

New Board Member Orientation

Last updated December 2023



Background

- The Ottawa Police Services Board is governed by provincial legislation called the *Police Services Act*
- The Board consists of seven members:
 - Three City Council Members, appointed by Council
 - Three Provincial Appointees, appointed by the Province
 - One Public Member, appointed by Council
- The Board is the employer of the sworn and civilian members of the Ottawa Police Service. The Board has direct employment agreements with the Executive Command (Chief, Deputy Chiefs, Chief Administrative office). The rest of the members fall within either the Ottawa Police Association or Senior Officer Association membership.
- The Board is an oversight board responsible for policy, strategy and direction; we are not involved in the day-to-day operations of the Service (jurisdiction of the Chief)
- The Board is independent from the City though the municipality does play an important role in policing.

Key Board Responsibilities under the *PSA*

- 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. R.S.O. 1990, c. P.15, s. 31 (1); 1995, c. 4, s. 4 (7); 1997, c. 8, s. 21 (1-3); 1997, c. 17, s. 8; 2007, c. 5, s. 9 (1).

Role of City Council in Municipal Policing

- Municipal council decides how the municipality is going to fulfil its obligation to provide “adequate and effective police services.” In the case of larger municipalities, this is usually done by creating a municipal police service (*Police Services Act* sections 4 and 5).
- If there is a municipal police service then there will be police services board (*Police Services Act* section 31).
- City Council is responsible for four of the seven Board members – the head of Council automatically gets a seat (unless they choose not to be a member at which point Council appoints another Member of Council); two City Councillors appointed by resolution of Council; and a Public Member appointed by resolution of Council that is neither a member of Council nor an employee of the municipality..
- The oversight of the municipal police service is the responsibility of the Police Services Board.
- Council has no legal authority to direct the police services.
- Involvement by City Council can lead to the perception of interference in the independent civilian oversight of the Ottawa Police.

Role of City Council in the Police Budget

- The legislation gives Council the authority to determine the period that the budget (referred to in the legislation as the "estimates") covers and the timetable for its submission to Council.
- One of the Board's responsibilities is to create an operating and a capital budget for the police service and submit these budgets to the municipal council for approval.
- The Board must create a budget that meets two statutory requirements, namely to:
 - maintain the police force and provide it with equipment and facilities; and
 - pay the expenses of the board's operation other than the remuneration of Board Members
- When the Board sets the budget, the Board is able to examine each part of the budget and make decisions about individual items in the budget prior to approving the budget for submission to the municipal council.
- When the municipal council considers the proposed budget, council cannot approve or disapprove specific items in the Board's proposed budget. Council is approving a total overall amount for the operating and capital budget (*Police Services Act* section 39(4)). Council does not have to approve the overall amount which the Board has proposed.
- If Council approves budget which the Board does not think is sufficient to provide for an adequate and effective police service, then the Board can apply to the Ontario Civilian Police Commission (OCPC). The OCPC would then hold a hearing in order to determine the appropriate amount for the budget (*Police Services Act* section 39(5)).

What constitutes adequate and effecting policing?

Section 4 of the Act and the Adequacy Standards set by Regulation 3/99 help define what constitutes adequate and effective policing, namely the provision of the following police services at a minimum:

1. Crime prevention
2. Law enforcement
3. Assistance to victims of crime
4. Public order maintenance
5. Emergency response.

As part of its obligation for ensuring adequate and effective policing, the municipality is also responsible for providing all the infrastructure and administration necessary for providing such services, including vehicles, boats, equipment, communication devices, buildings and supplies.

How does the Police Services Board differ from a Committee of City Council?

- While the OPSB is funded by the City of Ottawa, it is not a “committee” of Council.
- It is a separate and distinct entity with responsibilities set out in the *Police Services Act*.
- OPSB is not an elected body. It has an institutional focus, not a political one.
- The focus is to ensure the adequacy and effectiveness of the community’s policing services.
- Members of Council appointed to the Police Services Board are bound by their oath to respect the provisions of the *Police Services 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.

Board relationship with the Chief of Police and other members of the Police Service

Subsection 31(3) of the Act provides that, “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.”

- This provision is intended to prevent direct Board interference in the actual policing function but not to prevent the Board from making decisions governing the structure and environment in which those policing functions occur.

Subsection 31(4) of the Act states that, “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.”

- The Board’s role can be described as defining what the objective and priorities of the Service will be in general or what the objectives for an event or organizationally-significant issue will be.
- But when it comes to deciding on the tactical response to a particular policing situation and then implementing it – the “how” of a policing operation – the police board has no role to play.
- The Board never gets involved in specific investigations or enforcement, or the day to day operation of the Police Service. The Board can however be involved at the policy and objective setting level.

The Board's role in holding police officers accountable for wrongdoing

- Police Boards have an indirect role in supporting the accountability mechanisms which exist for police officers.
- The Board's role in the discipline system is limited by the statute. The Board has no role in the discipline process for individual police officers, other than for the Chief of Police or Deputy Chief of Police. Discipline for all other police officers falls solely with the Chief's authority.
- Under section 31, the Board will receive reports from the Chief of Police regarding the Chief's administration of the complaints under Part V, which is part of the discipline system for police officers. The Board also has a role in establishing guidelines for how complaints against police officers will be dealt with.

O. Reg. 421/97: Members of PSBs – Code of Conduct

1. Board members shall attend and actively participate in all board meetings. O. Reg. 421/97, s. 1.
2. Board members shall not interfere with the police force's operational decisions and responsibilities or with the day-to-day operation of the police force, including the recruitment and promotion of police officers. O. Reg. 421/97, s. 2.
3. Board members shall undergo any training that may be provided or required for them by the Minister of Community Safety and Correctional Services. O. Reg. 421/97, s. 3; O. Reg. 100/18, s. 1.
4. Board members shall keep confidential any information disclosed or discussed at a meeting of the board, or part of a meeting of the board, that was closed to the public. O. Reg. 421/97, s. 4.
5. No board member shall purport to speak on behalf of the board unless he or she is authorized by the board to do so. O. Reg. 421/97, s. 5.
6. A board member who expresses disagreement with a decision of the board shall make it clear that he or she is expressing a personal opinion. O. Reg. 421/97, s. 6.
7. Board members shall discharge their duties loyally, faithfully, impartially and according to the Act, any other Act and any regulation, rule or by-law, as provided in their oath or affirmation of office. O. Reg. 421/97, s. 7.
8. Board members shall uphold the letter and spirit of the Code of Conduct set out in this Regulation and shall discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the board. O. Reg. 421/97, s. 8.
9. Board members shall discharge their duties in a manner that respects the dignity of individuals and in accordance with the *Human Rights Code* and the Canadian Charter of Rights and Freedoms. O. Reg. 421/97, s. 9; O. Reg. 100/18, s. 2.
10. Board members shall not use their office to advance their interests or the interests of any person or organization with whom or with which they are associated. O. Reg. 421/97, s. 10.
11. (1) Board members shall not use their office to obtain employment with the board or the police force for themselves or their family member. O. Reg. 298/05, s. 1.
(2) For the purpose of subsection (1),
"family member" means the parent, spouse or child of the person, as those terms are defined in section 1 of the *Municipal Conflict of Interest Act*. O. Reg. 421/97, s. 11 (2).

O. Reg. 421/97: Members of PSBs – Code of Conduct (continued)

12. A board member who applies for employment with the police force, including employment on contract or on fee for service, shall immediately resign from the board. O. Reg. 421/97, s. 12.

13. Board members shall refrain from engaging in conduct that would discredit or compromise the integrity of the board or the police force. O. Reg. 421/97, s. 13.

14. (1) A board member whose conduct or performance is being investigated or inquired into by the Commission under section 25 of the Act or is the subject of a hearing before the Commission under that section shall decline to exercise his or her duties as a member of the board for the duration of the investigation or inquiry and hearing. O. Reg. 277/00, s. 1.

(2) If the application of subsection (1) results in a board not having enough members able to exercise their duties in order to constitute a quorum during an investigation, inquiry or hearing under section 25 of the Act, the chair of the Commission may appoint that number of persons necessary to constitute a quorum, who shall act in the place of the members who are unable to exercise their duties. O. Reg. 277/00, s. 1.

(3) The chair of the Commission,

(a) shall specify in an appointment made under subsection (2) that the appointee may only exercise such duties as are necessary for the effective operation of the board during the investigation, inquiry or hearing and, for such purpose, may specify the duties the appointee may or may not exercise; and

(b) shall cancel an appointment made under subsection (2) as soon as a member of the board who declined to exercise his or her duties under subsection (1) resumes exercising his or her duties or is replaced under subsection 25 (8) of the Act. O. Reg. 277/00, s. 1.

15. If the board determines that a board member has breached the Code of Conduct set out in this Regulation, the board shall record that determination in its minutes and may,

(a) require the member to appear before the board and be reprimanded;

(b) request that the Ministry of Community Safety and Correctional Services conduct an investigation into the member's conduct; or

(c) request that the Commission conduct an investigation into the member's conduct under section 25 of the Act. O. Reg. 421/97, s. 15; O. Reg. 100/18, s. 3.

Who makes up the current Board?

- Chair Gail Beck
- Vice Chair Salim Fakirani
- Member Michael Doucet
- Member Peter Henschel
- Member/Mayor Mark Sutcliffe
- Member/Councillor Cathy Curry
- Member/Councillor Marty Carr

- Executive Director Krista Ferraro
- Board Assistant Randa Ben Guedria
- Board Solicitor David White

Board Committees

- **Policy and Governance Committee**
 - Develops policies, procedures, tools such as the annual workplan and self-evaluation process; reviews FAP manual
- **Finance and Audit Committee**
 - Budget, internal and external audits, annual Audit Work plan
- **Human Resources Committee**
 - Collective bargaining, grievances*, compensation reviews for Executive Command, review performance of ED
- **Complaints Committee**
 - Meets when a request for a review of a service/policy complaint is received

The Chair is an ex officio member of every committee and is entitled to participate and vote.

** The Board has representation on three external committees including the above + the Community Police Awards Selection Committee and the Police Scholarship and Charitable Fund Committee.*

Duties of the Chair

Police Services Board Procedure By-Law No. 3 of 2014

6. It is the duty of the Chair to:

- (a) Preside at all meetings of the Board so that its business can be carried out efficiently and effectively;
- (b) Set the agenda for all meetings of the Board;
- (c) Be the spokesperson for the Board;
- (d) Represent and support the Board, declaring its will and implicitly obeying its decisions in all things;
- (e) Commence the meetings of the Board by taking the chair and calling the Members to order, as soon as a quorum is present;
- (f) Announce the business before the Board and the order in which it is to be acted upon;
- (g) Receive and submit, in proper manner, all motions presented by the Members;
- (h) Inform the Board on any point of order as deemed necessary;
- (i) Put to a vote all motions which are moved or which necessarily arise in the course of the proceedings, and announce the result;
- (j) Decline to put to a vote, motions which infringe the Rules of Procedure or which are beyond the jurisdiction of the Board;

Duties of the Chair (*continued*)

- (k) Enforce on all occasions the rules of procedure and the observance of order and decorum among the Members;
- (l) When deemed necessary, expel or exclude from a meeting any person for Improper Conduct;
- (m) Call by name, any Member persisting in breach of the rules of procedure and order him or her to vacate the room in which the meeting is being held and if necessary, proceed as provided in Section 8(2);
- (n) When it is not possible to maintain order, adjourn or suspend the meeting to a time specified by the Chair, without any motion being put;
- (o) Permit any question to be asked through the Chair of any employee of the Ottawa Police Service in order to provide information to assist any debate when the Chair deems it proper;
- (p) Adjourn the meeting when the business is completed or upon a motion to adjourn;
- (q) Sit ex-officio as a Member of all Committees of the Board and be entitled to participate and vote at the meetings;
- (r) Sign all documents for and on behalf of the Board including but not limited to by-laws, resolutions, orders, contracts and agreements that have been approved by the Board.
- (s) Represent the Board at official functions.

Meetings of the Board

- The *Police Services Act* states that meetings shall be open to the public, with the exception of matters that would fall under the provisions of subsection 35(4) of the *Police Services Act* (*referenced later under “In-Camera Meetings”*)
- The purpose of meetings being open to the public is transparency; Board meetings are not intended as a forum for public discussion as the Board is not an elected body or a Committee of Council.
- Requirements under the *Municipal Act* governing meetings of Council do not apply to the Board.

In-Camera Meetings

In determining what types of matters it may consider during an in camera session, the Board must be guided by the provisions of subsection 35(4) of the Police Services Act, which are incorporated into the Board's Procedure By-law, as follows:

30. (1) The Board may, by resolution, close a meeting or part of a meeting to members of the public in accordance with the provisions of section 35(4) of the Police Services Act if the Board is of the opinion that:

(a) Matters involving public security may be disclosed, and having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

(b) Intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. Such matters could include, but are not limited to:

- i. personal matters about an identifiable individual, including employees;
- ii. labour relations or employee negotiations;
- iii. litigation or potential litigation, including matters before administrative tribunals, affecting the board or its employees;
- iv. advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- v. the security of the property of the City or Board;
- vi. a proposed or pending acquisition or disposal of land;
- vii. a matter in respect of which the board may hold a closed meeting under another Act;
- viii. education or training sessions for the benefit of Members.

In-Camera Meetings (*continued*)

Reference may also be had to the Municipal Information and Protection of Privacy Act (MFIPPA), for guidance as to the types of financial matters that may warrant protection from public disclosure and, therefore, consideration in camera. The relevant portions of MFIPPA are set out below:

Section 11: Economic and other interests:

- (c) information whose disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;
- (d) information whose disclosure could reasonably be expected to be injurious to the financial interests of an institution;
- (e) positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of an institution;
- (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
- (g) information including the proposed plans, policies or projects of an institution if the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person.

Ottawa Police Service

Chief Eric Stubbs

Deputy Chiefs

- Steve Bell – *currently fulfilling CAO duties*
- Trish Ferguson
- Paul Burnett

Senior Officer Association

- Approximately 42 members, 24 sworn and 14 civilians
- Ranks: Superintendents (6), Inspectors (18), Executive Directors (5), Directors (6), Managers (6), Executive Assistant (1)
- One collective agreement, expiring December 31, 2024

Ottawa Police Association

- Approximately 1,480 sworn and 620 FT civilians
- Ranks – Sworn: Constables, Sergeants, Staff Sergeants; Civilians: Various below Manager
- Separate collective agreements for sworn and civilian, both expire December 31, 2024

The Board, as the employer, negotiates the terms of the collective agreements with the Associations.

Police Oversight Bodies

Office of the Independent Police Review Director

The Office of the Independent Police Review Director (OIPRD) is responsible for receiving, overseeing, and conducting and monitoring investigations regarding all public complaints about the conduct of specific police officers, or the services or policies of a police force.

Ontario Civilian Police Commission

The Ontario Civilian Police Commission (OCPC) is a quasi-judicial agency reporting to the Ministry of the Attorney General (MAG). The OCPC acts as an appeal body for members of the public and police officers, regarding decisions made during the process of dealing with complaints about the conduct of police officers made by members of the public or a chief of police.

Also, the OCPC has the authority to hold hearings and investigate policing-related matters, including the conduct or performance of duties of police officers, chiefs of police and members of police services boards. Board members and chiefs of police are held accountable through the OCPC's use of its oversight authority, which includes the power to suspend or remove a chief of police, board member or an entire board or disband a police service and direct the OPP to provide policing.

The OCPC may also investigate and inquire into the administration of a municipal police service, the manner in which policing services are provided and the policing needs of a municipality; decides disputes between municipal police services boards and municipal councils about annual police budgets; and approves the disbandment or reduction of municipal police forces.

Special Investigations Unit

The Special Investigations Unit (SIU) is a civilian law enforcement agency under the jurisdiction of MAG with the responsibility to independently investigate circumstances involving police and civilians that result in death or serious injury, including allegations of sexual assault. The SIU has the authority to lay criminal charges where there are reasonable grounds to do so.

Board-related Governance Organizations

Ontario Association of Police Services Boards (OAPSB)

The Ontario Association of Police Services Boards (OAPSB) is the leading voice of police governance in Ontario. They serve their members and stakeholders, as well as the general public, by:

- Helping local Police Services Boards fulfil their legislated responsibilities by providing training and networking opportunities and facilitating the transfer of knowledge
- Advocating for improvement in public safety laws and regulations, practices and funding mechanisms

Their membership includes police services board members, police and law enforcement officials, and other persons involved in policing and public safety.

They hold an annual conference in the spring, and a labour seminar in the fall. They hold annual elections for their Board of Directors.

OAPSB Zone 2

All Boards in the province are divided up into zones. The OPSB is in Zone 2 along with Belleville, Brockville, Cornwall, Deep River, Gananoque, Kingston, and Smith Falls. They hold quarterly meetings usually.

Canadian Association of Police Governance (CAPG)

The CAPG is the only national organization dedicated to excellence in police governance in Canada.

Their goals include: collecting, assembling, synthesizing, and disseminating best practices as a tool kit/resources for members; convening groups to knowledge share and build common perspectives on civilian governance; being a national voice to influence public policy on civilian governance of policing and community safety; and partnering with thought-leaders to further the discussion on emerging evidence-based community safety and policing issues.

They hold an annual conference in the summer and also offer monthly webinars and other learning opportunities throughout the year.

They also hold an annual election for their Board of Directors.

***Big 12**

This term represents the largest municipal police services in Ontario. From largest to smallest, the order is as follows: Toronto, Peel, York, Ottawa, Durham, Waterloo, Hamilton, Niagara, Halton, London, Windsor, and Sudbury.

Re-occurring Issues

- Suspension With Pay/Discipline System
- Financial Sustainability
- Interactions with Indigenous, 2SLGBTQQIA+, Black, faith-based, and other racialized and marginalized communities
- Thin Blue Line
- Public Complaint Process
- Police as Default Service Provider – animal welfare, wellness checks, mental health calls
- Public Trust