

1973 Bill 26

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

The Police Act, 1973

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

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BILL 26

1973

THE POLICE ACT, 1973

(Assented to , 1973)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act,

- (a) "Board" means the Law Enforcement Appeal Board;
- (b) "commission" means a municipal police commission;
- (c) "council" means
 - (i) the council of a city, town or village, or
 - (ii) the board of administrators of a new town;
- (d) "Director" means the Director of Law Enforcement;
- (e) "mayor" includes the chairman of the board of administrators of a new town;
- (f) "urban municipality" means a city, town, new town or village.

PART 1

PROVINCIAL POLICING

2. The Lieutenant Governor in Council may, from time to time, authorize the Attorney General on behalf of the Government of Alberta to enter into an agreement with the Government of Canada for the use or employment in all or any portion of Alberta of the Royal Canadian Mounted Police in aiding in the administration of justice and in carrying into effect the laws of Alberta.

3. Where an agreement is in force under section 2, the Royal Canadian Mounted Police shall be responsible for the policing of all or any part of Alberta as provided in the agreement but not including any urban municipality having a population in excess of 1,500 persons.

Explanatory Notes

1. Definitions.

2. Policing agreement.

3. Jurisdiction under agreement.

PART 2

ADMINISTRATION

4. (1) The Lieutenant Governor in Council may establish a board to be known as the "Law Enforcement Appeal Board" composed of not more than three members appointed by the Lieutenant Governor in Council.

(2) No member of the Board shall be appointed for a term of more than three years but any member is eligible for reappointment.

5. (1) The Lieutenant Governor in Council shall prescribe the fees or remuneration to be paid to members of the Board.

(2) The members of the Board shall be paid expenses as prescribed by the regulations for subsistence and travelling while absent from their ordinary places of residence and in the course of their duties as members of the Board.

6. (1) The Lieutenant Governor in Council shall designate one of the members of the Board as chairman.

(2) In the case of illness, absence or other disability of the chairman, the member with the longest period of service on the Board and present, shall act in the stead of the chairman.

(3) For the purpose of subsection (2) where two persons have an equal period of service on the Board the member earliest named in the order appointing the members and present shall act in the stead of the chairman.

7. (1) In the event of the absence of any members of the Board, or of their inability to act, or in the event of any vacancies in the membership of the Board, the member or members of the Board present may exercise all the jurisdiction and powers of the Board.

(2) Where any member is absent from Alberta or, in the opinion of the Lieutenant Governor in Council, is by reason of illness or any other cause incapable of performing his duties, the Lieutenant Governor in Council may by order appoint a person to act in the place and stead of the absent or incapacitated member for such period and upon such terms and at such remuneration as may be prescribed by the Lieutenant Governor in Council.

(3) During the period for which he is appointed, the person appointed under subsection (2) may discharge the duties and has all the rights and powers of a member of the Board.

4. Law Enforcement Appeal Board established.

5. Payment to members.

6. Chairman of the Board.

7. Remaining member will be able to exercise the powers of the Board and pro tem members will be able to be appointed.

8. An order, rule, recommendation, decision or other document of the Board may be signed by the chairman or a member of the Board and shall be admitted in evidence as prima facie proof

(a) that the order, rule, recommendation, decision or other document is the act of the Board, and

(b) that the person signing it was duly authorized to do so,

without proof of the appointment of the person signing as a member of the Board, or of his designation as chairman, or of his signature.

9. (1) The Board or the chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board.

(2) A member authorized pursuant to this section to report to the Board upon a question has and may exercise all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for the purpose of his report.

(3) When a member so authorized reports to the Board, the report may be adopted as the order of the Board or otherwise dealt with by the Board in any manner it considers proper.

10. (1) Subject to the approval of the Attorney General, the Board may from time to time appoint one or more experts or persons having special technical or other knowledge to enquire into and report to the Board in respect to any matter before the Board or in respect of which the Board considers it necessary to have information for the proper carrying out of its duties under this or any other Act.

(2) A person appointed by the Board pursuant to this section shall be paid such remuneration as may be prescribed by the Attorney General.

11. The Board and each member of the Board has all the powers of a commissioner appointed under *The Public Inquiries Act*.

12. The Attorney General may, upon the request of the Board or the chairman, appoint counsel to assist the Board in an inquiry, hearing or investigation under this Act.

13. Any person likely to be affected by an inquiry, hearing or investigation conducted by the Board is entitled to appear before the Board and be heard and to be represented by counsel or agent.

8. Signing of documents.

9. A single member will be able to exercise the powers of the Board for the purpose of reporting on matters of Board concern.

10. Technical assistance will be possible.

11. Self-explanatory.

12. The Attorney General will be able to provide legal assistance to the Board.

13. There will be a right to be heard by the Board.

14. (1) The Board shall hold meetings as it considers necessary.

(2) The Board may hold sittings and conduct investigations, hearings and inquiries at any place in Alberta.

(3) Where it is in the public interest to do so, the Board or the Attorney General may direct that the whole or any portion of a hearing, investigation or inquiry under this Act be held in private.

15. (1) The Attorney General shall appoint a secretary to the Board and the person so appointed shall

- (a) keep a record of all proceedings conducted before the Board or any member thereof,
- (b) have the custody and care of the records and documents of the Board, and
- (c) ensure that all orders and recommendations made by the Board are drawn pursuant to the directions of the Board, properly authenticated and filed.

(2) A member of the Board may act as secretary in the absence of the secretary.

16. The Board shall, after the close of each calendar year, file with the Attorney General a report showing briefly the number and nature of the investigations, hearings and inquiries that it held, summaries of the findings made thereon and such other matters as the Lieutenant Governor in Council may direct.

17. In accordance with *The Public Service Act* there may be appointed a Director of Law Enforcement who shall promote the prevention of crime and the efficiency of the police service of Alberta and for this purpose the Director of Law Enforcement may

- (a) carry out the necessary research and planning for and develop projects for
 - (i) improving the standards for the selection and training of municipal policemen, special constables, by-law enforcement officers, auxiliary constables, and
 - (ii) the development of any program designed to improve relations between the police and communities;
- (b) serve as consultant to the Attorney General on matters related to crime prevention and law enforcement functions and to perform similar duties, at their request, to municipal police commissions, municipal councils and chiefs of police.

14. Business of the Board.

15. The Attorney General will appoint a secretary to the Board.

16. The Board will be required to report annually.

17. Duties of the Director of Law Enforcement.

PART 3
MUNICIPAL POLICE

18. (1) Every urban municipality having a population in excess of 1,500 persons is responsible for providing and maintaining an adequate and efficient police force in accordance with its needs.

(2) The obligation of an urban municipality to provide and maintain a police force as required by subsection (1) may be discharged by the appointment of members of the police force by a municipal police commission or by entering into an agreement as provided for in section 36 and not otherwise.

(3) The council of an urban municipality having a population in excess of 1,500 persons shall provide lock-up accommodation adequate for the needs of the municipality.

19. The Government of Alberta is responsible for providing and maintaining an adequate and efficient police force to meet the needs of all areas of Alberta to which section 18, subsection (1) does not apply.

20. The last municipal census or population census under the *Statistics Act* (Canada), whichever is more recent, shall be the basis for determining population under this Act.

21. (1) When, in the opinion of the Attorney General, the council of any urban municipality to which section 18 applies is not providing or maintaining an adequate and efficient police force or is not complying with this Act or the regulations, the Attorney General may notify the council of that fact and request the council to take such steps as he considers necessary.

(2) Where the council neglects or refuses to comply with a request made under subsection (1), the Attorney General may

- (a) appoint municipal constables for that municipality at such salaries as he considers proper, or
- (b) do any other thing necessary to create an adequate and efficient police force within the urban municipality.

(3) The salaries of municipal constables appointed by the Attorney General and any other costs incurred under subsection (2) shall be paid by the urban municipality and in default of such payments, the amounts shall be paid by the Government of Alberta and may be recovered by the Government by deducting such amounts from any grant payable out of provincial funds to the urban municipality or by an action in debt.

18. Obligation to police municipalities of over 1,500 population.

19. Provincial obligation.

20. Self-explanatory.

21. The Attorney General will be able to ensure adequate policing of a municipality.

22. The Attorney General for Alberta is responsible for the administration of justice and the enforcement of those laws which the Government of Alberta is required to enforce.

23. (1) The council of an urban municipality having a population of more than 1,500 persons shall provide for a municipal police commission unless it has entered into an agreement under section 36, in which case the establishment of a commission shall be at the option of the urban municipality.

(2) The council shall, by by-law, prescribe the rules and regulations governing the proceedings and meetings of the commission including under what conditions, if any, all or any part of a meeting of the commission may be held in private.

(3) The commission shall, at the option of the council, consist of either

- (a) five members to be appointed by the council two of whom may be members of the council or municipal employees, or
- (b) three members to be appointed by the council, one of whom may be a member of the council or a municipal employee,

but in either event no member of the council and no municipal employee may be chairman of the commission.

(4) The council may provide for the payment of reasonable remuneration or of a gratuity or allowance to members of the commission.

(5) The term of office of persons appointed to a commission shall be for a period of three years or such lesser term as may be fixed by by-law and any member may be reappointed except that the appointment of a member of a council shall terminate when the appointee ceases to be a member of that council.

(6) All persons appointed to a commission shall take the official oath prescribed by *The Oaths of Office Act*.

24. The commission shall elect a chairman from among its membership at its first meeting in each year and may elect one or more vice-chairmen.

25. (1) The commission is, subject to section 22, responsible for the policing and maintenance of law and order in the urban municipality.

(2) The members of the police force in an urban municipality shall be appointed by the commission but the appointment of a chief of police is subject to ratification by the council.

22. Responsibility of the Attorney General.

23. Establishment of municipal police commissions.

24. Election of commission chairman.

25. Authority over police force.

(3) Every member of the police force of an urban municipality, however appointed, is, from and after the passing of the by-law establishing a commission, subject to the jurisdiction of the commission and shall obey the lawful directions of the commission.

(4) Notwithstanding subsection (3), except when communicating a decision of the commission, no member thereof shall issue or purport to issue any order, direction or instruction to any member of the municipal police force relative to his duties as a member of the force.

(5) The commission may conduct a hearing to inquire into the administration, operation or requirements of the police force and for this purpose has the powers of a commissioner appointed under *The Public Inquiries Act*.

26. Except when inconsistent with the provisions of this Act, the direction of the police force with respect to discipline within the force and to the maintenance of law and order in the urban municipality is the responsibility of the chief of police or any person acting for him.

27. The council of an urban municipality may obtain any information it considers necessary to enable it to assess the efficiency and financial requirements of its police force from any source including the commission.

28. Each member of the police force before entering upon his duties shall take the official oath prescribed by *The Oaths of Office Act*.

29. The chief of police of a city, town or new town having a population in excess of 5,000 persons shall be a Canadian citizen.

30. (1) A member of a municipal police force shall wear only the uniforms and insignia approved by the council of the urban municipality.

(2) If the Attorney General is of the opinion that the uniform or the insignia worn or displayed by any person or used by any organization is so similar to that used by a municipal police force or by the Royal Canadian Mounted Police that the public may be misled, the Attorney General may, by order in writing served by ordinary mail, require such person or organization to desist from the use of such uniform or insignia.

(3) Any person or organization which fails to comply with an order under subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and in the case of an individual to imprisonment for a term of not more than 30 days in default.

26. The chief of police will be responsible for discipline in the force.

27. Information to council.

28. Oath of office.

29. Citizenship requirement for chief.

30. The Attorney General may take steps to prevent other persons being confused by their appearance with police officers.

31. (1) Every member of a police force has the power and it shall be his duty to

- (a) perform all duties that are assigned to peace officers in relation to
 - (i) the preservation of peace,
 - (ii) the prevention of crime and of offences against the laws in force in Alberta, and
 - (iii) the apprehension of criminals and offenders and others who may lawfully be taken into custody,and
- (b) execute all warrants and perform all duties and services thereunder or in relation thereto that under the laws in force in Alberta may lawfully be executed and performed by peace officers.

(2) A member of a municipal police force has authority throughout Alberta in the execution of his duties as a member of the municipal police force for which he is appointed.

(3) The Attorney General may at any time, with the verbal or written consent of the chairman of the commission where there is one, or if none, of the mayor of an urban municipality, direct a member of the municipal police force to serve in any part of Alberta outside the boundaries of the municipality.

(4) The urban municipality shall be reimbursed by the Attorney General for the salaries and expenses of any member of the municipal police force serving outside the urban municipality pursuant to a direction under subsection (3).

32. The chief of police shall maintain discipline within the force by applying the procedures and penalties set out in the regulations or any other rules or regulations that are applicable to members of the police force.

33. (1) Complaints, including those received by the Attorney General or the commission, respecting the conduct or performance of duty of any member or members of a police force other than the chief of police, shall be directed in the first instance to the chief of police for investigation and such action as he considers advisable.

(2) Complaints, including those received by the Attorney General, the Board, the commission or, where there is no commission, the council respecting the conduct or performance of duty of any member or members of the Royal Canadian Mounted Police shall be directed in the first instance to the Commanding Officer of the Royal Canadian Mounted Police in Alberta for investigation and such action as he considers advisable.

31. Powers, duties and jurisdiction of police.

32. Discipline.

33. This section will set out the procedure for dealing with complaints and for appealing decisions on complaints.

(3) Where practical a complaint shall be in writing and signed by the complainant.

(4) The chief of police or the Commanding Officer of the Royal Canadian Mounted Police, as the case may be, shall cause each complaint to be investigated and as soon as possible after receipt of the complaint shall inform the complainant in writing as to whether he has found all or any portion of the complaint to be justified and whether disciplinary action is to be taken and in all cases where the chief of police or Commanding Officer of the Royal Canadian Mounted Police, as the case may be, has found all or any portion of the complaint not to be justified he shall inform the complainant of the provisions of this Act with respect to the complainant's right of appeal to the Law Enforcement Appeal Board.

(5) The complainant may, within 30 days after receipt of the information referred to in subsection (4), file with the secretary of the Board a notice of appeal setting forth the grounds upon which the appeal is based.

(6) The commission may request that the Board investigate the whole or any portion of a complaint held by the chief of police under subsection (4) not to be justified.

(7) The Board may undertake an inquiry respecting any complaint on its own motion.

(8) Any member of a municipal police force who feels himself aggrieved by disciplinary action taken against him under this Act or the regulations may appeal to the Board in accordance with the regulations.

(9) The chief of police shall, when requested to do so, supply the Board or commission with copies of all investigation reports, statements and correspondence sent and received with respect to a complaint.

(10) The Commanding Officer of the Royal Canadian Mounted Police shall, when requested to do so, supply the Board with copies of all investigation reports, statements and correspondence sent or received with respect to a complaint.

(11) In conducting an investigation or determining an appeal under this section the Board may make its decision on the record or, where it considers it necessary, may hear evidence.

(12) If the Board determines that a complaint or any portion of a complaint is justified, it shall refer the matter back to the chief of police or the Commanding Officer of the Royal Canadian Mounted Police, as the case may be, for the imposition of such punishment as he considers necessary.

(13) A complainant, in the case of an appeal under subsection (5), shall be advised in writing as to the decision of the Board.

(14) In determining an appeal under subsection (8) the Board may

- (a) dismiss the appeal, or
- (b) allow the appeal, or
- (c) vary the punishment imposed, or
- (d) affirm the punishment imposed, or
- (e) refer the matter back to the chief of police for review.

34. The commission shall conduct any investigation into a complaint respecting the conduct of or performance of duty by the chief of police and the provisions of section 33 apply with all necessary modifications to a complaint against a chief of police and any reference to a chief of police in that section shall be deemed to be a reference to the commission.

35. The secretary of the Board shall prepare for the information of the Attorney General a brief summary of each complaint made with respect to the conduct or performance of duty by any person under the provisions of this Act or the regulations, including the action taken by the investigating authority and, where applicable, the results of any appeal or inquiry made by the Board.

36. (1) Subject to the prior approval of the Lieutenant Governor in Council, any urban municipality having a population of not less than 1,500 may enter into an agreement with the Government of Canada for the use or employment of the Royal Canadian Mounted Police to aid in the administration of justice and in carrying into effect the laws of the urban municipality and may, in any such arrangement, agree upon and determine the amount of money to be paid by the urban municipality for such services.

(2) No urban municipality may make a contract, otherwise than in accordance with subsection (1) or pursuant to section 25, to authorize any person to provide police services within the municipality.

37. Where, pursuant to section 36, an agreement exists between an urban municipality and the Government of Canada and where the urban municipality has a commission as provided for in section 23, the provisions of sections 25 to 32 do not apply but the commission shall act in an advisory capacity to the senior member of the Royal Canadian Mounted Police located in the urban municipality to the Attorney General and to the council of the urban municipality with respect to the policing of the urban municipality.

34. A complaint against the chief of police will be dealt with by the local commission in the first instance.

35. The Attorney General will be advised of complaints and results.

36. Municipalities of not less than 1,500 people may contract with the RCMP, but no one else, to provide their police service.

37. The commission will merely advise where policing is done by the RCMP.

PART 4
GENERAL

38. (1) The Attorney General may

- (a) appoint such special constables as he considers necessary,
- (b) define the offices, positions, territorial jurisdiction and duties of special constables, and
- (c) make regulations governing the office, position, duties and conduct of special constables and any other matter concerning special constables.

(2) The Attorney General may delegate the authority to appoint special constables to any official of the Department of the Attorney General.

39. The mayor or any municipal official designated by the council may, with the approval of the Attorney General or any other person designated by the Attorney General to so act, appoint one or more by-law enforcement officers who shall have the authority of a peace officer only with respect to the enforcement of the by-laws of the urban municipality.

40. (1) The appointment of every special constable or by-law enforcement officer shall be in writing and shall state clearly the territorial jurisdiction and duties of the special constable or by-law enforcement officer and his authority as a peace officer shall only be as so stated.

(2) Every special constable or by-law enforcement officer, before entering upon his duties, shall take the official oath prescribed by *The Oaths of Office Act*.

41. (1) A commission of an urban municipality in respect of which there is no agreement under section 36 may appoint auxiliary members of its police force not in excess of a maximum number approved by the Attorney General, and may suspend or terminate any such appointment.

(2) Where an emergency exists or where the members of a police force are not adequate to meet a special situation, the chief of police may authorize auxiliary members of the municipal police force to perform police duties, and while so authorized an auxiliary member is a peace officer and has authority to act as a regular member of the force.

(3) Prior to acting under subsection (2) the chief of police, where time and circumstances permit, shall obtain the approval of the commission but where the prior approval is not obtained the authorization ceases to be valid at the expiration of 24 hours unless the commission earlier ratifies the authorization.

38. The Attorney General will be able to appoint special constables.

39. Municipalities will be able to appoint by-law enforcement officers.

40. Jurisdiction of special constable and by-law enforcement officers.

41. Auxiliary police will be able to be utilized when necessary.

42. (1) The reeve or secretary-treasurer of any county or municipal district may, with the approval of the Attorney General or any other person authorized by the Attorney General to so act, appoint one or more constables to enforce the by-laws of the county or municipal district and such other duties as may rest entirely within the responsibility of the county or municipal district.

(2) The appointment of a county or municipal district constable may be on a full-time basis, part-time basis or combined with the conduct of other duties for which he is employed by the county or municipal district.

(3) Every appointment shall be in writing and state clearly both the territorial jurisdiction and the duties of the county or municipal district constable.

(4) Notwithstanding subsection (3), when the county or municipal district constable is assisting a municipal police force or the Royal Canadian Mounted Police in an emergency situation, his authority as a peace officer extends, as may be required, beyond the territorial jurisdiction stated in his appointment.

(5) When it appears to be expedient for a county or municipal district constable to enforce any provision of an Act of the Legislature of Alberta, the Attorney General may appoint county or municipal district constables to be special constables as provided for in section 38 and the provisions of section 40 and the regulations apply.

43. (1) The Lieutenant Governor in Council may make regulations

- (a) for the government of municipal police forces and governing the conduct, duties, suspension and dismissal of members of municipal police forces;
- (b) governing the qualifications for the appointment of persons to municipal police forces;
- (c) governing the qualifications required for appointment as a special constable or by-law enforcement officer;
- (d) providing for financial aid to members of municipal police forces for participating in police training or police education programs;
- (e) prescribing the procedures for dealing with complaints respecting the conduct or performance of duties by members of police forces, special constables and by-law enforcement officers;
- (f) prescribing rates of fees, remuneration and subsistence and travel allowances payable under this Act or the regulations;
- (g) respecting any matter necessary or advisable to carry out the provisions of this Act.

42. Provision will be made for policing in counties and municipal districts.

43. Regulations.

(2) Any regulation made under the authority of subsection (1) may be general or particular in its application.

44. (1) The Attorney General may make regulations

- (a) prescribing the minimum number of members of police forces that shall be employed either upon a basis of population, area, property assessment, or any combination thereof, or upon any other basis;
- (b) prescribing minimum requirements respecting clothing and equipment to be furnished by municipalities;
- (c) prescribing basic courses of training for members of municipal police forces;
- (d) prescribing the records, returns, books and accounts to be kept and made by municipal police forces or the members thereof;
- (e) prescribing the method of accounting for fees and costs and other money that comes into the hands of members of municipal police forces.

(2) Any regulation made under the authority of subsection (1) may be general or particular in its application.

45. *The Animal Protection Act* is amended as to section 9, subsection (2) by adding after the words "*The Police Act*," the figure "1973,".

46. *The Police Act, 1971* is repealed.

47. This Act comes into force on July 1, 1973.

44. Regulations.

45. Consequential amendment to chapter 19 of the Revised Statutes of Alberta 1970.

46. This section will repeal chapter 85 of the Statutes of Alberta, 1971.