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June 21, 2006

Executive Policy Committee
The City of Winnipeg

His Worship Mayor Katz
Deputy Mayor Pagtakhan
Councillor Clement
Councillor De Smedt
Councillor Magnifico
Councillor O'Shaughnessy
Councillor Steeves

West Committee Room
510 Main Street
Winnipeg, MB

9:00 a.m., Wednesday, June 21, 2006

Your Worship, Members of Committee:

Report #3 – Proposal for the Re-Establishment of Winnipeg Police Commission

As you know, I have been assisting Critical Mass cyclists and others in filing formal complaints with the Law Enforcement Review Agency (LERA), regarding the behaviour of certain members of the Winnipeg Police Service on May 3, 26, and 28/29, 2006.

As a very concerned citizen, I am appearing before EPC this morning to support the re-establishment of a Winnipeg Police Commission, to provide civilian oversight of law enforcement in our city.

At the moment, it appears to me that, by and large, **the members of the Winnipeg Police Service are accountable to no one.**

The Law Enforcement Review Act provides for the investigation of alleged "disciplinary defaults" by the independent provincially-appointed LERA Commissioner and staff, and for the imposition of a variety of possible penalties by a provincial judge. LERA does <u>not</u> investigate allegations of criminal behaviour by police officers.

While we certainly hope the investigations of the current complaints by LERA will be thorough and completed without delay, the end results achieved in the past do not inspire much confidence now.

I am attaching copies of tables from LERA annual reports showing the disposition of complaints from 1992 to 2004. There have been more than 200 complaints filed each year since 2001, with an average of 90% involving members of the Winnipeg Police Service.

The files completed in 2004 took an average of 13 months each.

Penalties are applied only when ordered by a provincial court judge, or when there is an admission of guilt by the respondent officer. There have been very few such proceedings, and from a review of decisions rendered from 2000 to date, so far I can find only the following penalties applied:

June 2, 2006	1 verbal reprimand for a police officer who had admitted a disciplinary default, based on a 2004 complaint.
June 13, 2005	2 verbal reprimands for two police officers found to have abused their authority in May, 2000 (five years earlier).
March 8, 2005	1 written reprimand for a now retired police officer, based on a complaint filed March 4, 1999 (six years earlier).

That's it.

If a citizen believes a police officer has committed a criminal offence, such as assault or the use of excessive force, the information is to be presented to the Professional Standards Unit of the Winnipeg Police Service, which will refer the matter to the Crown Attorney to determine if charges should be laid. If an officer is charged with an offence under the *Criminal Code of Canada*, the LERA investigation is stopped pending the outcome.

If a complaint alleges a disciplinary default not covered by LERA, the *Winnipeg Police Service Regulation By-Law No. 7610/2000* provides for the internal investigation of public complaints of "service defaults," by the Professional Standards Unit, and for the imposition of penalties by the internal Winnipeg Police "Discipline Board."

Sections 166 and 167 of the new *City of Winnipeg Charter* do enable City Council to pass new by-laws regarding the government of the police service, as well as the appointment of a committee to investigate the conduct of members of the police service.
So far, Council has not seen fit to exercise these powers.

Instead, on June 12 we witnessed the spectacle of the responsible Standing Committee on Protection and Community Services refusing to see or hear any public presentations on the alleged brutal repression of political dissent on several occasions last month, by certain members of the Winnipeg Police Service.

For this morning's meeting, EPC has also refused to hear about such matters.

The impotence of the Standing Committee was underlined on June 12 by the continuing failure of the Administration of the City to comply with the May 19, 2004 motion of City Council and the May 8, 2006 motion of the Standing Committee, both directing the Administration to provide a discussion paper on governance and external oversight of police services, and to engage in discussions about governance with the Province of Manitoba. The failure of the Administration to respond, without any apparent excuse, looks to me like insubordination and contempt of Council and the Standing Committee.

Just the comprehensive information available on the website of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) would have been sufficient to facilitate the desired discussion.

So if the LERA process does not inspire public confidence, and City Council considers itself powerless in these matters, may we assume that the members of the Winnipeg Police Service are at least accountable to the Chief of Police and his executive?

Apparently not.

Inspector Hall concluded his speech as follows:

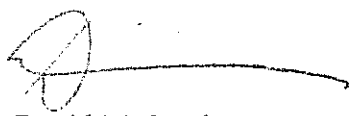
> "The vast majority of people in policing are good people. They need the confidence to persevere knowing that their organization's executive and management strongly support the professional way in which they choose to do business and that those who choose to conduct business as vigilantes will be dealt with appropriately."

Given the complexities, difficulties, and stresses of police work today, I submit that the Winnipeg Police Service definitely needs civilian oversight and policy guidance now, to communicate and uphold current community values and priorities, and to support the Service in fulfilling its mission: "to provide a continuously improving police service to the citizens of Winnipeg through ongoing community commitment."

I submit that the City should re-establish a Winnipeg Police Commission as soon as possible, and well before December 31, 2006.

Thank you.

Yours truly,



David M. Sanders

Winnipeg

AGENDA

EXECUTIVE POLICY COMMITTEE

LOCATION:	West Committee Room Council Building, 510 Main Street
DATE:	**June 21, 2006**
TIME:	**9:00 a.m.**
MEMBERS:	His Worship Mayor Katz, Chairperson Deputy Mayor Pagtakhan Councillor Clement Councillor De Smedt Councillor Magnifico Councillor O'Shaughnessy Councillor Steeves
ADMINISTRATIVE PERSONNEL:	Mrs. A. Stenning, Chief Administrative Officer Mrs. U. Goeres, City Solicitor/Manager of Legal Services, Corporate Services Department Mr. B. R. Gray, Mayor's Director of Policy, Manager EPC Secretariat
COMMITTEE CLERK:	Jo-Ann Park, City Clerk's Department

Agenda – Executive Policy Committee - June 21, 2006

REPORTS

Item No. 3 **Proposal for the Re-Establishment of Winnipeg Police Commission File GF-2**

STANDING COMMITTEE RECOMMENDATION:

On June 12, 2006, the Standing Policy Committee on Protection and Community Services requested the Executive Policy Committee to work with the Province of Manitoba to establish an intergovernmental committee, with significant citizen representation and public input, to explore the feasibility of establishing a civilian police commission to oversee the operations of the Winnipeg Police Service; and that the (proposed) intergovernmental committee report to the Executive Policy Committee and the public by December 31, 2006.

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On June 12, 2006, the Standing Policy Committee on Protection and Community Services requested the Executive Policy Committee to work with the Province of Manitoba to establish an intergovernmental committee, with significant citizen representation and public input, to explore the feasibility of establishing a civilian police commission to oversee the operations of the Winnipeg Police Service; and that the (proposed) intergovernmental committee report to the Executive Policy Committee and the public by December 31, 2006. The Standing Committee also rescinded its recommendation of May 8, 2006.

Further, on June 12, 2006, the Standing Policy Committee on Protection and Community Services received supporting documentation from Tom Simms, Co-Director, Community Education Development Association, including a communication dated June 9, 2006, from the Inner City Safety Coalition, in support of the re-establishment of a Police Commission.

On May 8, 2006, the Standing Policy Committee on Protection and Community Services laid the matter over for thirty (30) days and requested the administration to provide information to the Committee on the potential of establishing a Winnipeg Police Commission, and to also provide an update on Council's decision of May 19, 2004 with respect to the Proposal for the re-establishment of a Winnipeg Police Commission, namely;

1. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services.

2. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of The Provincial Police Act.

Further on May 8, 2006, the Standing Policy Committee on Protection and Community Services received from Tom Simms, Co-Director, Community Education Development Association, his presentation dated May 8, 2006, in support of the re-establishment of a Police Commission.

DECISION MAKING HISTORY:

COUNCIL DECISION:

On May 19, 2004 Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the administrative report dated May 5, 2004, be received as information.

2. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services.

3. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of The Provincial Police Act.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES
JUNE 12, 2006
DISPOSITION OF ITEMS

Minute	Subject/File	Recommendations	Action Required
	DELEGATIONS		
85	Sandra Phillips, Chair, Glenelm Children's Centre Inc.		See Minute No. 95
86	Nick Ternette		See Minute No. 91
87	David Sanders, accompanied by Matthew Nightingale, Ken Gerard, Critical Mass Cyclists and Jon Schledewitz, The Winnipeg Sun		
88	Tom Simms, Co-Director, Community Education Development Association, accompanied by Grand Chief Chris Henderson, Southern Chiefs' Organization, Bernice Getty, Executive Director, North End Women's Centre, on behalf of Inner City Safety Coalition		
89	Karen Lind accompanied by Kathryn Mackenzie, Winnipeg Community Garden Network		See Minute No. 99
	REPORTS		
90	Zero Tolerance Report 2006 05 16 Minute 29, SPC PCS, 2006 02 07 File GF-2	The Standing Policy Committee on Protection and Community Services concurred in the administrative recommendation and received the report as information.	Nil
91	Proposal for the Re-Establishment of Winnipeg Police Commission Presentation 2006 06 09 Minute 84, SPC PCS 2006 05 08 File GF-5	The Standing Policy Committee on Protection and Community Services requests the Executive Policy Committee to work with the Province of Manitoba to establish an intergovernmental committee, with significant citizen representation and public input, to explore the feasibility of establishing a civilian police commission to oversee the operations of the Winnipeg Police Service; and that the (proposed) intergovernmental committee report to the Executive Policy Committee and the public by December 31, 2006. Further, the Standing Policy Committee on Protection and Community Services rescinded its recommendation of May 8, 2006.	Executive Policy Committee c. Chief Administrative Officer Chief of Police Manager of EPC Secretariat City Solicitor / Manager of Legal Services
92	Amendments to the Fire Prevention By-Law Report 2006 05 16 File GF-5.1	The Standing Policy Committee on Protection and Community Services concurred in the administrative recommendation and received the report as information inasmuch as the amendments to the Fire Prevention By-law No. 150/2004 have already been implemented.	Nil
93	Requirement of Sprinklers in New and Existing Buildings Motion 2006 06 12 File EB-1.1.1	The Standing Policy Committee on Protection and Community Services requested the Administration to report to the appropriate Committee of Council within ninety (90) days on the state of regulation and code regarding built in fire suppression infrastructure as a requirement to new and existing building stock in the City of Winnipeg and the said report also be submitted to the Standing Policy Committee on Protection and Community Services for information.	Chief Administrative Officer c. Director of Planning, Property and Development Fire and Paramedic Chief

Agenda - Standing Policy Committee on Protection and Community Services - June 12, 2006

REPORTS

Item No. 2 **Proposal for the Re-Establishment of Winnipeg Police Commission File GF-2**

STANDING COMMITTEE RECOMMENDATION:

On May 8, 2006, the Standing Policy Committee on Protection and Community Services laid the matter over for thirty (30) days and requested the administration to provide information to the Committee on the potential of establishing a Winnipeg Police Commission, and to also provide an update on Council's decision of May 19, 2004 with respect to the Proposal for the Re-Establishment of a Winnipeg Police Commission, namely;

1. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services.

2. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of The Provincial Police Act.

Report not available at time of agenda publication

Agenda - Standing Policy Committee on Protection and Community Services - June 12, 2006

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On May 8, 2006, the Standing Policy Committee on Protection and Community Services laid the matter over for thirty (30) days and requested the administration to provide information to the Committee on the potential of establishing a Winnipeg Police Commission, and to also provide an update on Council's decision of May 19, 2004 with respect to the Proposal for the Re-Establishment of a Winnipeg Police Commission, namely;

1. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services.

2. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of The Provincial Police Act.

Further on May 8, 2006, Tom Simms, Co-Director, Community Education Development Association, submitted a presentation dated May 8, 2006, in support of the re-establishment of a Police Commission.

COUNCIL DECISION:

On May 19, 2004 Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the administrative report dated May 5, 2004, be received as information.

2. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services.

3. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of The Provincial Police Act.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 12, 2004, the Executive Policy Committee concurred in the administrative recommendation with respect to a proposal for the re-establishment of the Winnipeg Police Commission, and submitted the matter to Council.

DECISION MAKING HISTORY (continued):

COUNCIL DECISION:

On January 28, 2004, Council granted a further extension of time of 120 days for the Executive Policy Committee to report back on the February 26, 2003 Council resolution.

On September 24, 2003, Council granted a further extension of time of 120 days for the Executive Policy Committee to report back on the February 26, 2003 Council resolution.

STANDING POLICY COMMITTEE RECOMMENDATION:

On June 9, 2003, the Standing Policy Committee on Protection and Community Services requested that the Executive Policy Committee clarify the status of the administrative report with respect to the re-establishment of the Winnipeg Police Commission and to advise the Standing Policy Committee on Protection and Community Services when the report will be considered.

COUNCIL DECISION:

On May 28, 2003, Council granted an extension of time of 60 days for the Executive Policy Committee to report back on the February 26, 2003 Council resolution.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 5, 2003, the Executive Policy Committee referred the Council motion of February 26, 2003 to the Chief Administrative Officer for report back.

COUNCIL DECISION:

On February 26, 2003, Council ruled automatic referral of the following motion to the Executive Policy Committee:

Moved by Councillor Lazarenko,
Seconded by Councillor Wyatt,
WHEREAS in August 1974, City Council established the Winnipeg Police Commission to:-

1. Provide a first quality police force and ensure it is properly equipped, housed, staffed and administered,

2. Constitute a body of citizens concerned with the local standing and well being of the police, interested in the maintenance of law and order and able to give advice to, and to formulate policy to be carried out by the Chief of Police,

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

3. Guarantee prompt, thorough and objective investigation of all complaints concerning the personnel and operation of the Police Department,

4. Play an active role in the fostering of good relations between the police force and the community it serves;

AND WHEREAS until it was dissolved in November 1986, the Winnipeg Police Commission was composed of three members of Council and two electors of the City of Winnipeg, and at time, held overall responsibility for the operations of the Police Department, including budget preparation and administration (subject to Council approval), operating rules and regulations, disciplinary matters, public complaints against the Department or any member, grievance procedures, dismissals, appointment of senior officers, training and recruitment, community relations and crime prevention;

AND WHEREAS other cities in Canada, notably Edmonton and Calgary, are now well served by a police commission with a mandate to balance the requirements of public accountability and police independence and to provide an interface between the police force and elected officials;

THEREFORE BE IT RESOLVED that City Council consider the re-establishment of the Winnipeg Police Commission.

ADMINISTRATIVE REPORT

RE:	**Police Service Governance**
FOR SUBMISSION TO:	**Executive Policy Committee**
ORIGINAL REPORT SIGNED BY:	**J.J. Ewatski, Chief of Police**
REPORT DATE:	**2004 05 05**

RECOMMENDATION(S):

1. That this report be received as information.

2. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services.

3. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of *The Provincial Police Act.*

REPORT SUMMARY:

Key Issues:

? A motion has been considered by Council and referred to Executive Policy Committee (EPC) with respect to considering the re-establishment of the Winnipeg Police Commission.
? The City does not have legislated authority to establish a governance model such as a board or commission. Current legislation, *The Provincial Police Act*, gives authority for the Province to establish a board or commission.
? The Province of Manitoba is initiating a review of *The Provincial Police Act.* Though this process involves a two-to-three-year timeframe for completion, it is evident that governance models will be considered as part of the review.
? Governance touches on a number of aspects of the Winnipeg Police Service (WPS). Key aspects include oversight regarding public complaints, internal investigations, discipline processes, and political relationship.
? With the exception of Winnipeg and Quebec cities, all other major Canadian municipalities' police services are overseen by a form of board or commission.

Implications of the Recommendation(s):

General implications:

X **None**

? **For the organization overall &/or for other departments**

? **For the community and/or organizations external to the City**

? **Involves a multi-year contract**

Comment(s):

? Under the recommendations made herein, there are no general implications for the City organization and departments, community or external organizations.

Policy implications:

X **No**

? **Yes** **Comment(s):**

? Under the recommendations made herein, there are no policy implications.

Environmental implications:

X **No**

? **Yes** **Comment(s):**

? Under the recommendations made herein, there are no environmental implications.

Human Resources implications:

X **No**

? **Yes** **Comment(s):**

? Under the recommendations made herein, there are no human resources implications.

Financial implications:

? **Within approved current and/or capital budget**

? **Current and/or capital budget adjustment required**

Comment(s):

? Under the recommendations made herein, there are no financial implications.

REASON FOR THE REPORT:

? On February 26, 2003, Council considered and referred the following motion to EPC: *"That City Council consider the re-establishment of the Winnipeg Police Commission."*

? EPC directed the Chief Administrative Officer to report back on the matter.

HISTORY:

Winnipeg had a Police Commission from 1974 to 1986. In its first four years of existence the Commission had paramount authority over the operations of the-then Winnipeg Police Department including hearing citizen complaints, but not including collective bargaining and budget adoption. However, there was a perceived conflict in acting as the authority over the Department while also presiding over citizen complaints. As a result, in 1978, these two functions were segregated. The Police Department was placed under the authority of the City's Finance Division, leaving the Commission responsible solely for overseeing complaints. When the Law Enforcement Review Agency (LERA) was created in 1985, the Commission's role was reduced even further, at that point providing oversight for internal investigations only. The Commission requested that it be granted additional powers or be disbanded, and it was disbanded in 1986.

In order to fulfill some of the roles of the former Commission, other reporting relationships were established subsequent to 1986, including:

? Chief Administrative Officer (CAO): The Chief of Police reports to the CAO on fiscal matters and departmental operations (other than matters involving the criminal justice system).

? Chairperson, Standing Policy Committee on Protection and Community Services: The Chief reports to the Committee (on which the Mayor sits as an ex officio member) on matters of policy. The Chief also provides reports on operational matters when their outcome or profile is deemed to be of significance to elected officials who may be asked to comment publicly on such matters.

  The level of information provided in briefings to the Chairperson is determined by the Chief in consultation with the CAO. However, this relationship must not influence or be seen to influence the Chief's independence in matters involving criminal justice.

On February 26, 2003, Council considered and referred to EPC the following motion: *"That City Council consider the re-establishment of the Winnipeg Police Commission."* The City does not, however, have legal authority to set up or dissolve a board or commission. Such authority resides with the Province under *The Provincial Police Act.*

DISCUSSION:

Legislative Authorities concerning Police Governance

The City of Winnipeg Charter Act (the Charter)
The Charter does not give the City of Winnipeg the authority to create and/or appoint members to a police commission. The specific provisions of the City of Winnipeg Act (CWA) which permitted the City to create a police commission were deleted when the CWA was amended at the 1986-87 session of the Manitoba Legislature.

Review of *The Provincial Police Act*, expected to be a two-to-three-year endeavour, is anticipated to be an avenue for the Province to review and entrench governance requirements in legislation. Such requirements would apply to all Manitoba municipal police agencies.

The Law Enforcement Review Act (LERA)
Subsection 6(1) of the Act provides that every person who feels aggrieved by a disciplinary default, allegedly committed by any member of a police department, may file a complaint under this Act. A disciplinary default is one of a list of acts or omissions referred to in Section 29 of the Act. Examples of these include: abuse of authority, making false statements, failing to use discretion or restraint in the care and use of firearms, and violating the privacy of any person. The Law Enforcement Review Agency (also LERA) deals with any discipline that may flow from the complaint, and penalties are predetermined in consultation with the Chief of Police.

LERA applies to the Winnipeg Police Service (WPS) and the WPS cannot on its own investigate any citizen complaints made to LERA. However, if an individual does not want to complain to LERA and brings the matter of concern to the attention of the WPS, the WPS can investigate and deal with the complaint and any discipline it deems necessary as a result, under the authority of the WPS Rules and Regulations.

Aspects of Police Governance

The following describes matters of Police governance as it currently exists within the City of Winnipeg.

1. Developing and Setting Policy
   Operationally, Subsection 166(1) of The Charter provides that Council may establish and pass by-laws respecting a police service. The City has passed by-laws which implement the organization of the Service, its government, administration, control and discipline of members, and further, delegates to the Chief of Police the powers to implement policies in that regard. The Rules and Regulations of the WPS regarding discipline also are set out in a by-law.

2. Hiring the Chief of Police
   The Charter provides the manner in which the Chief is hired by the City of Winnipeg, through appointment by the CAO.

3. Determining Staff Levels
   The Charter empowers Council of the City of Winnipeg to determine the staffing level for the WPS.

4. Maintaining Labour Relations
   In accordance with the Charter and the City's Administration By-Law, labour relations for purposes of collective bargaining is the responsibility of Executive Policy Committee. In all other instances, it is the responsibility of the WPS. However, the WPS is required where necessary to follow practices established by the City generally with regard to labour-related matters. The Chief of Police reports to the CAO and, in the context of discipline, the CAO has final authority, subject to arbitration, in the grievance process and disciplinary matters which result in suspension and dismissal.

5. Overseeing Finances
   Council has final authority in accordance with the Charter.

6. Reviewing Performance
   The Charter, and the Rules and Regulations of the WPS, provide the Chief of Police and the CAO the power to review performance of members. See discussion above, point #4, Labour Relations.

Additional Issues Relevant to Police Governance

Three further aspects of Police governance identified as key – namely complaints and discipline, budgets, and political relationship – are areas where gaps have been identified in the current model:

1. Investigating Complaints and Assessing Discipline
   With respect to police conduct, the LERA process provides external oversight of conduct, but only when a citizen files a complaint with LERA. The WPS has jurisdiction, pursuant to its Rules and Regulations, over members where there are no citizen complaints but where there are issues of performance and/or the manner in which members carry out their duties and responsibilities.

   A distinction also must be noted that LERA investigates complaints, but does not investigate criminal allegations; such allegations are investigated by the Crown through the Police. Therefore, LERA does not oversee these or any criminal investigations conducted by Police.

Concerning internal investigations, the WPS has a formal protocol that is invoked in major investigations of officer conduct, including officer-involved shootings that result in death. This protocol is recognized externally as being effective in supplementing the efforts of a dedicated Professional Standards Unit to ensure thoroughness, accuracy and objectivity of investigations. This is accomplished by the WPS referring the completed investigation files for outside review (to organizations such as the RCMP or Ontario Provincial Police, or KPMG).

However, a gap exists as there is no formal, ongoing external body mandated to review such major internal investigations. In addition to stipulating requirements respecting governance, the Provincial review and subsequent revisions to *The Provincial Police Act* may compel the City to operate under a new model respecting internal investigations as well. This underscores the importance of initiating discussion with the Province in the near future.

2. Budget

With regard to staffing levels and finances, the Chief of Police presents a business plan and request for resources to the Administration through the annual budget process. The request for resources is prioritized along with the requests of other department heads for the consideration of EPC and, ultimately, Council.

3. Political Relationship

The Chief of Police has a unique role in the City bureaucracy because of the need for autonomy relative to the criminal justice system. For this reason, the Chief must balance two roles:

? operating independently and without influence or the appearance of influence in decisions relating to the role of Police in the criminal justice system, and
? being accountable for the Service's fiscal and other administrative matters.

This autonomous role of Police relative to the criminal justice system is empowered by legislation at the Federal, Provincial and Municipal levels.

A fundamental consideration of any communication between the Chief of Police and other political or administrative officials is that such interaction should not affect the Chief's authority.

FINANCIAL IMPACT STATEMENT:

Under the recommendations herein, there are no financial implications.

Financial Impact Statement Date: May 7, 2004

Project Name: Police Service Governance **First Year of Program 2004**

	2004	2005	2006	2007	2008
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Total Additional Debt Required	$ -	$ -	$ -	$ -	$ -
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

There is no financial Impact resulting from this report.

Radhika Abeysekera
Manager of Finance and Administration

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH, AND CONCURRENCE BY:

City of Winnipeg Corporate Services Department, Legal Services Division

THIS REPORT SUBMITTED BY:

Winnipeg Police Service
Office of the Chief of Police

Prepared by: Steve West, Manager of Administrative Strategic Issues, 986-5093

Winnipeg

AGENDA

STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES

LOCATION:	North Committee Room Council Building, 510 Main Street
DATE:	**Monday, May 8, 2006**
TIME:	**9:00 a.m.**
MEMBERS:	Councillor Steeves, Chairperson Councillor Benham Councillor Gerbasi Councillor Smith His Worship Mayor Katz
ADMINISTRATIVE PERSONNEL:	Chief Ewatski, Chief of Police Chief Shoemaker, Fire & Paramedic Chief Mrs. U. Stelman, Director of Community Services
COMMITTEE CLERK:	Wayne Gulenchyn, City Clerk's Department

STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES
MAY 8, 2006
DISPOSITION OF ITEMS

Minute	Subject/File	Recommendations	Action Required
		for approval of the mandate, terms of reference, and composition of the Ad Hoc Committee.	
82	Replenishing the Recreation Programming Reserve Minute 153, CC CC, 2006 05 02 PR-2.9	The Standing Policy Committee on Protection and Community Services referred the matter for consideration during deliberations on the 2007 Operating Budget.	Committee Clerk
83	Policing Issues - Spence Neighbourhood Motion 2006 05 08 GF-2	The Standing Policy Committee on Protection and Community Services received as information the presentation by Richard Page, Community Safety Initiatives Coordinator, Maggie Friesen, President, Spence Neighbourhood Association and Al Rutherford, Area Resident, with respect to policing issues in the Spence Neighbourhood.	Nil
84	Re-Establishment of Winnipeg Police Commission Motion 2006 05 08 GF-2	The Standing Policy Committee on Protection and Community Services laid the matter over for thirty (30) days and requested the administration to provide information to the Committee on the potential of establishing a Winnipeg Police Commission, and to also provide an update on Council's decision of May 19, 2004 with respect to the Re-Establishment of a Winnipeg Police Commission, namely; 1. That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services. 2. That the City of Winnipeg engage in discussions with the Province of Manitoba regarding governance, prior with the Province's review of The Provincial Police Act.	Chief of Police c. Manager of Administrative Strategic Issues, Winnipeg Police Service

Sanders, David M. (CA - Winnipeg)

From: MYO-Mayor [MYO-Mayor@winnipeg.ca]
Sent: Tuesday, May 30, 2006 4:18 PM
To: Sanders, David M. (CA - Winnipeg)
Subject: RE: Winnipeg Police - Treatment of the Critical Mass cyclists

Dear Mr. Sanders:

Thank you for your email. I had read about the incident with the cyclists in our local newspaper and have since received a briefing on the event. As you are aware, our Winnipeg Police Officers have a difficult task in protecting and serving the citizens of our community. I very much regret hearing of any incidents involving groups of citizens and especially children, as in this case, with our police. Canadians enjoy many freedoms to express themselves and assemble and protest but this must always be done with due respect given to safety and obeying our laws. In the case of the group of cyclists last week, I am told the police had very serious concerns for the safety of both the adults and children involved in the bike ride and also for other citizens in the immediate vicinity of the group. It always my wish that calm and reason will prevail in such situations and in this case, while it is regrettable that an incident did occur, I have been assured that the citizens who feel they were improperly treated have been informed of their rights to seek review of the matter by an independent agency. Thank you for sharing your thoughts with me on this important matter.

Yours sincerely,

Sam Katz
Mayor

From: Sanders, David M. (CA - Winnipeg) [mailto:davsanders@deloitte.ca]
Sent: Monday, May 29, 2006 1:00 PM
To: Stenning, Annitta; MYO-Mayor
Cc: Ewatski, Jack; Clement, Bill; Benham, Donald; Magnifico, Franco; Steeves, Gord; Lazarenko, Harry; Smith, Harvey; Eadie, Jae; Gerbasi, Jenny; Thomas, Lillian; Lubosch, Mark; O'Shaughnessy, Mike; Pagtakhan, Mike; De Smedt, Peter; Wyatt, Russ
Subject: Winnipeg Police - Treatment of the Critical Mass cyclists
Importance: High

I am writing to implore each of you to stop the current campaign of the Winnipeg Police Department to harass, intimidate, threaten and assault the young people who participated in the Critical Mass cycle tours and protests on May 3 and May 26, as well as the journalists observing.

The young people, and their families, are now concerned for their very lives, given the apparent lack of control over the use of excessive force by members of the Police Department. Not to mention the appalling violations of their legal rights, which are continuing.

I understand that the participants and observers are assembling video, photographs and individual statements for the following purposes:

1. To provide to the news media.

2. To present to City Council.
3. To make formal complaints to the Law Enforcement Review Agency.
4. To request an investigation by the Professional Standards Unit of the Winnipeg Police Department.
5. To provide the basis for requesting that charges be laid against members of the Winnipeg Police Department.
6. To ensure that in future the Winnipeg Police Department protects the rights of our citizens, instead of trampling all over those rights as some members are now doing with respect to these people.

In the meantime, and before the cyclists are able to provide their stories to you, I would like your assurance that this targeting and brutalizing of the cyclists will be stopped forthwith.

Thank you.

David M. Sanders MA LLB

Tel: (204) 926-7662

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LERA

Table 8: Disposition of Complaints	2004 (n=216)	2003 (n=205)	2002 (n=235)	2001 (n=212)	2000 (n=141)
Dismissed by commissioner as outside scope of act	22 (10%)	26 (13%)	28 (12%)	25 (12%)	11 (8%)
Dismissed by commissioner as frivolous or vexatious	1 (0.5%)	26 (13%)	32 (14%)	8 (4%)	1 (0.7%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	56 (26%)	64 (31%)	81 (34%)	72 (34%)	42 (30%)
Abandoned or withdrawn by complainant	117 (54%)	80 (39%)	75 (32%)	88 (41%)	65 (47%)
Resolved informally	5 (2%)	6 (3%)	8 (3%)	8 (4%)	19 (12%)
Public hearing before a provincial court judge	15 (7%)	5 (1%)	12 (5%)	11 (5%)	3 (2%)
Admission of guilt by respondent officer	0	0	0	0	0

Table 10: Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action	2004	2003	2002	2001	2000
	12	13	22	13	5

Table 11: Referrals of Complaint to Crown for Criminal Investigation	2004	2003	2002	2001	2000
	0	0	0	0	1

Table 12: LERA Complaints Where Complainant Lodged a Criminal Complaint with Police	2004	2003	2002	2001	2000
	11	11	19	25	22

Table 14 – Disposition of Complaints	1999 (n=191)	1998 (n=220)	1997 (n=59)	1996 (n=103)	1995 (n=70)
Dismissed by Commissioner as Outside Scope of Act	24 (13%)	7 (3%)	1 (2%)	1 (1%)	2 (3%)
Dismissed by Commissioner as Frivolous or Vexatious	6(3%)	61 (28%)	10 (16%)	15 (14%)	11 (17%)
Dismissed by Commissioner as Not Supported by Sufficient Evidence to Justify a Hearing	49 (26%)	72 (32%)	34 (57%)	46 (45%)	24 (34%)
Abandoned or Withdrawn by Complainant	79 (41%)	59 (27%)	8 (14%)	36 (35%)	24 (34%)
Resolved Informally	22 (12%)	15 (7%)	1 (2%)	4 (4%)	7 (10%)
Public Hearing Before a Provincial Court Judge	10 (5%)	6 (3%)	4 (7%)	1 (1%)	1 (1%)
Admission of Guilt by Respondent Officer	1 (0.5%)	0 (0%)	1 (2%)	0 (0%)	1 (1%)

Table 10- Police Service	1994	1993	1992
Winkler	2 (2%)	0 (0%)	0 (0%)
Winnipeg	64(79%)	68(85%)	89(94%)
Other	1 (1%)	0 (0%)	0 (0%)

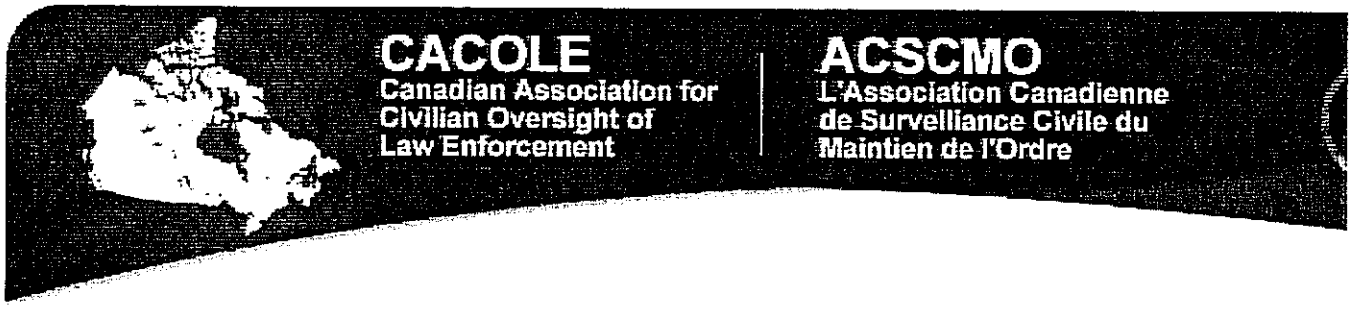
Table 11 - Disposition of Complaints	1994 (n=78)	1993 (n=93)	1992 (n=64)
Dismissed by Commissioner as Outside Scope of Act	0 (0%)	2 (2%)	0 (0%)
Dismissed by Commissioner as Frivolous or Vexatious	11(14%	8 (9%)	5 (8%)
Dismissed by Commissioner as Not Supported by Evidence	30(38%	19(20%)	0 (0%)
Abandoned or Withdrawn by Complainant	33(43%	54(57%)	42(66%)
Resolved Informally	3 (4%)	8 (9%)	14(22%)
Public Hearing Before a Provincial Court Judge	1 (1 %)	1 (1%)	2 (3%)
Admission of Guilt by Respondent Officer	0 (0%)	1 (1 %)	1 (1%)

Table 12-Appeals of Commissioner's Decision	1994	1993	1992
	(n=1)	(n=3)	(n=2)

The court upheld the Commissioner's decision in all 1992, 1993 and 1994 appeals.

Table 13-Referrals to Crown	1994	1993	1992
	(n=2)	(n=0)	(n=7)

All cases referred to the Crown in 1994 and 1992 involved allegations of assault by police. No charges were recommended by the Crown in any of these cases. The reason given for not proceeding in each case was insufficient evidence or the unlikelihood of successful prosecution.



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Civilian Oversight in Canada

Most provinces in Canada have some form of civilian oversight of law enforcement. Although agency size, statutory authority and responsibilities vary from province to province, civilian oversight agencies share a common goal: a positive relationship between the public and the police.

This is achieved through an accessible and transparent complaint process, conscientiously monitored by independent and impartial civilian agencies. Commissions and provincial agencies responsible for civilian oversight of investigations into alleged police misconduct are mandated to ensure complaint investigations are thorough, fair and balanced to both the complainant and the respondent.

Alberta	Edmonton Police Commission Calgary Police Commission Alberta Law Enforcement Review Board
British Columbia	Office of the Police Complaint Commissioner
First Nations	First Nations Police Governance Authorities
Manitoba	Manitoba Law Enforcement Review Agency (LERA)
New Brunswick	New Brunswick Police Commission
Newfoundland	Royal Newfoundland Constabulary Public Complaints C
Nova Scotia	Nova Scotia Police Commission (NSPC) Nova Scotia Police Commission (Website) Nova Scotia Agency Decisions
Military Police	Canadian Military Police Complaints Commission (MPC
Ontario	Special Investigations Unit Ontario Civilian Commission on Police Services
Prince Edward Island	Does not have a provincial police oversight agency. Le

	in the drafting stages. We expect it to be in force within months.
Quebec	Commissaire à la déontologie policière (Police Ethics Commissioner) Comité de déontologie policière(Police Ethics Cimmittee Portal, Ministère de la Sécurité publique du Québec
RCMP	Canadian Commission for Public Complaints Against th RCMP External Review Committee
Saskatchewan	Saskatchewan Public Complaints Commission



CACOLE
Canadian Association for Civilian Oversight of Law Enforcement

ACSCMO
L'Association Canadienne de Surveillance Civile du Maintien de l'Ordre

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Canadian Police Boards and Commissions

Alberta	Calgary Police Commission
	Edmonton Police Commission
	Lethbridge Board of Police Commissioners
	Taber Police Commission
British Columbia	Abbotsford Police Board
	Central Saanich Police Board
	Delta Police Board
	New Westminister Municipal Police Board
	Oak Bay Police Board
	Port Moody Police Board
	Saanich Police Board
	Vancouver Police Board
	Victoria Police Board
	West Vancouver Police Board
Manitoba	Dakota Ojibway Police Service Commission
New Brunswick	Saint John Board of Police Commissioners
Nova Scotia	Amherst Board of Police Commissioners
	Halifax Regional Municipality Board of Police Commissi
	Kentville Board of Police Commissioners
	New Glasgow-Westville Board of Police Commissioners
	Trenton Board of Police Commissioners
	Truro Board of Police Commissioners
Military Police	Canadian Military Police Complaints Commission (MPC
Ontario	Brantford Police Services Board
	Cornwall Police Services Board
	Cramahe Police Services Board
	Durham Regional Police Services Board
	Goderich Police Services Board (OPP)
	Guelph Police Services Board

	Halton Regional Police Services Board
	Hamilton Police Services Board
	Kingston Police Services Board
	London Police Services Board
	Michipicoten Township Police Services Board
	Mississippi Mills Police Services Board
	Niagara Regional Police Services Board
	Ottawa Police Services Board
	Peel Regional Police Services Board
	Terrace Bay Police Services Board (OPP)
	Thunder Bay Police Services Board
	Timmins Police Services Board
	Toronto Police Services Board
	Regional Municipality of York Police Services Board
Saskatchewan	Moose Jaw Board of Police Commissioners
	Prince Albert Board of Police Commissioners
	Regina Board of Police Commissioners
	Weyburn Board of Police Commissioners

2005 CACOLE Conference, Montreal Quebec

CURRENT ISSUES IN POLICE ACCOUNTABILITY

Oversight in Selected Canadian Jurisdictions - Manitoba

Speaking Notes – George V. Wright
Commissioner, Law Enforcement Review Agency (Manitoba)

October 4th, 2005

Good morning. I have chosen today, in keeping with the Conference theme, to talk to you as Commissioner about Manitoba's Law Enforcement Review Agency or as it is commonly known ***LERA***. I am of the thought that it is important that we have a working knowledge of the various oversight agencies and how they operate. With that in mind, I am delighted to have the opportunity to tell you about our Manitoba model on the occasion of LERA's twentieth anniversary.

At one time local political control of municipal police departments was vested in police commissions comprised of all or some members of each municipal council. These commissions dealt with public complaints. The Manitoba Police Commission established under *The Provincial Police Act* oversaw the operation of municipal police forces and generally provided consultation. From time to time, the Manitoba Police Commission would hear complaints, usually of a more serious nature, that had not been dealt with satisfactorily at the local level.

The initial citizen's complaint would be made to the local police department, investigated by the same department, and dealt with by

the police chief and at times the local police commission. The Manitoba Police Commission would become involved after an appeal of a disciplinary sanction imposed on the officer by the Chief of police or by a complainant who felt that his/her complaint had not been properly dealt with.

In 1979 the Manitoba Police Commission recommended a change in citizen complaint procedure following the Commission's investigation of an incident involving the alleged beating of a rape suspect by Winnipeg police officers in 1976 (the Frampton case).

This was the landmark case that initiated the call for reform with respect to how complaints are investigated. Two years later the Attorney General's Department issued proposals for new legislation in March 1981. Bill 2 of the 32nd Legislature *The Law Enforcement Review Act* (TLERA) was introduced into the house in November 1982 and passed in August 1983. It was subjected to vigorous debate after careful public scrutiny and many amendments by the Law Amendments Committee. In December 1984 the legislation was proclaimed.

The intent of the bill was:

> First: to promote a high standard of professional conduct among police officers in Manitoba;
>
> Secondly: to guarantee each citizen in Manitoba the opportunity for an independent investigation and review of their complaints against on duty municipal police officers;

Third: to provide a mechanism for the resolution of complaints in a manner that is fair both to the respondent police officer(s) and the complainant;

And finally...to ensure that the conduct of police officers is consistent with the rules of law and the ideals of a democratic and open society.

The new legislation required that all complaints by citizens about the actions of an on duty police officer be referred to the Commissioner whose job it is to determine whether the complaint is warranted and whether the matter complained about represents what the legislation refers to as a disciplinary default.

A board and Commissioner were appointed, regulations passed, procedures developed and other details attended to resulting in the Law Enforcement Review Agency commencing operations on February 1, 1985.

Originally the staff consisted of the Commissioner and an administrative secretary who doubled as Registrar. Law Enforcement Services provided intermittent part-time staff to investigate complaints. In 1990 the Registrar's position was eliminated and secretarial assistance was also provided by Law Enforcement Services.

In 1988 the Attorney General instructed the Research, Planning & Evaluation Branch to evaluate LERA and consider merging the Law Enforcement Review Board and the Manitoba Police Commission into

one agency dealing with police complaints. The instruction was made in the context of the expenditure review process and with a view to consolidating the functions in order to make use of available resources. Apart from resource and merger matters, the review identified issues and made recommendations concerning the governing legislation and certain operational matters.

In 1992 amendments to *The Law Enforcement Review Act* were proclaimed and resulted in dissolution of the Law Enforcement Review Board and the Manitoba Police Commission. Hearings are now referred to a Provincial Judge to enhance service to the public by providing an independent, objective trier of fact who is schooled in and knowledgeable of the law. The standard of proof required is amended to clear and convincing evidence rather than the previous criminal standard of beyond a reasonable doubt.

Other amendments included the onus of proof, time limits placed on appeals of the Commissioner's decision, and the Commissioner being given more authority to resolve complaints and other items.

In 1997 KPMG Investigation and Security Inc. were retained to review the Law Enforcement Review Agency with a goal of better understanding what constitutes an acceptable and manageable workload. Their report was received in January 1998 and all recommendations have been implemented which included an increase in staff and an improved case management system called CIPCA the acronym for ***C***onduct ***I***nvestigations of ***P***olice and ***C***ase

Administration which was designed by Manitoba Justice Information Technology staff.

A new Commissioner was appointed in March 1998 and many improvements have been achieved. The reporting structure has been clarified to ensure that the public's perception of the Law Enforcement Review Agency is that ***it is*** an independent government agency. *The Law Enforcement Review Act* requires the Commissioner to file an annual report to the Minister of Justice for tabling in the legislature. For administrative reasons the Commissioner has a working relationship with the Assistant Deputy Minister of the Criminal Justice Division.

The 2000 budget approved an increase of three-person years. Permanent staff includes two investigators and a Registrar who manages all administrative functions including an independent budget at offices located at 420 - 155 Carlton St. in Winnipeg, MB. Our website address is www.gov.mb.ca/justice/lera and includes annual reports back to 1992 and should include all annual reports back to 1985 before the end of the year.

It is important that a civilian oversight agency like LERA be transparent and one method of doing this is to ensure that the public is properly notified of hearings and reviews. All dates for hearings, reviews and matters before the Court of Queens Bench are posted on our website. All dispositions have been posted for the past two years and it is our objective to post all decisions of importance back to 1985.

The history is important as it clearly outlines the evolution of LERA. With a solid infrastructure, staff and mandate defined we were able to turn our attention to matters that allow us to remain a viable entity in the legal justice system.

One of the challenges from the beginning has been to ensure the mandate is not exceeded. As the watchdog over conduct and actions of municipal police officers in Manitoba we have no jurisdiction over civilian or staff members of the various municipal police forces in the province unless those individuals, like police officers, have the power of a police officer. As you may imagine, in the public's perception, those lines may become blurred at times.

Another challenge is to protect the integrity of our operation and to be alert when challenges are made. The Commissioner's jurisdiction has been challenged several times over the years and continues to be challenged by respondent police officers. These challenges have resulted in decisions by Judges at the provincial and Queen's Bench level and have clarified issues in regards to the administration and application of *The Law Enforcement Review Act* by the Commissioner.

LERA must investigate public complaints of misconduct by on duty municipal police officers. The agency does not investigate service or criminal complaints, and the RCMP's Public Complaints Commission has jurisdiction over RCMP members stationed in Manitoba.

Anyone who feels that they have been unjustly treated by the conduct or actions of an ***on-duty*** municipal police officer may file a complaint. Third parties may also file a complaint; however consent must be obtained from the affected person before the complaint can be investigated.

Complaints must be in writing and should set out the date, time, location and other particulars of the incident or action. The Commissioner ***does not*** have the ability to initiate a complaint.

Complaints may be made directly to the Commissioner's office, to the Chief of Police or to any member of a municipal police department.

Generally, complaints must be filed within 30 days of the incident, and Law Enforcement Review Agency investigators are the ones who complete investigations.

Complaints can be resolved in a number of ways. There's a process of informal resolution where the complainant and the officer who was complained about are brought together to discuss the matter and work things out.

Complaints can also be resolved in cases where the respondent officer admits a disciplinary default to the Commissioner. And complaints can be referred to a Provincial Judge for a public hearing.

Complaints can also be dismissed. If the Commissioner believes the complaint is frivolous or vexatious, further action can be declined. If the action complained about doesn't fall within the scope of the act, if it is abandoned, or not supported by enough evidence to justify a public hearing the complaint can be dismissed.

If the Commissioner declines to take further action, the person making the complaint has thirty days to request a review by a provincial judge.

The Law Enforcement Review Agency commenced operation on February 1, 1985, and is now twenty years of age. In the interim, several legislative changes have been implemented. I have already discussed the major changes proclaimed in 1992. Further amendments included Charter Compliance Legislation clarifying matters in the *Human Rights Act* and *The Law Enforcement Review Act.*

A regulatory amendment gave LERA jurisdiction over the Dakota Objibway Police Service that serves several First Nations in western Manitoba.

Other recommendations have been made to the Minister; however are not being proceeded with at this time.

On November 25, 2004, The Cross Border Policing Act came into force. This Act has an important impact on the Law Enforcement

Review Agency's jurisdiction and resulted in a number of amendments to *The Law Enforcement Review Act.*

Under *The Cross Border Policing* Act and through corresponding changes to *The Law Enforcement Review Act* the conduct of Manitoba police officers who are appointed as police officers in other jurisdictions is subject to *The Law Enforcement Review Act.*

Other amendments that were made to the Law *Enforcement Review Act* through the *Cross Border Policing Act* permit the Commissioner to investigate the conduct of members of other police forces working in Manitoba. The Commissioner may refer such a matter to a Provincial Judge to review and potentially make recommendations about police practices or policies. The Provincial Judge may not, however, make any findings or impose penalties with respect to a police officer from another jurisdiction.

On April 13, 1988 the Manitoba government created the Public Inquiry into the Administration of Justice and Aboriginal People which became known as the Aboriginal Justice Inquiry or AJI. The inquiry issued its report in the fall of 1991 and reported on numerous subjects including public complaints and the Law Enforcement Review Agency.

It would be inappropriate for me to comment on matters that are clearly issues of government policy however it is appropriate to understand the issues and where possible from a practical point of view take action. For example, the AJI recommended and I quote:

"In addition to what is now in Law Enforcement Review Agency reports, the agency report annually on the nature of complaints, how many were found to have merit, how many were dismissed and the type of penalty applied."

In 1991 LERA's annual report contained six pages of material that was of any substance. By contrast LERA's 2003 annual report was 41 pages in length and not only included matters relative to AJI recommendations but rather was expanded to include all topics relative to LERA's activities in a given year. As a public agency it is absolutely fundamental that our annual reports be comprehensive and transparent and available to the public. Our annual reports are also available in French.

In early 2003 the Southern Chief s' Organization met with the Minister of Justice concerning the issue of accessibility to LERA by Aboriginal citizens in Manitoba. The meeting concluded with agreement that a committee be formed to examine the issue. The Minister of Justice and Attorney General invited me to participate with other stakeholders.

I want to take a moment to define the word accessible as defined in Merriam Webster's Collegiate Dictionary. It includes: providing access, capable of being reached, being within reach, easy to speak or deal with, capable of being influenced, capable of being used or seen, capable of being understood or appreciated.

The issue of accessibility is subject to recommendation #5 of the Review Report on the Special Investigations Unit Reforms prepared for the Attorney General of Ontario by The Honorable George W. Adams, Q.C., dated February 26, 2003. At page 39 Judge Adams noted that public notification of the Special Investigations Unit is to be made readily accessible and that an ongoing effort is needed and that more than a website and telephone number may be necessary.

Shirley Heafey Chair of the Commission for Public Complaints against the RCMP in the Commission's 2002/2003 annual report at page 25 noted that despite media reports of a trouble relationship between Aboriginal Canadians and the RCMP, few formal complaints about RCMP members have originated from Aboriginal Communities since the Commission was established in 1988. This resulted in the Commission making a concerted effort to reach out to Aboriginal Communities making aboriginal complaints a priority.

Of the 10 provinces of Canada, Manitoba has the highest proportion of Aboriginal people. Of a 1996 population of 1.1 million, there were an estimated 77,500 First Nations residents and 57,000 Metis and Non-Status Indians.

Aboriginal Peoples make up an unequal proportion of the population in our provincial and federal correctional institutions. It naturally follows that aboriginal peoples are more frequently in contact with the

police yet many are uniformed or are unaware of how they may file a complaint against the police.

There is a responsibility on the part of civilian oversight agencies, the aboriginal community, the community at large, and indeed the police to ensure that there is indeed a profile of the civilian oversight agency in the community. Information must be posted in community centers such as stores, schools, libraries, municipal and band offices, and particularly police and detention centers and on websites. We also get the word out with media interviews and accepting speaking invitations.

We have developed a poster and brochures and while I can tell you our investigators are very busy with an average 185 cases per year, it is absolutely mandatory that any person who wants to file a complaint about the conduct of an on-duty municipal police officer be given the opportunity to do so.

The issue of accessibility by aboriginal peoples to Manitoba government programs including LERA continues to be examined by officials within the department of Justice.

I want to challenge you to exam your agency's profile in the community and determine if all citizens have accessibility to your services?

Thank you for your attention.

A Brief Discussion of Police Culture and How It Affects Police Responses to Internal Investigations and Civilian Oversight

Inspector Robert G. Hall
Winnipeg Police Service
September 19th, 2002

While most elements of police culture are universal, each agency possesses its own personal and distinctive organizational culture. So then, what is police culture? I've yet to discover an uncomplicated definition. The definitions I have found are many and varied, some extremely complex. McDonald et al have held: "The concept of police culture is comprised of the merging of two major components a) the image of impartial and professional crime fighters that the police have of themselves, and b) a system of beliefs and behaviour not described in published manuals or agency value statements."[1] This definition, while not necessarily identifying a compelling positive element, does recognize more than just the negative.

The public demands all professions be held to a high standard, but for obvious reasons policing has an even higher threshold to meet. All police officers must accept this higher standard. An integral part of the process of police acceptance of this higher standard is understanding the police culture, while retaining the resilience to both resist the negative and champion the positive.

Discussion of police culture is more apt to be centered upon the negative traits than the positive, so we may as well begin with the negative. Police culture is the sum of numerous subcultures, The Blue Wall being an unfortunate byproduct. Robert Reiner, in THE POLITICS OF POLICE, talks about the strength of the culture being based upon police work being a mission and therefore anything done in pursuit of this mission is serving the greater good. He argues that this foundation makes police culture so hard to reform.

In his 1994 report into police corruption in New York City, Milton Mollen wrote that corruption flourished, among other reasons: "...because of a police culture that exalts loyalty over integrity; and because of the silence of honest officers who fear the consequences of ratting on another cop no matter how grave the crime..."[2]

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[1] P. McDonald, S. Gaffigan, S. Greenberg, Police Integrity: Definition and Historical Significance (Washington D.C.: U.S. Department of Justice, National Institute of Justice, Office of Community Oriented Policing Services, 1997)

[2] Milton Mollen, The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department. Commission Report (1994), P.1

"In an environment perceived as hostile and unpredictable the police culture offers its members reassurance that the other officers will pull their weight in police work, that they will defend, backup and assist their colleagues when confronted with external threats and that they will maintain secrecy in the face of external investigations."[3]

A common theme expressed by many who have studied the police culture is the attitude that police must protect each other, whatever the cost, and that loyalty counts more than anything. Unfortunately, the loyalty they are talking about is misguided loyalty rather than loyalty to principle.

Before we move to THE BLUE WALL, let's briefly discuss some whys.

1. Self protection (it is human nature not to want to be ostracized – and this does include the fear of retaliation especially by way of non-support)
2. Suspiciousness (this may arise from the pressure to detect offenders or concern for danger – it likely causes a tendency to rapidly assess whether people are friend or foe and affects the officer's subsequent deportment)
3. Emphasis on team work may be a factor (this can foster group loyalty to the detriment of an officers duty – but how do you not promote team work when it is crucial to the survival of officers in incidents like high risk takedowns)
4. Internal reward systems (desire for coveted transfers can promote elitism and open the door to shortcuts and the resulting abuse of police powers)
5. The Incestuous socialization found in policing (this only strengthens the bond and compartmentalizes the thought process)
6. Police Officers are lied to so often they become cynical (Who do they believe and when)
7. Police Officers witness street level disrespect for the Justice System (at its lowest level it can lead to street justice in an attempt to re-establish authority); and
8. The Erosion Theory[4] (Over time and with constant exposure to the lower aspects of our society it becomes easier to accept criminal behaviour and easier to justify shortcuts).

For some people, The Blue Wall equals police culture. While it may be only a matter of semantics, I prefer to use the term "Code of Silence". Blue Wall is a subjective term directed at policing only, (to which I will ultimately confine my remarks) but in reality a "Code of Silence" exists, in varying degrees, in every walk of life, from corporate North America, to the political arena, the clergy, the medical profession, the legal profession, the sporting world, the criminal element of course, and even our own school yards where it is an unwritten rule not to rat out another.

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[3] Andrew Goldsmith, Taking Police Culture Seriously: Police Discretion and the Limits of Law, (Policing and Society Volume 1, Number 2, 1990)

[4] Edwin J. Delattre, Character and Cops Ethics in Policing (Washington D.C.: The AEI Press 1996)

So what is a "Code of Silence"? In its simplest form, a "Code of Silence" is the perception that police officers will never inform on other officers even if that officer is involved in illegal activity. Within policing, this "Code of Silence" is distinct to each individual officer who will apply his or her own moral code and personal tolerance level to misconduct.

It is not bold courage that permits me to stand before you this morning and confess to a "Code of Silence" in policing. There are more than enough documented incidents that unfortunately graphically confirm a "Code of Silence". "Virtually all experts agree that the single greatest obstacle to achieving accountability is the police subculture, and in particular the code of silence."[5]

"A national survey of police officers (in the USA) by the Police Foundation in 1998 found that slightly more than half (52.4%) agreed that 'It is not unusual for a police officer to turn a blind eye to improper conduct by other officers'."[6]

In research conducted between February 1999 and June 2000, The National Institute of Ethics found that in the USA 79% of recruits acknowledged the existence of a "Code of Silence". More disturbing, the research found that it really didn't bother 52% of them. (This statistic lends credence to the position that a form of "Code of Silence" is well established before officers are on the street.)

This shouldn't come as a surprise to you. This code has been entrenched in all of us, from our earliest days, when we were told by our parents not to tattle on our siblings. Does this mean we should accept this darker side of human nature, a "Code of Silence" in policing? Absolutely not!

I want to make it perfectly clear, before I continue, that nothing I say, should, in any way, be construed as an excuse for, or acceptance of, a lack of integrity in police officers, or anyone else for that matter.

Samuel Walker argues that: "The historic 'code of silence' developed because officers learned that there was no risk of punishment for backing up fellow officers, no matter how incredible the tale."[7] While I respect his view, this is a simplified statement to an issue that is far more complex.

Negative police culture will undoubtedly directly affect officers' responses to internal investigations and civilian oversight. It is also important to appreciate that progressive police services acknowledge this culture and have actively engaged their energy toward combating it.

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[5] Samuel Walker, Police Accountability The Role of Citizen Oversight (Belmont, California: Wadsworth Group, 2001), P.109

[6] Walker, P. 109

[7] Walker, P.140

Responses by police officers to investigators take many forms, some direct, others more discrete or indirect. These may include formal interviews, informal meetings, comments by association representatives, legal tactics, media stories, or rumour. Officer's personal responses to internal investigators commonly include simply telling the truth. On other occasions, they may choose to remain mute (a suspect officers legal right). In some instances though, despite of the fact that severe consequences may result, officers elect to distort or misrepresent the truth, outright lie, or file false reports, and supply false statements. The phrase: "lie, deny, and act surprised" comes to mind. Once the lie is on the record, verbally or in written form, the die is cast and there is no turning back. The officer must continue the charade for the entire process, or admit to a lie and accept the consequence. This includes testifying in court (or as Alan Dershowitz says "testilying"). The message we must loudly send is that you have a choice how you answer; but you cannot with impunity, knowingly and willfully, answer with a falsehood.

It is not uncommon for officers, during investigations, to not volunteer information, ensuring that without an "independent" witness the likelihood of advancing the investigation is significantly hindered. Even with an "independent witness", civilian witnesses commonly fare poorly in court under the intense interrogation of experienced defence counsel. Investigators, when interviewing officers, must be well organized, skilled interviewers, capable of asking the right questions and not afraid to ask the tough, probing questions.

In the face of extreme peer pressure, officers are generally not forthcoming with information on criminal or regulatory misconduct by other officers. Self protection is human nature, and police officers, like everyone else, are human and subject to the frailties of human nature. Many of you have no doubt heard this comment: "A persons ethic and a tea bag have much in common. You never know how strong they are until they are in hot water."

When officer's transgressions are not only <u>not</u> addressed, but actually concealed, they are not learning that they have acted inappropriately due to the blind support they have received from their peers. This support of negative behaviour intensifies when it is a supervisor concealing the misconduct for an officer thus providing validity and strength to the "Code of Silence".

This lack of cooperation with investigators may be cultivated, for a number of reasons, in a distorted sense of right. These factors are too numerous to deal with entirely, but include the belief that the police are the last line of defence between the citizens we are sworn to protect and the criminal who has all the advantages and protections of the law. Frustration sets in, as officers see the courts as being too lenient, and the rules for the police too restrictive (Feeney), thus the belief that crime fighting has been strangled by due process.

The human factor surfaces when an officer exhibits an elevated sense of compassion for the victim or the victim's family, especially when investigating horrific crimes. Officers can form the misguided belief that, bottom line, the public wants us to solve crime, and as a result, have provided their tacit approval to disregard due process.

Officers often receive mixed messages. For some officers, these mixed messages cause their role in society to blur. On one hand, the vocal citizens of a particular community, usually with a legitimate concern, will demand police action. They will appeal to their police to deal with the problem suggesting they just want the problem to disappear. If the problem is slow to be resolved, believing the police have powers beyond what society has provided, they will vigorously chastise the police for what they perceive as inaction. The community often then will take their cause to the media and their political representatives. Under mounting pressure, the police officers feel inadequate when they can't, through legal means, resolve the issue. In frustration they may enact "the ways and means act". Now internal is investigating their practices; criminal charges are laid against the officers and arrests made. Along comes the community again, this time in support of the officers who have ignored due process and the human rights of individuals. An example of this mixed message is the LAPD Rampart investigation where after several officers were arrested the community hung a banner: "The Community loves the men and women of Rampart Station". For some officers the line blurs even further. We all know the sickening aftermath of the indiscretions of these officers.

All of these things affect how officers respond to internal investigators because they feel they are only doing what is expected of them. When dealing with an offender they are certain has committed serious offences, they believe they have done nothing wrong and therefore are able to reconcile distorting the truth to investigators. Lastly, they may well know they have committed an act of misconduct that will bring sanction if exposed.

Other responses include officers lining up like lemmings in support of an officer, without consideration of the facts, even though the position they are assuming is folly. They may "book sick" on mass to create operational difficulties or they may fill a courtroom when one of their own is on trial, under the guise of solidarity, but more likely it is to confuse and intimidate witnesses.

Comments have been published in a quarterly publication of the Winnipeg Police Association. These comments, directed at internal investigators, expressed the opinion that investigators on certain investigations should have their property in their wives names. Two of my investigators, in separate conversations with a highly positioned association representative, were reminded that they would eventually have to go back and work with those they were investigating. Rumours were also spread that dead rats had been placed in the locker of a recently transferred internal investigator, a Sergeant, and that his shift would not accept him. Neither rumour was remotely factual. Intimidation? You be the judge.

Tactics by legal counsel for a police association may often stymie investigators. It is almost unheard of now to have a witness officer appear for an interview without legal counsel. While I don't argue their right to legal representation, a serious conflict of interest occurs when, in most cases, the association lawyer represents all the witnesses and the suspect officer at the same time. Who is being represented: the association, the witnesses, or the suspect officer? How are the best interests of each individual officer being represented? How does this lawyer now advise his clients ethically? A conflict of interest? Again, I'll let you be the judge.

While I have addressed the negative culture exclusively to this point, I want to close on the positive. I don't believe that the negative subculture reflects the majority view of police officers. A constructive, professional, ethical, and progressive organizational culture influenced and supported by the executive, senior management, supervisors, in concert with the skilled, "big picture" thinking men and women in the trenches, is widespread in policing today. The majority of officers today exhibit an excellence of character worthy of the public's trust. They are caring, brave, dedicated, trustworthy, and honest. As a word of caution though, this opinion is not a licence for naivety. We must be forever vigilant.

The Winnipeg Police Service's Professional Standards Unit is not flooded with information received from officers implicating other officers in criminal or regulatory misconduct. I can tell you though, three years ago when I assumed my position there was no incoming information. Today, we have had several contacts with officers concerned about the improper behaviour of their peers. Most information is received informally, some anonymously. Some has been gathered as intelligence, while some has been investigated and defaults registered under our Regulations. The courage these officers have exhibited leads me to believe we are headed in the right direction, albeit slowly.

A police service operating in a positive, constructive environment, coupled with the will and commitment of the Service to improve, can influence the structure of the "Code of Silence". We must be intolerant to the "Code of Silence"!

Acknowledging the problem is the first step. The solution, if there is a solution, can only be attained through unwavering positive reinforcement, positive messages, education, vigilance, and, where necessary, direct assertive disciplinary action. There is no quick fix! It is plodding, repetitive, and at times, difficult and frustrating work. The Chief must be the role model in setting a positive organizational culture. His, or her, readiness to be accountable, admit error and expose the warts of the organization; confront the thorny issues, and do what they say they will do, is paramount to gaining organizational trust and grasping success in establishing a predominantly positive culture. His or her actions must be consistent with their words. Realistically though, the "Code of Silence" will no more be completely eradicated from policing than it will be from any other walk of life. Nevertheless, the effort to be the best we can be, must, and will, continue.

Walker says: "Historically police departments have done little to break the code of silence. In addition to the difficulty of the problem, it is embarrassing for departments to publicly expose lying by its own members."[8]

I know the WPS has taken positive action to break the "Code of Silence" and influence the police culture. As we have discussed, this is a complex issue lacking a simple resolution. To those truly attempting to deal with this issue, the embarrassment Walker talks about is a minor inconvenience.

I have recently been cautiously encouraged in Winnipeg by what appears to be a decline in the number of complaints of a more serious nature being made; this observation, even though we have been very vocal about accepting and investigating complaints. While this may only be a blip on the radar screen, time will tell if we are only visiting the valley for a short period of time. The longer we remain in this valley though gives rise to optimism that the last three years of hard work by Chief Jack Ewatski and the Professional Standards Unit has sent a constructive message to our membership and that this message has not only been heard, but accepted.

As I conclude, let me leave you with the message: THE GLASS IS HALF FULL! The vast majority of people in policing are good people. They need the confidence to persevere knowing that their organization's executive and management strongly support the professional way in which they choose to do business and that those who choose to conduct business as vigilantes will be dealt with appropriately.

Thank you for your attention. Enjoy and benefit from the remainder of the conference.

[8] Walker, P. 111