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# Bill 175

*(Chapter 3 of the Statutes of Ontario, 2018)*

**An Act to implement measures with respect to policing,  
coroners and forensic laboratories and to enact,  
amend or repeal certain other statutes and revoke a regulation**

**The Hon. M.-F. Lalonde**

Minister of Community Safety and Correctional Services

1st Reading	November 2, 2017
2nd Reading	December 5, 2017
3rd Reading	March 8, 2018
Royal Assent	March 8, 2018





## EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 175 and does not form part of the law.  
Bill 175 has been enacted as Chapter 3 of the Statutes of Ontario, 2018.*

The Bill enacts, amends or repeals various Acts and revokes a regulation. The major elements of the Bill are described below.

### SCHEDULE 1 POLICE SERVICES ACT, 2018

The Schedule enacts the *Police Services Act, 2018*.

#### **Part I (Principles and Interpretation)**

The declaration of principles remains similar to the current *Police Services Act*, with the addition of the need to be responsive to the unique histories and cultures of First Nation, Inuit and Métis communities and the need to ensure that all parts of Ontario, including First Nation reserves, receive equitable levels of policing.

A number of terminology changes are made relative to the current *Police Services Act*. “Police force” is replaced with “police service”. “Police services” provided by police is replaced with the term “policing”. “First Nations Constable” is changed to “First Nation Officer”. “Board” is replaced with “police service board”.

#### **Part II (Minister’s Duties and Powers)**

This Part sets out the Minister’s general duties and powers under the Act.

The Minister is entitled to receive prescribed information in accordance with the regulations from certain police entities and to receive certain information on request. The rules respecting the collection, use and disclosure of personal information for the purpose of discharging the Minister’s duties, and for research purposes, are set out. The Information and Privacy Commissioner is given the power to review the practices of the Minister in relation to personal information. Offences related to the unauthorized use and disclosure of this information are set out.

#### **Part III (Provision of Policing)**

Police service boards and the Commissioner of the Ontario Provincial Police (the “Commissioner”) are responsible for providing adequate and effective policing in their areas of policing responsibility. Adequate and effective policing is defined in this Part as including various policing functions provided in accordance with the standards set out in the regulations and with the requirements of the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.

Police service boards can be divided into municipal boards, maintained by a municipality, and First Nation boards, maintained by a First Nation. These boards have an area of policing responsibility established later in the Act. The Commissioner has policing responsibility for every area of Ontario that is outside the areas for which the police service boards have policing responsibility.

The regulations may provide that a prescribed policing provider is to provide certain policing functions in an area. In this case, the prescribed policing provider is to provide the policing function, instead of or along with the police service board or the Commissioner.

Members of the police service, or persons acting under their direction, must be used to deliver the policing functions that are the components of adequate and effective policing, unless the regulations provide otherwise.

The regulations may provide that a policing function does not have to be provided by members of the police service, or persons acting under their direction, and if they do the police service boards or the Commissioner may enter into agreements with other entities to have the entity provide that policing function. For-profit entities may only provide certain functions. The responsibility for ensuring that the standards for adequate and effective policing are met remains with the police service board or Commissioner.

Rules are set out for the provision of policing in special areas, agreements for additional services and the cost of providing extra policing.

This Part also sets out the rules for temporary assistance and emergency situations.

#### **Part IV (Municipal Policing and Police Service Boards)**

This Part sets out how municipalities may provide policing and the rules that apply to police service boards (both municipal boards and First Nation boards).

Municipalities may provide policing in their municipality in several ways, subject to the Minister’s approval.

Municipal councils that maintain a municipal board are required to prepare a diversity plan to ensure that the board members are representative of the diversity of the population in the area. Rules respecting the name and size of municipal boards are set out.

First Nations may request the constitution of a First Nation board by a Minister's regulation. The Minister shall consider the request and may make a regulation constituting the First Nation board to have policing responsibility for an area.

The remainder of the Part sets out the rules that apply to all police service boards. This includes the process for appointing members to the boards. It also includes the duties of the police service boards, which include employing members of the police service and monitoring the chief of police's performance. The police service boards also establish policies and prepare strategic plans for their police services. Rules for liability, committees, meetings, quorum and other administrative issues are set out.

### **Part V (Ontario Provincial Police)**

This Part sets out the duties and responsibilities of the Ontario Provincial Police (the "O.P.P.") and the governance provisions that apply to it.

The Commissioner is appointed by the Lieutenant Governor in Council and has the power to appoint members of the Ontario Provincial Police as police officers. The Minister establishes policies and prepares a strategic plan for the O.P.P.

This Part provides for the constitution of O.P.P. detachment boards. O.P.P. detachment boards advise O.P.P. detachment commanders with respect to policing provided by the detachment. They may establish local policies and local action plans with respect to a wide range of matters.

The Part also establishes the Ontario Provincial Police Governance Advisory Council. The Council's role is to provide advice to the Minister regarding the use of the Minister's powers with respect to the O.P.P.

The Part provides for agreements with First Nations to have the Commissioner provide policing in First Nation reserves or other specified areas. First Nations may request the constitution of a First Nation O.P.P. board by a Minister's regulation. These boards have many of the same functions and powers as an O.P.P. detachment board and are also responsible for overseeing the agreement with the First Nation.

### **Part VI (Inspector General of Policing)**

The Lieutenant Governor in Council appoints an Inspector General of Policing. The Inspector General's duties are to monitor and conduct inspections related to compliance with the Act and to deal with certain complaints regarding policing and board members.

The Inspector General is entitled to receive prescribed information in accordance with the regulations from certain police entities and to receive certain information on request. The rules respecting the collection, use and disclosure of personal information for the purpose of discharging the Inspector General's duties are set out.

Any person may complain to the Inspector General that a member of one of the boards regulated under the Act is not complying with the applicable code of conduct. Complaints may also be made about various other policing matters. The Inspector General is to consider the complaints and, if there are grounds for investigation, investigate them.

The Inspector General may appoint inspectors and cause inspections to be conducted. Inspectors have a wide variety of inspection powers, including the power to require responses to their inquiries.

Inspectors report their findings to the Inspector General. If the Inspector General believes that the report discloses evidence that a board member is not complying with a code of conduct, he or she shall report the findings to the Minister or to a person appointed by the Minister and may recommend that the Minister or the appointed person use a disciplinary power.

If the Inspector General believes that the report discloses evidence of other non-compliance with the Act, or actions that will likely result in non-compliance, he or she may issue a direction to remedy or prevent the non-compliance or likely non-compliance. If the direction is not complied with, then the Inspector General shall report to the Minister or to a person appointed by the Minister and may recommend that the Minister or the appointed person impose a disciplinary measure. In an emergency situation, the Inspector General may impose certain disciplinary measures directly on an interim basis.

The Part provides offences relating to obstruction of inspectors, failure to provide information and the provision of false or misleading information.

### **Part VII (Police Officers and Other Policing Personnel)**

The duties of chiefs of police are set out. Chiefs of police are given the power to disclose personal information in certain circumstances. They are also required to perform an internal investigation if a member of their police service is being investigated by the SIU Director.

The duties of police officers are set out and the requirements for a person to be appointed as a police officer are established. The Part also establishes the probationary period of newly appointed police officers for police services maintained by a police service board.

Members of a police service must meet prescribed qualifications to hold their position, if any such qualifications are set out in the regulations.

The police service boards and the Commissioner are required to accommodate the needs of a member of a police service who has a disability. If a police officer continues to be incapable of fulfilling the essential duties or requirements of his or her position after being offered accommodation, the Act sets out a procedure for discharging or retiring the officer.

Members of a police service are not permitted to engage in secondary activities unless the chief of police determines otherwise, including activities that would place them in conflicts of interest or that would otherwise constitute full-time employment for another person.

This Part also provides for the appointment of police cadets and auxiliary members of the police service.

Police service boards and the Commissioner are given the power to appoint persons as special constables. Special constables have to meet certain eligibility criteria and are issued a certificate of appointment specifying the name of the employer for whom they may work, the powers of a police officer that they may exercise, if any, and the purpose for which they may act.

The Minister may issue authorizations to employ special constables. Special constable employers have certain duties established by the Act and are required to investigate conduct of their special constable employees that may contravene the Act or the regulations. Their authorization to employ special constables may be suspended or terminated for a variety of reasons, including a failure to take appropriate action against a special constable employee who may have contravened the Act or the regulations.

This Part also provides for the appointment of First Nation Officers. First Nation Officers are peace officers and have the powers of a police officer for the purpose of carrying out their duties.

### **Part VIII (Right to Report Professional Misconduct)**

This Part establishes the procedures for disclosing professional misconduct. The right to disclose under this Part prevails over anything provided under any other Act or otherwise at law that would prohibit the disclosure.

This Part requires the establishment of written procedures for the disclosure of professional misconduct by members of a police service or by employees of a special constable employer. These procedures may be followed in disclosing the professional misconduct.

Members of a police service or special constables may instead disclose professional misconduct directly to the Inspector General in certain cases, including if they believe it would not be appropriate to disclose it in accordance with the disclosure procedures. The Inspector General shall assess the complaint and refer it to the Complaints Director if appropriate.

No person shall take a reprisal against members of a police service or special constables who take certain actions under the Part, including disclosing professional misconduct.

### **Part IX (Discipline and Dismissal)**

This Part defines professional misconduct, which includes a failure to comply with the applicable code of professional conduct and other failures to comply with the Act or the *Policing Oversight Act, 2018*.

This Part sets out a duty for chiefs of police, police service boards and the Minister to report professional misconduct to the Complaints Director in prescribed circumstances. It also sets out investigation provisions respecting conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance.

Chiefs of police, police service boards and the Minister may impose different disciplinary measures on police officers for conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance. Certain disciplinary measures, such as temporary suspensions, forfeiture of pay and reprimands, can be imposed directly by the chief, board or Minister. The police officer may request a hearing before the Tribunal to dispute the measure.

Termination of employment and demotion cannot be imposed directly. Instead, the chief of police, police service board or Minister must apply to the Tribunal to hold a hearing on the matter. The Tribunal may order termination, demotion or another disciplinary measure at the end of the hearing.

Suspensions with pay may be imposed pending the final disposition of a proceeding under this Part or the *Policing Oversight Act, 2018*. Suspensions without pay may be imposed in more limited circumstances, including convictions for an offence and sentencing to a term of imprisonment, judicial interim release that prevents the officer from performing the usual duties of a police officer and charges for certain serious offences.

### **Part X (Labour Relations)**

This Part contains provisions related to police service labour relations. Most of the Part does not apply to the members of the O.P.P.

Police associations are required to not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the members of the police service.

Membership in trade unions or organizations affiliated with trade unions is prohibited for members of a police service, subject to certain exceptions.

The Part sets out a procedure for bargaining, conciliation and arbitration between the members of a police service and the police service board. Disputes regarding an agreement made under this Part also go through conciliation and arbitration.

A procedure is provided for complaints that this Part has been contravened.

This Part continues the Ontario Police Arbitration Commission. The Arbitration Commission appoints arbitrators for a number of arbitrations under the Act if the parties are unable to agree to one and performs other duties related to arbitrations under the Act.

#### **Part XI (Transfer of Assets between Pension Plans)**

This Part sets out the rules that apply to transfers of assets between the Public Service Pension Plan and the Ontario Municipal Employees Retirement System. It excludes the application of certain provisions of the *Pension Benefits Act* and replaces them with different transfer requirements.

#### **Part XII (Court Security)**

This Part sets out the rules that apply to security for premises where court proceedings are conducted.

Police service boards and the Commissioner are responsible for providing court security in their areas of policing responsibility. They may authorize a person to provide court security, and those persons are granted a number of powers.

#### **Part XIII (Community Safety and Well-Being Plans)**

Municipal councils are required to prepare and adopt a community safety and well-being plan. First Nations may also choose to do so. These plans must identify risk factors to the community and identify strategies to reduce prioritized risk factors, in addition to other requirements.

Municipal councils that have adopted such a plan must monitor, evaluate and report on the effect it is having.

#### **Part XIV (Regulations and Miscellaneous)**

This Part applies to the handling of property, money and firearms that come into the possession of a police service. It also sets out the regulation making powers, which are split between the Lieutenant Governor in Council and the Minister.

#### **Part XV (Amendment and Repeal)**

This Part replaces the existing Part VIII.1 of the current *Police Services Act* with a new Part that closely resembles Part XI of the *Police Services Act, 2018*. The *Police Services Act* is also amended by adding a new Part providing for community safety and well-being plans, along with related regulation-making powers. These amendments all come into force on Royal Assent.

This Part also provides for the repeal of the *Police Services Act*.

### **SCHEDULE 2 POLICING OVERSIGHT ACT, 2018**

The Schedule enacts the *Policing Oversight Act, 2018*.

#### **Part I (Principles and Interpretation)**

Section 1 sets out the principles by which the oversight of policing in Ontario shall be governed, including the importance of accountability in policing and the impartial and independent operation of the policing oversight system. Section 2 deals with interpretation and sets out definitions for the Act. Generally speaking, words and expressions used in the Act and in the regulations made under it that relate to policing and police matters have the same meanings as under the *Police Services Act, 2018* (subsection 2 (2)). The Crown is bound by the *Policing Oversight Act, 2018* (section 3).

#### **Part II (Ontario Special Investigations Unit)**

Part II of the Act continues the Ontario Special Investigations Unit. The *Ontario Special Investigations Act, 2018* is consequently repealed (section 106).

Section 4 in Part II of the Act deals with interpretive matters including definitions applicable to the Part, such as a definition of “serious injury”.

Sections 5 to 15 provide for the continuance of the Ontario Special Investigations Unit headed by the Ontario Special Investigations Director (“SIU Director”). Sections 7 to 15 deal with the composition of the Ontario Special Investigations Unit and other matters respecting the Unit, such as protection from personal liability (section 14). Section 10 provides for and governs the collection, use and disclosure of personal information by the SIU Director in order to publish statistical reports for the purpose of informing the evaluation, management and improvement of the policing and policing oversight systems in Ontario.

The remainder of the Part deals with investigations. The SIU Director may initiate an investigation in two contexts. The first of these is with respect to an incident in which a person dies or is seriously injured, in which a firearm is discharged at a person or in which a sexual assault is reported to have occurred, if the incident may have resulted from the conduct of an official (subsection 16 (1)). The term “official” is defined as police officers, special constables, auxiliary members of a police service and any other person who may be prescribed by the regulations (subsection 4 (1)). This power to investigate applies

even if the official is no longer serving in that position. It also applies to incidents that occurred in the past (with specified limitations as to officials other than police officers). Subsection 16 (2) sets out that the power to investigate under section 16 may apply to an official with respect to his or her conduct when off-duty, in specified circumstances. Regulations made under the Act may provide that the SIU Director shall not investigate incidents in which an official provided immediate medical care in specified circumstances.

Under section 17 an official's designated authority — a term defined in subsection 4 (1) in respect of different types of officials — must immediately notify the SIU Director of an incident that may be investigated under section 16. This applies even if the seriousness of a person's injury cannot initially be determined. If given notice of an incident, the SIU Director may cause an investigation into the incident to be conducted, unless the SIU Director determines that the incident is not within the SIU Director's power to investigate under section 16. If, in the course of an investigation of an incident under section 16, the SIU Director determines that a person who is not an official who may be investigated under that section may also have been a party to the incident, the SIU Director may extend the investigation to include that person (section 18). This would include an official who was off-duty at the time of the incident but who does not meet the criteria required to initiate an investigation under section 16.

The SIU Director may also initiate an investigation in another context (section 19). If, in the course of an investigation under section 16, the SIU Director becomes aware of a matter that is not something that can be investigated under that section but which may constitute a criminal offence or other specified offence committed by an official, the SIU director may cause the matter to be investigated. Alternatively, the SIU Director may refer the matter to a chief of police.

The SIU Director is the lead investigator in the investigation of any incident or matter under Part II (section 20).

Sections 21 to 31 set out the mechanics and other elements of the investigations themselves, including securing of the scene (section 22), incident notes and other notes of subject and witness officials (sections 23, 25 and 26), the designation of officials as "subject official" and "witness official" as defined in the Part (section 24), the segregation of officials and limits on their communication during an investigation (section 28), and confidentiality during an investigation (sections 30 and 31).

Section 33 sets out a duty for specified persons, including officials other than subject officials, to comply with directions or requests of the SIU Director or investigators with the Ontario Special Investigations Unit. A failure to do so constitutes an offence, the penalty on conviction being a fine of not more than \$25,000 for a first offence or \$50,000 for a subsequent offence, a term of imprisonment of not more than one year, or both.

If the SIU Director determines, as a result of an investigation under Part II, that there are reasonable grounds to believe that a person has committed an offence under the *Criminal Code* (Canada), the SIU Director shall cause charges to be laid against the person; in the case of an offence under any other law of Canada or under Ontario law, the SIU Director may cause charges to be laid but is not required to (section 34). Sections 35 to 37 address requirements for the SIU Director to give public notice of the results of investigations under the Part. Investigations under the Part are subject to the timing and related notice requirements of section 38.

The SIU Director is required to give notice to the Ontario Policing Complaints Director and to the Inspector General of Policing respecting matters raised during an investigation under the Part that may engage their respective statutory mandates under the *Police Services Act, 2018*.

### **Part III (Ontario Policing Complaints Agency)**

Section 42 continues the office of the Independent Police Review Director as the Ontario Policing Complaints Agency, headed by the Ontario Policing Complaints Director ("Complaints Director"). Most of Part III deals with the composition of the Agency and other matters respecting the Agency, such as protection from personal liability (section 53). Section 50 provides for and governs the collection, use and disclosure of personal information by the Complaints Director in order to publish statistical reports for the purpose of informing the evaluation, management and improvement of the policing and policing oversight systems in Ontario.

The Complaints Director administers the public complaints and investigation regime set out in Part IV of the Act (section 44). The Complaints Director may also undertake reviews of issues of a systemic nature that have been the subject of public complaints or investigations under Part IV, or that may contribute or otherwise be related to professional misconduct by police officers and special constables (section 45).

### **Part IV (Public Complaints, Investigations and Hearings)**

Part IV provides for the investigation of complaints by members of the public respecting the conduct of police officers and special constables. Other persons in respect of whom the Part applies may be prescribed by regulations under the Act.

Section 55 deals with interpretive matters including definitions. Section 57 sets out the considerations the Complaints Director must consider when the Part requires a determination as to whether or not an investigation is in the public interest.

Sections 58 to 62 address public complaints. A person may make a complaint to the Complaints Director about the conduct of a police officer or special constable. A complaint may be made through an agent or, in specified circumstances, may be made by a person on behalf of another person. Certain persons, such as members of a police service, are restricted from making complaints to the Complaints Director. If a person inadvertently makes a complaint to a member of a police service, police service board, special constable or special constable employer, that person or entity must provide information to the

complainant respecting the Complaints Director and the complaints process, and, if the complainant requests it, forward the complaint to the Complaints Director. (Section 58).

The Complaints Director is required to review every complaint. If the Complaints Director determines that the complaint is about the conduct of a police officer or special constable, the Complaints Director shall, subject to specified exceptions, cause the complaint to be investigated. The Complaints Director may not investigate complaints respecting other matters. (Sections 60 and 61). A complaint may be withdrawn, but the Complaints Director may decide to continue to deal with it despite its withdrawal (section 62).

The Complaints Director is also given authority to cause an investigation to be conducted into the conduct of a police officer or special constable in the absence of a complaint, if specified circumstances apply and the Complaints Director determines that an investigation is in the public interest (section 63). The specified circumstances include receipt of notice of possible professional misconduct from the SIU Director or from certain officials under the *Police Services Act, 2018*.

Sections 68 to 77 of the *Policing Oversight Act, 2018* deal with investigations under Part IV by the Complaints Director, including authority for the Complaints Director to postpone the commencement of an investigation in order to avoid interfering with a criminal investigation or proceeding (section 69). Investigation powers are set out in sections 70 to 73. The Complaints Director may discontinue an investigation if he or she determines that continuing it is not in the public interest (section 75). Otherwise, the Complaints Director is required to endeavour to ensure that investigations are concluded within a year of their commencement, subject to specified postponement or stay, if applicable (section 76). The Complaints Director must make a written report on the conclusion of every investigation (section 77).

If the Complaints Director determines that there are reasonable grounds to believe that the conduct of the police officer or special constable constitutes professional misconduct, the Complaints Director must refer the matter to the Ontario Policing Discipline Tribunal (“Tribunal”) for a hearing (section 79). The Complaints Director may at any time attempt to resolve the matter informally, subject to the consent of the complainant, if any, and of the police officer or special constable (section 80).

Section 81 permits the Complaints Director to refer a complaint to a chief of police for investigation, subject to any requirements specified by the Complaints Director. The chief of police is required to cause the complaint to be investigated and must report the results back to the Complaints Director.

Sections 82 to 88 deal with hearings of matters referred by the Complaints Director to the Tribunal. The Minister responsible for the administration of the Act is deemed to be the applicant in the proceeding; the police officer or special constable is the respondent (section 82). The Complaints Director, the complainant and any other interested person may seek leave to intervene in the application (section 83). If the Tribunal determines, on a balance of probabilities, that the conduct of a police officer or special constable constitutes professional misconduct, the Tribunal may make specified orders (section 86). In the case of an application respecting a police officer or a special constable who is a member of a police service, the chief of police of the applicable police service or other specified person is entitled to make submissions respecting the advisability of certain penalties under the *Police Services Act, 2018*, which the Tribunal would then be authorized to order (section 87).

Any party to the application may appeal a decision or order of the Tribunal in accordance with the requirements of section 89. In addition, if a chief of police or other specified person made submissions respecting penalty under section 87, the chief or other person may appeal a decision or order of the Tribunal in accordance with the requirements of section 90, but only on the question of penalty. In either case, the appeal lies to the Divisional Court, and no leave of that court is required. The Tribunal and the Complaints Director are entitled to make submissions on the appeal.

Sections 93 to 101 deal with other related matters. Section 93 provides that Part IV continues to apply to a police officer or special constable despite his or her retirement or resignation, other than a police officer appointed under the *Interprovincial Policing Act, 2009*. However, the Part continues to apply to a police officer appointed under the *Interprovincial Policing Act, 2009* after any termination of his or her appointment under that Act (section 94).

Section 95 sets out the rules governing a matter that may be the subject of an investigation by the SIU Director under Part II of the Act. If the Complaints Director becomes aware that a complaint or investigation under this Part may constitute such a matter, he or she is required to notify the SIU Director and to take no further steps until the matter is fully dealt with by the SIU Director (as determined under subsection 95 (3)). The SIU Director may permit the Complaints Director to continue to deal with the matter, subject to any conditions or restrictions specified by the SIU Director (subsection 95 (6)).

Section 96 sets out the circumstances in which the Complaints Director may or must notify the Inspector General of Policing of a matter that may fall within the latter’s statutory mandate under the *Police Services Act, 2018*, if raised in a complaint or during an investigation under Part IV.

Section 99 sets out a duty for specified persons, including police officers and special constables, to comply with directions or requests of the Complaints Director or investigators with the Ontario Policing Complaints Agency. A failure to do so constitutes an offence. Section 100 sets out prohibitions relating to actions that may hinder a complaint or investigation under Part IV, and contravention constitutes an offence. The penalty on conviction in either case is a penalty of a fine of not more than \$25,000 for a first offence or \$50,000 for a subsequent offence, a term of imprisonment of not more than one year, or both.



## **Part V (Regulations)**

Part V of the Act sets out regulation-making authorities for both the Lieutenant Governor in Council and the Minister responsible for the administration of the Act.

## **Part VI (Amendment to this Act)**

Part VI of the Act amends section 81 to limit the circumstances in which the Complaints Director may refer a matter to a chief of police for investigation.

## **Part VII (Repeal)**

Part VII of the Act repeals the *Ontario Special Investigations Unit Act, 2018*, which is replaced by Part II of the *Policing Oversight Act, 2018*.

## **Part VIII (Commencement and Short Title)**

Section 107 of the Act provides that it comes into force on a day to be named by proclamation of the Lieutenant Governor with the exception of the amendment to section 81 of the Act, which comes into force on the earlier of the fifth anniversary of the day subsection 81 (1) of the Act comes into force and a day to be named by proclamation of the Lieutenant Governor.

### **SCHEDULE 3**

#### **ONTARIO POLICING DISCIPLINE TRIBUNAL ACT, 2018**

The Schedule enacts the *Ontario Policing Discipline Tribunal Act, 2018*. The Act continues the Ontario Civilian Police Commission as the Ontario Policing Discipline Tribunal, the primary function of which is to hear matters brought before it under the *Policing Oversight Act, 2018* and the *Police Services Act, 2018* with respect to possible professional misconduct or other misconduct of police officers and other policing officials (as specified in those Acts). Sections 1 to 7 deal with the composition of the Tribunal and other matters respecting the Tribunal, such as protection from personal liability (subsection 6 (1)). Sections 8 to 14 set out generally applicable procedural rules that apply in proceedings before the Tribunal; for the most part, proceedings before the Tribunal are subject to the *Statutory Powers Procedure Act*. Section 15 authorizes the Lieutenant Governor in Council to make regulations respecting any transitional matters that may arise as a result of the enactment of the new Act.

### **SCHEDULE 4**

#### **ONTARIO SPECIAL INVESTIGATIONS UNIT ACT, 2018**

The Schedule enacts the *Ontario Special Investigations Unit Act, 2018*. The Act continues the special investigations unit as the Ontario Special Investigations Unit. Part VII of the *Police Services Act* is consequently repealed (section 41). The Crown is bound by the *Ontario Special Investigations Unit Act, 2018* (section 3).

Section 1 of the Act deals with interpretive matters, including definitions such as a definition of “serious injury”. Generally speaking, words and expressions used in the Act and in the regulations made under it that relate to policing and police matters have the same meanings as under the *Police Services Act*.

Sections 4 to 14 provide for the continuance of the special investigations unit as the Ontario Special Investigations Unit, headed by the Ontario Special Investigations Director (“SIU Director”). Sections 6 to 14 deal with the composition of the Ontario Special Investigations Unit and other matters respecting the Unit, such as protection from personal liability (section 13). Section 9 provides for and governs the collection, use and disclosure of personal information by the SIU Director in order to publish statistical reports for the purpose of informing the evaluation, management and improvement of the policing and policing oversight systems in Ontario.

Most of the remainder of the Act deals with investigations. The SIU Director may initiate an investigation in two contexts. The first of these is with respect to an incident in which a person dies or is seriously injured, in which a firearm is discharged at a person or in which a sexual assault is reported to have occurred, if the incident may have resulted from the conduct of an official (subsection 15 (1)). The term “official” is defined as police officers, special constables who are members of a police force, auxiliary members of a police force and any other person who may be prescribed by the regulations (subsection 1 (1)). This power to investigate applies even if the official is no longer serving in that position. It also applies to incidents that occurred in the past (with specified limitations as to officials other than police officers). Subsection 15 (2) sets out that the power to investigate under section 15 may apply to an official with respect to his or her conduct when off-duty, in specified circumstances. Regulations made under the Act may provide that the SIU Director shall not investigate incidents in which an official provided immediate medical care in specified circumstances.

Under section 16, an official’s designated authority — a term defined in subsection 1 (1) in respect of different types of officials — must immediately notify the SIU Director of an incident that may be investigated under section 15. This applies even if the seriousness of a person’s injury cannot initially be determined. If given notice of an incident, the SIU Director may cause an investigation into the incident to be conducted, unless the SIU Director determines that the incident is not within the SIU Director’s power to investigate under section 15. If, in the course of an investigation of an incident under section 15, the SIU Director determines that a person who is not an official who may be investigated under that section may also have been a party to the incident, the SIU Director may extend the investigation to include that person (section 17). This

would include an official who was off-duty at the time of the incident but who does not meet the criteria required to initiate an investigation under section 15.

The SIU Director may also initiate an investigation in another context (section 18). If, in the course of an investigation under section 15, the SIU Director becomes aware of a matter that is not something that can be investigated under that section but which may constitute a criminal offence or other specified offence committed by an official, the SIU director may cause the matter to be investigated. Alternatively, the SIU Director may refer the matter to a chief of police.

The SIU Director is the lead investigator in the investigation of any incident or matter under the Act (section 19).

Sections 20 to 30 set out the mechanics and other elements of the investigations themselves, including securing of the scene (section 21), incident notes and other notes of subject and witness officials (sections 22, 24 and 25), the designation of officials as “subject official” and “witness official” as defined in the Act (section 23), the segregation of officials and limits on their communication during an investigation (section 27), and confidentiality during an investigation (sections 29 and 30).

Section 32 sets out a duty for specified persons, including officials other than subject officials, to comply with directions or requests of the SIU Director or investigators with the Ontario Special Investigations Unit. A failure to do so constitutes an offence, the penalty on conviction being a fine of not more than \$25,000 for a first offence or \$50,000 for a subsequent offence, a term of imprisonment of not more than one year, or both.

If the SIU Director determines, as a result of an investigation under the Act, that there are reasonable grounds to believe that a person has committed an offence under the *Criminal Code* (Canada), the SIU Director shall cause charges to be laid against the person; in the case of an offence under any other law of Canada or under Ontario law, the SIU Director may cause charges to be laid but is not required to (section 33). Sections 34 to 36 address requirements for the SIU Director to give public notice of the results of investigations under the Act. Investigations are subject to the timing and related notice requirements of section 37.

Section 39 sets out regulation-making authorities for both the Lieutenant Governor in Council and the Minister responsible for the administration of the Act.

Section 40 makes amendments to the Act to expand its application to all special constables.

The Act comes into force on a day to be named by proclamation of the Lieutenant Governor (section 43).

## **SCHEDULE 5 CONSEQUENTIAL AMENDMENTS**

The Schedule amends various Acts to make consequential amendments reflecting the content of the *Police Services Act, 2018* and the *Policing Oversight Act, 2018*.

## **SCHEDULE 6 CORONERS ACT**

The Schedule makes various amendments to the *Coroners Act*. Some of the more significant amendments are set out below.

The Schedule adds multiple definitions to the Act. The terms “police force” and “First Nations Constable” are changed to “police service” and “First Nation Officer”, respectively, throughout the Act.

The Chief Coroner, rather than the Lieutenant Governor in Council, now appoints coroners. The Lieutenant Governor in Council may now appoint a legally qualified medical practitioner, rather than only a coroner, to be Chief Coroner, Deputy Chief Coroner or a regional coroner.

The Schedule sets out rules for review of the Chief Coroner’s practices and those of certain prescribed entities.

The Chief Coroner may now direct that a judge, a retired judge or a lawyer hold or continue an inquest if the Chief Coroner is of the opinion that the procedural or legal issues raised or likely to be raised by the inquest warrant it.

The Schedule now provides that the Chief Coroner may, pursuant to an agreement in writing, disclose personal information collected under the Act to entities prescribed by regulation for the purpose of research, data analysis or the compilation of statistical information related to the health or safety of the public. The rules respecting the collection, use and disclosure of this personal information are set out. Offences related to the unauthorized use and disclosure of this information are set out.

## **SCHEDULE 7 MISSING PERSONS ACT, 2018**

The Schedule enacts the *Missing Persons Act, 2018*.

The Act establishes measures to assist members of a police force in locating a missing person in the absence of a criminal investigation. In particular, the Act allows officers to apply for an order for the production of records to assist in locating a missing person or a search warrant to facilitate a search for a missing person. An officer may also, in certain circumstances, make an urgent demand for the production of records to assist in locating a missing person in the absence of an order.

The Act establishes certain rules that apply to the disclosure of a missing person's personal information both before and after the person is located. Chiefs of police are required to prepare annual reports respecting their police force's use of urgent demands and containing other prescribed information.

The Act requires the Minister to conduct a review of the Act within five years.

#### **SCHEDULE 8 FORENSIC LABORATORIES ACT, 2018**

The Schedule enacts the *Forensic Laboratories Act, 2018*.

Section 2 of the Act imposes an accreditation requirement with respect to the carrying out of a laboratory test in a prescribed category that is requested for the purpose of legal proceedings, for some other legal purpose or pursuant to an order of a court or other lawful authority. The laboratory test may only be conducted if the laboratory is accredited, by an accrediting body prescribed by the regulations, to a prescribed general standard. For certain prescribed tests, the laboratory must also be accredited to a prescribed standard for that test.

Section 3 of the Act provides that when certain test results are provided, prescribed information in the prescribed form must also be provided.

Section 4 of the Act provides that the Minister may make certain information about certain laboratories available to the public.

Section 5 of the Act provides that the Minister may establish an advisory committee.

The Act also provides for inspections and enforcement (see sections 6 to 8).



**An Act to implement measures with respect to policing, coroners and forensic laboratories  
and to enact, amend or repeal certain other statutes and revoke a regulation**

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**Contents of this Act**

**1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.**

**Commencement**

**2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

**(2) The Schedules to this Act come into force as provided in each Schedule.**

**(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.**

**Short title**

**3 The short title of this Act is the *Safer Ontario Act, 2018*.**

**SCHEDULE 1**  
**POLICE SERVICES ACT, 2018**

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**PART I  
PRINCIPLES AND INTERPRETATION**

**Declaration of principles**

**1** Policing 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, including on First Nation reserves.
2. The importance of safeguarding the fundamental rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
3. The need for co-operation between policing providers 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 be responsive to the unique histories and cultures of First Nation, Inuit and Métis communities.
7. The need to ensure that police services and police service boards are representative of the communities they serve.
8. The need to ensure that all parts of Ontario, including First Nation reserves, receive equitable levels of policing.

## Interpretation

### 2 (1) In this Act,

“adequate and effective policing” has the meaning set out in subsection 11 (1); (“services policiers convenables et efficaces”)

“Advisory Council” means the Ontario Provincial Police Governance Advisory Council established under subsection 72 (1); (“Conseil consultatif”)

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 184 (1); (“Commission d’arbitrage”)

“authorized policing provider” means a police service board, the Commissioner or a prescribed entity that has a written agreement under section 14 to provide a policing function in an area; (“prestataire de services policiers autorisé”)

“auxiliary member” means a member of a police service appointed under section 122; (“membre auxiliaire”)

“band council” means a council of the band as defined in subsection 2 (1) of the *Indian Act* (Canada); (“conseil de bande”)

“chief of police” means a chief of police of a police service maintained by a police service board or the Commissioner, and includes an acting chief of police; (“chef de police”, “chef”)

“civilian position” means,

- (a) in the case of the Ontario Provincial Police, a position normally performed by a member of the civilian employees’ bargaining unit referred to in paragraph 2 of subsection 2 (1) of the *Ontario Provincial Police Collective Bargaining Act, 2006*, or
- (b) in the case of any other police service, a position normally performed by a member of the police service who is not a police officer; (“poste civil”)

“Commissioner” means the Commissioner of the Ontario Provincial Police appointed under subsection 56 (1), and includes an acting Commissioner; (“commissaire”)

“community safety and well-being plan” means a community safety and well-being plan described in section 198; (“plan de sécurité et de bien-être communautaires”)

“Complaints Director” has the meaning set out in subsection 2 (1) of the *Policing Oversight Act, 2018*; (“directeur des plaintes”)

“de-identify”, in relation to the personal information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual; (“anonymiser”)

“First Nation” means a band as defined in the *Indian Act* (Canada); (“Première Nation”)

“First Nation board” means a board constituted under section 32; (“commission de Première Nation”)

“First Nation Officer” means a person appointed under section 132 as a First Nation Officer; (“agent de Première Nation”)

“First Nation O.P.P. board” means a board constituted under section 77; (“conseil de Première Nation sur la Police provinciale”)

“First Nation reserve” means a reserve as defined in the *Indian Act* (Canada); (“réserve de Première Nation”)

“for-profit entity” means a corporation incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act* or any other prescribed entity; (“entité à but lucratif”)

“Inspector General” means the Inspector General of Policing appointed under subsection 79 (1); (“inspecteur général”)

“local commander” means a chief of police of a police service or a commander of a detachment, or his or her designate; (“commandant local”)

“member of a police service” means,

- (a) a member of the Ontario Provincial Police,
- (b) a chief of police of any other police service,
- (c) an employee of a police service board who is under the direction of a chief of police,
- (d) an auxiliary member of a police service, or
- (e) a person appointed as a police officer under the *Interprovincial Policing Act, 2009*; (“membre d’un service de police”)

“member of the Ontario Provincial Police” means,

- (a) the Commissioner,

(b) a person employed under Part III of the *Public Service of Ontario Act, 2006* who is under the direction of the Commissioner, or

(c) an auxiliary member of the Ontario Provincial Police; (“membre de la Police provinciale de l’Ontario”)

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“municipal board” means a board constituted by a municipal council or councils under section 22, 23, 24 or 25; (“commission municipale”)

“O.P.P. detachment board” means a board referred to in section 67; (“conseil de détachement de la Police provinciale”)

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“police association” means,

(a) the Ontario Provincial Police Association, or

(b) an association, other than a trade union, whose members are employees of a police service board who are members of the police service maintained by the police service board; (“association de policiers”)

“police officer” means a member of a police service who is appointed as a police officer or a person who is appointed as a police officer under the *Interprovincial Policing Act, 2009* and, for greater certainty, does not include a special constable, a First Nation Officer, a municipal by-law enforcement officer, a police cadet or an auxiliary member of a police service; (“agent de police”)

“police record check” means a search to be conducted of the Canadian Police Information Centre databases or another police database maintained by a police service in Canada to determine whether the databases contain entries relating to an individual in order to screen the individual; (“vérification de dossier de police”)

“police service” means the Ontario Provincial Police or a police service maintained by a police service board; (“service de police”)

“police service board” means,

(a) a municipal board, or

(b) a First Nation board; (“commission de service de police”)

“policing function” means a function listed in subsection 11 (1) or a part of one of those functions; (“fonction policière”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“prescribed policing provider” means a public sector body that is an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* and that is prescribed to provide a policing function in an area in accordance with section 12; (“prestataire de services policiers prescrit”)

“professional misconduct” means professional misconduct as set out in section 146; (“faute professionnelle”)

“public sector body” means,

(a) a Ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof,

(b) a municipality,

(c) a local board as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*,

(d) a municipally-controlled corporation as defined in section 223.1 of the *Municipal Act, 2001*, and

(e) a city-controlled corporation as defined in section 156 of the *City of Toronto Act, 2006*; (“organisme du secteur public”)

“regulations” means the regulations made under this Act; (“règlements”)

“research” means a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research; (“recherche”)

“research ethics board” means a board of persons that is established for the purpose of approving research plans under section 6 and that meets the prescribed requirements; (“commission d’éthique de la recherche”)

“SIU Director” has the meaning set out in subsection 2 (1) of the *Policing Oversight Act, 2018*; (“directeur de l’UES”)

“special constable” means a person appointed as a special constable under section 123; (“agent spécial”)

“special constable employer” means a person authorized to employ special constables under section 128; (“employeur d’agents spéciaux”)

“specialized policing function” means a policing function that requires specialized training or equipment in order to be provided; (“fonction policière spécialisée”)

“spouse” means,

- (a) a spouse as defined in section 1 of the *Family Law Act*, or
- (b) either of two persons who live together in a conjugal relationship outside marriage; (“conjoint”)

“trade union” has the same meaning as in the *Labour Relations Act, 1995*; (“syndicat”)

“Tribunal” means the Ontario Policing Discipline Tribunal; (“Tribunal”)

“workplace misconduct” means conduct of a police officer or special constable that is contrary to the officer’s or constable’s terms and conditions of employment; (“inconduite au travail”)

“youth crime” means offences, within the meaning of the *Youth Criminal Justice Act* (Canada), committed by a person while they were a young person within the meaning of that Act. (“délinquance juvénile”)

**Officer appointed under the *Interprovincial Policing Act, 2009* deemed to be a member of a specific police service**

(2) For the purposes of sections 120 and 205 to 207 of this Act, section 25.1 of the *Criminal Code* (Canada) and any designation of a police force made by the Minister under section 2 of the *Controlled Drugs and Substances Act (Police Enforcement) Regulations* (Canada), a person appointed as a police officer under the *Interprovincial Policing Act, 2009* is deemed to be,

- (a) a member of the Ontario Provincial Police;
- (b) if he or she was appointed by a member of a police service maintained by a police service board, a member of that police service; or
- (c) if he or she was appointed by a member of a police service board, a member of the police service maintained by the police service board.

**Meaning of municipality**

(3) For the purpose of every provision of this Act and the regulations, other than sections 25 and 55,

“municipality” means,

- (a) a single-tier municipality;
- (b) a lower-tier municipality in a county or in the County of Oxford;
- (c) a regional municipality, other than the County of Oxford; or
- (d) any other municipality that has constituted a municipal board under subsection 25 (2).

**County of Oxford agreement**

(4) Despite subsection (3), the councils of the County of Oxford and of all the lower-tier municipalities within the County of Oxford may agree to have the County of Oxford and not its lower-tier municipalities be considered a municipality for the purpose of every provision of this Act and the regulations other than sections 25 and 55, but, having made such an agreement, the councils cannot subsequently revoke it.

**Hearing not required unless referred to**

(5) Nothing in this Act, other than the provisions of Part IX that specifically refer to a hearing, shall be construed to require a hearing to be held within the meaning of the *Statutory Powers Procedure Act*.

**PART II  
MINISTER’S DUTIES AND POWERS**

**DUTIES**

**Minister’s general duties**

**3** (1) The Minister shall,

- (a) assist in the co-ordination of policing;

- (b) conduct activities, including research and analysis, to assist in the co-ordination of policing with the activities of prosecutors and other justice sector service providers;
- (c) consult with and advise police service boards, chiefs of police, special constable employers, prescribed policing providers, authorized policing providers, municipalities, First Nations, entities that employ First Nation Officers, O.P.P. detachment boards, First Nation O.P.P. boards and police associations in respect of policing, the administration of police services and related matters, including,
  - (i) the effectiveness, efficiency, sustainability and legitimacy of different methods of providing policing, and,
  - (ii) compliance with the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*;
- (d) conduct research and analysis in respect of the matters described in clause (c);
- (e) consult with and advise police service boards, chiefs of police, municipalities and First Nations regarding the preparation, adoption and implementation of community safety and well-being plans;
- (f) conduct research and analysis to inform policy and program development, system planning and the evaluation of service delivery and outcomes in respect of policing and related matters;
- (g) develop, maintain and manage records related to the appointment, education, training, suspension and discipline of police officers and special constables;
- (h) develop and promote programs for community-responsive policing;
- (i) monitor and evaluate programs, including their outcomes, that are related to policing or community safety and well-being plans and that are funded in whole or in part by the Ministry;
- (j) develop, promote and provide education and training to,
  - (i) enhance the professional provision of policing, and
  - (ii) assist members of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards and the Advisory Council in performing their duties;
- (k) develop and maintain education and training standards for use in the education and training of policing providers and other persons governed by this Act;
- (l) operate the Ontario Police College; and
- (m) perform such other duties as are assigned to him or her by or under this Act.

#### **Ontario Police College continued**

(2) The police college known as the Ontario Police College in English and the Collège de police de l'Ontario in French is continued for the provision of training with respect to policing.

### **INFORMATION**

#### **Information to Minister in accordance with regulations**

**4** (1) Police service boards, chiefs of police, special constable employers, prescribed policing providers and administrators appointed under section 103 shall provide the Minister with prescribed information related to the discharge of the Minister's duties under subsection 3 (1) at the frequency and in the manner set out in the regulations.

#### **Information to Minister on request**

(2) Police service boards, chiefs of police, special constable employers, prescribed policing providers and administrators appointed under section 103 shall provide the Minister with such information as he or she may request from time to time.

#### **Time to comply**

(3) The information requested under subsection (2) shall be provided in the form and manner and within the time specified in the Minister's request.

#### **Chief of police may decline**

(4) A chief of police may decline to provide information under this section if authorized to do so by the regulations.

#### **Personal information**

**5** (1) The Minister may collect personal information under subsection 4 (1) or (2), directly or indirectly, only if the collection is necessary for the purpose of discharging the Minister's duties under clause 3 (1) (b), (d), (f), (g) or (i).

#### **Other information serves purpose**

(2) The Minister shall not collect or use personal information under subsection (1) if other information will serve the purpose of the collection or use.

### **Personal information limited to what is reasonably necessary**

(3) The Minister shall not collect or use more personal information under subsection (1) than is reasonably necessary to meet the purpose of the collection or use.

### **Accuracy**

(4) Before using personal information collected under subsection (1), the Minister shall take reasonable steps to ensure that the information is as accurate as is necessary for the purpose of the use.

### **Practices and procedures**

(5) The Minister may only collect personal information under subsection (1), if,

- (a) not more than one unit of the Ministry is prescribed under paragraph 7 of subsection 208 (1) to collect and use personal information under subsection (1) on the Minister's behalf; and
- (b) the prescribed unit of the Ministry has put in place practices and procedures,
  - (i) to protect the privacy of the individuals whose personal information the Minister collects, and to maintain the confidentiality of the information, and
  - (ii) that are approved by the Information and Privacy Commissioner.

### **De-identification**

(6) Where personal information has been collected by the Minister under subsection (1), the prescribed unit of the Ministry shall, subject to the additional requirements, if any, that are prescribed, and in accordance with the practices and procedures approved by the Information and Privacy Commissioner under subclause (5) (b) (ii),

- (a) create a record containing the minimal amount of personal information necessary for the purpose of de-identifying the information and linking it to other information in the custody or control of the Minister; and
- (b) de-identify the personal information.

### **No other uses and disclosures permitted**

(7) Despite any other provision in this Act or the *Freedom of Information and Protection of Privacy Act*, personal information collected under subsection (1) shall not be used or disclosed except as authorized by this section or section 6 or as required by law.

### **Limitation on application**

(8) Subsections (5), (6) and (7) do not apply with respect to personal information collected under subsection (1) for the purpose of discharging the Minister's duties under clause 3 (1) (g).

### **Link**

(9) The prescribed unit of the Ministry may link the personal information that has been de-identified under subsection (6) to other de-identified personal information under the custody and control of the Minister.

### **Security**

(10) The Minister shall take reasonable measures to secure the personal information collected under subsection (1).

### **Notice required by s. 39 (2) of FIPPA**

(11) If the Minister collects personal information indirectly under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* may be given by,

- (a) a public notice posted on a Government of Ontario website; or
- (b) any other method that may be prescribed.

### **Rights of access and correction**

(12) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

### **Disclosure for research purpose**

**6** (1) This section applies with respect to the disclosure for a research purpose of personal information collected by the Minister under section 5.

### **Circumstances for disclosing personal information**

(2) The Minister may disclose collected personal information to a researcher for a research purpose if the researcher,

- (a) submits to the Minister,

- (i) an application in writing,
  - (ii) a research plan that meets the requirements of subsection (3), and
  - (iii) a copy of the decision of a research ethics board that approves the research plan; and
- (b) enters into an agreement with the Minister that complies with the prescribed requirements.

#### **Research plan**

- (3) A research plan must be in writing and must set out,
- (a) the affiliation of each person involved in the research;
  - (b) the nature and objectives of the research and the public or scientific benefit of the research that the researcher anticipates; and
  - (c) any other prescribed matters related to the research.

#### **Consideration by board**

- (4) When deciding whether to approve a research plan that a researcher submits to it, a research ethics board shall consider the matters that it considers relevant, including,
- (a) whether the objectives of the research can reasonably be accomplished without using the personal information that is to be disclosed;
  - (b) whether, at the time the research is conducted, adequate safeguards will be in place to protect the privacy of the individuals whose personal information is being disclosed and to preserve the confidentiality of the information;
  - (c) the public interest in conducting the research and the public interest in protecting the privacy of the individuals whose personal information is being disclosed; and
  - (d) whether obtaining the consent of the individuals whose personal information is being disclosed would be impractical.

#### **Decision of board**

- (5) After reviewing a research plan that a researcher has submitted to it, the research ethics board shall provide to the researcher a decision in writing, with reasons, setting out whether the board approves the plan, and whether the approval is subject to any conditions, which must be specified in the decision.

#### **Requirements on researcher**

- (6) A researcher who receives personal information about an individual under this section shall,
- (a) comply with the conditions, if any, specified by the research ethics board under subsection (5);
  - (b) use the information only for the purposes set out in the research plan as approved by the research ethics board;
  - (c) not publish the information in a form that could reasonably enable a person to ascertain the identity of the individual;
  - (d) not disclose the information except as required by law and subject to the exceptions and additional requirements, if any, that are prescribed;
  - (e) not make contact or attempt to make contact with the individual, directly or indirectly, unless the Minister first obtains the individual's consent to being contacted;
  - (f) notify the Minister immediately in writing if the researcher becomes aware of any breach of this subsection or the agreement described in clause (2) (b);
  - (g) comply with the agreement described in clause (2) (b); and
  - (h) comply with the prescribed requirements.

#### **Information and Privacy Commissioner's review of practices**

##### **7 (1) The Information and Privacy Commissioner,**

- (a) may, from time to time, review the practices of the Minister to determine if the requirements of sections 5 and 6 have been met; and
- (b) shall review the practices and procedures referred to in clause 5 (5) (b) every three years after they are first approved under subclause 5 (5) (b) (ii) and, after the review, the Commissioner may renew the approval.

#### **Duty to assist**

- (2) The Minister shall co-operate with and assist the Information and Privacy Commissioner in the conduct of a review under subsection (1).



### **Powers of Information and Privacy Commissioner**

(3) The Information and Privacy Commissioner may require the production of such information and records under the custody or control of the Minister as are relevant to the subject matter of the review.

### **Obligation to assist**

(4) If the Information and Privacy Commissioner requires production of information or a record under subsection (3), the Minister shall provide it to the Information and Privacy Commissioner and, at the request of the Information and Privacy Commissioner, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

### **Orders**

(5) If, after giving the Minister an opportunity to be heard, the Information and Privacy Commissioner determines that a practice contravenes section 5 or 6 the Information and Privacy Commissioner may order the Minister to do any of the following:

1. Discontinue the practice.
2. Change the practice as specified by the Information and Privacy Commissioner.
3. Destroy personal information collected or retained under the practice.
4. Implement a new practice as specified by the Information and Privacy Commissioner.

### **Limit on certain orders**

(6) The Information and Privacy Commissioner may order, under paragraph 2 or 4 of subsection (5), no more than what is reasonably necessary to achieve compliance with sections 5 and 6.

### **Offence**

**8** (1) No person shall,

- (a) wilfully use or disclose personal information in contravention of subsection 5 (7); or
- (b) wilfully fail to comply with an order made by the Information and Privacy Commissioner under paragraph 1 or 3 of subsection 7 (5).

### **Penalty**

(2) A person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000.

### **Review of information provisions**

**9** (1) The Minister shall ensure that a review of sections 5 to 8 and any regulations relating to those sections is commenced within two years after the day subsection 5 (1) comes into force.

### **Consultation with Information and Privacy Commissioner**

(2) The person conducting the review shall consult with the Information and Privacy Commissioner.

### **Report**

(3) The person conducting the review shall provide the Minister with a report on the review and the Minister shall publish the report.

## **PART III PROVISION OF POLICING**

### **RESPONSIBILITY FOR PROVIDING POLICING**

#### **Policing responsibility**

**10** (1) The police service boards and the Commissioner shall provide adequate and effective policing in the area for which they have policing responsibility in accordance with the needs of the population in the area and having regard for the diversity of the population in the area.

#### **Municipal board policing responsibility**

(2) The area for which a municipal board has policing responsibility shall be determined in accordance with Part IV.

**First Nation board policing responsibility**

(3) The area for which a First Nation board has policing responsibility shall be specified in the regulation made under section 32 constituting the board.

**Commissioner policing responsibility**

(4) The Commissioner has policing responsibility for every area of Ontario that is outside the areas for which the police service boards have policing responsibility.

**First Nation reserve in area of policing responsibility**

(5) For greater certainty, a municipal board, or the Commissioner, shall provide adequate and effective policing in accordance with subsection (1) in any First Nation reserve in the area for which the board or the Commissioner has policing responsibility.

**Waterways**

(6) A police service board, or the Commissioner, shall provide policing in respect of all navigable bodies and courses of water in the area for which the board or the Commissioner has policing responsibility.

**Transition**

(7) Despite subsections (2) and (5), the Commissioner shall continue to have policing responsibility for a First Nation reserve that would otherwise be within a municipal board's area of policing responsibility if,

- (a) the Commissioner provided policing to the First Nation under the *Police Services Act* immediately before the day this section came into force; and
- (b) no agreement has been made under section 27 to assign policing responsibility for the reserve to a municipal board.

**Adequate and effective policing**

**11** (1) Adequate and effective policing means all of the following functions provided in accordance with the standards set out in the regulations, including the standards with respect to the avoidance of conflicts of interest, and with the requirements of the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*:

- 1. Crime prevention.
- 2. Law enforcement.
- 3. Maintaining the public peace.
- 4. Emergency response.
- 5. Assistance to victims of crime.
- 6. Any other prescribed policing functions.

**Does not include enforcement of by-laws**

(2) Adequate and effective policing does not include the enforcement of municipal or First Nation by-laws, other than prescribed by-laws.

**Exceeding standards**

(3) For greater certainty, a police service board or the Commissioner may provide policing or other services that exceed the standards for adequate and effective policing, including providing enforcement of by-laws.

**Provision by First Nation Officers**

(4) If First Nation Officers provide a policing function under an agreement between the Minister and a First Nation in an area for which a police service board or the Commissioner has policing responsibility, the police service board or the Commissioner is not responsible for providing that function to the extent that it is provided by the First Nation Officers.

**Prescribed policing provider**

**12** (1) The regulations may provide that a prescribed policing provider shall provide policing functions in an area that,

- (a) are not among the primary duties of a constable at common law; or
- (b) are specialized policing functions.

**Provision by prescribed policing providers**

(2) The following rules apply if the regulations provide that a prescribed policing provider shall provide a policing function in an area:

- 1. The prescribed policing provider shall provide the policing function in the area in accordance with the standards for adequate and effective policing.

2. The police service board, or the Commissioner, that has policing responsibility for the area,
  - i. is not responsible for providing the policing function in the area,
  - ii. shall not provide the policing function in the area if the regulations so provide, and
  - iii. shall cooperate with the prescribed policing provider to enable it to perform the policing function in the area in accordance with the standards for adequate and effective policing.

#### USE OF PERSONNEL

##### **Members of police service must provide certain functions**

**13** (1) A police service board must use members of the police service maintained by the police service board, or persons who are assisting those members while acting under their direction, to provide policing functions, unless the regulations provide otherwise.

##### **Same**

(2) The Commissioner must use members of the Ontario Provincial Police, or persons who are assisting those members while acting under their direction, to provide policing functions, unless the regulations provide otherwise.

##### **Provision by authorized policing providers**

**14** (1) Subject to subsections (2), (3) and (4), if the regulations provide that a policing function does not have to be provided by members of a police service or persons who are assisting those members while acting under their direction, a police service board, or the Commissioner, may, in accordance with the regulations, enter into a written agreement with another police service board, the Commissioner or a prescribed entity to have them provide the policing function in an area for which the board or the Commissioner has policing responsibility.

##### **Inspector General's approval**

(2) An agreement under subsection (1) with a prescribed entity may be made only if the Inspector General approves the agreement after determining that,

- (a) the agreement would not be contrary to the interests of public safety; and
- (b) the policing provided will meet the standards for adequate and effective policing.

##### **Provision by First Nation Officers**

(3) Despite section 13, an agreement under subsection (1) to have First Nation Officers provide a policing function in an area may be made even if the regulations provide that the policing function must be provided by members of a police service or persons who are assisting those members while acting under their direction.

##### **Restriction**

(4) An agreement under subsection (1) shall not be made with a prescribed entity who is a for-profit entity unless the entity is to provide one of the following policing functions:

1. Crime prevention.
2. Investigative supports related to law enforcement, including supports in the areas of,
  - i. crime scene analysis,
  - ii. forensic identification,
  - iii. canine tracking,
  - iv. technical collision investigation and reconstruction,
  - v. breath analysis,
  - vi. physical surveillance,
  - vii. electronic interception,
  - viii. video and photographic surveillance, and
  - ix. polygraph and behavioural science.
3. Explosives disposal in areas where explosive disposal technicians would not otherwise be reasonably available to provide this policing function.
4. Assistance to victims of crime.

**Minister's approval required**

(5) The Commissioner requires the Minister's approval to enter into an agreement under subsection (1).

**Contents of an agreement**

(6) An agreement under subsection (1) must,

- (a) identify the policing functions that will be provided by the entity;
- (b) specify whether payment is required for the performance of the policing functions;
- (c) require the entity to provide information to the police service board or the Commissioner so that the board or the Commissioner will be able to fulfil their legal duties to provide reports under this or any other Act;
- (d) contain an acknowledgment by the entity that it is subject to inspection by the Inspector General; and
- (e) address any other prescribed matter.

**Same**

(7) If an agreement under subsection (1) is with a prescribed entity that is not an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, it must also address,

- (a) access to the records of the entity for the purpose of discharging the obligations of the police service board or Ministry in relation to subsection (10); and
- (b) the protection of personal information in the custody or control of the entity that is related to the provision of policing functions under the agreement.

**Copy to Inspector General**

(8) The police service board or the Commissioner shall provide a copy of every agreement made under subsection (1) to the Inspector General.

**Responsibility for ensuring standards met**

(9) The police service board or the Commissioner, as applicable, shall ensure that the policing provided pursuant to an agreement made under subsection (1) meets the standards for adequate and effective policing.

**Prescribed entity records**

(10) If an entity that is not an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* is prescribed for the purposes of this section, the entity's records relating to the provision of policing functions pursuant to an agreement made under subsection (1) are, for the purposes of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, as applicable, deemed to be in the custody and control of,

- (a) the police service board, in the case of an agreement with a police service board; or
- (b) the Ministry, in the case of an agreement with the Commissioner.

**Non-application**

(11) Subsections (7) and (10) do not apply to an entity if subsection 128 (9) applies to the entity.

**Use of personnel who are not peace officers**

**15** (1) A police service board, the Commissioner, a prescribed policing provider or an authorized policing provider may provide a policing function using people who are not peace officers unless,

- (a) the policing function requires the exercise of a legislative or common law power of a peace officer or police officer;
- (b) the regulations prohibit the provision of the policing function by persons who are not peace officers; or
- (c) the regulations prohibit the provision of the policing function by persons who are not police officers.

**Personnel to meet prescribed qualifications**

(2) The police service board, the Commissioner, and every prescribed policing provider shall ensure that any people used to provide a policing function meet the prescribed qualifications, if any.

## SPECIAL AREAS

### **Special areas, provision of policing by Commissioner**

**16** (1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Minister's opinion, to impose the responsibility for policing on a police service board or the Commissioner, the Lieutenant Governor in Council may make regulations designating the area as a special area.

#### **Agreement for provision of policing**

(2) The person who operates the business or owns the special area shall enter into a written agreement with a police service board or with the Minister with respect to the cost of providing adequate and effective policing in the special area.

#### **Failure to enter into agreement**

(3) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Commissioner or police service board that has policing responsibility for the area shall provide adequate and effective policing in the area and charge the policing costs to the person.

#### **Recovery of costs**

(4) Subsections 19 (8) to (11) apply with necessary modifications to the charges referred to in subsection (3) of this section.

## ADDITIONAL SERVICES AND EXTRA POLICING

### **Additional services**

**17** (1) A police service board may enter into a written agreement with a municipal council or with any other person to provide policing that is not required as a component of adequate and effective policing, or to provide other specified services, in the area.

#### **Same**

(2) The Minister may enter into a written agreement with a municipal council or with any other person to have the Commissioner provide policing that is not required as a component of adequate and effective policing, or to provide other specified services, in the area.

#### **Extra policing cost**

**18** (1) A person who causes a temporary increase in the cost of providing adequate and effective policing in an area by organizing an event, such as a parade or festival, engaging in an activity that involves the closure of a highway, engaging in a commercial enterprise or engaging in any other prescribed activity, may be charged for the cost of that temporary increase by,

- (a) a police service board, if its police service provided the policing; or
- (b) the Minister, if the Commissioner provided the policing.

#### **Agreement**

(2) The police service board or the Minister may enter into an agreement with the person referred to in subsection (1) to recover the increase in the cost of providing adequate and effective policing.

#### **No agreement as to cost**

(3) If no agreement has been entered into with respect to the cost of the services provided, subsections 19 (8) to (11) apply with necessary modifications to the recovery of the increase in the cost of providing adequate and effective policing.

## TEMPORARY ASSISTANCE AND EMERGENCIES

### **Request for temporary assistance**

**19** (1) A police service board may, by resolution, request temporary assistance in providing adequate and effective policing from another police service board, the Commissioner or an entity that employs First Nation Officers.

#### **Same, Commissioner**

(2) The Commissioner may request temporary assistance in providing adequate and effective policing from a police service board or an entity that employs First Nation Officers.

#### **Temporary assistance notice**

(3) If a police service board or the Commissioner makes a request for temporary assistance under this section,

- (a) he, she or it shall provide notice of the request as soon as possible to the Inspector General and, in the case of a request by the Commissioner, to the Minister; and
- (b) the police service board, the Commissioner or the entity that employs First Nation Officers who agrees to provide temporary assistance shall provide notice of that agreement as soon as possible to the Inspector General and, in the case of a request by the Commissioner, to the Minister.

### **Request of chief of police in emergency**

(4) A chief of police may request that the Commissioner, another chief of police or an entity that employs First Nation Officers provide emergency assistance with policing if the chief of police is of the opinion that an emergency exists in the area for which the police service board has policing responsibility or, in the case of the Commissioner, the area for which he or she has policing responsibility.

### **Emergency assistance notice**

(5) If a chief of police makes a request under subsection (4),

- (a) he or she shall provide notice of the request as soon as possible to the Inspector General and, in the case of a request by the Commissioner, to the Minister; and
- (b) the Commissioner, other chief of police or entity that employs First Nation Officers who agrees to provide emergency assistance shall notify the Inspector General of the agreement as soon as possible.

### **Rules**

(6) The following rules apply to requests for temporary or emergency assistance made under this section:

1. If the request is made to the Commissioner, he or she shall provide such temporary or emergency assistance as he or she considers necessary and shall stop providing the assistance when he or she considers it appropriate to do so.
2. If the request is made to a police service board, a chief of police other than the Commissioner or an entity that employs First Nation Officers, the board, chief or entity may,
  - i. decline to provide the assistance, or
  - ii. provide such temporary or emergency assistance as he, she or it considers necessary and stop providing the assistance when he, she or it considers it appropriate to do so.

### **May include policing functions**

(7) Despite section 13, temporary or emergency assistance provided under this section may include the provision of policing functions.

### **Cost, police service board or entity**

(8) If no agreement has been entered into with respect to the cost of the temporary or emergency assistance provided under this section, the police service board, or entity that employs First Nation Officers, that provided the assistance shall certify the cost of the assistance provided, and the cost shall be paid by the requesting police service board or, in the case of a request by the Commissioner, by the Minister.

### **Same**

(9) An amount owed to a police service board or to an entity that employs First Nation Officers for providing temporary or emergency assistance under this section, if not collected by other means, may be recovered by a court action as a debt due to the police service board or entity, respectively.

### **Dispute**

(10) A debtor may dispute the amount claimed in a court action commenced under subsection (9), and the court shall determine the issue and make such order as it considers appropriate in the circumstances.

### **Cost, Commissioner**

(11) Section 65 applies to the cost of temporary or emergency assistance provided by the Commissioner.

### **Cost, chief of police request**

(12) Subsections (8) to (11) apply to a request by a chief of police, other than the Commissioner, for emergency assistance under subsection (5) as if the request was made by the chief's police service board.

### **Inspector General powers**

**20** (1) The Inspector General may make an order requiring a police service board or the Commissioner to provide policing in an area if he or she finds that adequate and effective policing is not being provided in the area or that an emergency exists in the area.

### **Rules**

(2) The following rules apply to orders made under subsection (1):

1. If the order is made to the Commissioner, he or she shall provide policing in the area until the Inspector General determines otherwise.
2. If the order is made to a police service board, the board may,

- i. decline to provide the policing, or
- ii. provide policing in the area as it considers necessary and stop providing the policing when it considers it appropriate to do so.

#### **Cost**

(3) If a police service board, or the Commissioner, is ordered by the Inspector General to provide policing in an area under this section, the cost of the policing may be charged to the police service board, or the Commissioner, that failed to provide the policing, and subsections 19 (8) to (11) apply with necessary modifications to the recovery of the cost of the policing.

#### **Emergencies**

**21** (1) In an emergency, the Minister may make an agreement with the Crown in right of Canada, or of another province, or with any of its agencies for the provision of policing.

#### **Authority to act as police officers**

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates.

#### **Application**

(3) For the purposes of the insurance plan established under the *Workplace Safety and Insurance Act, 1997*, the relationship between a member of a police service and the body that employs him or her continues as if an agreement had not been made under this section.

#### **Expense of calling out Canadian Forces**

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses.

#### **Resignation during emergency prohibited**

(5) Subject to section 33 of the *National Defence Act* (Canada), while an agreement made under this section is in force, no member of a police service that has policing responsibility for the area to which the agreement relates shall resign without the consent of the chief of police.

## **PART IV MUNICIPAL POLICING AND POLICE SERVICE BOARDS**

### **METHODS OF PROVIDING MUNICIPAL POLICING**

#### **Methods of providing municipal policing**

**22** (1) Subject to subsection (2), every municipal council may, with the approval of the Minister, do one of the following:

1. Constitute a municipal board to have policing responsibility for the municipality.
2. Enter into a written agreement under section 23 with one or more other municipal councils to amalgamate their police services and jointly constitute a municipal board to have policing responsibility for the municipalities.
3. Enter into a written agreement under section 24 with one or more other municipal councils to jointly constitute a municipal board to have policing responsibility for the municipalities.
4. Enter into a written agreement under section 26 with another municipal council to have that municipal council's board assume policing responsibility for the municipality.
5. Enter into a written agreement with a First Nation board to have the board assume policing responsibility for the municipality by requesting an amendment to the regulation that constituted the board under section 32.

#### **Same — different methods in one municipality**

(2) In the circumstances listed in subsection (3) and with the Minister's approval, the municipal council may allow policing to be provided in more than one way in different areas of the municipality by doing either or both of the following:

1. Providing policing in different ways in different areas by doing more than one of the actions listed in subsection (1).
2. Entering into an agreement with the Minister to have the Commissioner assume policing responsibility for the area.

#### **Circumstances**

(3) Subsection (2) applies if,

- (a) the municipality consists of two or more widely dispersed communities or contains, within its boundaries, one or more communities that are remote from the rest of the municipality, and the policing responsibility will be split among those communities; or

- (b) policing has historically been provided to one or more discrete areas of the municipality in a manner that is different from the manner policing is provided in the rest of the municipality, and the split will continue that historic difference.

**Only one municipal board to be constituted**

- (4) Subsection (2) does not permit a municipal council to constitute or jointly constitute more than one municipal board.

**Criteria for Minister's approval**

- (5) The Minister may approve an arrangement to provide policing under subsection (1) or (2) if the Minister is satisfied that,
  - (a) the arrangement will result in the provision of adequate and effective policing in the municipality for the foreseeable future; and
  - (b) any prescribed requirements are satisfied.

**Same, non-contiguous areas**

- (6) If the arrangement to provide policing under subsection (1) or (2) involves the delivery of policing by one police service board to two or more areas that are not contiguous, the Minister shall ensure that the effect, if any, of the areas not being contiguous is considered while making the determination described in clause (5) (a).

**Maintaining police service**

- (7) Every municipal board shall maintain a police service and, for greater certainty, shall not maintain more than one police service.

**Subject to other boards and agreements**

- (8) The area for which a municipal board has policing responsibility is subject to the areas of policing responsibility of First Nation boards and to agreements made under section 27 or 76.

**Transition**

- (9) Despite subsection (1), any police service board that provided policing immediately before the day subsection (1) came into force,
  - (a) continues to exist, even without the Minister's approval; and
  - (b) does not require the approval of the Minister to continue providing policing in substantially the same manner as it provided it immediately before the day subsection (1) came into force.

**Same**

- (10) Despite subsection (2), if policing was provided in different manners in discrete areas of the municipality in accordance with the *Police Services Act* immediately before the day subsection (2) came into force, policing may continue to be provided in those manners without the Minister's approval.

**Amalgamation of police services**

- 23** (1) The councils of two or more municipalities that have municipal boards may enter into a written agreement to amalgamate their police services and jointly constitute a new municipal board.

**Authorization required**

- (2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the approval of the Minister.

**Contents of amalgamation agreement**

- (3) The agreement must specify,
  - (a) the composition of the police service board, including,
    - (i) whether the board will be composed of five, seven or nine members,
    - (ii) which municipal council shall be entitled to have its head be a member of the board under clause 31 (4) (a), (5) (a) or (6) (a), and
    - (iii) which municipal council shall appoint the members of the board under clause 31 (4) (b), (5) (b) or (6) (b) or how those appointments shall be allocated among the councils;
  - (b) the amalgamation of the police services and the appointment or transfer of their members;
  - (c) the municipal board's use of the assets and its responsibility for the liabilities associated with the amalgamated police services;
  - (d) the responsibilities of the different municipalities in relation to the estimates of the police service board and the establishing of the budget for the board;



- (e) how the municipal councils will jointly discharge the duties of a municipal council with respect to the municipal board; and
- (f) any other matter that is necessary or advisable to effect the amalgamation.

#### **Exception, appointments**

- (4) Appointments to a municipal board for an amalgamated police service may be made before the agreement takes effect.

#### **Application of other requirements**

- (5) Subject to the regulations, the provisions of this Act that apply to municipal boards apply, with necessary modifications, to joint municipal boards constituted under this section.

#### **Agreement to jointly constitute municipal board**

- 24** (1) The councils of two or more municipalities may enter into a written agreement to jointly constitute a municipal board.

#### **Authorization required**

- (2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the approval of the Minister.

#### **Required contents**

- (3) The agreement must specify,
  - (a) the composition of the police service board, including,
    - (i) whether the board will be composed of five, seven or nine members,
    - (ii) which municipal council shall be entitled to have its head be a member of the board under clause 31 (4) (a), (5) (a) or (6) (a), and
    - (iii) which municipal council shall appoint the members of the board under clause 31 (4) (b), (5) (b) or (6) (b) or how those appointments shall be allocated among the councils;
  - (b) the responsibilities of the different municipalities in relation to the estimates of the police service board and the establishing of the budget for the board;
  - (c) how the municipal councils will jointly discharge the duties of a municipal council with respect to the municipal board; and
  - (d) any other matter that is necessary or advisable to effect the constitution of the police service board.

#### **Application of other requirements**

- (4) Subject to the regulations, the provisions of this Act that apply to municipal boards apply, with necessary modifications, to joint municipal boards constituted under this section.

#### **Other municipal boards**

##### **Application**

- 25** (1) This section applies to any municipality, as defined in subsection 1 (1) of the *Municipal Act, 2001*, that is not listed in the definition of a municipality in subsection 2 (3) of this Act.

##### **Ability to constitute municipal board**

- (2) A municipality described in subsection (1) may, with the Minister's approval, constitute a municipal board to have policing responsibility for the municipality.

##### **Criteria for Minister's approval**

- (3) The Minister may approve the new municipal board under subsection (2) if he or she is satisfied that the new board will provide adequate and effective policing for the foreseeable future.

##### **Same**

- (4) Without restricting the matters the Minister may consider when deciding whether to approve a municipal board under subsection (3), the Minister shall consider the effect of the approval on the entity that would otherwise have policing responsibility for the area and on any other municipalities that might be affected by the decision.

#### **Agreements for provision of policing between municipalities**

- 26** (1) The councils of two municipalities may enter into a written agreement to have one of the municipalities' municipal boards assume policing responsibility for the municipality.

### **Advisors to municipal board**

(2) The municipal council that receives policing pursuant to an agreement made under subsection (1) may select a person to advise the other municipality's board with respect to the preparation of its strategic plan.

### **Term of office**

(3) The term of office for a person selected to advise another municipality's board shall be set by the municipal council when the person is selected, but shall not exceed the term of office of the municipal council that selected him or her.

### **Same, reappointment**

(4) A person selected to advise another municipality's board may continue to sit after the expiry of the term of office of the municipal council that selected him or her until the selection of his or her successor, and is eligible for reappointment.

### **Protection from liability**

(5) No action or other proceeding for damages shall be instituted against a person selected to advise another municipality's board for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Act or for any alleged omission in the execution in good faith of that duty or power.

### **Agreement with First Nation to provide policing**

**27** (1) A municipality may, with the Minister's approval, enter into a written agreement with a band council of a First Nation to assign policing responsibility for a First Nation reserve that is not within a First Nation board's area of policing responsibility to the municipal board.

### **Required contents**

(2) An agreement under subsection (1) shall address the policing and other services to be provided, the area in which they will be provided and the level at which they will be provided.

### **Effect on area of policing responsibility**

(3) When the agreement comes into effect,

- (a) the First Nation reserve shall become part of the municipal board's area of policing responsibility, if it was not already part of that area; and
- (b) any other entity that previously had policing responsibility for the area no longer has that responsibility.

## **MUNICIPAL DIVERSITY PLANS**

### **Diversity plan**

**28** (1) Every municipal council 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 council are representative of the diversity of the population in the municipality.

### **Publication**

(2) The plan shall be published in accordance with the regulations.

### **Review and revision**

(3) The municipal council shall review and, if appropriate, revise the plan at least once every four years.

### **Report**

(4) The municipal council shall publish reports on the implementation of the plan in accordance with the regulations.

### **Transition**

(5) A municipal council'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 municipal council constitutes its municipal board.

### **Promotion by municipal council**

**29** (1) If the need to appoint a new member of a police service board by resolution of a municipal council is reasonably foreseeable, the municipal council shall take reasonable steps to promote the availability of the appointment to members of demographic groups that have been historically underrepresented on police service boards, including racialized groups and First Nation, Inuit and Métis communities.

### **Promotion by Minister**

(2) The Minister shall take reasonable steps to promote the availability of public appointments to police service boards to members of demographic groups that have been historically underrepresented on police service boards, including racialized groups and First Nation, Inuit and Métis communities.

### **Reports by Minister**

(3) The Minister shall publish an annual report in accordance with the regulations on the steps taken to ensure that public appointees to municipal boards reflect the diversity of the population in the area for which the municipal boards have policing responsibility.

### **Definition**

(4) In this section,

“public appointment” means an appointment by the Lieutenant Governor in Council or the Minister, and “public appointee” has a corresponding meaning.

### **Dissolution of municipal board**

**30** (1) A municipality that maintains a municipal board may, with the approval of the Minister, dissolve the board.

### **Criteria for Minister’s approval**

(2) The Minister may approve the dissolution if he or she is satisfied that appropriate arrangements have been made for the provision of adequate and effective policing in the area after the board is dissolved.

### **Inspector General**

(3) The Minister may ask the Inspector General to investigate a municipality and report on whether appropriate arrangements have been made for the provision of adequate and effective policing in the affected area if the municipal board is dissolved.

## **MUNICIPAL BOARDS**

### **Municipal boards**

#### **Name**

**31** (1) A municipal board shall be known as (*insert name of municipality*) Police Service Board and may also be known as Commission de service de police de (*insert name of municipality*).

#### **Number of board members**

(2) The municipal board shall be composed of five members unless the municipal council passes a resolution to change the number of members under subsection (3).

#### **Resolution to determine board size**

(3) The municipal council may determine, by resolution, that its municipal board shall be composed of five, seven or nine members.

#### **Five-member boards**

(4) A municipal board that is composed of five members shall consist of,

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

#### **Seven-member boards**

(5) A municipal board that is composed of seven members shall consist of,

- (a) the head of the municipal council or, if the head chooses not to be or is ineligible to be a member of the board, another member of the municipal council appointed by resolution of the council;
- (b) two members of the municipal council appointed by resolution of the council;
- (c) one person appointed by resolution of the municipal 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.

### **Nine-member boards**

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

### **L.G. in C. vacancies**

- (7) If the position of a member of a municipal board appointed by the Lieutenant Governor in Council becomes vacant, the Minister may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment.

### **Reduced size**

- (8) If the municipal council reduces the size of its municipal board,
- (a) the appointments for all members of the board are terminated; and
  - (b) the Lieutenant Governor in Council and the council, as applicable, shall appoint new members of the board to meet the requirements set out in subsections (4) to (6), which may include reappointments for some of the terminated members.

### **Increased size**

- (9) If the municipal council increases the size of its municipal board, the appointments for all members of the board continue and new members shall be appointed to meet the requirements set out in subsections (4) to (6).

### **Not enough eligible council members**

- (10) If the requirements of clause (4) (a), (4) (b), (5) (a), (5) (b), (6) (a) or (6) (b) cannot be satisfied because not enough members of the municipal council are eligible to be members of the board, the municipal council may, instead, appoint persons who are neither a member of the council nor an employee of the municipality to the extent necessary to ensure that the full number of persons are appointed under those clauses.

### **Transition, existing members**

- (11) Subject to subsection (12), the members of the municipal board who are in office immediately before the day this subsection comes into force shall continue in office as members of the board until the expiration of the terms for which they were appointed.

### **Same**

- (12) A member of the municipal board appointed by resolution of a municipal council who is in office immediately before the day this subsection comes into force may continue to sit after the expiry of his or her term of office until the appointment of his or her successor.

### **Transition, existing boards**

- (13) Despite subsection (2), a municipal board may continue to have the number of members that it had under the *Police Services Act* until the earlier of,
- (a) the day the municipal council passes a resolution under subsection (3); or
  - (b) the day that a new municipal council is organized following the first regular municipal election after the day this subsection comes into force.

### **Same**

- (14) If the municipal council does not pass a resolution under subsection (3) before the day referred to in clause (13) (b), subsection (2) will begin applying to the municipal board on that day and,
- (a) if the application of subsection (2) has the effect of reducing the number of members of the municipal board, the procedure in subsection (8) shall be followed; and
  - (b) if the application of subsection (2) has the effect of increasing the number of members of the municipal board, the procedure in subsection (9) shall be followed.

## **FIRST NATION BOARDS**

### **First Nation boards**

- 32** (1) A band council of a First Nation may request that the Minister constitute a First Nation board to provide adequate and effective policing in a First Nation reserve or any other specified area.

**Joint request**

(2) Multiple band councils may jointly make a request to constitute a board under subsection (1).

**Application to joint boards**

(3) Subject to the regulations, the provisions of this Act that apply to First Nation boards apply, with necessary modifications, to joint First Nation boards.

**Contents of request**

- (4) A request made under subsection (1) must specify,
- (a) the area for which the proposed board would have policing responsibility;
  - (b) the composition of the proposed board;
  - (c) the method of appointing members of the proposed board;
  - (d) the name of the proposed board; and
  - (e) the proposed term of office of members of the proposed board.

**Minister's request**

(5) The Minister may request any additional information from the band council to assist in the Minister's consideration of the request.

**Considerations**

(6) The Minister shall consider the request made under subsection (1) and determine whether or not to constitute the board, having regard to the possibility of funding or other assistance being provided to the board and any other prescribed matters.

**First Nation board regulations**

- (7) The Minister may make regulations,
- (a) constituting a First Nation board to have policing responsibility for the requested area;
  - (b) governing the composition of the First Nation board;
  - (c) specifying the name of the First Nation board;
  - (d) governing appointments to the First Nation board;
  - (e) governing the term of office of members of the First Nation board.

**Consistency with request**

(8) A regulation made under subsection (7) must be consistent with the request made under subsection (1).

**Maintaining police service**

(9) Every First Nation board shall maintain a police service and, for greater certainty, shall not maintain more than one police service.

**Considerations for amendment or revocation**

- (10) In determining whether to amend or revoke a regulation made under subsection (7), the Minister shall consider,
- (a) the importance of First Nations determining the means by which culturally responsive policing is provided on their First Nation reserves; and
  - (b) the effect of the revocation or amendment on the long-term viability of providing policing through First Nation boards.

**Limitation on amendment or revocation**

(11) The Minister shall not amend or revoke a regulation made under subsection (7) unless the Minister is satisfied that appropriate arrangements that satisfy any prescribed requirements have been made for the First Nations that are in the First Nation board's area of policing responsibility to receive adequate and effective policing after the amendment or revocation takes effect and one of the following conditions is met:

1. The amendment or revocation is consistent with a request from all of the band councils of the First Nations that are in the First Nation board's area of policing responsibility.
2. There has been a material change in the circumstances on which the regulation is based.
3. The First Nation board was dissolved under section 103.
4. The amendment is required to give effect to an agreement between the First Nation board and a municipal council to have the First Nation board assume policing responsibility for the municipality.

5. The amendment is editorial or technical in nature.

#### **Limitation on revocation**

(12) In addition to the requirements set out in subsection (11), the Minister shall not revoke a regulation made under subsection (7) unless he or she is satisfied that,

- (a) the police service board and the members of the police service have made an agreement dealing with severance pay; or
- (b) the issue of severance pay has been referred to arbitration.

#### **Arbitration**

(13) If the issue of severance pay cannot be referred to arbitration under Part X, the board or the members of the police service may apply to the chair of the Arbitration Commission to appoint an arbitrator.

#### **Extension to other First Nation reserve**

(14) In addition to the requirements set out in subsection (11), the Minister shall not amend a regulation made under subsection (7) to increase a First Nation board's area of policing responsibility to include the First Nation reserve of another First Nation unless the amendment is consistent with a request from all of the First Nations whose reserves will be included in the increased area.

#### **Same, notice and comments**

(15) If the Minister intends to amend or revoke a regulation made under subsection (7) in a manner that is not consistent with a request described in paragraph 1 of subsection (11), the Minister shall provide notice containing a description of the proposed regulation to the First Nation board and to the band councils of the First Nations that are in the First Nation board's area of policing responsibility and provide an opportunity for them to comment on it in writing.

#### **Same, written reasons**

(16) If the Minister decides to amend or revoke the regulation after considering the comments provided under subsection (15), the Minister shall provide written reasons for his or her decision to the entities that received the notice.

#### **Agreements with First Nation boards**

(17) The Minister may enter into a written agreement with a First Nation board to provide it with funding or other assistance, including funding with respect to the enforcement of First Nation by-laws, subject to such terms or conditions as may be specified in the agreement.

#### **Other matters**

(18) An agreement under subsection (17) may address any other matters, including the mediation, arbitration or resolution of disputes that may arise in relation to the agreement.

#### **No contracting out of arbitration**

(19) For greater certainty, an agreement under subsection (17) cannot override the arbitration process set out in section 51.

### **APPOINTMENT OF POLICE SERVICE BOARD MEMBERS**

#### **Appointment**

##### **Considerations**

**33** (1) In appointing or reappointing a member of a police service board, the appointing person or body shall consider,

- (a) the need to ensure that the police service board is representative of the area it serves, having regard for the diversity of the population in the area;
- (b) the need for the police service board to have members with the prescribed competencies, if any; and
- (c) any applicable diversity plan.

##### **Police record check**

(2) The appointing person or body must consider the results of a potential appointee's police record check that was prepared within the past 12 months before appointing him or her as a member of a police service board.

##### **Revocation of appointments**

(3) For greater certainty, the power to appoint a member of a police service board includes the power to revoke the appointment and to appoint a replacement.

##### **Other ineligible persons**

(4) The following persons are not eligible to be members of a police service board:

- 1. A judge or justice of the peace.

2. A member of a police service, a special constable or a First Nation Officer.
3. Any person who practises criminal law as a defence counsel or as a prosecutor.
4. A director, officer or employee of a prescribed policing provider.

#### **Former members of a police service**

- (5) A former member of a police service is not eligible to be a member of a police service board unless,
- (a) the police service board does not maintain a police service that the person was a member of; and
  - (b) at least two years have passed since the person ceased to be a member of any police service.

#### **Seat vacated by ineligibility**

- (6) A member of a police service board shall vacate his or her seat if he or she becomes ineligible to be on the board.

#### **Notice of vacancies**

- (7) If a seat becomes vacant, the police service board shall notify the person or body responsible for appointing a replacement.

#### **Ministerial recommendations**

- (8) The Minister shall make recommendations to the Lieutenant Governor in Council regarding appointments to police service boards in accordance with the regulations, if any.

#### **Transition**

- (9) Subsections (4) and (5) do not prevent a person who was a member of a police service board immediately before those subsections came into force from serving the remainder of their term.

#### **Members appointed by municipality**

##### **Term of office**

- 34** (1) The term of office for a member of a municipal board appointed by resolution of a municipal council shall be set out by the municipal council in his or her appointment, but shall not exceed the term of office of the municipal council that appointed the member.

##### **Same**

- (2) A member of a municipal board appointed by resolution of a municipal council may continue to sit until the earlier of,
- (a) six months after the expiry of his or her term of office; or
  - (b) the day the member's successor is appointed by the municipal council.

##### **Vacancy**

- (3) If the position of a member of a municipal board who is appointed by resolution of a municipal council or who holds office by virtue of being the head of a municipal council becomes vacant, the board shall notify the municipal council and the municipal council shall appoint a replacement.

##### **Remuneration**

- (4) The members of the municipal board who are appointed by the Lieutenant Governor in Council or by the Minister shall be remunerated in accordance with the regulations.

#### **Oath, training and conduct**

##### **Oath of office**

- 35** (1) A member of a police service board shall, at the time of his or her appointment as a member of the board, take an oath or affirmation of office in the prescribed form.

##### **Required training**

- (2) A member of a police service board shall, within the prescribed period,
- (a) complete prescribed training with respect to the role of a police service board;
  - (b) complete the prescribed training with respect to human rights and systemic racism;
  - (c) complete the prescribed training that promotes recognition of and respect for,
    - (i) the diverse, multiracial and multicultural character of Ontario society, and
    - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
  - (d) complete any other prescribed training.

**If training not completed**

(3) A member of the police service board who does not complete the training referred to in subsection (2) shall not exercise the powers or perform the duties of a board member until the training is completed.

**Code of conduct**

(4) Every member of a police service board shall comply with the prescribed code of conduct.

**Election of chair**

**36** (1) The members of a police service board shall elect a chair at the board's first meeting in each year.

**Vice-chair**

(2) The members of a police service board may also elect a vice-chair at the first meeting in each year, and the vice-chair shall act as the chair if the chair is absent or if the chair's position is vacant.

**POLICE SERVICE BOARD DUTIES AND POWERS****Police service board duties**

**37** (1) A police service board shall,

- (a) provide adequate and effective policing in the area for which it has policing responsibility as required by section 10;
- (b) employ members of the police service;
- (c) appoint members of the police service as police officers;
- (d) recruit and appoint the chief of police and any deputy chief of police and determine their remuneration and working conditions, taking their submissions into account;
- (e) prepare and adopt a diversity plan to ensure that the members of the police service reflect the diversity of the area for which the board has policing responsibility;
- (f) monitor the chief of police's performance;
- (g) conduct a review of the chief of police's performance at least annually in accordance with the regulations, if any;
- (h) monitor the chief of police's decisions regarding the restrictions on secondary activities set out in section 120 and review the reports from the chief of police on those decisions;
- (i) monitor the chief of police's handling of discipline within the police service;
- (j) ensure that any police facilities, including police lock-ups, owned by the board comply with the prescribed standards, if any; and
- (k) perform such other duties as are assigned to it by or under this or any other Act, including any prescribed duties.

**Transition**

(2) Any police force maintained by a board that was in existence under the *Police Services Act* immediately before that Act was repealed continues as a police service maintained by a police service board under this Act, and any member of the police force at that time, including the chief of police and any deputy chief of police, continues to be a member of the police service under this Act.

**Police service board policies**

**38** (1) A police service board shall establish policies respecting,

- (a) the administration of the police service;
- (b) the provision of adequate and effective policing in accordance with the needs of the population of the area for which it has policing responsibility;
- (c) disclosure by the chief of police of personal information about individuals;
- (d) disclosure of secondary activities under section 120 and decisions under that section;
- (e) the handling of discipline within the police service;
- (f) subject to subsection (4), the indemnification of members of the police service for legal costs; and
- (g) any other prescribed matters.

**Other policies**

(2) In addition to the policies required by subsection (1), a police service board may establish policies respecting any other matters related to the police service or the provision of policing.



### **Consultations and considerations**

- (3) A First Nation board that has policing responsibility for a First Nation reserve shall,
- (a) consult a person identified by the band council regarding the cultural traditions of the First Nation before establishing a policy under clause (1) (b); and
  - (b) consider the cultural traditions of the First Nation while establishing the policy.

### **Indemnification policy**

- (4) The police service board is not required to establish a policy described in clause (1) (f) if it is required to indemnify members of the police service in accordance with an agreement under Part X.

### **No policies for certain matters**

- (5) The police service board shall not make policies with respect to specific investigations, the conduct of specific operations, the management or discipline of specific police officers or other prescribed matters.

### **Other limitations on policies**

- (6) The police service board shall not make policies that would require a member of the police service to do something that is inconsistent with his or her duties under this Act or the regulations.

### **Publication**

- (7) The police service board shall publish the policies referred to in subsections (1) and (2) in accordance with the regulations.

### **Strategic plan**

- 39** (1) The police service board shall, in accordance with the regulations, if any, prepare and adopt a strategic plan for the provision of policing, which shall address at least the following matters:

1. How the police service board will ensure the provision of adequate and effective policing in accordance with the needs of the population of the area.
2. The objectives, priorities and core functions of the police service.
3. Quantitative and qualitative performance objectives and indicators of outcomes relating to,
  - i. the provision of community-based crime prevention initiatives, community patrol and criminal investigation services,
  - ii. community satisfaction with the policing provided,
  - iii. emergency calls for service,
  - iv. violent crime and clearance rates for violent crime,
  - v. property crime and clearance rates for property crime,
  - vi. youth crime and clearance rates for youth crime,
  - vii. police assistance to victims of crime and re-victimization rates,
  - viii. interactions with persons described in paragraphs 4 and 5 of this subsection,
  - ix. road safety, and
  - x. any other prescribed matters.
4. Interactions with,
  - i. youths,
  - ii. members of racialized groups, and
  - iii. members of First Nation, Inuit and Métis communities.
5. Interactions with persons who appear to have a mental health condition.
6. Information technology.
7. Resource planning.
8. Police facilities.
9. Any other prescribed matters.

**Same**

(2) The strategic plan must also provide an overview of the consultations that were conducted under subsection (3) and state whether and, if applicable, how the needs and concerns regarding policing identified during the consultations have been addressed by the plan.

**Consultations**

(3) In preparing or revising the strategic plan, the police service board shall consult with,

- (a) the chief of police;
- (b) the municipal council of any municipalities in the board's area of policing responsibility;
- (c) the band councils of any First Nations in the board's area of policing responsibility;
- (d) groups representing diverse communities in the board's area of policing responsibility;
- (e) school boards, community organizations, businesses and members of the public in the board's area of policing responsibility; and
- (f) any other prescribed persons, organizations or groups.

**Considerations**

(4) In preparing or revising the strategic plan, the police service board shall consider, at a minimum,

- (a) the results of the consultations conducted under subsection (3);
- (b) any community safety and well-being plans adopted by the municipalities or First Nations that are in the board's area of policing responsibility; and
- (c) the needs of members of diverse communities in the board's area of policing responsibility, including the needs of members of racialized groups and of First Nation, Inuit and Métis communities.

**Review and revision**

(5) The police service board shall review and, if appropriate, revise the strategic plan in accordance with the regulations, if any, at least once every four years.

**Publication**

(6) The police service board shall publish the strategic plan in accordance with the regulations.

**Police service board directions**

**40** (1) The police service board may give directions to the chief of police.

**No direction to other members of the police service**

(2) For greater certainty, the police service board shall not direct members of the police service other than the chief of police.

**No direction by individual members of the board**

(3) No individual member of a police service board shall direct the chief of police or, for greater certainty, any other member of the police service.

**No directions for certain matters**

(4) The police service board shall not direct the chief of police with respect to specific investigations, the conduct of specific operations, the discipline of specific police officers, the routine administration of the police service or other prescribed matters.

**Other information serves purpose**

(5) The police service board shall not direct the chief of police to provide personal information to the board under subsection (1) if other information will serve the purpose for which the information is to be used.

**Personal information limited to what is reasonably necessary**

(6) The police service board shall not direct the chief of police to provide more personal information to the board under subsection (1) than is reasonably necessary to meet the purpose for which the information is to be used.

**Other limitations on directions**

(7) The police service board shall not direct the chief of police to do anything that would,

- (a) contravene this Act or the regulations, or any other Act or regulation; or
- (b) require a member of the police service to do something that is inconsistent with his or her duties under this Act or the regulations.

### **Chief of police may decline**

(8) A chief of police may decline to provide information pursuant to a direction from the police service board if authorized to do so by the regulations.

### **Publication**

(9) The police service board shall publish any directions given to the chief of police under subsection (1) in accordance with the regulations.

### **Reporting and information sharing**

#### **Annual report**

**41** (1) On or before the prescribed day in each year, the police service board shall file an annual report with its municipal council or band council regarding,

- (a) the implementation of the board's strategic plan and the achievement of the performance objectives identified in the strategic plan;
- (b) the affairs of the police service;
- (c) the provision of policing as it relates to any community safety and well-being plans adopted by the municipalities or First Nations that are in the board's area of policing responsibility; and
- (d) any other prescribed matters.

### **Publication**

(2) The police service board shall publish the annual report referred to in subsection (1) in accordance with the regulations.

### **Information sharing protocol**

(3) The police service board shall make best efforts to negotiate and enter into a protocol with its municipal council or band council that addresses the sharing of information with the council, including the type of information to be shared and the frequency for sharing such information.

### **Information to be provided**

(4) Regardless of the existence of an information sharing protocol, the police service board shall provide the municipal council or band council, on request, with any information, other than personal information, relevant to the preparation or review of the community safety and well-being plan or to the board's estimates.

## **ADMINISTRATION AND FINANCES**

### **Delegation**

**42** (1) A police service board may, by by-law,

- (a) establish a committee and delegate any of the board's powers under this Act to the committee; or
- (b) if any power of the board under this Act is prescribed for the purposes of this section, delegate that power to an employee of the board who is not a member of the police service or to the chief of police.

### **Content of by-law**

(2) A by-law made under subsection (1) may govern the name, powers, duties and quorums of the committee and may, subject to subsections (3), (4) and (5), govern the composition of the committee and appointment of individuals to the committee.

### **Composition**

(3) A committee shall be composed of,

- (a) at least two members of the police service board, subject to subsection (4); and
- (b) any number of additional members, as long as a majority of the committee is composed of members of the police service board.

### **Exception**

(4) Only one member of the police service board is required to sit on a committee if the board's power to bargain under Part X is the only power that has been delegated to the committee.

### **Eligibility**

(5) An individual is not eligible to be an additional member of a committee if he or she would not be eligible to be a member of the police service board.

## **Meetings**

**43** (1) The police service board shall hold at least four meetings each year.

## **Quorum**

(2) A majority of the members of the police service board constitutes a quorum.

## **Proceedings open to the public**

(3) Subject to section 44, meetings conducted by the police service board, or by a committee of the board, shall be open to the public.

## **Record of meeting**

(4) The police service board shall record without note or comment all resolutions, decisions and other proceedings at the meeting, whether it is open to the public or not.

## **Notice**

(5) The police service board or the committee, as applicable, shall publish notice of a meeting that is open to the public in the manner that the board or committee determines, subject to the regulations.

## **Timing of notice**

(6) The notice shall be published at least seven days before the meeting, except in extraordinary circumstances.

## **Contents of notice**

(7) The notice must include,

- (a) the proposed agenda for the meeting; and
- (b) either,
  - (i) the record of the most recent meeting of the police service board that was open to the public, other than the record of any part of the meeting that was closed to the public, or
  - (ii) instructions on how a member of the public may access the record referred to in subclause (i).

## **When meetings may be closed to public**

**44** (1) A meeting or part of a meeting of a police service board, or of a committee of the board, may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the board;
- (b) personal matters about an identifiable individual, including members of the police service or any other employees of the board;
- (c) a proposed or pending acquisition or disposition of land by the board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation affecting the board, including matters before administrative tribunals;
- (f) advice that would be inadmissible in a court by reason of any privilege under the law of evidence, including communications necessary for that purpose;
- (g) information explicitly supplied in confidence to the board by Canada, a province or territory or a Crown agency of any of them, a municipality or a First Nation;
- (h) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (i) a trade secret or scientific, technical, commercial or financial information that belongs to the board and has monetary value or potential monetary value;
- (j) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the board;
- (k) information that section 8 of the *Municipal Freedom of Information and Protection of Privacy Act* would authorize a refusal to disclose if it were contained in a record; or
- (l) an ongoing investigation respecting the police service board.

### **When meetings must be closed to the public**

(2) A meeting or part of a meeting of a police service board, or of a committee of the board, shall be closed to the public if the subject matter being considered is a request under the *Municipal Freedom of Information and Protection of Privacy Act*.

### **Educational or training sessions**

(3) A meeting of a police service board, or of a committee of the board, may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members of the board or of the committee.
2. At the meeting, no member of the board or committee discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the board.

### **Resolution**

(4) Before holding a meeting or part of a meeting that is to be closed to the public, the police service board or committee, as applicable, shall state by resolution,

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection.

### **Evidence of by-laws**

**45** A document purporting to be a by-law of the police service board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing.

### **Rules and procedures**

**46** (1) A police service board shall establish its own rules and procedures in performing its duties under this Act and the regulations.

### ***Legislation Act, 2006***

(2) Part III of the *Legislation Act, 2006* does not apply to the rules and procedures established under subsection (1) of this section.

### **Liability**

**47** (1) A police service board is liable for the acts or omissions of members of its police service committed in the course of their employment.

### **Indemnification by police service board**

(2) A police service board may, in accordance with the policies established under clause 38 (1) (f), indemnify a member of its police service for reasonable legal costs incurred,

- (a) in the defence of a civil proceeding, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty; or
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

### **Agreement**

(3) An agreement under Part X may provide for indemnification for the legal costs of members of the police service, except the legal costs of a member who is found guilty of a criminal offence, and, if it provides for such an indemnification, subsection (2) of this section does not apply and the police service board shall indemnify members in accordance with the agreement.

### **Municipality responsible for police service board's liabilities**

(4) The municipality is responsible for the liabilities incurred by the police service board under subsections (1), (2) and (3).

### **Exception, officer appointed under the *Interprovincial Policing Act, 2009***

(5) This section does not apply in respect of a police officer appointed under the *Interprovincial Policing Act, 2009*.

### **Protection from personal liability**

**48** (1) No action or other proceeding shall be instituted against a member of a police service board for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Act, the regulations or the by-laws, or for any alleged omission in the execution in good faith of that duty or power.

**Police service board's liability**

(2) Subsection (1) does not relieve a police service board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee.

**Police service board may contract, sue and be sued**

**49** (1) A police service board may contract, sue and be sued in its own name.

**Members not liable for police service board's contracts**

(2) The members of a police service board are not personally liable for the board's contracts.

**Municipal board finances**

**50** (1) A municipality that maintains a municipal board shall provide the board with sufficient funding to,

- (a) provide adequate and effective policing in the municipality; and
- (b) pay the expenses of the board's operation, other than the remuneration of board members.

**Estimates**

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

- (a) provide adequate and effective policing in the municipality, including the amounts required to provide the police service with required equipment and facilities, having regard for the various ways that the board can discharge this obligation; and
- (b) pay the expenses of the board's operation, other than the remuneration of board members.

**Same**

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

**Budget**

(4) Upon reviewing the estimates, the municipal council shall establish an overall budget for the municipal 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 municipal board.

**Same**

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

**Arbitration in case of dispute**

(6) If the municipal board is not satisfied that the budget established for it by the municipal council is sufficient for the purposes described in clauses (1) (a) and (b), the municipal board may give the municipal council written notice referring the matter to arbitration.

**Arbitrator**

(7) The municipal board and the municipal council may jointly appoint an arbitrator within the prescribed period after the notice is provided to the municipal council.

**Unable to select**

(8) If the municipal board and the municipal council do not jointly appoint an arbitrator within the time period set out in subsection (7), either party may apply to the chair of the Arbitration Commission to appoint an arbitrator.

**Findings**

(9) If the municipal council demonstrates that the municipal board could reasonably have entered into an agreement under section 14 to have policing functions provided in a manner that meets the applicable standards for adequate and effective policing and at a lower cost than is set out in the estimates, the arbitrator shall not find that the budget is insufficient to the extent of the amount that could have been saved by entering into the agreement.

**Compliance**

(10) The municipal council shall amend the budget for the municipal board in accordance with the arbitrator's decision.

**Funding review, First Nation board**

**51** (1) This section applies if a First Nation board believes that the funding it receives from the Minister and from all other sources is not sufficient to,

- (a) provide adequate and effective policing in the area for which it has policing responsibility, including the amounts required to provide the police service with required equipment and facilities, having regard for the various ways that the board can discharge this obligation; and
- (b) pay the expenses of the board's operation.

### **Dispute**

(2) If a First Nation board is not satisfied that the funding is sufficient for the purposes described in clauses (1) (a) and (b), it may give the Minister written notice referring the matter to arbitration.

### **Arbitrator**

(3) The First Nation board and the Minister may jointly appoint an arbitrator within the prescribed period after the notice is provided to the Minister.

### **Unable to select**

(4) If the First Nation board and the Minister do not jointly appoint an arbitrator within the time period referred to in subsection (3), either party may apply to the chair of the Arbitration Commission to appoint an arbitrator.

### **Considerations**

(5) In determining the matter, the arbitrator must consider whether any First Nation board policies intended to reflect the cultural traditions of the First Nations that are in the board's area of policing responsibility affect the funding required to provide adequate and effective policing.

### **Findings**

(6) If the Minister demonstrates that the First Nation board could reasonably have entered into an agreement under section 14 to have policing functions provided in a manner that meets the applicable standards for adequate and effective policing and at a lower cost than the funding provided to the board, the arbitrator shall not find that the funding is insufficient to the extent of the amount that could have been saved by entering into the agreement.

### **Decision**

(7) The Minister shall provide additional funding if the arbitrator determines that additional funding is required.

### **Aid to survivors of deceased member of municipal police service**

**52** A municipal council may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police service who die from injuries received or illnesses contracted in the discharge of their duties.

## **MISCELLANEOUS**

### **Termination to abolish or reduce size of police service**

**53** (1) A police service board may, with the approval of the Minister, terminate the employment of a member of a police service for the purpose of abolishing the police service or reducing its size.

#### **Minister's approval**

- (2) The Minister may approve the termination of a member of a police service under subsection (1) if he or she is satisfied that,
  - (a) appropriate arrangements have been made for the provision of adequate and effective policing in the area after the police service is reduced in size or abolished; and
  - (b) the member being terminated and the police service board have made an agreement dealing with severance pay or have referred the issue of severance pay to arbitration under subsection (3).

### **Arbitration**

(3) If the issue of severance pay cannot be referred to arbitration under Part X, the board or the member being terminated may apply to the chair of the Arbitration Commission to appoint an arbitrator.

### **Inspector General**

(4) The Minister may ask the Inspector General to investigate a proposed termination described in subsection (1) and report on whether appropriate arrangements have been made for the provision of adequate and effective policing in the affected area if the size of the police service is reduced.

### **Municipal fines**

**54** (1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police service.

**Same**

(2) If the municipality does not have its own police service, the police officers who are assigned to the municipality shall, for the purposes of determining entitlement to fine payments, be deemed to be police officers of the municipal police service.

**Municipal by-law enforcement officers**

**55** (1) A municipal council may appoint persons to enforce the by-laws of the municipality.

**Peace officers**

(2) Municipal by-law enforcement officers appointed under this section are peace officers for the purpose of enforcing municipal by-laws.

**PART V  
ONTARIO PROVINCIAL POLICE**

COMMISSIONER

**Commissioner**

**56** (1) The Lieutenant Governor in Council shall appoint a Commissioner of the Ontario Provincial Police and may appoint one or more deputy Commissioners.

**Composition of O.P.P.**

(2) The Ontario Provincial Police consists of the members of the Ontario Provincial Police.

**Appointments**

(3) The Commissioner may, in accordance with any diversity plan, policy or directive that is applicable to the public service of Ontario, appoint members of the Ontario Provincial Police as police officers.

**Commissions**

(4) The Lieutenant Governor in Council may authorize the issue of a commission under the Great Seal to,

- (a) the Commissioner;
- (b) deputy Commissioners; and
- (c) police officers appointed under subsection (3) who attain a rank identified by the Commissioner.

**Transition**

(5) The Commissioner, and any deputy Commissioner, who held his or her appointment under the *Police Services Act* immediately before that Act was repealed continue to be appointed under this Act.

**Same**

(6) Any person who was a member of the Ontario Provincial Police under the *Police Services Act* immediately before its repeal continues to be a member of the Ontario Provincial Police under this Act.

**Commissioner's duties**

**57** The Commissioner shall,

- (a) provide adequate and effective policing in the area for which he or she has policing responsibility as required by section 10;
- (b) perform duties under this or any other Act related to the employment of members of the Ontario Provincial Police in accordance with any diversity plan, policy or directive that is applicable to the public service of Ontario;
- (c) maintain a traffic patrol on the King's Highway, except the parts prescribed by the Minister;
- (d) maintain a traffic patrol on a highway or part of a highway that is designated as a connecting link under section 21 of the *Public Transportation and Highway Improvement Act*, except as prescribed by the Minister;
- (e) maintain investigative services to assist other police services in accordance with the Minister's policies; and
- (f) perform such other duties as are assigned to the Commissioner by or under this or any other Act, including any prescribed duties.

**Annual report**

**58** (1) On or before the prescribed day in each year, the Commissioner shall file an annual report with the Minister that addresses at least the following matters:

1. The implementation of the Minister's strategic plan and the achievement of the performance objectives identified in the strategic plan.



2. The affairs of the Ontario Provincial Police.
3. Any other prescribed matters.

### **Publication and tabling**

(2) The Minister shall publish the annual report in accordance with the regulations and table it in the Legislative Assembly as soon as possible after it is published.

## **MINISTER**

### **Minister's O.P.P. duties**

**59** The Minister shall,

- (a) monitor the Commissioner's performance;
- (b) conduct a review of the Commissioner's performance at least annually in accordance with the regulations, if any;
- (c) monitor the Commissioner's handling of discipline within the Ontario Provincial Police; and
- (d) ensure that any police facilities, including police lock-ups, used by the Ontario Provincial Police comply with the prescribed standards, if any.

### **Minister's policies**

**60** (1) Subject to subsection (2), the Minister shall establish policies respecting,

- (a) the provision of adequate and effective policing by the Commissioner in accordance with the needs of the population in the areas for which the Commissioner has policing responsibility;
- (b) disclosure by the Commissioner of personal information about individuals;
- (c) investigative services that the Commissioner must provide to other police services;
- (d) the handling of discipline within the Ontario Provincial Police;
- (e) subject to subsection (4), the indemnification of members of the Ontario Provincial Police for legal costs; and
- (f) any other prescribed matters.

### **Restriction on Minister's policies**

(2) Except in urgent circumstances, the Minister may not establish a policy under subsection (1) unless he or she has given a copy of the proposed policy to the Advisory Council and allowed the Council at least one month to consider it.

### **Other policies**

(3) In addition to the policies required by subsection (1), the Minister may establish policies respecting any other matters related to the Ontario Provincial Police or the provision of policing by the Commissioner.

### **Indemnification policy**

(4) The Minister is not required to establish a policy described in clause (1) (e) if indemnification for the legal costs of members of the Ontario Provincial Police is provided for by an agreement made under the *Ontario Provincial Police Collective Bargaining Act, 2006*.

### **No policies for certain matters**

(5) The Minister shall not make policies with respect to specific investigations, the conduct of specific operations, the management or discipline of specific police officers or other prescribed matters.

### **Other limitations on policies**

(6) The Minister shall not make policies that would require a member of the Ontario Provincial Police to do something that is inconsistent with his or her duties under this Act or the regulations.

### **Publication**

(7) The Minister shall publish the policies referred to in subsections (1) and (3) in accordance with the regulations.

### **Strategic plan**

**61** (1) The Minister shall, in accordance with the regulations, if any, prepare and adopt a strategic plan for the provision of policing by the Commissioner, which shall address at least the following matters:

1. How the Commissioner will ensure the provision of adequate and effective policing in accordance with the needs of the population of the areas for which he or she has policing responsibility.
2. The objectives, priorities and core functions of the Ontario Provincial Police.

3. Quantitative and qualitative performance objectives and indicators of outcomes relating to,
  - i. the provision of community-based crime prevention initiatives, community patrol and criminal investigation services,
  - ii. community satisfaction with the policing provided,
  - iii. emergency calls for service,
  - iv. violent crime and clearance rates for violent crime,
  - v. property crime and clearance rates for property crime,
  - vi. youth crime and clearance rates for youth crime,
  - vii. police assistance to victims of crime and re-victimization rates,
  - viii. interactions with persons described in paragraphs 4 and 5 of this subsection,
  - ix. road safety, and
  - x. any other prescribed matters.
4. Interactions with,
  - i. youths,
  - ii. members of racialized groups, and
  - iii. members of First Nation, Inuit and Métis communities.
5. Interactions with persons who appear to have a mental health condition.
6. Information technology.
7. Resource planning.
8. Police facilities.
9. Any other prescribed matters.

#### **Same**

(2) The Minister shall review and, if appropriate, revise the strategic plan in accordance with the regulations, if any, at least once every four years.

#### **Publication**

(3) The Minister shall publish the strategic plan in accordance with the regulations.

#### **Minister directions**

**62** (1) The Minister may give directions to the Commissioner.

#### **No direction to other members of the O.P.P.**

(2) For greater certainty, the Minister shall not direct members of the Ontario Provincial Police other than the Commissioner.

#### **No directions for certain matters**

(3) The Minister shall not direct the Commissioner with respect to specific investigations, the conduct of specific operations, the discipline of specific police officers, the routine administration of the Ontario Provincial Police or other prescribed matters.

#### **Other information serves purpose**

(4) The Minister shall not direct the Commissioner to provide personal information under subsection (1) if other information will serve the purpose for which the information is to be used.

#### **Personal information limited to what is reasonably necessary**

(5) The Minister shall not direct the Commissioner to provide more personal information under subsection (1) than is reasonably necessary to meet the purpose for which the information is to be used.

#### **Other limitations on directions**

- (6) The Minister shall not direct the Commissioner to do anything that would,
- (a) contravene this Act or the regulations, or any other Act or regulation; or
  - (b) require a member of the Ontario Provincial Police to do something that is inconsistent with his or her duties under this Act or the regulations.

### **Commissioner may decline**

(7) The Commissioner may decline to provide information pursuant to a direction from the Minister if authorized to do so by the regulations.

### **Publication**

(8) The Minister shall publish any directions given to the Commissioner under subsection (1) in accordance with the regulations.

## **ADMINISTRATION AND FINANCES**

### **Liability**

**63** (1) The Crown in right of Ontario is liable for the acts or omissions of members of the Ontario Provincial Police committed in the course of their employment.

### **Indemnification of member of O.P.P.**

(2) The Minister of Finance may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

- (a) in the defence of a civil proceeding, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty; or
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

### **Agreement**

(3) The Ontario Provincial Police Association and the Crown in right of Ontario may provide for indemnification for the legal costs of members of the Ontario Provincial Police in an agreement made under the *Ontario Provincial Police Collective Bargaining Act, 2006*, except the legal costs of a member who is found guilty of a criminal offence and, if it provides for such an indemnification, subsection (2) does not apply and the Minister of Finance shall indemnify members in accordance with the agreement.

### **Exception, officer appointed under the *Interprovincial Policing Act, 2009***

(4) This section does not apply in respect of a police officer appointed under the *Interprovincial Policing Act, 2009*.

### **Commissioner policing**

**64** (1) A municipality in the area for which the Commissioner has policing responsibility shall pay the Minister of Finance for the policing the Commissioner provides, in the amount and the manner provided by the regulations.

### **Collection**

(2) Subsections 65 (2), (4) and (5) apply with necessary modifications to the payments made under subsection (1).

### **Minister may charge for Commissioner's services**

**65** (1) The Minister may charge a municipality, a police service board, or any person or entity for any service the Commissioner provides to them under this Act or the regulations other than the policing referred to in subsection 64 (1).

### **Payment into Consolidated Revenue Fund**

(2) The amounts received for any service the Commissioner provides shall be paid into the Consolidated Revenue Fund.

### **No agreement as to cost**

(3) If no agreement has been entered into with respect to the cost of the services provided by the Commissioner, the Commissioner may, with the approval of the Minister, certify the cost of the services, and the cost shall be paid by the municipality, police service board, or person or entity that received them.

### **Collection of amounts owed**

(4) The amount owed for any service the Commissioner provides, if not collected by other means, may be recovered by a court action as a debt due to Her Majesty and, if the amount is owed by a municipality, may be deducted from any grant payable to the municipality out of provincial funds.

### **Dispute**

(5) A debtor may dispute the amount claimed in a court action commenced under subsection (4), and the court shall determine the issue and make such order as it considers appropriate in the circumstances.

### **Aid to survivors of deceased member of O.P.P.**

**66** The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties.

### **O.P.P. DETACHMENT BOARDS**

#### **O.P.P. detachment board**

**67** (1) There shall be an O.P.P. detachment board, or more than one O.P.P. detachment board in accordance with the regulations, for each detachment of the Ontario Provincial Police that provides policing in a municipality or in a First Nation reserve.

#### **Composition**

(2) The composition of the O.P.P. detachment board shall be as provided in the regulations.

#### **Term of office and remuneration**

(3) The term of office and remuneration and expenses of the members of the O.P.P. detachment board shall be as provided in the regulations.

#### **Code of conduct**

(4) Every member of an O.P.P. detachment board shall comply with the prescribed code of conduct.

#### **Liability**

(5) An O.P.P. detachment board is not liable for the acts or omissions of members of the Ontario Provincial Police committed in the course of their employment.

#### **Application of other provisions**

(6) The following provisions apply to O.P.P. detachment boards, with necessary modifications, as if they were police service boards:

1. Section 33 (Appointment).
2. Subsections 35 (1), (2) and (3) (Oath, training and conduct).
3. Section 36 (Election of chair).
4. Section 42 (Delegation).
5. Section 43 (Meetings).
6. Section 44 (When meetings may be closed to public).
7. Section 45 (Evidence of by-laws).
8. Section 46 (Rules and procedures).
9. Section 48 (Protection from personal liability).
10. Section 49 (Police service board may contract, sue and be sued).

#### **Role**

**68** (1) The O.P.P. detachment board shall,

- (a) consult with the Commissioner regarding the selection of a detachment commander and otherwise participate, in accordance with the regulations, in the selection of the detachment commander;
- (b) determine objectives and priorities for the detachment, not inconsistent with the strategic plan prepared by the Minister, after consultation with the detachment commander or his or her designate;
- (c) advise the detachment commander with respect to policing provided by the detachment;
- (d) monitor the performance of the detachment commander;
- (e) review the reports from the detachment commander regarding policing provided by the detachment; and
- (f) on or before the prescribed day in each year, provide an annual report to the municipal councils and band councils regarding the policing provided by the detachment in their municipalities or First Nation reserves.

#### **Other duties of detachment commander**

(2) The detachment commander shall provide the O.P.P. detachment board with reports regarding policing provided by the detachment at the board's request.

### **Delegation**

(3) The detachment commander may delegate any of his or her powers and duties with respect to the O.P.P. detachment board to another person in writing, subject to any limitations, conditions or requirements set out in the delegation.

### **Consideration of community safety and well-being plan**

(4) In exercising its functions, the O.P.P. detachment board shall consider any community safety and well-being plan adopted by a municipality or First Nation that receives policing from the detachment.

### **Local policies**

**69** (1) An O.P.P. detachment board may establish local policies, after consultation with the detachment commander or his or her designate, with respect to policing in the area receiving policing from the detachment.

### **Local policy requirements**

(2) A local policy established under subsection (1) must meet the following requirements:

1. The local policy must not be inconsistent with,
  - i. the strategic plan prepared by the Minister,
  - ii. any policies established by the Minister under section 60,
  - iii. any procedures established by the Commissioner, or
  - iv. the local action plan prepared by the detachment commander.
2. The local policy must not require a member of the Ontario Provincial Police to act in a manner that is inconsistent with his or her duties under this Act or the regulations.
3. The local policy must not require a member of the Ontario Provincial Police to provide any policing that is not required as a component of adequate and effective policing.
4. The local policy must comply with any prescribed requirements.

### **Detachment commander to comply with local policies**

(3) Every detachment commander shall ensure that his or her detachment provides policing in accordance with the local policies of his or her O.P.P. detachment board.

### **Dispute**

(4) If a detachment commander believes that a local policy of his or her O.P.P. detachment board does not comply with subsection (2),

- (a) he or she shall inform the O.P.P. detachment board, in writing, of the reasons why he or she believes that the local policy does not comply with subsection (2); and
- (b) despite subsection (3), he or she is not required to ensure that policing is provided in accordance with the policy unless directed to do so by the Commissioner under subsection (5).

### **Application for review**

(5) If the O.P.P. detachment board is not satisfied with the detachment commander's reasons for not complying with the local policy, it may apply to the Commissioner to review the decision and provide direction to the detachment commander, which may include requiring compliance with the local policy.

### **Commissioner to consider submissions**

(6) The Commissioner shall consider any submissions from the O.P.P. detachment board and shall provide it with written reasons for his or her decision to provide directions or not to provide directions to the detachment commander.

### **Publication**

(7) The O.P.P. detachment board shall publish any local policies established under subsection (1) in accordance with the regulations.

### **Local action plan**

**70** (1) A detachment commander shall, in accordance with the regulations, if any, prepare and adopt a local action plan for the provision of policing provided by the detachment, which shall address at least the following matters:

1. How adequate and effective policing will be provided in the area served by the detachment, in accordance with the needs of the population in the area and having regard for the diversity of the population in the area.
2. The objectives and priorities for the detachment determined by the OPP detachment board and such other objectives and priorities determined by the detachment commander.

3. Quantitative and qualitative performance objectives and indicators of outcomes relating to,
  - i. the provision of community-based crime prevention initiatives, community patrol and criminal investigation services,
  - ii. community satisfaction with the policing provided,
  - iii. emergency calls for service,
  - iv. violent crime and clearance rates for violent crime,
  - v. property crime and clearance rates for property crime,
  - vi. youth crime and clearance rates for youth crime,
  - vii. police assistance to victims of crime and re-victimization rates,
  - viii. interactions with persons described in paragraphs 4 and 5 of this subsection,
  - ix. road safety, and
  - x. any other prescribed matters.
4. Interactions with,
  - i. youths,
  - ii. members of racialized groups, and
  - iii. members of First Nation, Inuit and Métis communities.
5. Interactions with persons who appear to have a mental health condition.

#### **Same**

(2) The local action plan must also provide an overview of the consultations that were conducted under subsection (3) and state whether and, if applicable, how the needs and concerns regarding policing identified during the consultations have been addressed by the plan.

#### **Consultations**

- (3) In preparing or revising the local action plan, the detachment commander shall consult with,
  - (a) his or her O.P.P. detachment board;
  - (b) the municipal council of any municipalities that receive policing from the detachment;
  - (c) the band councils of any First Nations that receive policing from the detachment;
  - (d) groups representing diverse communities in the area that receives policing from the detachment;
  - (e) school boards, community organizations, businesses and members of the public in the area that receives policing from the detachment; and
  - (f) any other prescribed persons, organizations or groups.

#### **Considerations**

- (4) In preparing or revising the local action plan, the detachment commander shall consider, at a minimum,
  - (a) the results of the consultations conducted under subsection (3);
  - (b) any community safety and well-being plans adopted by the municipalities or First Nations that receive policing from the detachment; and
  - (c) the needs of members of diverse communities in the area that receives policing from the detachment, including the needs of members of racialized groups and of First Nation, Inuit and Métis communities.

#### **Submission of draft**

(5) The detachment commander shall submit a draft of the new or amended local action plan to his or her O.P.P. detachment board before it is finalized and allow the board to make comments on the draft within the prescribed period of time.

#### **Consideration of comments**

(6) The detachment commander shall consider the O.P.P. detachment board's comments on the draft, if any, and revise the plan if he or she determines it to be appropriate.

#### **Publication**

(7) The local action plan shall be published in accordance with the regulations.

### **Review and revision**

(8) The detachment commander shall review and, if appropriate, revise the local action plan in accordance with the regulations, if any, at least once every four years and whenever there is an amendment to the strategic plan prepared by the Minister.

### **Estimates, O.P.P. detachment boards**

**71** (1) An O.P.P. detachment board shall prepare estimates, in accordance with the regulations, of the total amount that will be required to pay the expenses of the board's operation, other than the remuneration of board members.

### **Submit to municipalities**

(2) The O.P.P. detachment board shall submit the estimates to every municipality that receives policing from the detachment along with a statement of the municipality's share of the costs, which are to be determined in accordance with the regulations.

### **Budget**

(3) Subject to subsection (4), the municipalities shall contribute their share of the costs to the O.P.P. detachment board's budget in accordance with the estimates.

### **Arbitration in case of dispute**

(4) If a municipality is not satisfied that the total amount set out in the estimates is required to pay the expenses of the O.P.P. detachment board's operation, it may give the board written notice referring the matter to arbitration.

### **Joining arbitration**

(5) The other municipalities that receive policing from the detachment may join the arbitration as a party.

### **No separate arbitrations**

(6) If the other municipalities do not join the arbitration, they may not separately commence a different arbitration with respect to the estimates under this section.

### **Arbitrator**

(7) The O.P.P. detachment board and the municipal council or councils may jointly appoint an arbitrator within the prescribed period after the notice is provided to the municipal council.

### **Same**

(8) If the O.P.P. detachment board and the municipal council or councils do not jointly appoint an arbitrator, the board or the municipal councils may apply to the chair of the Arbitration Commission to appoint an arbitrator.

## **ONTARIO PROVINCIAL POLICE GOVERNANCE ADVISORY COUNCIL**

### **Ontario Provincial Police Governance Advisory Council**

**72** (1) A council known as the Ontario Provincial Police Governance Advisory Council in English and Conseil consultatif de gouvernance de la Police provinciale de l'Ontario in French is established.

### **Members**

(2) The composition of the Advisory Council shall be as provided in the regulations, and the members shall be appointed by the Lieutenant Governor in Council.

### **Chair, vice-chairs**

(3) The Lieutenant Governor in Council may designate one of the members of the Advisory Council to be the chair and one or more members of the Advisory Council to be vice-chairs.

### **Vice-chairs**

(4) A vice-chair shall act as and have all the powers and authority of the chair if the chair is absent or unable to act or if the chair's position is vacant.

### **Employees**

(5) Such employees as are considered necessary for the proper conduct of the affairs of the Advisory Council may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

### **Code of conduct**

(6) Every member of the Advisory Council shall comply with the prescribed code of conduct.

### **Functions of Advisory Council**

**73** (1) The Advisory Council shall,

- (a) advise the Minister regarding the use of his or her powers with respect to the Ontario Provincial Police under sections 59 to 62; and
- (b) perform any other prescribed duties.

#### **May request report from Minister**

(2) The Advisory Council may request a report from the Minister regarding the Ontario Provincial Police or the use of the Minister's powers under section 59, 60, 61 or 62, and the Minister shall prepare and provide the requested report to the Advisory Council within a reasonable period of time.

#### **Meetings**

**74** (1) The Advisory Council shall hold at least four meetings each year.

#### **Quorum**

(2) A majority of the members of the Advisory Council constitutes a quorum.

#### **Proceedings open to the public**

(3) Subject to section 75, meetings conducted by the Advisory Council shall be open to the public.

#### **Record of meeting**

(4) The Advisory Council shall record without note or comment all resolutions, decisions and other proceedings at the meeting, whether it is open to the public or not.

#### **Notice**

(5) The Advisory Council shall publish notice of a meeting that is open to the public in the manner that it determines, subject to the regulations.

#### **Timing of notice**

(6) The notice shall be published at least seven days before the meeting, except in extraordinary circumstances.

#### **Contents of notice**

(7) The notice must include,

- (a) the proposed agenda for the meeting; and
- (b) either,
  - (i) the record of the most recent meeting of the Advisory Council that was open to the public, other than the record of any part of the meeting that was closed to the public, or
  - (ii) instructions on how a member of the public may access the record referred to in subclause (i).

#### **When meetings may be closed to public**

**75** (1) A meeting or part of a meeting of the Advisory Council may be closed to the public if the subject matter being considered is,

- (a) the security of facilities used by the Ontario Provincial Police;
- (b) personal matters about an identifiable individual, including members of the Ontario Provincial Police;
- (c) a proposed or pending acquisition or disposition of land related to the Ontario Provincial Police;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation affecting the Advisory Council or related to the Ontario Provincial Police, including matters before administrative tribunals;
- (f) advice that would be inadmissible in a court by reason of any privilege under the law of evidence, including communications necessary for that purpose;
- (g) information explicitly supplied in confidence to the Council by Canada, a province or territory or a Crown agency of any of them, a municipality or a First Nation;
- (h) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Council, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (i) a trade secret or scientific, technical, commercial or financial information that belongs to the Council and has monetary value or potential monetary value;



- (j) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Council;
- (k) information that section 14 of the *Freedom of Information and Protection of Privacy Act* would authorize a refusal to disclose if it were contained in a record; or
- (l) an ongoing investigation respecting the Advisory Council.

**When meetings must be closed to the public**

(2) A meeting or part of a meeting of the Advisory Council shall be closed to the public if the subject matter being considered is a request under the *Freedom of Information and Protection of Privacy Act*.

**Educational or training sessions**

- (3) A meeting of the Advisory Council may be closed to the public if the following conditions are both satisfied:
- 1. The meeting is held for the purpose of educating or training the members of the Advisory Council.
  - 2. At the meeting, no member of the Advisory Council discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Advisory Council.

**Resolution**

- (4) Before holding a meeting or part of a meeting that is to be closed to the public, the Advisory Council shall state by resolution,
- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
  - (b) in the case of a meeting under subsection (3), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection.

**AGREEMENTS WITH FIRST NATIONS**

**Agreements with First Nations to provide O.P.P. policing**

**76** (1) A band council of a First Nation may enter into a written agreement with the Minister for the provision of policing and other specified services by the Commissioner in the First Nation reserve or other specified area.

**Required contents**

(2) An agreement under subsection (1) shall address the policing and other services to be provided, which may include the enforcement of First Nation by-laws, the area in which they will be provided and the level at which they will be provided.

**Optional contents**

- (3) The agreement may address any other matters, including,
- (a) the manner in which the policing and other services will be provided, including requiring it to be provided by police officers or other members of the Ontario Provincial Police who work primarily or exclusively in the First Nation reserve or other specified area;
  - (b) the steps that will be taken to ensure that the policing and other services reflect the cultural traditions of the First Nation;
  - (c) the qualifications of the members of the Ontario Provincial Police who provide the policing and other services;
  - (d) the uniform of the members of the Ontario Provincial Police who provide the policing and other services;
  - (e) the mediation, arbitration or resolution of disputes that may arise in relation to the agreement; and
  - (f) funding for a First Nation O.P.P. board.

**Effect on area of policing responsibility**

- (4) When the agreement comes into effect,
- (a) the First Nation reserve shall become part of the Commissioner's area of policing responsibility, if it was not already part of that area; and
  - (b) any police service board that previously had policing responsibility for the area no longer has that responsibility.

**Duties of Commissioner**

(5) The Commissioner shall ensure that the agreement is carried out.

### **First Nation O.P.P. boards**

77 (1) A band council of a First Nation may request that the Minister constitute a First Nation O.P.P. board to oversee the policing provided by the Commissioner pursuant to an agreement that has already been made or that the band council intends to make under section 76.

#### **Joint request**

(2) Multiple band councils may jointly make a request to constitute a board under subsection (1).

#### **Application to joint boards**

(3) Subject to the regulations, the provisions of this Act that apply to First Nation O.P.P. boards apply, with necessary modifications, to joint First Nation O.P.P. boards.

#### **Contents of request**

(4) A request made under subsection (1) must specify,

- (a) the area that is, or that is intended to be, within the Commissioner's area of policing responsibility for which the proposed board shall have the powers, duties and functions set out in section 78;
- (b) the composition of the proposed board;
- (c) the method of appointing members of the proposed board;
- (d) the name of the proposed board; and
- (e) the proposed term of office of members of the proposed board.

#### **Minister's request**

(5) The Minister may request any additional information from the band council to assist in the Minister's consideration of the request.

#### **Considerations**

(6) The Minister shall consider the request made under subsection (1) and determine whether or not to constitute the board, having regard to the possibility of funding or other assistance being provided to the board and any other prescribed matters.

### **First Nation O.P.P. board regulations**

(7) The Minister may make regulations,

- (a) constituting a First Nation O.P.P. board for the requesting band council or councils;
- (b) governing the composition of the First Nation O.P.P. board;
- (c) specifying the name of the First Nation O.P.P. board;
- (d) governing appointments to the First Nation O.P.P. board; and
- (e) governing the term of office of members of the First Nation O.P.P. board.

#### **Consistency with request**

(8) A regulation made under subsection (7) must be consistent with the request made under subsection (1).

#### **Same, consideration**

(9) In determining whether to amend or revoke a regulation made under subsection (7), the Minister shall consider the importance of First Nations determining the means by which culturally responsive policing is provided on their First Nation reserves.

#### **Limitation on amendment or revocation**

(10) The Minister shall not amend or revoke a regulation made under subsection (7) unless the Minister is satisfied that appropriate arrangements that satisfy any prescribed requirements have been made for the First Nation that requested the constitution of the First Nation O.P.P. board to receive adequate and effective policing after the amendment or revocation takes effect and one of the following conditions is met:

1. The amendment or revocation is consistent with a request from the band council of the First Nation that requested the constitution of the First Nation O.P.P. board.
2. There has been a material change in the circumstances on which the regulation is based.
3. The First Nation O.P.P. board was dissolved under section 103.
4. The amendment is editorial or technical in nature.

### **Limitation on revocation**

(11) In addition to the requirements set out in subsection (10), the Minister shall not revoke a regulation made under subsection (7) unless he or she is satisfied that appropriate arrangements have been made for severance pay for the employees of the First Nation O.P.P. board.

### **Increase in area**

(12) In addition to the requirements set out in subsection (10), the Minister shall not amend a regulation made under subsection (7) to increase the area for which the First Nation O.P.P. board has the powers, duties and functions set out in section 78 unless the amendment is consistent with a request from the band councils of the First Nations that would be affected by the increase.

### **Same, notice and comments**

(13) If the Minister intends to amend or revoke a regulation made under subsection (7) in a manner that is not consistent with a request described in paragraph 1 of subsection (10), the Minister shall provide notice containing a description of the proposed regulation to the band council of the First Nation that requested the constitution of the First Nation O.P.P. board and provide an opportunity for it to comment on it in writing.

### **Same, written reasons**

(14) If the Minister decides to amend or revoke the regulation after considering the comments provided under subsection (13), the Minister shall provide written reasons for his or her decision to the entities that received the notice.

### **Agreements with First Nation O.P.P. boards**

(15) The Minister may enter into a written agreement with a First Nation O.P.P. board to provide it with funding or other assistance, subject to such terms or conditions as may be specified in the agreement.

### **Duties and functions of First Nation O.P.P. board**

**78** (1) The First Nation O.P.P. board shall have all of the powers, duties and functions of an O.P.P. detachment board set out in sections 68 and 69 with respect to a detachment that provides policing under an agreement made under section 76, with necessary modifications.

### **Other applicable provisions**

(2) The provisions listed in subsection 67 (6) apply to First Nation O.P.P. boards, with necessary modifications, as if they were police service boards.

### **Additional duties**

(3) In addition to the duties and functions described in subsection (1), the First Nation O.P.P. board shall monitor the provision of policing and other services by the detachment to ensure that it complies with the agreement.

### **Local action plan**

(4) The detachment commander shall prepare a separate local action plan for the provision of policing to the First Nation or First Nations served by the First Nation O.P.P. board, and section 70 applies to the plan with necessary modifications.

### **Code of conduct**

(5) Every member of a First Nation O.P.P. board shall comply with the prescribed code of conduct.

### **Liability**

(6) A First Nation O.P.P. board is not liable for the acts or omissions of members of the Ontario Provincial Police committed in the course of their employment.

## **PART VI INSPECTOR GENERAL OF POLICING**

### **APPOINTMENT AND DUTIES**

#### **Inspector General of Policing**

**79** (1) The Lieutenant Governor in Council shall appoint an Inspector General of Policing and may appoint one or more deputy Inspectors General.

#### **Eligibility**

(2) A person is not eligible to be appointed as the Inspector General or as a deputy Inspector General if he or she is, or has been, a member of a police service or a police service board.

#### **Inspector General's duties**

(3) The Inspector General shall,

- (a) monitor and conduct inspections of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards, chiefs of police, special constable employers, police services, prescribed policing providers and the Advisory Council to ensure that they comply with this Act and the regulations;
- (b) consult with and advise police service boards, O.P.P. detachment boards, First Nation O.P.P. boards, chiefs of police, special constable employers, police services, prescribed policing providers, authorized policing providers and the Advisory Council regarding compliance with this Act and the regulations;
- (c) monitor and conduct inspections of members of police service boards, O.P.P. detachment boards, First Nation O.P.P. boards and the Advisory Council to ensure that they comply with their applicable code of conduct;
- (d) develop, maintain and manage records and conduct analyses regarding compliance with this Act and the regulations;
- (e) deal with complaints under sections 83 and 84 and with disclosures of professional misconduct under section 136;
- (f) submit an annual report to the Minister; and
- (g) perform such other duties as are assigned to him or her by or under this or any other Act, including any prescribed duties.

### **Required training**

(4) The Inspector General, and any deputy Inspectors General, shall not exercise any of their powers or duties under this Act unless they have,

- (a) completed the prescribed training with respect to human rights and systemic racism;
- (b) completed training that promotes recognition of and respect for,
  - (i) the diverse, multiracial and multicultural character of Ontario society, and
  - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and
- (c) completed any other prescribed training.

### **Role respecting police officers and special constables**

(5) The Inspector General shall not conduct inspections of police officers or special constables for the purpose of determining whether they have engaged in conduct that constitutes professional misconduct.

### **Delegation**

(6) The Inspector General may delegate any of his or her powers and duties under this Act or the regulations to another person in writing, subject to any limitations, conditions or requirements set out in the delegation.

### **Deputy Inspector General**

(7) A deputy Inspector General shall act in the place of the Inspector General if he or she is absent or unable to act and, when so acting, may exercise all the powers and perform all the duties of the Inspector General.

### **Minister's directions**

(8) The Minister shall not direct the Inspector General or any inspector appointed by the Inspector General with respect to the performance of their functions under this Act.

### **Annual report**

**80** (1) On or before the prescribed day in each year, the Inspector General shall file an annual report with the Minister that addresses at least the following matters:

1. The activities of the Inspector General, including,
  - i. inspections conducted,
  - ii. complaints dealt with under sections 83 and 84,
  - iii. referrals to the Complaints Director or the SIU Director, and
  - iv. directions issued under section 102.
2. The compliance of the police service boards, O.P.P. detachment boards, First Nation O.P.P. boards, chiefs of police, special constable employers, police services, prescribed policing providers and the Advisory Council with this Act and the regulations.
3. Any other prescribed matters.

### **Publication and tabling**

(2) The Minister shall publish the annual report in accordance with the regulations and table it in the Legislative Assembly as soon as possible after it is published.

## **INFORMATION**

### **Information to Inspector General in accordance with regulations**

**81** (1) The police service boards, the chiefs of police, special constable employers, prescribed policing providers and administrators appointed under section 103 shall provide the Inspector General with prescribed information related to the discharge of the Inspector General's duties under subsection 79 (3) at the frequency and in the manner set out in the regulations.

### **Information to Inspector General on request**

(2) The police service boards, the chiefs of police, special constable employers, prescribed policing providers and administrators appointed under section 103 shall provide the Inspector General with such information as he or she may request from time to time.

### **Time to comply**

(3) The information requested under subsection (2) shall be provided in the form and manner and within the time specified in the Inspector General's request.

### **Chief of police may decline**

(4) A chief of police may decline to provide information under this section if authorized to do so by the regulations.

### **Personal information**

**82** (1) The Inspector General may collect personal information under subsection 81 (1) or (2), directly or indirectly, only if the collection is necessary for the purpose of discharging his or her duties under clause 79 (3) (a), (c), (d) or (e).

### **Other information serves purpose**

(2) The Inspector General shall not collect or use personal information under subsection (1) if other information will serve the purpose of the collection or use.

### **Personal information limited to what is reasonably necessary**

(3) The Inspector General shall not collect or use more personal information under subsection (1) than is reasonably necessary to meet the purpose of the collection or use.

### **Accuracy**

(4) Before using personal information collected under subsection (1), the Inspector General shall take reasonable steps to ensure that the information is as accurate as is necessary for the purpose of the use.

### **De-identification**

(5) The Inspector General shall take such steps as are prescribed relating to the de-identification of personal information collected under subsection (1).

### **Security**

(6) The Inspector General shall take reasonable measures to secure the personal information collected under subsection (1).

### **Notice required by subs. 39 (2) of FIPPA**

(7) If the Inspector General collects personal information indirectly under subsection (1), the notice required by subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* may be given by,

- (a) a public notice posted on a Government of Ontario website; or
- (b) any other method that may be prescribed.

### **Rights of access and correction**

(8) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

## **COMPLAINTS**

### **Board member complaints**

**83** (1) Any person, other than a prescribed person, who believes that a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council is not complying with the applicable code of conduct may make a complaint to the Inspector General in accordance with the regulations, if any.

**Frivolous or vexatious or made in bad faith**

(2) The Inspector General may dismiss the complaint and take no further action under this section if the Inspector General determines that it is frivolous or vexatious or made in bad faith.

**Duty to inform**

(3) The Inspector General shall inform the complainant of a dismissal under subsection (2).

**Grounds for further investigation**

(4) If there appear to be grounds to believe that the member is not complying with the applicable code of conduct, the Inspector General shall,

- (a) investigate the matter, including, if appropriate, by appointing an inspector to exercise the powers of an inspector under this Part; and
- (b) inform the complainant about the investigation and keep him or her apprised of the steps taken to resolve the complaint.

**No grounds for further investigation**

(5) If there do not appear to be grounds to investigate the matter further, the Inspector General shall inform the complainant and take no further action under this section.

**Policing complaints**

**84** (1) Any person, other than a prescribed person, may make a complaint to the Inspector General in accordance with the regulations, if any, regarding,

- (a) the adequacy and effectiveness of policing provided under this Act or the regulations, whether provided by a police service, prescribed policing provider, special constable employer or authorized policing provider;
- (b) a failure of a police service board, O.P.P. detachment board, First Nation O.P.P. board, chief of police, special constable employer, police service, prescribed policing provider or the Advisory Council to comply with this Act or the regulations, other than professional misconduct;
- (c) the policies of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Minister; or
- (d) the procedures established by a chief of police.

**Frivolous or vexatious or made in bad faith**

(2) The Inspector General may dismiss the complaint and take no further action under this section if the Inspector General determines that it is frivolous or vexatious or made in bad faith.

**Duty to inform**

(3) The Inspector General shall inform the complainant of a dismissal under subsection (2).

**Grounds for investigation**

(4) If there appear to be grounds to believe that the matter complained of warrants investigation, the Inspector General shall,

- (a) investigate the matter, including, if appropriate, by appointing an inspector to exercise the powers of an inspector under this Part; and
- (b) inform the complainant about the investigation and keep him or her apprised of the steps taken to resolve the complaint.

**Policy or procedure complaint**

(5) If the complaint does not relate to the matters referred to in clause (1) (a) or (b), or if there do not appear to be grounds to investigate those matters, and if the complaint relates to the policies or procedures referred to in clause (1) (c) or (d), the Inspector General shall,

- (a) forward the complaint to the Minister and to,
  - (i) the Advisory Council, if the complaint relates to the policies of the Minister or procedures established by the Commissioner,
  - (ii) the police service board that maintains the police service, if the complaint relates to the board's policies or the procedures established by the chief of police, or
  - (iii) the O.P.P. detachment board or the First Nation O.P.P. board, if the complaint relates to the board's procedures; and
- (b) inform the complainant of the decision and of the persons or bodies that the complaint has been forwarded to.

**Report back**

(6) A police service board, O.P.P. detachment board or First Nation O.P.P. board that receives a complaint under subsection (5) shall,

- (a) review the complaint as it relates to the policies or procedures referred to in clause (1) (c) or (d);
- (b) report back to the Inspector General within the time specified by the Inspector General, if any, about any steps taken in response to the complaint; and
- (c) report to the Minister about any steps taken in response to the complaint.

**Same**

(7) The Minister shall review any complaint regarding the Minister's policies or the procedures established by the Commissioner and report back to the Inspector General within the time specified by the Inspector General, if any, about any steps taken in response to the complaint.

**Minister's review**

(8) The Minister shall review any complaint received under clause (5) (a) for the purpose of considering whether changes are required regarding training or the requirements established under this Act or the regulations.

**No grounds for further investigation, other complaint**

(9) If there do not appear to be grounds to investigate the matter, or to investigate it further, and the complaint does not relate to the policies or procedures referred to in clause (1) (c) or (d), the Inspector General shall inform the complainant and take no further action under this section.

**Forwarding to Complaints Director**

(10) The Inspector General shall forward every complaint investigated under subsection (4) or forwarded under subsection (5) to the Complaints Director.

**Complaints by Minister**

**85** (1) For greater certainty, the Minister may make a complaint under section 83 or 84.

**Decline investigation**

(2) If the Minister makes a complaint under section 83 or 84, the Inspector General may decline to act on it and shall provide the Minister with written reasons for that decision.

**Interpretation, portion of a complaint**

**86** This Part applies to a portion of a complaint as if it were a complaint, unless the context indicates otherwise.

**INSPECTIONS****Inspectors**

**87** (1) The Inspector General may appoint such inspectors as are necessary to conduct the inspections referred to in subsection (2).

**Power to inspect**

- (2) The Inspector General may cause an inspection to be conducted by an inspector for the purpose of,
- (a) ensuring that a police service board, O.P.P. detachment board, First Nation O.P.P. board, chief of police, special constable employer, police service, prescribed policing provider or the Advisory Council is complying with this Act and the regulations;
  - (b) ensuring that a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council is complying with the applicable code of conduct; or
  - (c) discharging any other duties assigned to the Inspector General under this Act or the regulations.

**Required training**

(3) An inspector appointed under this section shall not exercise any of his or her powers or duties under this Act unless he or she has,

- (a) completed the prescribed training with respect to human rights and systemic racism;
- (b) completed training that promotes recognition of and respect for,
  - (i) the diverse, multiracial and multicultural character of Ontario society, and
  - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples; and

- (c) completed any other prescribed training.

#### **Same**

- (4) The inspectors shall not conduct inspections for the purpose of determining whether a police officer or special constable has engaged in conduct that constitutes professional misconduct.

#### **Inspector General and deputies are inspectors**

- (5) The Inspector General and any deputy Inspectors General are, by virtue of their office, inspectors.

#### **Certificate of appointment**

- (6) The Inspector General shall issue to every inspector a certificate of appointment.

#### **Limitation on authority**

- (7) The Inspector General may, in the inspector's certificate of appointment, limit the inspector's authority in such manner as the Inspector General considers necessary or advisable.

#### **Confidentiality**

- (8) Any inspector appointed under this section shall preserve secrecy in respect of all information obtained in the course of his or her duties under this Act or the regulations and shall not communicate any such information to any person except,

- (a) as may be required in connection with the administration of this Act or the regulations;
- (b) to the inspector's counsel;
- (c) as may be required for law enforcement purposes; or
- (d) with the consent of the person, if any, to whom the information relates.

#### **Request for inspection by Minister**

- 88** (1) The Minister may request that the Inspector General cause an inspection to be conducted under subsection 87 (2).

#### **Decline inspection**

- (2) If the Minister makes a request under subsection (1), the Inspector General may decline to cause the inspection to be conducted and shall provide the Minister with written reasons for that decision.

#### **Restrictions on inspections**

##### **Commissioner or O.P.P.**

- 89** (1) An inspector shall not conduct an inspection regarding a matter related to the Ontario Provincial Police if the inspector is, or has been, a member of the Ontario Provincial Police.

##### **Employed by entity**

- (2) An inspector shall not conduct an inspection regarding a matter related to an entity if the inspector is, or has been, employed by the entity.

##### **Employed by police service board**

- (3) An inspector shall not inspect a chief of police under this Part if the inspector and the chief are, or have been, employed by the same police service board.

#### **Inspection without order**

- 90** (1) An inspector may, at any reasonable time, enter a place, including a receptacle or vehicle, owned or occupied by a police service board, O.P.P. detachment board, First Nation O.P.P. board, special constable employer, prescribed policing provider, authorized policing provider or the Advisory Council for a purpose described in subsection 87 (2) if the inspector reasonably believes that,

- (a) the place contains a thing, document or data relevant to that purpose; or
- (b) an activity relating to the purpose of the inspection is occurring or has occurred at the place.

#### **Expert help**

- (2) The inspector may be accompanied and assisted by persons who have special, expert or professional knowledge.

#### **No inspection of dwellings without order**

- (3) The inspector shall not enter, without the occupier's consent, a place or part of a place used as a dwelling under this section.

#### **No force**

- (4) The inspector shall not use force to enter a place under this section.



### **Inspection order**

**91** (1) An inspector may, without notice, apply to a justice of the peace or a provincial judge for an order under this section to enter and inspect,

- (a) a place described in subsection 90 (1) that is a dwelling or that contains a dwelling; or
- (b) a place, including a receptacle or vehicle, that is used by a chief of police or a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council in relation to the performance of his or her duties under this Act or the regulations.

### **Issuance of order**

(2) A justice of the peace or provincial judge may issue an order authorizing the inspector to enter a place referred to in subsection (1) and to exercise any of the powers set out in the order if the justice or judge is satisfied on information under oath or affirmation that,

- (a) the inspection is for a purpose described in subsection 87 (2); and
- (b) there are reasonable grounds to believe that,
  - (i) the place contains a thing, document or data relevant to the purpose of the inspection, or
  - (ii) an activity relating to the purpose of the inspection is occurring or has occurred at the place.

### **Powers on entry**

(3) The order may, in relation to the inspection, authorize the inspector to exercise any or all of the powers set out in subsection 92 (1).

### **Dwelling**

(4) Despite subsection (1), the inspector shall not exercise the power under an order to enter a place or part of a place used as a dwelling, unless the justice of the peace or provincial judge is informed that the order is being sought to authorize entry into a dwelling and the order authorizes the entry into the dwelling.

### **Expert help**

(5) The order issued under subsection (1) may authorize persons who have special, expert or professional knowledge to accompany and assist the inspector in the execution of the order.

### **Conditions**

(6) The order may contain terms and conditions in addition to those provided for in subsection (1) as the justice of the peace or provincial judge, as the case may be, considers advisable in the circumstances.

### **Time of execution**

(7) The order shall be executed between 6 a.m. and 9 p.m., unless it specifies otherwise.

### **Expiry of order**

(8) The order is valid for 30 days or for such shorter period as may be specified in it.

### **Further orders**

(9) A justice of the peace or provincial judge may issue further orders under subsection (1).

### **No force**

(10) The inspector shall not use force to enter a place under this section.

### **Inspection powers**

**92** (1) An inspector may do one or more of the following in the course of entering a place and conducting an inspection under this Part:

1. Examine anything that relates to the inspection.
2. Examine, record or copy any thing, data or information, in any form, by any method.
3. Require the production of any document or data, in any form, required to be kept under this Act or the regulations and of any other document or data, in any form, related to the purpose of the inspection.
4. Remove from the place, for the purpose of making copies, documents or data produced under paragraph 3.
5. Make reasonable inquiries of any person, orally or in writing.
6. Take samples for analysis.
7. Conduct tests or make measurements.

**Limitation**

(2) A record or copy made under paragraph 2 of subsection (1) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy.

**Document or data in electronic form**

(3) If a document or data is retained in electronic form, an inspector may require that a copy of it be provided to him or her on paper or electronically, or both.

**Obligation to produce and assist**

(4) If the inspector requires that a person produce or provide access to a thing, document or data, the person shall do so in the manner and within the period specified by the inspector and shall, if requested to do so, provide any assistance that is reasonably necessary to permit the inspector to understand the thing, document or data.

**Limitation re removal**

(5) An inspector shall not remove things, documents or data under paragraph 4 of subsection (1) without giving a receipt for them and shall promptly return them to the person who produced them.

**Power to exclude persons**

(6) An inspector who exercises the power set out in paragraph 5 of subsection (1) may exclude any person from the questioning, except counsel for the individual being questioned.

**Notification**

(7) An inspector shall immediately advise a person who is required to do anything under this section and the person's employer, if applicable, respecting a failure of the person to comply with this section and, in doing so, shall inform each of them of the penalty to which a person is liable under section 106.

**Power to require response to inquiries**

**93** (1) An inspector may, at any reasonable time, require any of the following persons or entities to respond to reasonable inquiries related to the purpose of the inspection:

1. A member or employee of a police service board, including a member of a police service maintained by a police service board.
2. A member of the Ontario Provincial Police.
3. A member or employee of an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council.
4. A special constable employer, a prescribed policing provider or an authorized policing provider, or an officer, director or employee of such an entity.
5. An entity that employs First Nation Officers who are providing policing functions in accordance with an agreement under section 27.

**Same**

(2) For the purposes of subsection (1), an inspector may make inquiries by any means of communication.

**Orally or in writing**

(3) The inspector may require the person to respond orally or in writing, as the inspector may determine.

**Production**

(4) In requiring a person to respond to an inquiry under subsection (1), an inspector may require the production of any thing, document or data related to the inquiry.

**Document or data in electronic form**

(5) If a document or data is retained in electronic form, an inspector may require that a copy of it be provided to him or her on paper or electronically, or both.

**Notification**

(6) An inspector shall immediately advise a person who is required to do anything under this section and the person's employer, if applicable, respecting a failure of the person to comply with this section and, in doing so, shall inform each of them of the penalty to which a person is liable under section 106.

**Privilege preserved**

**94** Nothing in this Part shall operate so as to require the disclosure of information that would be inadmissible in a court by reason of any privilege under the law of evidence, or permit the review of anything containing such information.

## **Notice and reports**

### **SIU notification**

**95** (1) If, in the course of an inspection under this Part, an inspector becomes aware of an incident that a designated authority would have a duty to report under section 17 of the *Policing Oversight Act, 2018*, the inspector shall notify the SIU Director unless the inspector believes the SIU Director has already been notified.

### **Complaints Director report**

(2) If, in the course of an inspection under this Part, an inspector becomes aware that a police officer or special constable may have engaged in conduct that constitutes professional misconduct, the inspector shall, in prescribed circumstances, report the misconduct to the Complaints Director.

### **Criminal offence or incapacity report**

(3) If, in the course of an inspection under this Part, an inspector reasonably suspects that a member of a police service may have committed a criminal offence or may be incapable of performing the duties of his or her position, the inspector shall report it to the member's chief of police or, if the member is a chief of police or a deputy chief of police, to the Inspector General.

### **Workplace misconduct report**

(4) If, in the course of an inspection under this Part, an inspector reasonably suspects that a member of a police service may have engaged in conduct that constitutes workplace misconduct, the inspector shall, in the prescribed circumstances, report the misconduct to the member's chief of police or, if the member is a chief of police or a deputy chief of police, to the Inspector General.

### **Special constable employer report**

(5) If, in the course of an inspection under this Part, an inspector reasonably suspects that a special constable employed by a special constable employer may be incapable of performing the duties of his or her position, the inspector shall report it to the special constable employer and to the police service board, or the Commissioner, that appointed the special constable.

### **Other persons, criminal offences**

(6) If, in the course of an inspection under this Part, an inspector reasonably suspects that a member of a police service board, O.P.P. detachment board, First Nation O.P.P. board or the Advisory Council or a member, director, officer or employee of a special constable employer, prescribed policing provider or authorized policing provider may have committed a criminal offence, the inspector shall notify the Inspector General.

### **Referral to other chief of police**

**96** If the Inspector General is notified under subsection 95 (3) or (6) that a chief of police, a deputy chief of police or a member of a police service board, O.P.P. detachment board, First Nation O.P.P. board or the Advisory Council may have committed a criminal offence,

- (a) the Inspector General shall refer the matter to the chief of police of an unrelated police service; and
- (b) the chief of police referred to in clause (a) shall investigate the matter.

### **Identification**

**97** On request, an inspector who exercises a power under this Part shall identify himself or herself as an inspector by producing a copy of the certificate of appointment, and shall explain the purpose of the exercise of the power.

### **Detention of things, documents or data**

**98** An inspector may detain any thing, document or data obtained under section 92 for any period and for any purpose relating to enforcing this Act and the regulations.

### **Board member duties during and after investigation**

**99** (1) The Inspector General may direct a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council to decline to exercise his or her duties as a member of the board from the beginning of an investigation into the member's conduct or work performance under this Part until,

- (a) the member receives notice from the Inspector General that no further action will be taken in respect of the investigation; or
- (b) the Minister exercises a power under subsection 101 (2) as a result of the investigation.

### **Not enough members**

(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, the Inspector General may appoint the number of persons necessary to constitute a quorum, who shall act in the place of the members who are unable to exercise their duties.

**Same**

(3) The Inspector General,

- (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 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 the investigation is over.

**RESULTS OF INSPECTION****Results of inspection**

**100** (1) An inspector who completes an inspection under this Part shall report his or her findings to the Inspector General.

**Inspector General's notification**

(2) Unless the regulations provide otherwise, the Inspector General shall notify the subject of the inspection of,

- (a) the findings in the report; and
- (b) if applicable, the Inspector General's recommendation to the Minister under subsection 101 (2) regarding the use of the Minister's powers.

**Publication**

(3) The Inspector General shall publish the report made under subsection (1) in accordance with the regulations.

**Code of conduct contravention****Appointment**

**101** (1) The Minister shall appoint a person not employed in the Ministry to exercise the powers and duties set out in this section and section 103 with respect to the Ontario Provincial Police, the Commissioner, O.P.P. detachment boards and their members, First Nation O.P.P. boards and their members and the Advisory Council.

**Report**

(2) If, in the opinion of the Inspector General, the report made under subsection 100 (1) discloses evidence that a member of a board or the Advisory Council is not complying with the applicable code of conduct, the Inspector General shall report the non-compliance to the following person in writing and may recommend that one or more measures listed in subsection (3) be imposed:

- 1. In the case of non-compliance by a member of a police service board, the report shall be made to the Minister.
- 2. In the case of non-compliance by a member of an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, the report shall be made to the person appointed under subsection (1).

**Powers**

(3) Subject to subsection (4), after receiving the Inspector General's report, the Minister or appointed person, as applicable, may,

- (a) reprimand the member of the board;
- (b) suspend the member of the board for a period of time or until he or she has complied with specified conditions or, in the case of a member of the Advisory Council, recommend that the Lieutenant Governor in Council impose such a suspension; or
- (c) remove the member from the board or, in the case of a member of the Advisory Council, recommend that the Lieutenant Governor in Council remove him or her from the board.

**Before exercising power**

(4) Before exercising a power under subsection (3), the Minister or appointed person shall provide written notice of the proposed measures to the member and to his or her board and provide the member an opportunity to respond orally or in writing, as the Minister or person may determine.

**Exercise of powers**

(5) After considering the response, if any, the Minister or appointed person may implement the proposed measures, impose a lesser measure or rescind his or her intention to implement them.

**Replacement of suspended or removed member**

(6) If the Minister or appointed person suspends a member of a board or removes him or her from office, the municipal council, band council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

### **Suspension with or without pay**

(7) If the Minister or appointed person suspends a member of a board who is entitled to remuneration, the Minister or appointed person shall specify whether the suspension is with or without pay.

### **Consequences of removal and suspension**

(8) A member who has been removed from a board under this section is not eligible to be a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, and a member who has been suspended shall not be reappointed during the period of suspension.

### **Minister's delegation**

(9) The Minister may delegate in writing any of his or her powers and duties under this section to any person, including a person not employed in the Ministry, other than the Inspector General or another inspector, subject to any limitations, conditions and requirements set out in the delegation.

### **Non-compliance with Act or regulations**

**102** (1) If, in the opinion of the Inspector General, the report made under subsection 100 (1) discloses evidence of non-compliance with a requirement of this Act or the regulations, or evidence that an act or omission will likely result in such non-compliance, the Inspector General may issue any directions to a police service board, O.P.P. detachment board, First Nation O.P.P. board, chief of police, special constable employer, police service, prescribed policing provider or the Advisory Council that he or she considers advisable to remedy or prevent the non-compliance.

### **Directions**

(2) For greater certainty, a direction under subsection (1) may include a direction requiring the reassignment of an investigation to a different police service.

### **Consideration**

(3) Without restricting the matters the Inspector General shall consider when deciding whether to issue a direction under subsection (1), the Inspector General shall consider whether the non-compliance or likelihood of non-compliance is the result of exceptional circumstances beyond the control of the non-compliant person.

### **Non-application**

(4) Subsection (1) does not apply with respect to non-compliance or potential non-compliance that constitutes professional misconduct or a failure to comply with a code of conduct.

### **Direction**

(5) The direction shall,

- (a) be in writing;
- (b) specify the provision of this Act or the regulations that the Inspector General believes has not been complied with or is likely to not be complied with; and
- (c) briefly describe the nature of the non-compliance or likely non-compliance.

### **Reconsideration**

(6) The Inspector General may vary or revoke a direction issued under this section.

### **Time to comply**

(7) The subject of the direction shall comply with it within the time period specified in the direction.

### **Copy to Minister**

(8) The Inspector General shall provide a copy of every direction issued under this section to the Minister and publish it in accordance with the regulations.

### **Failure to comply with Inspector General's direction**

**103** (1) If the subject of a direction issued under section 102 fails to comply with it, the Inspector General shall report the non-compliance to the following person in writing and may recommend that one or more measures listed in this section be imposed:

1. In the case of non-compliance by a police service, other than the Ontario Provincial Police, a police service board, a chief of police, other than the Commissioner, a special constable employer or a prescribed policing provider, the report shall be made to the Minister.
2. In the case of non-compliance by the Ontario Provincial Police, the Commissioner, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, the report shall be made to the person appointed under subsection 101 (1).

### **Publication**

(2) The Inspector General shall publish the report referred to in subsection (1) in accordance with the regulations.

### **Minister's actions**

(3) Subject to subsection (5), the Minister may impose any of the following measures or any combination of them to remedy the non-compliance:

1. In the case of a police service, other than the Ontario Provincial Police, a police service board or a chief of police, other than the Commissioner, the Minister may,
  - i. suspend the chief of police, one or more members of the police service board, or the whole board, for a specified period,
  - ii. remove the chief of police, one or more members of the police service board, or the whole board, from office,
  - iii. appoint an administrator to administer the police service or to perform other specified functions with respect to policing in the area served by the police service in accordance with section 104, or
  - iv. dissolve the police service board and disband the police service.
2. In the case of a special constable employer, the Minister may terminate or impose terms and conditions on the special constable employer's authorization to employ special constables.
3. In the case of a prescribed policing provider, the Minister may appoint an administrator to administer it in accordance with section 104.

### **Appointed person's actions**

(4) Subject to subsection (5), the person appointed under subsection 101 (1) may impose any of the following measures or any combination of them to remedy the non-compliance:

1. In the case of the Ontario Provincial Police or the Commissioner, the person may,
  - i. direct the Commissioner to comply with the direction,
  - ii. recommend to the Lieutenant Governor in Council that the Commissioner be suspended or removed from office, or
  - iii. with the approval of the Lieutenant Governor in Council, appoint an administrator to administer the Ontario Provincial Police or to perform other specified functions with respect to policing in the area served by the police service in accordance with section 104.
2. In the case of an O.P.P. detachment board or First Nation O.P.P. board, the person may,
  - i. suspend one or more members of the board, or the whole board, for a specified period,
  - ii. remove one or more members of the board, or the whole board, from office, or
  - iii. in the case of a First Nation O.P.P. board, dissolve the board.
3. In the case of the Advisory Council, the person may,
  - i. suspend one or more members of the Council, or the whole Council, for a specified period, or
  - ii. recommend to the Lieutenant Governor in Council that one or more members of the Council, or the whole Council, be removed from office.

### **Before imposing measure**

(5) Before imposing a measure under subsection (3) or (4), the Minister or appointed person shall provide written notice to the affected person or body of the proposed measures and provide an opportunity to respond orally or in writing, as the Minister or appointed person may determine.

### **Imposition of measures**

(6) After considering the response, if any, the Minister or appointed person may implement the proposed measures, impose a lesser measure or rescind his or her intention to implement them.

### **Criteria for dissolving and disbanding**

(7) The Minister or appointed person may dissolve a police service board and disband a police service only if he or she is satisfied that there is no reasonable alternative to ensure the provision of adequate and effective policing.

### **Replacement of chief of police**

(8) If the Minister suspends or removes a chief of police, the Minister may appoint a replacement.

### **Replacement of suspended or removed member**

(9) If the Minister or appointed person suspends a member of a police service board, O.P.P. detachment board, First Nation O.P.P. board or the Advisory Council or removes him or her from office, the municipal council, band council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

### **Suspension with or without pay**

(10) If the Minister or appointed person suspends a chief of police or a member of a police service board, O.P.P. detachment board, First Nation O.P.P. board or the Advisory Council who is entitled to remuneration, the Minister or appointed person shall specify whether the suspension is with or without pay.

### **Revocation of suspension**

(11) The Minister or appointed person may revoke a suspension issued under this section at any time.

### **Extension of suspension**

(12) The Minister or appointed person may extend a suspension issued under this section after providing notice and an opportunity to respond to the suspended person, orally or in writing, as the Minister or appointed person may determine.

### **Consequences of removal and suspension**

(13) A member who has been removed from a board under this section is not eligible to be a member of a police service board, an O.P.P. detachment board, a First Nation O.P.P. board or the Advisory Council, and a member who has been suspended shall not be reappointed during the period of suspension.

### **Minister's delegation**

(14) The Minister may delegate in writing any of his or her powers and duties under this section to any person, including a person not employed in the Ministry, other than the Inspector General or another inspector, subject to any limitations, conditions and requirements set out in the delegation.

### **Administrators**

**104** (1) This section applies to an administrator appointed to administer a police service or prescribed policing provider under section 103.

#### **Term of office**

(2) The appointment of an administrator is valid until terminated by order of the Minister or the person appointed under subsection 101 (1), as applicable.

#### **Powers of administrator**

(3) Unless the appointment provides otherwise, the administrator has the exclusive right to exercise all of the powers of the police service board, chief of police or governing body of the prescribed policing provider.

#### **Same**

(4) The Minister or appointed person, as applicable, may specify the powers and duties of an administrator in the appointment and set out the terms and conditions governing those powers and duties.

#### **Additional powers of administrator**

(5) If, under the order of the Minister or appointed person, the police service board, chief of police or governing body of the prescribed policing provider continues to have the right to act with regard to any matters, any such act is valid only if approved in writing by the administrator.

#### **Right of access**

(6) An administrator has the same rights as the police service board, chief of police, governing body of the prescribed policing provider or the chief executive officer of the prescribed policing provider, as the case may be, in respect of the documents, data and information of the police service or prescribed policing provider.

### **Reports**

(7) An administrator shall report to the Minister or appointed person as required by the Minister or appointed person.

### **Directions**

(8) The Minister or appointed person may issue directions to an administrator with regard to any matter within the jurisdiction of the administrator.

### **Directions to be followed**

(9) An administrator shall carry out every direction issued under subsection (8).

**Emergency, interim measure**

**105** (1) If the Inspector General has recommended under subsection 103 (1) that the Minister or a person appointed under subsection 101 (1) impose a measure set out in section 103, the Inspector General may impose that measure without notice and without an opportunity to respond if he or she is of the opinion that an emergency exists and that an interim measure is necessary to ensure the provision of adequate and effective policing.

**Restriction**

(2) The Inspector General shall not remove a person from office, dissolve a board or disband a police service by means of an interim measure.

**Administrators**

(3) Section 104 applies, with necessary modifications, to an administrator appointed by the Inspector General under this section to administer a police service or prescribed policing provider, except that the administrator's term may be terminated by order of either the Minister or the appointed person, as applicable, or the Inspector General.

**Limitation**

(4) An interim measure may not be in force for longer than the prescribed period.

**OFFENCES****Obstruction, etc.**

**106** (1) No person shall intentionally hinder or obstruct or attempt to hinder or obstruct an inspector in the performance of his or her duties under this Part or furnish him or her with false or misleading information.

**Failure to provide information**

(2) No person shall refuse to provide information to the Inspector General if required to do so under this Act or the regulations.

**False or misleading information**

(3) No person shall intentionally submit false or misleading information to the Inspector General.

**Offence**

- (4) An individual who contravenes subsection (1), (2) or (3) is guilty of an offence and on conviction is liable,
- (a) in the case of a first offence, to a fine of not more than \$25,000, to an imprisonment for a term of not more than one year, or to both; or
  - (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000, to an imprisonment for a term of not more than one year, or to both.

**Same**

(5) A person other than an individual that contravenes subsection (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000.

**PART VII**  
**POLICE OFFICERS AND OTHER POLICING PERSONNEL**

**CHIEF OF POLICE****Duties of chief of police**

**107** (1) A chief of police shall manage the members of the police service to ensure that they carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community.

**Same, Commissioner**

- (2) The Commissioner shall,
- (a) administer the Ontario Provincial Police and oversee its operation in accordance with the Minister's policies and strategic plan;
  - (b) comply with any investigations conducted by the Complaints Director, the SIU Director or the Inspector General; and
  - (c) comply with the Minister's lawful directions.

**Same, other chief of police**

- (3) A chief of police of a police service maintained by a police service board shall,
- (a) administer the police service and oversee its operation in accordance with the board's policies and strategic plan;



- (b) comply with any investigations conducted by the Complaints Director, the SIU Director or the Inspector General; and
- (c) comply with the lawful directions of the board.

#### **Written procedures**

(4) A chief of police shall establish written procedures regarding the administration of his or her police service and the provision of policing by the police service.

#### **Delegation**

(5) A chief of police may delegate in writing any of his or her powers and duties under this Act or the regulations to a member of the chief of police's police service, subject to any limitations, conditions or requirements set out in the delegation.

#### **Deputy Commissioner or deputy chief of police**

(6) A deputy Commissioner or deputy chief of police shall act in the place of the Commissioner or chief of police if he or she is absent or unable to act and, when so acting, may exercise all the powers and perform all the duties of the Commissioner or chief of police.

#### **Power to disclose personal information**

**108** (1) Despite any other Act, a chief of police, or a person designated by him or her for the purpose of this subsection, may disclose personal information about an individual in accordance with the regulations.

#### **Purpose of disclosure**

(2) Any disclosure made under subsection (1) shall be for one or more of the following purposes:

1. Protection of the public.
2. Protection of victims of crime.
3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.
4. Law enforcement.
5. Correctional purposes.
6. Administration of justice, including the conduct of civil proceedings.
7. Enforcement of and compliance with any federal or provincial Act, regulation or government program.
8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual.

#### **Same**

(3) Any disclosure made under subsection (1) shall be deemed to be in compliance with clauses 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* and 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*.

#### **Same**

(4) If personal information is disclosed under subsection (1) to a ministry, agency or institution, the ministry, agency or institution shall collect such information and subsections 39 (2) of the *Freedom of Information and Protection of Privacy Act* and 29 (2) of the *Municipal Freedom of Information and Protection of Privacy Act* do not apply to that collection of personal information.

#### **SIU investigation of member of police service**

**109** (1) If the SIU Director causes an incident to be investigated under section 16 of the *Policing Oversight Act, 2018* involving a member of a police service, the chief of police of the police service shall investigate,

- (a) the member's conduct in relation to the incident;
- (b) the policing provided by the member in relation to the incident; and
- (c) the procedures established by the chief of police as they related to the incident.

#### **Time for investigation**

(2) The investigation shall occur promptly but shall not be conducted during the time period described in subsection 154 (3).

#### **Report**

(3) A chief of police shall report on his or her investigation under subsection (1) in accordance with the regulations.

## POLICE OFFICERS

**Duties of police officer**

**110** (1) The duties of a police officer include,

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;
- (h) completing the prescribed training;
- (i) complying with any investigations conducted by the Complaints Director, the SIU Director or the Inspector General;
- (j) complying with the prescribed code of professional conduct; and
- (k) performing such other duties as are assigned to him or her by or under this or any other Act, including any prescribed duties.

**Power to act throughout Ontario**

(2) A police officer has authority to act as such throughout Ontario.

**Powers and duties of common law constable**

(3) A police officer has the powers and duties ascribed to a constable at common law.

**Appointment of police officer**

**111** (1) No person shall be appointed as a police officer unless he or she,

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least 18 years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (d) is of good character;
- (e) has completed the prescribed training regarding the following, or has been exempted from some or all of this training in accordance with the regulations:
  - (i) techniques to de-escalate conflict situations;
  - (ii) any other prescribed matters; and
- (f) meets one of the following conditions:
  - (i) he or she has,
    - (A) a university degree, or
    - (B) a degree from a college of applied arts and technology authorized to grant the degree,
  - (ii) he or she has a diploma or advanced diploma granted by a college of applied arts and technology following successful completion of a program that is the equivalent in class hours of a full-time program of at least four academic semesters,
  - (iii) he or she has been granted a certificate or other document by a post-secondary institution evidencing successful completion of a program that the regulations prescribe as being equivalent to a degree or diploma described in subclause (i) or (ii),
  - (iv) if additional criteria have been prescribed, he or she has a secondary school diploma and meets the additional criteria.

### **Effect of Tribunal's order**

(2) An appointment under subsection (1) shall not be made if it is prohibited by an order of the Tribunal under paragraph 6 of subsection 86 (1) of the *Policing Oversight Act, 2018* and must contain any terms, conditions or limitations required by an order under paragraph 5 of that subsection.

### **Information or material to be provided**

(3) A candidate for appointment as a police officer shall provide any relevant information or material that is requested in connection with his or her application.

### **Certificate of appointment**

(4) The police service board or the Commissioner shall issue a certificate of appointment to a person at the time of his or her appointment as a police officer.

### **Automatic termination**

(5) A police officer's appointment is terminated, without notice and without an opportunity to respond, if he or she ceases to be a member of a police service.

### **Exception**

(6) This section does not apply to a police officer appointed under the *Interprovincial Policing Act, 2009* or to a candidate for appointment under that Act.

### **Transition**

(7) An appointment as a police officer under the *Police Services Act* that a person held immediately before that Act was repealed continues under this Act.

### **Probationary period, police service board officer**

**112** (1) The probationary period of a police officer employed by a police service board begins on the day he or she is appointed and ends 18 months after the day of appointment.

### **Extension with consent**

(2) A chief of police may extend a police officer's probationary period by up to six months if the police officer consents to the extension.

### **Leave of absence**

(3) Any time taken by the police officer as a leave of absence does not count towards the fulfilment of the probationary period.

### **Only one probationary period**

(4) Despite subsection (1), a police officer shall not be subject to a probationary period if he or she has already successfully completed a probationary period as a police officer with a police service, the Royal Canadian Mounted Police or a different prescribed policing organization.

### **Oaths of office and secrecy**

**113** (1) A person who is appointed to be a police officer shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the prescribed form.

### **Exception**

(2) This section does not apply to a police officer appointed under the *Interprovincial Policing Act, 2009*.

### **Political activity**

**114** No police officer who is a member of a police service maintained by a police service board shall engage in political activity, except as permitted by the regulations.

## **MEMBERS OF POLICE SERVICES**

### **Qualifications to hold position**

**115** (1) Subject to subsection (2), a person is not eligible to hold a position as a member of a police service, whether in an acting or permanent capacity, unless he or she meets the prescribed qualifications for the position, if any.

### **Effect of new qualifications**

(2) Unless the regulations provide otherwise, any new qualifications prescribed under subsection (1) for a position do not apply to a person who held that position immediately before the new qualifications came into effect.

### **Accommodation of disability needs**

**116** (1) If a member of a police service who is an employee of a police service board, or a member of the Ontario Provincial Police, becomes mentally or physically disabled and as a result is incapable of performing the essential duties of his or her position, the board or the Commissioner, as applicable, shall accommodate his or her needs in accordance with the *Human Rights Code*.

### **Incapacity after accommodation**

(2) The police service board or the Commissioner may discharge the member, or retire him or her if entitled to retire with an unreduced pension, if, after considering all available relevant information, including any available medical reports, and any response from the member, the board or the Commissioner determines,

- (a) on the basis of the information available, that the member is mentally or physically disabled and as a result is incapable of performing the essential duties of the member's position; and
- (b) that the member's needs cannot be accommodated in accordance with the *Human Rights Code* without undue hardship on the board or on the Crown in right of Ontario, as applicable.

### **Notice and opportunity to respond**

(3) Before dismissing or retiring a member under subsection (2), the board or the Commissioner shall give the member,

- (a) written notice of the proposed dismissal or retirement and of the board's or the Commissioner's reasons for proposing it; and
- (b) an opportunity to respond, orally or in writing, as the board or the Commissioner may determine.

### **Written reasons**

(4) If the board or the Commissioner decides to dismiss or retire a member under subsection (2), the board or the Commissioner shall promptly provide written reasons for this decision to the member.

### **Transfer to accommodate**

**117** Nothing in this Act prevents a police service board or the Commissioner from transferring a member of a police service to a different position, including transferring a police officer to a civilian position, in circumstances where accommodation in accordance with the *Human Rights Code* would involve such a transfer.

### **Suspension by Tribunal**

**118** (1) If the Tribunal suspends a police officer's appointment as a police officer under paragraph 3 of subsection 86 (1) of the *Policing Oversight Act, 2018*,

- (a) the police officer ceases to be a police officer during the suspension; and
- (b) nothing in this Act, other than section 115, prevents the police service board or the Commissioner from assigning the member to a civilian position.

### **End of suspension**

(2) A police officer whose appointment was suspended resumes being a police officer when the suspension ends.

### **No effect on collective agreement**

**119** For greater certainty, nothing in section 117 and clause 118 (1) (b) alters the effect of a collective agreement to which Part X or the *Ontario Provincial Police Collective Bargaining Act, 2006* applies.

### **Restrictions on secondary activities**

**120** (1) A member of a police service maintained by a police service board shall not engage in any activity,

- (a) that interferes with or influences adversely the performance of his or her duties as a member of a police service, or is likely to do so;
- (b) that places him or her in a position of conflict of interest, or is likely to do so;
- (c) that would otherwise constitute full-time employment for another person; or
- (d) in which he or she has an advantage derived from being a member of a police service.

### **Exception, interprovincial officers and auxiliary members**

(2) Clause (1) (c) does not apply to,

- (a) a police officer appointed under the *Interprovincial Policing Act, 2009*; or
- (b) an auxiliary member of a police service.

### **Disclosure to chief of police**

(3) A member of a police service maintained by a police service board who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police or, in the case of a chief of police, to the board.

### **Decision of chief of police or police service board**

(4) The chief of police or the police service board, as the case may be, shall decide whether the member is permitted to engage in the activity, subject to any conditions or restrictions that may be set out in the decision.

### **Member to comply**

(5) The member shall comply with the decision and with any conditions or restrictions set out in it.

### **Report to police service board**

(6) The chief of police shall submit a written report to the police service board respecting any decision he or she makes under subsection (4), with reasons.

### **Police cadets**

**121** (1) If authorized by the policies of the police service board, a chief of police may appoint persons as police cadets to undergo training.

### **Same**

(2) If authorized by the policies of the Minister, the Commissioner may appoint persons as police cadets to undergo training.

### **Member of the police service**

(3) A police cadet is a member of the police service.

### **Not a peace officer**

(4) For greater certainty, a police cadet is not a peace officer by virtue of his or her position.

### **Auxiliary members of police service**

**122** (1) Subject to the regulations, a police service board may appoint auxiliary members of the police service.

### **Auxiliary members of O.P.P.**

(2) Subject to the regulations, the Commissioner may appoint auxiliary members of the Ontario Provincial Police.

### **Suspension or termination of appointment**

(3) A police service board and the Commissioner may suspend or terminate the appointment of an auxiliary member.

### **Notice and opportunity to respond**

(4) Before the auxiliary member's appointment is terminated under subsection (3), the member shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the police service board or the Commissioner, as the case may be, may determine.

### **Authority of auxiliary members of police service**

(5) An auxiliary member of a police service has the authority of a police officer if he or she,

- (a) is accompanied or supervised by a police officer, in accordance with the regulations and the procedures established by the chief of police; and
- (b) is authorized to perform police duties by the chief of police.

### **Restriction**

(6) The chief of police may authorize an auxiliary member of the police service to perform police duties only in special circumstances, including an emergency, that the police officers of the police service are not sufficiently numerous to deal with.

### **Same**

(7) The chief of police may authorize an auxiliary member of the police service to possess or use firearms in the course of his or her duties only in exigent circumstances and subject to any regulations.

### **Oaths of office and secrecy**

(8) A person appointed to be an auxiliary member of a police service shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the prescribed form.

## SPECIAL CONSTABLES

**Special constables****Appointment**

- 123** (1) A police service board or the Commissioner may appoint a person as a special constable if he or she,
- (a) has an offer of employment to be employed as a special constable from, or is currently employed as a special constable by,
    - (i) the board or the Commissioner, or
    - (ii) a special constable employer located in the area for which the board or the Commissioner has policing responsibility;
  - (b) is a Canadian citizen or a permanent resident of Canada;
  - (c) is at least 18 years of age;
  - (d) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
  - (e) is of good character;
  - (f) has completed the prescribed training or has been exempted from this requirement in accordance with the regulations;
  - (g) has a secondary school diploma;
  - (h) satisfies any additional educational criteria required by the regulations to be appointed for the purposes specified under clause (7) (c); and
  - (i) satisfies any additional prescribed criteria.

**Exception**

- (2) Clauses (1) (a), (b) and (g) do not apply to a person who provides policing under the law of another jurisdiction.

**Effect of Tribunal's order**

- (3) An appointment under subsection (1) shall not be made if it is prohibited by an order of the Tribunal under paragraph 6 of subsection 86 (1) of the *Policing Oversight Act, 2018* and must contain any terms, conditions or limitations required by an order under paragraph 5 of that subsection.

**Effect of area of policing responsibility**

- (4) A police service board or the Commissioner shall not appoint a person as a special constable if the special constable is likely to regularly perform his or her duties or exercise his or her powers outside of the area for which the board or the Commissioner has policing responsibility.

**Exception**

- (5) Subsection (4) does not apply if the police service board or the Commissioner has a written agreement with the entity that has policing responsibility for the area that,
- (a) authorizes the board or the Commissioner to make such an appointment; and
  - (b) addresses any other prescribed matters.

**Certificate of appointment**

- (6) The police service board or the Commissioner shall issue a certificate of appointment to the person at the time of his or her appointment as a special constable.

**Contents of certificate**

- (7) The police service board or the Commissioner shall specify in the certificate of appointment,
- (a) the name of the employer who may employ the appointee as a special constable;
  - (b) the term of the appointment, which must not be more than the prescribed period;
  - (c) the purposes for which the person may act as a special constable, from among those set out in the regulations;
  - (d) the powers of a police officer that the special constable may exercise, if any, to the extent and for the purposes specified in clause (c);
  - (e) any weapons or prescribed equipment that the special constable is authorized to possess or use in the course of his or her duties; and

- (f) any other terms or conditions the police service board or the Commissioner consider appropriate.

#### **Exception, special constable employer**

(8) If the special constable is appointed to be employed by a special constable employer, the police service board or the Commissioner shall ensure that the terms and conditions of the appointment are consistent with the special constable employer's authorization.

#### **Firearms**

(9) The certificate of appointment shall not authorize the special constable to possess or use a firearm in the course of his or her duties unless,

- (a) the Minister approves of the authorization;
- (b) the special constable provides policing in another jurisdiction and is authorized to possess or use a firearm in the course of his or her duties in that jurisdiction; or
- (c) the special constable is authorized under a law of Canada to provide policing in Ontario and to possess or use a firearm in the course of his or her duties.

#### **Reappointment**

(10) A special constable may be reappointed at the end of his or her term.

#### **Automatic termination**

(11) A special constable's appointment is terminated, without notice and without an opportunity to respond, if he or she ceases to be employed by the employer specified in the certificate of appointment.

#### **Transition**

(12) The following rules apply to a person who held an appointment as a special constable under section 53 of the *Police Services Act* immediately before it was repealed:

1. The appointment continues under this Act and the special constable may, despite any other requirement in this section continue to act for the period, in the area and for the purpose set out in his or her appointment until the appointment expires or is terminated or until the special constable is reappointed.
2. Despite subsection 126 (6), the special constable shall continue to be subject to any restrictions on his or her use or possession of a firearm or any other equipment that were specified in his or her appointment until the appointment expires or is terminated or until the special constable is reappointed.
3. The appointment is deemed to expire three years after the day this subsection comes into force if it does not expire before then.
4. The person may be reappointed as a special constable even if he or she does not meet the educational requirements set out in clause (1) (g), and he or she may subsequently be reappointed one or more consecutive times without meeting those requirements.

#### **Amendment to certificate of appointment**

**124** (1) The police service board or the Commissioner may amend a special constable's certificate of appointment, including imposing new terms and conditions or varying existing terms and conditions, after giving the special constable written notice and an opportunity to respond orally or in writing, as the police service board or the Commissioner, as the case may be, may determine.

#### **Amendment to special constable employer's authorization**

(2) If an amendment to a special constable employer's authorization under subsection 128 (6) requires that the special constable employees' certificates of appointment be amended to be consistent with the authorization, the police service board or the Commissioner shall make the required amendments in accordance with subsection (1) of this section.

#### **Suspension and termination of special constable appointment**

**125** (1) A police service board or the Commissioner may suspend or terminate the appointment of a special constable who was appointed by the board or the Commissioner, as applicable.

#### **Notice and opportunity to respond**

(2) Before a special constable's appointment is terminated, he or she shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the police service board or the Commissioner, as the case may be, may determine.

**Special constable duties**

**126** (1) A person appointed as a special constable under section 123 may be employed as a special constable by the employer specified in the certificate of appointment.

**Restriction**

(2) A special constable shall not be employed by a police service to perform all the duties of a police officer on a permanent basis, whether part-time or full-time.

**Same**

(3) For greater certainty, subsection (2) does not prohibit police services from authorizing special constables to escort and convey persons in custody and to perform duties related to the responsibilities of police service boards under Part XII.

**Oaths of office and secrecy**

(4) A special constable shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the prescribed form.

**Duties**

(5) A special constable shall,

- (a) carry out his or her duties in accordance with the terms, conditions and purposes set out in the certificate of appointment;
- (b) exercise any police powers conferred on him or her,
  - (i) only to the extent and for the specific purposes set out in the certificate of appointment, and
  - (ii) in accordance with the regulations, if any;
- (c) comply with any investigations conducted by the Complaints Director, the SIU Director or the Inspector General;
- (d) comply with the prescribed code of professional conduct; and
- (e) perform such other duties as are assigned to him or her by or under this or any other Act, including any prescribed duties.

**Firearms, weapons and other equipment**

(6) A special constable shall not possess or use a firearm, any other weapon or any other prescribed equipment in the course of his or her duties unless,

- (a) the special constable's certificate of appointment authorizes its possession or use; or
- (b) the special constable is authorized under a law of Canada to provide policing in Ontario and to possess or use the firearm, other weapon or equipment in the course of his or her duties.

**Notice if outside area of policing responsibility**

**127** (1) Before a special constable performs a duty or exercises a power pursuant to his or her appointment in an area that is outside the area for which the police service board, or the Commissioner, that appointed the special constable has policing responsibility, the special constable shall give notice to the local commander of the police service that provides policing in the area.

**Content of notice**

(2) The notice must include the terms and conditions imposed on the special constable's certificate of appointment and a general description of the special constable's duties.

**Exception, agreement**

(3) Subsection (1) does not apply if the police service board, or the Commissioner, that appointed the special constable has a written agreement with the entity that has policing responsibility for the area that,

- (a) authorizes the special constable to perform the duty or exercise the power in the area; and
- (b) addresses any other prescribed matters.

**Exception, notice impractical**

(4) If it is impractical for the special constable to give notice to the local commander before performing a duty or exercising a power in the area, the special constable shall provide notice as soon as reasonably possible after doing so.

**Exception, RCMP**

(5) Subsection (1) does not apply to a special constable who is a member of the Royal Canadian Mounted Police.



## SPECIAL CONSTABLE EMPLOYERS

### Authorization

**128** (1) A person, other than a for-profit entity, may apply to the Minister for an authorization to employ special constables.

### Application

(2) The person shall make the application in the prescribed form and include the prescribed information, if any.

### Issuance of authorization

(3) If the applicant meets the prescribed requirements, the Minister may issue an authorization to employ special constables to the applicant and may impose any terms or conditions on the authorization that the Minister considers appropriate.

### Factors to be considered

(4) In considering whether to issue an authorization under this section, the Minister shall take into consideration the prescribed factors, if any.

### Written reasons if no authorization issued

(5) If the Minister decides not to issue an authorization to the applicant, the Minister shall provide the applicant with written reasons for the decision.

### Terms and conditions may be varied

(6) The Minister may impose new terms and conditions or vary any existing terms and conditions of an authorization after giving the special constable employer written notice and an opportunity to respond orally or in writing, as the Minister may determine.

### Notice to police service board or the Commissioner

(7) If the Minister imposes new terms and conditions on a special constable employer's authorization or varies any existing terms and conditions, the special constable employer shall notify every police service board, or the Commissioner, who appointed a special constable employee of the employer of the changes.

### Notice to Minister

(8) A special constable employer shall notify the Minister of any changes in the information provided to the Minister in the employer's application for an authorization to employ special constables or of any changes that affect the person's ability to meet the prescribed requirements.

### Prescribed entity records

(9) If a special constable employer is not an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, or is not subject to comparable legislation in another jurisdiction, then,

- (a) the special constable employer's records relating to the activities and oversight of the special constables it employs are, for the purposes of the *Freedom of Information and Protection of Privacy Act*, deemed to be in the custody and control of the Ministry; and
- (b) the Minister shall impose terms and conditions on the special constable employer's authorization to address,
  - (i) access to the records of the special constable employer for the purpose of discharging the obligations of the Ministry in relation to clause (a), and
  - (ii) the protection of personal information in the custody or control of the special constable employer that is related to the activities and oversight of the special constables it employs.

### Duties of special constable employer

**129** (1) A special constable employer shall,

- (a) comply with the terms and conditions of the authorization; and
- (b) perform such other duties as are assigned to it by or under this or any other Act, including any prescribed duties.

### Investigation of conduct

(2) If a special constable employed by a special constable employer appears to have engaged in conduct that constitutes professional misconduct, contravened the terms and conditions of his or her certificate of appointment or contravened any other provision of this Act or the regulations, the special constable employer shall,

- (a) investigate the conduct and determine if it constitutes such a contravention;
- (b) report the contravention or alleged contravention to the police service board, or the Commissioner, that appointed the special constable; and

- (c) take appropriate action to remedy the contravention.

#### **Requiring or permitting contraventions**

(3) A special constable employer shall not require or permit a special constable to engage in conduct that constitutes professional misconduct, a contravention of the terms and conditions of his or her certificate of appointment or any other contravention of this Act or the regulations.

#### **Compliance with investigation**

(4) A special constable employer shall comply with any investigations conducted by the Complaints Director, the SIU Director or the Inspector General.

#### **Notice to police service board or the Commissioner**

(5) A special constable employer shall notify the police service board, or the Commissioner, who appointed a special constable employee of the employer if,

- (a) there is any change to the employment status of the special constable employee; or
- (b) the special constable employer becomes aware of any information that might reasonably affect an assessment of whether the special constable is of good character or is physically and mentally able to perform the duties of the position.

#### **Suspension or termination of authorization to employ**

**130** (1) Subject to subsection (2), the Minister may suspend or terminate a special constable employer's authorization if,

- (a) the employer provided false or misleading information under this Act or the regulations;
- (b) the employer failed to act in accordance with the terms and conditions of the authorization;
- (c) in the Minister's opinion, the employer did not take appropriate action when the employer knew or ought reasonably to have known that his, her or its special constable employee contravened the terms and conditions of his or her certificate of appointment or contravened any other provision of this Act or the regulations;
- (d) the employer no longer meets the prescribed requirements for issuing the authorization;
- (e) the employer failed to comply with a direction issued by the Inspector General under section 102;
- (f) the employer is not in compliance with any other provision of this Act or the regulations; or
- (g) in the Minister's opinion, the authorization is not in the public interest.

#### **Opportunity to respond**

(2) Before suspending or terminating an authorization, the Minister shall give the special constable employer written notice and an opportunity to respond orally or in writing, as the Minister may determine.

#### **Notification**

(3) The Minister must notify the special constable employer in writing of any decision to suspend or terminate his or her authorization to employ special constables as soon as possible.

### **SPECIAL CONSTABLES HOLDING OUT AS POLICE OFFICERS**

#### **Holding out as police officer**

**131** (1) No special constable shall hold himself or herself out as a police officer.

#### **Same, employer**

(2) No special constable employer shall hold his, her or its special constables out as police officers.

#### **Same, use of terminology**

(3) No special constable employer shall use the terms "police", "police service", "police force" or any similar term to describe his, her or its special constables.

#### **Exception**

(4) Subsections (1), (2) and (3) do not apply with respect to a special constable who is appointed or employed as a police officer under the law of another jurisdiction.

#### **Same**

(5) Subsection (3) does not apply to a special constable employer who employs First Nation Officers.

#### **Same**

(6) Subsection (3) does not apply to a special constable employer exempted under paragraph 17 of subsection 208 (2).

**Offence**

- (7) A special constable who contravenes subsection (1) is guilty of an offence and on conviction is liable,
- (a) in the case of a first offence, to a fine of not more than \$25,000; or
  - (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000.

**Same**

- (8) A special constable employer who contravenes subsection (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000.

**FIRST NATION OFFICERS****First Nation Officers**

- 132** (1) The Commissioner may appoint a First Nation Officer to perform specified duties.

**Further approval**

- (2) If the specified duties of a First Nation Officer relate to a First Nation reserve, the appointment also requires the approval of the reserve's police governing authority or band council.

**Powers of police officer**

- (3) A First Nation Officer is a peace officer and has the powers of a police officer for the purpose of carrying out his or her specified duties.

**Duty to consult**

- (4) The Commissioner shall not suspend or terminate the appointment of a First Nation Officer whose specified duties relate to a First Nation reserve without first consulting with the police governing authority or band council that approved the appointment.

**Suspension or termination of appointment**

- (5) The power to appoint a First Nation Officer includes the power to suspend or terminate the appointment.

**Notice and opportunity to respond**

- (6) Before a First Nation Officer's appointment is terminated, he or she shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the Commissioner may determine.

**Oaths of office and secrecy**

- (7) A person appointed to be a First Nation Officer shall, at the time of his or her appointment, take oaths or affirmations of office and secrecy in the prescribed form.

**Transition**

- (8) A person who held an appointment as a First Nation Constable under section 54 of the *Police Services Act* immediately before it was repealed shall be deemed to be appointed as a First Nation Officer on the day this subsection comes into force.

**PART VIII**  
**RIGHT TO REPORT PROFESSIONAL MISCONDUCT**

**APPLICATION****Disclosure despite conflict with other Acts**

- 133** (1) Subject to subsection (2), a right under this Part to make a disclosure prevails over anything provided under any other Act, or otherwise at law, that prohibits the disclosure.

**Restriction on disclosure**

- (2) Nothing in this Part authorizes a disclosure of anything that would be inadmissible in a court by reason of any privilege under the law of evidence.

**Same**

- (3) Nothing in this Part shall be interpreted to limit any right that a person to whom this Part applies may have under any other Act, or otherwise at law, to disclose information about professional misconduct.

## DISCLOSURE PROCEDURES

### **Disclosure procedures**

#### **Chief of police**

**134** (1) Every chief of police shall establish written procedures regarding the disclosure of professional misconduct that is alleged to have been engaged in by members of its police service, other than by the chief of police or deputy chief of police.

#### **Police service board**

(2) Every police service board shall establish written procedures regarding the disclosure of professional misconduct that is alleged to have been engaged in by the chief of police or deputy chief of police of the police service.

#### **Minister**

(3) The Minister shall establish written procedures regarding the disclosure of professional misconduct that is alleged to have been engaged in by the Commissioner or a deputy Commissioner.

#### **Special constable employers**

(4) Every special constable employer shall establish written procedures regarding the disclosure of professional misconduct that is alleged to have been engaged in by a special constable employed by the employer.

#### **Contents of procedures**

- (5) Without limiting the generality of subsections (1), (2), (3) and (4), the procedures under those subsections shall,
- (a) address how a member or former member of the police service, or an employee or former employee of the special constable employer, may make disclosures of professional misconduct, including giving directions as to the persons to whom disclosures may be made;
  - (b) establish procedures to protect the identities of persons involved in the disclosure process, including persons who make disclosures, witnesses and persons alleged to be responsible for professional misconduct; and
  - (c) provide for exceptions to be made to procedures described in clause (b) where the interests of fairness require that a person's identity be disclosed to one or more persons.

#### **Members of police service to be informed**

(6) Every chief of police shall ensure that members of the police service are familiar with the procedures referred to in subsection (1), (2) or (3), as applicable, and the protections from reprisals for disclosing professional misconduct.

#### **Employees of special constable employer to be informed**

(7) Every special constable employer shall ensure that his or her employees are familiar with the procedures referred to in subsection (4) and the protections from reprisals for disclosing professional misconduct.

#### **Reporting of professional misconduct**

**135** (1) If a member or former member of a police service has reason to believe that another member of the police service has engaged in conduct that constitutes professional misconduct, he or she may disclose the professional misconduct in accordance with the applicable procedure established under subsection 134 (1), (2) or (3).

#### **Special constable**

(2) If a special constable employed by, or formerly employed by, a special constable employer has reason to believe that another special constable employed by the special constable employer has engaged in conduct that constitutes professional misconduct, he or she may disclose the professional misconduct in accordance with the applicable procedure established under subsection 134 (4).

## DISCLOSURE TO THE INSPECTOR GENERAL

### **Disclosure to Inspector General**

**136** A member of a police service or a special constable employed by a special constable employer may disclose professional misconduct to the Inspector General if,

- (a) the member or special constable has reason to believe that it would not be appropriate to disclose the professional misconduct in accordance with the procedures established under section 134;
- (b) the member or special constable has already disclosed the professional misconduct in accordance with the procedures established under section 134 and has concerns that the matter is not being dealt with appropriately; or
- (c) the applicable procedure has not been established under section 134.

### **Disclosure to SIU Director**

**137** If the Inspector General receives a disclosure of professional misconduct that contains an allegation of an incident that a designated authority would have a duty to report under section 17 of the *Policing Oversight Act, 2018*, the Inspector General shall notify the SIU Director of the allegation unless the Inspector General believes that the SIU Director has already been notified.

### **Initial assessment by Inspector General**

**138** (1) The Inspector General shall refuse to deal with a disclosure of professional misconduct, or a portion of it, under section 136 if one or more of the following circumstances apply:

1. The subject matter of the disclosure is being dealt with by another person or body as a matter of law enforcement or in accordance with a procedure established under this or any other Act.
2. The subject matter of the disclosure is an employment or labour relations matter that could be dealt with through a dispute resolution mechanism, including a grievance procedure, established under this or any other Act, under a collective agreement or under an agreement of another kind.
3. The disclosure is frivolous, vexatious or made in bad faith.
4. There has been a substantial delay between the disclosure and the incidents that are the subject matter of the disclosure.
5. Any other prescribed circumstances exist.
6. There is a valid reason, other than a circumstance described in paragraphs 1 to 5, for not dealing with the disclosure.

### **Inform discloser**

(2) If the Inspector General refuses to deal with a disclosure of professional misconduct, or a portion of it, he or she shall so inform the person who made the disclosure and may provide reasons for the refusal.

### **Allegation of criminal conduct**

**139** If the Inspector General receives a disclosure of professional misconduct under section 136 and does not refuse to deal with it under section 138, or if the Complaints Director provides the Inspector General with notice of potential criminal conduct, the Inspector General shall refer the matter to an unrelated police service if he or she reasonably believes that,

- (a) the alleged events may constitute a criminal offence; and
- (b) the matter has not already been investigated by an unrelated police service or the Ontario Special Investigations Unit.

### **Referral by Inspector General**

**140** (1) This section applies where the Inspector General receives a disclosure of professional misconduct under section 136 and does not refuse to deal with the disclosure under section 138, even if a referral has been made under section 139.

### **Same**

(2) The Inspector General shall provide the Complaints Director with,

- (a) a written summary of the disclosure; and
- (b) any other information that the Inspector General has received in relation to the matter that the Inspector General believes may assist in dealing with the matter.

### **Inform discloser**

(3) If the Inspector General receives notice from the Complaints Director that the Director refuses to investigate a disclosure of professional misconduct, the Inspector General shall so inform the person who made the disclosure.

## **PROTECTION FROM REPRISALS**

### **No reprisals**

**141** (1) No person shall take a reprisal against a member of a police service or special constable employed by a special constable employer because he or she has,

- (a) sought advice about making a disclosure about professional misconduct in accordance with this Part;
- (b) made a disclosure about professional misconduct in accordance with this Part;
- (c) co-operated in an investigation or other process related to a disclosure of professional misconduct made in accordance with this Part; or
- (d) sought enforcement of this Part.

**Same**

(2) For the purposes of subsection (1), a reprisal is any measure taken against a member of a police service or special constable employed by a special constable employer that adversely affects his or her employment or appointment and includes but is not limited to,

- (a) terminating or threatening to terminate the person's employment or appointment;
- (b) disciplining or suspending or threatening to discipline or suspend the person;
- (c) imposing or threatening to impose a penalty related to the employment or appointment of the person; or
- (d) intimidating or coercing the person in relation to his or her employment or appointment.

**Complaint about reprisal**

**142** (1) A member or former member of a police service or special constable employed or formerly employed by a special constable employer may complain under this section that he or she has suffered a reprisal prohibited by section 141 by a police service board, a member of a police service, a special constable employer or a person acting on behalf of one of those.

**Request to determine matter**

(2) The member, former member, special constable or former special constable may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or apply to the chair of the Arbitration Commission to appoint an arbitrator to decide the matter.

**Parties**

(3) The member, former member, special constable or former special constable and the person or entity complained of are the parties to the arbitration.

**Order**

(4) If the arbitrator determines that a reprisal has been taken in contravention of section 141, the arbitrator may make an order that it considers just and reasonable in the circumstances directing the police service board, member of the police service or special constable employer, or person acting on behalf of one of those, to do or refrain from doing anything in relation to the contravention.

**Same**

(5) Without limiting the generality of subsection (4), an order under that subsection may direct that the person or entity do one or more of the following:

- 1. Cease doing an act or acts complained of under subsection (1).
- 2. Take steps to rectify harm related to a complaint under subsection (1).
- 3. Reinstate the employment of a person whose employment was terminated or reappoint a person whose appointment was terminated.
- 4. Compensate the person for loss of any remuneration, including benefits.

**Same**

(6) An arbitrator may not make an order under subsection (4) for punitive damages or for costs.

**Burden of proof**

(7) In an arbitration under this section, the burden of proof that the police service board, member of the police service or special constable employer, or person acting on behalf of one of those, did not act contrary to section 141 lies on the police service board, member of the police service, special constable employer or person acting on behalf of one of those.

## PART IX DISCIPLINE AND DISMISSAL

### NON-APPLICATION

**Non-application**

**143** This Part does not apply to police officers appointed under the *Interprovincial Policing Act, 2009*.

**Agreements**

**144** Nothing in this Part affects agreements between police service boards and police officers or police associations, or agreements made under the *Ontario Provincial Police Collective Bargaining Act, 2006*, that permit penalties or actions in addition to those set out in this Part if the police officer in question consents.

## PROCEDURES

### Assessment and discipline procedures

- 145** (1) Every chief of police shall establish written procedures for,
- (a) the assessment of the work performance of members of the police service; and
  - (b) the imposition of disciplinary measures on members of the police service.

### Procedures to be made available

- (2) The chief of police shall make the procedures available to the members of the police service and any police associations representing those members.

## PROFESSIONAL MISCONDUCT

### Professional misconduct

- 146** A police officer or special constable engages in conduct that constitutes professional misconduct if he or she,
- (a) contravenes the applicable code of professional conduct;
  - (b) fails to respond to an inspector's reasonable inquiries as required under section 93;
  - (c) contravenes section 106 or 147;
  - (d) fails to comply with a direction or request as required under subsection 33 (1) or 99 (1) of the *Policing Oversight Act, 2018*;
  - (e) deliberately fails to comply with a requirement to notify the SIU Director as required under section 17 of the *Policing Oversight Act, 2018*; or
  - (f) contravenes section 100 of the *Policing Oversight Act, 2018*.

### Inducing professional misconduct and withholding services

- 147** (1) No person shall,
- (a) induce or attempt to induce a member of a police service to withhold his or her services; or
  - (b) induce or attempt to induce a police officer or special constable to engage in conduct that constitutes professional misconduct.

### Withholding services

- (2) No member of a police service shall withhold his or her services.

### Offence

- (3) An individual who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable,
- (a) in the case of a first offence, to a fine of not more than \$25,000, to an imprisonment for a term of not more than one year, or to both; or
  - (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000, to an imprisonment for a term of not more than one year, or to both.

### Same

- (4) A person other than an individual that contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000.

## MANDATORY NOTICE OF PROFESSIONAL MISCONDUCT

### Duty to provide notice to Complaints Director

- 148** (1) If a chief of police becomes aware that a member of his or her police service who is a special constable or a police officer, other than a deputy chief of police, may have engaged in conduct that constitutes professional misconduct, whether during the conduct of an investigation or otherwise, the chief shall, in prescribed circumstances, provide notice of the misconduct to the Complaints Director.

### Duty, police service board

- (2) If a police service board becomes aware that a chief of police or deputy chief of police of a police service maintained by the board may have engaged in conduct that constitutes professional misconduct, whether during the conduct of an investigation or otherwise, the board shall, in prescribed circumstances, provide notice of the misconduct to the Complaints Director.

### **Duty, Minister**

(3) If the Minister becomes aware that the Commissioner or a deputy Commissioner may have engaged in conduct that constitutes professional misconduct, whether during the conduct of an investigation or otherwise, the Minister shall, in prescribed circumstances, provide notice of the misconduct to the Complaints Director.

## **INVESTIGATIONS**

### **Investigation by chief of police**

**149** (1) A chief of police may conduct an investigation in order to determine if a police officer who is a member of the chief's police service, other than a deputy chief of police, has engaged in conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance.

### **Request to investigate**

(2) The chief of police may request that any person investigate a police officer, other than a deputy chief of police, and report back for the purposes set out in subsection (1).

### **Exception**

(3) The chief of police may not make a request under subsection (2) to the Complaints Director.

### **Notice**

(4) A chief of police who conducts an investigation under this section shall promptly give notice of the substance of the reason for the investigation to the police officer unless, in the chief of police's opinion, to do so might prejudice the investigation.

### **Chief of police or deputy chief of police**

(5) A police service board may conduct an investigation in order to determine if a chief of police or deputy chief of police of a police service maintained by the police service board has engaged in conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance, and subsections (1) to (4) apply to the investigation with necessary modifications.

### **Commissioner or deputy Commissioner**

(6) The Minister may conduct an investigation in order to determine if the Commissioner or a deputy Commissioner has engaged in conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance, and subsections (1) to (4) apply to the investigation with necessary modifications.

### **Investigation timing**

(7) The chief of police, police service board or Minister conducting an investigation under this section shall endeavour to ensure that the investigation is concluded within one year, not including any period during which an investigation may not take place as a result of section 154.

### **Status report**

(8) If the timing requirements of subsection (7) are not met in respect of an investigation, the chief of police, police service board or Minister, as applicable, shall give notice of the status of the investigation to the person being investigated every 60 days until the investigation is concluded unless, in the opinion of the chief, board or Minister, doing so might prejudice the investigation.

## **DISCIPLINARY MEASURES**

### **Suspension, forfeit of pay, reprimands, etc.**

**150** (1) Subject to section 151, a chief of police may impose any combination of the following disciplinary measures on a police officer who is a member of the chief's police service, other than a deputy chief of police, for professional misconduct, workplace misconduct or unsatisfactory work performance:

1. Suspend the police officer without pay for a period not exceeding 30 days or 240 hours, as the case may be.
2. Direct that the police officer forfeit not more than three days or 24 hours pay, as the case may be.
3. Direct that the police officer forfeit not more than 20 days or 160 hours off, as the case may be.
4. Reprimand the police officer.
5. Direct that the police officer undergo specified counselling, treatment or training.
6. Direct that the police officer participate in a specified program or activity.



### **Calculation**

(2) A disciplinary measure imposed under paragraph 1, 2 or 3 of subsection (1) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day.

### **Same**

(3) A police officer may elect to satisfy a disciplinary measure imposed under paragraph 2 of subsection (1) by working without pay or by applying the amount to his or her vacation or overtime credits or entitlements.

### **Same, chief of police or deputy chief of police**

(4) Subject to section 151, a police service board may impose disciplinary measures on a chief of police or deputy chief of police of a police service maintained by the police service board for professional misconduct, workplace misconduct or unsatisfactory work performance and subsections (1), (2) and (3) of this section apply with respect to those measures, with necessary modifications.

### **Same, Commissioner or deputy Commissioner**

(5) Subject to section 151, the Minister, with the approval of the Lieutenant Governor in Council, may impose disciplinary measures on the Commissioner or a deputy Commissioner for professional misconduct, workplace misconduct or unsatisfactory work performance and subsections (1), (2) and (3) of this section apply with respect to those measures, with necessary modifications.

### **Procedure and hearings**

**151** (1) Before imposing a disciplinary measure under section 150, the chief of police, police service board or Minister, as the case may be, shall,

- (a) provide written notice stating the reasons for imposing the disciplinary measure to the police officer;
- (b) give the police officer an opportunity to respond to the notice provided under clause (a), orally or in writing, as the chief of police, police service board or Minister may determine; and
- (c) comply with any other prescribed requirements.

### **Unsatisfactory work performance — additional requirements**

(2) Before a chief of police provides notice under clause (1) (a) of a proposed disciplinary measure on a police officer for engaging in conduct that constitutes unsatisfactory work performance, the chief shall,

- (a) ensure that the police officer's work performance has been assessed in accordance with the procedures established under subsection 145 (1);
- (b) advise the police officer of how he or she may improve his or her work performance;
- (c) accommodate the police officer's needs in accordance with the *Human Rights Code* if the police officer has a disability, within the meaning of the *Human Rights Code*, that requires accommodation;
- (d) recommend that the police officer seek remedial assistance, such as counselling, training or participation in a program or activity, if the chief of police is of the opinion that it would improve the police officer's work performance; and
- (e) give the police officer a reasonable opportunity to improve his or her work performance.

### **Consent to disciplinary measure**

(3) The police officer referred to in clause (1) (a) may consent to the imposition of the disciplinary measure after receiving the notice and, if such a consent is given, the police officer shall not request a hearing regarding the disciplinary measure under subsection (6).

### **Consent may be withdrawn**

(4) A police officer who consents to the imposition of a disciplinary measure under subsection (3) may revoke the consent by notifying the chief of police in writing of the revocation no later than 12 business days after the day on which the consent is given.

### **Exercise of powers**

(5) After complying with subsection (1) and, if applicable, subsection (2) and considering the response, if any, the chief of police, police service board or Minister may implement the proposed disciplinary measure, impose a lesser disciplinary measure or rescind his or her intention to implement it.

**Hearing**

(6) The police officer who is the subject of the disciplinary measure may request a hearing regarding the disciplinary measure by submitting written notice to the Tribunal and to the chief of police, police service board or Minister, as applicable, within the prescribed period of time.

**Parties**

(7) The police officer and the chief of police, police service board or Minister, as applicable, are the parties to the hearing.

**Hearing does not operate as a stay**

(8) A hearing does not operate to stay the disciplinary measure.

**Settlement**

(9) The police officer and the chief of police, police service board or Minister, as applicable, may settle the matter and the settlement may provide for the imposition of a disciplinary measure set out in subsection 150 (1).

**Order**

(10) If the Tribunal determines that the chief of police, police service board or Minister, as applicable, has not shown, on the balance of probabilities, that the disciplinary measure imposed is appropriate, the Tribunal may make an order overturning the decision to impose the measure or substituting a different disciplinary measure set out in subsection 150 (1).

**If overturned**

(11) If the Tribunal overturns the decision to impose the disciplinary measure, the chief of police, police service board or Minister, as applicable, shall ensure that the police officer is reimbursed for any lost pay, days or hours, as applicable.

**Termination of employment or demotion**

**152** (1) If a chief of police believes that a police officer who is a member of the chief's police service, other than a deputy chief of police, has engaged in conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance and that the appropriate disciplinary measure is demotion or termination of the officer's employment, the chief of police may apply to the Tribunal to hold a hearing on the matter.

**Unsatisfactory work performance — additional requirements**

(2) Before applying to the Tribunal under subsection (1) for demotion or termination of a police officer's employment, a chief of police shall,

- (a) ensure that the police officer's work performance has been assessed in accordance with the procedures established under subsection 145 (1);
- (b) advise the police officer of how he or she may improve his or her work performance;
- (c) accommodate the police officer's needs in accordance with the *Human Rights Code* if the police officer has a disability, within the meaning of the *Human Rights Code*, that requires accommodation;
- (d) recommend that the police officer seek remedial assistance, such as counselling, training or participation in a program or activity, if the chief of police is of the opinion that it would improve the police officer's work performance; and
- (e) give the police officer a reasonable opportunity to improve his or her work performance.

**Notice**

(3) The chief of police shall provide written notice of the application to the police officer.

**Parties**

(4) The chief of police and the police officer are the parties to the hearing.

**Settlement**

(5) The chief of police and police officer may settle the matter, and the settlement may provide for the imposition of a disciplinary measure set out in subsection (6) or (7).

**Order**

(6) If the Tribunal determines that the chief of police has shown, on the balance of probabilities, that the police officer has engaged in conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance and that demotion or termination of the officer's employment is an appropriate response, the Tribunal may make an order to impose one of the following disciplinary measures:

1. Terminate the police officer's employment.
2. Direct that the police officer's employment be terminated in seven days unless he or she resigns before that time.

3. Demote the police officer, specifying the manner and period of the demotion.

**Same**

(7) If the Tribunal determines that the chief of police has shown, on the balance of probabilities, that the police officer has engaged in conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance but that demotion or termination of the officer's employment is not an appropriate response, the Tribunal may make an order to impose a disciplinary measure set out in subsection 150 (1).

**Provisions applying to certain disciplinary measures**

(8) Subsections 150 (2) and (3) apply with necessary modifications to disciplinary measures imposed under subsection (7).

**Chief of police or deputy chief of police**

(9) A police service board may apply to the Tribunal to hold a hearing respecting the demotion or termination of employment of a chief of police or deputy chief of police of a police service maintained by the police service board.

**Same**

(10) Subsections (1), (3) and (5) to (8) apply, with necessary modifications, to an application under subsection (9) and the police service board and the chief of police or deputy chief of police, as applicable, are parties to the hearing.

**Commissioner or deputy Commissioner**

(11) The Minister, with the approval of the Lieutenant Governor in Council, may apply to the Tribunal to hold a hearing respecting the demotion or termination of employment of the Commissioner or a deputy Commissioner.

**Same**

(12) Subsections (1), (3) and (5) to (8) apply, with necessary modifications, to an application under subsection (11) and the Minister and the Commissioner or deputy Commissioner, as applicable, are parties to the hearing.

**Appeal to Divisional Court**

**153** (1) A party to a hearing held by the Tribunal under section 151 or 152 may appeal the Tribunal's decision to the Divisional Court within 30 days of receiving notice of the Tribunal's decision.

**Notice to Minister**

(2) The appealing party shall provide notice of the appeal to the Minister, and the Minister is entitled to be heard, by counsel or otherwise, on the argument of the appeal.

**Not question of fact alone**

(3) An appeal shall not be made on a question of fact alone.

**Appeal does not operate as a stay**

(4) An appeal does not operate to stay the disciplinary measure under appeal.

**LIMITATION ON INVESTIGATIONS AND DISCIPLINE**

**Limitation on investigations, discipline**

**154** (1) During the time period described in subsection (3) relating to a matter, the chief of police and the police service board or Minister, as applicable, shall not,

- (a) investigate the matter under section 149, subject to subsection (4) of this section;
- (b) impose disciplinary measures with respect to the matter under section 150; or
- (c) make an application with respect to the matter under section 152.

**Same**

(2) During the time period described in subsection (3), the Tribunal may continue to hear a proceeding that was commenced under section 152 if the hearing commenced before the beginning of that time period.

**Time period**

(3) The time periods referred to in subsections (1) and (2) are the following:

1. The time period,
  - i. beginning on the day the SIU Director causes the matter to be investigated, and
  - ii. ending on the day the SIU Director, or the chief of police to whom the matter is referred under subsection 19 (1) of the *Policing Oversight Act, 2018*, determines that charges will or will not be laid with respect to the matter.
2. The time period,

- i. beginning on the day the chief of police, police service board or Minister,
  - A. provides notice of the professional misconduct to the Complaints Director under section 148, or
  - B. receives notice from the Complaints Director indicating that he or she will investigate the matter, and
- ii. ending on the day the chief of police, police service board or Minister receives notice,
  - A. if applicable, that the Complaints Director will not cause an investigation of the matter to be conducted,
  - B. that the investigation will be discontinued, or
  - C. that the Complaints Director does not have reasonable grounds to believe that the conduct of the police officer or special constable who was the subject of the investigation constitutes professional misconduct.

#### **Investigation of matter**

(4) The chief of police, police service board or the Minister may continue to investigate the matter under section 149 of this Act if he, she or it gives notice under subsection 87 (3) of the *Policing Oversight Act, 2018* that he, she or it will make submissions regarding the ordering of a penalty in relation to the matter.

#### **No further action in respect of matter**

(5) The chief of police, police service board or Minister shall not take any of the actions listed in subsection (1) in respect of a matter if,

- (a) the matter has been resolved under section 80 of the *Policing Oversight Act, 2018*; or
- (b) the Tribunal has determined whether it will or will not make an order under section 86 of the *Policing Oversight Act, 2018* with respect to the matter.

#### **Exception**

- (6) Subsection (1) does not limit,
  - (a) an investigation conducted for the purpose of determining whether to impose a suspension without pay under section 157; or
  - (b) the imposition of a suspension without pay under section 157.

#### **Implementation of informal resolution agreement**

**155** If the Complaints Director gives a direction to a chief of police, a police service board or the Minister under subsection 80 (6) of the *Policing Oversight Act, 2018* to impose a disciplinary measure listed in subsection 150 (1) or 152 (1) of this Act,

- (a) the chief of police, board or Minister shall comply with the direction;
- (b) in the case of a disciplinary measure listed under subsection 150 (1), section 151 does not apply to the imposition of the measure; and
- (c) in the case of a disciplinary measure listed in subsection 152 (1), the disciplinary measure may, despite section 152, be imposed without a hearing before the Tribunal.

### **SUSPENSION**

#### **Suspension with pay**

**156** (1) A chief of police may suspend a police officer who is a member of the chief's police service, other than a deputy chief of police, with pay, pending the final disposition of a proceeding, if any, under this Part or under the *Policing Oversight Act, 2018* if the member is suspected of professional or workplace misconduct.

#### **Other required duties**

(2) The suspension may require the police officer to perform duties that do not involve exercising the powers or performing the duties of a police officer.

#### **Notice**

(3) The chief of police shall provide written notice of the suspension to the police officer.

#### **Revocation**

(4) The chief of police may revoke the suspension at any time.

#### **Re-imposition**

(5) The chief of police may re-impose a suspension, repeatedly if necessary, as the chief of police considers appropriate, as long as the circumstances set out in subsection (1) continue to be met.

### **Earnings from other employment**

(6) If a police officer is suspended with pay and is not performing duties as required by the chief of police under subsection (2), the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period.

### **Exception**

(7) Subsection (6) does not apply to earnings from other employment that was commenced before the period of suspension, but does apply to earnings generated from additional hours that the employee works during the period of suspension.

### **Chief of police or deputy chief of police**

(8) A police service board may suspend a chief of police or deputy chief of police of a police service maintained by the police service board with pay, and subsections (1) to (7) apply to the suspension with necessary modifications.

### **Commissioner or deputy Commissioner**

(9) The Minister may suspend the Commissioner or a deputy Commissioner with pay, and subsections (1) to (7) apply to the suspension with necessary modifications.

### **Suspension without pay**

**157** (1) A chief of police may suspend a police officer who is a member of the chief's police service, other than a deputy chief of police, without pay in the following circumstances:

1. The police officer is convicted of an offence and sentenced to a term of imprisonment, even if the conviction or sentence is under appeal.
2. The police officer is in custody or is subject to conditions of judicial interim release, or conditions imposed under section 499 of the *Criminal Code* (Canada), that prevent the officer from performing the usual duties of a police officer.
3. The police officer is charged with a serious offence, as defined in the regulations, under a law of Canada and,
  - i. the alleged offence was not committed in relation to the performance of the officer's duties,
  - ii. the chief of police,
    - A. has commenced proceedings to seek termination of the police officer's employment in relation to the events that led to the charges, or
    - B. has given notice to the police officer that the chief intends to commence such proceedings but is prevented from doing so by section 154,
  - iii. the likely outcome of the proceedings would be, if the events leading to the charges were proven, that the officer's employment would be terminated, and
  - iv. a failure to suspend the officer without pay would bring discredit to the reputation of the police service.

### **Unable to perform duties**

(2) A suspension without pay imposed under paragraph 2 of subsection (1) on a police officer who is subject to conditions of judicial interim release ends once the police officer is able to perform the usual duties of a police officer again.

### **Non-application of other sections**

(3) Sections 150 and 151 do not apply to a suspension without pay imposed under this section.

### **Notice**

(4) The chief of police shall provide written notice of a suspension without pay to the police officer.

### **Revocation**

(5) The chief of police may revoke a suspension without pay at any time.

### **Disentitlement to pay**

(6) During a suspension without pay, the police officer is not entitled to receive a salary, wages or other remuneration, but is entitled to continue to receive any benefits the officer would otherwise be entitled to.

### **Pension credit**

(7) Despite subsection (6), a police officer shall not accrue pension credit in respect of the period of suspension without pay.

### **Restrictions on activities that constitute full-time employment do not apply**

(8) Clause 120 (1) (c) does not apply to the police officer during the period of suspension without pay.

**Effective date of suspension without pay**

(9) A suspension without pay takes effect as follows:

1. For a suspension under paragraph 1 or 2 of subsection (1), on the day the chief of police provides written notice of the suspension to the police officer.
2. For a suspension under paragraph 3 of subsection (1), on the 60th day after the day the chief of police provides written notice of the suspension to the police officer.

**Hearing for certain suspensions without pay**

(10) A police officer may apply to the Tribunal to hold a hearing respecting a decision to impose a suspension without pay by submitting written notice to the Tribunal and the chief of police within the prescribed period of time if,

- (a) the suspension is under paragraph 2 of subsection (1) and the officer believes that the conditions of judicial interim release to which he or she is subject do not prevent him or her from performing the usual duties of a police officer; or
- (b) the suspension is under paragraph 3 of subsection (1).

**Same**

(11) A hearing under subsection (10) shall be dealt with on an expedited basis in accordance with the Tribunal's rules.

**Parties**

(12) The police officer and the chief of police are the parties to the hearing.

**Some hearings operate as stays**

(13) If a decision to impose a suspension without pay under paragraph 3 of subsection (1) is the subject of a hearing before the Tribunal, the suspension is stayed from the time notice of the hearing is served on the chief of police until the Tribunal disposes of the matter.

**Order**

(14) The Tribunal may make an order overturning the decision to impose the suspension without pay if it determines that the police officer has shown, on the balance of probabilities, that the criteria for imposing the suspension without pay were not met.

**Delay**

(15) If the Tribunal finds that a party is acting in bad faith for the purpose of delaying the hearing, the Tribunal may make such interim orders as it considers appropriate, including imposing a suspension without pay for such time as the Tribunal believes appropriate to remedy the delay.

**If overturned**

(16) If the Tribunal overturns the decision to suspend the police officer without pay,

- (a) the suspension without pay ends;
- (b) the chief of police shall ensure that the police officer is compensated for the loss of any salary, wages or other remuneration; and
- (c) subsection (7) shall not apply with respect to any period of the suspension.

**Chief of police or deputy chief of police**

(17) A police service board may suspend a chief of police or deputy chief of police of a police service maintained by the police service board without pay.

**Same**

(18) Subsections (1) to (11) and (13) to (16) apply, with necessary modifications, to a suspension under subsection (17) and the police service board and the chief of police or deputy chief of police, as applicable, are parties to any hearing under subsection (10).

**Commissioner or deputy Commissioner**

(19) The Minister, with the approval of the Lieutenant Governor in Council, may suspend the Commissioner or a deputy Commissioner without pay.

**Same**

(20) Subsections (1) to (11) and (13) to (16) apply, with necessary modifications, to a suspension under subsection (19) and the Minister and the Commissioner or deputy Commissioner, as applicable, are parties to any hearing under subsection (10).

### **Powers on suspension**

**158** While suspended with or without pay, a police officer shall not exercise any of the powers vested in him or her as a police officer or wear or use clothing or equipment that was issued to him or her in that capacity.

## **DISMISSAL OF PROBATIONARY POLICE OFFICERS**

### **Termination of employment during probationary period**

**159** (1) A chief of police may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the chief may determine.

### **Non-application**

(2) Section 152 does not apply to the termination of the employment of a police officer during his or her probationary period.

## **MISCELLANEOUS**

### **Application of Statutory Powers Procedure Act**

**160** In the event of a conflict between the *Statutory Powers Procedure Act* and this Part, or the regulations made under this Part, regarding a proceeding before the Tribunal, this Part and the regulations prevail to the extent of the conflict.

### **Reports of chief of police**

**161** (1) A chief of police shall report, in accordance with the regulations, to the police service board or, in the case of the Commissioner, to the Minister regarding the aggregate disciplinary measures the chief has taken under this Part.

### **Publication and forwarding of reports**

- (2) The board and Minister shall,
  - (a) publish the reports in accordance with the regulations; and
  - (b) forward the reports to the Complaints Director in accordance with the regulations.

### **Police officer not required to give evidence**

**162** (1) A police officer who is the subject of the hearing under this Part shall not be required to give evidence at the hearing.

### **Testimony in civil proceedings**

(2) No person shall be required to testify in a civil proceeding with regard to information obtained in the course of an investigation conducted under this Part, except at,

- (a) a hearing held under this Part;
- (b) a hearing held under Part IV of the *Policing Oversight Act, 2018* or a predecessor of that Part; or
- (c) a discipline proceeding for a member of a police service who is not a police officer.

### **Admissibility of documents**

(3) No document prepared as the result of an investigation conducted under this Part is admissible in a civil proceeding, except at a proceeding set out in subsection (2).

### **Inadmissibility of statements**

(4) No statement made during an attempt to resolve a dispute regarding disciplinary matters that may result from an investigation conducted under this Part is admissible in a civil proceeding, including a proceeding before the Tribunal, except with the consent of the person who made the statement.

## **TRANSITION**

### **Transition**

**163** (1) Complaints made under section 76 or 77 of the *Police Services Act*, as it read immediately before its repeal, shall continue to be dealt with in accordance with Part V of that Act as it read immediately before its repeal, subject to such modifications as may be set out in the regulations.

### **Same**

(2) In the case of an event that occurred before the repeal of the *Police Services Act* that would otherwise be dealt with under this Part, the matter shall be dealt with in accordance with Part V of that Act as it read immediately before its repeal, subject to such modifications as may be set out in the regulations.

## **PART X LABOUR RELATIONS**

### **DEFINITION AND APPLICATION**

#### **Definition, Part X**

**164** In this Part,

“senior officer” means a member of a police service who has the rank of inspector or higher or is employed in a supervisory or confidential capacity.

#### **Non-employees of police service boards**

**165** (1) This Part does not apply to members of a police service who are not employees of a police service board.

#### **Exception**

(2) Despite subsection (1), section 167 applies to members of the Ontario Provincial Police.

#### **Chief of police and deputy**

(3) The working conditions and remuneration of the chief of police and any deputy chief of police of a police service shall be determined under clause 37 (1) (d) and not under this Part.

### **POLICE ASSOCIATIONS**

#### **Duty of fair representation**

**166** A police association, so long as it continues to represent members of a police service under this Part, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the members of the police service.

### **MEMBERSHIP AND STATUS**

#### **Membership in trade union prohibited, exception**

**167** A member of a police service shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities and the member notifies his or her chief of police of the membership.

#### **Dispute re person’s status**

**168** (1) If there is a dispute as to whether a person is a member of a police service who is an employee of the police service board or a dispute as to whether a person is a senior officer, any affected person may apply to the chair of the Arbitration Commission to appoint an arbitrator to decide the matter.

#### **Parties**

(2) The parties to the arbitration include the police service board and any affected police associations.

#### **Procedure**

(3) The arbitration shall be conducted in accordance with the procedure set out in subsections 175 (2) to (8), with necessary modifications.

### **BARGAINING AND ARBITRATION**

#### **Separate bargaining, etc., separate categories**

**169** (1) If a majority of the members of a police service, or a police association that is entitled to give notices of desire to bargain, assigns the members of the police service to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police service.

#### **Senior officers**

(2) If at least 50 per cent of the senior officers of a police service belong to a police association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police service.

#### **Restriction**

(3) If there is a dispute as to whether bargaining, conciliation and arbitration should be carried on with more than two categories within a police service (apart from senior officers), any affected person may apply to the chair of the Arbitration Commission to appoint an arbitrator to decide the matter.

#### **Parties**

(4) The parties to an arbitration under subsection (3) include the police service board and any affected police associations.



## **Procedure**

(5) An arbitration under subsection (3) shall be conducted in accordance with the procedure set out in subsections 175 (2) to (8), with necessary modifications.

## **Notice of desire to bargain**

**170** (1) If no agreement exists, or at any time after 90 days before an agreement would expire but for section 180, a majority of the members of a police service may give the police service board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement.

## **Bargaining**

(2) Within 15 days after the notice of desire to bargain is given or within the longer period that the parties agree upon, the police service board shall meet with a bargaining committee of the members of the police service.

## **Same**

(3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with the remuneration, pensions, sick leave credit gratuities and grievance procedures of the members of the police service and, subject to section 177, their working conditions.

## **Filing of agreement**

(4) The police service board shall promptly file a copy of any agreement with the Arbitration Commission.

## **Police association**

(5) If at least 50 per cent of the members of the police service belong to a police association, it shall give the notice of desire to bargain.

## **Municipal plans, notice to Minister**

(6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, it shall also be given to the Minister of Municipal Affairs, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan.

## **Bargaining committee**

**171** (1) The members of the bargaining committee shall be members of the police service.

## **Legal counsel and advisors**

(2) Legal counsel and advisors to the bargaining committee and to the police service board may participate in or conduct the bargaining sessions.

## **Police organization**

(3) If the notice of desire to bargain is given by a police association that is affiliated with a police organization, or if at least 50 per cent of the members of the police service belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

## **Appointment of conciliation officer**

**172** (1) The chair of the Arbitration Commission shall appoint a conciliation officer, at a party's request, if a notice of desire to bargain has been given.

## **Duty of conciliation officer**

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and shall, within 14 days after being appointed, make a written report of the results to the chair of the Arbitration Commission.

## **Extension of time**

(3) The 14-day period may be extended if the parties agree or if the chair of the Arbitration Commission extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

## **Report**

(4) When the conciliation officer reports to the chair of the Arbitration Commission that an agreement has been reached or that an agreement cannot be reached, the chair shall promptly inform the parties of the report.

## **No arbitration until after conciliation**

(5) Neither party shall give a notice requiring matters in dispute to be referred to arbitration under section 173 until a conciliation officer has been appointed, endeavoured to effect an agreement and reported to the chair of the Arbitration Commission and the chair has informed the parties of the conciliation officer's report.

### **Competency as a witness**

(6) A conciliation officer appointed under subsection (1) is not a competent or compellable witness before a court or tribunal respecting any information or material furnished to or received by him or her while being involved in an endeavour under this section to effect an agreement.

### **Arbitration**

**173** (1) If matters remain in dispute after bargaining under section 170 and conciliation under section 172, a party may give the chair of the Arbitration Commission and the other party a written notice referring the matters to arbitration.

#### **Composition of arbitration board**

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the chair of the Arbitration Commission.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the chair of the Arbitration Commission.
4. If the arbitration board consists of one person who was appointed by the chair of the Arbitration Commission, or if the arbitration board consists of three persons and the chair was appointed by the chair of the Arbitration Commission, the chair of the Arbitration Commission shall select the method of arbitration and shall advise the arbitration board of the selection. The method selected shall be mediation-arbitration unless the chair of the Arbitration Commission is of the view that another method is more appropriate. The method selected shall not be final offer selection without mediation and it shall not be mediation-final offer selection unless the chair of the Arbitration Commission, in his or her sole discretion, selects that method because he or she is of the view that it is the most appropriate method having regard to the nature of the dispute. If the method selected is mediation-final offer selection, the chair of the arbitration board shall be the mediator or, if the arbitration board consists of one person, that person shall be the mediator.

#### **When hearings commence**

(3) The arbitration board shall hold the first hearing within 30 days after the chair is appointed or, if the arbitration board consists of one person, within 30 days after that person is appointed.

#### **Exception**

(4) If the method of arbitration selected by the chair of the Arbitration Commission is mediation-arbitration or mediation-final offer selection, the time limit set out in subsection (3) does not apply in respect of the first hearing but applies instead, with necessary modifications, in respect of the commencement of mediation.

#### **Time for submission of information**

(5) If the method of arbitration selected by the chair of the Arbitration Commission is mediation-arbitration or mediation-final offer selection, the chair of the arbitration board or, if the arbitration board consists of one person, that person may, after consulting with the parties, set a date after which a party may not submit information to the board unless,

- (a) the information was not available prior to the date;
- (b) the chair or, if the arbitration board consists of one person, that person permits the submission of the information; and
- (c) the other party is given an opportunity to make submissions concerning the information.

#### **Hearing**

(6) If the method of arbitration selected by the chair of the Arbitration Commission is conventional arbitration, the arbitration board shall hold a hearing, but the chair of the arbitration board or, if the arbitration board consists of one person, that person may impose limits on the submissions of the parties and the presentation of their cases.

#### **Consolidation of disputes**

(7) Disputes may be arbitrated together only if all the parties to the disputes agree.

#### **Time for decision**

(8) The arbitration board shall give a decision within 90 days after the chair is appointed or, if the arbitration board consists of one person, within 90 days after that person is appointed.

#### **Extension**

(9) The parties may agree to extend the time described in subsection (8), either before or after the time has passed.

### **Remuneration and expenses**

(10) The remuneration and expenses of the members of an arbitration board shall be paid as follows:

1. A party shall pay the remuneration and expenses of a member appointed by or on behalf of the party.
2. Each party shall pay one-half of the chair's remuneration and expenses or, if the arbitration board consists of one person, one-half of that person's remuneration and expenses.

### **Representations by municipal council**

(11) The municipal council may make representations before the arbitration board in an arbitration involving a municipal board if the municipal council is authorized to do so by a resolution.

### **Representations by Minister and band council**

(12) The Minister and the band council may make representations before the arbitration board in an arbitration involving a First Nation board.

### **Criteria**

(13) In making a decision or award, the arbitration board shall take into consideration all factors it considers relevant, including the following criteria:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
3. The economic situation in Ontario and, if applicable, in the municipality.
4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees.
6. The interest and welfare of the community served by the police service.
7. Any local factors affecting that community.

### **Restriction**

(14) Nothing in subsection (13) affects the powers of the arbitration board.

### **Filing of award**

(15) The arbitration board shall promptly file a copy of its decision or award with the Arbitration Commission.

### **Dispute, appointment of conciliation officer**

**174** (1) The chair of the Arbitration Commission shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

### **Duty of conciliation officer**

(2) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within 14 days after being appointed, make a written report of the results to the chair of the Arbitration Commission.

### **Extension of time**

(3) The 14-day period may be extended if the parties agree or if the chair of the Arbitration Commission extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

### **Report**

(4) When the conciliation officer reports to the chair of the Arbitration Commission that the dispute has been resolved or that it cannot be resolved by conciliation, the chair shall promptly inform the parties of the report.

### **No arbitration during conciliation**

(5) Neither party shall give a notice referring the dispute to arbitration until the chair of the Arbitration Commission has informed the parties of the conciliation officer's report.

### **Competency as a witness**

(6) A conciliation officer appointed under subsection (1) is not a competent or compellable witness before a court or tribunal respecting any information or material furnished to or received by him or her while being involved in an endeavour under this section to resolve a dispute.

### **Arbitration after conciliation fails**

**175** (1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the chair of the Arbitration Commission and the other party a written notice referring the dispute to arbitration.

#### **Same**

(2) The procedure provided by subsection (1) is available in addition to any grievance or arbitration procedure provided by the agreement, decision or award.

### **Composition of arbitration board**

(3) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the chair of the Arbitration Commission.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the chair of the Arbitration Commission.

### **Time for arbitration**

(4) The arbitration board shall commence the arbitration within 30 days after being appointed, in the case of a one-person board, or within 30 days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time.

### **Filing of decision**

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration Commission.

### **Costs and expenses**

(6) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the chair of the Arbitration Commission appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board.

### **Enforcement**

(7) After the day that is 30 days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the decision, in the prescribed form, with the Superior Court of Justice.

#### **Same**

(8) The decision shall be entered in the same way as a judgment of the Superior Court of Justice and may be enforced as such.

### **Extension of time**

**176** The parties may agree to extend any period of time mentioned in this Part.

### **Restriction**

**177** Agreements and awards made under this Part do not affect the working conditions of the members of the police service insofar as those working conditions are determined by subsection 47 (3), sections 110 to 115, sections 120, 123, 124, 126 and 127 and Part IX (except as provided in section 144) and by the regulations.

### **Non-application of *Arbitration Act, 1991***

**178** The *Arbitration Act, 1991* does not apply to arbitrations conducted under this Part.

### **Agreements, decisions and awards binding**

**179** Agreements, decisions and awards made under this Part bind the police service board and the members of the police service.

### **Duration of agreements, decisions and awards**

**180** (1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced.

#### **Longer duration if parties agree**

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the year in which they come into effect and thereafter shall continue in effect until replaced.

### **Provision for expenditures**

**181** (1) If, when the municipal council is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the council shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate.

#### **Coming into effect**

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipal council may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made.

#### **Exception**

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2).

### **Transition; continuation of proceedings**

**182** Any arbitration for which an arbitrator was appointed under the *Police Services Act* but that was not disposed of before the day that this section came into force shall continue under this Act.

## **INQUIRIES**

### **Inquiry, alleged contravention**

**183** (1) The chair of the Arbitration Commission may authorize a conciliation officer to inquire into any complaint alleging a contravention of this Part.

#### **Duties**

(2) The conciliation officer shall inquire into the complaint and endeavour to effect a settlement of the matter complained of under subsection (1).

#### **Appointment of arbitrator**

(3) If the conciliation officer is unable to effect a settlement of the matter complained of under subsection (1) or if the chair of the Arbitration Commission in his or her discretion considers it advisable to dispense with the conciliation officer's inquiry, the chair may appoint an arbitrator to inquire into the complaint.

#### **Arbitrator's decision**

(4) If the arbitrator is satisfied that a person has acted contrary to this Part, the arbitrator shall determine what, if anything, the person shall do or refrain from doing with respect thereto and may, without limiting the generality of the foregoing and despite the provisions of any collective agreement, make one or more of the following orders:

1. An order directing a person to cease doing the act or acts complained of.
2. An order directing a person to rectify the act or acts complained of.

#### **Filing in court**

(5) Any person affected by the arbitrator's determination may file the determination, excluding the reasons, in the prescribed form in the Superior Court of Justice, and it shall be entered in the same way as an order of that court and is enforceable as such.

#### **Effect of settlement**

(6) If a proceeding under this section has been settled, whether through the endeavours of the conciliation officer or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties who have agreed to the settlement and shall be complied with according to its terms, and a complaint that a person who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under subsection (1).

### **Competency as a witness**

(7) A conciliation officer is not a competent or compellable witness before a court or tribunal respecting any information or material furnished to or received by him or her while being involved in an inquiry, or an endeavour to effect a settlement, under this section.

## **ONTARIO POLICE ARBITRATION COMMISSION**

### **Composition of Arbitration Commission, etc.**

**184** (1) The commission known as the Ontario Police Arbitration Commission is continued under the name of Ontario Police Arbitration Commission in English and the name of Commission d'arbitrage de la police de l'Ontario in French.

### **Composition**

(2) The composition of the Arbitration Commission shall be as provided in the regulations.

### **Employees**

(3) Such employees as are considered necessary for the proper conduct of the affairs of the Arbitration Commission may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

### **Responsibilities of Arbitration Commission**

(4) The Arbitration Commission has the following responsibilities:

1. Maintaining registers of arbitrators who are available for appointment to conduct an arbitration under this Act.
2. Assisting arbitrators appointed to conduct an arbitration under this Act by making administrative arrangements in connection with arbitrations.
3. Fixing the fees of arbitrators appointed by the chair of the Arbitration Commission under section 175.
4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards under this Act.
5. Sponsoring research on the subject of agreements, arbitrations and awards under this Part.
6. Maintaining a file of agreements, decisions and awards made under this Part.
7. Any other prescribed responsibilities.

### **Committees**

(5) The Arbitration Commission shall, in accordance with the regulations, have,

- (a) a committee to maintain a register or registers, as prescribed, of arbitrators for the purpose of conducting arbitrations under this Part; and
- (b) such other committees as may be prescribed.

### **Composition of committee**

(6) The committee described in clause (5) (a) must be composed of the chair of the Arbitration Commission and an equal number of persons representing police associations and police service boards.

### **Same**

(7) The Arbitration Commission's committees shall have such responsibilities listed in subsection (4) as are specified in the regulations.

### **Forms**

(8) The Arbitration Commission may approve forms for the purposes of arbitrations under this Act and provide for or require their use.

### **Consultation before chair appointed**

(9) No person shall be appointed as chair of the Arbitration Commission unless the Minister or his or her delegate has first consulted with or attempted to consult with,

- (a) bargaining agents that, in the opinion of the Minister or his or her delegate, are reasonably representative of the bargaining agents that represent members of police services;
- (b) employers or employers' organizations that, in the opinion of the Minister or his or her delegate, are reasonably representative of the employers of members of police services; and
- (c) any other prescribed entities.

### **Regulations**

(10) The registers referred to in this section shall be established and maintained in accordance with the regulations, if any.

## PART XI TRANSFER OF ASSETS BETWEEN PENSION PLANS

### Interpretation

**185** (1) Words and expressions used in this Part have the same meaning as under the *Pension Benefits Act* unless the context requires otherwise.

### Definitions

(2) In this Part,

“eligible police service employee” means an employee who is a member of a police service and who meets the requirements set out in section 188; (“employé d’un service de police admissible”)

“original pension plan” has the meaning set out in subsection 79.2 (1) of the *Pension Benefits Act*; (“premier régime de retraite”)

“successor pension plan” has the meaning set out in subsection 79.2 (1) of the *Pension Benefits Act*. (“régime de retraite subséquent”)

### Agreement governing transfers

**186** (1) The administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System may enter into one or more written agreements governing the transfer of assets between pension plans in any of the circumstances that are referred to in subsection 80 (2) or 81 (1) of the *Pension Benefits Act* in respect of eligible police service employees whose employment has been transferred between the Ontario Provincial Police and another police service.

### Amount

(2) An agreement must set out the manner of determining the amount of assets to be transferred from an original pension plan to a successor pension plan in respect of the pension benefits and ancillary benefits of an eligible police service employee who consents to the transfer of assets.

### Notice to employees

(3) An agreement must provide for the contents of the notice to be given to each eligible police service employee concerning the option of consenting to a transfer of assets in respect of his or her pension benefits and ancillary benefits under the original pension plan, and the notice must contain sufficient information to allow the employee to make an informed decision about whether to consent to the transfer.

### Duty to file agreement

**187** (1) If the administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System enter into an agreement under section 186, the administrators shall file it with the Superintendent of Financial Services.

### Effect of filing

(2) Sections 14 and 26 of the *Pension Benefits Act* do not apply with respect to a filed agreement or with respect to any amendment to a pension plan that relates to the implementation of a filed agreement.

### Eligibility of police service employees

**188** (1) For the purposes of an agreement filed under section 187, an employee is an eligible police service employee if he or she is a member of a police service who is employed on the effective date of the proposed transfer of assets under the agreement in respect of his or her pension benefits and ancillary benefits under the original pension plan.

### Exception

(2) Despite subsection (1), an employee is not an eligible police service employee if he or she is receiving a pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System on the effective date of the proposed transfer of assets under the agreement.

### Same

(3) Despite subsection (1), an employee is not an eligible police service employee if he or she is entitled, on the effective date of the proposed transfer of assets, to a deferred pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System.

### Employee’s consent to transfer of assets

**189** (1) If an eligible police service employee consents, assets may be transferred under an agreement filed under section 187 from an original pension plan to a successor pension plan in respect of his or her pension benefits and ancillary benefits under the original pension plan in accordance with this Part.

**Same**

(2) The employee must indicate his or her consent in writing in the manner specified by the administrator of the original pension plan.

**Application of the *Pension Benefits Act***

(3) The following rules apply to a transfer of assets in accordance with this Part:

1. Sections 21, 79.2, clause 80 (6) (b) and subsections 80 (9) to (15) and 81 (4) to (7) of the *Pension Benefits Act* do not apply to the transfer.
2. For the purposes of section 79.1 of the *Pension Benefits Act*, the transfer is deemed to be authorized under section 80 or 81 of that Act if the transfer is done in accordance with subsections 80 (1) to (8) or 81 (1) to (3) of that Act, respectively.

**Transfer to prescribed retirement savings arrangement**

(4) If the amount of the assets to be transferred in relation to an individual's pension benefits and other benefits under the original pension plan is greater than the amount allowed under the *Income Tax Act* (Canada) for such a transfer, the administrator of the original pension plan shall pay the portion that exceeds that allowed amount into a retirement savings arrangement prescribed under the *Pension Benefits Act* on behalf of the individual.

**Exception**

(5) If the amount to be paid under subsection (4) into a retirement savings arrangement prescribed under the *Pension Benefits Act* is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the amount prescribed under that Act as a lump sum to the individual.

**Effect of transfer of assets**

(6) When assets are transferred in accordance with this Part to a successor pension plan, the transferred assets become part of the assets of the pension fund for that pension plan and they cease to be identified as assets of the original pension plan.

**Status of transferred assets and discharge**

(7) When assets are transferred in accordance with this Part,

- (a) the employer who is the sponsor of the successor pension plan assumes responsibility for providing pension benefits and other benefits under the original pension plan to the transferred members, and other persons entitled to payments under that plan, and they have no further claim against the original pension plan; and
- (b) the administrator of the original pension plan is discharged upon transferring the assets.

## PART XII COURT SECURITY

**Court security****Police service boards**

**190** (1) A police service board that has policing responsibility for an area has the following responsibilities with respect to premises where court proceedings are conducted:

1. Ensuring the security of judges and other judicial officers and of persons taking part in or attending proceedings.
2. During the hours when judges, other judicial officers and members of the public are normally present, ensuring the security of the premises.
3. Ensuring the secure custody of persons in custody who are on or about the premises, including persons taken into custody at proceedings.
4. Determining appropriate levels of security for the purposes of paragraphs 1, 2 and 3 in accordance with the regulations, if any.

**Commissioner**

(2) The Commissioner has the responsibilities set out in subsection (1) in the area for which he or she has policing responsibility.

**Common law replaced**

(3) The responsibilities created by this section replace any responsibility for ensuring court security that existed at common law.



### **Powers of person providing court security**

**191** (1) A person who is authorized by a police service board to act in relation to the board's responsibilities under subsection 190 (1) or who is authorized by the Commissioner to act in relation to the Commissioner's responsibilities under subsection 190 (2) may exercise the following powers if it is reasonable to do so for the purpose of fulfilling those responsibilities:

1. Require a person who is entering or attempting to enter premises where court proceedings are conducted or who is on such premises,
  - i. to identify himself or herself, and
  - ii. to provide information for the purpose of assessing whether the person poses a security risk.
2. Search, without warrant,
  - i. a person who is entering or attempting to enter premises where court proceedings are conducted or who is on such premises,
  - ii. any vehicle that the person is driving, or in which the person is a passenger, while the person is on, entering or attempting to enter premises where court proceedings are conducted, and
  - iii. any property in the custody or care of the person.
3. Search, without warrant, using reasonable force if necessary,
  - i. a person in custody who is on premises where court proceedings are conducted or is being transported to or from such premises, and
  - ii. any property in the custody or care of the person.
4. Refuse to allow a person to enter premises where court proceedings are conducted and use reasonable force if necessary to prevent the person's entry,
  - i. if the person refuses to identify himself or herself or provide information under paragraph 1 or refuses to submit to a search under paragraph 2,
  - ii. if there is reason to believe that the person poses a security risk, or
  - iii. for any other reason relating to the fulfilment of the police service board's responsibilities under subsection 190 (1) or the Commissioner's responsibilities under subsection 190 (2).
5. Demand that a person immediately leave premises where court proceedings are conducted and use reasonable force if necessary to remove the person,
  - i. if the person refuses to identify himself or herself or provide information under paragraph 1 or refuses to submit to a search under paragraph 2,
  - ii. if there is reason to believe that the person poses a security risk, or
  - iii. for any other reason relating to the fulfilment of the police service board's responsibilities under subsection 190 (1) or the Commissioner's responsibilities under subsection 190 (2).

### **Arrest**

(2) A person who is authorized by a police service board or by the Commissioner as described in subsection (1) may arrest, without warrant, any person who,

- (a) after being required to identify himself or herself or provide information under paragraph 1 of subsection (1), enters or attempts to enter premises where court proceedings are conducted without identifying himself or herself or providing the information;
- (b) after being directed to submit to a search under paragraph 2 of subsection (1), enters or attempts to enter premises where court proceedings are conducted without submitting to the search;
- (c) enters or attempts to enter premises where court proceedings are conducted, after a refusal under paragraph 4 of subsection (1); or
- (d) does not immediately leave premises where court proceedings are conducted, after being demanded to do so under paragraph 5 of subsection (1).

### **Reasonable force**

(3) Reasonable force may be used if necessary to make the arrest.

**Delivery to police officer**

(4) If the person who makes the arrest is not a police officer, he or she shall promptly call for the assistance of a police officer and give the person arrested into the custody of the police officer.

**Deemed arrest**

(5) A police officer to whom the custody of a person is given under subsection (4) shall be deemed to have arrested the person for the purposes of the provisions of the *Provincial Offences Act* applying to his or her release or continued detention and his or her bail.

**Accommodation**

(6) When a person who is authorized by a police service board or by the Commissioner, as described in subsection (1), exercises powers under this section with respect to other persons, he or she shall ensure that those persons are accommodated in accordance with the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*, and this includes accommodation in connection with creed or disability.

**Offences**

**192** (1) A person is guilty of an offence if,

- (a) after being required to identify himself or herself or provide information under paragraph 1 of subsection 191 (1), the person enters or attempts to enter premises where court proceedings are conducted without identifying himself or herself or providing the information;
- (b) after being directed to submit to a search under paragraph 2 of subsection 191 (1), the person enters or attempts to enter premises where court proceedings are conducted without submitting to the search;
- (c) the person enters or attempts to enter premises where court proceedings are conducted, after a refusal under paragraph 4 of subsection 191 (1); or
- (d) the person does not immediately leave premises where court proceedings are conducted, after being demanded to do so under paragraph 5 of subsection 191 (1).

**Penalty**

(2) A person who is convicted of an offence under this section is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000, to an imprisonment for a term of not more than 60 days, or to both; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000, to an imprisonment for a term of not more than 60 days, or to both.

**Powers not affected****Judicial powers**

**193** (1) Nothing in this Part derogates from or replaces the power of a judge or other judicial officer to control court proceedings.

**Same**

(2) Nothing in this Part affects the right of a judge or other judicial officer to have access to premises where court proceedings are conducted.

**Powers of persons providing court security**

(3) Nothing in this Part derogates from or replaces any powers that a person authorized by a police service board or by the Commissioner as described in subsection 191 (1) otherwise has under the law.

**Privilege preserved**

**194** Nothing in this Part shall operate so as to require the disclosure of information that would be inadmissible in a court by reason of any privilege under the law of evidence, or permit the review of documents containing such information.

## PART XIII COMMUNITY SAFETY AND WELL-BEING PLANS

### PREPARATION AND ADOPTION

**Municipal community safety and well-being plan**

**195** (1) Every municipal council shall prepare and, by resolution, adopt a community safety and well-being plan.

**May be prepared individually or jointly**

(2) The community safety and well-being plan may be prepared by the municipal council individually or jointly in consultation with other municipal councils or band councils.

**First community safety and well-being plan**

(3) A municipal council must prepare and adopt its first community safety and well-being plan before the second anniversary of the day on which this section began applying to the municipality.

**Transition**

(4) Every community safety and well-being plan prepared and adopted under the *Police Services Act* before it was repealed shall be deemed to have been prepared and adopted under this Act.

**Same**

(5) If a municipal council was required to prepare and adopt a community safety and well-being plan under section 143 of the *Police Services Act* but no plan was prepared and adopted before that Act was repealed, the two-year period under subsection (3) shall begin on the day section 143 of the *Police Services Act* first began applying to the municipality.

**First Nation community safety and well-being plan**

**196** (1) A band council of a First Nation may prepare and adopt a community safety and well-being plan.

**May be prepared individually or jointly**

(2) The community safety and well-being plan may be prepared by the band council individually or jointly in consultation with other band councils or municipal councils.

**Preparation of plan by municipal council**

**197** (1) A municipal council that prepares a community safety and well-being plan shall establish an advisory committee.

**Joint preparation of plan**

(2) Despite subsection (1), a group of municipal councils that are jointly preparing a community safety and well-being plan shall jointly establish and consult with a single advisory committee.

**Membership of committee**

(3) Subject to the regulations, the advisory committee must, at a minimum, consist of the following members:

1. A person who represents,
  - i. a local health integration network for a geographic area in which the municipality is located, as determined under the *Local Health System Integration Act, 2006*, or
  - ii. an entity that provides services to improve the physical or mental health of individuals in the community or communities.
2. A person who represents an entity that provides educational services in the municipality.
3. A person who represents an entity that provides community or social services in the municipality, if there is such an entity.
4. A person who represents an entity that provides community or social services to children or youth in the municipality, if there is such an entity.
5. A person who represents an entity that provides custodial services to children or youth in the municipality, if there is such an entity.
6. An employee of the municipality or a member of the municipal council.
7. A person who represents the police service board or, if there is no police service board, the commander of the detachment of the Ontario Provincial Police that provides policing in the area or his or her delegate.
8. Any other prescribed persons.

**Same, joint plans**

(4) If the community safety and well-being plan is prepared by a group of municipal councils or band councils,

- (a) the members of the advisory committee shall be appointed by agreement of the participating municipal councils and band councils; and
- (b) the provisions of this Act that apply to community safety and well-being plans apply, with necessary modifications, to joint community safety and well-being plans.

### **Considerations**

(5) In appointing the members of the advisory committee, the municipal council or councils shall consider the need to ensure that advisory committee is representative of the municipality or municipalities, having regard for the diversity of the population in the municipality or municipalities.

### **Consultations**

(6) In preparing a community safety and well-being plan, the municipal council or councils shall,

- (a) consult with the advisory committee;
- (b) consult with the members of the public, including youth, members of racialized groups and of First Nation, Inuit and Métis communities, in the municipality or municipalities and, in the case of a joint plan with a First Nation, in the First Nation reserve;
- (c) consult with community organizations, including First Nation, Inuit and Métis organizations and community organizations that represent youth or members of racialized groups, in the municipality or municipalities and, in the case of a joint plan with a First Nation, in the First Nation reserve; and
- (d) comply with any consultation requirements that may be prescribed.

### **Use of information**

(7) In preparing a community safety and well-being plan, the municipal council or councils shall consider available information related to crime, victimization, addiction, drug overdose, suicide and any other prescribed risk factors, including statistical information from Statistics Canada or other sources, in addition to the information obtained through its consultations.

### **Other prescribed requirements**

(8) The municipal council or councils shall meet the prescribed requirements, if any, in preparing its community safety and well-being plan.

### **Content of community safety and well-being plan**

**198** A community safety and well-being plan shall,

- (a) identify risk factors in the municipality or First Nation, including, without limitation, systemic discrimination and other social factors that contribute to crime, victimization, addiction, drug overdose and suicide and any other prescribed risk factors;
- (b) identify which risk factors the municipality or First Nation will treat as a priority to reduce;
- (c) identify strategies to reduce the prioritized risk factors, including providing new services, changing existing services, improving the integration of existing services or coordinating existing services in a different way;
- (d) set out measurable outcomes that the strategies are intended to produce;
- (e) address any other issues that may be prescribed; and
- (f) contain any other information that may be prescribed.

### **Publication of community safety and well-being plan**

**199** A municipal council that has adopted a community safety and well-being plan shall publish it in accordance with the regulations.

### **Implementation of community safety and well-being plan**

**200** A municipal council that has adopted a community safety and well-being plan shall take any actions that the plan requires it to take and shall encourage and assist other entities to take any actions the plan requires those entities to take.

## **REPORTING AND REVISION**

### **Monitoring, evaluating and reporting**

**201** (1) A municipal council that has adopted a community safety and well-being plan shall, in accordance with the regulations, monitor, evaluate and report on the effect the plan is having, if any, on reducing the prioritized risk factors.

### **Publication**

(2) The reports referred to in subsection (1) shall be published in accordance with the regulations.

### **Revision by municipality**

**202** (1) A municipal council that has adopted a community safety and well-being plan shall review and, if appropriate, revise the plan within the prescribed period.

### **Revision by band council**

(2) A band council that has adopted a community safety and well-being plan may review and, if appropriate, revise the plan within the prescribed period.

### **Process for revision**

(3) Sections 197 to 199 apply, with necessary modifications, to the revision of a community safety and well-being plan.

## **MISCELLANEOUS**

### **Information to Minister**

**203** (1) Every municipal council shall provide the Minister with any prescribed information respecting,

- (a) the municipality's community safety and well-being plan, including the preparation, adoption or implementation of the plan;
- (b) any outcomes from the municipality's community safety and well-being plan; and
- (c) any other prescribed matter related to the community safety and well-being plan.

### **Time to comply**

(2) The municipal council shall provide the prescribed information within the prescribed period.

### **No personal information**

(3) Personal information cannot be prescribed for the purposes of this section.

### **Community safety and well-being planner**

**204** (1) The Minister may appoint a person as a community safety and well-being planner for a municipality if, in the Minister's opinion, the municipality has intentionally and repeatedly failed to comply with one of its obligations under this Part, other than section 200.

### **Notice of appointment**

(2) The Minister shall give the municipality at least 30 days' notice before appointing the community safety and well-being planner.

### **Term of office**

(3) The appointment of a community safety and well-being planner is valid until terminated by order of the Minister.

### **Powers of planner**

(4) Unless the appointment provides otherwise, a community safety and well-being planner has the right to exercise any powers of the municipal council that are necessary to prepare a community safety and well-being plan that the municipality could adopt.

### **Same**

(5) The Minister may specify the powers and duties of a community safety and well-being planner appointed under this section and the terms and conditions governing those powers and duties.

### **Right of access**

(6) A community safety and well-being planner appointed for a municipality has the same rights as the municipal council in respect of the documents, records and information of the municipality.

### **Minister's directions**

(7) The Minister may issue directions to a community safety and well-being planner with regard to any matter within the jurisdiction of the planner.

### **Directions to be followed**

(8) A community safety and well-being planner shall carry out every direction of the Minister.

### **Report to Minister**

(9) A community safety and well-being planner shall report to the Minister as required by the Minister.

### **Municipality to pay costs**

(10) The municipal council shall pay the community safety and well-being planner's remuneration and expenses as set out in the regulations.

## PART XIV REGULATIONS AND MISCELLANEOUS

### Property in possession of police service

**205** (1) This section applies to personal property of all kinds, except firearms and money, that comes into the possession of a police service under either of the following circumstances:

1. The property was stolen from its owner or was found abandoned in a public place and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police service in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

### Sale

(2) The chief of police may cause the property to be sold and the police service board may use the proceeds for any purpose that it considers in the public interest.

### Perishable property

(3) If the property is perishable, it may be sold at any time without notice.

### Non-perishable property

(4) If the property is not perishable, the following rules apply to its sale:

1. The property may be sold when it has been in the possession of the police service for at least one month in the case of a motor vehicle as defined in the *Highway Traffic Act* or a bicycle, or for at least three months in the case of other property.
2. The sale shall be by public auction or by public tender.
3. At least 10 days' notice of the time and place of the public auction shall be given by publication in a newspaper of general circulation in the municipality.
4. The sale may be adjourned, repeatedly if necessary, until the property is sold.

### Claim of owner of property

(5) If a motor vehicle, bicycle or other property has been sold before it has been in the possession of the police service for three months and if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale.

### Register of property

(6) The chief of police shall keep a register of property and ensure that the following rules are followed:

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

### Exception

(7) This section does not apply to a motor vehicle that is impounded under section 220 of the *Highway Traffic Act*.

### Money

**206** (1) This section applies to money that comes into the possession of a police service under the circumstances described in paragraph 1 or 2 of subsection 205 (1).

### Accounting

(2) The money shall be accounted for according to the prescribed method.

### Use of money

(3) If three months have elapsed after the day the money came into the possession of the police service and the owner has not claimed it, the police service board may use it for any purpose that it considers in the public interest.

### Firearms

**207** (1) This section applies to firearms that are in the possession of a police service because they have been found, turned in or seized.

### **Safe-keeping, return to owner**

(2) The chief of police shall ensure that firearms are securely stored and that they are returned to their owners if there is a court order or other legal requirement to that effect.

### **Destruction**

(3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement governing how the firearm is to be dealt with, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies.

### **Firearm of special interest**

(4) If the chief of police considers the firearm unique, an antique or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences.

### **Same**

(5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there.

### **Same**

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly.

### **Disposal otherwise than by destruction**

(7) The chief of police may dispose of a firearm to which subsection (6) applies otherwise than by having it destroyed if he or she first obtains the Minister's approval of the method of disposal.

### **Register of firearms**

(8) The chief of police shall keep a register of firearms and ensure that the following rules are followed:

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the police service board or of a member of the police service, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.
4. On or before the 31st day of January in each year, a statement shall be filed with the Minister listing the firearms that have come into the possession of the police service during the preceding calendar year, indicating which firearms are still being retained and which have been disposed of and giving the particulars of disposition.

### **Regulations**

#### **Lieutenant Governor in Council**

**208** (1) The Lieutenant Governor in Council may make regulations,

1. prescribing policing standards, including the policing standards that must be met in providing adequate and effective policing;
2. governing the provision of policing functions, including,
  - i. prescribing policing functions that do not have to be provided by members of a police service or persons who are assisting those members while acting under their direction,
  - ii. restricting the entities that may provide a specified policing function pursuant to an agreement under section 14,
  - iii. prescribing particular policing functions that a prescribed entity may provide pursuant to an agreement under section 14,
  - iv. prohibiting the provision of a policing function by persons who are not peace officers, and
  - v. prohibiting the provision of a policing function by persons who are not police officers;
3. prescribing entities as prescribed policing providers, specifying the policing functions they will be responsible for providing, specifying the area in which they will provide the policing functions and specifying whether a police service board, or the Commissioner, may continue to provide those policing functions in the area;
4. respecting the governance, operation and administration of police services;
5. governing the provision of information under subsection 4 (1) or 81 (1), including prescribing,
  - i. the information that must be provided,

- ii. the manner in which the information must be provided, which may include requiring information to be automatically provided electronically to the Ministry or Inspector General, and
  - iii. the frequency with which the information must be provided;
- 6. authorizing a chief of police to decline to provide information under section 4, 40, or 81 or authorizing the Commissioner to decline to provide information under section 62, and prescribing the circumstances in which the information may be declined;
- 7. prescribing a unit of the Ministry to collect and use personal information under subsection 5 (1) on the Minister's behalf;
- 8. specifying requirements, restrictions or prohibitions with respect to the collection, use or disclosure of any class of personal information by the Minister or the Inspector General in addition to the requirements, restrictions or prohibitions set out in this Act;
- 9. governing extra policing costs under section 18, including clarifying the application of that section and defining any term used in that section;
- 10. governing the process for obtaining the Minister's approval under section 22;
- 11. clarifying or modifying the application of this Act with respect to,
  - i. a police service board that has been jointly constituted under section 23 or 24,
  - ii. a First Nation Board that has been jointly requested under section 32,
  - iii. a First Nation O.P.P. board that has been jointly requested under section 77, or
  - iv. a community safety and well-being plan that is prepared jointly under Part XIII;
- 12. governing reports on the implementation of diversity plans under subsection 28 (4) and on the steps taken to ensure that public appointees to municipal boards reflect the diversity of the population under subsection 29 (3), including specifying the required contents of the reports;
- 13. governing recommendations by the Minister to the Lieutenant Governor in Council regarding appointments to police service boards under section 33;
- 14. establishing standards for appointments by the Lieutenant Governor in Council of members of municipal boards, which may include minimum standards in relation to representation on the boards by underrepresented groups;
- 15. specifying the person or entity who shall remunerate members of a municipal board who are appointed by the Lieutenant Governor in Council or the Minister and governing the amount of the remuneration;
- 16. governing the process for requesting that the Minister constitute a First Nation board or First Nation O.P.P. board and prescribing the matters the Minister must consider, including the weight the Minister must assign to prescribed matters;
- 17. prescribing matters in respect of which police service boards are required to establish policies under clause 38 (1) (g);
- 18. governing the publication of policies under section 38 or 60 or of local policies under section 69, including,
  - i. prescribing the period within which the policies must be published,
  - ii. prescribing policies that shall not be published,
  - iii. prescribing information that shall not be included in the published policies, and
  - iv. governing the manner of publication of the policies;
- 19. prescribing training that a member of a police service board must complete and any period within which it must be completed;
- 20. establishing the procedures to be followed by police service boards, O.P.P. detachment boards or First Nation O.P.P. boards, or committees of a board, and the places at which their meetings shall be held;
- 21. prescribing standards that police facilities, including police lock-ups, must meet;
- 22. governing the publication of directions under section 40 or 62, including,
  - i. prescribing the period within which the directions must be published,
  - ii. prescribing directions that shall not be published,
  - iii. prescribing information that shall not be included in the published directions, and
  - iv. governing the manner of publication of the directions;



23. defining “meeting” for the purposes of sections 43, 44, 74 and 75;
24. governing strategic plans and local action plans, including,
  - i. the preparation, review and revision of the plans,
  - ii. the content of the plans, and
  - iii. the publication of the plans;
25. governing the composition of O.P.P. detachment boards, including the number of members of a board, eligibility for appointment to the board and the mechanism for appointing members of the board;
26. governing the term of office, remuneration and expenses of members of O.P.P. detachment boards;
27. permitting more than one O.P.P. detachment board to advise the same detachment of the Ontario Provincial Police and establishing the rules that apply when two or more O.P.P. detachment boards advise the same detachment commander;
28. governing the participation of O.P.P. detachment boards and First Nation O.P.P. boards in the selection of the detachment commander;
29. governing the composition of the Advisory Council;
30. governing payments for policing provided by the Commissioner under section 64 to municipalities, including the cost of any necessary equipment and facilities, and,
  - i. governing the determination of the amounts payable, which may require municipalities to pay more for the services they have received or less for the services they have received based on their financial capacity,
  - ii. governing the payment of those amounts, including providing for the calculation and payment of interest and penalties,
  - iii. governing the collection of those amounts, including providing for payment credits and refunds for overpayments, and
  - iv. for the purposes described in subparagraphs i, ii and iii, establishing different requirements for different classes of territories;
31. governing payments for policing provided by the Commissioner to territories without municipal organization, including the cost of any necessary equipment and facilities, and,
  - i. governing the determination of the amounts payable for those services, which may be based on financial capacity,
  - ii. governing the payment of those amounts, including providing for the calculation and payment of interest and penalties,
  - iii. governing the collection of those amounts, including providing for payment credits and refunds for overpayments, or providing that all or part of those amounts may be collected under the *Provincial Land Tax Act, 2006* as if they were taxes imposed under that Act, and
  - iv. for the purposes described in subparagraphs i, ii and iii, establishing different requirements for different classes of territories;
32. governing the estimates prepared by an O.P.P. detachment board under section 71, including establishing the rules for calculating a municipality’s share of the costs, which may require municipalities to pay more for the services they have received or less for the services they have received based on their financial capacity;
33. establishing the process for making a complaint to the Inspector General;
34. governing the requirements to provide notice under Parts VI (Inspector General of Policing) and IX (Discipline and Dismissal), including prescribing the required contents of the notice and prescribing the circumstances in which notice is deemed to have been given;
35. establishing and governing rules for police service boards or the Minister to charge for the cost of investigations referred to a chief of police or the Commissioner by the Inspector General;
36. governing notice and reports by the Inspector General under section 100, including,
  - i. prescribing the period within which the Inspector General must provide the notice,
  - ii. prescribing circumstances in which the Inspector General shall not provide or publish a report,
  - iii. prescribing information that shall not be included in the report, and
  - iv. governing the publication of the report;
37. governing the publication of directions issued under section 102, including,

- i. prescribing the period within which the Inspector General must publish the direction,
  - ii. prescribing circumstances in which the Inspector General shall not publish a direction,
  - iii. prescribing information that shall not be included in the published direction, and
  - iv. governing the manner of publication of the direction;
- 38. governing the duties that an administrator appointed under section 103 must perform;
- 39. prescribing the nature of the information that may be disclosed under subsection 108 (1) by a chief of police or a person designated by a chief of police, to whom it may be disclosed and the circumstances in which it may be disclosed;
- 40. governing reports made by a chief of police under section 109, including specifying to whom the report shall be made and specifying the required contents of the reports;
- 41. prescribing codes of conduct and codes of professional conduct and governing their application;
- 42. establishing standards that must be met and procedures that must be followed in assessing whether an individual is physically and mentally able to perform the duties of a police officer or a special constable for the purposes of this Act;
- 43. clarifying the meaning of the requirement to be of good character to be appointed as a police officer or special constable;
- 44. prescribing training for police officers and special constables, including,
  - i. prescribing training that is required to be completed for a person to be appointed as a police officer or special constable,
  - ii. exempting persons from having to complete the training referred to in subparagraph i to be appointed as a police officer or special constable, subject to the conditions, if any, that may be prescribed, and
  - iii. prescribing training that police officers or special constables are required to complete and any period within which it must be completed;
- 45. prescribing certificates or other documents that are equivalent to a degree or diploma described in subclause 111 (1) (f) (iii), including by prescribing characteristics of a document or certificate-granting program that make the certificate or other document equivalent to such a degree or diploma;
- 46. clarifying the meaning of a leave of absence for the purposes of subsection 112 (3);
- 47. respecting the political activities in which a police officer who is a member of a police service maintained by a police service board is permitted to engage;
- 48. establishing ranks for a police service;
- 49. governing qualifications for positions, including positions with a rank, in a police service;
- 50. prescribing the qualifications for a person to provide a policing function;
- 51. prescribing the minimum salary or other remuneration and allowances to be paid to a member of a police service maintained by a police service board;
- 52. governing the conduct and duties of members of police services and special constables;
- 53. describing the circumstances under which members of police services or special constables are permitted or are not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
- 54. governing the suspension and termination of members of police services other than police officers;
- 55. regulating or prohibiting the use of any equipment, including firearms and other weapons, or information technology by a police service or any of its members, a special constable employer or a special constable;
- 56. governing the use of force by members of police services and special constables and requiring reports on the use of force;
- 57. governing the appointment of auxiliary members of a police service, including prescribing conditions or restrictions on the appointments;
- 58. prescribing the purposes that may be specified in an appointment of a special constable and specifying any terms or conditions that apply to a special constable appointed for such a purpose;

59. prescribing educational criteria that must be satisfied in order for a special constable to be appointed for a specified purpose;
60. governing the powers of a police officer that may be conferred on a special constable and governing the exercise of those police powers;
61. governing the suspension and termination of the appointment of special constables;
62. governing the use of information obtained in an investigation or hearing under Part IX (Discipline and Dismissal), including restricting or prohibiting its use;
63. defining a “serious offence” for the purposes of section 157;
64. governing reports by the chief of police under section 161 respecting aggregate disciplinary measures the chief has taken, including specifying the required contents of the reports and governing the publication of the reports;
65. governing the conduct of arbitrations under this Act, including,
  - i. prescribing procedures for them, and
  - ii. in the case of arbitrations other than those conducted under section 173 or 175,
    - A. excluding or modifying the application of any provision of the *Arbitration Act, 1991*,
    - B. governing the orders that an arbitrator may make in his or her decision,
    - C. prescribing rules for the payment of the arbitrator’s remuneration and expenses, and
    - D. providing for appeals from the arbitration;
66. governing the composition of the Arbitration Commission;
67. governing the registers of arbitrators that the Arbitration Commission is required to establish and maintain;
68. governing committees of the Arbitration Commission, including governing the names, composition, responsibilities, powers, duties and quorums of the committees;
69. governing the responsibilities set out in subsection 190 (1), including governing the determination of appropriate levels of security, under paragraph 4 of subsection 190 (1), for premises where court proceedings are conducted;
70. governing the exercise of the powers conferred by section 191, including,
  - i. regulations imposing restrictions, limitations and conditions on the exercise of those powers, and
  - ii. regulations for the purpose of safeguarding the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*, including regulations that provide for the accommodation of persons in connection with creed or disability;
71. prescribing persons who must be on an advisory committee under subsection 197 (3), which may include prescribing different persons for different municipalities;
72. governing consultations with respect to community safety and well-being plans, including consultations with the advisory committee, and prescribing any consultation requirements;
73. prescribing and governing additional requirements that must be met by a municipal council or band council in preparing a community safety and well-being plan;
74. governing the contents of community safety and well-being plans, including,
  - i. prescribing any issues or information that the plan must address or contain, and
  - ii. prescribing any risk factors that the plan must identify;
75. governing the monitoring and evaluation of community safety and well-being plans;
76. prescribing the period within which a community safety and well-being plan must be reviewed and, if appropriate, revised;
77. governing fees that police service boards, the Commissioner and prescribed policing providers may charge for the provision of policing or other services, including,
  - i. prescribing the amount of a fee for the provision of a policing function or service,
  - ii. prescribing the minimum or maximum amount that may be charged for the provision of a policing function or service, or
  - iii. prescribing that no fee may be charged for the provision of a policing function or service;

78. governing the requirement to provide an opportunity to respond in any provision of this Act, including prescribing requirements for any notice that must be provided and prescribing the minimum period of time that must be provided to satisfy the obligation;
79. authorizing the production of records in the custody of a police service that are required for the purpose of a civil proceeding to which the police service board that maintains the police service or, in relation to the Ontario Provincial Police, Her Majesty the Queen in right of Ontario is not a party, including,
  - i. governing the process for obtaining such records, and
  - ii. prescribing fees for obtaining the records;
80. clarifying or defining “youth”, “specific investigations”, “conduct of specific operations”, “discipline of specific police officers”, “routine administration”, “lock-up”, “criminal offence”, “term of imprisonment”, “frivolous or vexatious” and “bad faith” for the purposes of this Act;
81. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed, other than the matters in respect of which the Minister may make regulations under subsection (2);
82. modifying the application of the *Police Services Act*, as it read immediately before its repeal, to complaints and matters described in section 163;
83. governing transitional matters that may arise due to the enactment of this Act, the repeal of the *Police Services Act*, the revocation of the regulations made under that Act or the amendments made by Schedule 5 of the *Safer Ontario Act, 2018*;
84. governing the delivery of policing in an area that is subject to the jurisdiction of an Indigenous entity that is not a First Nation, including, without limitation,
  - i. identifying the Indigenous entity,
  - ii. constituting a police service board to have policing responsibility for the area and governing its composition, name, appointments to it and the term of office of members of it,
  - iii. modifying the application of any provision of this Act or the regulations to enable the police service board to provide policing in the area,
  - iv. modifying the application of any provision of this Act or the regulations to enable the constitution of a board similar to a First Nation O.P.P. board and to enable that board to discharge the powers, duties and functions of a First Nation O.P.P. board in relation to the Indigenous entity, and
  - v. modifying the application of any provision of this Act or the regulations to apply to the Indigenous entity and the area subject to its jurisdiction;
85. respecting any matter that is necessary or advisable to implement this Act effectively.

## **Minister**

### **(2) The Minister may make regulations,**

1. prescribing parts of the King’s Highway, or a highway or part of a highway that is designated as a connecting link under section 21 of the *Public Transportation and Highway Improvement Act*, for which the Commissioner is not responsible for maintaining a traffic patrol;
2. governing the publication of diversity plans under subsection 28 (2);
3. governing transitional matters that may arise due to the enactment, amendment or revocation of a regulation made under section 32 or 77;
4. governing the procedure for providing notice and receiving comments on a proposed amendment or revocation of a regulation made under section 32 or 77;
5. prescribing competencies that one or more members of a police service board must have;
6. prescribing the forms of oaths or affirmations of office and oaths or affirmations of secrecy for the purposes of this Act;
7. establishing and governing requirements with respect to the provision of notice to the public for meetings of police service boards or of the Advisory Council;
8. governing annual reviews of the chief of police’s performance by police service boards;
9. governing the publication of police service board reports under subsection 41 (2);

10. governing the publication of the annual reports of the Commissioner and prescribing matters that must be included in the report;
11. governing the publication of the annual reports of the Inspector General and prescribing matters that must be included in the report;
12. governing the publication of the Inspector General's reports under subsection 103 (2);
13. prescribing the form of any certificate of appointment issued under this Act;
14. prescribing standards of dress for police officers and special constables on duty and prescribing requirements respecting their uniforms;
15. clarifying the requirement in subsection 122 (5) for an auxiliary member of a police service to be "accompanied or supervised" by a police officer, including prescribing the required level of accompaniment or supervision;
16. governing the ability of a chief of police to authorize an auxiliary member of the police service to possess or use firearms in the course of his or her duties;
17. exempting a special constable employer from subsection 131 (3) in circumstances prescribed, by a regulation made by the Lieutenant Governor in Council, for the purposes of this paragraph;
18. prescribing the records, returns, books and accounts to be kept by police service boards and their members and by special constable employers;
19. prescribing the method of accounting for fees and costs that come into the hands of members of police services and special constables;
20. establishing and governing the fees of arbitrators appointed by the chair of the Arbitration Commission, other than arbitrators appointed under section 175;
21. clarifying or defining any term used in subsection 197 (3);
22. governing the publication of community safety and well-being plans;
23. governing reports on community safety and well-being plans, including specifying the required contents of the reports and governing the publication of the reports;
24. prescribing information that a municipal council must provide the Minister under section 203 and prescribing the period within which the information must be provided;
25. prescribing and governing the remuneration and expenses to be paid to a community safety and well-being planner by a municipal council;
26. prescribing the method of accounting for money to which section 206 applies;
27. prescribing forms and providing for their use.

#### **Fees, conflict**

(3) In the event of a conflict, a regulation made under paragraph 77 of subsection (1) prevails over a by-law made by a police service board or prescribed policing provider.

#### **Rolling incorporation by reference**

(4) A regulation made under paragraph 1, 19, 44 or 55 of subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

#### **Transitional regulation, O.P.P. policing contracts**

- (5) A regulation made under paragraph 83 of subsection (1) may, without limiting the generality of that paragraph,
- (a) amend or rescind an agreement made under section 10 of the *Police Services Act* before its repeal;
  - (b) dissolve a board that performed functions under section 10 of the *Police Services Act* before its repeal; and
  - (c) govern the determination of any outstanding amounts in relation to an agreement made under section 10 of the *Police Services Act* before its repeal and provide for payment of those outstanding amounts or for the repayment or crediting of any overpayments.

#### **Crown bound**

**209** This Act binds the Crown in right of Ontario.

## PART XV AMENDMENTS AND REPEAL

### Self-amendment

**210 (1)** This section applies only if Bill 195 (*Correctional Services Transformation Act, 2018*), introduced on February 20, 2018, receives Royal Assent.

(2) The reference in subsection 5 (11.1) of this Act, as set out in subsection (3) of this section, to section 5 of Schedule 2 to Bill 195 is a reference to that provision as it was numbered in the first reading version of the Bill.

(3) Section 5 of this Act is amended by adding the following subsection:

#### Prescribed unit

(11.1) If a unit of the Ministry is prescribed for the purposes of section 5 of the *Correctional Services and Reintegration Act, 2018*, the same unit must be prescribed for the purposes of this section.

### Amendment to *Police Services Act*

**211 (1)** Part VIII.1 of the *Police Services Act* is repealed and the following substituted:

## PART VIII.1 TRANSFER OF ASSETS BETWEEN PENSION PLANS

### Interpretation

**131.1 (1)** Words and expressions used in this Part have the same meaning as under the *Pension Benefits Act* unless the context requires otherwise.

### Definitions

(2) In this Part,

“eligible police force employee” means an employee who is a member of a police force and who meets the requirements set out in section 131.4; (“employé d’un corps de police admissible”)

“original pension plan” has the meaning set out in subsection 79.2 (1) of the *Pension Benefits Act*; (“premier régime de retraite”)

“successor pension plan” has the meaning set out in subsection 79.2 (1) of the *Pension Benefits Act*. (“régime de retraite subséquent”)

### Agreement governing transfers

**131.2 (1)** The administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System may enter into one or more written agreements governing the transfer of assets between pension plans in any of the circumstances that are referred to in subsection 80 (2) or 81 (1) of the *Pension Benefits Act* in respect of eligible police force employees whose employment has been transferred between the Ontario Provincial Police and another police force.

### Amount

(2) An agreement must set out the manner of determining the amount of assets to be transferred from an original pension plan to a successor pension plan in respect of the pension benefits and ancillary benefits of an eligible police force employee who consents to the transfer of assets.

### Notice to employees

(3) An agreement must provide for the contents of the notice to be given to each eligible police force employee concerning the option of consenting to a transfer of assets in respect of his or her pension benefits and ancillary benefits under the original pension plan, and the notice must contain sufficient information to allow the employee to make an informed decision about whether to consent to the transfer.

### Duty to file agreement

**131.3 (1)** If the administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System enter into an agreement under section 131.2, the administrators shall file it with the Superintendent of Financial Services.

### Effect of filing

(2) Sections 14 and 26 of the *Pension Benefits Act* do not apply with respect to a filed agreement or with respect to any amendment to a pension plan that relates to the implementation of a filed agreement.

### Eligibility of police force employees

**131.4 (1)** For the purposes of an agreement filed under section 131.3, an employee is an eligible police force employee if he or she is a member of a police force who is employed on the effective date of the proposed transfer of assets under the agreement in respect of his or her pension benefits and ancillary benefits under the original pension plan.

**Exception**

(2) Despite subsection (1), an employee is not an eligible police force employee if he or she is receiving a pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System on the effective date of the proposed transfer of assets under the agreement.

**Same**

(3) Despite subsection (1), an employee is not an eligible police force employee if he or she is entitled, on the effective date of the proposed transfer of assets, to a deferred pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System.

**Employee's consent to transfer of assets**

**131.5** (1) If an eligible police force employee consents, assets may be transferred under an agreement filed under section 131.3 from an original pension plan to a successor pension plan in respect of his or her pension benefits and ancillary benefits under the original pension plan in accordance with this Part.

**Same**

(2) The employee must indicate his or her consent in writing in the manner specified by the administrator of the original pension plan.

**Application of the *Pension Benefits Act***

(3) The following rules apply to a transfer of assets in accordance with this Part:

1. Sections 21, 79.2, clause 80 (6) (b) and subsections 80 (9) to (15) and 81 (4) to (7) of the *Pension Benefits Act* do not apply to the transfer.
2. For the purposes of section 79.1 of the *Pension Benefits Act*, the transfer is deemed to be authorized under section 80 or 81 of that Act if the transfer is done in accordance with subsections 80 (1) to (8) or 81 (1) to (3) of that Act, respectively.

**Transfer to prescribed retirement savings arrangement**

(4) If the amount of the assets to be transferred in relation to an individual's pension benefits and other benefits under the original pension plan is greater than the amount allowed under the *Income Tax Act* (Canada) for such a transfer, the administrator of the original pension plan shall pay the portion that exceeds that allowed amount into a retirement savings arrangement prescribed under the *Pension Benefits Act* on behalf of the individual.

**Exception**

(5) If the amount to be paid under subsection (4) into a retirement savings arrangement prescribed under the *Pension Benefits Act* is greater than the amount prescribed under the *Income Tax Act* (Canada) for such a transfer, the administrator shall pay the portion that exceeds the amount prescribed under that Act as a lump sum to the individual.

**Effect of transfer of assets**

(6) When assets are transferred in accordance with this Part to a successor pension plan, the transferred assets become part of the assets of the pension fund for that pension plan and they cease to be identified as assets of the original pension plan.

**Status of transferred assets and discharge**

(7) When the assets are transferred in accordance with this Part,

- (a) the employer who is the sponsor of the successor pension plan assumes responsibility for providing pension benefits and other benefits under the original pension plan to the transferred members, and other persons entitled to payments under that plan, and they have no further claim against the original pension plan; and
- (b) the administrator of the original pension plan is discharged upon transferring the assets.

**(2) Subsection 135 (1) of the Act is amended by adding the following paragraphs:**

- 27.1 clarifying or modifying the application of this Act with respect to a community safety and well-being plan that is prepared jointly under Part XI;
- 27.2 governing consultations with respect to community safety and well-being plans, including consultations with the advisory committee, and prescribing any consultation requirements;
- 27.3 prescribing and governing additional requirements that must be met by a municipal council or band council in preparing a community safety and well-being plan;
- 27.4 governing the contents of community safety and well-being plans, including,
  - i. prescribing any issues or information that the plan must address or contain, and
  - ii. prescribing any risk factors that the plan must identify;

27.5 governing the monitoring and evaluation of community safety and well-being plans;

27.6 prescribing the period within which a community safety and well-being plan must be reviewed and, if appropriate, revised;

**(3) Paragraph 29 of subsection 135 (1) of the Act is repealed and the following substituted:**

29. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed, other than the matters in respect of which the Solicitor General may make regulations under subsection (1.3);

**(4) Section 135 of the Act is amended by adding the following subsection:**

**Solicitor General regulations**

(1.3) The Solicitor General may make regulations,

- (a) governing the publication of community safety and well-being plans;
- (b) governing reports on community safety and well-being plans, including specifying the required contents of the reports and governing the publication of the reports;
- (c) prescribing information that a municipal council must provide the Minister under section 151 and prescribing the period within which the information must be provided;
- (d) prescribing and governing the remuneration and expenses to be paid to a community safety and well-being planner by a municipal council;

**(5) Subsection 135 (2) of the Act is amended by striking out “made under subsection (1)” and substituting “made under subsection (1) or (1.3)”.**

**(6) The Act is amended by adding the following Part:**

**PART XI  
COMMUNITY SAFETY AND WELL-BEING PLANS**

**PREPARATION AND ADOPTION**

**Municipal community safety and well-being plan**

**143** (1) The council of each municipality to which subsection 4 (1) applies shall prepare and, by resolution, adopt a community safety and well-being plan.

**May be prepared individually or jointly**

(2) The community safety and well-being plan may be prepared by the municipal council individually or jointly in consultation with other municipal councils or band councils.

**First community safety and well-being plan**

(3) A municipal council must prepare and adopt its first community safety and well-being plan before the second anniversary of the day on which this section began applying to the municipality.

**First Nation community safety and well-being plan**

**144** (1) A band council of a First Nation may prepare and adopt a community safety and well-being plan.

**May be prepared individually or jointly**

(2) The community safety and well-being plan may be prepared by the band council individually or jointly in consultation with other band councils or municipal councils.

**Preparation of plan by municipal council**

**145** (1) A municipal council that prepares a community safety and well-being plan shall establish an advisory committee.

**Joint preparation of plan**

(2) Despite subsection (1), a group of municipal councils that are jointly preparing a community safety and well-being plan shall jointly establish and consult with a single advisory committee.

**Membership of committee**

(3) Subject to the regulations, the advisory committee must, at a minimum, consist of the following members:

- 1. A person who represents,
  - i. a local health integration network for a geographic area in which the municipality is located, as determined under the *Local Health System Integration Act, 2006*, or



- ii. an entity that provides services to improve the physical or mental health of individuals in the community or communities.
- 2. A person who represents an entity that provides educational services in the municipality.
- 3. A person who represents an entity that provides community or social services in the municipality, if there is such an entity.
- 4. A person who represents an entity that provides community or social services to children or youth in the municipality, if there is such an entity.
- 5. A person who represents an entity that provides custodial services to children or youth in the municipality, if there is such an entity.
- 6. An employee of the municipality or a member of the municipal council.
- 7. A person who represents the board of the municipality or, if there is no board, the commander of the detachment of the Ontario Provincial Police that provides policing in the area or his or her delegate.
- 8. Any other prescribed persons.

#### **Same, joint plans**

- (4) If the community safety and well-being plan is prepared by a group of municipal councils or band councils,
  - (a) the members of the advisory committee shall be appointed by agreement of the participating municipal councils and band councils; and
  - (b) the provisions of this Act that apply to community safety and well-being plans apply, with necessary modifications, to joint community safety and well-being plans.

#### **Considerations**

- (5) In appointing the members of the advisory committee, the municipal council or councils shall consider the need to ensure that advisory committee is representative of the municipality or municipalities, having regard for the diversity of the population in the municipality or municipalities.

#### **Consultations**

- (6) In preparing a community safety and well-being plan, the municipal council or councils shall,
  - (a) consult with the advisory committee;
  - (b) consult with the members of the public, including youth, members of racialized groups and of First Nation, Inuit and Métis communities, in the municipality or municipalities and, in the case of a joint plan with a First Nation, in the First Nation reserve;
  - (c) consult with community organizations, including First Nation, Inuit and Métis organizations and community organizations that represent youth or members of racialized groups, in the municipality or municipalities and, in the case of a joint plan with a First Nation, in the First Nation reserve; and
  - (d) comply with any consultation requirements that may be prescribed.

#### **Use of information**

- (7) In preparing a community safety and well-being plan, the municipal council or councils shall consider available information related to crime, victimization, addiction, drug overdose, suicide and any other prescribed risk factors, including statistical information from Statistics Canada or other sources, in addition to the information obtained through its consultations.

#### **Other prescribed requirements**

- (8) The municipal council or councils shall meet the prescribed requirements, if any, in preparing its community safety and well-being plan.

#### **Content of community safety and well-being plan**

**146** A community safety and well-being plan shall,

- (a) identify risk factors in the municipality or First Nation, including, without limitation, systemic discrimination and other social factors that contribute to crime, victimization, addiction, drug overdose and suicide and any other prescribed risk factors;
- (b) identify which risk factors the municipality or First Nation will treat as a priority to reduce;
- (c) identify strategies to reduce the prioritized risk factors, including providing new services, changing existing services, improving the integration of existing services or coordinating existing services in a different way;

- (d) set out measurable outcomes that the strategies are intended to produce;
- (e) address any other issues that may be prescribed; and
- (f) contain any other information that may be prescribed.

#### **Publication of community safety and well-being plan**

**147** A municipal council that has adopted a community safety and well-being plan shall publish it in accordance with the regulations.

#### **Implementation of community safety and well-being plan**

**148** A municipal council that has adopted a community safety and well-being plan shall take any actions that the plan requires it to take and shall encourage and assist other entities to take any actions the plan requires those entities to take.

### **REPORTING AND REVISION**

#### **Monitoring, evaluating and reporting**

**149** (1) A municipal council that has adopted a community safety and well-being plan shall, in accordance with the regulations, monitor, evaluate and report on the effect the plan is having, if any, on reducing the prioritized risk factors.

#### **Publication**

(2) The reports referred to in subsection (1) shall be published in accordance with the regulations.

#### **Revision by municipality**

**150** (1) A municipal council that has adopted a community safety and well-being plan shall review and, if appropriate, revise the plan within the prescribed period.

#### **Revision by band council**

(2) A band council that has adopted a community safety and well-being plan may review and, if appropriate, revise the plan within the prescribed period.

#### **Process for revision**

(3) Sections 145 to 147 apply, with necessary modifications, to the revision of a community safety and well-being plan.

### **MISCELLANEOUS**

#### **Information to Solicitor General**

**151** (1) Every municipal council shall provide the Solicitor General with any prescribed information respecting,

- (a) the municipality's community safety and well-being plan, including the preparation, adoption or implementation of the plan;
- (b) any outcomes from the municipality's community safety and well-being plan; and
- (c) any other prescribed matter related to the community safety and well-being plan.

#### **Time to comply**

(2) The municipal council shall provide the prescribed information within the prescribed period.

#### **No personal information**

(3) Personal information cannot be prescribed for the purposes of this section.

#### **Community safety and well-being planner**

**152** (1) The Solicitor General may appoint a person as a community safety and well-being planner for a municipality if, in the Solicitor General's opinion, the municipality has intentionally and repeatedly failed to comply with one of its obligations under this Part, other than section 148.

#### **Notice of appointment**

(2) The Solicitor General shall give the municipality at least 30 days' notice before appointing the community safety and well-being planner.

#### **Term of office**

(3) The appointment of a community safety and well-being planner is valid until terminated by order of the Solicitor General.

**Powers of planner**

(4) Unless the appointment provides otherwise, a community safety and well-being planner has the right to exercise any powers of the municipal council that are necessary to prepare a community safety and well-being plan that the municipality could adopt.

**Same**

(5) The Solicitor General may specify the powers and duties of a community safety and well-being planner appointed under this section and the terms and conditions governing those powers and duties.

**Right of access**

(6) A community safety and well-being planner appointed for a municipality has the same rights as the municipal council in respect of the documents, records and information of the municipality.

**Solicitor General's directions**

(7) The Solicitor General may issue directions to a community safety and well-being planner with regard to any matter within the jurisdiction of the planner.

**Directions to be followed**

(8) A community safety and well-being planner shall carry out every direction of the Solicitor General.

**Report to Solicitor General**

(9) A community safety and well-being planner shall report to the Solicitor General as required by the Solicitor General.

**Municipality to pay costs**

(10) The municipal council shall pay the community safety and well-being planner's remuneration and expenses as set out in the regulations.

**Repeal of *Police Services Act***

**212 The *Police Services Act* is repealed.**

**PART XVI  
COMMENCEMENT AND SHORT TITLE**

**Commencement**

**213 (1) Subject to subsections (2), (3) and (4), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**(2) Section 131 comes into force two years after the day subsection 123 (1) comes into force.**

**(3) Subsection 211 (1) comes into force on the day the *Safer Ontario Act, 2018* receives Royal Assent.**

**(4) Subsections 211 (2) to (6) come into force on the later of January 1, 2019 and the day the *Safer Ontario Act, 2018* receives Royal Assent.**

**Short title**

**214 The short title of the Act set out in this Schedule is the *Police Services Act, 2018*.**

**SCHEDULE 2  
POLICING OVERSIGHT ACT, 2018**

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**PART I  
PRINCIPLES AND INTERPRETATION**

**Principles**

**1** The oversight of policing in Ontario under this Act shall be governed by the following principles:

1. The importance of holding police officers and other policing officials accountable, on behalf of the public, for the effective delivery of community safety services in Ontario.
2. The impartial and independent operation of the policing oversight system, with decision-making authority that is not subject to the influence of government nor of the persons who are subject to oversight.
3. The public sharing of information about the oversight of policing in a manner that promotes openness and public education, while balancing privacy interests and the integrity of oversight investigations.
4. Recognition of and respect for,
  - i. the diverse, multiracial and multicultural character of Ontario society, and
  - ii. the rights and cultures of First Nation, Inuit and Métis Peoples.

**Interpretation**

**Definitions**

**2** (1) In this Act,

“appointing official”, “extra-provincial commander” and “local commander” have the same meaning as in the *Interprovincial Policing Act, 2009*; (“agent de nomination”, “commandant extraprovincial”, “commandant local”)

“Complaints Director” means the Ontario Policing Complaints Director appointed under subsection 43 (1); (“directeur des plaintes”)

“de-identify”, in relation to the personal information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual; (“anonymiser”)

“Inspector General of Policing” means the person appointed as Inspector General of Policing under subsection 79 (1) of the *Police Services Act, 2018*; (“inspecteur général des services policiers”)

“Minister” means the Attorney General or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“professional misconduct” means conduct referred to in section 146 of the *Police Services Act, 2018*; (“faute professionnelle”)

“regulations” means the regulations made under this Act; (“règlements”)

“SIU Director” means the Ontario Special Investigations Unit Director appointed under subsection 6 (1). (“directeur de l’UES”)

**Interpretation, police matters**

(2) Words and expressions used in this Act and in the regulations that relate to policing and police matters have the same meanings as under the *Police Services Act, 2018*, unless the context requires otherwise.

**Crown bound**

**3** This Act binds the Crown.

## PART II ONTARIO SPECIAL INVESTIGATIONS UNIT

### Interpretation

#### Definitions

**4** (1) In this Part,

“affected person” means, in relation to an incident referred to in subsection 16 (1), a person,

- (a) who died or was seriously injured,
- (b) at whom a firearm was discharged, or
- (c) who reported that he or she was sexually assaulted; (“personne concernée”)

“designated authority” means,

- (a) in relation to an official who is a police officer other than a chief of police, the chief of police of the police service of which the police officer is a member,
- (b) in relation to any other official, the person prescribed by the Minister for the official in respect of this Part or the regulations relating to this Part or in respect of a particular provision of this Part or of the regulations relating to this Part; (“autorité désignée”)

“investigator” means an investigator appointed under section 7; (“enquêteur”)

“official” means,

- (a) a police officer,
- (b) a special constable,
- (c) an auxiliary member of a police service, or
- (d) any other person who may be prescribed; (“agent”)

“serious injury” means an injury listed in subsection (2) or any other injury sustained by a person that is likely to interfere with the person’s health or comfort and is not transient or trifling in nature; (“blessure grave”)

“subject official” means, in respect of an incident referred to in subsection 16 (1), an official whose conduct appears, in the opinion of the SIU Director, to have been a cause of the incident; (“agent impliqué”)

“witness official” means an official who, in the opinion of the SIU Director, is involved in an incident referred to in subsection 16 (1), but is not a subject official in relation to the incident. (“agent témoin”)

#### Serious injuries

(2) A person sustains a serious injury if he or she,

- (a) sustains an injury as a result of which he or she is admitted to a hospital;
- (b) suffers a fracture to the skull, or to a limb, rib or vertebra;
- (c) suffers burns to a significant proportion of his or her body;
- (d) loses any portion of his or her body;
- (e) as a result of an injury, experiences a loss of vision or hearing; or
- (f) sustains a prescribed injury.

#### Officer appointed under the *Interprovincial Policing Act, 2009* deemed to be a member of a specific police service

(3) For the purposes of this Part, a person appointed as a police officer under the *Interprovincial Policing Act, 2009* is deemed to be,

- (a) a member of the Ontario Provincial Police;
- (b) if he or she was appointed by a member of a police service maintained by a police service board, a member of that police service; or
- (c) if he or she was appointed by a member of a police service board, a member of the police service maintained by the police service board.

### **Ontario Special Investigations Unit**

**5** (1) The Ontario Special Investigations Unit is continued under the name “Ontario Special Investigations Unit” in English and “Unité des enquêtes spéciales de l’Ontario” in French.

#### **Composition**

(2) The Ontario Special Investigations Unit shall be headed by the SIU Director and shall, in addition to the SIU Director, consist of,

- (a) investigators appointed under section 7; and
- (b) persons appointed as employees in the Ontario Special Investigations Unit in accordance with section 9.

### **Ontario Special Investigations Unit Director**

**6** (1) The Lieutenant Governor in Council shall, on the recommendation of the Minister, appoint an Ontario Special Investigations Unit Director.

#### **Restriction, official or former official**

(2) An official or former official may not be appointed as Ontario Special Investigations Unit Director.

#### **Restriction, requirements and qualifications**

(3) A person may not be appointed as Ontario Special Investigations Unit Director unless he or she meets the requirements and qualifications prescribed by the Minister, if any.

#### **Term**

(4) An appointment under subsection (1) shall be for a term of five years, and may be renewed for one further term of five years.

#### **Remuneration**

(5) The Ontario Special Investigations Unit Director shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

#### **Functions**

(6) The Ontario Special Investigations Unit Director,

- (a) shall oversee investigations conducted under this Part;
- (b) shall, in accordance with any requirements prescribed by the Minister and in consultation with such persons who represent the diversity of Ontario as the SIU Director considers appropriate, provide training for employees in the Ontario Special Investigations Unit that promotes recognition of and respect for,
  - (i) the diverse, multiracial and multicultural character of Ontario society, and
  - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples;
- (c) shall publish statistical reports for the purpose of informing the evaluation, management and improvement of the policing and policing oversight systems in Ontario; and
- (d) shall perform the duties, and may exercise the powers, that are set out under this Part, as well as any additional duties and powers that may be prescribed.

#### **Delegation**

(7) The Ontario Special Investigations Unit Director may in writing delegate any of his or her powers or duties under this Part to an employee in the Ontario Special Investigations Unit, subject to such conditions or restrictions as the Director may set out in the delegation.

#### **Transition, Director continued**

(8) The person who was Ontario Special Investigations Unit Director under the *Ontario Special Investigations Unit Act, 2018* immediately before its repeal continues, after its repeal, as Ontario Special Investigations Unit Director under this Act for the remainder of his or her term of appointment.

#### **Investigators**

**7** (1) The SIU Director may appoint as investigators such employees in the Ontario Special Investigations Unit or other persons as he or she considers necessary to carry out investigations under this Part, and such appointments shall be in writing.

#### **Restriction, official**

(2) An official may not be appointed as an investigator.



### **Restriction, requirements and qualifications**

(3) A person may not be appointed as an investigator unless he or she meets the requirements and qualifications prescribed by the Minister, if any.

### **SIU Director as investigator**

(4) Any power of an investigator appointed under this section may be exercised by the SIU Director.

### **Peace officers**

**8** The SIU Director, a person to whom powers and duties are delegated under subsection 6 (7) and investigators are peace officers.

### **Employees**

**9** (1) Such employees as are considered necessary for the proper conduct of the Ontario Special Investigations Unit may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

### **Restriction**

(2) An official may not be appointed as an employee.

### **Collection, use and disclosure of personal information**

#### **Collection**

**10** (1) The SIU Director may, in accordance with this section, collect prescribed personal information for the purposes of clause 6 (6) (c).

#### **Limits on collection**

(2) The SIU Director shall not collect personal information under this section if other information will meet the purposes of clause 6 (6) (c), and shall not collect more personal information under this section than is reasonably necessary to meet those purposes.

#### **Manner of collection**

(3) Personal information shall only be collected under this section directly from the individual to whom the information relates, with the individual's consent.

#### **Same**

(4) Despite subsection (3), if the regulations so provide, the SIU Director may, in the circumstances specified by the regulations, collect such prescribed personal information as the regulations specify in a manner other than directly from the individual to whom the information relates.

#### **Notice of direct collection**

(5) Before seeking an individual's consent to collect personal information directly from the individual to whom the information relates, the SIU Director shall inform the individual of,

- (a) the authority for and purposes of the collection; and
- (b) the title and contact information, including an email address, of an employee in the Ontario Special Investigations Unit who can answer the individual's questions about the collection.

#### **Notice of indirect collection**

(6) If the regulations referred to in subsection (4) provide for the collection of personal information in a manner other than directly from the individual to whom the information relates, the SIU Director shall, before collecting personal information in such a manner, ensure that notice of the collection is published on the website of the Ontario Special Investigations Unit containing,

- (a) a statement that the collection is authorized under subsection (1) and setting out the purposes of the collection;
- (b) the personal information and circumstances specified by the regulations referred to in subsection (4) for the purposes of the collection; and
- (c) the title and contact information, including an email address, of an employee in the Ontario Special Investigations Unit who can answer an individual's questions about the collection.

#### **De-identification**

(7) The SIU Director shall immediately de-identify, in the prescribed manner, personal information collected under this section.

**Limits on use**

(8) The SIU Director shall not use personal information collected under this section unless it has been de-identified under subsection (7), and may only use de-identified personal information for the purposes of clause 6 (6) (c).

**Limit on access**

(9) The SIU Director shall limit access to the personal information collected under this section to employees in the Ontario Special Investigations Unit and investigators, for the purposes of,

- (a) de-identifying the personal information under subsection (7); or
- (b) disclosing personal information under subsection (10).

**Limits on disclosure**

(10) The SIU Director, an employee in the Ontario Special Investigations Unit or an investigator may disclose personal information collected under this section only if,

- (a) the individual to whom the information relates has identified that information in particular and consented to its disclosure;
- (b) the disclosure is required by law, including as required under section 31 of the *Human Rights Code*;
- (c) subject to subsection (11), the disclosure is for the purpose of a proceeding or contemplated proceeding, the information relates to or is a matter in issue in the proceeding or contemplated proceeding, and,
  - (i) the SIU Director is, or is expected to be, a party, or
  - (ii) any of the following is, or is expected to be, a witness:
    - (A) a current or former employee in the Ontario Special Investigations Unit,
    - (B) a current or former investigator, or
    - (C) a former employee in or investigator with the Ontario Special Investigations Unit, before its continuance under this Part; or
- (d) the disclosure is to the Information and Privacy Commissioner.

**Same**

(11) The SIU Director, an employee in the Ontario Special Investigations Unit or an investigator shall not disclose personal information under clause (10) (c) if other information will meet the purposes of the proceeding or contemplated proceeding, and shall not disclose more personal information under that clause than is reasonably necessary to meet those purposes.

**Other Acts**

(12) In the event of a conflict, this section prevails over sections 38, 39, 41, 42 and 43 of the *Freedom of Information and Protection of Privacy Act*, but the authority to collect, use and disclose personal information under this section is subject to any limits on collection, use or disclosure under any other law.

**Rights of access and correction**

(13) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

**Non-application**

(14) For greater certainty, this section does not apply with respect to personal information lawfully collected by the SIU Director for a purpose other than for the purposes of clause 6 (6) (c).

**Agreements with other entities**

**11** The SIU Director may, subject to any prescribed conditions or restrictions, enter into agreements with a First Nation in Ontario, the Government of Canada, the government of another province or territory of Canada, a Canadian municipality outside Ontario or any other Canadian entity outside Ontario, for the purpose of conducting or assisting with investigations.

**Annual report**

**12** (1) The SIU Director shall prepare an annual report on the affairs of the Ontario Special Investigations Unit, provide it to the Minister and make it available to the public.

**Same**

(2) The SIU Director shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

- (a) the form and content of the annual report;

- (b) when to provide it to the Minister; and
- (c) when and how to make it available to the public.

**Same**

(3) The SIU Director shall include such additional content in the annual report as the Minister may require.

**Confidentiality**

**13** The SIU Director and every investigator, employee in the Ontario Special Investigations Unit and person exercising powers or performing duties at the direction of the SIU Director shall preserve secrecy in respect of all information obtained by him or her in the course of exercising a power or performing a duty under this Part, and shall not communicate any such information to any person except,

- (a) as may be required in connection with the administration of this Act, the *Police Services Act, 2018*, the *Ontario Policing Discipline Tribunal Act, 2018* or the regulations made under any of them;
- (b) to his or her counsel;
- (c) as may be required for law enforcement purposes; or
- (d) with the consent of the person, if any, to whom the information relates.

**Protection from personal liability**

**14** (1) No action or other proceeding may be instituted against the SIU Director, an investigator, an employee in the Ontario Special Investigations Unit or a person exercising powers or performing duties at the direction of the SIU Director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

**Crown not relieved of liability**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

**Protection from giving testimony**

**15** (1) The SIU Director, an investigator, an employee in the Ontario Special Investigations Unit or a person exercising powers or performing duties at the direction of the SIU Director shall not be required to give testimony in a civil proceeding with respect to information obtained by him or her in the course of exercising a power or performing a duty under this Part or a predecessor of this Part.

**Inadmissibility of documents**

(2) A document prepared under this Part by the SIU Director, an investigator, an employee in the Ontario Special Investigations Unit or a person exercising powers or performing duties at the direction of the SIU Director is not admissible in a civil proceeding.

## INVESTIGATIONS

**Power to investigate**

**16** (1) The SIU Director may cause an investigation to be conducted into any incident in which any of the following occurs, if the incident may have resulted from the conduct of an official:

1. The death of a person.
2. The serious injury of a person.
3. The discharge of a firearm at a person.
4. The sexual assault of a person, as reported by the person.

**Application of section to officials**

(2) This section applies in respect of an official if, at the time of the incident,

- (a) the official was on duty; or
- (b) the official was off-duty but,
  - (i) engaged in the investigation, pursuit, detention or arrest of a person or otherwise exercised the powers of a police officer, special constable, auxiliary member of a police service or other prescribed person, as the case may be, whether or not the official intended to exercise such powers or identified him or herself as a person who may exercise such powers, or

- (ii) the incident involved equipment or other property issued to the official in relation to his or her duties.

#### **Interpretation, firearm**

- (3) For the purposes of paragraph 3 of subsection (1),

“firearm” means a firearm as defined in section 2 of the *Criminal Code* (Canada), except that it does not include a firearm listed in section 1 of Part 1 of the schedule to the Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted or Non-Restricted, SOR/98-462, made under the *Criminal Code* (Canada).

#### **Former official**

- (4) The SIU Director may cause an incident that may have resulted from the conduct of an official to be investigated under subsection (1) even if the official is no longer serving in that position.

#### **Past incident**

- (5) The SIU Director may cause an incident that occurred before subsection (1) came into force to be investigated under that subsection, but, in the case of an incident that occurred before subsection 15 (1) of the *Ontario Special Investigations Unit Act, 2018* came into force, only if the incident may have resulted from the conduct of a person who was a police officer at the time of the incident.

#### **Same**

- (6) For greater certainty, subsection (5) includes an incident that occurred before the establishment of the special investigations unit that was continued by the *Ontario Special Investigations Unit Act, 2018*.

#### **Exception, immediate medical care**

- (7) If the regulations made by the Minister so provide, the SIU Director shall not, despite anything to the contrary in this section, investigate an incident in which an official provided immediate medical care to the affected person in the circumstances specified by the regulations made by the Minister.

#### **Notice**

- (8) Unless the SIU Director received notification of the incident under section 17, the SIU Director shall give notice of an investigation commenced under this section to the official’s designated authority.

#### **Notification of incident**

- 17** (1) A designated authority shall immediately notify the SIU Director of an incident referred to in subsection 16 (1) involving an official in relation to whom the authority is designated.

#### **Same**

- (2) If an incident that may have resulted from the conduct of an official results in the injury of a person, the seriousness of which cannot initially be determined, the official’s designated authority shall immediately notify the SIU Director.

#### **Same**

- (3) For greater certainty, subsections (1) and (2) apply in relation to an official who was off-duty at the time of the incident, unless it is clear that section 16 does not apply to the official under subsection 16 (2).

#### **Investigation**

- (4) On receiving notice of an incident under subsection (1), the SIU Director may, subject to subsection (6), cause the incident to be investigated under section 16.

#### **Same**

- (5) If notice is given under subsection (2) and the incident leads to the death or serious injury of the person, the SIU Director may, subject to subsection (6), cause the incident to be investigated under section 16.

#### **Refusal to investigate**

- (6) If the SIU Director determines that the incident is not within the SIU Director’s power to investigate under section 16, the SIU Director shall refuse to investigate, and shall give notice of the fact to the official’s designated authority.

#### **Investigation of related persons**

- 18** (1) If, in the course of an investigation under section 16, the SIU Director determines that an incident that may have resulted from the conduct of an official in respect of whom that section applies may also have resulted from the conduct of any other person acting with the official as a party to the incident, the SIU Director may cause the investigation to be extended to include that other person.

**Same**

(2) For greater certainty, subsection (1) includes a person listed in clauses (a) to (d) of the definition of “official” in subsection 4 (1), in a circumstance in which section 16 would not otherwise apply in respect of the person under subsection 16 (2).

**Same**

(3) A reference in sections 22 to 36 to an official, including to a subject official or witness official, does not include a person described in subsection (2), except as provided in subsection 28 (3).

**Application**

(4) This section applies only if the incident occurred on or after the day subsection 17 (1) of the *Ontario Special Investigations Unit Act, 2018* came into force.

**Ancillary investigations**

**19** (1) If, in the course of an investigation under section 16, a matter comes to the attention of the SIU Director which does not constitute an incident that may be investigated under that section, but which may constitute an offence under the *Criminal Code* (Canada) or under section 33 of this Act committed by an official, the SIU Director may,

- (a) cause the matter to be investigated; or
- (b) refer the matter to the following person:
  - (i) if the official is a police officer, a special constable who is a member of a police service or an auxiliary member of a police service, to the chief of police of an unrelated police service, or
  - (ii) in any other case, to any chief of police.

**Application of section to officials**

(2) This section applies if, during the alleged committal of the offence, the official met the criteria of clause 16 (2) (a) or (b), with necessary modifications.

**Former officials, past conduct**

(3) Subsections 16 (4) to (6) apply, with necessary modifications, with respect to an investigation of a matter under this section.

**Notice**

(4) The SIU Director shall give notice of an investigation under clause (1) (a) to the official’s designated authority.

**Access to SIU files**

(5) If the SIU Director refers a matter to a person under clause (1) (b), the SIU Director may make the files of the Ontario Special Investigations Unit respecting the matter available to the person.

**Lead investigator**

**20** The SIU Director is the lead investigator in the investigation of an incident or matter under this Part, and shall have priority over,

- (a) any police service investigating the incident or matter; and
- (b) any other body that may be prescribed.

**Assignment of investigators**

**21** (1) The SIU Director shall assign investigators for the purpose of conducting investigations under this Part.

**Restriction**

(2) An investigator who was a member of a police service shall not be assigned to participate in an investigation that relates to a member of that police service, and shall not participate in such an investigation.

**Securing the scene**

**22** (1) If the SIU Director causes an investigation to be conducted into an incident under section 16, every designated authority of an official involved in the incident shall ensure that, until an investigator takes charge of the scene of the incident, any officials or employees over which the designated authority has authority who are at the scene take any lawful measures that appear to them to be necessary for the purposes of protecting, obtaining or preserving evidence relating to the incident.

**Contrary direction**

(2) Subsection (1) is subject to any direction to the contrary given by the SIU Director or an investigator.

**Incident notes**

**23** (1) Every official who may be a subject official or witness official shall complete, in full, notes on the incident.

**Same**

(2) The requirement of an official to complete incident notes applies in accordance with any duties respecting such notes to which the official is subject.

**Timing**

(3) The incident notes shall be completed by the end of the official's shift, subject to subsection (4).

**Same**

(4) The official's designated authority may permit one extension of the deadline under subsection (3),

- (a) of up to 24 hours, on notice by the designated authority to the SIU Director with reasons; or
- (b) of such longer period as the designated authority specifies, subject to the prior approval of the SIU Director.

**Same**

(5) In determining whether to approve an extension under clause (4) (b), the SIU Director shall consider any specific circumstances respecting the official that may be raised by the designated authority when seeking the approval.

**Other notes**

(6) For greater certainty, incident notes do not include other types of notes such as occurrence reports, arrest reports, use of force reports, duty reports, logs or canine training records.

**Notice of whether subject official or witness official**

**24** (1) Before requesting an interview with an official or requesting a copy of an official's incident notes for the purposes of an investigation under section 16, an investigator shall give written notice to the official and to the official's designated authority as to whether the official is considered for the purposes of the investigation to be a subject official or a witness official.

**Notice of change**

(2) If, at any time after notice is given under subsection (1), the SIU Director determines that a subject official should instead be considered to be a witness official in respect of an investigation or vice versa, the SIU Director shall give written notice of the change to the official and to the official's designated authority.

**Provision of notes by witness official****Incident notes**

**25** (1) If an investigator requests a copy of the incident notes of a witness official for the purposes of an investigation under section 16,

- (a) the witness official shall, no later than 24 hours after the request is made, give the original notes to his or her designated authority; and
- (b) the designated authority shall, no later than 24 hours after the request is made or such later time as the investigator may permit, give a copy of the notes to the investigator.

**Other notes**

(2) If an investigator requests a copy of any other notes of a witness official for the purposes of an investigation under section 16, the witness official's designated authority shall give a copy of the notes to the investigator.

**Notes of subject official****Incident notes**

**26** (1) No person shall give to an investigator the original or a copy of any incident notes of a subject official respecting the incident that are made,

- (a) after the commencement of an investigation into the incident; or
- (b) after the incident, if the investigation into the incident is commenced, or notice under section 17 respecting the incident is given, less than 24 hours, or such other number of hours as may be prescribed, after the incident occurs.

**Change to subject official**

(2) If notice is given under subsection 24 (2) that an official who was considered to be a witness official in respect of an investigation at the time that a request for a copy of his or her incident notes was made should instead be considered to be a subject official in the investigation, the SIU Director shall return to the official's designated authority the original and all

copies of the incident notes referred to in clause (1) (a) or (b), as applicable, that are in the possession of the Ontario Special Investigations Unit.

#### **Other notes**

(3) If an investigator requests a copy of any notes of a subject official other than incident notes referred to in clause (1) (a) or (b), as applicable, for the purposes of an investigation under section 16, the subject official's designated authority shall give a copy of the notes to the investigator.

#### **Interview of witness officials**

**27** (1) An investigator may, for the purposes of an investigation under section 16, request an interview with a witness official by making the request to the witness official, to the witness official's designated authority or both.

#### **Duty to appear**

(2) If an investigator requests an interview with a witness official in accordance with subsection (1), the witness official shall meet with the investigator and answer all of his or her questions.

#### **Same, location and timing**

(3) The witness official shall meet with the investigator,

- (a) immediately when the request for the interview is first made or, if there are appropriate grounds for delay, no later than 24 hours after the request is first made; or
- (b) at such later time as the investigator may specify.

#### **Same**

(4) In determining whether to specify a later time under clause (3) (b), the investigator shall consider any specific circumstances raised by the official, such as any travel requirements.

#### **Record of interview**

(5) An interview with a witness official may not be audio recorded except by the investigator, and may not be video recorded except by the investigator with the consent of the witness official.

#### **Same, copy for witness official**

(6) Unless the SIU Director determines that to do so may compromise the integrity of the investigation, a copy of the record of an interview with a witness official shall be given to the witness official, subject to any conditions that the investigator may specify.

#### **Same, change to subject official**

(7) If notice is given under subsection 24 (2) that an official who was considered to be a witness official in respect of an investigation at the time that a request for an interview was made should instead be considered to be a subject official in the investigation, the SIU Director shall give the official the original and all copies of the record of the interview, if any.

#### **Segregation of officials**

**28** (1) The designated authority or authorities of the officials involved in an incident that is the subject of an investigation under section 16 shall, to the extent that is practicable, segregate those officials from one another until the investigators have completed their interviews.

#### **No communication between officials**

(2) An official involved in an incident that is the subject of an investigation under section 16 shall not communicate, directly or indirectly, with any other official involved in the incident concerning their involvement, until the investigators have completed their interviews.

#### **Application to off-duty officials**

(3) In this section, a reference to an official includes a person described in subsection 18 (2) and any other official involved in the incident, regardless of whether he or she was on duty at the time of the incident.

#### **Right to counsel**

**29** (1) Subject to subsection (2), every subject official and witness official in an investigation is entitled to consult with legal counsel, a representative of any applicable union, association or collective bargaining agent, or both, and to have one or both present during his or her interview with an investigator.

#### **Exception**

(2) Subsection (1) does not apply in respect of a legal counsel or a representative if, in the opinion of the SIU Director, waiting for the legal counsel or representative would cause an unreasonable delay in the investigation.

### **Limitation**

(3) Witness officials may not be represented by the same legal counsel as subject officials.

### **Confidentiality during investigation**

**30** (1) Information respecting an ongoing investigation under this Part or an incident or matter being investigated shall not be disclosed to any person, except as permitted or required by this Act, the *Police Services Act, 2018*, the *Ontario Policing Discipline Tribunal Act, 2018* or the regulations made under any of them, by,

- (a) a member of a police service;
- (b) an official;
- (c) a special constable employer or person employed by a special constable employer; or
- (d) a designated authority.

### **Exception, *Interprovincial Policing Act, 2009***

(2) Despite subsection (1), a police officer appointed under the *Interprovincial Policing Act, 2009* may disclose the information to his or her extra-provincial commander, and the chief of police of the police service of which such a police officer is a member may disclose the information to,

- (a) the police officer's extra-provincial commander; or
- (b) if the investigation relates to the police officer and the chief of police is not the police officer's appointing official, the appointing official.

### **Certain disclosure permitted**

(3) Subsection (1) does not prevent,

- (a) a police service from disclosing to a person that the SIU Director has been notified of an incident or matter involving an official who is a member of the police service and is conducting an investigation into it; and
- (b) any disclosure authorized by the regulations that the SIU Director has been notified of an incident or matter involving an official who is not a member of a police service and is conducting an investigation into it.

### **Public statements by SIU**

**31** The SIU Director may issue public statements respecting an ongoing investigation under this Part, if,

- (a) the statement is aimed at preserving public confidence; and
- (b) the benefit of preserving public confidence clearly outweighs any detriment to the integrity of the investigation.

### **Delegation**

#### **By chief of police**

**32** (1) A chief of police who is a designated authority under this Part may in writing delegate any of his or her powers or duties as designated authority to a senior officer of the chief of police's police service, subject to such conditions or restrictions as the chief may set out in the delegation.

#### **By other designated authorities**

(2) If so provided by the regulations made by the Minister, a designated authority other than a chief of police may in writing delegate any of his or her powers or duties as designated authority to a person or persons specified by those regulations, subject to such conditions or restrictions as the designated authority may set out in the delegation.

### **Duty to comply**

**33** (1) The following persons shall comply with a direction or request received from the SIU Director or an investigator in relation to an investigation under this Part, immediately or as otherwise specified under this Part, unless it is unlawful or impracticable to do so:

1. An official, other than a subject official.
2. A designated authority or a person to whom powers or duties are delegated under section 32.
3. Any person over whom a designated authority has authority, including any employees.
4. An appointing official.
5. Any other person who may be prescribed.



### **Notification**

(2) The SIU Director shall immediately advise an official and the official's designated authority respecting a failure of the official to comply with subsection (1) and, in doing so, shall inform each of them of the penalty to which a person is liable under subsection (3) on conviction of a failure to comply.

### **Offence and penalty**

(3) A person who fails to comply with subsection (1) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000, to imprisonment for a term of not more than one year, or to both;
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000, to imprisonment for a term of not more than one year, or to both.

### **Securing the scene**

(4) Nothing in this section affects or detracts from any requirement to which an official may be subject under section 22.

### **Charges**

#### **Criminal offences**

**34** (1) If, as a result of an investigation under this Part, the SIU Director determines that there are reasonable grounds to believe that a person has committed an offence under the *Criminal Code* (Canada), the SIU Director shall cause charges to be laid against the person.

#### **Other offences**

(2) If, as a result of an investigation under this Part, the SIU Director determines that there are reasonable grounds to believe that a person has committed an offence under any other law of Canada or under Ontario law, the SIU Director may cause charges to be laid against the person.

#### **Public notice if charges laid against official re incident**

**35** (1) Subject to subsections (2) and (3), if an investigation under section 16 results in charges being laid against an official, the SIU Director shall, as soon as practicable, give public notice setting out the following, but no other, information:

- 1. The official's name.
- 2. The charges laid and on what date.
- 3. Information respecting the official's first scheduled court appearance respecting the charges, if known.
- 4. Any other information that may be prescribed.

#### **Omission of official's name**

(2) If the public release of the official's name may result in the identity of a person who reported that he or she was sexually assaulted being revealed in connection with the sexual assault, the SIU Director may omit the official's name from the notice, subject to prior consultation with the person.

#### **Other omissions**

(3) If the regulations so provide, the SIU Director shall, in the prescribed circumstances, omit the information specified by the regulations from a notice.

#### **Public notice if no charges laid against official re incident**

**36** (1) If an investigation under section 16 does not result in charges being laid against an official, the SIU Director shall publish a report on the website of the Ontario Special Investigations Unit containing the following information:

- 1. The reasons why the investigation was thought to be authorized under section 16.
- 2. A detailed narrative of the events leading to the investigation.
- 3. A summary of the investigative process, including a timeline.
- 4. A summary of the relevant evidence considered, subject to subsection (2).
- 5. Any relevant video, audio or photographic evidence, de-identified to the extent possible, subject to subsection (2).
- 6. The reasons for not laying a charge against the official.
- 7. A statement as to whether notice of the matter was given by the SIU Director to the Complaints Director or the Inspector General of Policing.
- 8. Any other information that may be prescribed.

### **Omission and reasons**

(2) The SIU Director may omit from the report any information required to be provided under paragraph 4 or 5 of subsection (1), if the SIU Director is of the opinion that a person's privacy interest in not having the information published clearly outweighs the public interest in having the information published, and includes in the report the reasons for the omission.

### **Additional statement**

(3) The SIU Director may include in the report a statement as to whether, in his or her opinion, a witness official failed to comply with a direction or request of the SIU Director or an investigator in the investigation when required to do so under this Part.

### **Excluded information**

(4) The SIU Director shall ensure that the following information is not included in the report:

1. The name of, and any information identifying, a subject official, witness official, person referred to in section 18, civilian witness or affected person.
2. Information that may result in the identity of a person who reported that he or she was sexually assaulted being revealed in connection with the sexual assault.
3. Information that, in the opinion of the SIU Director, could lead to a risk of serious harm to a person.
4. Information that discloses investigative techniques or procedures.
5. Information, the release of which is prohibited or restricted by law.
6. Any other information that may be prescribed.

### **Report copies**

(5) The SIU Director shall give a copy of the report to each of the following persons:

1. The affected person or, if he or she is deceased, to his or her next of kin.
2. Each subject official in the investigation.
3. Each designated authority of a subject official or witness official in the investigation.
4. The Minister.

### **Same, minor or incapable person**

(6) If a person referred to in paragraph 1 of subsection (5) is a minor or is incapable as defined in the *Substitute Decisions Act, 1992*, the copy shall be given to,

- (a) the person's parent or guardian, in the case of a minor; or
- (b) in the case of an incapable person who is not a minor, the incapable person and his or her substitute decision maker under that Act.

### **Delay**

(7) Subsections (1) and (5) do not apply until the SIU Director determines that there is no risk that compliance with either of those subsections may compromise the integrity of an investigation under Part IV or of a criminal investigation or proceeding.

### **Notice**

(8) If, as a result of subsection (7), a report is not published under subsection (1) on the conclusion of an investigation, the SIU Director shall publish notice on the website of the Ontario Special Investigations Unit that an investigation that has not resulted in charges has been concluded but that the resulting report is being withheld pending a determination under subsection (7).

### **No publication**

(9) Despite subsection (1), if the incident investigated under section 16 was the reported sexual assault of the affected person, and the SIU Director is of the opinion that the person's privacy interests in not having the report published clearly outweighs the public interest in having the report published, the SIU Director may decide not to publish the report, subject to prior consultation with the person.

### **Other public notice**

### **Ancillary investigation**

**37** (1) If the regulations so provide, the SIU Director shall give public notice, in accordance with the regulations and containing the prescribed information, respecting the outcome of an investigation under section 19.

**Other person**

(2) If the regulations so provide, the SIU Director shall give public notice, in accordance with the regulations and containing the prescribed information, respecting the outcome of an investigation under section 16 into the conduct of a person referred to in section 18.

**Investigation timing**

**38** (1) The SIU Director shall endeavour to ensure that, no later than 120 days after the commencement of an investigation under this Part into the conduct of an official,

- (a) the investigation is concluded; and
- (b) public notice is given under subsection 35 (1), 36 (1) or 37 (1), as the case may be, subject to subsections 36 (7) and (9).

**Status report**

(2) If the timing requirements of subsection (1) are not met, the SIU Director shall make a public statement respecting the status of the investigation every 60 days until the investigation is concluded, subject to subsection (3).

**Exception**

(3) Subsection (2) does not apply in respect of a requirement to make a public statement if, in the opinion of the SIU Director, doing so may compromise the integrity of the investigation.

**Notice to Complaints Director**

**39** (1) The SIU Director shall notify the Complaints Director of any complaint or issue raised during an investigation under this Part respecting the conduct of a person against whom a complaint may be brought under Part IV, if the conduct may constitute professional misconduct.

**Failure to comply**

(2) In giving notice under subsection (1), the SIU Director shall indicate whether, in his or her opinion, the person who is the subject of the notice failed to comply with a direction or request received from the SIU Director or an investigator in an investigation when required to do so under this Part.

**Access to SIU files**

(3) Subject to subsection (4), the SIU Director may make the files of the Ontario Special Investigations Unit respecting an investigation under this Part available to the Complaints Director, on the Complaints Director's request.

**Restriction**

(4) Subsection (3) applies only after the investigation is concluded.

**Notice to individual not required**

(5) Subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* does not apply to subsection (3).

**Notice to Inspector General of Policing**

**40** The SIU Director shall notify the Inspector General of Policing of any complaint or issue respecting a matter referred to in subsection 84 (1) of the *Police Services Act, 2018* that is raised during an investigation.

**Transition**

**41** An investigation commenced but not concluded under Part VII of the *Police Services Act* or under the *Ontario Special Investigations Unit Act, 2018* before the day section 106 of Schedule 2 to the *Safer Ontario Act, 2018* comes into force is continued under this Part.

## PART III

### ONTARIO POLICING COMPLAINTS AGENCY

**Ontario Policing Complaints Agency**

**42** (1) The office of the Independent Police Review Director is continued under the name "Ontario Policing Complaints Agency" in English and "Agence ontarienne des plaintes relatives aux services policiers" in French.

**Composition**

(2) The Ontario Policing Complaints Agency shall be headed by the Ontario Policing Complaints Director appointed under subsection 43 (1) and shall, in addition to the Director, consist of,

- (a) investigators appointed under section 47; and
- (b) persons appointed as employees in the Agency in accordance with section 48.

### **Ontario Policing Complaints Director**

**43** (1) The Lieutenant Governor in Council shall, on the recommendation of the Minister, appoint a person as Ontario Policing Complaints Director.

#### **Restriction**

(2) A person who is or was a person referred to in section 56 may not be appointed as Ontario Policing Complaints Director.

#### **Term**

(3) An appointment under subsection (1) shall be for a term of five years, and may be renewed for one further term of five years.

#### **Remuneration**

(4) The Ontario Policing Complaints Director shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

#### **Delegation**

(5) The Ontario Policing Complaints Director may in writing delegate any of his or her powers or duties under this Act to an employee in the Ontario Policing Complaints Agency, subject to such conditions or restrictions as the Director may set out in the delegation.

#### **Functions**

**44** The Ontario Policing Complaints Director,

- (a) shall administer the public complaints system and investigation processes under Part IV;
- (b) shall implement public education, outreach and informational programs to make its functions better known to the public and to community organizations;
- (c) shall implement programs and services to assist members of the public in making complaints under Part IV;
- (d) shall, in accordance with any requirements prescribed by the Minister and in consultation with such persons who represent the diversity of Ontario as the Complaints Director considers appropriate, provide training for employees in the Ontario Policing Complaints Agency that promotes recognition of and respect for,
  - (i) the diverse, multiracial and multicultural character of Ontario society, and
  - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples;
- (e) shall publish statistical reports for the purpose of informing the evaluation, management and improvement of the policing and policing oversight systems in Ontario; and
- (f) shall perform the duties, and may exercise the powers, that are set out under this Act, as well as any additional duties and powers that may be prescribed.

#### **Review of systemic issues**

**45** (1) The Complaints Director may examine and review issues of a systemic nature that,

- (a) have been the subject of complaints or investigations under Part IV; or
- (b) may contribute or are otherwise related to professional misconduct by police officers and special constables.

#### **Prior notice to Inspector General of Policing**

(2) Before commencing a review under this section, the Complaints Director shall notify the Inspector General of Policing.

#### **Application of investigation powers to reviews**

(3) Sections 68 to 74 apply, with necessary modifications, for the purposes of a review under this section.

#### **Recommendations**

(4) Following a review under subsection (1), the Complaints Director may,

- (a) make written recommendations to the Inspector General of Policing, the Minister, the Minister responsible for the administration of the *Police Services Act, 2018*, a chief of police, a police service board, a special constable employer or any other person or body; and
- (b) require in writing that a person or body to whom recommendations are made under clause (a) provide a written response, which must include a statement as to whether the recommendations have been accepted and, if not, the reasons why.

**Timing of response**

(5) A response shall be provided under clause (4) (b) as soon as possible, but in no event later than six months after notification of the requirement is given by the Complaints Director.

**Report**

(6) The Complaints Director shall issue a report of every review under subsection (1), including any recommendations, and shall provide a copy of the report to the Inspector General of Policing.

**Publication**

(7) The report and every response provided under clause (4) (b) shall be published on the Ontario Policing Complaints Agency's website.

**Notice to SIU Director**

(8) If the Complaints Director determines that a matter being reviewed under this section may constitute a matter that may be investigated by the SIU Director under Part II, the Complaints Director shall notify the SIU Director.

**Notice to Inspector General of Policing**

(9) If the Complaints Director determines that a matter being reviewed under this section may constitute criminal conduct that may not be investigated by the SIU Director under Part II, the Complaints Director may notify the Inspector General of Policing.

**Rules**

**46** (1) The Complaints Director may make procedural rules for anything related to his or her powers and duties under this Act.

**Publication**

(2) Rules made under subsection (1) shall be in writing and shall be published on the Ontario Policing Complaints Agency's website.

**Not a regulation**

(3) Part III of the *Legislation Act, 2006* does not apply to rules made under subsection (1).

**Investigators**

**47** (1) The Complaints Director may appoint as investigators such employees in the Ontario Policing Complaints Agency or other persons as he or she considers necessary to carry out reviews under section 45 and investigations under Part IV, and such appointments shall be in writing.

**Restriction**

(2) A person referred to in section 56 may not be appointed as an investigator.

**Restriction, requirements and qualifications**

(3) A person may not be appointed as an investigator unless he or she meets the requirements and qualifications prescribed by the Minister, if any.

**Limit on former officers, constables**

(4) The number or proportion of persons who were any of the persons referred to in section 56 and that are appointed as investigators or as a class of investigators prescribed by the Minister under clause 104 (g) shall not exceed any limits that may be prescribed by the Minister.

**Proof of appointment**

(5) Every investigator who exercises powers under this Act shall, on request, produce evidence of his or her appointment.

**Director as investigator**

(6) Any power of an investigator appointed under this section may be exercised by the Complaints Director.

**Employees**

**48** (1) Such employees as are considered necessary for the proper conduct of the Ontario Policing Complaints Agency may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

**Restriction**

(2) A person referred to in section 56 may not be appointed as an employee for the purposes of subsection (1).

**Liaisons****Police service**

**49** (1) Every chief of police shall designate a senior officer within his or her police service to serve as a liaison to the Complaints Director on behalf of the police service.

**Special constable employer**

(2) Every special constable employer shall designate from within his or her workplace a senior representative of the employer to serve as a liaison to the Complaints Director on behalf of the employer.

**Additional liaisons**

(3) The Lieutenant Governor in Council may make regulations requiring the designation of other persons to serve as liaisons to the Complaints Director on behalf of other entities.

**Collection, use and disclosure of personal information****Collection**

**50** (1) The Complaints Director may, in accordance with this section, collect prescribed personal information for the purposes of clause 44 (e).

**Limits on collection**

(2) The Complaints Director shall not collect personal information under this section if other information will meet the purposes of clause 44 (e), and shall not collect more personal information under this section than is reasonably necessary to meet those purposes.

**Manner of collection**

(3) Personal information shall only be collected under this section directly from the individual to whom the information relates, with the individual's consent.

**Same**

(4) Despite subsection (3), if the regulations so provide, the Complaints Director may, in the circumstances specified by the regulations, collect such prescribed personal information as the regulations specify in a manner other than directly from the individual to whom the information relates.

**Notice of direct collection**

(5) Before seeking an individual's consent to collect personal information directly from the individual to whom the information relates, the Complaints Director shall inform the individual of,

- (a) the authority for and purposes of the collection; and
- (b) the title and contact information, including an email address, of an employee in the Ontario Policing Complaints Agency who can answer the individual's questions about the collection.

**Notice of indirect collection**

(6) If the regulations referred to in subsection (4) provide for the collection of personal information in a manner other than directly from the individual to whom the information relates, the Complaints Director shall, before collecting personal information in such a manner, ensure that notice of the collection is published on the website of the Ontario Policing Complaints Agency containing,

- (a) a statement that the collection is authorized under subsection (1) and setting out the purposes of the collection;
- (b) the personal information and circumstances specified by the regulations referred to in subsection (4) for the purposes of the collection; and
- (c) the title and contact information, including an email address, of an employee in the Ontario Policing Complaints Agency who can answer an individual's questions about the collection.

**De-identification**

(7) The Complaints Director shall immediately de-identify, in the prescribed manner, personal information collected under this section.

**Limits on use**

(8) The Complaints Director shall not use personal information collected under this section unless it has been de-identified under subsection (7), and may only use de-identified personal information for the purposes of clause 44 (e).

**Limit on access**

(9) The Complaints Director shall limit access to the personal information collected under this section to employees in the Ontario Policing Complaints Agency and investigators, for the purposes of,

- (a) de-identifying the personal information under subsection (7); or
- (b) disclosing personal information under subsection (10).

**Limits on disclosure**

(10) The Complaints Director, an employee in the Ontario Policing Complaints Agency or an investigator may disclose personal information collected under this section only if,

- (a) the individual to whom the information relates has identified that information in particular and consented to its disclosure;
- (b) the disclosure is required by law, including as required under section 31 of the *Human Rights Code*;
- (c) subject to subsection (11), the disclosure is for the purpose of a proceeding or contemplated proceeding, the information relates to or is a matter in issue in the proceeding or contemplated proceeding, and,
  - (i) the Complaints Director is, or is expected to be, a party, or
  - (ii) any of the following is, or is expected to be, a witness:
    - (A) a current or former employee in the Ontario Policing Complaints Agency,
    - (B) a current or former investigator appointed under section 47, or
    - (C) a former employee in or investigator with the office of the Independent Police Review Director, before its continuance under Part III; or
- (d) the disclosure is to the Information and Privacy Commissioner.

**Same**

(11) The Complaints Director, an employee in the Ontario Policing Complaints Agency or an investigator appointed under section 47 shall not disclose personal information under clause (10) (c) if other information will meet the purposes of the proceeding or contemplated proceeding, and shall not disclose more personal information under that clause than is reasonably necessary to meet those purposes.

**Other Acts**

(12) In the event of a conflict, this section prevails over sections 38, 39, 41, 42 and 43 of the *Freedom of Information and Protection of Privacy Act*, but the authority to collect, use and disclose personal information under this section is subject to any limits on collection, use or disclosure under any other law.

**Rights of access and correction**

(13) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

**Non-application**

(14) For greater certainty, this section does not apply with respect to personal information lawfully collected by the Complaints Director for a purpose other than for the purposes of clause 44 (e).

**Annual report**

**51** (1) The Complaints Director shall prepare an annual report on the affairs of the Ontario Policing Complaints Agency, provide it to the Minister and make it available to the public.

**Same**

(2) The Complaints Director shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

- (a) the form and content of the annual report;
- (b) when to provide it to the Minister; and
- (c) when and how to make it available to the public.

**Same**

(3) The Complaints Director shall include such additional content in the annual report as the Minister may require.

### **Confidentiality**

**52** The Complaints Director and every investigator appointed under section 47, employee in the Ontario Policing Complaints Agency and person exercising powers or performing duties at the direction of the Complaints Director shall preserve secrecy in respect of all information obtained by him or her in the course of exercising a power or performing a duty under this Act and shall not communicate any such information to any person except,

- (a) as may be required in connection with the administration of this Act, the *Police Services Act, 2018*, the *Ontario Policing Discipline Tribunal Act, 2018* or the regulations made under any of them;
- (b) to his or her counsel;
- (c) as may be required for law enforcement purposes; or
- (d) with the consent of the person, if any, to whom the information relates.

### **Protection from personal liability**

**53** (1) No action or other proceeding may be instituted against the Complaints Director, an investigator appointed under section 47, an employee in the Ontario Policing Complaints Agency or a person exercising powers or performing duties at the direction of the Complaints Director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

### **Crown not relieved of liability**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

### **Protection from giving testimony**

**54** (1) The Complaints Director, an investigator appointed under section 47, an employee in the Ontario Policing Complaints Agency, or a person exercising powers or performing duties at the direction of the Complaints Director shall not be required to give testimony in a civil proceeding, other than a proceeding under Part IV or a predecessor of that Part, with respect to information obtained by him or her in the course of exercising a power or performing a duty under this Act or a predecessor of this Act.

### **Inadmissibility of documents**

(2) A document prepared under this Act by the Complaints Director, an investigator appointed under section 47, an employee in the Ontario Policing Complaints Agency or a person exercising powers or performing duties at the direction of the Complaints Director is not admissible in a civil proceeding, other than a proceeding or a judicial review of a decision made under Part IV or a predecessor of that Part.

## **PART IV PUBLIC COMPLAINTS, INVESTIGATIONS AND HEARINGS**

### **Interpretation**

#### **Definitions**

**55** (1) In this Part,

“complainant” means a person who makes a complaint under subsection 58 (1); (“plaignant”)

“designated authority” means,

- (a) in relation to a police officer other than a police officer referred to in clause (b), (c) or (d), the chief of police of the police service of which the police officer is a member,
- (b) in relation to the Commissioner of the Ontario Provincial Police or deputy Commissioner, the Minister responsible for the administration of the *Police Services Act, 2018*,
- (c) in relation to any other chief of police or deputy chief of police, the police service board that maintains the police service of which the chief or deputy chief is a member,
- (d) in relation to a police officer appointed under the *Interprovincial Policing Act, 2009*, the appointing official or local commander who appointed the police officer under that Act,
- (e) in relation to a special constable who is a member of a police service, the chief of police of the police service of which the special constable is a member, and
- (f) in relation to a special constable who is not a member of a police service, his or her special constable employer; (“autorité désignée”)

“investigator” means an investigator appointed under section 47; (“enquêteur”)



“Tribunal” means the Ontario Policing Discipline Tribunal. (“Tribunal”)

**Interpretation, portion of a complaint**

(2) This Part applies to a portion of a complaint as if it were a complaint, unless the context indicates otherwise.

**Application of Part**

**56** (1) This Part applies with respect to the conduct of police officers and special constables.

**Same, additional persons by regulation**

(2) If the regulations so provide, this Part applies, with such modifications as the regulations may specify, with respect to the conduct of any other persons who may be prescribed.

**Determination of public interest in an investigation**

**57** For the purposes of a determination under this Part as to whether or not it is in the public interest to cause an investigation into the conduct of a police officer or special constable to be conducted or continued, the Complaints Director shall consider,

- (a) whether the conduct has been or is currently the subject of an investigation under this Act or a predecessor of this Act;
- (b) whether the conduct could be more appropriately dealt with, in whole or in part, under another Act or law or in another adequate forum;
- (c) whether a decision to not conduct or continue an investigation would negatively impact public confidence in the policing oversight system; and
- (d) whether an investigation is reasonably practicable, having regard to the information or evidence available.

PUBLIC COMPLAINTS

**Public complaints**

**58** (1) Any person may make a complaint to the Complaints Director about the conduct of a police officer or special constable, subject to subsection (2).

**Restriction**

(2) A complaint may not be made under subsection (1) by,

- (a) the Minister responsible for the administration of the *Police Services Act, 2018*;
- (b) the Inspector General of Policing;
- (c) an investigator appointed under section 47 or an employee in the Ontario Policing Complaints Agency;
- (d) a member of or employee in the Tribunal;
- (e) the SIU Director, an investigator appointed under section 7 or an employee in the Ontario Special Investigations Unit;
- (f) a member of a police service, in respect of another member of that police service;
- (g) a special constable employed by a special constable employer, in respect of another special constable employed by that employer;
- (h) a member of a police association, in respect of a member of the police service to which the police association’s members belong;
- (i) a member of a union, association or collective bargaining agent other than a police association, that represents special constables, in respect of another member of that union, association or collective bargaining agent;
- (j) a member or employee of a police service board, in respect of a member of a police service maintained by the board;
- (k) a special constable employer, in respect of a special constable employed by the special constable employer;
- (l) a person selected by the council of a municipality to advise another municipality’s police service board under subsection 26 (2) of the *Police Services Act, 2018*, in respect of a police officer who is a member of a police service maintained by that board; or
- (m) any other person who may be prescribed.

**Complainant on behalf of minor, incapable person**

(3) A complaint may be made under subsection (1) on behalf of,

- (a) a person who is a minor, by the person’s parent or guardian; and
- (b) a person who is incapable as defined in the *Substitute Decisions Act, 1992* and who is not a minor, by his or her substitute decision-maker under that Act.

### **Complaint through agent**

(4) A complainant may act through an agent in respect of a complaint made under this Part.

#### **Same**

(5) If a complainant acts through an agent, a requirement under this Part to give notice to the complainant may be met by giving notice to the complainant's agent.

#### **Same, restricted persons**

(6) For greater certainty, a person referred to in subsection (2) may not make a complaint by acting through an agent under subsection (4).

#### **Misdirected complaint**

(7) If a person who may make a complaint about the conduct of a police officer or special constable under subsection (1) instead makes the complaint to a member of a police service, police service board, special constable or special constable employer, the member, board, special constable or employer shall,

- (a) provide to the person information about the Complaints Director's role in the oversight of policing in Ontario, and inform the person that the complaint may be made to the Complaints Director and how to do so; and
- (b) forward the complaint to the Complaints Director, if the person requests it.

#### **Same**

(8) A complaint forwarded to the Complaints Director under clause (7) (b) on a person's request is deemed to have been made by the person under subsection (1).

### **Complaints from another province or territory**

**59** (1) If the Minister responsible for the administration of the *Police Services Act, 2018*, a chief of police or a police service board receives a report from a person or body responsible for reviewing complaints about police officers in another province or territory about a complaint made against an Ontario police officer appointed to act as a police officer in that province or territory, the Minister, chief or board shall give the report to the Complaints Director.

#### **Same**

(2) A report described in subsection (1), whether received in accordance with that subsection or directly from the person or body that prepared the report, is, on its receipt, deemed to be a complaint made to the Complaints Director under this Part and, for the purpose, the person or entity that brought the complaint in the other province or territory and the person or body that prepared the report are deemed to be complainants.

### **Review of complaints**

**60** (1) The Complaints Director shall review every complaint made under this Part and determine whether the complaint is about the conduct of a police officer or special constable, as the case may be.

#### **Complaint re conduct**

(2) If the Complaints Director determines that a complaint is about the conduct of a police officer or special constable, the Complaints Director shall cause the complaint to be investigated, subject to section 61, and shall promptly give notice of the investigation and of the substance of the complaint to the police officer or special constable and to the applicable designated authority.

#### **Exception**

(3) The Complaints Director is not required to provide notice to a police officer or special constable under subsection (2) if, in the Complaints Director's opinion, doing so may prejudice the investigation.

#### **Other matter**

(4) If the Complaints Director determines that a complaint is not about the conduct of a police officer or special constable, the Complaints Director shall refuse to deal with the matter and shall promptly give notice of the refusal, with reasons, to the complainant, the police officer or special constable and the applicable designated authority.

#### **Refusal to investigate**

**61** (1) The Complaints Director may refuse to investigate a complaint about the conduct of a police officer or special constable if,

- (a) the facts on which the complaint is based occurred more than six months before the complaint is made;
- (b) the complainant was not affected by the conduct, as determined under subsection (3);
- (c) the complaint alleges conduct that does not, on its face, constitute professional misconduct; or
- (d) in the Complaints Director's opinion,

- (i) the complaint is frivolous, vexatious or made in bad faith, or
- (ii) having regard to all the circumstances, dealing with the complaint is not in the public interest.

#### **Six month period**

- (2) For the purposes of clause (1) (a), the Complaints Director shall consider,
- (a) whether the complainant is a minor or under a disability within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*, or is a complainant referred to in subsection 58 (3) acting on behalf of a minor or incapable person;
  - (b) whether the complainant is or was subject to a criminal investigation or proceeding in respect of the events underlying the complaint; and
  - (c) whether, having regard to all the circumstances, it is in the public interest for the complaint to be investigated.

#### **Persons affected by conduct**

(3) For the purposes of clause (1) (b), only the following persons shall be considered to have been affected by the conduct of a police officer or special constable:

1. A person at whom the conduct was directed.
2. A person who saw or heard the conduct or its effects as a result of being physically present at the time and place that the conduct or its effects occurred.
3. A person who,
  - i. was in a personal relationship with a person described in paragraph 1 at the time that the conduct occurred, and
  - ii. suffered loss, damage, distress, danger or inconvenience as a result of the conduct.
4. A person who has knowledge of the conduct or has, in his or her possession or under his or her control, anything relating to the conduct if, in the Complaints Director's opinion, the knowledge or thing constitutes compelling evidence that the conduct complained of is professional misconduct.

#### **Same**

(4) In the case of a complainant referred to in subsection 58 (3) who is acting on behalf of a minor or incapable person, a determination under clause (1) (b) shall be made in respect of the minor or incapable person rather than in respect of the complainant.

#### **Notice**

(5) If the Complaints Director refuses to investigate a complaint in accordance with this section, he or she shall give notice of the refusal, with reasons, and of the substance of the complaint to,

- (a) the complainant;
- (b) the police officer or special constable who is the subject of the complaint; and
- (c) the applicable designated authority.

#### **Withdrawal of complaint**

**62** (1) Subject to subsection (2), a complainant may withdraw his or her complaint on notice to the Complaints Director.

#### **Restriction**

(2) A complaint may not be withdrawn after the conclusion of an investigation under this Part.

#### **Discontinuance**

(3) Subject to subsection (4), the Complaints Director shall cease to deal with a complaint that is withdrawn, including discontinuing any investigation commenced as a result of the complaint.

#### **Continuance despite withdrawal**

(4) The Complaints Director may continue to deal with a complaint despite its withdrawal if, in his or her opinion, it is in the public interest to do so.

#### **Notice**

(5) The Complaints Director shall give notice of the withdrawal of a complaint and, if applicable, notice of a decision to continue to deal with it despite its withdrawal, with reasons, to,

- (a) the complainant;
- (b) the police officer or special constable who is the subject of the complaint, subject to subsection (6); and

- (c) the applicable designated authority.

### **Exception**

(6) If the Complaints Director decides to continue to deal with a complaint despite its withdrawal, the Complaints Director is not required to give any notice under subsection (5) to the police officer or special constable who is the subject of the complaint if, in the Complaints Director's opinion, doing so may prejudice the investigation.

### **No further notice to complainant**

(7) The complainant is not entitled to any further notice respecting a complaint that the Complaints Director continues to deal with under subsection (4), despite anything to the contrary under this Part.

## **POWER TO INVESTIGATE WITHOUT COMPLAINT**

### **Investigation in absence of complaint**

**63** (1) The Complaints Director may, in any of the following circumstances, cause an investigation to be conducted into the conduct of a police officer or special constable in the absence of a complaint under this Part if, in the Complaints Director's opinion, there is a public interest in causing the investigation to be conducted:

1. Notice of the conduct has been given to the Complaints Director by,
  - i. the SIU Director under subsection 39 (1),
  - ii. an inspector under subsection 95 (2) of the *Police Services Act, 2018*,
  - iii. the Inspector General of Policing under section 140 of the *Police Services Act, 2018*, or
  - iv. a chief of police, a police service board or the Minister responsible for the administration of the *Police Services Act, 2018* under section 148 of that Act.
2. Conduct that may constitute professional misconduct comes to the Complaints Director's attention as a result of a complaint made under this Part but is not the subject of the complaint, or otherwise comes to the Complaints Director's attention.
3. Any other circumstance that may be prescribed.

### **Limitation**

(2) Subsection (1) does not apply with respect to conduct that occurred before the day this section came into force.

### **Notice of investigation**

**64** If the Complaints Director decides to cause an investigation to be conducted under subparagraph 1 i or ii or paragraph 2 or 3 of subsection 63 (1), the Complaints Director shall give notice of the decision, with reasons, and of the conduct to be investigated, to the police officer or special constable and to the applicable designated authority.

### **Notice to Inspector General of Policing**

**65** (1) The Complaints Director shall inform the Inspector General of Policing whether or not the Complaints Director will cause an investigation to be conducted into the conduct under subparagraph 1 iii of subsection 63 (1) and, if an investigation is not to be conducted, provide reasons for the decision.

### **Notice of investigation**

(2) If the Complaints Director decides to cause an investigation to be conducted under subparagraph 1 iii of subsection 63 (1), the Complaints Director shall give notice of the decision, with reasons, and of the conduct to be investigated to the police officer or special constable and to the applicable designated authority.

### **Notice to chief, board or Minister**

**66** (1) The Complaints Director shall inform the chief of police, police service board or Minister responsible for the administration of the *Police Services Act, 2018*, as the case may be, whether or not the Complaints Director will cause an investigation to be conducted into the conduct under subparagraph 1 iv of subsection 63 (1) and, if an investigation is not to be conducted, provide reasons for the decision.

### **Notice of investigation**

(2) If the Complaints Director decides to cause an investigation to be conducted under subparagraph 1 iv of subsection 63 (1), the Complaints Director shall give notice of the decision, with reasons, and of the conduct to be investigated to the police officer or special constable.

### **Exception, no notice to police officer, special constable**

**67** The Complaints Director is not required to give notice to a police officer or special constable under section 64, 65 or 66 if, in the Complaints Director's opinion, doing so may prejudice the investigation.

## INVESTIGATIONS

### Assignment of investigators

**68** Subject to section 81, the Complaints Director shall assign investigators for the purpose of conducting investigations under this Part.

### Postponement

**69** (1) If a matter to be investigated under this Part is the subject of a criminal investigation or proceeding, the Complaints Director may postpone the commencement of the investigation under this Part for as long as is necessary, in the Complaints Director's opinion, to avoid interfering with the criminal investigation or proceeding.

### Same

(2) Subsection (1) is in addition to the requirement in subsection 95 (3) to stay an investigation or review of a complaint if the subject matter of the complaint or investigation is the subject of an investigation by the SIU Director.

### *Public Inquiries Act, 2009*

**70** Section 33 of the *Public Inquiries Act, 2009* applies to an investigation under this Part.

### Investigation powers, place owned or occupied by police, etc.

**71** (1) If an investigator believes that to do so is necessary for the purposes of an investigation under this Part, he or she may, at any reasonable time, enter and search a place that is owned or occupied by a police service, a police service board or a special constable employer on notice to the owner or occupier of the place.

### Powers on entry

- (2) An investigator conducting an investigation at a place referred to in subsection (1) may,
- (a) require a person to produce or provide access to any record, thing, data or information that relates to the investigation;
  - (b) search for, examine, copy or remove any record, thing, data or information that relates to the investigation; and
  - (c) use any data storage, processing or retrieval device or system used at or available to the place in order to produce, in readable form, any record, data or information that relates to the investigation.

### Expert help

(3) The investigator may be accompanied and assisted by persons who have special, expert or professional knowledge.

### Obligation to produce and assist

(4) If the investigator requires that a person produce or provide access to a record, thing, data or information, the person shall do so in the manner and within the period specified by the investigator and shall, if requested to do so, provide any assistance that is reasonably necessary to permit the investigator to understand the record, thing, data or information.

### Restriction on dwellings

(5) The investigator shall not enter, without the occupier's consent, a room that is actually used as a dwelling.

### No force

(6) The investigator shall not use force to enter and search a place.

### Order

(7) A justice of the peace or provincial judge may, on application by the investigator without notice, issue an order authorizing an investigator to enter and search a place referred to in subsection (1) and to exercise any of the powers set out in subsection (2), (3) or (4) if the justice of the peace or provincial judge is satisfied on information under oath that there are reasonable grounds to suspect that,

- (a) the investigator has been prevented from exercising a right of entry to the place under subsection (1) or has been prevented from exercising a power under subsection (2), (3) or (4); or
- (b) the investigator will likely be prevented from exercising a right of entry to the place under subsection (1) or will likely be prevented from exercising a power under subsection (2), (3) or (4).

### Conditions

(8) The order may contain terms and conditions in addition to those provided for in subsection (7) as the justice of the peace or provincial judge considers advisable in the circumstances.

### Expiry of order

(9) The order is valid for 30 days or for such shorter period as may be specified in it.

**Further orders**

(10) A justice of the peace or provincial judge may issue further orders under subsection (7).

**Use of force**

(11) The investigator named in the order may use whatever force is necessary to execute the order and may call upon a police officer for assistance in executing the order.

**Definition**

(12) In this section and in section 72,

“place” includes a building, a receptacle and a vehicle.

**Investigation powers, other places**

**72** (1) A justice of the peace or a provincial judge may, on application by an investigator without notice, issue an order in relation to a place other than one to which section 71 applies authorizing the investigator to enter the place for which the order is issued and exercise any of the powers set out in the order in relation to a record, thing, data or information listed in the order, if the justice of the peace or provincial judge is satisfied by information under oath that,

- (a) the investigation relates to the conduct of a police officer or special constable;
- (b) there are reasonable grounds to believe that the conduct constitutes professional misconduct;
- (c) there are reasonable grounds to believe that there is in the place a record, thing, data or information that relates to the investigation; and
- (d) it is in the best interests of the administration of justice to issue the order having regard to all relevant matters, including the nature of the place sought to be entered.

**Powers on entry**

(2) The order may authorize the investigator to exercise any or all of the powers set out in subsection 71 (2).

**Dwelling**

(3) Despite subsection (1), the investigator shall not exercise the power under an order to enter a place or part of a place used as a dwelling, unless the justice of the peace or provincial judge is informed that the order is being sought to authorize entry into a dwelling and the order authorizes the entry into the dwelling.

**Expert help**

(4) An order issued under subsection (1) may authorize persons who have special, expert or professional knowledge to accompany and assist the investigator in the execution of the order.

**Conditions**

(5) The order may contain any additional terms and conditions that the justice of the peace or provincial judge considers advisable in the circumstances.

**Time of execution**

(6) The order shall be executed between 6 a.m. and 9 p.m., unless it specifies otherwise.

**Expiry of order**

(7) The order is valid for 30 days or for such shorter period as may be specified in it.

**Further orders**

(8) A justice of the peace or provincial judge may issue further orders under subsection (1).

**Use of force**

(9) The investigator named in the order may use whatever force is necessary to execute the order and may call upon a police officer for assistance in executing the order.

**Records or things removed**

**73** (1) An investigator shall give a receipt to any person from whom a record or thing is removed in the exercise of a power under section 71 or 72.

**Detention of record or thing**

(2) An investigator may, subject to subsection (3), detain any record or other thing removed by him or her under section 71 or 72.

### **Requirement to return**

(3) An investigator shall, within a reasonable time, return any record or other thing detained by him or her under subsection (2) to the person from whom it was removed, if the investigator is satisfied that it is no longer necessary to detain the record or thing for the purposes of the investigation or any proceeding arising from the investigation.

### **Removal under order**

(4) If an investigator removes a record or other thing under an order issued under subsection 72 (1), the investigator, or a person designated by him or her, shall, as soon as is reasonably possible,

- (a) bring the record or thing before a justice of the peace or provincial judge; or
- (b) make a report of the removal of the record or thing to a justice of the peace or provincial judge.

### **Same**

(5) If the justice of the peace or provincial judge is satisfied that the record or thing should be detained for the purposes of the investigation or proceeding arising from the investigation, he or she shall order that the record or thing be detained in the care of the investigator or a person designated by the investigator, or in the care of a person designated by the Complaints Director, until the conclusion of the investigation and any such proceeding; otherwise, the justice of the peace or provincial judge shall order that the record or thing be returned to the person from whom it was removed.

### **Order for examination, testing, etc.**

(6) On the motion of a person having an interest in a record or thing detained under subsection (2) or (5), on notice to the person from whom the record or thing was removed, the investigator and any other person who has an apparent interest in the record or thing detained, a justice of the peace or provincial judge may make an order for the examination, testing, inspection or copying of the record or thing, and may specify in the order such conditions as are reasonably necessary in the circumstances.

### **Order for release**

(7) On the motion of a person having an interest in a record or thing detained under subsection (2) or (5), on notice to the person from whom the record or thing was removed, the investigator and any other person who has an apparent interest in the record or thing detained, a justice of the peace or provincial judge may make an order for the release of the record or thing to the person from whom it was removed, if it appears that the record or thing is no longer necessary for the purposes of the investigation or any proceeding arising from the investigation.

### **Appeal of order by justice of the peace**

(8) Subsection 159 (5) of the *Provincial Offences Act* applies, with necessary modifications, to an order made under subsection (6) or (7).

### **Copy admissible**

**74** A copy of a record or other thing that purports to be certified by an investigator as being a true copy of the original is, in the absence of proof to the contrary, admissible in evidence to the same extent as the original and has the same evidentiary value.

### **Discontinuance of investigation**

**75** (1) The Complaints Director may discontinue an investigation under this Part if he or she determines that, having regard to all the circumstances, continuing the investigation is not in the public interest.

### **Notice**

(2) If the Complaints Director decides to discontinue an investigation in accordance with this section, he or she shall give notice of the decision, with reasons, to,

- (a) the complainant, if any;
- (b) the police officer or special constable who is the subject of the investigation; and
- (c) the applicable designated authority.

### **Investigation timing**

**76** (1) The Complaints Director shall endeavour to ensure that investigations commenced under this Part are concluded within one year, not including any period during which an investigation is postponed under section 69 or stayed under subsection 95 (3).

### **Status report**

(2) If the timing requirements of subsection (1) are not met in respect of an investigation, the Complaints Director shall, subject to subsection (3), give notice of the status of the investigation every 60 days until the investigation is concluded to,

- (a) the complainant, if any;
- (b) the police officer or special constable who is the subject of the investigation; and
- (c) the applicable designated authority.

**Same, exception**

(3) A requirement under subsection (2) to give notice does not apply if, in the Complaints Director's opinion, giving the notice may prejudice the investigation.

**Investigation report**

**77** (1) On the conclusion of an investigation under this Part, the Complaints Director shall cause the investigation to be reported on in a written report, which shall, if the regulations made by the Minister so provide, contain the information prescribed by the Minister.

**Non-application**

(2) Subsection (1) does not apply to an investigation that is discontinued under section 62 or 75.

**Report copies**

(3) Subject to subsections (4) and (5), the Complaints Director shall give a copy of the report to the complainant, if any, the police officer or special constable who was the subject of the investigation and the applicable designated authority.

**Delay**

(4) Subsection (3) does not apply until the Complaints Director determines that there is no risk that compliance with that subsection may compromise the integrity of a criminal investigation or proceeding.

**Same, hearing**

(5) In the case of an investigation commenced as a result of a complaint made under this Part, if the Complaints Director refers the matter under section 79 to the Tribunal for a hearing, subsection (3) does not apply with respect to the complainant until the later of,

- (a) the making of the determination referred to in subsection (4); and
- (b) the final disposition of the hearing and appeal, if any, in the matter.

**No reasonable grounds for hearing**

**78** (1) If, on the conclusion of an investigation under this Part, the Complaints Director does not have reasonable grounds to believe that the conduct of the police officer or special constable who was the subject of the investigation constitutes professional misconduct, he or she shall give notice of the determination, with reasons, to the complainant, the police officer or special constable and the applicable designated authority.

**Publication of summary**

(2) The Complaints Director shall publish on the Ontario Policing Complaints Agency's website a de-identified summary of each determination made under this section.

**Reasonable grounds for hearing**

**Referral to Tribunal**

**79** (1) Subject to subsection (2), if, on the conclusion of an investigation under this Part, the Complaints Director has reasonable grounds to believe that the conduct of the police officer or special constable who was the subject of the investigation constitutes professional misconduct, he or she shall refer the matter to the Tribunal for a hearing.

**Referral to extra-provincial complaints body**

(2) If the conduct is that of a police officer appointed under the *Interprovincial Policing Act, 2009*, the Complaints Director shall instead refer the matter, together with a copy of the written report on the investigation and any other information related to the investigation that he or she considers appropriate, to the person or body that is responsible for complaints made against the police officer in the province or territory where he or she was employed as a police officer at the time of his or her appointment under that Act.

**Notice**

(3) The Complaints Director shall give notice of a referral under subsection (1) or (2) to the complainant, if any, the police officer or special constable, the applicable designated authority and the Minister.

**Same**

(4) In giving notice to the Minister under subsection (3), the Complaints Director shall include a copy of the report on the investigation.



### **Informal resolution**

**80** (1) The Complaints Director may, at any time after the receipt of a complaint or during an investigation under this Part, attempt to resolve a complaint or a matter being investigated informally, in accordance with the rules made under section 46.

#### **Same**

(2) Rules made under section 46 for the purposes of subsection (1) may provide for resolution by way of alternative dispute resolution mechanisms, such as mediation.

### **Consent, consultation required**

(3) Any resolution under subsection (1) by the Complaints Director is subject to,

- (a) the consent of the complainant, if any, and of the police officer or special constable who is the subject of the complaint or investigation; and
- (b) prior consultation by the Complaints Director with the applicable designated authority.

#### **Same**

(4) The Complaints Director may provide to the designated authority such information respecting the complaint or investigation as the Complaints Director considers necessary or advisable for the purposes of the consultation required by clause (3) (b).

### **Notice**

(5) The Complaints Director shall give notice of a resolution under subsection (1) to the complainant, if any, the police officer or special constable and the applicable designated authority.

### **Directions**

(6) In giving notice under subsection (5) to a designated authority, the Complaints Director may give any directions to the designated authority respecting the implementation of the resolution that the Complaints Director considers necessary, and the designated authority shall comply with any such directions.

### **Publication of summary**

(7) The Complaints Director shall publish on the Ontario Policing Complaints Agency's website a de-identified summary of each complaint or matter resolved under this section, including the fact, but not the terms, of any resolution.

#### **Same**

(8) If the regulations made by the Minister so provide, a summary under subsection (7) shall be published within the time prescribed by the Minister.

### **Inadmissibility of statements**

(9) No statement made during an attempt at informal resolution under this section is admissible in a civil proceeding, including, despite section 10 of the *Ontario Policing Discipline Tribunal Act, 2018*, in a hearing before the Tribunal, except with the consent of the person who made the statement.

#### **Non-application**

(10) This section does not apply in the case of a police officer appointed under the *Interprovincial Policing Act, 2009*.

### **Investigation by chief of police**

**81** (1) The Complaints Director may direct a chief of police to conduct the investigation of a complaint made under this Part.

#### **Same**

(2) If the complaint is about the conduct of a police officer or of a special constable who is a member of a police service, the Complaints Director may only make a direction under subsection (1) to the chief of police of an unrelated police service.

#### **Same**

(3) Despite subsection (2), the Complaints Director may make a direction under subsection (1) to the chief of police of the police service of which the police officer or special constable is a member, if, in the Complaints Director's opinion, it is necessary for the purposes of the investigation to obtain access to information that cannot be obtained using the investigation powers of the unrelated police service.

#### **Same**

(4) The costs of an investigation by a chief of police under subsection (1) shall be borne by the following:

1. If the person who is the subject of the complaint is a police officer or special constable who is a member of a police service, the police service board of that police service.

2. If the person who is the subject of the complaint is a member of the Ontario Provincial Police, the Minister responsible for the administration of the *Police Services Act, 2018*.
3. If the person who is the subject of the complaint is a special constable who is not a member of a police service, the special constable employer.

### **Same**

(5) For the purposes of this section, if the complaint is about the conduct of a person appointed as a police officer under the *Interprovincial Policing Act, 2009*, the person is deemed to be a member of the police service determined in accordance with subsection 4 (3) of this Act.

### **Specific requirements**

(6) In directing a chief of police to conduct an investigation under this section, the Complaints Director may require the chief of police to deal with the complaint as the Complaints Director specifies.

### **Duty to investigate**

(7) A chief of police who receives a direction under this section shall promptly cause the complaint to be investigated, in accordance with any requirements specified by the Complaints Director under subsection (6), and shall report the results to the Complaints Director in writing in a report that meets the requirements, if any, prescribed by the Minister for the purposes of subsection 77 (1).

### **Investigation powers**

(8) Sections 68 to 74 apply, with necessary modifications, for the purposes of an investigation under this section.

### **Notification of Director**

(9) For the purposes of sections 95 and 96, if a chief of police acting under this section determines that the subject matter of an investigation may constitute a matter that may be investigated by the SIU Director under Part II, or a matter referred to in subsection 84 (1) of the *Police Services Act, 2018*, the chief of police shall promptly notify the Complaints Director.

### **Delegation**

(10) A chief of police may in writing delegate any of his or her powers or duties under this section to a senior officer of the chief of police's police service, subject to such conditions or restrictions as the chief of police may set out in the delegation.

### **Further steps**

- (11) After receiving a report under subsection (7), the Complaints Director shall,
- (a) give copies of the report in accordance with section 77; and
  - (b) take the steps set out in section 78, 79 or 80, as the case may be.

## **HEARINGS**

### **Application**

**82** (1) On the referral of a matter to the Tribunal under subsection 79 (1), an application respecting the matter is deemed to have been commenced before the Tribunal by the Minister.

### **Parties**

(2) The parties to the application are the Minister as applicant and the police officer or special constable who is the subject of the application as respondent.

### **Amendment of application**

(3) The Minister may amend an application, subject to the Tribunal's approval.

### **No requirement to give evidence**

(4) Despite section 10 of the *Ontario Policing Discipline Tribunal Act, 2018*, the police officer or special constable who is the subject of an application shall not be required to give evidence at the hearing of the application.

### **Intervenor**

**83** The Complaints Director, the complainant, if any, or any other interested person may seek the Tribunal's leave to intervene in an application.

### **Settlement**

#### **Prior approval required**

**84** (1) The settlement of an application is subject to the Tribunal's approval.

### **Public notice**

(2) If the Tribunal approves a settlement before the application is heard, the Tribunal shall make public the fact of the settlement, but not the terms of the settlement.

### **Same**

(3) If the Tribunal approves a settlement after the hearing of the application has commenced, the Tribunal shall make public the terms of the settlement, unless the Tribunal determines that a person's privacy interest in not making the terms public clearly outweighs the public interest in making the terms public.

### **Inadmissibility of statements**

(4) No statement made during an attempt at the settlement of an application is admissible in a civil proceeding, including, despite section 10 of the *Ontario Policing Discipline Tribunal Act, 2018*, in a hearing before the Tribunal, except with the consent of the person who made the statement.

### **Withdrawal**

**85** Any withdrawal of an application shall be subject to the prior provision of reasons for the withdrawal to the Tribunal.

### **Orders**

**86** (1) If, following the hearing of the application, the Tribunal determines on a balance of probabilities that the conduct of the police officer or special constable constitutes professional misconduct, the Tribunal may make one or more of the following orders:

1. Reprimanding the police officer or special constable.
2. Imposing terms, conditions or limitations on the police officer or special constable's appointment under the *Police Services Act, 2018* for such time as the Tribunal may specify, including a requirement that,
  - i. the police officer or special constable undergo specified counselling, treatment or training, or
  - ii. the police officer or special constable participate in a specified program or activity.
3. Suspending the police officer or special constable's appointment for a specified period not exceeding 24 months.
4. Revoking the police officer or special constable's appointment.
5. If an appointment is revoked under paragraph 4, requiring that any future appointment as a police officer or special constable under the *Police Services Act, 2018* be subject to specified terms, conditions or limitations for a specified period not exceeding the fifth anniversary of the day on which the appointment is made.
6. Prohibiting appointment as a police officer or special constable under the *Police Services Act, 2018* for a specified period not exceeding the fifth anniversary of the day on which the order is made.
7. Subject to subsection (2), imposing any penalty that may be imposed under paragraphs 1 to 3 of subsection 150 (1) of the *Police Services Act, 2018* or ordered under subsection 152 (6) of that Act.
8. Imposing a fine of not more than \$35,000, to be paid by the police officer or special constable to the Minister of Finance for payment into the Consolidated Revenue Fund.

### **Orders subject to submissions**

- (2) Paragraph 7 of subsection (1) applies only,
- (a) in the case of an application respecting a police officer or a special constable who is a member of a police service; and
  - (b) if submissions are made under section 87 respecting penalty.

### **Terms and conditions**

(3) In making an order under subsection (1), the Tribunal may impose such terms and conditions as it considers appropriate.

### **Submissions respecting certain penalties**

#### **Application**

**87** (1) This section applies to applications respecting a police officer or a special constable who is a member of a police service.

#### **Notice of hearing**

(2) In addition to giving notice of a hearing to parties in accordance with section 6 of the *Statutory Powers Procedure Act*, the Tribunal shall give notice of a hearing in respect of an application to which this section applies to the applicable designated authority.

### **Submissions**

(3) The designated authority is entitled to make submissions in the application, by counsel or otherwise, respecting the ordering of a penalty under paragraph 1, 2 or 7 of subsection 86 (1), if the designated authority gives notice to the parties and to the Tribunal no later than seven days after receiving notice of the hearing under subsection (2).

### **Employment history**

(4) Submissions made by the designated authority may include evidence relating to the police officer or special constable's employment or prior employment as a member of any police service.

### **Copies of orders, decisions**

**88** (1) The Tribunal shall give notice of an order made under section 86, or of a decision not to make an order under that section, to the applicable designated authority and to the Minister responsible for the administration of the *Police Services Act, 2018*.

### **Requirement to implement order**

(2) The applicable designated authority and, if applicable, the police service board that maintains the police service of which the police officer or special constable is a member, shall promptly take any steps necessary to implement an order made under section 86.

### **Appeal by party**

**89** (1) Any party to the application may appeal a decision or order of the Tribunal to the Divisional Court no later than 30 days after receiving notice of the Tribunal's decision or order.

### **Grounds**

(2) An appeal under subsection (1) may be made on a question of law, on a question of mixed fact and law, from a penalty imposed, or any combination of them.

### **Notice to designated authority**

(3) If a designated authority made submissions in the application under subsection 87 (3) respecting penalty, the party appealing the decision or order shall give to the designated authority any documents relating to the appeal.

### **Designated authority may be heard**

(4) A designated authority referred to in subsection (3) is entitled to be heard on the appeal, by counsel or otherwise.

### **Appeal by designated authority**

**90** A designated authority who made submissions in the application under subsection 87 (3) respecting penalty may appeal an order of the Tribunal, on the question of penalty only, to the Divisional Court no later than 30 days after receiving notice of the Tribunal's order and, for greater certainty, the designated authority is in that case a party to the appeal.

### **Notice to Tribunal, Complaints Director**

**91** (1) A party appealing a decision or order under section 89 or a designated authority appealing a question of penalty under section 90 shall give to the Tribunal and to the Complaints Director any documents relating to the appeal.

### **Tribunal, Complaints Director may be heard**

(2) The Tribunal and the Complaints Director are entitled to be heard on the appeal, by counsel or otherwise.

### **No stay**

**92** An appeal under section 89 or 90 does not operate as a stay in the matter.

## **OTHER MATTERS**

### **Resignation, retirement**

**93** (1) If, at any time after a complaint is made or an investigation is commenced under this Part and before the final disposition of the complaint or investigation, including of any application before the Tribunal and any appeal, the police officer or special constable who is the subject of the complaint resigns or retires, this Part continues to apply to the police officer or special constable despite the resignation or retirement.

### **Same**

(2) For the purposes of subsection (1), references in this Part to the police officer or special constable who is the subject of a complaint or investigation shall be read as references to the police officer or special constable who resigned or retired.

### **Exception**

(3) This section does not apply to a police officer appointed under the *Interprovincial Policing Act, 2009*.

### **Termination of officers appointed under the *Interprovincial Policing Act, 2009***

**94** This Part applies to a police officer appointed under the *Interprovincial Policing Act, 2009* even after his or her appointment under that Act is terminated.

### **Ontario Special Investigations Unit**

#### **Notice by Director**

**95** (1) If, on reviewing a complaint or at any time during an investigation under this Part, the Complaints Director determines that the subject matter of the complaint or investigation may constitute a matter that may be investigated by the SIU Director under Part II, the Complaints Director shall notify the SIU Director and shall give notice of the fact to,

- (a) the complainant, if any;
- (b) the police officer or special constable who is the subject of the complaint or investigation; and
- (c) the applicable designated authority.

#### **Same, exception**

(2) A requirement to give notice under clause (1) (a), (b) or (c) does not apply if, in the Complaints Director's opinion, giving the notice may prejudice the investigation.

#### **Stay of investigation under this Part**

(3) Subject to subsection (6), if the Complaints Director notifies the SIU Director under subsection (1), or otherwise becomes aware that the subject matter of a complaint or investigation under this Part respecting the conduct of a police officer or special constable is the subject of an investigation under Part II, no further steps shall be taken under this Part with respect to the complaint or investigation until the occurrence of one of the following:

- 1. A determination by the SIU Director that it shall not investigate the matter.
- 2. If the matter is investigated by the SIU Director and does not result in the laying of charges against the police officer or special constable, the conclusion of the investigation.
- 3. If charges are laid against the police officer or special constable as a result of an investigation by the SIU Director into the matter, the final disposition of the charges.

#### **Access to Agency files**

(4) The Complaints Director shall, on request of the SIU Director, make the files of the Ontario Policing Complaints Agency respecting a complaint or investigation under this Part available to the SIU Director, other than any document, information or other thing that the SIU Director would not be entitled to obtain or have access to under Part II.

#### **Notice to individual not required**

(5) Subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* does not apply to subsection (4).

#### **Continuance with SIU Director consent**

(6) The Complaints Director may, subject to the consent of the SIU Director, continue to deal with a complaint or investigation under this Part in the circumstances described in subsection (3), subject to any conditions or restrictions that the SIU Director may specify.

#### **Limit on access to Agency files**

(7) If the Complaints Director continues to deal with a complaint or investigation under subsection (6), subsection (4) ceases to apply and the Complaints Director shall not make the files available to the SIU Director.

#### **Notice to Inspector General of Policing**

**96** (1) The Complaints Director shall notify the Inspector General of Policing of any matter referred to in subsection 84 (1) of the *Police Services Act, 2018* that is raised in a complaint or during an investigation under this Part.

#### **Same**

(2) If, on reviewing a complaint or at any time during an investigation under this Part, the Complaints Director determines that the conduct of the police officer or special constable who is the subject of the complaint or investigation may constitute criminal conduct that may not be investigated by the SIU Director under Part II, the Complaints Director may notify the Inspector General of Policing of the conduct.

#### **Notice to extra-provincial commander**

**97** An appointing official or local commander who receives a notice and any related information from the Complaints Director under this Part respecting a police officer appointed under the *Interprovincial Policing Act, 2009* shall promptly forward a copy of the notice and any documentation to the police officer's extra-provincial commander.

### **Public statements by Complaints Director**

**98** The Complaints Director may issue public statements respecting an ongoing investigation under this Part, if,

- (a) the statement is aimed at preserving public confidence; and
- (b) the benefit of preserving public confidence clearly outweighs any detriment to the integrity of the investigation.

### **Duty to comply**

**99** (1) The following persons shall comply with a direction or request received from the Complaints Director or an investigator in relation to an investigation under this Part, immediately or as otherwise specified under this Part, unless it is unlawful or impracticable to do so:

- 1. A police officer or special constable.
- 2. A designated authority.
- 3. Any person over whom a designated authority has authority, including any employees.
- 4. Any other person who may be prescribed.

### **Notification**

(2) The Complaints Director shall immediately advise a police officer or special constable and the police officer or special constable's designated authority respecting a failure of the police officer or special constable to comply with subsection (1) and, in doing so, shall inform each of them of the penalty to which a person is liable under subsection (3) on conviction of a failure to comply.

### **Prohibitions**

**100** (1) No person shall harass, coerce or intimidate, or attempt to harass, coerce or intimidate, any other person in relation to a complaint made or investigation conducted under this Part.

### **Same**

(2) No person shall intentionally hinder or obstruct, or attempt to hinder or obstruct, the Complaints Director or an investigator in the performance of his or her duties under this Act, or furnish him or her with false information.

### **Offences and penalty**

**101** A person who fails to comply with subsection 99 (1), or who contravenes subsection 100 (1) or (2), is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000, to imprisonment for a term of not more than one year, or to both;
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000, to imprisonment for a term of not more than one year, or to both.

### **Transition**

**102** (1) Complaints made by a member of the public under Part V of the *Police Services Act* before its repeal shall continue to be dealt with in accordance with that Part as it read immediately before its repeal, subject to such modifications as may be set out in the regulations.

### **Same**

(2) A complaint made about a policy of or service provided by a police service or the conduct of a police officer in relation to an event that occurred before this section came into force shall be dealt with in accordance with Part V of the *Police Services Act* as it read immediately before its repeal, subject to such modifications as may be set out in the regulations.

## **PART V REGULATIONS**

### **Regulations, Lieutenant Governor in Council**

**103** (1) The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, including regulations,

- (a) respecting anything that, in this Act, may or must be prescribed or done by regulation, other than by the Minister;
- (b) for the purposes of clause (d) of the definition of "official" in subsection 4 (1), prescribing additional persons and governing any transitional matters that arise as a result;
- (c) permitting, requiring or otherwise providing for the disclosure of information respecting an ongoing investigation under Part II or an incident or matter being investigated, for the purposes of section 30;

- (d) governing public notice for the purposes of section 37;
- (e) for the purposes of subsection 56 (2), providing that Part IV applies with respect to the conduct of persons specified by the regulations, providing for modifications in the application of the Part for the purpose, and governing any transitional matters that arise as a result;
- (f) governing procedures, conditions or requirements for the investigation of complaints under Part IV;
- (g) providing for the payment of fees and expenses to witnesses at hearings conducted under Part IV;
- (h) governing transitional matters relating to the enactment of this Act.

#### **Conflict**

(2) In the event of a conflict between a regulation made under clause (1) (f) and a procedural rule made under section 46, the regulation prevails to the extent of the conflict.

#### **Regulations, Minister**

**104** The Minister may make regulations,

- (a) respecting anything that, in this Act, may or must be prescribed by the Minister or done by regulation made by the Minister;
- (b) governing the requirements and qualifications for appointment as an investigator under section 7, including in relation to training, evaluation and accreditation;
- (c) establishing classes of investigators appointed under section 7 and setting out requirements and qualifications for each class;
- (d) for the purposes of subsection 16 (7), providing for circumstances in which the SIU Director shall not investigate an incident under section 16 where immediate medical care was provided by an official, and specifying the meaning of “immediate medical care”;
- (e) governing the assignment of investigators under section 21 to investigations under Part II, including,
  - (i) providing for a limit on the number or proportion of former officials that may be assigned as investigators, or as a class of investigators prescribed under clause (c), in relation to an investigation or a class of investigations, and
  - (ii) restricting the assignment of specified investigators to participate in investigations that relate to officials or classes of officials who are not members of a police service, and requiring that such investigators not participate in such investigations;
- (f) governing the requirements and qualifications for appointment as an investigator under section 47, including in relation to training, evaluation and accreditation;
- (g) establishing classes of investigators appointed under section 47 and setting out requirements and qualifications for each class;
- (h) governing the publication of summaries of determinations by the Complaints Director under subsection 78 (2), including requiring that summaries be published within a specified time or period and, subject to the requirement in that subsection that summaries be de-identified, respecting information that summaries must contain.

### **PART VI AMENDMENT TO THIS ACT**

#### **Amendment to this Act**

**105** Subsections 81 (1), (2), (3), (4) and (5) of this Act are repealed and the following substituted:

#### **Investigation by chief of police**

(1) The Complaints Director may direct a chief of police to conduct an investigation under this Part if, in the Complaints Director’s opinion, it is necessary for the purposes of the investigation to obtain access to information that cannot be obtained through the use of the investigation powers under this Part.

### **PART VII REPEAL**

#### ***Ontario Special Investigations Unit Act, 2018***

**106** The *Ontario Special Investigations Unit Act, 2018* is repealed.

**PART VIII  
COMMENCEMENT AND SHORT TITLE**

**Commencement**

**107 (1)** Subject to subsection (2), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

**(2)** Section 105 comes into force on the earlier of a day to be named by proclamation of the Lieutenant Governor and the fifth anniversary of the day subsection 81 (1) comes into force.

**Short title**

**108** The short title of the Act set out in this Schedule is the *Policing Oversight Act, 2018*.



**SCHEDULE 3**  
**ONTARIO POLICING DISCIPLINE TRIBUNAL ACT, 2018**

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ONTARIO POLICING DISCIPLINE TRIBUNAL

**Ontario Policing Discipline Tribunal**

**1** The Ontario Civilian Police Commission is continued as the “Ontario Policing Discipline Tribunal” in English and “Tribunal disciplinaire de l’Ontario en matière de services policiers” in French.

**Composition**

**2** (1) The Tribunal shall consist of such members as are appointed by the Lieutenant Governor in Council, for the terms specified by the Lieutenant Governor in Council in the appointments.

**Restriction**

(2) A person who is or was a person referred to in section 56 of the *Policing Oversight Act, 2018* may not be appointed as a member.

**Chair, vice-chairs**

(3) The Lieutenant Governor in Council shall appoint a chair and may appoint one or more vice-chairs from among the members of the Tribunal.

**Duties of chair**

(4) The chair shall have general supervision and direction over the conduct of the Tribunal’s affairs, and shall arrange the sittings of the Tribunal and assign members of the Tribunal to the sittings as necessary.

**Alternate chair**

(5) The Lieutenant Governor in Council shall designate one of the members of the Tribunal to be an alternate chair.

**Same**

(6) If the chair is unable to act, the alternate chair shall perform the duties of the chair and, for this purpose, has all the powers of the chair.

**Quorum**

**3** One member of the Tribunal constitutes a quorum and may exercise all the powers of the Tribunal.

**Employees**

**4** Such employees as are considered necessary for the proper conduct of the affairs of the Tribunal may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

### **Jurisdiction**

**5** (1) The Tribunal shall hear proceedings or otherwise dispose of matters brought before it under the *Policing Oversight Act, 2018* or the *Police Services Act, 2018*.

### **Same**

(2) For the purposes of subsection (1), the Tribunal may exercise the powers conferred on it by or under this Act and by or under the *Policing Oversight Act, 2018* or the *Police Services Act, 2018*, as the case may be, and may determine any question of fact or law that arises in a proceeding before it.

### **Protection from personal liability**

**6** (1) No action or other proceeding may be instituted against a member of or employee in the Tribunal for any act done in good faith in the exercise or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

### **Crown liability**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

### **Protection from giving testimony**

**7** A member of or employee in the Tribunal shall not be required to give testimony in any proceeding with respect to information obtained by him or her in the course of exercising a power or performing a duty under this or another Act.

## **PROCEDURES**

### **Procedures**

**8** In the event of a conflict between the *Statutory Powers Procedure Act* and this Act, this Act prevails to the extent of the conflict.

### **Related proceedings**

**9** (1) If two or more proceedings before the Tribunal involve the same or similar questions of fact or law, the Tribunal may, without the consent of the parties to the proceedings,

- (a) combine the proceedings or any part of them;
- (b) hear the proceedings at the same time;
- (c) hear the proceedings one immediately after the other; or
- (d) stay one or more of the proceedings until after the determination of another one of them.

### **Use of same evidence**

(2) The Tribunal may, without the consent of the parties to the proceedings, treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b).

### **Power to require production of documents, etc.**

**10** The Tribunal may require a party to a proceeding or another person to,

- (a) produce any document, information or thing and provide such assistance as is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce the information in any form;
- (b) provide a statement or oral or affidavit evidence; or
- (c) in the case of a party to the proceeding, adduce evidence or produce witnesses who are reasonably within the party's control.

### **Examination of evidence**

**11** (1) The person who is the subject of a proceeding before the Tribunal shall be given an opportunity to examine any documentary or other evidence that will be produced at the hearing.

### **Same**

(2) For greater certainty, subsection (1) applies in addition to any applicable disclosure requirements set out under the *Statutory Powers Procedure Act* or otherwise at law.

### **Oral evidence to be recorded**

**12** The Tribunal shall ensure that any oral evidence given at a hearing in a proceeding is audio recorded, and that a copy of the recording is made available to a party to the proceeding on the party's request.

### **Documents public**

**13** (1) The Tribunal shall make the following documents and other items respecting every proceeding before it available to the public:

1. The application or other document, if any, by which the proceeding was commenced.
2. Notice of any hearing in the proceeding.
3. Any written submissions made in the proceeding.
4. All documentary or other evidence that was admitted into evidence in the proceeding.
5. Recordings of the oral evidence given at any hearing in the proceeding, and any transcripts of such evidence provided to or produced for the Tribunal.
6. Every decision or order made by the Tribunal in the proceeding, including any interlocutory orders, together with reasons if they were given.

### **Confidentiality orders**

(2) Despite subsection (1), the Tribunal may order that a document or item referred to in that subsection be treated as confidential and not be disclosed to the public, if the Tribunal determines that,

- (a) matters involving public security may be disclosed; or
- (b) the document or item contains information regarding intimate financial or personal matters or other matters that are of such a nature that the public interest or the interest of a person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that the documents and other items be available to the public.

### ***Freedom of Information and Protection of Privacy Act***

(3) This section prevails over the *Freedom of Information and Protection of Privacy Act*.

### **Effect of criminal, other proceedings**

**14** If a person who is the subject of a proceeding before the Tribunal under the *Policing Oversight Act, 2018* or the *Police Services Act, 2018* is charged with an offence under a law of Canada or of a province or territory in connection with the conduct that is the subject of the proceeding, the proceeding before the Tribunal shall continue unless the Crown Attorney advises the Tribunal that it should be stayed until the conclusion of the proceeding dealing with the offence.

### **TRANSITION**

### **Regulations, transition**

**15** The Lieutenant Governor in Council may make regulations governing transitional matters relating to the enactment of this Act.

### **COMMENCEMENT AND SHORT TITLE**

#### **Commencement**

**16** The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

#### **Short title**

**17** The short title of the Act set out in this Schedule is the *Ontario Policing Discipline Tribunal Act, 2018*.

**SCHEDULE 4**  
**ONTARIO SPECIAL INVESTIGATIONS UNIT ACT, 2018**

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**Definitions**

**1** (1) In this Act,

“affected person” means, in relation to an incident referred to in subsection 15 (1), a person,

- (a) who died or was seriously injured,
- (b) at whom a firearm was discharged, or

(c) who reported that he or she was sexually assaulted; (“personne concernée”)

“appointing official” and “extra-provincial commander” have the same meaning as in the *Interprovincial Policing Act, 2009*; (“agent de nomination”, “commandant extraprovincial”)

“de-identify”, in relation to the personal information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual; (“anonymiser”)

“designated authority” means,

- (a) in relation to an official who is a police officer other than a chief of police, the chief of police of the police force of which the police officer is a member,
- (b) in relation to any other official, the person prescribed by the Minister for the official in respect of this Act or the regulations relating to this Act or in respect of a particular provision of this Act or of the regulations relating to this Act; (“autorité désignée”)

“Minister” means the Attorney General or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“official” means,

- (a) a police officer,
- (b) a special constable who is a member of a police force,
- (c) an auxiliary member of a police force, or
- (d) any other person who may be prescribed; (“agent”)

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“rèlements”)

“serious injury” means an injury listed in subsection (2) or any other injury sustained by a person that is likely to interfere with the person’s health or comfort and is not transient or trifling in nature; (“blessure grave”)

“SIU Director” means the Ontario Special Investigations Unit Director appointed under subsection 5 (1); (“directeur de l’UES”)

“subject official” means, in respect of an incident referred to in subsection 15 (1), an official whose conduct appears, in the opinion of the SIU Director, to have been a cause of the incident; (“agent impliqué”)

“witness official” means an official who, in the opinion of the SIU Director, is involved in an incident referred to in subsection 15 (1), but is not a subject official in relation to the incident. (“agent témoin”)

### **Serious injuries**

(2) A person sustains a serious injury if he or she,

- (a) sustains an injury as a result of which he or she is admitted to a hospital;
- (b) suffers a fracture to the skull, or to a limb, rib or vertebra;
- (c) suffers burns to a significant proportion of his or her body;
- (d) loses any portion of his or her body;
- (e) as a result of an injury, experiences a loss of vision or hearing; or
- (f) sustains a prescribed injury.

### **Interpretation, police matters**

(3) Words and expressions used in this Act and in the regulations that relate to policing and police matters have the same meanings as under the *Police Services Act*, unless the context requires otherwise.

### **Officer appointed under the *Interprovincial Policing Act, 2009* deemed to be a member of a specific police force**

**2** For the purposes of this Act, a person appointed as a police officer under the *Interprovincial Policing Act, 2009* is deemed to be,

- (a) a member of the Ontario Provincial Police;
- (b) if he or she was appointed by a member of a municipal police force, a member of that municipal police force; or

- (c) if he or she was appointed by a member of a board, a member of the municipal police force for which the board is responsible.

### **Crown bound**

**3** This Act binds the Crown.

## **ONTARIO SPECIAL INVESTIGATIONS UNIT**

### **Ontario Special Investigations Unit**

**4** (1) The special investigations unit of the Ministry of the Attorney General is continued as a unit outside the Ministry under the name “Ontario Special Investigations Unit” in English and “Unité des enquêtes spéciales de l’Ontario” in French.

### **Composition**

(2) The Ontario Special Investigations Unit shall be headed by the SIU Director and shall, in addition to the SIU Director, consist of,

- (a) investigators appointed under section 6; and
- (b) persons appointed as employees in the Ontario Special Investigations Unit in accordance with section 8.

### **Ontario Special Investigations Unit Director**

**5** (1) The Lieutenant Governor in Council shall, on the recommendation of the Minister, appoint an Ontario Special Investigations Unit Director.

### **Restriction, official or former official**

(2) An official or former official may not be appointed as Ontario Special Investigations Unit Director.

### **Restriction, requirements and qualifications**

(3) A person may not be appointed as Ontario Special Investigations Unit Director unless he or she meets the requirements and qualifications prescribed by the Minister, if any.

### **Term**

(4) An appointment under subsection (1) shall be for a term of five years, and may be renewed for one further term of five years.

### **Remuneration**

(5) The Ontario Special Investigations Unit Director shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

### **Functions**

(6) The Ontario Special Investigations Unit Director,

- (a) shall oversee investigations conducted under this Act;
- (b) shall, in accordance with any requirements prescribed by the Minister and in consultation with such persons who represent the diversity of Ontario as the SIU Director considers appropriate, provide training for employees in the Ontario Special Investigations Unit that promotes recognition of and respect for,
  - (i) the diverse, multiracial and multicultural character of Ontario society, and
  - (ii) the rights and cultures of First Nation, Inuit and Métis Peoples;
- (c) shall publish statistical reports for the purpose of informing the evaluation, management and improvement of the policing and policing oversight systems in Ontario; and
- (d) shall perform the duties, and may exercise the powers, that are set out under this Act, as well as any additional duties and powers that may be prescribed.

### **Delegation**

(7) The Ontario Special Investigations Unit Director may in writing delegate any of his or her powers or duties under this Act to an employee in the Ontario Special Investigations Unit, subject to such conditions or restrictions as the Director may set out in the delegation.

### **Investigators**

**6** (1) The SIU Director may appoint as investigators such employees in the Ontario Special Investigations Unit or other persons as he or she considers necessary to carry out investigations under this Act, and such appointments shall be in writing.

**Restriction, official**

(2) An official may not be appointed as an investigator.

**Restriction, requirements and qualifications**

(3) A person may not be appointed as an investigator unless he or she meets the requirements and qualifications prescribed by the Minister, if any.

**SIU Director as investigator**

(4) Any power of an investigator appointed under this section may be exercised by the SIU Director.

**Peace officers**

7 The SIU Director, a person to whom powers and duties are delegated under subsection 5 (7) and investigators are peace officers.

**Employees**

8 (1) Such employees as are considered necessary for the proper conduct of the Ontario Special Investigations Unit may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

**Restriction**

(2) An official may not be appointed as an employee.

**Collection, use and disclosure of personal information****Collection**

9 (1) The SIU Director may, in accordance with this section, collect prescribed personal information for the purposes of clause 5 (6) (c).

**Limits on collection**

(2) The SIU Director shall not collect personal information under this section if other information will meet the purposes of clause 5 (6) (c), and shall not collect more personal information under this section than is reasonably necessary to meet those purposes.

**Manner of collection**

(3) Personal information shall only be collected under this section directly from the individual to whom the information relates, with the individual's consent.

**Same**

(4) Despite subsection (3), if the regulations so provide, the SIU Director may, in the circumstances specified by the regulations, collect such prescribed personal information as the regulations specify in a manner other than directly from the individual to whom the information relates.

**Notice of direct collection**

(5) Before seeking an individual's consent to collect personal information directly from the individual to whom the information relates, the SIU Director shall inform the individual of,

- (a) the authority for and purposes of the collection; and
- (b) the title and contact information, including an email address, of an employee in the Ontario Special Investigations Unit who can answer the individual's questions about the collection.

**Notice of indirect collection**

(6) If the regulations referred to in subsection (4) provide for the collection of personal information in a manner other than directly from the individual to whom the information relates, the SIU Director shall, before collecting personal information in such a manner, ensure that notice of the collection is published on the website of the Ontario Special Investigations Unit containing,

- (a) a statement that the collection is authorized under subsection (1) and setting out the purposes of the collection;
- (b) the personal information and circumstances specified by the regulations referred to in subsection (4) for the purposes of the collection; and
- (c) the title and contact information, including an email address, of an employee in the Ontario Special Investigations Unit who can answer an individual's questions about the collection.

**De-identification**

(7) The SIU Director shall immediately de-identify, in the prescribed manner, personal information collected under this section.

**Limits on use**

(8) The SIU Director shall not use personal information collected under this section unless it has been de-identified under subsection (7), and may only use de-identified personal information for the purposes of clause 5 (6) (c).

**Limit on access**

(9) The SIU Director shall limit access to the personal information collected under this section to employees in the Ontario Special Investigations Unit and investigators, for the purposes of,

- (a) de-identifying the personal information under subsection (7); or
- (b) disclosing personal information under subsection (10).

**Limits on disclosure**

(10) The SIU Director, an employee in the Ontario Special Investigations Unit or an investigator may disclose personal information collected under this section only if,

- (a) the individual to whom the information relates has identified that information in particular and consented to its disclosure;
- (b) the disclosure is required by law, including as required under section 31 of the *Human Rights Code*;
- (c) subject to subsection (11), the disclosure is for the purpose of a proceeding or contemplated proceeding, the information relates to or is a matter in issue in the proceeding or contemplated proceeding, and,
  - (i) the SIU Director is, or is expected to be, a party, or
  - (ii) any of the following is, or is expected to be, a witness:
    - (A) a current or former employee in the Ontario Special Investigations Unit,
    - (B) a current or former investigator, or
    - (C) a former employee in or investigator with the special investigations unit, before its continuance under this Act; or
- (d) the disclosure is to the Information and Privacy Commissioner.

**Same**

(11) The SIU Director, an employee in the Ontario Special Investigations Unit or an investigator shall not disclose personal information under clause (10) (c) if other information will meet the purposes of the proceeding or contemplated proceeding, and shall not disclose more personal information under that clause than is reasonably necessary to meet those purposes.

**Other Acts**

(12) In the event of a conflict, this section prevails over sections 38, 39, 41, 42 and 43 of the *Freedom of Information and Protection of Privacy Act*, but the authority to collect, use and disclose personal information under this section is subject to any limits on collection, use or disclosure under any other law.

**Rights of access and correction**

(13) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

**Non-application**

(14) For greater certainty, this section does not apply with respect to personal information lawfully collected by the SIU Director for a purpose other than for the purposes of clause 5 (6) (c).

**Agreements with other entities**

**10** The SIU Director may, subject to any prescribed conditions or restrictions, enter into agreements with a First Nation in Ontario, the Government of Canada, the government of another province or territory of Canada, a Canadian municipality outside Ontario or any other Canadian entity outside Ontario, for the purpose of conducting or assisting with investigations.

**Annual report**

**11** (1) The SIU Director shall prepare an annual report on the affairs of the Ontario Special Investigations Unit, provide it to the Minister and make it available to the public.

**Same**

- (2) The SIU Director shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,
- (a) the form and content of the annual report;



- (b) when to provide it to the Minister; and
- (c) when and how to make it available to the public.

**Same**

(3) The SIU Director shall include such additional content in the annual report as the Minister may require.

**Confidentiality**

**12** The SIU Director and every investigator, employee in the Ontario Special Investigations Unit and person exercising powers or performing duties at the direction of the SIU Director shall preserve secrecy in respect of all information obtained by him or her in the course of exercising a power or performing a duty under this Act, and shall not communicate any such information to any person except,

- (a) as may be required in connection with the administration of this Act or the *Police Services Act*, or the regulations made under either of them;
- (b) to his or her counsel;
- (c) as may be required for law enforcement purposes; or
- (d) with the consent of the person, if any, to whom the information relates.

**Protection from personal liability**

**13** (1) No action or other proceeding may be instituted against the SIU Director, an investigator, an employee in the Ontario Special Investigations Unit or a person exercising powers or performing duties at the direction of the SIU Director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

**Crown not relieved of liability**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

**Protection from giving testimony**

**14** (1) The SIU Director, an investigator, an employee in the Ontario Special Investigations Unit or a person exercising powers or performing duties at the direction of the SIU Director shall not be required to give testimony in a civil proceeding with respect to information obtained by him or her in the course of exercising a power or performing a duty under this Act or a predecessor of this Act.

**Inadmissibility of documents**

(2) A document prepared under this Act by the SIU Director, an investigator, an employee in the Ontario Special Investigations Unit or a person exercising powers or performing duties at the direction of the SIU Director is not admissible in a civil proceeding.

**INVESTIGATIONS**

**Power to investigate**

**15** (1) The SIU Director may cause an investigation to be conducted into any incident in which any of the following occurs, if the incident may have resulted from the conduct of an official:

- 1. The death of a person.
- 2. The serious injury of a person.
- 3. The discharge of a firearm at a person.
- 4. The sexual assault of a person, as reported by the person.

**Application of section to officials**

(2) This section applies in respect of an official if, at the time of the incident,

- (a) the official was on duty; or
- (b) the official was off-duty but,
  - (i) engaged in the investigation, pursuit, detention or arrest of a person or otherwise exercised the powers of a police officer, special constable, auxiliary member of a police force or other prescribed person, as the case may be, whether or not the official intended to exercise such powers or identified him or herself as a person who may exercise such powers, or

- (ii) the incident involved equipment or other property issued to the official in relation to his or her duties.

**Interpretation, firearm**

- (3) For the purposes of paragraph 3 of subsection (1),

“firearm” means a firearm as defined in section 2 of the *Criminal Code* (Canada), except that it does not include a firearm listed in section 1 of Part 1 of the schedule to the Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted or Non-Restricted, SOR/98-462, made under the *Criminal Code* (Canada).

**Former official**

- (4) The SIU Director may cause an incident that may have resulted from the conduct of an official to be investigated under subsection (1) even if the official is no longer serving in that position.

**Past incident**

- (5) The SIU Director may cause an incident that occurred before subsection (1) came into force to be investigated under that subsection, but only if the incident may have resulted from the conduct of a person who was a police officer at the time of the incident.

**Same**

- (6) For greater certainty, subsection (5) includes an incident that occurred before the establishment of the special investigations unit that is continued by this Act.

**Exception, immediate medical care**

- (7) If the regulations made by the Minister so provide, the SIU Director shall not, despite anything to the contrary in this section, investigate an incident in which an official provided immediate medical care to the affected person in the circumstances specified by the regulations made by the Minister.

**Notice**

- (8) Unless the SIU Director received notification of the incident under section 16, the SIU Director shall give notice of an investigation commenced under this section to the official’s designated authority.

**Notification of incident**

- 16** (1) A designated authority shall immediately notify the SIU Director of an incident referred to in subsection 15 (1) involving an official in relation to whom the authority is designated.

**Same**

- (2) If an incident may have resulted from the conduct of an official and that results in an injury of a person, the seriousness of which cannot initially be determined, the official’s designated authority shall immediately notify the SIU Director.

**Same**

- (3) For greater certainty, subsections (1) and (2) apply in relation to an official who was off-duty at the time of the incident, unless it is clear that section 15 does not apply to the official under subsection 15 (2).

**Investigation**

- (4) On receiving notice of an incident under subsection (1), the SIU Director may, subject to subsection (6), cause the incident to be investigated under section 15.

**Same**

- (5) If notice is given under subsection (2) and the incident leads to the death or serious injury of the person, the SIU Director may, subject to subsection (6), cause the incident to be investigated under section 15.

**Refusal to investigate**

- (6) If the SIU Director determines that the incident is not within the SIU Director’s power to investigate under section 15, the SIU Director shall refuse to investigate, and shall give notice of the fact to the official’s designated authority.

**Investigation of related persons**

- 17** (1) If, in the course of an investigation under section 15, the SIU Director determines that an incident that may have resulted from the conduct of an official in respect of whom that section applies may also have resulted from the conduct of any other person acting with the official as a party to the incident, the SIU Director may cause the investigation to be extended to include that other person.

**Same**

(2) For greater certainty, subsection (1) includes a person listed in clauses (a) to (d) of the definition of “official” in subsection 1 (1), in a circumstance in which section 15 would not otherwise apply in respect of the person under subsection 15 (2).

**Same**

(3) A reference in sections 21 to 35 to an official, including to a subject official or witness official, does not include a person described in subsection (2), except as provided in subsection 27 (3).

**Application**

(4) This section applies only if the incident occurred on or after the day subsection (1) came into force.

**Ancillary investigations**

**18** (1) If, in the course of an investigation under section 15, a matter comes to the attention of the SIU Director which does not constitute an incident that may be investigated under that section, but which may constitute an offence under the *Criminal Code* (Canada) or under section 32 of this Act committed by an official, the SIU Director may,

- (a) cause the matter to be investigated; or
- (b) refer the matter to the following person:
  - (i) if the official is a police officer, a special constable who is a member of a police force or an auxiliary member of a police force, to the chief of police of an unrelated police force, or
  - (ii) in any other case, to any chief of police.

**Application of section to officials**

(2) This section applies if, during the alleged committal of the offence, the official met the criteria of clause 15 (2) (a) or (b), with necessary modifications.

**Former officials, past incident**

(3) Subsections 15 (4) to (6) apply, with necessary modifications, with respect to an investigation of a matter under this section.

**Notice**

(4) The SIU Director shall give notice of an investigation under clause (1) (a) to the official’s designated authority.

**Access to SIU files**

(5) If the SIU Director refers a matter to a person under clause (1) (b), the SIU Director may make the files of the Ontario Special Investigations Unit respecting the matter available to the person.

**Lead investigator**

**19** The SIU Director is the lead investigator in the investigation of an incident or matter under this Act, and shall have priority over,

- (a) any police force investigating the incident or matter; and
- (b) any other body that may be prescribed.

**Assignment of investigators**

**20** (1) The SIU Director shall assign investigators for the purpose of conducting investigations under this Act.

**Restriction**

(2) An investigator who was a member of a police force shall not be assigned to participate in an investigation that relates to a member of that police force, and shall not participate in such an investigation.

**Securing the scene**

**21** (1) If the SIU Director causes an investigation to be conducted into an incident under section 15, every designated authority of an official involved in the incident shall ensure that, until an investigator takes charge of the scene of the incident, any officials or employees over which the designated authority has authority who are at the scene take any lawful measures that appear to them to be necessary for the purposes of protecting, obtaining or preserving evidence relating to the incident.

**Contrary direction**

(2) Subsection (1) is subject to any direction to the contrary given by the SIU Director or an investigator.

**Incident notes**

**22** (1) Every official who may be a subject official or witness official shall complete, in full, notes on the incident.

**Same**

(2) The requirement of an official to complete incident notes applies in accordance with any duties respecting such notes to which the official is subject.

**Timing**

(3) The incident notes shall be completed by the end of the official's shift, subject to subsection (4).

**Same**

(4) The official's designated authority may permit one extension of the deadline under subsection (3),

- (a) of up to 24 hours, on notice by the designated authority to the SIU Director with reasons; or
- (b) of such longer period as the designated authority specifies, subject to the prior approval of the SIU Director.

**Same**

(5) In determining whether to approve an extension under clause (4) (b), the SIU Director shall consider any specific circumstances respecting the official that may be raised by the designated authority when seeking the approval.

**Other notes**

(6) For greater certainty, incident notes do not include other types of notes such as occurrence reports, arrest reports, use of force reports, duty reports, logs or canine training records.

**Notice of whether subject official or witness official**

**23** (1) Before requesting an interview with an official or requesting a copy of an official's incident notes for the purposes of an investigation under section 15, an investigator shall give written notice to the official and to the official's designated authority as to whether the official is considered for the purposes of the investigation to be a subject official or a witness official.

**Notice of change**

(2) If, at any time after notice is given under subsection (1), the SIU Director determines that a subject official should instead be considered to be a witness official in respect of an investigation or vice versa, the SIU Director shall give written notice of the change to the official and to the official's designated authority.

**Provision of notes by witness official****Incident notes**

**24** (1) If an investigator requests a copy of the incident notes of a witness official for the purposes of an investigation under section 15,

- (a) the witness official shall, no later than 24 hours after the request is made, give the original notes to his or her designated authority; and
- (b) the designated authority shall, no later than 24 hours after the request is made or such later time as the investigator may permit, give a copy of the notes to the investigator.

**Other notes**

(2) If an investigator requests a copy of any other notes of a witness official for the purposes of an investigation under section 15, the witness official's designated authority shall give a copy of the notes to the investigator.

**Notes of subject official****Incident notes**

**25** (1) No person shall give to an investigator the original or a copy of any incident notes of a subject official respecting the incident that are made,

- (a) after the commencement of an investigation into the incident; or
- (b) after the incident, if the investigation into the incident is commenced, or notice under section 16 respecting the incident is given, less than 24 hours, or such other number of hours as may be prescribed, after the incident occurs.

**Change to subject official**

(2) If notice is given under subsection 23 (2) that an official who was considered to be a witness official in respect of an investigation at the time that a request for a copy of his or her incident notes was made should instead be considered to be a subject official in the investigation, the SIU Director shall return to the official's designated authority the original and all

copies of the incident notes referred to in clause (1) (a) or (b), as applicable, that are in the possession of the Ontario Special Investigations Unit.

#### **Other notes**

(3) If an investigator requests a copy of any notes of a subject official other than incident notes referred to in clause (1) (a) or (b), as applicable, for the purposes of an investigation under section 15, the subject official's designated authority shall give a copy of the notes to the investigator.

#### **Interview of witness officials**

**26** (1) An investigator may, for the purposes of an investigation under section 15, request an interview with a witness official by making the request to the witness official, to the witness official's designated authority or both.

#### **Duty to appear**

(2) If an investigator requests an interview with a witness official in accordance with subsection (1), the witness official shall meet with the investigator and answer all of his or her questions.

#### **Same, location and timing**

(3) The witness official shall meet with the investigator,

- (a) immediately when the request for the interview is first made or, if there are appropriate grounds for delay, no later than 24 hours after the request is first made; or
- (b) at such later time as the investigator may specify.

#### **Same**

(4) In determining whether to specify a later time under clause (3) (b), the investigator shall consider any specific circumstances raised by the official, such as any travel requirements.

#### **Record of interview**

(5) An interview with a witness official may not be audio recorded except by the investigator, and may not be video recorded except by the investigator with the consent of the witness official.

#### **Same, copy for witness official**

(6) Unless the SIU Director determines that to do so may compromise the integrity of the investigation, a copy of the record of an interview with a witness official shall be given to the witness official, subject to any conditions that the investigator may specify.

#### **Same, change to subject official**

(7) If notice is given under subsection 23 (2) that an official who was considered to be a witness official in respect of an investigation at the time that a request for an interview was made should instead be considered to be a subject official in the investigation, the SIU Director shall give the official the original and all copies of the record of the interview, if any.

#### **Segregation of officials**

**27** (1) The designated authority or authorities of the officials involved in an incident that is the subject of an investigation under section 15 shall, to the extent that is practicable, segregate those officials from one another until the investigators have completed their interviews.

#### **No communication between officials**

(2) An official involved in an incident that is the subject of an investigation under section 15 shall not communicate, directly or indirectly, with any other official involved in the incident concerning their involvement, until the investigators have completed their interviews.

#### **Application to off-duty officials**

(3) In this section, a reference to an official includes a person described in subsection 17 (2) and any other official involved in the incident, regardless of whether he or she was on duty at the time of the incident.

#### **Right to counsel**

**28** (1) Subject to subsection (2), every subject official and witness official in an investigation is entitled to consult with legal counsel, a representative of any applicable union, association or collective bargaining agent, or both, and to have one or both present during his or her interview with an investigator.

#### **Exception**

(2) Subsection (1) does not apply in respect of a legal counsel or a representative if, in the opinion of the SIU Director, waiting for the legal counsel or representative would cause an unreasonable delay in the investigation.

### **Limitation**

(3) Witness officials may not be represented by the same legal counsel as subject officials.

### **Confidentiality during investigation**

**29** (1) Information respecting an ongoing investigation under this Act or an incident or matter being investigated shall not be disclosed to any person, except as permitted or required by this Act, the *Police Services Act* or the regulations made under either of them, by,

- (a) a member of a police force;
- (b) an official; or
- (c) a designated authority.

### **Exception, *Interprovincial Policing Act, 2009***

(2) Despite subsection (1), a police officer appointed under the *Interprovincial Policing Act, 2009* may disclose the information to his or her extra-provincial commander, and the chief of police of the police force of which such a police officer is a member may disclose the information to,

- (a) the police officer's extra-provincial commander; or
- (b) if the investigation relates to the police officer and the chief of police is not the police officer's appointing official, the appointing official.

### **Certain disclosure permitted**

(3) Subsection (1) does not prevent,

- (a) a police force from disclosing to a person that the SIU Director has been notified of an incident or matter involving an official who is a member of the police force and is conducting an investigation into it; and
- (b) any disclosure authorized by the regulations that the SIU Director has been notified of an incident or matter involving an official who is not a member of a police force and is conducting an investigation into it.

### **Public statements by SIU**

**30** The SIU Director may issue public statements respecting an ongoing investigation under this Act, if,

- (a) the statement is aimed at preserving public confidence; and
- (b) the benefit of preserving public confidence clearly outweighs any detriment to the integrity of the investigation.

### **Delegation**

#### **By chief of police**

**31** (1) A chief of police who is a designated authority under this Act may in writing delegate any of his or her powers or duties as designated authority to a senior officer of the chief of police's police force, subject to such conditions or restrictions as the chief may set out in the delegation.

#### **By other designated authorities**

(2) If so provided by the regulations made by the Minister, a designated authority other than a chief of police may in writing delegate any of his or her powers or duties as designated authority to a person or persons specified by those regulations, subject to such conditions or restrictions as the designated authority may set out in the delegation.

### **Duty to comply**

**32** (1) The following persons shall comply with a direction or request received from the SIU Director or an investigator in relation to an investigation under this Act, immediately or as otherwise specified under this Act, unless it is unlawful or impracticable to do so:

- 1. An official, other than a subject official.
- 2. A designated authority or a person to whom powers or duties are delegated under section 31.
- 3. Any person over whom a designated authority has authority, including any employees.
- 4. An appointing official.
- 5. Any other person who may be prescribed.

### **Notification**

(2) The SIU Director shall immediately advise an official and the official's designated authority respecting a failure of the official to comply with subsection (1) and, in doing so, shall inform each of them of the penalty to which a person is liable under subsection (3) on conviction of a failure to comply.

### **Offence and penalty**

- (3) A person who fails to comply with subsection (1) is guilty of an offence and on conviction is liable,
- (a) in the case of a first offence, to a fine of not more than \$25,000, to imprisonment for a term of not more than one year, or to both;
  - (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000, to imprisonment for a term of not more than one year, or to both.

### **Securing the scene**

- (4) Nothing in this section affects or detracts from any requirement to which an official may be subject under section 21.

### **Charges**

#### **Criminal offences**

**33** (1) If, as a result of an investigation under this Act, the SIU Director determines that there are reasonable grounds to believe that a person has committed an offence under the *Criminal Code* (Canada), the SIU Director shall cause charges to be laid against the person.

#### **Other offences**

(2) If, as a result of an investigation under this Act, the SIU Director determines that there are reasonable grounds to believe that a person has committed an offence under any other law of Canada or under Ontario law, the SIU Director may cause charges to be laid against the person.

#### **Public notice if charges laid against official re incident**

**34** (1) Subject to subsections (2) and (3), if an investigation under section 15 results in charges being laid against an official, the SIU Director shall, as soon as practicable, give public notice setting out the following, but no other, information:

1. The official's name.
2. The charges laid and on what date.
3. Information respecting the official's first scheduled court appearance respecting the charges, if known.
4. Any other information that may be prescribed.

#### **Omission of official's name**

(2) If the public release of the official's name may result in the identity of a person who reported that he or she was sexually assaulted being revealed in connection with the sexual assault, the SIU Director may omit the official's name from the notice, subject to prior consultation with the person.

#### **Other omissions**

(3) If the regulations so provide, the SIU Director shall, in the prescribed circumstances, omit the information specified by the regulations from a notice.

#### **Public notice if no charges laid against official re incident**

**35** (1) If an investigation under section 15 does not result in charges being laid against an official, the SIU Director shall publish a report on the website of the Ontario Special Investigations Unit containing the following information:

1. The reasons why the investigation was thought to be authorized under section 15.
2. A detailed narrative of the events leading to the investigation.
3. A summary of the investigative process, including a timeline.
4. A summary of the relevant evidence considered, subject to subsection (2).
5. Any relevant video, audio or photographic evidence, de-identified to the extent possible, subject to subsection (2).
6. The reasons for not laying a charge against the official.
7. Any other information that may be prescribed.

#### **Omission and reasons**

(2) The SIU Director may omit from the report any information required to be provided under paragraph 4 or 5 of subsection (1), if the SIU Director is of the opinion that a person's privacy interest in not having the information published clearly outweighs the public interest in having the information published, and includes in the report the reasons for the omission.

### **Additional statement**

(3) The SIU Director may include in the report a statement as to whether, in his or her opinion, a witness official failed to comply with a direction or request of the SIU Director or an investigator in the investigation when required to do so under this Act.

### **Excluded information**

(4) The SIU Director shall ensure that the following information is not included in the report:

1. The name of, and any information identifying, a subject official, witness official, person referred to in section 17, civilian witness or affected person.
2. Information that may result in the identity of a person who reported that he or she was sexually assaulted being revealed in connection with the sexual assault.
3. Information that, in the opinion of the SIU Director, could lead to a risk of serious harm to a person.
4. Information that discloses investigative techniques or procedures.
5. Information, the release of which is prohibited or restricted by law.
6. Any other information that may be prescribed.

### **Report copies**

(5) The SIU Director shall give a copy of the report to each of the following persons:

1. The affected person or, if he or she is deceased, to his or her next of kin.
2. Each subject official in the investigation.
3. Each designated authority of a subject official or witness official in the investigation.
4. The Minister.

### **Same, minor or incapable person**

(6) If a person referred to in paragraph 1 of subsection (5) is a minor or is incapable as defined in the *Substitute Decisions Act, 1992*, the copy shall be given to,

- (a) the person's parent or guardian, in the case of a minor; or
- (b) in the case of an incapable person who is not a minor, the incapable person and his or her substitute decision maker under that Act.

### **Delay**

(7) Subsections (1) and (5) do not apply until the SIU Director determines that there is no risk that compliance with either of those subsections may compromise the integrity of an investigation of a public complaint under Part V of the *Police Services Act* or of a criminal investigation or proceeding.

### **Notice**

(8) If, as a result of subsection (7), a report is not published under subsection (1) on the conclusion of an investigation, the SIU Director shall publish notice on the website of the Ontario Special Investigations Unit that an investigation that has not resulted in charges has been concluded but that the resulting report is being withheld pending a determination under subsection (7).

### **No publication**

(9) Despite subsection (1), if the incident investigated under section 15 was the reported sexual assault of the affected person, and the SIU Director is of the opinion that the person's privacy interests in not having the report published clearly outweighs the public interest in having the report published, the SIU Director may decide not to publish the report, subject to prior consultation with the person.

### **Other public notice**

#### **Ancillary investigation**

**36** (1) If the regulations so provide, the SIU Director shall give public notice, in accordance with the regulations and containing the prescribed information, respecting the outcome of an investigation under section 18.

#### **Other person**

(2) If the regulations so provide, the SIU Director shall give public notice, in accordance with the regulations and containing the prescribed information, respecting the outcome of an investigation under section 15 into the conduct of a person referred to in section 17.



### **Investigation timing**

**37** (1) The SIU Director shall endeavour to ensure that, no later than 120 days after the commencement of an investigation under this Act into the conduct of an official,

- (a) the investigation is concluded; and
- (b) public notice is given under subsection 34 (1), 35 (1) or 36 (1), as the case may be, subject to subsections 35 (7) and (9).

### **Status report**

(2) If the timing requirements of subsection (1) are not met, the SIU Director shall make a public statement respecting the status of the investigation every 60 days until the investigation is concluded, subject to subsection (3).

### **Exception**

(3) Subsection (2) does not apply in respect of a requirement to make a public statement if, in the opinion of the SIU Director, doing so may compromise the integrity of the investigation.

### **Transition**

**38** An investigation commenced but not concluded under Part VII of the *Police Services Act* before the day that Part was repealed is continued under this Act.

## **REGULATIONS**

### **Regulations**

#### **Lieutenant Governor in Council**

**39** (1) The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, including regulations,

- (a) respecting anything that, in this Act, may or must be prescribed or done by regulation, other than by the Minister;
- (b) for the purposes of clause (d) of the definition of “official” in subsection 1 (1), prescribing additional persons and governing any transitional matters that arise as a result;
- (c) permitting, requiring or otherwise providing for the disclosure of information respecting an ongoing investigation under this Act or an incident or matter being investigated, for the purposes of section 29;
- (d) governing public notice for the purposes of section 36;
- (e) governing transitional matters relating to the enactment of this Act.

#### **Minister**

(2) The Minister may make regulations,

- (a) respecting anything that, in this Act, may or must be prescribed by the Minister or done by regulation made by the Minister;
- (b) governing the requirements and qualifications for appointment as an investigator under section 6, including in relation to training, evaluation and accreditation;
- (c) establishing classes of investigators appointed under section 6 and setting out requirements and qualifications for each class;
- (d) for the purposes of subsection 15 (7), providing for circumstances in which the SIU Director shall not investigate an incident under section 15 where immediate medical care was provided by an official, and specifying the meaning of “immediate medical care”;
- (e) governing the assignment of investigators under section 20 to investigations under this Act, including,
  - (i) providing for a limit on the number or proportion of former officials that may be assigned as investigators, or as a class of investigators prescribed under clause (c), in relation to an investigation or a class of investigations; and
  - (ii) restricting the assignment of specified investigators to participate in investigations that relate to officials or classes of officials who are not members of a police force, and requiring that such investigators not participate in such investigations.

## **AMENDMENTS TO THIS ACT**

### **Amendments to this Act**

**40** (1) Clause (b) of the definition of “official” in subsection 1 (1) of the Act is amended by striking out “who is a member of a police force”.

**(2) Subsection 29 (1) of the Act is amended by striking out “or” at the end of clause (b) and by adding the following clause:**

(b.1) a special constable employer or person employed by a special constable employer; or

#### **COMPLEMENTARY AMENDMENTS**

##### ***Police Services Act***

**41 Part VII of the *Police Services Act* is repealed.**

##### **Revocation**

**42 Ontario Regulation 267/10, made under the *Police Services Act*, is revoked.**

#### **COMMENCEMENT AND SHORT TITLE**

##### **Commencement**

**43 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

##### **Short title**

**44 The short title of the Act set out in this Schedule is the *Ontario Special Investigations Unit Act, 2018*.**

## SCHEDULE 5 CONSEQUENTIAL AMENDMENTS

### *Ambulance Services Collective Bargaining Act, 2001*

1 (1) The English version of clause (c) of the definition of “essential ambulance services” in subsection 1 (1) of the *Ambulance Services Collective Bargaining Act, 2001* is amended by striking out “police services” and substituting “policing”.

(2) The English version of the definition of “integrated dispatching services” in subsection 1 (1) of the Act is amended by striking out “police services” and substituting “policing”.

### *Animal Health Act, 2009*

2 (1) Subsection 19 (11) of the *Animal Health Act, 2009* is amended by striking out “the Ontario Provincial Police Force or the police force” wherever it appears and substituting in each case “the police service”.

(2) Subsection 30 (8) of the Act is amended by striking out “the Ontario Provincial Police Force or the police force” wherever it appears and substituting in each case “the police service”.

### *Change of Name Act*

3 (1) Subsection 6 (9) of the *Change of Name Act* is amended by striking out “an employee of an Ontario police force” and substituting “a member of a police service”.

(2) Subsection 6 (11) of the Act is amended by striking out “An employee of a police force” at the beginning and substituting “A member of a police service”.

(3) Subsection 8 (1.2) of the Act is amended by striking out “police force” and substituting “police service”.

(4) Subsection 10 (7) of the Act is amended by striking out “police force” and substituting “police service”.

### *Child Care and Early Years Act, 2014*

4 Clause (a) of the definition of “criminal reference check” in subsection 2 (1) of the *Child Care and Early Years Act, 2014* is amended by striking out “police force or service” and substituting “police service”.

### *Child, Youth and Family Services Act, 2017*

5 Section 335 of the *Child, Youth and Family Services Act, 2017* is amended by striking out “police force” and substituting “police service”.

### *Children’s Law Reform Act*

6 (1) Subsection 36 (2) of the *Children’s Law Reform Act* is amended by striking out “police force” in the portion after clause (c) and substituting “police service”.

(2) Subsection 36 (4) of the Act is amended by striking out “police force” and substituting “police service”.

(3) Subsection 36 (5) of the Act is amended by striking out “police force” and substituting “police service”.

### *Christopher’s Law (Sex Offender Registry), 2000*

7 (1) The preamble to *Christopher’s Law (Sex Offender Registry), 2000* is amended by striking out “police forces” wherever it appears and substituting in each case “police services”.

(2) The definition of “police force” in subsection 1 (1) of the Act is repealed and the following substituted:

“police service” means a police service as defined under the *Police Services Act, 2018*; (“service de police”)

(3) Subsection 1 (2) of the Act is repealed and the following substituted:

#### **First Nation policing**

(2) Where an offender resides in an area where policing is provided by First Nation Officers, references in this Act to a police service shall be read as references to the First Nation Officers who provide policing, with necessary modifications, and references to a police officer in this Act shall be read as references to a First Nation Officer.

(4) Subsection 3 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

#### **Offender required to report in person**

(1) Every offender who is resident in Ontario shall present himself or herself at a designated bureau, police station or detachment of the police service that provides policing where he or she resides or at another place in the area where the police service provides policing designated by that police service,

. . . . .

(5) Clause 3 (1) (f) of the Act is amended by striking out “police force” and substituting “police service”.

**(6) Clause 3 (1) (g) of the Act is amended by striking out “police force” and substituting “police service”.**

**(7) Subsection 3 (2) of the Act is amended by striking out “police force” and substituting “police service”.**

**(8) Subsection 3 (3) of the Act is repealed and the following substituted:**

**Designated places, times, days**

(3) Every police service shall designate one or more bureaus, police stations, detachments or other places in the area where the police service provides policing at which offenders may present themselves for the purposes of subsection (1), subsection 7 (2) and subsection 9 (1), and may also designate the days and times when offenders may present themselves for those purposes.

**(9) Subsection 3 (4) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(10) Section 4 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(11) Subsection 5 (1) of the Act is amended by striking out “police force” and substituting “police service”.**

**(12) Section 6 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(13) Subsection 7 (2) of the Act is amended by striking out the portion before clause (a) and substituting the following:**

**Reporting requirement in abeyance while in custody**

(2) An offender who is resident in Ontario is not required to comply with section 3 while he or she is serving the custodial portion of a sentence for any offence or is detained in custody in hospital as part of a disposition under Part XX.1 of the *Criminal Code* (Canada), but must present himself or herself at a designated bureau, police station or detachment of the police service that provides policing where he or she resides or at another place in the area where the police service provides policing designated by that police service and comply with subsection 3 (2),

**(14) Subsection 9 (1) of the Act is repealed and the following substituted:**

**Proof of pardon**

(1) An offender who receives a pardon for a sex offence may present himself or herself at a designated bureau, police station or detachment of the police service that provides policing where he or she resides or at another place in the area where the police service provides policing designated by that police service and provide the police service with proof of the pardon.

**(15) Subsection 9 (2) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(16) Subsections 10 (2) and (3) of the Act are repealed and the following substituted:**

**Exception**

(2) A member of a police service and an employee of or person authorized by the ministry for the purposes of this section shall have access to the sex offender registry at any time and may collect, retain and use information obtained from the sex offender registry for any purpose under this Act, under section 108 of the *Police Services Act, 2018* or for crime prevention or law enforcement purposes.

**Same**

(3) A member of a police service and an employee of or person authorized by the ministry for the purposes of this section may disclose information contained in the sex offender registry to another police service in or outside Canada for the purposes of this section or for crime prevention or law enforcement purposes and the other police service may collect, retain and use the information for crime prevention or law enforcement purposes.

**(17) Subsection 12 (1) of the Act is amended by striking out “a municipality, a police force, a correctional institution, any person employed by or providing services to a police force” and substituting “a First Nation, an entity that employs First Nation Officers, a municipality, a police service board, a correctional institution, any member of a police service or any person providing services to a police service”.**

**(18) Clause 14 (b) of the Act is amended by striking out “police force” and substituting “police service”.**

**City of Greater Sudbury Act, 1999**

**8 (1) The definition of “local board” in section 1 of the *City of Greater Sudbury Act, 1999* is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.**

**(2) Section 6 of the Act is repealed and the following substituted:**

### **Police service board**

**6** (1) On the day subsection 31 (1) of the *Police Services Act, 2018* comes into force, the Greater Sudbury Police Services Board is continued under the name “Greater Sudbury Police Service Board” in English and “Commission de service de police du Grand Sudbury” in French.

#### **Same**

(2) The Greater Sudbury Police Service Board is the police service board of the city.

**(3)** Subsection 10 (1) of the Act is amended by striking out “police services boards” and substituting “police service boards”.

**(4)** Subsection 16.3 (2) of the Act is amended by striking out “Greater Sudbury Police Force” and substituting “Greater Sudbury Police Service”.

### ***City of Hamilton Act, 1999***

**9** (1) The definition of “local board” in section 1 of the *City of Hamilton Act, 1999* is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.

**(2)** Subsections 6 (1) and (2) of the Act are repealed and the following substituted:

#### **Police service board**

(1) On the day subsection 31 (1) of the *Police Services Act, 2018* comes into force, the Hamilton Police Services Board is continued under the name “Hamilton Police Service Board” in English and “Commission de service de police de Hamilton” in French.

#### **Same**

(2) The Hamilton Police Service Board is the police service board of the city.

**(3)** Subsection 9 (1) of the Act is amended by striking out “police services boards” and substituting “police service boards”.

**(4)** Subsection 16.3 (2) of the Act is amended by striking out “Hamilton Police Force” and substituting “Hamilton Police Service”.

### ***City of Ottawa Act, 1999***

**10** (1) The definition of “local board” in subsection 1 (1) of the *City of Ottawa Act, 1999* is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.

**(2)** Subsections 6 (1) and (2) of the Act are repealed and the following substituted:

#### **Police service board**

(1) On the day subsection 31 (1) of the *Police Services Act, 2018* comes into force, the Ottawa Police Services Board is continued under the name “Ottawa Police Service Board” in English and “Commission de service de police d’Ottawa” in French.

#### **Same**

(2) The Ottawa Police Service Board is the police service board of the city.

**(3)** Subsection 10 (1) of the Act is amended by striking out “police services boards” and substituting “police service boards”.

**(4)** Subsection 17.3 (2) of the Act is amended by striking out “Ottawa Police Force” and substituting “Ottawa Police Service”.

### ***City of Toronto Act, 2006***

**11** (1) The definition of “local board” in subsection 3 (1) of the *City of Toronto Act, 2006* is amended by striking out “police services board” and substituting “police service board”.

**(2)** Clause (d) of the definition of “local board (restricted definition)” in subsection 8 (6) of the Act is repealed and the following substituted:

(d) a police service board established under the *Police Services Act, 2018*,

**(3)** Subsection 51 (6) of the Act is amended by striking out “a police force in the circumstances described in section 132 of the *Police Services Act*” at the end and substituting “a police service in the circumstances described in section 205 of the *Police Services Act, 2018*”.

**(4)** Subsection 74.1 (7) of the Act is amended by striking out “a police force in the circumstances described in section 132 of the *Police Services Act*” at the end and substituting “a police service in the circumstances described in section 205 of the *Police Services Act, 2018*”.

(5) Subsection 91 (1) of the Act is amended by striking out “police services board” wherever it appears and substituting in each case “police service board”.

(6) Clause 145 (3) (e) of the Act is repealed and the following substituted:

(e) a police service board established under the *Police Services Act, 2018*,

(7) Clause (d) of the definition of “local board (restricted definition)” in section 156 of the Act is repealed and the following substituted:

(d) a police service board established under the *Police Services Act, 2018*;

(8) The definition of “committee” in subsection 189 (1) of the Act is amended by striking out “police services board” and substituting “police service board”.

(9) Subsection 189 (5) of the Act is amended by striking out “police services board” and substituting “police service board”.

(10) Subsection 190 (7) of the Act is amended by striking out “police services board” and substituting “police service board”.

(11) Subsection 190.1 (2) of the Act is amended by striking out “police services board” and substituting “police service board”.

(12) Subsection 190.2 (12) of the Act is amended by striking out “police services board” and substituting “police service board”.

(13) The definition of “record” in subsection 201 (6) of the Act is amended by striking out “police services board” and substituting “police service board”.

(14) Clause (a) of the definition of “local board (restricted definition)” in subsection 212 (3) of the Act is amended by striking out “police services board” and substituting “police service board”.

(15) Clause (a) of the definition of “designated employee” in section 217 of the Act is amended by striking out “police force” at the end and substituting “police service”.

(16) Subsection 366 (2) of the Act is amended by striking out “police services board” and substituting “police service board”.

(17) Paragraph 1 of subsection 375 (1) of the Act is amended by striking out “police force” at the end and substituting “police service”.

(18) Subsection 387 (5) of the Act is amended by striking out “police force” and substituting “police service”.

(19) Subsection 387 (9) of the Act is amended by striking out “police services board” and substituting “police service board”.

(20) Subsection 388 (9) of the Act is amended by striking out “police force” and substituting “police service”.

(21) Subsection 388.1 (1) of the Act is amended by striking out “police force” and substituting “police service”.

(22) The definition of “police force” in subsection 388.1 (6) of the Act is repealed and the following substituted:

“police service” means a police service as defined under the *Police Services Act, 2018* or the Royal Canadian Mounted Police.

(23) Section 389 of the Act is amended by striking out “police services board” wherever it appears and substituting in each case “police service board”.

(24) The heading before section 402 of the Act is repealed and the following substituted:

#### TORONTO POLICE SERVICE BOARD

(25) Subsection 402 (1) of the Act is amended by adding “as the Toronto Police Service Board on the day subsection 31 (1) of the *Police Services Act, 2018* comes into force” at the end.

(26) Section 403 of the Act is amended by striking out “policing services prescribed in the *Police Services Act, the Toronto police force*” in the portion before clause (a) and substituting “policing required by the *Police Services Act, 2018, the Toronto Police Service*”.

(27) Section 404 of the Act is amended by striking out “Toronto police force” and substituting “Toronto Police Service”.

(28) Paragraph 2 of section 452 of the Act is amended by striking out “police force” and substituting “police service”.

(29) Subsection 453 (1) of the Act is amended by striking out “police force” and substituting “police service”.

(30) Subsection 454 (3) of the Act is amended by striking out “police services board” and substituting “police service board”.

(31) Section 455 of the Act is amended by striking out “police services board” wherever it appears and substituting in each case “police service board”.

(32) Subsection 458 (3) of the Act is amended by striking out “police services board” and substituting “police service board”.

*Climate Change Mitigation and Low-carbon Economy Act, 2016*

12 Subsection 46 (2) of the *Climate Change Mitigation and Low-carbon Economy Act, 2016* is amended by striking out “Ontario Provincial Police Force or the police force in the area where the assistance is required, and it is the duty of every member of a police force to render the assistance” at the end and substituting “Ontario Provincial Police or the police service in the area where the assistance is required, and it is the duty of every member of a police service to render the assistance”.

*Commodity Futures Act*

13 (1) Clause 13 (3) (a) of the *Commodity Futures Act* is repealed and the following substituted:

(a) a member of a municipal, provincial, federal or other police service; or

(2) Clause 13 (7) (a) of the Act is repealed and the following substituted:

(a) a member of a municipal, provincial, federal or other police service; or

*Consumer Protection Act, 2002*

14 Subsection 65.12 (1) of the *Consumer Protection Act, 2002* is amended by striking out “police force” and substituting “police service”.

*Crown Witnesses Act*

15 Subsection 2 (2) of the *Crown Witnesses Act* is amended by striking out “police force” wherever it appears and substituting in each case “police service”.

*Development Charges Act, 1997*

16 The English version of paragraph 6 of subsection 5 (5) of the *Development Charges Act, 1997* is repealed and the following substituted:

6. Policing.

*Dog Owners' Liability Act*

17 Paragraph 1 of section 12 of the *Dog Owners' Liability Act* is repealed and the following substituted:

1. A police officer, including a police officer within the meaning of the *Police Services Act, 2018*, a special constable, a First Nation Officer and an auxiliary member of a police service.

*Electricity Act, 1998*

18 Clause 37.3 (1) (c) of the *Electricity Act, 1998* is amended by striking out “police force” and substituting “police service”.

*Employment Standards Act, 2000*

19 (1) Paragraph 4 of subsection 3 (5) of the *Employment Standards Act, 2000* is repealed and the following substituted:

4. An individual who is an inmate of a correctional institution within the meaning of the *Ministry of Correctional Services Act*, is an inmate of a penitentiary or is being held in a place of temporary detention or youth custody facility under the *Youth Criminal Justice Act* (Canada), if the individual participates inside or outside the institution, penitentiary or place in a work project or rehabilitation program.

(2) The French version of the definition of “employer” in section 68 of the Act is amended by striking out “organisme responsable d'un corps de police” at the end and substituting “corps dirigeant de la police”.

(3) Section 71 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.

*Environmental Protection Act*

20 (1) The definition of “officer” in section 60 of the *Environmental Protection Act* is amended by striking out “Ontario Provincial Police Force or the police force” and substituting “police service”.

(2) Subsection 92 (4) of the Act is amended by striking out “police force” and substituting “police service”.

**(3) Subsection 166 (1) of the Act is repealed and the following substituted:**

**Police assistance and motor vehicle inspections**

**Calling for assistance of member of police service**

(1) Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render such assistance.

**(4) Subsection 166 (5) of the Act is repealed and the following substituted:**

**Police assistance**

(5) Where a provincial officer considers it necessary or expedient to do so, he or she may call for the assistance of any member of the police service in the area where the assistance is required for an inspection under subsection (2), and it is the duty of every member of a police service to render the assistance.

***Fish and Wildlife Conservation Act, 1997***

**21 Paragraph 1 of subsection 87 (2) of the *Fish and Wildlife Conservation Act, 1997* is repealed and the following substituted:**

1. A police officer or First Nation Officer appointed under the *Police Services Act, 2018*.

***Food Safety and Quality Act, 2001***

**22 (1) Section 15 of the *Food Safety and Quality Act, 2001* is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(2) Subsection 17 (5) of the Act is amended by striking out “police force” and substituting “police service”.**

**(3) Subsection 36 (7) of the Act is amended by striking out “police force” and substituting “police service”**

***Forest Fires Prevention Act***

**23 Paragraph 3 of subsection 4 (2) of the *Forest Fires Prevention Act* is amended by striking out “*Police Services Act*” at the end and substituting “*Police Services Act, 2018*”.**

***Health Protection and Promotion Act***

**24 (1) Clause (l) of the definition of “institution” in subsection 21 (1) of the *Health Protection and Promotion Act* is repealed.**

**(2) Subsection 35 (6) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(3) Subsection 37 (1) of the Act is amended by striking out “a detention facility”.**

**(4) Subsection 37 (2) of the Act is repealed and the following substituted:**

**Order by M.O.H. re person under detention**

(2) A medical officer of health by order may require the superintendent of a correctional institution, a place of secure custody or a place of temporary detention located in the health unit served by the medical officer of health to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, place of secure custody or place of temporary detention and who has been examined and found to be infected with an agent of a communicable disease.

**(5) The definition of “detention facility” in subsection 37 (3) of the Act is repealed.**

**(6) Clause 77.5 (7) (a) of the Act is amended by striking out “police force” and substituting “police service”.**

***Highway 407 Act, 1998***

**25 (1) Subsection 59 (1) of the *Highway 407 Act, 1998* is amended by adding the following definition:**

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be designated by the Lieutenant Governor in Council.

**(2) The definition of “Solicitor General” in subsection 59 (1) of the Act is repealed.**

**(3) Subsection 59 (2) of the Act is amended by striking out “paragraph 3 of subsection 19 (1) of the *Police Services Act*” and substituting “clause 57 (c) of the *Police Services Act, 2018*”.**

**(4) Subsections 59 (3), (4) and (5) of the Act are repealed and the following substituted:**



### **Cost of policing**

(3) The Minister may charge the owner the reasonable costs of policing provided by the Commissioner of the Ontario Provincial Police under clause 57 (c) of the *Police Services Act, 2018* on a full cost recovery basis.

### **Agreement**

(4) The Minister may enter into an agreement with the owner for the provision of services under clause 57 (c) of the *Police Services Act, 2018* on Highway 407.

### **Payable into Consolidated Revenue Fund**

(5) All moneys received by way of charges imposed under subsection (3) or by the Minister under an agreement entered into under subsection (4) shall be paid into the Consolidated Revenue Fund.

### **Highway Traffic Act**

**26 (1) Subsection 41.4 (18) of the *Highway Traffic Act* is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(2) Subsection 48.4 (18) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(3) Subsection 55.1 (24) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(4) Subsection 55.2 (18) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(5) Subsection 58 (11) of the Act is amended by striking out “police services board” and substituting “police service board”.**

**(6) Subsection 58.1 (14) of the Act is amended by striking out “police services board” and substituting “police service board”.**

**(7) Subsection 82.1 (29) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(8) Subsection 134.1 (4) of the Act is amended by striking out “a police force, a police services board, any member of a police services board” and substituting “any other member of a police service, a police service board, any member of a police service board”.**

**(9) Subsection 134.1 (4) of the Act, as re-enacted by subsection 43 (1) of the *Road Safety Act, 2009*, is amended by striking out “a police force, a police services board, any member of a police services board” and substituting “any other member of a police service, a police service board, any member of a police service board”.**

**(10) Clause 187 (3) (c) of the Act is amended by striking out “police force” and substituting “police service”.**

**(11) Clause 187 (3) (d) of the Act is amended by striking out “police force” and substituting “police service”.**

**(12) Subsection 187 (5) of the Act is repealed and the following substituted:**

### **No liability where good faith**

(5) No proceeding for damages shall be instituted against a member of a police service, a police service board, the Crown in relation to a member of the Ontario Provincial Police or a pilot for an act or an omission done or omitted to be done by it, him or her in respect of the subject-matter of subsection (3) where the member of the police service or pilot was acting in good faith.

**(13) Subsection 195 (1) of the Act is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.**

### **Human Rights Code**

**27 The definition of “person” in section 46 of the *Human Rights Code* is amended by striking out “police services board established under the *Police Services Act*” and substituting “police service board established under the *Police Services Act, 2018*”.**

### **Interprovincial Policing Act, 2009**

**28 (1) Section 1 of the *Interprovincial Policing Act, 2009* is amended by striking out “*Police Services Act*” wherever it appears and substituting in each case “*Police Services Act, 2018*”.**

**(2) Section 1 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(3) Section 1 of the Act is amended by adding the following definition:**

“Inspector General” means the Inspector General of Policing appointed under the *Police Services Act, 2018*; (“inspecteur général”)

**(4) The definition of “Ontario police officer” in section 1 of the Act is amended by striking out “an employee of” and substituting “a member of”.**

**(5) Section 1 of the Act is amended by adding the following definition:**

“police service board” has the same meaning as in the *Police Services Act, 2018*; (“commission de service de police”)

**(6) Section 6 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(7) Subsection 8 (2) of the Act is repealed and the following substituted:**

**Appointment denied**

(2) The appointing official shall deny the requested appointment in prescribed circumstances.

**(8) Subsection 12 (2) of the Act is repealed and the following substituted:**

**Request to police service or detachment**

(2) The request must be made to the local commander of the police service or detachment that provides policing in the area where the operation or investigation is expected primarily to be conducted.

**(9) Subsection 15 (2) of the Act is repealed and the following substituted:**

**Appointment denied**

(2) The local commander shall deny the requested appointment in prescribed circumstances.

**(10) Subsection 20 (1) of the Act is repealed and the following substituted:**

**Advance notice to local commander**

(1) Before performing any police duties in an area of Ontario, an appointee shall give notice to the local commander of the police service or detachment that provides policing in that area, unless the duties are of a routine nature that are unlikely to affect the delivery of policing or the operation or investigation could be compromised by giving notice.

**(11) Section 21 of the Act is repealed and the following substituted:**

**Local commander may direct appointee**

**21** A local commander may direct an appointee about how the appointee’s duties are to be performed in the area in which the local commander’s police service or detachment provides policing in order to avoid interference with the provision of policing in that area.

**(12) Clause 22 (1) (b) of the Act is amended by striking out “Police Services Act” and substituting “Police Services Act, 2018”.**

**(13) Subsection 22 (1) of the Act is amended by adding the following clause:**

(b.1) the provisions of the *Policing Oversight Act, 2018* and of the regulations made under that Act that apply to the appointee;

**(14) Subclause 23 (1) (a) (ii) of the Act is amended by striking out “Police Services Act” and substituting “Police Services Act, 2018”.**

**(15) Clause 23 (1) (a) of the Act is amended by adding the following subclause:**

(ii.1) comply with a provision of the *Policing Oversight Act, 2018*, or of a regulation made under that Act, that applies to the appointee,

**(16) Subsection 25 (1) of the Act is amended by striking out “police force” and substituting “police service”.**

**(17) Subsection 27 (1) of the Act is amended by striking out “police force or police services board” and substituting “police service board”.**

**(18) Subsection 27 (2) of the Act is amended by striking out “police services board” and substituting “police service board”.**

**(19) Section 29 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(20) Sections 30 and 31 of the Act are repealed and the following substituted:**

### **Application of oversight and discipline process to Ontario police officer**

**30** Part IX of the *Police Services Act, 2018* and Part IV of the *Policing Oversight Act, 2018* apply to an Ontario police officer who has been appointed as a police officer in another province or a territory in respect of his or her conduct in the other province or territory as if the conduct took place in Ontario.

### **Application of *Policing Oversight Act, 2018* to extra-provincial police officer**

**31** The conduct in Ontario of an extra-provincial police officer who is appointed as a police officer under this Act may be reviewed and investigated under Part IV of the *Policing Oversight Act, 2018*, but an extra-provincial police officer is not subject to proceedings before the Ontario Policing Discipline Tribunal under that Act with respect to his or her conduct in Ontario.

**(21) Subsection 32 (1) of the Act is repealed and the following substituted:**

#### **Indemnification**

(1) Subject to an agreement under clause 33 (1) (a), a police service board in Ontario shall indemnify a police service in another province or a territory, or the person or entity that is responsible for that police service, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred in respect of a civil, criminal or administrative action or proceeding in which the police service from that other province or territory is a party, if the action or proceeding arises out of the actions of a member of the police service maintained by the police service board while the member was appointed as a police officer in that other province or territory.

**(22) Subsection 32 (2) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(23) Subsection 32 (4) of the Act is amended by striking out “police force” and substituting “police service”.**

**(24) Subsection 33 (1) of the Act is amended by,**

- (a) striking out “police services board” in the portion before clause (a) and substituting “police service board”; and**
- (b) striking out “an Ontario municipal police force” in clause (a) and substituting “the police service maintained by the police service board”.**

**(25) Section 37 of the Act is amended by striking out “Minister” wherever it appears and substituting in each case “Inspector General”.**

**(26) Clause 41 (1) (b) of the Act is amended by striking out “clauses 8 (2) (b) and 15 (2) (b) and subsection 23 (2)” at the end and substituting “subsections 8 (2), 15 (2) and 23 (2)”.**

#### ***Juries Act***

**29 (1) Subsection 18.2 (4) of the *Juries Act* is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**(2) Clause 37 (b.2) of the Act is amended by striking out “police force” and substituting “police service”.**

#### ***Labour Relations Act, 1995***

**30 Clause 3 (d) of the *Labour Relations Act, 1995* is amended by striking out “police force within the meaning of the *Police Services Act*” at the end and substituting “police service within the meaning of the *Police Services Act, 2018*”.**

#### ***Lobbyists Registration Act, 1998***

**31 The English version of clause (e) of the definition of “public office holder” in subsection 1 (1) of the *Lobbyists Registration Act, 1998* is amended by striking out “Force”.**

#### ***Mandatory Gunshot Wounds Reporting Act, 2005***

**32 (1) Subsection 2 (1) of the *Mandatory Gunshot Wounds Reporting Act, 2005* is amended by striking out “municipal or regional police force” and substituting “police service”.**

**(2) Section 3 of the Act is amended by striking out “municipal or regional police force or the Ontario Provincial Police” and substituting “police service”.**

#### ***Mining Act***

**33 Subsection 158 (10) of the *Mining Act* is amended by striking out “police force” and substituting “police service”.**

#### ***Ministry of Correctional Services Act***

**34 (1) The definition of “correctional institution” in section 1 of the *Ministry of Correctional Services Act* is amended by striking out “established under section 16.1 of the *Police Services Act*” at the end.**

**(2) Subsection 8 (1) of the Act is amended by striking out “or with any municipality” in the portion before clause (a) and substituting “or with any municipality or police service board”.**

**(3) Section 21 of the Act is repealed and the following substituted:**

**Use of correctional institution lock-up**

**21** (1) The Minister may designate a correctional institution for use by a police service board as a lock-up and, where the Minister makes such a designation, the Minister shall fix a rate per day for persons in custody in the lock-up.

**Payment by municipality**

(2) The municipality that maintains the police service board shall pay to the Minister of Finance annually the rate per day that is fixed under subsection (1) for persons in custody in the lock-up during the year.

**Designation of lock-up**

(3) The Minister may designate a correctional institution for use as a lock-up by,

- (a) the Ontario Provincial Police; or
- (b) an entity that employs First Nation Officers that provide a policing function under an agreement between the Minister and a First Nation.

***Municipal Act, 2001***

**35** (1) The definition of “local board” in subsection 1 (1) of the *Municipal Act, 2001* is amended by striking out “police services board” and substituting “police service board”.

(2) Clause (d) of the definition of “local board” in subsection 10 (6) of the Act is repealed and the following substituted:

- (d) a police service board established under the *Police Services Act, 2018*,

(3) Subsection 63 (6) of the Act is amended by striking out “police force in the circumstances described in section 132 of the *Police Services Act*” and substituting “police service in the circumstances described in section 205 of the *Police Services Act, 2018*”.

(4) Subsection 157 (1) of the Act is amended by striking out “police services board” wherever it appears and substituting in each case “police service board”.

(5) Paragraph 8 of the definition of “lower-tier power” in subsection 188 (1) of the Act is amended by striking out “*Police Services Act*” at the end and substituting “*Police Services Act, 2018*”.

(6) Clause 216 (3) (d) of the Act is repealed and the following substituted:

- (d) a police service board established under the *Police Services Act, 2018*;

(7) Clause (d) of the definition of “local board” in section 223.1 of the Act is repealed and the following substituted:

- (d) a police service board established under the *Police Services Act, 2018*;

(8) The definition of “local board” in subsection 238 (1) of the Act is amended by striking out “police services boards” and substituting “police service boards”.

(9) The definition of “record” in subsection 255 (6) of the Act is amended by striking out “police services board” and substituting “police service board”.

(10) Clause (a) of the definition of “local board” in subsection 269 (1) of the Act is amended by striking out “police services board” and substituting “police service board”.

(11) Clause (a) of the definition of “employee” in subsection 278 (1) of the Act is amended by striking out “police force” and substituting “police service”.

(12) Subsection 425 (2) of the Act is amended by striking out “police services board” and substituting “police service board”.

(13) Section 434 of the Act is amended by striking out “police force” and substituting “police service”.

(14) Paragraph 1 of subsection 435 (1) of the Act is amended by striking out “police force” and substituting “police service”.

(15) Subsection 447 (5) of the Act is amended by striking out “police force” and substituting “police service”.

(16) Subsection 447 (9) of the Act is amended by striking out “police services board” and substituting “police service board”.

(17) Subsection 447.1 (2) of the Act is amended by striking out “police force” and substituting “police service”.

(18) Subsection 447.1 (9) of the Act is amended by striking out “the police force responsible for policing in the municipality” and substituting “the police service that has policing responsibility for the municipality”.

(19) Section 447.2 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.

(20) Subsection 447.6 (4) of the Act is amended by striking out “police services board” and substituting “police service board”.

(21) Section 447.9 of the Act is amended by striking out “police services board” wherever it appears and substituting in each case “police service board”.

*Municipal Affairs Act*

36 The definition of “local board” in section 1 of the *Municipal Affairs Act* is amended by striking out “police services board” and substituting “police service board”.

*Municipal Conflict of Interest Act*

37 The definition of “local board” in section 1 of the *Municipal Conflict of Interest Act* is amended by striking out “police services board” and substituting “police service board”.

*Municipal Freedom of Information and Protection of Privacy Act*

38 Clause (b) of the definition of “institution” in subsection 2 (1) of the *Municipal Freedom of Information and Protection of Privacy Act* is amended by striking out “police services board” and substituting “police service board”.

*Northern Services Boards Act*

39 (1) Paragraph 6 of subsection 41 (2) of the *Northern Services Boards Act* is repealed and the following substituted:

6. Policing under the *Police Services Act, 2018*.

(2) Subsection 41 (10) of the Act is repealed and the following substituted:

**Policing**

(10) Where a Board ensures the provision of policing,

(a) the Board shall be deemed to be a municipality as defined in the *Police Services Act, 2018*; and

(b) any municipality in the Board area shall be deemed not to be a municipality as defined in the *Police Services Act, 2018*.

*Nutrient Management Act, 2002*

40 (1) Clause 26 (1) (b) of the *Nutrient Management Act, 2002* is amended by striking out “municipal police force” and substituting “police service”.

(2) Subsection 26 (2) of the Act is amended by striking out “police force” and substituting “police service”.

(3) Clause 35 (5) (b) of the Act is amended by striking out “municipal police force” and substituting “police service”.

*Occupational Health and Safety Act*

41 (1) Clause 43 (2) (a) of the *Occupational Health and Safety Act* is amended by striking out “a police force to which the *Police Services Act* applies” at the end and substituting “a police service to which the *Police Services Act, 2018* applies”.

(2) Subsection 50 (8) of the Act is repealed and the following substituted:

**Exception**

(8) Despite subsections (2) and (2.1), a police officer under the *Police Services Act, 2018* shall have his or her complaint in relation to an alleged contravention of subsection (1) dealt with under section 142 of that Act, with necessary modifications.

*Ontario Municipal Employees Retirement System Act, 2006*

42 Subsection 1 (4) of the *Ontario Municipal Employees Retirement System Act, 2006* is amended by striking out “police force as defined in section 2 of the *Police Services Act*” and substituting “police service as defined in subsection 2 (1) of the *Police Services Act, 2018*”.

*Ontario Provincial Police Collective Bargaining Act, 2006*

43 (1) Section 1 of the *Ontario Provincial Police Collective Bargaining Act, 2006* is amended by adding the following definition:

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be designated by the Lieutenant Governor in Council; (“ministre”)

(2) The definition of “Solicitor General” in section 1 of the Act is repealed.

(3) The English version of paragraph 1 of subsection 2 (1) of the Act is amended by striking out “Force”.

(4) Paragraph 2 of subsection 2 (1) of the Act is amended by striking out “supervision” in the portion before subparagraph i and substituting “direction”.

(5) Subclause 4 (1) (a) (i) of the Act is amended by striking out “*Police Services Act*” and substituting “*Police Services Act, 2018*”.

(6) Section 5 of the Act is amended by striking out “Solicitor General” wherever it appears and substituting in each case “Minister”.

(7) Subsection 6 (1) of the Act is amended by striking out “Solicitor General” and substituting “Minister”.

(8) Subsection 10.1 (1) of the Act is amended by striking out “on the first anniversary of the date of his or her promotion to Probationary Constable” at the end and substituting “18 months after the day of his or her appointment as a police officer”.

(9) Section 10.1 of the Act is amended by adding the following subsections:

**Extension with consent**

(3) The Commissioner of the Ontario Provincial Police may extend a police officer’s probationary period by up to six months if the police officer consents to the extension.

**Leave of absence**

(4) Any time taken by the police officer as a leave of absence does not count towards the fulfilment of the probationary period.

(10) Section 11 of the Act is amended by adding the following clause:

(c) clarifying the meaning of “leave of absence” for the purposes of subsection 10.1 (4).

***Ontario Water Resources Act***

**44 Section 25 of the *Ontario Water Resources Act* is repealed and the following substituted:**

**Police assistance**

25 Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render such assistance.

***Pawnbrokers Act***

**45 Section 11 of the *Pawnbrokers Act* is amended by striking out “police force” and substituting “police service”.**

***Pesticides Act***

**46 Section 18 of the *Pesticides Act* is repealed and the following substituted:**

**Calling for assistance of member of police service**

18 Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render such assistance.

***Planning Act***

**47 The definition of “local board” in subsection 1 (1) of the *Planning Act* is amended by striking out “police services board” and substituting “police service board”.**

***Police Record Checks Reform Act, 2015***

**48 (1) Clause (b) of the definition of “police record check provider” in subsection 1 (1) of the *Police Record Checks Reform Act, 2015* is amended by striking out “police force” and substituting “police service”.**

**(2) The definition of “third party entity” in subsection 1 (1) of the Act is amended by striking out “police force” and substituting “police service”.**

**(3) Subsection 1 (2) of the Act is repealed and the following substituted:**

**Same, expressions related to police services**

(2) Expressions used in this Act relating to police services have the same meaning as in the *Police Services Act, 2018*.

**(4) Subsection 2 (4) of the Act is repealed and the following substituted:**

## Records

(4) This Act applies in respect of records in the custody or under the control of a police service or in the custody or under the control of another agency responsible for providing policing in Canada.

(5) Clause 4 (c) of the Act is amended by striking out “*Police Services Act*” at the end and substituting “*Police Services Act, 2018*”.

(6) Section 8 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.

(7) Section 17 of the Act is amended by striking out “police services board” and substituting “police service board”.

### *Private Security and Investigative Services Act, 2005*

49 Section 39 of the *Private Security and Investigative Services Act, 2005* is amended by striking out “shall hold himself” and substituting “shall falsely hold himself”.

### *Public Inquiries Act, 2009*

50 Clause 18 (3) (c) of the *Public Inquiries Act, 2009* is amended by striking out “the *Police Services Act*, if the employee is subject to a rule or code of discipline under that Act” at the end and substituting “section 142 of the *Police Services Act, 2018*, if the employee is a police officer under that Act.”

### *Public Sector Compensation Restraint to Protect Public Services Act, 2010*

51 Paragraph 6 of subsection 4 (2) of the *Public Sector Compensation Restraint to Protect Public Services Act, 2010* is repealed and the following substituted:

6. A police association recognized under the *Police Services Act, 2018*.

### *Public Sector Dispute Resolution Act, 1997*

52 Clause 2 (1) (c) of the *Public Sector Dispute Resolution Act, 1997* is amended by striking out “section 122 of the *Police Services Act*” at the end and substituting “section 173 of the *Police Services Act, 2018*”.

### *Public Sector Labour Relations Transition Act, 1997*

53 (1) The definition of “local board” in section 2 of the *Public Sector Labour Relations Transition Act, 1997* is amended by striking out “police services board” and substituting “police service board”.

(2) The definition of “local board” in subsection 4 (1) of the Act is amended by striking out “police services board” and substituting “police service board”.

(3) Section 17 of the Act is amended by striking out “*Police Services Act*” at the end and substituting “*Police Services Act, 2018*”.

(4) Subsection 18 (1) of the Act is amended by striking out “section 121 of the *Police Services Act*” and substituting “section 172 of the *Police Services Act, 2018*”.

(5) Subsection 19.4 (2) of the Act is amended by striking out “section 121 of the *Police Services Act*” and substituting “section 172 of the *Police Services Act, 2018*”.

(6) Subsection 24 (8) of the Act is amended by striking out “section 129 of the *Police Services Act*” at the end and substituting “section 180 of the *Police Services Act, 2018*”.

(7) Subsection 30 (7) of the Act is amended by striking out “section 129 of the *Police Services Act*” at the end and substituting “section 180 of the *Police Services Act, 2018*”.

(8) Paragraph 2 of subsection 33 (2) of the Act is amended by striking out “section 119 of the *Police Services Act*” at the end and substituting “section 170 of the *Police Services Act, 2018*”.

### *Public Service of Ontario Act, 2006*

54 (1) Subsection 104 (7) of the *Public Service of Ontario Act, 2006* is amended by striking out “subject to a rule or code of discipline under the *Police Services Act* shall have his or her complaint dealt with under that Act” at the end and substituting “a police officer under the *Police Services Act, 2018* shall have his or her complaint dealt with under section 142 of that Act”.

(2) Paragraph 3 of section 117 of the Act is amended by striking out “Part V of the *Police Services Act*” at the end and substituting “Part IX of the *Police Services Act, 2018*”.

(3) Subsection 140 (7) of the Act is amended by striking out “subject to a rule or code of discipline under the *Police Services Act* shall have his or her complaint dealt with under that Act” at the end and substituting “a police officer under the *Police Services Act, 2018* shall have his or her complaint dealt with under section 142 of that Act”.

***Public Vehicles Act***

**55 (1)** Section 29 of the *Public Vehicles Act* is amended by striking out “Ontario Provincial Police Force” wherever it appears and substituting in each case “Ontario Provincial Police”.

**(2)** Section 32 of the Act is amended by striking out “Ontario Provincial Police Force” and substituting “Ontario Provincial Police”.

***Resource Recovery and Circular Economy Act, 2016***

**56** Section 83 of the *Resource Recovery and Circular Economy Act, 2016* is repealed and the following substituted:

**Calling for assistance of member of police service**

**83** An inspector who is authorized by an order under section 81 to do anything set out in subsection 78 (1) or (4) or section 79 may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render the assistance.

***Safe Drinking Water Act, 2002***

**57** Section 102 of the *Safe Drinking Water Act, 2002* is repealed and the following substituted:

**Police assistance**

**102** Whenever a provincial officer is required or empowered by this Act to do or direct the doing of anything, the provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in doing so, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render assistance.

***Securities Act***

**58 (1)** Clause 17 (3) (a) of the *Securities Act* is repealed and the following substituted:

(a) a member of a municipal, provincial, federal or other police service; or

**(2)** Clause 17 (7) (a) of the Act is repealed and the following substituted:

(a) a member of a municipal, provincial, federal or other police service; or

***Substitute Decisions Act, 1992***

**59 (1)** Clauses (b) and (c) of the definition of “facility” in subsection 1 (1) of the *Substitute Decisions Act, 1992* are repealed.

**(2)** Subsection 50 (5) of the Act is amended by striking out “police services board” and substituting “police service board”.

***Taxation Act, 2007***

**60 (1)** Subsection 92 (5.4) of the *Taxation Act, 2007* is amended by striking out “members of the Ontario Provincial Police Force or a municipal police force in Ontario” and substituting “members of a police service as defined in the *Police Services Act, 2018*”.

**(2)** The French version of subsection 134 (2) of the Act is amended by striking out “membre d’un corps policier” and substituting “agent de police”.

***Tobacco Tax Act***

**61** The definition of “police officer” in subsection 1 (1) of the *Tobacco Tax Act* is amended by striking out “subsection 2 (1) of the *Police Services Act*” at the end and substituting “subsection 2 (1) of the *Police Services Act, 2018*”.

***Town of Haldimand Act, 1999***

**62 (1)** The definition of “local board” in subsection 1 (1) of the *Town of Haldimand Act, 1999* is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.

**(2)** Subsections 7 (1), (2) and (3) of the Act are repealed and the following substituted:

**Police service board**

**(1)** On the day subsection 31 (1) of the *Police Services Act, 2018* comes into force, the Haldimand and Norfolk Police Services Board is continued under the name “Haldimand and Norfolk Police Service Board” in English and “Commission de service de police de Haldimand et Norfolk” in French.

**Same**

**(2)** The Haldimand and Norfolk Police Service Board is the police service board of the town and the Town of Norfolk.



### **Jointly constituted board**

(3) The Haldimand and Norfolk Police Service Board is deemed to be a jointly constituted board established under section 24 of the *Police Services Act, 2018*.

(3) Subsection 10 (1) of the Act is amended by striking out “police services boards” and substituting “police service boards”.

(4) Paragraph 2 of subsection 14 (1) of the Act is amended by striking out “Haldimand and Norfolk Police Services Board” and substituting “Haldimand and Norfolk Police Service Board”.

(5) Subsection 19.3 (2) of the Act is amended by striking out “police force” and substituting “police service”.

### ***Town of Norfolk Act, 1999***

63 (1) The definition of “local board” in subsection 1 (1) of the *Town of Norfolk Act, 1999* is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.

(2) Section 7 of the Act is amended by striking out “police services board” and substituting “police service board”.

(3) Subsection 10 (1) of the Act is amended by striking out “police services boards” and substituting “police service boards”.

(4) Subsection 19.3 (2) of the Act is amended by striking out “police force” and substituting “police service”.

### ***Toxics Reduction Act, 2009***

64 Section 42 of the *Toxics Reduction Act, 2009* is repealed and the following substituted:

#### **Calling for assistance of member of police service**

42 Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, the provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render the assistance.

### ***Victims’ Bill of Rights, 1995***

65 (1) The English version of section 2 of the *Victims’ Bill of Rights, 1995* is amended by striking out “police services” wherever it appears and substituting in each case “policing”.

(2) Subsection 2 (4) of the Act is amended by striking out “paragraph 1 of subsection 135 (1) of the *Police Services Act*” at the end and substituting “paragraph 1 of subsection 208 (1) of the *Police Services Act, 2018*”.

### ***Waste Diversion Transition Act, 2016***

66 Section 53 of the *Waste Diversion Transition Act, 2016* is repealed and the following substituted:

#### **Calling for assistance of member of police service**

53 An inspector who is authorized by an order under section 51 to do anything set out in subsection 48 (1) or (4) or section 49 may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render the assistance.

### ***Workers Day of Mourning Act, 2016***

67 Subparagraph 4 ix of section 2 of the *Workers Day of Mourning Act, 2016* is repealed and the following substituted:

- ix. A police service as defined in the *Police Services Act, 2018*.

### ***Workplace Safety and Insurance Act, 1997***

68 (1) Paragraph 3 of the definition of “worker” in subsection 2 (1) of the *Workplace Safety and Insurance Act, 1997* is amended by striking out “police force” at the end and substituting “police service”.

(2) The definition of “police officer” in subsection 14 (1) of the Act is amended by,

- (a) striking out “First Nations Constable” and substituting “First Nation Officer”; and
- (b) striking out “police force” at the end and substituting “police service”.

(3) Subsection 25 (3.1) of the Act is amended by striking out “police force” and substituting “police service”.

(4) Subsection 40 (4.1) of the Act is amended by striking out “police force” and substituting “police service”.

(5) Subsection 41 (17) of the Act is amended by striking out “police force” and substituting “police service”.

(6) Section 70 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.

**(7) Subsection 78 (3) of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”.**

**Commencement**

**69 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

## SCHEDULE 6 CORONERS ACT

**1 (1) Subsection 1 (1) of the *Coroners Act* is amended by adding the following definitions:**

“auxiliary member”, “First Nations Constable”, “police force” and “special constable” have the same meaning as in the *Police Services Act*; (“membre auxiliaire”, “agent des Premières Nations”, “corps de police”, “agent spécial”)

“coroner” means the Chief Coroner, a Deputy Chief Coroner, a regional coroner or a coroner appointed under section 5; (“coroner”)

“research” means a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research; (“recherche”)

“special investigations unit” has the same meaning as in the *Police Services Act*; (“unité des enquêtes spéciales”)

**(2) The definitions of “auxiliary member”, “First Nations Constable”, “police force” and “special constable” in subsection 1 (1) of the Act, as enacted by subsection (1), are repealed and the following substituted:**

“auxiliary member”, “First Nation Officer”, “police service” and “special constable” have the same meaning as in the *Police Services Act, 2018*; (“membre auxiliaire”, “agent de Première Nation”, “service de police”, “agent spécial”)

**(3) Subsection 1 (1) of the Act is amended by adding the following definition:**

“Ontario Special Investigations Unit” means the Ontario Special Investigations Unit continued under the *Ontario Special Investigations Unit Act, 2018*; (“Unité des enquêtes spéciales de l’Ontario”)

**(4) The definition of “Ontario Special Investigations Unit” in subsection 1 (1) of the Act, as enacted by subsection (3), is amended by striking out “*Ontario Special Investigations Unit Act, 2018*” at the end and substituting “*Policing Oversight Act, 2018*”.**

**(5) The definition of “special investigations unit” in subsection 1 (1) of the Act, as enacted by subsection (1), is repealed.**

**2 Sections 3 to 5 of the Act are repealed and the following substituted:**

**Chief Coroner and duties**

**3** (1) The Lieutenant Governor in Council may appoint a legally qualified medical practitioner to be Chief Coroner for Ontario who shall,

- (a) administer this Act and the regulations;
- (b) supervise, direct and control all coroners in Ontario in the performance of their duties;
- (c) conduct programs for the instruction of coroners in their duties;
- (d) bring the findings and recommendations of coroners’ investigations and inquest juries to the attention of appropriate persons, agencies and ministries of government;
- (e) prepare, publish and distribute a code of ethics for the guidance of coroners;
- (f) perform such other duties as are assigned to him or her by or under this or any other Act or by the Lieutenant Governor in Council.

**Deputy Chief Coroners**

(2) The Lieutenant Governor in Council may appoint one or more legally qualified medical practitioners to be Deputy Chief Coroners for Ontario, and a Deputy Chief Coroner shall act as and have all the powers and authority of the Chief Coroner if the Chief Coroner is absent or unable to act or if the Chief Coroner’s position is vacant.

**Delegation**

(3) The Chief Coroner may delegate in writing any of his or her powers and duties under this Act to a Deputy Chief Coroner, subject to any limitations, conditions and requirements set out in the delegation.

**Appointments continued**

(4) A person appointed as the Chief Coroner or as a Deputy Chief Coroner under section 4 of this Act, as it read before the day section 2 of Schedule 6 to the *Safer Ontario Act, 2018* came into force, shall be deemed to have been appointed under this section.

**Regional coroners**

**4** (1) The Lieutenant Governor in Council may appoint a legally qualified medical practitioner as a regional coroner for such region of Ontario as is described in the appointment.

## **Duties**

(2) A regional coroner shall assist the Chief Coroner in the performance of his or her duties in the region and shall perform such other duties as are assigned to him or her by the Chief Coroner.

## **Appointments continued**

(3) A person appointed as a regional coroner under section 5 of this Act, as it read before the day section 2 of Schedule 6 to the *Safer Ontario Act, 2018* came into force, shall be deemed to have been appointed under this section.

## **Appointment of coroners**

**5** (1) The Chief Coroner may appoint one or more legally qualified medical practitioners to be coroners for Ontario.

## **Appointments continued**

(2) A person appointed as a coroner under section 3 of this Act, as it read before the day section 2 of Schedule 6 to the *Safer Ontario Act, 2018* came into force, other than a person to whom subsection 3 (4) or 4 (3) applies, shall be deemed to have been appointed as a coroner under this section.

## **Tenure**

**5.1** (1) A coroner ceases to hold office on ceasing to be a legally qualified medical practitioner.

## **Chief Coroner to be notified**

(2) The College of Physicians and Surgeons of Ontario shall notify the Chief Coroner as soon as possible where the licence of a coroner for the practice of medicine is revoked, suspended or cancelled.

## **Resignation**

(3) A coroner may resign his or her office in writing.

## **Residential areas**

**5.2** (1) The Lieutenant Governor in Council may by regulation establish areas of Ontario.

## **Requirement**

(2) The appointment and continuation in office of a regional coroner or a coroner appointed under section 5 is subject to the condition that he or she is ordinarily resident in the area named in the appointment.

## **Crown Attorney notified of appointment**

**5.3** A copy of the appointment of a coroner shall be sent by the Minister to the Crown Attorney of any area in which the coroner will ordinarily act.

**3** (1) **Subsection 9 (1) of the Act is amended by,**

- (a) striking out “police force” and substituting “police service”; and
- (b) striking out “police officers” and substituting “members of the police service”.

(2) **Subsection 9 (2) of the Act is amended by striking out “police force” and substituting “police service”.**

**4** (1) **The French version of subsection 10 (1) of the Act is amended by striking out “faute intentionnelle” and substituting “inconduite”.**

(2) **Subsection 10 (4) of the Act is repealed and the following substituted:**

## **Death on premises of lock-up**

(4) Where a person dies while detained in and on the premises of a lock-up, the officer in charge of the lock-up shall immediately give notice of the death to a coroner and the coroner shall hold an inquest upon the body.

(3) **Subsection 10 (4.6) of the Act is repealed and the following substituted:**

## **Other deaths in custody**

(4.6) A peace officer shall immediately give notice of a death to a coroner if,

- (a) a person dies while detained by or in the actual custody of the peace officer, or an injury sustained or other event that occurred while the person was detained by or in the actual custody of the peace officer is a cause of the death; and
- (b) subsections (4), (4.1), (4.2), (4.3) and (4.5) do not apply.

(4) **Section 10 of the Act is amended by adding the following subsection:**

## **Use of force**

(4.6.1) A police officer, auxiliary member of a police force, special constable or First Nations Constable shall immediately give notice of a death to a coroner if,

- (a) the use of force by the police officer, auxiliary member, special constable or First Nations Constable is a cause of the death; and
- (b) subsections (4), (4.1), (4.2), (4.3) and (4.5) do not apply.

**(5) Subsection 10 (4.6.1) of the Act, as enacted by subsection (4), is amended by,**

- (a) striking out “police force” in the portion before clause (a) and substituting “police service”; and
- (b) striking out “First Nations Constable” wherever it appears and substituting in each case “First Nation Officer”.

**(6) Section 10 of the Act is amended by adding the following subsections:**

**Coroner to investigate and hold inquest**

(4.6.2) A coroner shall investigate the circumstances of a death and hold an inquest upon the body if the coroner receives a notice that,

- (a) the person died while detained by or in the actual custody of a peace officer;
- (b) an injury sustained or other event that occurred while the person was detained by or in the actual custody of a peace officer was a cause of the death; or
- (c) the use of force by a police officer, auxiliary member of a police force, special constable or First Nations Constable was a cause of the person’s death.

**Other deaths if SIU is investigating**

(4.6.3) If the special investigations unit is conducting an investigation into the circumstances of a death other than a death described in subsection (4.6.2), the Chief Coroner shall ensure that a coroner investigates the circumstances of the death.

**(7) Clause 10 (4.6.2) (c) of the Act, as enacted by subsection (6), is repealed and the following substituted:**

- (c) the use of force by a police officer, auxiliary member of a police service, special constable or First Nation Officer was a cause of the person’s death.

**(8) Subsection 10 (4.6.3) of the Act, as enacted by subsection (6), is repealed and the following substituted:**

**Other deaths if SIU is investigating**

(4.6.3) If the Ontario Special Investigations Unit Director causes an investigation to be conducted into an incident in which the death of a person has occurred other than an incident described in subsection (4.6.2), the Chief Coroner shall ensure that a coroner investigates the circumstances of the death.

**5 Clause 15 (1) (c) of the Act is amended by striking out “in similar circumstances” at the end.**

**6 Subsection 16 (5) of the Act is repealed and the following substituted:**

**Return of things seized**

(5) A coroner who has seized anything under clause (2) (c) shall take reasonable measures to keep it safe and shall return it to the person from whom it was seized as soon as possible after the conclusion of the investigation or, where there is an inquest, of the inquest, unless the coroner is authorized or required by law to dispose of it otherwise.

**7 (1) Section 18 of the Act is repealed and the following substituted:**

**Inquest unnecessary**

**18** (1) Where the coroner determines that an inquest is unnecessary, the coroner shall,

- (a) send a signed statement briefly setting out the results of the investigation to the Chief Coroner as soon as possible; and
- (b) send the division registrar a notice of the death in the form prescribed by the *Vital Statistics Act* as soon as possible.

**Publication of explanation**

(2) If, with respect to an incident that was investigated by the special investigations unit, the coroner determines an inquest is unnecessary, the Chief Coroner shall, in accordance with the regulations, publish an explanation of the coroner’s determination.

**Recommendations**

(3) The coroner may make recommendations to the Chief Coroner related to the death that was the subject of the coroner’s investigation in the interests of public safety, including recommendations to prevent deaths in circumstances similar to those of the death.

**Disclosure to the public**

(4) The Chief Coroner shall bring the information collected during a coroner’s investigation and the investigation’s findings and recommendations, which may include personal information as defined in the *Freedom of Information and Protection of*

*Privacy Act*, to the attention of the public, or any segment of the public, if the Chief Coroner reasonably believes that it is necessary in the interests of public safety to do so.

#### **Information other than personal information**

(5) The Chief Coroner shall not disclose personal information under subsection (2) or (4) if other information will serve the purpose of the disclosure.

#### **Personal information limited to what is reasonably necessary**

(6) The Chief Coroner shall not disclose more personal information under subsection (2) or (4) than is reasonably necessary to serve the purpose of the disclosure.

#### **Record of investigations**

(7) Every coroner shall keep a record of the cases reported in which an inquest has been determined to be unnecessary, showing for each case the coroner's findings of facts to determine the answers to the questions set out in subsection 31 (1), and such findings, including the relevant findings of the *post mortem* examination and of any other examinations or analyses of the body carried out, shall be available to the spouse, parents, children, brothers and sisters of the deceased and to his or her personal representative, upon request.

(2) Subsection 18 (2) of the Act, as enacted by subsection (1), is amended by striking out "special investigations unit" and substituting "Ontario Special Investigations Unit".

8 (1) Clause 20 (c) of the Act is amended by striking out "death in similar circumstances" at the end and substituting "further deaths".

(2) Section 20 of the Act is amended by adding the following subsection:

#### **Inquest deemed necessary**

(2) An inquest required under this Act is deemed to be necessary.

9 (1) Section 25 of the Act is amended by adding the following subsections:

#### **Inquest by judge or lawyer**

(4) The Chief Coroner may direct that a judge, a retired judge or a lawyer shall hold or shall continue an inquest if the Chief Coroner is of the opinion that the procedural or legal issues raised or likely to be raised by the inquest warrant it.

#### **Powers of judge or lawyer**

(5) A judge, retired judge or lawyer appointed to hold or continue an inquest shall have all the powers and duties of a coroner in carrying out the inquest.

(2) The French version of subsection 25 (2) of the Act is amended by striking out "un ou plusieurs décès" and substituting "deux ou plusieurs décès".

10 Subsection 31 (3) of the Act is amended by striking out "death in similar circumstances" and substituting "further deaths".

11 The French version of subsection 33 (2) of the Act is amended by,

- (a) striking out "un constable" and substituting "un agent"; and
- (b) striking out "Le constable" and substituting "L'agent".

12 (1) Subsection 48 (2) of the Act is amended by striking out "police force" and substituting "police service".

(2) The French version of subsection 48 (2) of the Act is amended by,

- (a) striking out "les constables" and substituting "les agents"; and
- (b) striking out "le constable" and substituting "l'agent".

13 The Act is amended by adding the following sections:

#### **Disclosure of personal information**

52.1 (1) The Chief Coroner may, pursuant to an agreement in writing, disclose personal information collected under this Act to a prescribed entity for the purpose of research, data analysis or the compilation of statistical information related to the health or safety of the public, or any segment of the public, if the entity meets the requirements set out in subsection (2).

#### **Approval**

(2) The Chief Coroner may only disclose personal information to a prescribed entity under subsection (1) if,

- (a) the entity has in place practices and procedures to protect the privacy of the individuals whose personal information it receives and to maintain the confidentiality of the information; and

- (b) the Information and Privacy Commissioner has approved the practices and procedures, if the Chief Coroner makes the disclosure on or after the first anniversary of the day this section comes into force.

#### **Review by Information and Privacy Commissioner**

(3) The Information and Privacy Commissioner shall review the practices and procedures of each entity prescribed for the purposes of subsection (1) every three years from the date of its approval and advise the Chief Coroner whether the entity continues to meet the requirements of subsection (2).

#### **Information other than personal information**

(4) The Chief Coroner shall not disclose personal information if other information will permit the entity to engage in the research, data analysis or compilation of statistical information described in the agreement.

#### **Personal information limited to what is reasonably necessary**

(5) The Chief Coroner shall not disclose more personal information than is reasonably necessary for the entity to engage in the research, data analysis or compilation of statistical information described in the agreement.

#### **Use and disclosure**

(6) Subject to the exceptions and additional requirements, if any, that are prescribed, an entity that receives personal information under subsection (1) shall not use the information except for the purposes for which it received the information and shall not disclose the information except as required by law.

#### **Deemed compliance**

(7) For the purpose of clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*, a disclosure of personal information under this section is deemed to be for the purposes of complying with this Act.

#### **Information and Privacy Commissioner's review of practices**

**52.2** (1) The Information and Privacy Commissioner may, from time to time, review the practices of the Chief Coroner or of an entity that is prescribed for the purposes of section 52.1 to determine if the requirements of that section have been met.

#### **Duty to assist**

(2) The Chief Coroner or entity shall co-operate with and assist the Information and Privacy Commissioner in the conduct of a review under subsection (1).

#### **Powers of Information and Privacy Commissioner**

(3) The Information and Privacy Commissioner may require the production of such information and records under the custody or control of the Chief Coroner or entity as are relevant to the subject matter of the review.

#### **Obligation to assist**

(4) If the Information and Privacy Commissioner requires the production of information or a record under subsection (3), the Chief Coroner or entity shall provide it to the Information and Privacy Commissioner and, at the request of the Information and Privacy Commissioner, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

#### **Orders**

(5) If, after giving the Chief Coroner or entity an opportunity to be heard, the Information and Privacy Commissioner determines that a practice contravenes section 52.1, the Information and Privacy Commissioner may order the Chief Coroner or entity to do any of the following:

1. Discontinue the practice.
2. Change the practice as specified by the Information and Privacy Commissioner.
3. Destroy personal information collected or retained under the practice.
4. Implement a new practice as specified by the Information and Privacy Commissioner.

#### **Limit on certain orders**

(6) The Information and Privacy Commissioner may order, under paragraph 2 or 4 of subsection (5), no more than what is reasonably necessary to achieve compliance with section 52.1.

#### **Offence**

**52.3** (1) No person shall,

- (a) wilfully use or disclose personal information in contravention of subsection 52.1 (2) or (6); or
- (b) wilfully fail to comply with an order made by the Information and Privacy Commissioner under paragraph 1 or 3 of subsection 52.2 (5).

**Penalty**

(2) A person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000.

**14 (1) Subsection 56 (2) of the Act is amended by adding the following clauses:**

(b.1) governing the publication of an explanation of a coroner's determination under section 18;

. . . . .

- (g.1) prescribing entities to whom personal information may be disclosed for the purposes of subsection 52.1 (1);
- (g.2) prescribing exceptions and additional requirements for the purposes of subsection 52.1 (6);
- (g.3) specifying requirements, restrictions or prohibitions with respect to the collection, use or disclosure of personal information by a coroner or an entity prescribed under clause (g.1) in addition to the requirements, restrictions or prohibitions set out in this Act;

**(2) Section 56 of the Act is amended by adding the following subsection:****Fees and allowances for appointed judge or lawyer**

(3.1) The Minister may set fees and allowances for judges, retired judges or lawyers appointed to hold or continue an inquest under this Act and may provide for the adjustment of such fees and allowances in special circumstances.

**Commencement**

**15 (1) Subject to subsection (2), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**(2) Subsections 4 (1) and 9 (2), section 11 and subsection 12 (2) come into force on the day the *Safer Ontario Act, 2018* receives Royal Assent.**



## SCHEDULE 7 MISSING PERSONS ACT, 2018

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#### Preamble

The Government of Ontario recognizes the seriousness of the issue of missing persons in Ontario and its negative impact on the family and loved ones of missing persons. The families and loved ones of missing persons have requested that the Government of Ontario enhance the tools available to police when attempting to locate missing persons.

The Government of Ontario recognizes that the circumstances surrounding each missing person's absence are unique, but that sexism, racism, transphobia, homophobia, other forms of marginalization and the legacy of colonization are factors that may increase the risk of a person becoming a missing person.

The Government of Ontario acknowledges the importance of timely and effective measures being available to police to assist with locating missing persons. These measures must also take into account people's privacy interests and agency.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

#### Interpretation

**1** (1) In this Act,

“chief of police” means,

- (a) a chief of police as defined in subsection 2 (1) of the *Police Services Act*, or
- (b) a First Nations Constable who is in charge of a group of First Nations Constables described in clause (b) of the definition of “police force”; (“chef de police”)

“First Nations Constable” means a First Nations Constable appointed under the *Police Services Act*; (“agent des Premières Nations”)

“justice” means a provincial judge or a justice of the peace; (“juge”)

“member of a police force” means,

- (a) a member of a police force as defined in subsection 2 (1) of the *Police Services Act*, or
- (b) a First Nations Constable in a group described in clause (b) of the definition of “police force”; (“membre d’un corps de police”)

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“officer” means,

- (a) a police officer as defined in subsection 2 (1) of the *Police Services Act*, or
- (b) a First Nations Constable; (“agent”)

“police force” means,

- (a) a police force as defined in subsection 2 (1) of the *Police Services Act*, or

- (b) a group of First Nations Constables who are employed by an entity that has an agreement with the Minister; (“corps de police”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“record” means a record or part of a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise; (“dossier”)

“regulations” means the regulations made under this Act. (“règlements”)

### **Missing person**

(2) A person is a missing person for the purposes of this Act if both of the following circumstances exist with respect to the person:

1. The person’s whereabouts are unknown and,
  - i. the person has not been in contact with people who would likely be in contact with the person, or
  - ii. it is reasonable in the circumstances to fear for the person’s safety because of the circumstances surrounding the person’s absence or because of any other prescribed considerations.
2. A member of a police force is unable to locate the person after making reasonable efforts to do so.

### **Measures established**

**2** (1) This Act establishes the following measures to assist members of a police force in locating a missing person in the absence of a criminal investigation:

1. An order issued under subsection 4 (1) for the production of records.
2. An urgent demand made under subsection 5 (1) for the production of records.
3. A search warrant issued under subsection 6 (1) to facilitate a search for a missing person.

### **Order, demand not mandatory**

(2) Nothing in this Act shall be interpreted as limiting a person’s ability to disclose information to a member of a police force in order to assist the member in locating a missing person in the absence of an order or urgent demand for the production of records if the person is not otherwise prohibited by law from disclosing the information.

### **Manner of application**

**3** (1) An officer may apply for an order or warrant under this Act without notice.

### **Same**

(2) In making an application for an order or warrant under this Act, an officer may,

- (a) appear personally before a justice; or
- (b) use a means of written electronic communication.

### **Alternative to oath, written electronic communication**

(3) If an officer who uses a means of written electronic communication makes a statement in writing that the information contained in the application is true to the officer’s knowledge and belief, that information is deemed to have been given under oath for the purposes of this Act.

### **Filing of application**

(4) If an application is made by means of written electronic communication, the justice who receives the application shall, as soon as possible after the application is received, have it filed with the clerk of the court.

### **Form, manner of application**

(5) An application shall be made,

- (a) in the form approved by the Minister; and
- (b) in accordance with any additional procedures that may be prescribed.

### **Order for production of records**

**4** (1) On application by an officer, a justice may make an order requiring any person specified in the order to produce copies of specified records to members of a police force if the justice is satisfied, on the basis of information provided by the officer under oath, that there are reasonable grounds to believe that,

- (a) the records are in the custody or under the control of the person; and

- (b) the records will assist in locating a missing person.

### **Types of records**

(2) Without limiting the generality of subsection (1), the order may specify the following types of records that relate to the missing person or other persons:

1. Records containing contact information or other identifying information.
2. Photos, videos or other records containing visual representations.
3. Records of telecommunications or records that contain other electronic communications information, including information about signals related to a person's location.
4. Records of employment information.
5. Records of personal health information within the meaning of the *Personal Health Information Protection Act, 2004*.
6. Records relating to services received from a service provider as defined in subsection 3 (1) of the *Child and Family Services Act*.
7. Records that relate to a student of an educational institution, including a pupil record described in clause 265 (1) (d) of the *Education Act*, despite the privilege that applies to the pupil record under subsection 266 (2) of that Act.
8. Records containing travel and accommodation information.
9. Records of financial information.

### **Factors to consider**

(3) The justice shall not issue an order unless the justice is of the opinion that the public interest in locating the missing person outweighs the privacy interest of any person whose information may be contained in a record specified in the order.

### **Same**

(4) In determining whether to issue the order, the justice shall consider any information that suggests that the missing person may not wish to be located, including information that suggests that the missing person has left or is attempting to leave a violent or abusive situation.

### **Terms of order**

- (5) The justice may impose any terms on the order that the justice considers appropriate, including terms that,
- (a) specify the timeframe or manner in which the copies are to be produced; and
  - (b) require the person to provide, to a member of a police force, an accounting of the efforts made by the person to locate any records that the person is unable to locate.

### **Oral information**

(6) If the member of a police force consents to it, a person specified in an order may orally provide to the member information contained in a record specified in an order and, despite the terms of the order, disclosure in this manner is deemed to satisfy the requirement to produce a copy of the record.

### **Urgent demand for records**

**5** (1) An officer may make an urgent demand in writing to a person requiring the person to produce copies of records, in accordance with subsection (6), if the officer is satisfied that there are reasonable grounds to believe that,

- (a) the records are in the custody or under the control of the person;
- (b) the records will assist in locating the missing person; and
- (c) in the time required to obtain an order in accordance with section 4,
  - (i) the missing person may be seriously harmed, or
  - (ii) the records may be destroyed.

### **Factors to consider**

(2) An officer shall not make an urgent demand unless the officer is of the opinion that the public interest in locating the missing person outweighs the privacy interest of any person whose information may be contained in a record specified in the demand.

**Same**

(3) In determining whether to make the demand, the officer shall consider any information that suggests that the missing person may not wish to be located, including information that suggests that the missing person has left or is attempting to leave a violent or abusive situation.

**Types of records**

(4) An officer may specify in an urgent demand any records that could be specified in an order made under subsection 4 (1).

**Form, manner of demand**

(5) An urgent demand shall be made,

- (a) in the form approved by the Minister; and
- (b) in accordance with any additional procedures that may be prescribed.

**Duty to comply**

(6) A person who receives an urgent demand shall, as soon as reasonably possible, produce copies of the records specified in the demand that are in the person's custody or under the person's control to a member of the police force.

**Oral information**

(7) If a member of the police force consents to it, a person who receives an urgent demand may orally provide to the member information contained in a record specified in the demand instead of producing a copy of the record.

**Report of request**

(8) An officer who makes an urgent demand under this section shall, within the prescribed timeframe, provide a written report to the member of the police force designated by the chief of police to receive such reports.

**Content of report**

(9) The report shall contain,

- (a) a list of the records specified in the demand;
- (b) the reasons that, in the view of the officer who requested the records, the requirements under subsections (1) and (2) were met in the circumstances; and
- (c) any other prescribed information.

**Notice of request**

(10) An officer who makes an urgent demand under this section, or another officer in the same police force, shall make reasonable efforts to provide notice, in accordance with the regulations, to a person whose information has been produced pursuant to an urgent demand.

**Same, content**

(11) The notice shall include any additional information that may be prescribed.

**Same, timing**

(12) An officer shall comply with subsection (10),

- (a) as soon as practicable after the information is produced; or
- (b) if the officer has reasonable grounds to believe that complying with subsection (10) at the time required by clause (a) may interfere with a member of the police force's ability to locate a missing person, pose a risk to any person's safety or interfere with a law enforcement matter or investigation, at the next reasonable time at which complying with subsection (10) would, in the view of the officer, no longer cause such an interference or pose such a risk.

**Order not precluded**

(13) The fact that an officer has made an urgent demand under this section does not preclude the officer, or another officer, from making an application for an order under subsection 4 (1) requiring the same person to produce copies of the same records.

**Application for warrant authorizing entry**

**6** (1) On application by an officer, a justice may issue a warrant authorizing members of a police force to enter onto a specified premises, including into a building, dwelling, receptacle or place, if the justice is satisfied on the basis of information provided by the officer under oath that there are reasonable grounds to believe that,

- (a) a missing person may be located at the premises; and
- (b) authorizing members of a police force to enter the premises is necessary to ensure the safety of the missing person.

### **Factors to consider**

(2) The justice shall not issue the warrant unless the justice is of the opinion that the public interest in locating the missing person outweighs the privacy interest of any person that may be engaged by members of a police force entering onto the premises.

### **Same**

(3) In determining whether to issue a warrant, the justice shall consider any information that suggests that the missing person may not wish to be located, including information that suggests that the missing person has left or is attempting to leave a violent or abusive situation.

### **Time of execution**

(4) A member of a police force shall only enter a premises pursuant to a warrant between 6 a.m. and 9 p.m., unless the warrant authorizes entry at another time.

### **Same**

(5) A justice shall only authorize entry before 6 a.m. or after 9 p.m. if the justice is satisfied on the basis of information provided by the officer under oath that it is necessary for a member of the police force to enter onto the premises at such a time in order to ensure the safety of the missing person.

### **Provision of warrant**

(6) Unless it is not feasible to do so, a member of a police force who executes a warrant issued under this Act shall have the warrant with the member and produce it upon request.

### **Disclosure of information to the public**

**7** (1) Before a missing person is located, a chief of police or person designated by the chief of police may disclose any information to the public, including personal information, by any means that the chief or designated person considers appropriate if,

- (a) the chief or designated person has reasonable grounds to believe that it will assist in locating the missing person; or
- (b) the disclosure is for a prescribed purpose.

### **Same**

(2) Without limiting the generality of subsection (1), the following information may be disclosed under that subsection:

- 1. The name of the missing person or another person.
- 2. The age and physical description of the missing person or another person.
- 3. A photo or other visual representation of the missing person or another person.
- 4. The fact that the missing person has a medical condition that poses a threat to the person's health and whether the condition requires medication or medical attention. However, the medical condition itself shall not be disclosed.
- 5. Information identifying a specific vehicle.
- 6. The circumstances that may have led to the missing person's absence.
- 7. The times and places at which the missing person may have been seen or places the missing person is known to frequent.
- 8. Any other prescribed information.

### **Disclosure of information re located person**

(3) If the missing person is located, the chief of police or a person designated by the chief of police may disclose to the public,

- (a) the fact that the missing person has been located; and
- (b) if the chief or designated person learns that the missing person is deceased, the fact that the missing person is deceased.

### **Limit on disclosure re located person**

(4) If the missing person is located, a member of a police force shall not disclose a missing person's personal information, including the missing person's location, to facilitate contact between the missing person and the spouse of the missing person or a relative, friend or acquaintance of the missing person except with the consent of the missing person.

**Exception**

(5) Subsection (4) does not apply if a member of a police force has reasonable grounds to believe that a missing person is incapable, within the meaning of subsection (9).

**Same**

(6) Subsection (4) applies despite clause 42 (1) (i) of the *Freedom of Information and Protection of Privacy Act* or clause 32 (i) of the *Municipal Freedom of Information and Protection of Privacy Act*.

**Deemed compliance**

(7) Any disclosure of personal information under subsection (1) or (3) is deemed to comply with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* or clause 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*.

**Other disclosure permitted**

(8) For greater certainty, nothing in this section limits the circumstances in which a member of a police force may disclose a missing person's personal information if the disclosure is otherwise permitted or required by law, subject to subsection (6).

**Definitions**

(9) For the purposes of this section,

"incapable" means unable to understand the information that is relevant to deciding whether to consent to the disclosure of the missing person's personal information and to appreciate the reasonably foreseeable consequences of giving or withholding that consent; ("incapable")

"missing person" includes a person that was, but is no longer, a missing person. ("personne disparue")

**Annual report**

**8** (1) On or before the prescribed date in each year, a chief of police shall prepare an annual report under this section and shall,

- (a) in the case of a municipal chief of police, provide a copy of the report to the board of the police force;
- (b) in the case of a chief of police who is in charge of a group of First Nations Constables, provide a copy of the report to the entity that has an agreement with the Minister; and
- (c) in the case of the Commissioner of the Ontario Provincial Police, provide a copy of the report to the Minister.

**Report public**

(2) After receiving a report, a board or entity shall,

- (a) provide a copy of the report to the Minister; and
- (b) make the report available to the public in the prescribed manner.

**Same**

(3) After receiving the report from the Commissioner of the Ontario Provincial Police, the Minister shall make the report available to the public in the prescribed manner.

**Content of report**

(4) The annual report for a year shall contain,

- (a) the total number of urgent demands made in that year and the number of missing persons investigations to which they related;
- (b) a description of the types of records specified in the urgent demands made in that year; and
- (c) any other prescribed information.

**Review of Act**

**9** The Minister shall conduct a review of this Act within five years after the day this section comes into force.

**Regulations**

**10** The Minister may make regulations,

- (a) respecting any matter that this Act describes as being prescribed by or provided for in the regulations;
- (b) defining any word or expression used in this Act that is not already defined;
- (c) respecting any matter that the Minister considers necessary or advisable to carry out the purposes of this Act.

## **Crown bound**

**11** This Act binds the Crown.

## **Amendments to this Act**

**12 (1)** The definitions of “chief of police”, “First Nations Constable”, “member of a police force”, “officer” and “police force” in subsection 1 (1) of this Act are repealed.

**(2)** Subsection 1 (1) of this Act is amended by adding the following definitions:

“chief of police” means,

- (a) a chief of police as defined in subsection 2 (1) of the *Police Services Act, 2018*, or
- (b) a First Nation Officer who is in charge of a group of First Nation Officers described in clause (b) of the definition of “police service”; (“chef de police”)

“First Nation Officer” means a First Nation Officer appointed under the *Police Services Act, 2018*; (“agent de Première Nation”)

“member of a police service” means,

- (a) a member of a police service as defined in subsection 2 (1) of the *Police Services Act, 2018*, or
- (b) a First Nation Officer in a group described in clause (b) of the definition of “police service”; (“membre d’un service de police”)

“officer” means,

- (a) a police officer as defined in subsection 2 (1) of the *Police Services Act, 2018*, or
- (b) a First Nation Officer; (“agent”)

“police service” means,

- (a) a police service as defined in subsection 2 (1) of the *Police Services Act, 2018*, or
- (b) a group of First Nation Officers who are employed by an entity that has an agreement with the Minister; (“service de police”)

**(3)** Paragraph 2 of subsection 1 (2) of this Act is amended by striking out “police force” and substituting “police service”.

**(4)** Subsection 2 (1) of this Act is amended by striking out “police force” in the portion before paragraph 1 and substituting “police service”.

**(5)** Subsection 2 (2) of this Act is amended by striking out “police force” and substituting “police service”.

**(6)** Subsection 4 (1) of this Act is amended by striking out “police force” in the portion before clause (a) and substituting “police service”.

**(7)** Paragraph 6 of subsection 4 (2) of this Act is amended by striking out “subsection 3 (1) of the *Child and Family Services Act*” at the end and substituting “subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*”.

**(8)** Clause 4 (5) (b) of this Act is amended by striking out “police force” and substituting “police service”.

**(9)** Subsection 4 (6) of this Act is amended by striking out “police force” and substituting “police service”.

**(10)** Subsection 5 (6) of this Act is amended by striking out “police force” at the end and substituting “police service”.

**(11)** Subsection 5 (7) of this Act is amended by striking out “police force” and substituting “police service”.

**(12)** Subsection 5 (8) of this Act is amended by striking out “police force” and substituting “police service”.

**(13)** Subsection 5 (10) of this Act is amended by striking out “police force” and substituting “police service”.

**(14)** Clause 5 (12) (b) of this Act is amended by striking out “police force’s ability” and substituting “police service’s ability”.

**(15)** Subsection 6 (1) of this Act is amended by striking out “police force” in the portion before clause (a) and substituting “police service”.

**(16)** Clause 6 (1) (b) of this Act is amended by striking out “police force” and substituting “police service”.

**(17)** Subsection 6 (2) of this Act is amended by striking out “police force” and substituting “police service”.

**(18)** Subsection 6 (4) of this Act is amended by striking out “police force” and substituting “police service”.

**(19)** Subsection 6 (5) of this Act is amended by striking out “police force” and substituting “police service”.

**(20) Subsection 6 (6) of this Act is amended by striking out “police force” and substituting “police service”.**

**(21) Subsection 7 (4) of this Act is amended by striking out “police force” and substituting “police service”.**

**(22) Subsection 7 (5) of this Act is amended by striking out “police force” and substituting “police service”.**

**(23) Subsection 7 (8) of this Act is amended by striking out “police force” and substituting “police service”.**

**(24) Clause 8 (1) (a) of this Act is repealed and the following substituted:**

- (a) in the case of a chief of police of a police service maintained by a police service board, provide a copy of the report to the board;

**(25) Clause 8 (1) (b) of this Act is amended by striking out “First Nations Constables” and substituting “First Nation Officers”.**

**Commencement**

**13 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**Short title**

**14 The short title of the Act set out in this Schedule is the *Missing Persons Act, 2018*.**



**SCHEDULE 8  
FORENSIC LABORATORIES ACT, 2018**

**CONTENTS**

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**Definitions**

**1** In this Act,

“Minister” means such member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“prescribed” means prescribed by the regulations made under this Act. (“prescrit”)

**Forensic laboratory accreditation**

**Application**

**2** (1) This section applies to a test in a prescribed category of test that is requested,

- (a) for the purpose of legal proceedings;
- (b) for some other legal purpose; or
- (c) pursuant to an order of a court or other lawful authority.

**Accreditation requirement**

(2) No person shall, in a laboratory, conduct a test to which this section applies, unless,

- (a) the laboratory is accredited, by an accrediting body prescribed by the regulations, to a prescribed general standard; and
- (b) if the test is a prescribed test, the laboratory is accredited, by an accrediting body prescribed by the regulations, to a prescribed standard for that test.

**Same**

(3) A person who operates a laboratory shall ensure that no test is conducted in the laboratory in violation of subsection (2).

**Information to provide when test results are provided**

**Application**

**3** (1) This section applies to a person who operates a laboratory,

- (a) in which a test is conducted to which section 2 applies; or
- (b) from which test results are provided that,
  - (i) are the results of a test that was conducted in the laboratory for the purpose of diagnosis, prevention or treatment, and
  - (ii) are requested,
    - (A) for the purpose of legal proceedings,
    - (B) for some other legal purpose, or
    - (C) pursuant to an order of a court or other lawful authority.

**Information to provide and form**

(2) The person to whom this section applies shall ensure that the prescribed information in the prescribed form is provided whenever,

- (a) test results in respect of a test referred to in clause (1) (a) are provided from their laboratory; or
- (b) test results referred to in clause (1) (b) are provided from their laboratory.

**Centralized information**

**4** The Minister may make available to the public the following information concerning laboratories that are accredited to a prescribed general standard referred to in clause 2 (2) (a), and about any other laboratories in which the Minister believes a test to which section 2 applies may have been conducted:

- 1. The name, location and contact information of the laboratory.
- 2. The laboratory's accrediting body.
- 3. The type of tests that the laboratory is accredited for and the tests performed at the laboratory.
- 4. The history of compliance with the requirements of the accrediting body, including the laboratory's current status with respect to those requirements.
- 5. Information about convictions and sentences under this Act.
- 6. Information about how to access other information about the laboratory, including how to access that information online.
- 7. Prescribed information.

**Advisory committee**

**5** The Minister may,

- (a) establish an advisory committee to advise the Minister on the exercise of his or her powers and the performance of his or her duties, functions and responsibilities under this Act;
- (b) appoint the members of the committee, and designate one member as chair and one or more members as vice-chair; and
- (c) determine the terms of reference of the committee.

**Inspections****Appointment of inspectors**

**6** (1) The Minister may appoint, in writing, one or more persons as inspectors for the purposes of this Act.

**Certificate of appointment**

(2) The Minister shall issue every inspector appointed under subsection (1) a certificate of appointment and every inspector, in the execution of his or her duties under this section, shall produce the certificate of appointment upon request.

**Inspections**

(3) For the purpose of determining whether this Act is being complied with, an inspector may, without a warrant, enter and inspect a laboratory.

**Time of entry**

(4) The power under this section to enter and inspect without a warrant may be exercised only during the regular business hours of the laboratory.

**Dwellings**

(5) The power to enter and inspect under this section shall not be exercised to enter and inspect a dwelling.

**Use of force**

(6) An inspector is not entitled to use force to enter and inspect a laboratory.

**Powers of inspector**

(7) An inspector conducting an inspection may,

- (a) examine records or anything else that is relevant to the inspection;
- (b) demand the production of a record or any other thing that is relevant to the inspection;
- (c) remove a record or any other thing that is relevant to the inspection for review;

- (d) remove a record or any other thing that is relevant to the inspection for copying;
- (e) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the laboratory;
- (f) take photographs or make any other kind of recording; and
- (g) question a person on matters relevant to the inspection.

#### **Written demand**

(8) A demand under this section that a record or any other thing be produced must be in writing and must include a statement of the nature of the record or thing required.

#### **Obligation to produce and assist**

(9) If an inspector demands that a record or other thing be produced under this section, the person who has custody of the record or thing shall produce it and, in the case of a record, shall on request provide any assistance that is reasonably necessary to interpret the record or to produce it in a readable form.

#### **Records and things removed from laboratory**

(10) A record or other thing that has been removed for review or copying,

- (a) shall be made available to the person from whom it was removed on request and at a time and place that are convenient for the person and for the inspector; and
- (b) shall be returned to the person within a reasonable time.

#### **Copy admissible in evidence**

(11) A copy of a record or other thing that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

#### **Obstruction**

(12) No person shall hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an inspector conducting an inspection, refuse to answer questions on matters relevant to the inspection or provide the inspector with false information on matters relevant to the inspection.

#### **Personal information in records**

(13) For greater certainty, a reference to a record in this section includes a record that contains personal information as defined in the *Freedom of Information and Protection of Privacy Act* or personal health information as defined in the *Personal Health Information Protection Act, 2004*.

#### **Warrant**

**7** (1) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter a laboratory specified in the warrant and to exercise any of the powers mentioned in subsection 6 (7), if the justice of the peace is satisfied on information under oath that,

- (a) the inspector has been prevented from exercising a right of entry to the premises under subsection 6 (3) or has been prevented from exercising a power under subsection 6 (7); or
- (b) there are reasonable grounds to believe that the inspector will be prevented from exercising a right of entry to the premises under subsection 6 (3) or will be prevented from exercising a power under subsection 6 (7).

#### **Expiry of warrant**

(2) A warrant issued under this section shall name a date on which it expires, which shall be no later than 30 days after the warrant is issued.

#### **Extension of time**

(3) A justice of the peace may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant.

#### **Use of force**

(4) An inspector named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a police officer for assistance in executing the warrant.

#### **Time of execution**

(5) A warrant issued under this section may be executed only between 8 a.m. and 8 p.m., unless the warrant specifies otherwise.

### **Other matters**

(6) Subsections 6 (2) and (7) to (13) apply with necessary modifications to an inspector executing a warrant under this section.

### **Offences**

#### **Unaccredited testing**

**8** (1) Every person who contravenes subsection 2 (2) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000.

#### **Fail to comply with information requirements**

(2) Every person who fails to comply with section 3 is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

#### **Obstruct or disobey inspector**

(3) Every person who fails to comply with subsection 6 (9) or (12) is guilty of an offence and on conviction is liable,

- (a) in the case of a first offence, to a fine of not more than \$25,000; or
- (b) in the case of a second or subsequent offence, to a fine of not more than \$50,000.

### **Evidence**

**9** Sections 2 and 3 do not modify any common law or statutory rule relating to the admissibility of evidence.

### **Crown bound**

**10** This Act binds the Crown.

### **Regulations**

#### **LG in C**

**11** (1) The Lieutenant Governor in Council may make regulations,

- (a) specifying laboratories, legal proceedings, legal purposes, orders, persons or entities with respect to which section 2 or 3 applies or does not apply;
- (b) requiring a person who operates a laboratory to provide information that relates to the accreditation of the laboratory to the Minister;
- (c) providing for such other matters as the Lieutenant Governor in Council considers advisable to carry out the purpose of this Act.

### **Minister**

(2) The Minister may make regulations,

- (a) prescribing categories of tests, accreditation bodies, general standards, tests and standards for prescribed tests, for the purpose of section 2;
- (b) prescribing information for the purpose of section 3 and prescribing requirements for the form in which that information must be presented;
- (c) prescribing information for the purpose of paragraph 7 of section 4.

### **Incorporation by reference**

(3) A regulation made under clause (2) (a) may incorporate a standard, in whole or in part, and with such changes as the Minister considers necessary, as the standard may be amended or remade.

### **Commencement**

**12** The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

### **Short title**

**13** The short title of the Act set out in this Schedule is the *Forensic Laboratories Act, 2018*.