

Types of Police Oversight in Canada

I. Jurisdictions with Independent Civilian Investigations

British Columbia – Independent Investigation Offices (IIO)

IIO is a civilian-led investigatory body, responsible for investigating all officer-related incidents that result in death or serious harm that take place in British Columbia (BC). In BC, the IIO has jurisdiction over the RCMP, Municipal Police, Transit Police, Special Provincial Constables and Tribal Police.

The Chief Civilian Director (CCD) is responsible for the management, administration, and operation of the IIO. The CCD can appoint investigators into the IIO provided that the person has not served as a police officer within 5 years of hire. In BC the IIO does not have the authority to lay charges. All cases where the CCD concludes that an officer may have committed an offence are referred to BC Crown Counsel who will decide to whether or not to lay charges.

IIO has 56 full-time staff members where approximately half are investigators and the other half are corporate and support staff.

IIO will sometimes contract police agencies for its investigations, specifically when it requires forensic services, facilities for interview purposes, or special means of transportation (e.g. airplanes and boats).

Alberta and the Yukon – Alberta Serious Incident Team (ASIRT)

ASIRT investigates incidents involving the police that have resulted in death or serious injury in Alberta. It has jurisdiction over all sworn police officers in the province.

ASIRT is governed by Alberta's *Police Act* and is considered a law enforcement agency for the purpose of conducting investigations under the Act.

The Alberta Department of Justice Director of Law Enforcement is responsible for assigning the cases to ASIRT to investigate. ASIRT's Executive Director is responsible for deciding whether charges should be laid.

ASIRT is made up of the civilian Executive Director (ED) who manages a civilian assistant director, two civilian intelligence analyst, four civilian investigators, contract civilian investigators and ten sworn police officers from various police force agencies. The ED will also engage public overseers from the community to ensure independence in the investigation process.

ASIRT has an agreement with the Yukon Government to conduct serious incidents involving RCMP members in the Yukon “M” Division. Yukon pays for the ASIRT service by providing special travel and accommodation funding when needed and ongoing annual funding equivalent of one full-time investigator added to the ASIRT team which equates to \$105,000 per year.

Manitoba – Independent Investigation Unit (IIU)

The Manitoba IIU investigates all serious incidents involving police officers in Manitoba. The IIU has jurisdiction over all police services in Manitoba.

IIU becomes involved in a case after being notified by the police, who are compelled to do so under the *Police Services Act*. Once an investigation is concluded, the civilian director will review and determine the outcome for each case. The civilian director will usually issue news releases when an investigation is both launched and once concluded.

IIU is composed of a civilian director, investigative teams and an administrative team. The investigative team is led by the director of investigations and is comprised of a team commander and eight investigator positions. The administrative team provides support to the investigations process and is comprised of the director of strategic policy and coordination, an office manager and an information administrator.

Investigator can be current or former police officers or civilians with investigative experience. A current police officer who is selected to be an investigator in the IIU must be released from other duties in order to join the IIU.

Ontario – Special Investigation Unit (SIU)

SIU is a law enforcement agency, independent of the police and arms-length of the Government of Ontario.

SIU conducts criminal investigations of incidents involving the police that have resulted in death, serious injury, or allegations of sexual assault. SIU has jurisdiction over all municipal, regional, and provincial police forces. SIU does not have jurisdiction over First Nations Constables or the RCMP based in Ontario; RCMP based in Ontario are employed by the Government of Canada for Federal purposes.

SIU receives complaints from both the police and the public. The Director has the power to initiate an investigation and, where warranted, charge police officers as per the *Police Services Act*. The charges will then be prosecuted by a Crown Attorney.

SIU is comprised of civilian investigators from a range of backgrounds including policing, legal, national security, and immigration. The majority of investigators come from non-policing backgrounds.

SIU has their own in-house forensic service which further establishes the Unit as a fully independent body. The Forensic Identification Services is led by two forensic identification supervisors and ten forensic investigators.

Nova Scotia Newfoundland and PEI – Serious Incident Response Team (SiRT)

SiRT investigates all serious incidents involving the police in Nova Scotia.

The Director of SiRT is independent of the police and Government. The Director oversees all investigations and makes the final decisions with respect to the investigations and charges.

Nova Scotia police agencies are required by law to refer all serious incidents to SiRT. Members of the public and the Minister of Justice can also refer matters to SiRT. Once the investigation is completed, the Director will determine whether to lay criminal charges and will release a public report with a summary of the facts of the matter, conclusions made, and the reasons for those findings.

SiRT is comprised of a civilian director, two former police officers, two civilian investigators with criminal investigative experience, two full-time seconded police officers who answer only to the Director (from the Halifax Regional Police and Royal Canadian Mounted Police), and one administrative staff. SiRT can also call upon forensic support from other Nova Scotia police forces

PEI and NFLD contract SiRT for serious incidents involving police in their respective provinces.

II. Jurisdictions with Police and Civilian Investigation Options

New Brunswick – NB Police Commission (NBPC)

The NBPC is mandated to oversee the management of the public complaints process into the conduct of police officers in New Brunswick. The NBPC has jurisdiction over municipal and regional police officer, policies and services.

The NBPC is an independent body created by the New Brunswick *Police Act*.

The NBPC does not have internal capacity at this time to investigate serious incidents involving injury or death. In the event of a serious offence involving a New Brunswick police force the NBPC will alert the Minister of Justice who will assign an investigator.

Currently a number of MOUs exists which give the Minister of Justice a variety of investigators to appoint. The Minister has the options to appoint a police force from another jurisdiction, a retired police officer, or a person without a policing background to investigate a serious incident. Civilian investigators are generally brought in to investigate a high profile complaint or when the Minister deemed it necessary to ensure impartiality and maintain public confidence in the investigative process.

III. Jurisdictions Without any Civilian Investigation Option

Saskatchewan – Public Complaints Commission (PCC)

PCC receives, investigates, and reviews complaints against municipal police and the RCMP in Saskatchewan.

PCC is comprised of 5 civilian members, including a chairperson and vice-chairperson. The chairperson and vice-chairperson are appointed by the Lieutenant Governor in Council, the other members are appointed by the Government of Saskatchewan.

PCC does not have the capacity at this time to investigate serious incidents involving injury or death. If such an incident occurs as a result of police action by a municipal police service or the RCMP in Saskatchewan, and it is beyond the capacity of PSS, the Deputy Minister of Justice will appoint an investigation observer from another police service. Unlike New Brunswick, the Saskatchewan Government currently does not have any MOUs with civilian investigators and only has the option of appointing another police service to oversee the investigation of a serious incidents. The appointed police service will monitor investigation and report back to the Deputy Minister.

Quebec – La déontologie policière (LDP)

The LDP oversees the conduct of all Québec police officers, wildlife protection officers, special constables, highway controllers and UPAC investigators, as well as Québec police officers. However the LDP does not investigate major incidents involving death or criminal activity by an officer.

If an incident occurs as a result of police action by a Quebec police service that is beyond the capacity of the LDP, the LDP can refer a case to an outside police force for a criminal investigation. The LDP and the Quebec Minister of Public Safety will be provided with the findings of the investigation. The Quebec Ombudsperson has made a recommendation to the Government of Quebec to increase the LDP's investigative capacity or to create of a new independent body to investigate serious incidents involving police officers.

Nunavut – Ottawa Police Service (OPS)

The Government of Nunavut currently has an MOU with the OPS to investigate major police incidents involving the RCMP "V" Division.

Under the MOU investigations are conducted without RCMP oversight and findings are provided to the head of V Division and the Attorney General of Nunavut

Northwest Territories – Alberta's Medicine Hat Police (MHP)

The Government of the Northwest Territories has an MOU with the MHP to provide independent investigation of serious incidents involving the RCMP "G" Division. The MOU with the MHP is quite similar to the agreement between the GN and the OPS.

See Appendix A to this Report for further jurisdictional comparison and analysis.

See Appendix B to this Report for a copy of the MOU between the GN and the OPS.

Expert Opinions on Police Oversight Investigations

There is conflicting expert opinion on the appropriateness and effectiveness of police investigating police.

The RCMP Civilian Review and Complaints Commission's (CRCC) final public report titled "*Police Investigating Police*" proposes a number of recommendations that the CRCC feel would make police investigating police more palatable. These recommendations include:

- 1) Criminal investigations should be conducted by an external agency.
- 2) The rank of the primary investigator must be at least one rank higher than that of the subject member.
- 3) Investigative teams to be assigned, at a minimum, 2 members to reduce the length of time to conduct statutory investigations.
- 4) The investigations should be led by competent senior investigators with a proven track record in court, who have completed the appropriate courses (e.g. sexual assault, major crime, interviewing and interrogation techniques and statement analysis), and who can effectively interview witnesses with strong analytical skills.
- 5) Investigators should be required to consult with the Crown prior to laying any charges against members, given the particular need for independence and impartiality in member investigations.
- 6) Administrative reviews should be undertaken in all cases of serious injury, sexual assault or death to enhance transparency.

The United States Department of Justice Task Force on 21st Century Policing also proposed a number of recommendations to strengthen the process to investigate serious incidents involving the police, including:

- 1) The investigations should be conducted by law enforcement agencies with adequate training, knowledge, and experience investigating police use of force.
- 2) Investigatory agencies should make information on police-related deaths available to the statistics bureau (in our case Statistics Canada and the Nunavut Statistics Bureau).
- 3) Investigatory bodies should, as much as possible, make information available to the public – i.e. without compromising the integrity of the investigation or an affected person's rights.

Other experts argue that oversight investigating agencies should always be completely independent from police agencies. Kevin Kunetski and Kelsi Barkway in their book *Investigations of Police in Canada* prescribe the following recommendations advocating for investigations to be civilian led and thereby independent from police direction and decision making:

- 1) The head of the oversight agency should never have worked as a police officer.
- 2) The head should be employed for a non-renewable fixed term of 5 to 7 years.
- 3) The head should report to an all-party committee of the Legislature or to Parliament, or should otherwise be structured to have real and perceived operational independence the government.
- 4) The agency requires adequate budgets to ensure they will be capable of fulfilling their mandates.
- 5) They should avoid using seconded or serving police officer resources wherever possible.
- 6) The public should have the ability to report incidents directly to the oversight agency.
- 7) They should have the ability to self-initiate investigations.
- 8) Civilian-led oversight agencies, operating within their mandate, should have the sole authority to determine which incidents they will or will not investigate, without influence from any person or entity.
- 9) They should embrace transparency.
- 10) They require strong legislation to ensure independence from the police and the government.

The former director of the Ontario SIU and author of a textbook on police oversight in Canada, Ian Scott spoke to *Nunatsiaq News* on December 4th, 2015 in reference a case

of alleged excessive force by police and said that the investigation should have been conducted by a civilian oversight body. He added that:

It deeply concerns me that another police service is doing [reviews]. That would, in my view, erode any public confidence in their ultimate findings... It may be that police are more forgiving of other police officers than they ought to be.”

Nunavut Specific Considerations

In a unique environment like Nunavut, it would be beneficial for the oversight agency to have local and Inuit cultural knowledge. There are a number of issues that are specific to Northern communities, so having a body that is cognizant of these issues can facilitate the success of the investigations. It would also be useful for the investigative agency to speak Inuit languages in order to question witnesses and gather pertinent information for the investigation, especially in smaller communities.

In addition, due to the limited number of cases and resource constraints, it may be difficult for a Nunavut investigation solution to have all necessary investigative and forensic tools in place in the Territory and would therefore need the backing of outside resources.

Options

Option One – 14(1)(a)

- Pros:
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- Cons:
 - 14(1)(a)
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Option Two – 14(1)(a)

- Pros:
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- Cons:
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Option Three – 14(1)(a)

- Pros:
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- Cons:
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Option Four – 14(1)(a)

- Pros:
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 - 14(1)(a)

 - 14(1)(a)

- Cons:
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 - 14(1)(a)

Option Five – 14(1)(a)

- Pros:
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- Cons:
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 - 14(1)(a)

Appendix 1 Jurisdictional Analysis

Summary by province and territory:

	Who investigates Major Police Incidents across Canada?	Summary
British Columbia	Independent Investigation Offices (IIO)	The IIO is mandated to conduct investigations into officer-related incidents of death or serious harm in order to determine whether or not an officer may have committed an offence. The IIO is established in the Ministry of Justice and is under the command and direction of the Chief Civilian Director.
Alberta	Alberta Serious Incident Response Team (ASIRT)	ASIRT has jurisdiction over all sworn police officers of the province. ASIRT investigates cases which have been assigned to them by the Director of Law Enforcement involving serious injury, death, and other sensitive materials which may have been the result of law enforcement actions.
Saskatchewan	Saskatchewan Public Complaints Commission	Complaints Commission will review allegations of misconduct involving police. However if incident is serious it will be sent to another police force for review.
Manitoba	Independent Investigation Unit of Manitoba (IIU)	IIU has jurisdiction over all police services for the province. The IIU are notified immediately of cases in which serious injury, death or other sensitive incidences occurred which may have been the result of law enforcement action. The Civilian Director will then review and determine the outcome of each incident.
Ontario	Special Investigations Unit (SIU)	SIU conducts investigations of incidents involving the police that have resulted in death, serious injury, or allegations of sexual assault. The SIU is a civilian law enforcement agency independent of the police. While the Unit is an agency of the Ministry of the Attorney General, it maintains an arm's length relationship with the Government of Ontario in its operations. The SIU's investigations and decisions are also independent of the government.
Quebec	La déontologie policière (LDP)	LDP examines and review complaints of misconduct against police in Quebec. LDP does not have capacity to investigate serious incidents. If an investigation into serious incident is necessary the LDP will refer the matter to an outside police force.
New Brunswick	New Brunswick Police Commission	The New Brunswick Police Commission investigates complaints made by an individual, referred to them by the Minister of Public Safety, or through their own action in order to ensure that police conduct is being followed. The Commission

		does not have capacity to investigate serious incidents. For serious incidents, the Government of New Brunswick has the option to step in and contract with an outside police service or specialized civilian investigators if it is determined that police should not be involved in the investigation.
Newfoundland and Labrador	Nova Scotia Serious Incident Response Team (SiRT)	When necessary, Newfoundland and Labrador is serviced by the Nova Scotia SiRT.
Nova Scotia	Serious Incident Response Team (SiRT)	SiRT investigates all cases which involve serious injury, death or other sensitive materials which may have been the result of law enforcement action in Nova Scotia. After the investigation has been complete, the Director (who must be independent of police and government services) then releases a public report of the findings.
Prince Edward Island	Nova Scotia Serious Incident Response Team (SiRT)	When necessary, Prince Edward Island is serviced by the Nova Scotia SiRT.
Yukon	Alberta Serious Incident Response Team (ASIRT)	When necessary, Yukon is serviced by the Alberta ASIRT.
Northwest Territories	Medicine Hat Police Service	The RCMP and NWT Department of Justice have an MOU with the Medicine Hat Police Service to provide for independent investigation of officer involved incidents resulting in death or serious harm.
Nunavut	Ottawa Police Service	The RCMP and Nunavut Department of Justice have an MOU with the Ottawa Police Service to provide for independent investigation of officer involved incidents resulting in death or serious harm. Ottawa Police Service investigations are conducted without RCMP oversight and findings are provided to the head of V Division and the Attorney General of Nunavut.

Mandate:

	Type	Jurisdictions	Other
Mandate: To investigate police related incidents involving the police that result in serious injury of death	Independent civilian of major incidents involving police.	British Columbia, Alberta, Manitoba, Ontario, and Nova Scotia Yukon, Newfoundland, and PEI (contract)	Broader mandates Alberta: investigates sensitive allegation of police misconduct Ontario: investigates sexual assault involving the police.
	Two-tiered system	New Brunswick	Outside police force used unless Department of Justice Determined civilian oversight necessary.
	Police investigation of major incidents involving police.	Nunavut, the Northwest Territories, Saskatchewan, and Quebec	Nunavut & the Northwest Territories: contract out other police services Quebec contract to police from other parts of the province if incident is beyond the capacity of the Commission. Saskatchewan contract to police from other parts of the province if incident is beyond the capacity of the Commission.

Services Provided:

Jurisdiction	Services Provided by Civilian Investigation Body
BC	Minor and major Investigation services, support for stakeholders (including victims and families), legal services, corporate services
Alberta	Minor and major investigation services, community outreach
Saskatchewan	Complaints (misconduct) services but not major incident investigation.
Manitoba	Minor and major Investigation services, policy, community education
Ontario	Minor and major investigative services, forensic identification services, checklist police services (guide for police services under investigation), vehicle fleet, community outreach (including support for affected persons and the First Nations liaison program),
Quebec	Complaints commission Complaints (misconduct) services but not major incident investigation
New Brunswick	Complaints commission Complaints (misconduct) services but not major incident investigation
Nova Scotia	Minor and major investigation services
PEI	None
Yukon	None
Northwest Territories	None
Nunavut	None