

**RESPONSIBILITIES ASSOCIATED TO INVESTIGATIONS PURSUANT  
TO MINISTERIAL DIRECTIONS**

Good afternoon ladies and gentlemen, and members of CACOLE. I am very pleased to be with you today and am honored to have been invited to speak. As oversight and police conduct professionals, many of you here today are key decision-makers for police discipline in your respective communities. You have a keen interest in the issues that touch our mandates, regardless of your viewpoint. I have been an active member of CACOLE since its conception in 1995, and Chair of the Nova Scotia Police Commission since 1995 to 2001. I have noted in the last few years the increased presence of policing authorities, police members and legal counsel for police unions that are attending oversight conferences. I commend them for their interest, and can only conclude they have observed the impact of civilian oversight, and recognize that it will continue to develop and impact their professions.

In the spring of 2001 I was tasked by the Minister of Justice for Nova Scotia, the Honourable Michael Baker, to conduct inquiries into two incidents. The circumstances of these incidents are completely different from each other, and

in fact they involve separate police departments within the province. One of these matters has concluded the evidentiary or hearing part of the inquiry, while the other has had an additional seven weeks of hearings scheduled. While I cannot comment on the details of these inquiries, I can review some of the issues that major investigations, or inquiries, can have on an oversight agency.

Within Nova Scotia, as in most other provinces in Canada, we have a police oversight body which can, and does, review issues of misconduct of the police.

#### TYPES OF HEARINGS UNDER THE NOVA SCOTIA POLICE ACT:

- Hearings under the Nova Scotia Police Act are common place and typically result from Public and Internal Complaints against police officers. Public complaints are initially investigated by the police department and if unresolved the Complainant can appeal this to the Commission. Our Investigators also attempt to informally resolve complaints but if unsuccessful then they will decide if the matter should be referred to the Nova Scotia Police Review Board to have the merits of the complaint heard before a panel of three. Costs associated to this type of Hearing is limited to expenses & fees for Members of the Review Board, and the cost of the investigation and the administrative support by

the staff of the Police Commission. The province does not fund the legal expenses for complainants, or police departments, however, in the case of the officers they are provided legal services under the contract of their respective unions.

- The second, and infrequently used type of Hearing is an Inquiry directed by the Minister of Justice. The Nova Scotia Police Act provides for Inquiries. Generally speaking this process is limited to those issues which have garnered much public interest and could be necessary in examining policing issues or police behaviour. It has been found that an Inquiry ordered by the Minister of Justice brings added responsibilities and costs not usually associated with those hearings under the jurisdiction of the Police Review Board; beginning with the investigation.

#### ISSUES ASSOCIATED TO INVESTIGATIONS PURSUANT TO MINISTERIAL DIRECTIONS:

- A typical complaint under the Police Act is identified with a breach of the Code of Conduct, however, Ministerial orders often dictate a broader mandate. This could include;

- i) Investigating and reporting on investigations previously conducted;
- ii) Compliance with applicable statutes, orders, rules or directions;
- iii) Investigating the actions of not only police officers, but also other employees of a police department, and could include persons not directly associated with a police department;
- iv) Investigation of ANY MATTER which the Police Commission determines may be relevant to the Inquiry.

· Quite often the magnitude of this type of investigation necessitates assigning an experienced investigator for a considerable length of time.

· It has been found that the investigative process includes gathering of file documents from the potentially affected police departments, possibly other government departments and other sources of information.

· All documentation must be identified for inquiry purposes, catalogued and bound in a manner suitable for presentation as evidence.

· In some instances evidence is not available until commencement of the inquiry, when formal application can be made for an Order to produce those documents deemed relevant.

· Given the legal consequences associated to a Hearing under Ministerial Direction, there

could be a significant number of legal counsel for those persons required to testify. There is a requirement to provide each lawyer with a copy of all relevant file material. Which as you can imagine become labour intensive and certainly strained existing human resources within the Commission office.

The availability of human resources is at times problematic for an investigator. The employees within the Police Commission are quite often requested for a host of administrative matters; thereby taking them away from their normal day to day activities.

Depending on the nature of the matter under review, there may be a requirement to conduct a large number of interviews for the purpose of obtaining information and/or statements to assist in the presentation at the inquiry.

Subject to approval, all costs associated to an investigation/hearing are borne by the Provincial Government. The cost of an investigation/hearing has the potential of being relatively high due to;

- i) If the Police Commission uses contract investigators because they cannot allocate, or in some cases, don't have full time investigators on staff.
- ii) Costs associated to providing disclosure material to each counsel
- iii) Professional fees to all legal counsel representing persons "likely to be affected by the investigation or inquiry" during the investigative process and for preparation and attending the hearing.

- iv) Depending on the location of the hearing, travel costs could be significant.
- v) Professional fees for expert witness called to testify
- vi) Expense fees for Board members and Commission employees
- vii) Recording fees and fees associated to the production of transcripts
- viii) Costs associated to facilities for holding a hearing
- ix) The purchase or rental of audio and visual equipment, computer equipment etc

It is clear that the provincial government in Nova Scotia believes in police accountability to the public, and that is willing to provide the funding to ensure that policing oversight is not just rhetoric but a real commitment.

The importance of civilian oversight has been debated and commented on by numerous authors and scholars within Canada, the US and indeed internationally. It is not just a trend, it is a consciousness of society that will continue to grow and demand to be heard.

These are my comments and I thank you for attention.