

HANDOUT 4: Police Oversight

Overview

Police forces - whether they be municipal, RCMP or tribal - are not above the law; they live by the same laws that they are responsible for upholding. This oversight ensures that police officers, as well as their departments, do not take advantage of their positions of power. It also maintains public confidence in the police.

The police play a very important role in Canadian society. With the powers that have been granted to them by the electorate, they investigate criminal activity and they enforce the laws that are created by the democratically elected members of Parliament and the Legislature. For many people, the image of the police officer is a comforting one; it is an image of the brave fellow-citizen who has put him or herself at potential risk in order to "serve and protect" the members of the community.

Indeed, not all people share this image of law enforcement and, even amongst those who do, it is known that not all police officers always live by the same laws that they are charged with upholding. In recent years, and throughout history, there have been many stories and allegations of abuses committed by police officers in Canada. Given the breadth of the powers that are entrusted to the police, the question of police oversight is a particularly important one.



Specific Example of Recent Alleged Police Misconduct

The year is 2005. A twenty-two year old man is caught drinking beer outside a hockey arena in Houston, B.C. After giving the R.C.M.P. a false name, he is put in the back of a police car and taken to the police station. Twenty minutes later, Ian Bush lies on the floor, dead, having been shot in the back of the head.

It's a cold January night. Three suspected drug dealers with lengthy criminal records are removed from the Granville Street Mall area in Vancouver, BC. The police take them to Stanley Park where, one by one, they are taken out of the police vehicle and beaten.

One night, a young aboriginal man is taken on a "starlight tour", which is to say that he is driven to the outskirts of Saskatoon by two police officers and abandoned in the sub-zero temperatures of the Saskatchewan night. The chief of police admits that this is not an isolated incident. Over the years, several aboriginal men are found frozen to death on the outskirts of town. A similar incident occurs in Merritt, British Columbia when an aboriginal man is beaten by police and left in the bush. He survives.

Two off-duty R.C.M.P. officers leave a lower-mainland bar one night, highly intoxicated. The two officers proceeded to assault three men and to falsely identify themselves as Port Coquitlam Police and as undercover police agents.

Who is affected by police misconduct?

While police misconduct can negatively and directly affect any member of society, it is not true that everyone has the same likelihood of being affected. It has been documented that police misconduct of the violent sort disproportionately targets aboriginal people, people from marginalized ethnic communities and/or people living on low-incomes.

Policing and Oversight in British Columbia

The provision of policing services in British Columbia is delivered by: 1) municipal police forces, 2) tribal police forces, and 3) the RCMP. When a complaint is lodged against a member of a police force or the force itself, the process employed to investigate and resolve the complaint is monitored by one of two institutions that provide civilian oversight in the province. Municipal and some tribal police forces are subject to the oversight of the Office of the Police Complaint Commissioner while concerns about the conduct of the RCMP are directed to the Commission for Public Complaints Against the RCMP.

Office of the Police Complaint Commissioner (OPCC)

The Police Complaint Commission is an independent civilian organization that is accountable to the Legislature of British Columbia. It is responsible for overseeing 15 municipal and tribal police forces such as the Vancouver Police Department, Stl"atl'imx Tribal Police Services, and the Victoria Police Department.

The Commissioner has a number of duties. Among these are: overseeing the complaints process regarding municipal/tribal police forces, their policies, and their officers; receiving and tracking complaints; compiling data regarding lodged complaints, and; regular reporting to the public regarding complaints and the complaint process.

There are limitations to the work that the OPCC can do. One of the most often-mentioned limitations is in relation to the investigation process. The practice of internally investigating complaints raises concerns in two key regards. First, there is the concern that there will be a perception of bias in having people investigate members of their own police force. Public confidence in the police is important and that confidence will waiver where there does not appear to be any accountability.

Second, it has been suggested that, in fact, internal investigations do not always lead to complete and fair investigations. In a recent review of the police complaints process, former B.C. Court of Appeal justice Josiah Wood QC recommended greater powers for

the OPCC to investigate and to monitor internal investigations. In his study, the former justice found that, while 80% of investigations were adequately carried out, the one in five that aren't adequately done were generally in regard to the more serious breaches of the public trust.

The Commission for Public Complaints Against the R.C.M.P.

The Commission for Public Complaints Against the RCMP (CPC) provides a similar service with respect to the RCMP as that provided by the OPCC with respect to municipal police forces. The CPC oversees all RCMP policing activity but does not have any power in regard to the RCMP national security powers. The National Security activities of the RCMP are not subject to civilian oversight of any kind.

The complaint process at the CPC is similar to that found at the OPCC. Once a complaint is received, the RCMP conducts an internal investigation and reports to the complainant. There may also be a process of mediation in an effort to reach an informal resolution of the complaint. If the complainant is satisfied with the RCMP report, the process ends and the complaint is closed. If the complainant is unsatisfied, a complainant can request a review by the CPC.

Upon review, if the Chair of the CPC finds that the report is satisfactory, the process ends. If, however, the Chair is unsatisfied, they may take a number of steps including: conducting a review of the complaint without any further investigation; requesting that the RCMP investigate further, initiating an investigation on behalf of the CPC, and holding a public hearing. During a review, an interim report will be prepared by the CPC and sent to the RCMP Commissioner. Ultimately, once the process is at an end, a final report is sent to the RCMP Commissioner, the Minister of Public Safety and the complainant. None of the reports prepared by the CPC are binding on the RCMP.

Conclusion

In order to place into check the vast powers granted to the police, and in order to maintain public confidence in the police, it is important that there is civilian oversight of the individual officers and of the departments. In British Columbia, the OPCC and the CPC provide that service. In both the context of municipal and federal policing, it has recently been noted that the majority of internal investigations are conducted in a fair and just manner. However, there are also those that are not seen to lead to a just result.

What balance should be struck to ensure the adequacy of civilian oversight? Should recommendations be binding on the police? Does this undermine the authority of a police chief? Should internal investigations ever be permitted? These and other questions will continue to be debated until that balance is reached.