7. The Board receives confirmation that a complete operational plan has been created that addresses all applicable policies and procedures.

8. The Board is provided with regular updates on the progress of the Ottawa Police Service's planning for the policing of the event.

37. The Board created this policy in order to implement the recommendations of the Morden Report.

The Failure to Provide Adequate and Effective Service

38. There are a number of mechanisms which exist in the *PSA* in order to address a failure to provide adequate and effective police services in a municipality. These failures could be structural or long term, or episodic in nature.
39. In this document we focus solely on the mechanisms which are in place to address concerns about the adequacy or effectiveness of an existing police service, rather than the complete absence of a police service.
40. The OCPC can act under section 9(2) by specifically directing the Board:

9 (2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.
41. The OCPC can make a direct request of the Commissioner of the O.P.P. to deliver assistance:

9 (3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.
42. The Crown Attorney can make a direct request of the O.P.P. for assistance:

9 (4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.
43. The Board can make a direct request of the O.P.P. for assistance:

9 (5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.
44. The Chief of Police can make a direct request of the O.P.P. for assistance:

9 (6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.
45. If a request is made of the Commissioner of the O.P.P., the Commissioner shall give "...such temporary or emergency assistance as he or she considers necessary..." (subsection 9(8)).
46. In addition to these provisions, the OCPC has significant powers to regulate and address the provision of police services, even on an emergency basis.

47. For example,

23 (1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services or standards established under the *Police Record Checks Reform Act, 2015*, the Commission may take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality.
4. Appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period.

48. The OCPC has significant emergency powers available in order to take steps to address concerns about the delivery of policing:

24 (1) The Commission may make an interim order under subsection 23 (1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.

(2) The Commission shall not remove a person from office or disband a police force by means of an interim order.