Table of Contents

| | | PAGE |
|----------------------|--|-------|
| | | |
| v | | |
| | | |
| | ·S | |
| Table of Ca | ases | XX111 |
| Chapter 1 | Introduction to Issues in Civilian Oversight of Policing in Canada | 1 |
| Ian Scot | e | |
| Chapter 2 Ian Scott | Oversight Overview | . 11 |
| Introduc | ction | . 11 |
| Federal | Government | . 13 |
| British C | Columbia | . 14 |
| Office | e of the Police Complaint Commissioner | . 15 |
| Indep | endent Investigations Office | . 17 |
| Alberta | | . 18 |
| Law I | Enforcement Review Board | . 19 |
| Alber | ta Serious Incident Response Team | . 20 |
| Saskatch | newan | . 21 |
| Public | Complaints Commission | . 21 |
| | ndependent Investigative Agency | |
| | va | |
| The L | Law Enforcement Review Agency | . 24 |
| Indep | endent Investigations Unit | . 25 |
| Ontario | | . 26 |
| Office | e of the Independent Review Director | . 27 |
| Specia | al Investigations Unit (SIU) | . 29 |
| Quebec | | . 29 |
| Police | Ethics Commissioner | . 30 |
| Police | Ethics Committee | . 31 |
| | endent Investigative Agency for Quebec | |
| | ınswick | |
| New 1 | Brunswick Police Commission | . 33 |
| | ndependent Investigative Agency | |

| TABLE OF CONTENTS | xv |
|---|--|
| The Military Police Complaints Oversight Process Conduct Complaints Interference Complaints. Interim to Final Reports Continuing Issues in Military Police Oversight Legislated Interference. Agency or Adversary of Government. Conclusion | 70 72 73 75 75 76 |
| Chapter 5 The Bureau des Enquêtes Indépendantes du Québec: A Long Time Coming | 81 |
| The Seeds of Reform The Villanueva Affair The Ombudsperson's Report The Current System in the Province of Quebec The Charest Government's Bill 46 The Reform Proposed by Minister Dutil The Ombudsperson's Criticism The Marois Government's Bill 12 The Reform Proposed by Minister Bergeron The Regulatory Proposals | 81 82 83 84 84 85 85 85 87 |
| Chapter 6 Development of Civilian Oversight in Ontario Ian Scott Introduction Beginnings of Oversight Toronto Public Complaints Project, 1981 Beginnings of the Special Investigations Unit Entrenchment of Provincial Oversight, 1990. The 1990s – Lead-up to the Abolition of the Public Complaints Commissioner Review of the Special Investigations Unit's Mandate Through the 1990s. 2000 to 2010 – Civilian Oversight of Police Complaints Redux SIU – 2000 to 2011 – More Studies Conclusion. | 89 90 93 94 95 97 99 03 06 |

| Chapter 7 | Civilian Oversight and the 2010 G20 Summit | |
|-----------|--|-----|
| 37 1 1 | | 111 |
| Nathalie | Des Rosiers and Graeme Norton | |
| Introduc | | 111 |
| | cing of the G20 | 113 |
| G20 Acc | countability Responses | 121 |
| The F | Federal Standing Committee on Public Safety and | |
| Na | J U | 122 |
| The P | Public Works Protection Act | 123 |
| Invest | tigations of Serious Injuries Caused by Police: The | |
| | | 125 |
| Public | c Complaints Bodies: The OIPRD and RCMP-CPC | 128 |
| Civilia | an Oversight | 130 |
| The Acc | ountability Gaps | 132 |
| Conclusi | on | 134 |
| | | |
| Chapter 8 | Other Legal Mechanisms of Accountability for | |
| chapter o | | 137 |
| Ian Scot | | |
| Introduc | etion | 137 |
| | | 138 |
| | | 138 |
| | | 138 |
| | | 140 |
| | | 142 |
| | ace of Person | 143 |
| | mmon Law Overlay | 145 |
| | Ambit | 145 |
| | Propensity for Violence | 147 |
| Law I | | 147 |
| | J The state of the | 149 |
| | | 150 |
| | ε | 151 |
| | | 151 |
| | | 151 |
| | | 153 |
| _ | | 154 |
| Inque | | 155 |
| | | 157 |
| | tionship Between Criminal Law and Provincial | |
| | anisms of Accountability | 159 |
| Canaluai | • | |

| TABLE OF CONTENTS | xvii |
|--|------|
| Chapter 9 Independence in Civilian-Led Investigations of | |
| the Police | 163 |
| Kevin Kunetski and Kelsi Barkway | |
| Introduction | 163 |
| Review of the Literature | 164 |
| Independence | 165 |
| Public Confidence in the Police | 165 |
| Transparency | 166 |
| The Goals of Civilian Oversight and Investigation | 167 |
| Methodology | 167 |
| Results of Research | 169 |
| Theme #1 – The head of a civilian-led oversight agency | |
| should never have worked as a police officer | 169 |
| Theme #2 – The head of a civilian-led oversight agency | |
| should be employed for a non-renewable fixed term | |
| of five to seven years | 169 |
| Theme #3 – The head of a civilian-led oversight agency | |
| should report to an all-party committee of the Legislature | |
| or to Parliament, or should otherwise be structured to | |
| have real and perceived operational independence from | |
| any bureaucratic department of the government | 170 |
| Theme #4 – Civilian-led oversight agencies require adequate | |
| budgets to ensure they will be capable of fulfilling | |
| their mandates | 172 |
| Theme #5 – Civilian-led oversight agencies, wherever possible, | |
| should avoid using seconded or serving police officer | |
| resources | 173 |
| Theme #6 – The public should have the ability to report | |
| incidents directly to a civilian-led oversight agency | 177 |
| Theme #7 – Civilian-led oversight agencies should have the | |
| ability to self-initiate investigations | 178 |
| Theme #8 – Civilian-led oversight agencies, operating within | |
| their mandate, should have the sole authority to determine | |
| which incidents they will or will not investigate, without | |
| influence from any person or entity | 178 |
| Theme #9 - Civilian-led oversight agencies should embrace | |
| transparency | 179 |
| Theme #10 - Civilian-led oversight agencies require strong | |
| legislation to ensure their independence from the police | |
| and the government | 180 |
| Conclusion | 181 |
| Appendix "A" - Civilian-led Oversight Agency Respondents | 182 |

| Appendix "B" - Research Themes, Recommendations, and | |
|--|-----|
| Best Practices | 184 |
| Chapter 10 The Impact of McNeil on Civilian Oversight of the Police: A Case Study of Ontario's Special Investigations Unit | 185 |
| Joseph Martino | 10. |
| Introduction | 185 |
| McNeil: An Overview | 186 |
| The Ambit of O'Connor | |
| Privacy and Criminal Investigation Files | |
| Whether the Crown is Indivisible in the Context of | 107 |
| Disclosure under Stinchcombe | 187 |
| Crown and Police Disclosure Obligations vis-à-vis Third | |
| Party Police Disciplinary Records and Criminal | |
| Investigation Files | 188 |
| The O'Connor Regime for Production of Third Party | |
| Records | 188 |
| Stinchcombe Remodelled | 192 |
| Crown Counsel's Duty to Inquire | 192 |
| Police Service's Duty to Disclose | 193 |
| The SIU and the Importance of Confidentiality | |
| The Impact of McNeil | 197 |
| The SIU as "Third Party"? | |
| Are SIU Records "Likely Relevant"? | |
| Second Stage of O'Connor Revisited | |
| A Question of Privilege? | |
| Scope of McNeil Duty to Disclose | |
| Application to the SIU | |
| Conclusion | |
| | |
| Chapter 11 Litigation as a Vehicle for Police Oversight Reform: | |
| A Family Business | 225 |
| Julian N. Falconer and Meaghan Daniel | |
| Introduction | 225 |
| Odhavji Estate v. Woodhouse | 227 |
| Hill v. Hamilton-Wentworth Regional Police Services Board | 231 |
| Wellington v. Ontario | |
| Abouhassan v. Van Buskirk | 237 |
| Penner v. Niagara Regional Police Services Board | 238 |
| Schooffer v. Wood | 24/ |

| TABLE OF CONTENTS | xix |
|---|-----|
| The Obvious Thus Far Unstated: Police Misconduct's | |
| Disproportionate Effects | |
| Conclusion | 253 |
| Chapter 12 Off-Duty Misconduct and Quebec Police Officers André Fiset | 255 |
| Introduction | 255 |
| The Disciplinary System | |
| Actions Specifically Involving an Off-Duty Police Officer | |
| Wearing Uniform During a Union Demonstration | |
| Drinking Alcoholic Beverages Immoderately | |
| Fraternizing with Persons with a Criminal Reputation | |
| Conduct Which May Constitute a Criminal Offence | |
| Affecting the Image of the Police Organization | |
| A Cited Police Officer's Procedural Guarantees | |
| The Right to Be Informed of the Filing of a Complaint | |
| | 202 |
| The Right to Remain Silent Versus the Obligation to | 263 |
| File a Report | 203 |
| The Right to a Full and Complete Defence and | 264 |
| Communication of the Evidence | 264 |
| The Possibility of Contesting the Police Organization's | 264 |
| Disciplinary Measure | |
| The Code of Ethics of Quebec Police Officers | |
| General Regime | 266 |
| Exceptionally, the Commissioner May Rule on an Ethics | |
| Complaint Against an Off-Duty Police Officer | |
| Enforcement of the New Provisions of the Police Act | 268 |
| Dismissal of a Police Officer Found Guilty of a | |
| Criminal Offence | 268 |
| The Duty to Inform | 271 |
| Conclusion | 272 |
| Chapter 13 The Road to Independent Police Officers' Notes in | |
| SIU Incidents | 273 |
| Ian Scott | |
| Introduction | 273 |
| Prelude to the Schaeffer Incident | |
| The Shooting Death of Levi Schaeffer | |
| The Investigation | |
| The Importance of the Independence of Notes | |
| The Press Release and Reaction | |
| | |

Paramilitary or Professional Discipline?320Sanctions or Rewards?320Fragmented/Fail Safe Review or Focused Review?321Mechanisms of Civil Oversight322Police Commissions or Services Boards322Ministerial Responsibility323Police Complaints Bodies324Regulatory Offences and the Disciplinary Process329

Criminal Investigations and Prosecutions and the Special

| TABLE OF CONTENTS | xxi |
|---|-----|
| Indirect Review of Police Conduct in Criminal Cases | 336 |
| Public Inquiries and Other Systemic Reviews | 337 |
| Conclusion | 338 |