

2007 Bill 16

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

POLICE AMENDMENT ACT, 2007

THE SOLICITOR GENERAL AND MINISTER OF PUBLIC SECURITY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 16

2007

POLICE AMENDMENT ACT, 2007

(Assented to _____, 2007)

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

Amends RSA 2000 cP-17

1 The *Police Act* is amended by this Act.

2 Section 46.1 is amended

- (a) **in subsection (2) by adding the following after clause (c):**
 - (d) in accordance with section 46.2, direct the head of an integrated investigative unit to conduct an investigation into the incident or complaint, which may include taking over an ongoing investigation at any stage.
- (b) **in subsection (3) by striking out “subsection (2)(a) or (b)” and substituting “subsection (2)(a), (b) or (d)”;**
- (c) **in subsection (4) by striking out “subsection (2)(b)” and substituting “subsection (2)(b) or (d)”;**
- (d) **in subsection (6) by striking out “subsection (2)(b)” and substituting “subsection (2)(b) or (d)”;**
- (e) **in subsection (11) by striking out “subsection (2)(a) or (b)” and substituting “subsection (2)(a), (b) or (d)”.**

Explanatory Notes

1 Amends chapter P-17 of the Revised Statutes of Alberta 2000.

2 Section 46.1 presently reads:

46.1(1) The chief of police shall as soon as practicable notify the commission and the Minister where

(a) an incident occurs involving serious injury to or the death of any person that may have resulted from the actions of a police officer, or

(b) a complaint is made alleging that

(i) serious injury to or the death of any person may have resulted from the actions of a police officer, or

(ii) there is any matter of a serious or sensitive nature related to the actions of a police officer.

(2) The Minister, when notified under subsection (1) of an incident or complaint or on the Minister's own initiative where the Minister becomes aware of an incident or complaint described in subsection (1), may do any one or more of the following:

- (a) request or direct that another police service provide a police officer to assist and advise the police service investigating the incident or complaint;
 - (b) request or direct another police service to conduct an investigation into the incident or complaint, which may include taking over an ongoing investigation at any stage;
 - (c) appoint one or more members of the public as overseers to observe, monitor or review an investigation to ensure the integrity of the process of the investigation.
- (3) A chief of police or police officer acting under subsection (2)(a) or (b) or a person appointed under subsection (2)(c) shall report as required to the Minister.
- (4) If the chief of police or police officer in charge of the police service conducting an investigation under subsection (2)(b) is of the opinion that the actions of the police officer that are the subject of the investigation constitute
- (a) an offence under an Act of the Parliament of Canada or the Legislature of Alberta, the chief or police officer shall
 - (i) refer the matter to the Minister of Justice and Attorney General, and
 - (ii) advise the commission and the chief of police of the police service under investigation of the chief's or police officer's findings, unless the Minister of Justice and Attorney General otherwise directs,
 - (b) a contravention of the regulations governing the discipline or performance of duty of police officers, the chief or police officer shall refer the matter to the chief of the police service under investigation where it concerns the actions of a police officer, or to the commission where it concerns the actions of the chief of police, to be dealt with in accordance with this Part,
 - (c) a matter of the policies of or services provided by the police service under investigation, the chief or police officer shall refer the matter to the commission.
- (5) The Minister may authorize and provide for the payment of remuneration and expenses to a person appointed under subsection (2)(c).
- (6) A chief of police or police officer of another police service who is assisting with an investigation under subsection (2)(a) or conducting an investigation under subsection (2)(b) has, for the purposes of assisting with or conducting that investigation, the same powers and duties as a chief of police.

3 The following is added after section 46.1:

Integrated investigative unit

46.2(1) The Minister may by order establish an integrated investigative unit and authorize it to act as another police service for the purposes of conducting an investigation under section 46.1.

(2) The Minister may

- (a) designate a person as head of the integrated investigative unit, and
- (b) appoint special constables as investigators under the authority of the head of the integrated investigative unit.

(3) Subject to the terms of the Minister's authorization under subsection (1), the head of the integrated investigative unit is deemed to be a chief of police, and any person acting as an investigator is deemed to be a police officer, for the purposes of section 46.1(3), (4), (6), (7) and (8).

4 Section 53 is amended

- (a) **in subsection (2) by adding** “unless the Minister by order directs otherwise” **after** “control of the police service”;
- (b) **in subsection (3) by adding** “or in accordance with an order of the Minister under subsection (2)” **after** “police service”.

(7) A chief of police or police officer of another police service referred to in subsection (6) must advise a complainant, if any, in writing at least once every 45 days as to the status of the complaint.

(8) A copy of the document sent to a complainant under subsection (7) must be provided to the commission.

(9) Where a chief of police or police officer of another police service carries out any functions pursuant to a request or direction made under subsection (2), that police officer may also be requested to present the case or preside at the hearing of the complaint, and if so requested, that police officer has, for the purpose of carrying out those additional functions, the same powers as a chief of police.

(10) The Minister may delegate in writing the Minister's powers, functions and responsibilities under this section to the Director of Law Enforcement.

(11) The costs and expenses that result from

(a) a request or direction made by the Minister under subsection (2)(a) or (b) shall be borne by the police service that is the subject of the investigation, unless otherwise directed by the Minister, and

(b) an appointment by the Minister under subsection (2)(c) shall be borne by the Government of Alberta.

3 Integrated investigative unit.

4 Section 53 presently reads:

53(1) A municipality that

(a) has established a police service under section 27, or

(b) receives policing services under an agreement made pursuant to section 22,

shall make provision for an adequate lock-up facility.

5 Section 61(1) is amended

(a) **in clause (g) by adding** “, including investigations by another police service or an integrated investigative unit” **after** “investigations”;

(b) **by adding the following after clause (g):**

(g.1) governing the establishment and operation of integrated investigative units;

6(1) If on the coming into force of section 3 the *Peace Officer Act* is in force, section 46.2(2)(b) of the *Police Act* is amended by striking out “special constables” and substituting “peace officers appointed under the *Peace Officer Act*”.

(2) If the *Peace Officer Act* comes into force after section 3 comes into force, section 46.2(2)(b) of the *Police Act* is amended on the coming into force of the *Peace Officer Act* by striking out “special constables” and substituting “peace officers appointed under the *Peace Officer Act*”.

7 Sections 1 to 5 come into force on Proclamation.

(2) If a municipality maintains a lock-up facility under subsection (1), that lock-up facility shall be under the direction and control of the police service.

(3) If a special constable or a person employed by a municipality to enforce bylaws requires the use of a lock-up facility, the special constable or person shall use the lock-up facility operated by a police service.

(4) Where a regional police service is established, the agreement entered into under section 24 shall include provision for a lock-up facility to meet the needs of each of the participating municipalities.

5 Section 61(1)(g) presently reads:

61(1) The Lieutenant Governor in Council may make regulations

(g) governing investigations of police officers and special constables;

6 Transitional.

7 Coming into force.

