



## Law Enforcement Review Agency (LERA)

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<b>Jurisdiction</b>	The Law Enforcement Review Agency has statutory jurisdiction over approximately 1,664 peace officers employed by municipal police departments in Manitoba. It does not apply to members of the RCMP
<b>Governing Legislation</b>	The Law Enforcement Review Act
<b>Standard Of Proof Applied In Police Oversight Hearings</b>	Clear and convincing evidence is required to meet the administrative law standard of proof on a balance of probabilities.
<b>Powers and Duties</b>	<p>The Commissioner has such powers and shall carry out such duties and functions as conferred upon or imposed under The Law Enforcement Review Act or as may be required for purposes of the Act by the Lieutenant Governor in Council.</p> <p>The Commissioner has all the powers of a Commissioner under Part V of The Manitoba Evidence Act when investigating public complaints.</p>
<b>Staffing</b>	Commissioner Registrar/Administrative Officer Clerk Investigators (4)
<b>Budget</b>	\$655,000.00
<b>Reporting</b>	The Commissioner files an annual report concerning the performance of his duties and functions to the Minister of Justice and each municipality in the province with an established police department. The Minister tables the report in the Legislature.
<b>Appointment/Term</b>	By Order in Council. Permanent.

**Review of Legislation**

Ongoing.

**Oversight Agency Role**

LERA investigates complaints about municipal police performance arising out of the execution of duties. Every complaint must be in writing setting out the particulars of the complaint and must be signed by the complainant.

**Process**

LERA conducts an investigation into all complaints. The Commissioner screens each complaint to determine the sufficiency of evidence to justify taking further action. The Commissioner will decide to take no further action on a complaint if the following situations arise:

- The alleged conduct does not fall within the scope of any disciplinary default;
- the complaint is frivolous or vexatious;
- the complaint has been abandoned by the complainant; or
- there is not enough evidence to justify referring the complaint to a provincial judge for a public hearing;

If the Commissioner's decides to proceed with the complaint, the act provides several ways to resolve the complaint.

The Commissioner must try to resolve the complaint through informal mediation. If the complaint is not resolved, and if there is no admission of disciplinary default by the respondent officer, the Commissioner must refer the complaint to a provincial judge for disposition at a public hearing.

Public hearings under The Law Enforcement Review Act are held before a provincial judge acting as an administrative tribunal. In conducting a hearing a judge exercises powers under the Act as persons designated for this purpose and not as a court. Hearings are open to the public.

Under the The Cross Border Policing Act, The Law Enforcement Review Act now applies to the conduct of police officers from other provinces or territories who have been appointed as police officers in Manitoba. Complaints involving police officers from outside of Manitoba's jurisdiction can result in recommendations by a judge, but no penalty can be imposed. The Act also applies to the conduct of Manitoba police officers appointed as police officers in other provinces.

When a matter before the Commissioner discloses evidence that a member may have committed a criminal offence, the Commissioner shall report the possible criminal offence to the Attorney General.

## Appeal

An appeal of a decision of a provincial judge lies to the Court of Queen's Bench upon any question involving the jurisdiction of the provincial judge or upon any question of law alone. The appellant shall file a notice of appeal in writing within 30 days after the decision of the provincial judge, unless the court, in the exercise of its discretion, grants an extension of time for the appeal. An appeal may be launched by the complainant or the respondent; and the complainant and the respondent are parties to the appeal.

There is also a mechanism for reviewing a decision by the Commissioner to take no further action on a complaint. The complainant has 30 days after the sending of the notice to the complainant to ask the Commissioner to refer the matter to a provincial judge for a review.

A provincial judge, if satisfied that the Commissioner erred in declining to take further action on the complaint, shall order the Commissioner to:

- refer the complaint for a hearing; or
- take such other action as the provincial judge directs.

## Other

### **Contributing Causes**

Where the Commissioner identifies any organizational or administrative practices of a police department which may have caused or contributed to an alleged disciplinary default, the Commissioner may recommend appropriate changes to the Chief of Police and to the municipal authority which governs the department.

### **Penalties**

Penalties set out in The Law Enforcement Review Act range from an admonition to dismissal.

### **Legal Representation**

Complainants and police officers are entitled to legal representation during the process.

Complainants must arrange for legal services. If an application for legal aid is declined, the complainant can, in exceptional circumstances, make a request for the Minister of Justice to appoint a lawyer to represent the complainant at the hearing.

Respondent police officers are generally provided representation by a lawyer under their employment contracts.