

PROVINCE OF SASKATCHEWAN



07-08

ANNUAL REPORT

SASKATCHEWAN
MINISTRY OF JUSTICE
AND ATTORNEY GENERAL

SASKATCHEWAN PUBLIC
COMPLAINTS COMMISSION

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Letters of Transmittal



His Honour the Honourable Dr. Gordon L. Barnhart
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period of April 1, 2007 to March 31, 2008.



Don Morgan, Q.C.
Minister of Justice and Attorney General



The Honourable Don Morgan, Q.C.
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period of April 1, 2007 to March 31, 2008.



Robert W. Mitchell, Q.C.
Chair

Mission Statement

The Public Complaints Commission is an independent panel of non-police persons appointed by the government to ensure that both the public and the police receive a fair and thorough investigation of a complaint against the municipal police in Saskatchewan.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when a citizen feels they have not been treated fairly by a police officer and for that reason a citizen complaint procedure was set out in *The Police Act, 1990*. It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of cooperation that now exists.

Governing Legislation

Role of the Public Complaints Commission

The Public Complaints Commission (PCC) consists of five persons, including a chairperson and a vice-chairperson who are appointed by the Lieutenant Governor in Council. By legislation, at least one member must be a person of First Nations ancestry, at least one member must be a person of Métis ancestry, and at least one member must be a lawyer. The chairperson has the delegated authority to exercise the powers and to perform the duties imposed on the PCC.

Canada has long been recognized as a leader in the civilian oversight of the police. Saskatchewan introduced legislation which identified a specific agency to address public complaints in 1992.

On April 1, 2006, following a consultation process with the Saskatchewan Association of Chiefs of Police, the Federation of Saskatchewan Indian Nations, the Saskatchewan Federation of Police Officers, Métis Family and Community Justice Services, and local police boards, the PCC was created. The PCC replaced the office of the Saskatchewan Police Complaints Investigator.

Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the PCC are as follows:

- (1) Where the PCC receives a public complaint pursuant to section 38, the PCC shall:
 - (a) record the complaint received;
 - (b) establish and maintain a record of all public complaints received by the police services and their dispositions;
 - (c) inform, advise and assist complainants;
 - (d) advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;
 - (e) monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and
 - (f) inspect annually, or at those times directed by the minister, the records, operations and systems of administration for the handling of public complaints by police services.

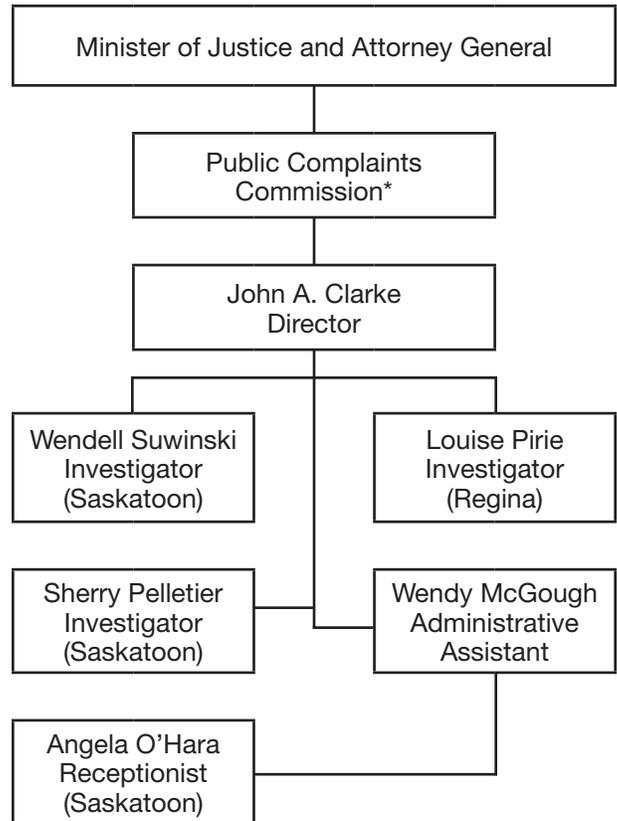
Organizational Structure

(2) In exercising the duties of the PCC pursuant to this section, the PCC:

- (a) shall receive and obtain information respecting a public complaint from the complainant;
- (b) may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;
- (c) may request access to any files or other material in the possession of the police service relevant to a public complaint; and
- (d) may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

Additionally, the PCC decides from one of the following, who will conduct the investigation of a public complaint:

- by the PCC investigative staff;
- by the police service whose member is the subject of the complaint;
- by the police service whose member is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC;
- by a police service other than the police service whose member is the subject of the complaint.



* The Public Complaints Commission consists of five individuals including a chairperson and vice-chairperson. Members are appointed by the Lieutenant Governor in Council.

Public Complaints Commission

Members of the Public Complaints Commission

Members are appointed for a three-year term and may be reappointed for a second term; however, no member may be appointed to more than two successive terms. The first year of operation provided many interesting challenges for the PCC as members developed and refined their duties and responsibilities. Members meet twice a month to: review new complaints; receive briefings on current investigations; and reach consensus on the final determination of completed investigations which culminates with a written decision.

Chair: Robert W. Mitchell, Q.C., Regina

Vice-Chair: Catherine M. Knox, Lawyer, Saskatoon

Members: Loretta Elford, Regina, a former Director of Education with the Regina Public School Board and active community member

Raymond Fox, North Battleford, member of the Sweetgrass First Nation, Director of Justice, Battlefords Tribal Council, and a councillor for the City of North Battleford

Michel Maurice, Saskatoon, Métis Elder

Director: John Clarke, responsible for the administration and daily operation of the PCC

Administrative Staff/Accommodation

Saskatchewan Public Complaints Commission
Suite 300 - 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2
Telephone: (306) 787-6519
Fax: (306) 787-6528
Toll Free: 1-866-256-6194

Saskatchewan Public Complaints Commission
916 - 122 3rd Avenue North
Saskatoon, Saskatchewan S7K 2H6
Telephone: (306) 964-1450
Fax: (306) 964-1454

Other Activities

The Chair and the Director attended the annual conference of CACOLE (Canadian Association of Civilian Oversight for Law Enforcement) held in Halifax, Nova Scotia, where Mr. Mitchell was re-elected as president for 2008. Regina will be hosting this event for 2008. The conference will be held June 16-18, 2008, at the Hotel Saskatchewan Radisson Plaza. The theme is *'Best Practices and Other Lessons in Oversight'*, and features a distinguished panel of presenters. Additional information is available on the CACOLE web site www.cacole.ca.

The Director made two presentations to recruit classes at the Saskatchewan Police College. The public complaint process and how it may impact on their careers was discussed. Traditionally, these presentations were made on the first day of recruit training when the recruits had to process a great deal of new information. The Director questioned whether this was the most appropriate time to present this information. On the first day of training the recruits had not received any instruction and were not familiar with their roles as police officers and were not aware of what their employers, and the public expected, in terms of their conduct. Following discussion with the Police College training staff, arrangements were made to provide this information during the last week of recruit training. The recruits were much more receptive to the material presented and there was a noticeable increase in the level of classroom participation.

The PCC hosted an informal round table discussion involving representatives from the majority of the municipal police services in the province. The amount of time directed toward the investigation of minor public complaints was identified as having an impact on the ability to investigate major allegations of misconduct which included those matters requiring criminal investigations. In-depth investigations are being conducted on relatively routine matters that would be more effectively addressed through an appropriate informal resolution process. Resources are being expended on minor investigations that may well determine a finding, but does not always provide a successful resolution of a public complaint.

The goal of the PCC is to thoroughly and impartially review public complaints and resolve the matter to the satisfaction of the complainant, and the police officer.

2007-08 Activities and Results

The PCC, in consultation with the Dispute Resolution Office of the Ministry of Justice and Attorney General, has formed a committee to review this issue and develop a protocol that will identify which types of public complaints are suitable for informal resolution. The protocol would help ensure equal application of the process across the province. The committee includes representatives from the four largest municipal police services, the Federation of Saskatchewan Police Officers, a mediator from the Dispute Resolution Office, and the PCC.

During the past year, the PCC has maintained contact with the Saskatchewan Information and Privacy Commission, Saskatchewan Ombudsman, Saskatchewan Human Rights Commission, Saskatchewan Police Commission, Saskatchewan Justice - Public Prosecutions and the Federation of Saskatchewan Indian Nations - Special Investigations Unit. Additionally, the PCC has continued to liaise with our provincial counterparts, as well as the Commission for Public Complaints against the RCMP.

The PCC acknowledges the quality of investigations conducted on our behalf by members of various municipal police services and in particular, the Professional Standards Sections of the Regina and Saskatoon Police Services.

As Chair and on behalf of the PCC, I wish to acknowledge the level of commitment and quality of the investigations conducted by our own staff members. Their professionalism and investigative expertise have developed excellent working relationships within the municipal police services while maintaining an unbiased, impartial, and thorough approach to their investigations.

I also acknowledge the commitment and professionalism displayed by our administrative assistant located in our Regina office and our receptionist in the Saskatoon office.

Finally, I wish to extend my gratitude to the members of the Public Complaints Commission for their dedication by ensuring the independence of the public complaint process. The meetings deal with compelling matters which are subjected to vigorous and insightful debate.

For the period April 1, 2007 to March 31, 2008, this office processed 135 complaints against municipal police officers in the province.

Noted below is the time frame involved to receive the complaint, investigate, review the matter and advise the complainants of the action taken with respect to their concern.

Time Frame	Per cent of Complaint Files
0 - 30 days	13.3
31 - 60 days	6.7
61 - 90 days	3.7
91 - 120 days	2.2
121 - 150 days	1.5
151 - 180 days	2.2
Over 181 days	7.4
Pending	63.0

The following tables show the breakdown of complaints for each of the 11 municipal police services and three rural municipality police services in the province.

Saskatchewan Public Complaints Commission

April 1, 2007 to March 31, 2008

Police Service	Number of Complaint Files
Regina	50
Saskatoon	57
Moose Jaw	3
Prince Albert	19
Estevan	1
Weyburn	1
Caronport	0
Dalmeny	0
File Hills	4
Luseland	0
Stoughton	0
R.M. of Corman Park	0
R.M. of Vanscoy	0
R.M. of Wilton	0
Total Number of Files	135

Statistical Data

Findings of Complaints Received

April 1, 2007 to March 31, 2008

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawn/ Other	Not Yet Completed	Total
Regina	0	0	16	9	31	56
Saskatoon	0	0	8	12	38	58
Moose Jaw	0	0	0	1	2	3
Prince Albert	1	0	1	5	12	19
Estevan	0	0	0	0	1	1
Weyburn	0	0	0	1	0	1
Caronport	0	0	0	0	0	0
Dalmeny	0	0	0	0	0	0
File Hills	1	0	0	2	1	4
Luseland	0	0	0	0	0	0
Stoughton	0	0	0	0	0	0
R.M. Corman Park	0	0	0	0	0	0
R.M. Vanscoy	0	0	0	0	0	0
R.M. Wilton	0	0	0	0	0	0
Total	2	0	25	30	85	*142

* While 135 complaints were filed - some had multiple complaints and findings

Definition of Complaint Findings

Substantiated - supported by evidence

Unsubstantiated - allegation cannot be proved or disproved

Unfounded - unsupported by evidence

Classification of Substantiated/Unsubstantiated Complaints

April 1, 2007 to March 31, 2008

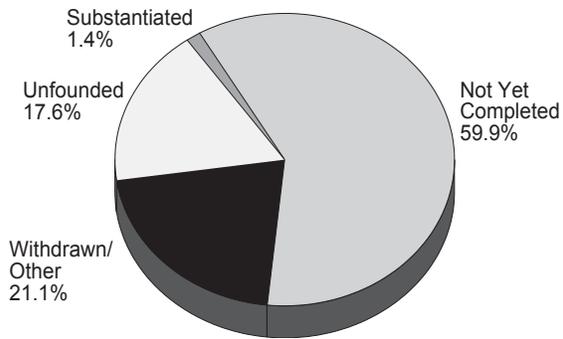
Police Service	Substantiated	Description	Unsubstantiated	Description
File Hills	1	36Aiv		
Prince Albert	1	37E		

36Aiv Discreditable Conduct

37E Abuse of Authority

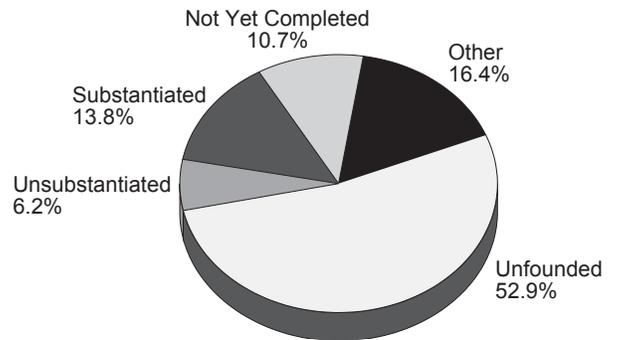
Complaint Findings

April 1, 2007 to March 31, 2008

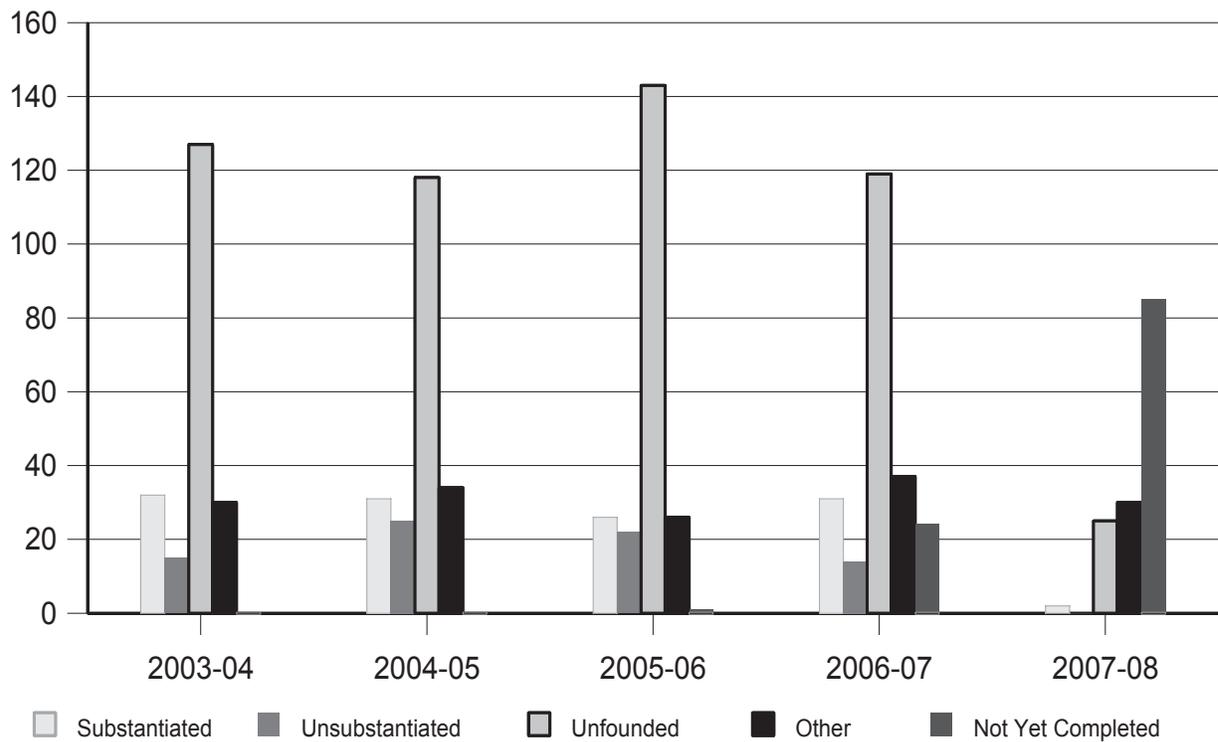


Revised Complaint Findings

April 1, 2006 to March 31, 2007



Five-Year Comparative Statistics



Saskatchewan Public Complaints Commission
Types of Complaints Received

April 1, 2007 to March 31, 2008

	Total	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	Stoughton	File Hills	Corman Park	Vanscoy	Wilton
TYPE OF COMPLAINT:															
Discreditable Conduct	6	3	2	0	0	0	0	0	0	0	0	1	0	0	0
Neglect of Duty	18	6	7	1	2	0	1	0	0	0	0	1	0	0	0
Insubordination	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Corrupt Practice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority	24	11	9	0	4	0	0	0	0	0	0	0	0	0	0
Improper Use of Firearms	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Damage to Police Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor/Drugs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Others	8	5	2	0	1	0	0	0	0	0	0	0	0	0	0
Not Yet Completed	85	31	38	2	12	1	0	0	0	0	0	1	0	0	0

Case Summaries

The following case summaries are a cross-section of the types of complaints received. The increased use of informal resolutions by the various police services is gratifying to note, particularly when complaints are based on a lack of communication, or a lack of understanding in terms of police procedures and their enforcement/investigational duties and responsibilities.

■ Mr. E stated that two subjects were charged with aggravated assault on his son as a result of a police investigation conducted in 2003. Following a trial conducted in the Court of Queen's Bench, the two subjects were found 'not guilty' on March 13, 2006. Mr. E complained the court's ruling was the result of an inadequate police investigation. Mr. E made his public complaint 13 months after the court's ruling.

There were two concerns with Mr. E's complaint. Firstly, *The Police Act, 1990*, places limitations on the time in which a public complaint may be received to 12 months from the time a person becomes aware of the alleged police misconduct, unless the PCC makes an application to the Chair of the Saskatchewan Police Commission and satisfies the chairperson of that Commission that it is in the public interest to grant an extension.

Secondly, the PCC does not have the authority to review decisions made by the courts in Saskatchewan. It is the responsibility of the court to determine the value of the evidence presented, to determine the credibility of the witnesses, and to determine the innocence or guilt. Therefore, it would be highly inappropriate for the PCC to make any further comment on the court's ruling.

Consultation with the Chief of Police having jurisdiction on this matter determined that the Chief had met with Mr. E and his wife, following receipt of the public complaint. The Chief, who was not under any statutory obligation to do so, thoroughly reviewed the investigation with the couple who expressed their disbelief that the subjects were found 'not guilty' of assaulting their son.

I determined that it was not in the public interest to request an extension in the time to receive the complaint based upon the complainant's dissatisfaction with the court's decision. I advised the complainant that because the charges were dismissed by the court, it does not automatically mean the police investigation was faulty.

The PCC did not have the jurisdiction to declare this matter a public complaint.

■ Mr. M complained that he was subjected to unnecessary violence when he was arrested outside of a nightclub for an outstanding warrant. He alleged that two officers slammed him to the ground, causing him to fall face first, and he felt a punch to his left side rib area. Mr. M stated he sustained personal injuries as a result of this action. Mr. M stated that he was outside the nightclub standing near his car when he was approached by two police officers. One of the officers asked for his name and then told him he was under arrest. He was then slammed to the pavement face first, punched on the left side of his ribs, handcuffed and placed in the police vehicle.

The investigation determined that the police officers responded to a call at the nightclub concerning two highly intoxicated males getting into a silver Pontiac Sunbird. There were a number of concerned citizens who tried to prevent the driver, subsequently identified as Mr. M, from driving. When the officers arrived, they observed a vehicle matching the description, manoeuvred the police vehicle to stop the vehicle from moving and approached the vehicle to deal with Mr. M.

The officers who dealt with Mr. M provided a different recollection of events. The officers approached Mr. M as he sat in the vehicle. Mr. M admitted that he had been drinking but told the officers he was not driving and that the keys were in his pocket. Mr. M was asked for his identification and it was at this time that the officers' inquiries determined there was an outstanding warrant for the arrest of Mr. M. The officers informed Mr. M he was under arrest and due to his level of intoxication assisted Mr. M out of his vehicle.

One of the officers attempted to handcuff Mr. M when he pulled his arm away, made a clenched fist, and took several steps away from the officer. The second officer swept Mr. M's leg out from underneath him which caused all three to fall to the ground. The officers stated that when Mr. M fell, he hit his nose and the left side of his face. At this time he was handcuffed and it was noted that Mr. M had a bloody nose.

Independent witnesses were interviewed. One witness stated there were two drunk males walking to a car, one had keys and got into the driver's side. A witness confronted the occupants and tried to convince the driver not to drive. Both occupants were swearing and the driver turned the key to start the vehicle; however, a witness stayed by the car to prevent the driver from moving the vehicle. It was at this time the police

officers arrived and approached the vehicle. The individual whom Mr. M had identified as the other person who was with him that night supported the police officers' account of what took place. There was no excessive force used by the police, Mr. M was handcuffed and placed in the police car. He confirmed that it was Mr. M's intention to drive his vehicle.

It is a requirement of *The Police Act, 1990*, that allegations involving excessive or unnecessary violence be reviewed by Public Prosecutions, Ministry of Justice and Attorney General, to determine if the conduct of the police officers constitutes the criminal offence of assault. Public Prosecutions determined there was no evidence to support criminal charges. The officers were in the lawful performance of their duties and used as much force as was reasonably justified to overcome the resistance of Mr. M.

I noted that Public Prosecutions commented on the level of Mr. M's intoxication when considering whether or not Mr. M intentionally made a false complaint against the officers. The opinion provided stated in part, "Such intoxication prevents the Crown proving that Mr. M knows his account to be false (as opposed to mistaken) let alone proving a criminal intent."

The Police Act, 1990 states the Chief of Police is responsible for the maintenance of discipline within the police service. The review conducted by Public Prosecutions is based upon the criminal standard of proof. *The Police Act*, which is based upon the civil law standard on a balance of probabilities, requires the Chief of Police to review the actions of the police officers to determine if their conduct was appropriate and followed applicable policy requirements. The Chief of Police recommended that the police officers' conduct did not warrant further consideration of disciplinary action as outlined in *The Municipal Police Discipline Regulations, 1991*.

I agreed with the recommendations of Public Prosecutions, as well as the Chief of Police and concluded there was no improper conduct by the officers.

■ Mr. R alleged that an inadequate investigation was conducted into the death of his nephew in 2004. His nephew had been requested to leave a social function by an individual who was supervising the function for inappropriate behaviour. It was Mr. R's opinion that there was no regard given to the very cold weather and his nephew was found the following morning having succumbed to the elements. Further, it was Mr. R's opinion that this individual played a part in the death of his nephew and should have been held accountable. The investigation conducted by the police did not result in any criminal charges.

The complaint was received nearly four years after the tragic incident. Mr. R was displeased with the Coroner's decision not to hold an inquest. During the intervening years, Mr. R had communicated his concerns to the Minister of Justice and Attorney General, who arranged a meeting between family members, the investigating police service and the Coroner during March, 2006, to address his concerns. Having given the matter further thought, Mr. R stated that he had additional questions that required answers and was now requesting a public inquiry.

The PCC does not have the authority to order public inquiries nor the jurisdiction to review decisions made by the Coroner. Further, it would be highly inappropriate for the PCC to offer any comment on actions taken by the Minister of Justice and Attorney General. The role of the PCC was restricted to reviewing the conduct of the police officers who conducted the investigation and to determine whether the investigation was inadequate.

The allegations stemmed from an incident which took place and was investigated in 2004. Mr. R came forward to the PCC with his complaint approximately 21 months after a meeting was held to answer his concerns surrounding the 2004 investigation. Both dates are beyond the 12-month time frame in which a public complaint can be received. Section 38(7) of *The Police Act, 1990* states, "No public complaint shall be received or made pursuant to this section after the expiry of 12 months from the day on which the complainant should have been aware of the incident complained of unless, on application by the PCC to the chairperson of the commission (Saskatchewan Police Commission), the chairperson of the commission is satisfied it is in the public interest to extend the time."

Given the seriousness of the allegation, I thought it prudent to review the circumstances to determine if it would be in the public interest to make application to extend the time in which a public complaint can be received.

I reviewed the police investigation. I found it to be detailed and thorough. The investigation did address the concerns raised by Mr. R as the investigation was reviewed by the Ministry of Justice and Attorney General, Public Prosecutions, who determined there was no evidence of criminal responsibility associated to the death. I noted that the police service's Suspicious Death Review Committee is required to review all investigations of this nature. This committee, having reviewed the circumstances surrounding the death and the subsequent investigation, determined that foul play was not a contributing factor in this very unfortunate and tragic incident and were satisfied the investigation was thorough.

The police report documented that Mr. R was provided updates over the course of the investigation. The report also made reference to the meeting held in March 2006 in response to Mr. R's concerns. Mr. R presented a list of 20 typed questions. The report documented the responses provided and it was felt that his concerns had been addressed. Mr. R was invited to contact the police service at any time should he have additional questions or concerns. Prior to contacting the PCC, Mr. R had no further contact with the police service since the March 2006 meeting. The police service was contacted and advised they were not aware that Mr. R had unresolved concerns and would welcome the opportunity to meet with him and provide any additional information he required.

I concluded that it was not in the public interest to request an extension in the time in which a public complaint can be received. I was satisfied that there was no inappropriate conduct on behalf of the investigating police officers and I was fully satisfied that the investigation conducted was thorough. I advised Mr. R accordingly and suggested that his concerns could be addressed by meeting with the police service. I informed Mr. R that the PCC would not be taking any further action.

I have since been advised that Mr. R met with the police service and he was satisfied with the outcome.

■ Mr. E forwarded his complaint via e-mail to the Public Complaints Commission from his country of residence. He alleged on the evening of December 26 or 27, 2007, he was walking in search of a taxi, when two police officers grabbed him. Further, he alleged the officers arrested him for matching a description of someone they were looking for. When he protested and advised the officers he was only visiting the community, the officers arrested him for public intoxication. Mr. E demanded the officers provide him with a breathalyser test to prove he was not intoxicated.

Upon arrival at the police detention centre, Mr. E stated the officers treated him in a rough manner and used an arm lock technique to throw him to the floor which caused damage to his left rotator cuff muscle. He alleged he was held against his will for eight hours without being charged or questioned. He added the officers refused to explain the situation.

My review of the circumstances determined that two police officers responded to an alarm at a convenience store. The employees provided the police with a description of an individual that was refusing to leave, until told the police were on the way. The officers located Mr. E in proximity to the store. He matched the description and the officers observed his level of intoxication. He was arrested for being intoxicated in a public place and escorted to the Detention Centre to be held until sober and released without charges.

The Detention Centre is subjected to video surveillance with appropriate warning signs. I viewed the video which clearly showed Mr. E being lodged in detention. The video verified the level of Mr. E's intoxication, which was high. Mr. E asked the officers why he was arrested and the officers stated for public intoxication. Mr. E is heard to say, "Am I drunk? I am very drunk." It was my observation that the officers remained calm and professional despite Mr. E's refusal to answer questions and Mr. E's accusation that the officers were stealing his effects. Mr. E displayed a belligerent and combative attitude which eventually required the officers to physically restrain Mr. E in order to complete the booking process.

Mr. E was a Canadian citizen working in another country who was visiting during the holiday season. He was arrested for public intoxication and held until sober without being charged. The officers were under no obligation to provide Mr. E with a breathalyser test and given these particular

Budget Allocation

circumstances would have only confirmed the police officers' observations of his level of intoxication.

I was satisfied that the police officers used an appropriate and a minimal amount of force to control Mr. E's belligerent manner. The police officers were engaged in the lawful execution of their duties and as evidenced on the video recording, clearly advised Mr. E for the reasons for his detention.

I concluded there was no improper conduct displayed by the police officers.

The following figures show the approved budget for the 2007-2008 fiscal year.

Approved Budget	\$683,000
Grant - F.S.I.N.,	
Special Investigations Unit	150,000
Salaries, Honorariums, Per Diems	363,131
Operating Expenses	<u>85,769</u>
	\$598,900

