Agenda – Executive Policy Committee - July 19, 2006

REPORTS

Item No. 1 Re-Establishment of the Winnipeg Police Commission
File GF-2

STANDING COMMITTEE RECOMMENDATION:

On July 10, 2006, the Standing Policy Committee on Protection and Community Services reiterated its June 12, 2006 recommendation and 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.

Agenda – Executive Policy Committee - July 19, 2006

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On July 10, 2006, the Standing Policy Committee on Protection and Community Services concurred in the administrative recommendation and received the report from the Chief of Police dated June 29, 2006, as information.

Further, the Standing Policy Committee on Protection and Community Services reiterated its recommendation of June 12, 2006, namely:

1. That 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.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 21, 2006, the Executive Policy Committee passed the following motion, namely:

WHEREAS on May 19, 2004, Council directed the Administration to develop a discussion paper on best practices relating to governance and external oversight respecting police services, and 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;

AND WHEREAS the City has legislated authority under s.166 of the City of Winnipeg Charter to pass a by-law for the "organization, government, administration, control, discipline, well-being and efficiency of the police service";

AND WHEREAS on May 8, 2006, the Standing Policy Committee on Protection and Community Services requested that the Administration provide information on the potential of establishing a Winnipeg Police Commission;

THEREFORE BE IT RESOLVED THAT the Chief Administrative Officer be directed to examine the current governance model of the Winnipeg Police Service, focusing on best practices in Canada in oversight and police accountability for results in crime prevention and enhancing community safety and transparency and report back to the Standing Policy Committee on Protection and Community Services to their meeting scheduled for July 10, 2006.

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

Further on June 21, 2006, the Executive Policy Committee received supporting documentation from the following delegations with respect to the recommendation from the Standing Policy Committee on Protection and Community Services pertaining to the proposed re-establishment of the Winnipeg Police Commission:

- Tom Simms, Co-Director, Community Education Development Association, submitted a communication dated June 9, 2006 from the Inner City Safety Coalition, an extract from an administrative report dated May 5, 2004, and information on the upcoming annual conference of the Canadian Association of Police Boards (CAPB);

- David Sanders submitted his presentation dated June 21, 2006;

- Jon Schledewitz, freelance photographer for The Winnipeg Sun and Uptown magazine, submitted his presentation dated June 21, 2006.

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;

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

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.

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.

RE:	**Re-establishment of the Winnipeg Police Commission**
FOR SUBMISSION TO:	**Standing Policy Committee on Protection and Community Services**
ORIGINAL REPORT SIGNED BY:	**J. J. Ewatski, Chief of Police**
REPORT DATE:	**June 29, 2006**
RECOMMENDATION:	**That this report be received as information.**

Report Summary

Key Issues:

- In discussions on the subject of governance relating to the Winnipeg Police Service, three main areas of concern have been identified: 1) oversight of internal investigations; 2) making the case for budgetary resources; and 3) perception of political influence.

- Regardless of the governance model in place, the challenge inherent in all forms of police governance is the need to balance police independence with public accountability.

- The role of the Chief of Police in the criminal justice system requires independence from influence (and the appearance of influence) in matters involving investigations and the laying of charges. The Chief of Police requires the discretion to determine who will receive information regarding specific investigations and the laying of charges.

- A change to the governance structure in Winnipeg would require amendments to provincial statutes and, possibly, City of Winnipeg by-laws. The Province has initiated a review of *The Provincial Police Act* and it is believed that a rewritten Act may mandate a board or commission form of governance for municipal police agencies.

- There appears to be no ideal model of police governance, and while moving from one model to another may resolve certain challenges, it could also introduce new ones.

- Lessons learned in the Winnipeg experience include the principles of:
  - separating areas of conflict (the holding of authority over Department operations, and the provision of independent oversight) to remove any real/perceived conflict of interest, and
  - granting powers commensurate with roles and responsibilities, such as final decision-making authority on areas within the governance body's jurisdiction.

Implications of the Recommendation(s):

General Implications

(√) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

( ) Involves a multi-year contract
Comment(s):

Policy Implications

(√) No

( ) Yes

Comment(s):

Regulatory Implications

(√) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(√) No

( ) Yes

Comment(s):

Human Resources Implications

(√) No

( ) Yes

Comment(s):

Financial Implications

(√) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):
There is no financial impact. This report is submitted for information only.

Report

REASON FOR THE REPORT:

At its meeting on June 21, 2006, Executive Policy Committee directed the Chief Administrative Officer to examine the current governance model of the Winnipeg Police Service, focusing on best practices in Canada in oversight and police accountability for results in crime prevention and enhancing community safety and transparency and report back to the Standing Policy Committee on Protection and Community Services to their meeting scheduled for July 10, 2006.

HISTORY:

Winnipeg Police Commission, 1974 – 1986

From 1974 to 1978, the Winnipeg Police Commission had paramount authority over the operations of the then-Winnipeg Police Department including hearing citizen complaints but not including collective bargaining or budget adoption.

However, there was a perceived conflict in the Commission acting as the authority over the Department while also overseeing citizen complaints. As a result, in 1978, these two functions were segregated. The Police Department was placed under the authority of the City of Winnipeg's Finance Division, leaving the Commission responsible solely for overseeing complaints.

The Law Enforcement Review Agency (LERA) was formed in 1985 by the Province of Manitoba. The establishment of LERA reduced the Commission's role even further by assuming responsibility for citizen complaints. At that point, the Commission's role was limited to providing oversight for internal investigations.

The Commission requested that it be granted additional powers or be disbanded, and in 1986 was disbanded.

Decision Making History

- At its meeting of February 26, 2003, City Council adopted the following motion:
  - That City Council consider the re-establishment of the Winnipeg Police Commission.

  The motion was automatically referred to Executive Policy Committee who, at its meeting of March 5, 2003, referred the matter to the Chief Administrative Officer for a report back.
- A report was submitted by the Chief of Police for information to Executive Policy Committee in May, 2004.
- At its meeting on May 19, 2004, Council concurred in the recommendations of Executive Policy Committee:
  - That the Administration be directed to develop a discussion paper on best practices relating to governance and external oversight respecting police services and

- 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*.

DISCUSSION:

Boards and Commissions

For the purposes of this report, the terms "board" and "commission" are interchangeable. However, in practical terms, "board" is generally used when the governance body is constituted locally by the municipality, and "police commission" is generally used when the governance body is constituted by the provincial government.

A board or commission is defined as an independent governance body through which a police service would report to elected and senior bureaucratic officials. The existence of a board or commission is seen by a number of jurisdictions as assisting in the separation of roles and authority between the aforementioned positions or entities.

With the exception of Winnipeg and some municipalities in Quebec, all major Canadian municipalities have implemented a board or commission model for their police services.

Management Roles and Authority, and Reporting Relationships

- The Chief of Police has a unique role in the City bureaucracy; unlike other department directors, the Chief of Police must operate independently and without influence or the appearance of influence in enforcing the laws of the land, while at the same time being accountable for fiscal and other operational matters.

- The autonomous role of the Chief of Police in the criminal justice system arises from the common law and legislation at the provincial and municipal levels.

- Reporting relationships of the Chief of Police:
  - On operational, management and fiscal issues, the Chief of Police reports to the Chief Administrative Officer (CAO) (pursuant to the City Organization By-Law No. 7100/97, the CAO is responsible to supervise the operations of departments – s. 26 (7)); and
  - With respect to policy matters, the Chief reports to the CAO; the CAO approves and coordinates reports to the Standing Committees (City Organization By-Law No. 7100/97, s. 26 (5)), which in turn provide policy advice to Council (City Organization By-Law No. 7100/97, s. 10).

The Chief's role in the criminal justice system requires independence from influence and the appearance of influence in investigations and the laying of charges. In order to maintain this requisite level of independence, answers to enquiries from the above-noted or other entities must be at the discretion of the Chief of Police who determines what information may be provided to whom, and when.

The Chief of Police also has direct contact from time to time with the provincial Minister of Justice and Attorney General on issues relative to the criminal justice system and, to a lesser degree, contact with the federal Minister of Justice and Solicitor General.

Community Consultation and Relationships

The Winnipeg Police Service operates under the philosophy of Community Policing, which is an approach that engages the community in a cooperative effort to improve public safety. Today, most North American police agencies espouse a community policing model of some sort. This approach involves consultation with the community as part of decision making to ensure optimal advantage from the deployment of resources to meet specific needs of communities (e.g., foot patrols in core areas, patrol cars in larger suburban areas).

Consultation with communities often takes the form of advisory groups such as the Aboriginal Advisory Committee and a community advisory committee formed as an adjunct to Operation Clean Sweep as two examples. The Aboriginal Advisory Committee was formed in 1996 and in 2005 was renewed with new terms of reference and member selection to better represent the community and in turn provide more comprehensive advice to and dialogue with the Police Service. The Clean Sweep community advisory committee met during the pilot project which ran from November 2005 to May 7 2006 to gauge public concern about crime issues as part of the action planning for the task force. The committee's input enriched the task force's ability to meet public expectations for targeted enforcement and was instrumental in the overall success of the pilot project.

Committees such as these provide not only input to the police, but also provide opportunities for transparency and accountability, ensuring access to police officers and leadership to answer to citizens' concerns about public safety. That said, these committees are not meant for the discussion of specific complaints of other such matters that are the purview of LERA or the WPS Professional Standards Unit.

Other examples of community outreach and consultation by the Police Service include:

- Several series of public forums from soon after the appointment of Chief of Police Ewatski (1998), 1999 to 2003. Forums in 1999 provided the venue for public consultation into a major Operational Review. Forums in 2003 were used to inform the public of key results from the Operational Review, including the Four District Model and the Community Patrol Deployment Model which introduced the concept of "planned response" to lower priority calls for service.
- Two series of forums were held with the Aboriginal community, to hear concerns and needs of the community in order to more effectively respond to cross-cultural policing issues.
- Ongoing outreach and dialogue with community and business groups, and with ethno-cultural groups with assistance from the Police Service's Aboriginal and Diversity Section.
- Consultation with young people on issues of public safety and career opportunities for youth, through the Chief's Youth Advisory Committee.
- A biennial, independent public opinion survey used to gauge public satisfaction on a variety of aspects of the Police Service.
- External communication vehicles including our home page on the City's Web site, which provides links to a number of contacts in the Police Service to supplement traditional forms of contacting police to provide feedback on our various services.
- A public meeting during the on-site visitation held every three years by members of the Commission on Accreditation of Law Enforcement Agencies as part of the re-accreditation process.

Key Issues Respecting Winnipeg's Current Model of Governance

In ongoing discussions relative to the subject of governance relating to the Winnipeg Police Service, the following have been identified as the main areas of concern:

- Oversight of internal investigations
  Internal investigations of police conduct are the responsibility of the Chief of Police, unless a complaint of non-criminal activity is made to the Law Enforcement Review Agency, or if that Agency refers a complaint of criminal conduct to the Attorney General. These internal investigations pertain to criminal or disciplinary matters under the Rules and Regulations of the Winnipeg Police Service. Changes to the role of the Chief and the Police Service in this area would require legislative amendment.

  There has been a limited level of public concern about police investigating police, however, both the impartiality and effectiveness of the Winnipeg Police Service Professional Standards Unit (PSU) have been demonstrated in a number of high-profile cases of criminal allegations against Police Service members. The PSU has developed a reputation for conducting investigations that are thorough, objective and complete.

  Furthermore, at the discretion of the Chief of Police, a completed investigation relating to a major allegation against police is forwarded to an outside police agency for review and to provide an opinion on its thoroughness, objectivity and completeness. Upon receipt of that review, the file is then sent to the Minister of Justice and Attorney General for review. This process ensures transparency which is essential to maintaining public confidence in police.

- Making the case for budgetary resources
  The Chief of Police is a member of the City of Winnipeg's Senior Management Team and assumes a role of corporate stewardship, balancing perspectives and priorities among fellow department directors. Yet, matters of public safety must be vetted in a way that allows the opportunity to make the case for resources deemed necessary to meet the needs of the community. It has been the view of some jurisdictions that a board or commission model of governance can more independently present the case to Council for increasing or decreasing the Service's resources.

- The perception of political influence
  Having the Chief of Police report as a department director to a Standing Policy Committee can invite the review of operational matters in areas such as deployment and tactics that can, at times, diffuse authority. As well, to ensure the integrity of police investigations, it is critical that decisions on whether to investigate, how to conduct the investigation, and whether or not to lay charges, must be free from political influence or even the appearance of political influence.

The Essential Role of Governance

Regardless of the model in place, the challenge inherent in all forms of police governance is the need to balance police independence with public accountability.

Past experience in the Winnipeg milieu has demonstrated that there is a need to separate areas of conflict; the authoritative body responsible for operations cannot also effectively provide independent oversight. There is also a need to provide powers commensurate with roles; to the

greatest degree possible, responsibilities granted to a body necessitate a corresponding level of decision-making power.

Legislative Requirements

A change to the governance structure in Winnipeg would require a combination of amendments to *The City of Winnipeg Charter Act* (the Charter), *The Law Enforcement Review Act* and, possibly, the by-laws regarding governance of the Police Service pursuant to s.166 of the Charter.

The Charter does not allow for the delegation of powers to non-City employees or to a committee which includes a combination of councillors and members of the public, which is the usual makeup of a board or commission. Therefore, in order to implement a board or commission, provincially-legislated authority would be required to grant powers to those individuals. It may also be possible to create a new Act of the provincial legislature along the lines of a "Winnipeg Police Commission" Act which would give powers to a specific commission independent of City Council.

Relevant to the discussion of governance is the fact that the provincial legislation regarding the provision of police services (*The Provincial Police Act*) is currently under review by the Minister of Justice and Attorney General. It is likely that matters of governance will be addressed in this review, and the resulting amendments could require the City of Winnipeg to comply with a different governance model than that presently in place. The Administration has been directed to work with the Province in this effort and, in that regard, the Winnipeg Police Service has been represented in a provincial working group since 2004.

In deliberating the decision whether or not to adopt a board or commission form of governance, the following points, among others, would be relevant to consider:

- The primary responsibilities to be assigned to the board/commission
- The size and composition of the board/commission (regarding composition, consideration might be given to specific expertise of board or commission members, to address specific powers granted to the board or commission)
- The appointment process and any term limitations for board/commission members
- Basic board/commission operating principles and procedures
- The resources necessary to support the work of the board/commission

ADDITIONAL RESEARCH:

1. Police Governance across Canada

The Canadian Association of Police Boards (CAPB) is a national body dedicated to the delivery of effective police governance. It acknowledges that the duties of police boards vary from province to province, but attempts to summarize the responsibilities as follows:

- Determining adequate personnel levels,
- Budgeting for the needs of the police service,
- Monitoring the budget,
- Reviewing the performance of the service,
- Hiring the Chief of Police,

- Labour relations,
- Discipline, and
- Policy development.

The CAPB recently produced a report entitled “Best Practices – A Framework for Professionalism and Success in Police Board Governance.” Should the decision be made to proceed to a police board model of governance, this document could provide insight into successful formation and implementation. However, a preliminary review notes that the document appears to be written in the context of a municipality having decided to adopt the board model. It does not appear to be a discussion on the merits or disadvantages of that model of governance.

In Canada, there are three variations to the provision of police services at the municipal level. The services are provided either by a municipal police agency, a provincial police agency, or under contract with the Royal Canadian Mounted Police.

Police governance takes different forms as well. The function is provided either by a provincial police commission serving all municipalities within the province, a municipal police board serving the local municipality only, or by the local elected municipal council. (The term “police board” is generally used when the governance body is constituted locally by the municipality. The term “police commission” is generally used when the governance body is constituted by the provincial government.)

Regardless of its form, the goal of police governance is to ensure that the public safety needs of the community are met. In doing so there is a need for police *independence*: to ensure that covert operations are not compromised, to ensure that investigations are unencumbered from political influence, and to ensure that administrative demands do not put the public at risk.

On the other hand, there is a need for public *accountability*: to ensure that funds are spent wisely, to ensure that the service is managed responsibly, and to ensure that police conduct is above reproach. The challenge of effective governance is to find the appropriate balance between the need for police independence and the need for public accountability.

Winnipeg is the only large municipality in Canada, with the exception of municipalities in Quebec, whose administrative structure includes a police department reporting to the head of the bureaucracy. All other large municipalities have adopted a board or commission form of governance whereby the Chief of Police is accountable to the board or commission which, in turn, is accountable to the municipal council.

Across the country, enabling provincial legislation has resulted in the creation of police boards. In most provinces (British Columbia and Alberta for example), police boards are established for each municipality that maintains its own police service. In other cases, (including Saskatchewan and Nova Scotia), a single provincial police commission provides governance for all municipal police agencies within the province. In either of these scenarios, the board or commission is accountable both to the province and the municipality. As a result, authority to appoint members to the Board is generally shared between the province and the municipality.

Municipalities that have adopted a board model have done so in recognition that a police service is different from other municipal services in that a greater degree of independence is

required in order to operate effectively. This is due primarily to the sensitive nature of police investigations. An inquiry into police governance by the Province of British Columbia concluded that, "decisions on whether to investigate, how to conduct that investigation, and whether to recommend the laying of charges as a result of an investigation must be totally free from political influence or even the appearance of such influence." To address this concern, most municipalities have come to the conclusion that a police agency should be accountable to an external, civilian authority.

There are no instances in Canada where a police board is elected by the community rather than appointed by a council, though the concept has been explored. In BC for example, the notion of election was abandoned because, "appointment appears to minimize the danger of boards becoming dominated by single-issue members…. If appointees to the board fail to execute their mandate, they can be removed from office. In addition, well-qualified members of the community who would not stand for election are more likely to accept an appointment."

Police boards and commissions vary in size across the country with larger municipalities having larger boards and vice versa. Large boards of, say, nine members, allow for more complex sub-committee structures, while smaller boards of, say, five members, are preferred when the governance responsibility rests solely with the board as a whole. Most mid-sized cities have seven-member boards allowing some flexibility to accommodate both of these possibilities while ensuring good community representation, and members' terms are usually limited to ensure a healthy turnover.

While the composition of boards varies across the country, each such body is generally made up of representation from the municipal council, provincial government, and members of the general public. The tendency is to seek volunteer participation on police boards, although the Chair of the Toronto Police Services Board, for example, is a well-paid, full-time position. The compromise is to provide an honorarium in recognition of the level of service, commitment, and skill that members bring to the position. Calgary's board provides $150 to each member for each meeting attended.

In assigning responsibilities to a police board, the challenge is to ensure that the governance function is fulfilled in terms of providing strong leadership, clear direction, and public accountability while not infringing on the police chief's responsibility to manage the resources of the agency effectively and efficiently. Budget decisions are key; while the budget is generally the responsibility of the board to bring forward, public accountability necessitates its adoption by City Council, as is the practice with budgets for all other municipally-delivered services.

The scope of board responsibilities depends to some degree on the local environment. In the context of Winnipeg, on matters of investigation of conduct, the role of the Law Enforcement Review Agency (LERA) must be considered. LERA provides an independent, quasi-judicial function in matters relating to public complaints against the police.

However, as the Winnipeg Police Service does conduct internal investigations (particularly regarding criminal allegations) outside of LERA, one would have to weigh the relative merits of having the oversight function provided by an external police agency versus an external civilian body to ensure that such internal investigations are thorough, objective, and fair.

As well, the responsibility for labour relations can be difficult to assign to an appointed body given that decisions reached regarding contract negotiations, for example, could greatly impact the budget. Therefore, it would have to be considered whether the responsibility for labour relations and appeal mechanism for disputes should remain with the civic administration. Further, were a board or commission to be responsible for labour relations, it could be beneficial to appoint a board member with expertise in that field.

Police Boards require some measure of staff support. Most Boards across the country employ an executive director together with an administrative assistant in order to ensure proper support of the primary governance responsibilities. Some also employ one or more complaint monitors in order to ensure that the function is given proper attention. In a few cases, the board undertakes independent research and a research position is created to help fulfill that role.

Police board or commission support staff responsibilities may include:

- Ensuring the flow of information among the board, the citizens, the police service, the municipality, and other agencies,
- Providing administrative support and advice on matters of governance and procedure to the members of the board,
- Providing and coordinating both internal and external communications,
- Ensuring that an accurate record is kept of all board activities, and
- Providing an independent review of investigations into police conduct to ensure that the process is objective, fair, and thorough.

As a conclusion, there appears to be no ideal model of police governance, and the effectiveness of any model can be highly dependent on the relationships and dynamics that develop between the stakeholders. While moving from one form of governance to another may resolve certain challenges, it could also introduce new ones.

2. Current Model and Practice in Winnipeg

The Winnipeg Police Service is a large department within the City of Winnipeg administration with a total authorized complement of 1,602 of which 1,254 are police officers and 348 are civilian support staff positions. The Service has an annual operating budget of approximately $147 million, which represents 20% of the City's tax-supported budget.

The Winnipeg Police Service provides the following services:

1. Police Response, including
    - Emergency response
    - Non-emergency response
    - Criminal investigation
    - Police crime statistics and records
    - Contract policing and special events policing
    - Police skills training
2. Crime Prevention, including
    - Community crime prevention initiatives*
    - Crime safety education
    - Graffiti control*
    - Park patrol*

* These services are delivered jointly with other City Departments.

3. Traffic Safety and Enforcement

The Chief of Police reports administratively to the Chief Administrative Officer (CAO) and sits as a member of the CAO's Senior Management Team. As with all department directors, the Chief of Police is hired under contract by the CAO. The Chief of Police is required to prepare an annual business plan reflective of the budgetary parameters provided by the CAO which, in turn, are intended to reflect the expectations of Council. When approved, responsibility for the implementation of the business plan and adherence to the approved budget rests with the Chief as part of his/her contractual obligation to the CAO. The CAO oversees his/her performance in this regard.

However, the Chief has an independent and autonomous role in matters related to the criminal justice system as mandated through provincial legislation.

Working within a City department, all members of the Police Service are City of Winnipeg employees. Labour relations are handled as a corporate function outside the Department, and labour disputes are addressed through the City's grievance and arbitration processes.

Matters of discipline are somewhat more complicated. Public complaints against the Police Service are handled by the Law Enforcement Review Agency (LERA), an independent, quasi-judicial, provincial body that reports to the Minister of Justice and Attorney General. However, internal investigations are the responsibility of the Chief of Police and these pertain mainly to disciplinary matters under the Rules and Regulations of the Police Service or allegations of criminal conduct.

Policy matters related to police services are the responsibility of City Council's Standing Policy Committee on Protection and Community Services. The Committee meets once a month (except for the month of August). Reports received by the Committee are prepared by the Chief of Police and vetted through the CAO. The Chief may also report on operational matters when their profile is such that elected officials may be asked to comment publicly. However, to assure the independence of police regarding law enforcement, the Chief must retain control over what level of operational information can be provided to whom, and when. It is critical that the relationship with elected officials neither compromises nor is deemed to compromise the Chief's independence in matters of law enforcement. A balance must be achieved when operational concerns affect specific investigations.

3. The Winnipeg Police Commission (1974 – 1986)

If consideration is given to the re-establishment of a Winnipeg police commission (or police board), then it is appropriate to revisit the period from 1974 to 1986 when the Winnipeg Police Commission was in place. The following is a chronology of decisions regarding the formation and subsequent disbanding of the Commission:

On October 2, 1974, City Council passed By-laws No. 783/74 and 784/74 thereby establishing a Winnipeg Police Department and a Winnipeg Police Commission. It was intended that the Commission would have paramount authority for the operations of the Winnipeg Police Department, subject to such matters as collective bargaining and budgets, the final authority for

which was to remain with City Council. The Commission was composed of three members of Council and two members of the public.

On November 15, 1978, City Council passed By-law No. 2150/78 the effect of which was to make the Winnipeg Police Department a part of the Finance Division assigned to the Commissioner of Finance and to make the Police Department no longer subject to the paramount authority of the Winnipeg Police Commission. The major functions left to the Commission were the hearing of citizen complaints against the actions of police officers and discipline appeals by police officers. As well, the Commission was expected to provide advice related to community relations and crime prevention.

At the time, the Police Commission concurred with these changes stating that it had been discussing and attempting to separate its role as the paramount authority for the Police Department on the one hand and its role as a quasi-judicial tribunal on the other hand. As well, with City Council having authority over collective bargaining and budget, and with the Commission acting as paramount authority over police operations, the jurisdiction over matters related to training, contracts and other day-to-day operations became clouded.

On November 27, 1984, Executive Policy Committee (EPC) received a report from the Police Commission (prepared by a sub-committee of the Commission) requesting greater authorities. This request was in anticipation of the creation of the Law Enforcement Review Agency (LERA) under *The Law Enforcement Review Act* which was proclaimed some time later (early in 1985). LERA was mandated, on a Province-wide basis, to hear complaints by citizens against the actions of police officers, thereby relieving the Police Commission of this function. This would leave the Police Commission with responsibility for internal discipline appeals and for advising on community relations and crime prevention. As a result, the Commission attempted to determine whether or not it could continue to play a useful role in light of reduced authorities or if it could assume additional responsibilities.

The new powers being requested included having the City's Labour Negotiations Committee seek approval from the Commission before finalizing any contract affecting members of the Department; being the sole appeal body for decisions made by the Discipline Committee; taking on responsibility for grievances under the Collective Agreement; drafting hiring policies; establishing training programs; being the ultimate authority with respect to promotions throughout the ranks; appointing all senior staff (on recommendation of the Chief) and the Chief of Police (with ratification by EPC); submitting and defending the budget to City Council; directing the Department, through the Chief, on law enforcement programs; and undertaking long-range planning.

In addition, the Commission wanted to simplify the complex reporting relationships in existence since the changes of 1978 between the Chief of Police, the Winnipeg Police Commission, the Commissioner of Finance, the Board of Commissioners, and the Committee on Finance (and sometimes EPC).

EPC referred the matter to the Board of Commissioners and the Committee on Finance.

On March 7, 1985, EPC received the report of the Board of Commissioners outlining three options: 1) Give the existing Winnipeg Police Commission additional substantial responsibilities as recommended by the report of the sub-committee of the Winnipeg Police Commission; 2) Reconstitute the membership of the Winnipeg Police Commission and assign it paramount

authority over the Police Department as recommended by consultant P.S. Ross and Partners in a 1980 study; or 3) Disband the Winnipeg Police Commission, making the Police Department fully accountable through a member of the Board of Commissioners, to a standing committee of Council.

On October 2, 1985, City Council considered the EPC report of September 25, 1985, whereby the disbanding of the Winnipeg Police Commission was recommended, in accordance with the third option offered by the Board of Commissioners. EPC was not persuaded that any substantial part of the Police Commission's mandate remained, nor was it persuaded of the merits of transferring additional responsibilities to the Commission.

EPC recognized that part of the attraction of a free-standing police commission lay in its symbolic role and in particular in the notion that its membership provided for citizen participation in decision-making. Yet EPC was not convinced that the perceived citizen involvement corresponded with any real sense of actual involvement that could not be gained through existing mechanisms including community committees, resident advisory groups, and public hearings at standing committees. In particular, EPC was intent on simplifying the confusing reporting relationships.

Expressing some reservations, City Council chose to send that matter back to EPC for reconsideration. On February 26, 1986, City Council once again considered an EPC report recommending that the Winnipeg Police Commission be disbanded. EPC attempted to address the concerns that had been raised by City Council.

One of the concerns was that, traditionally, most major cities had their police departments report to a police commission. It was argued that the local circumstances had resulted in decisions that had disempowered the Commission and that tradition was not a compelling argument to retain it. Furthermore, it was felt that the problems manifested by the current model, particularly with regard to convoluted reporting relationships, overshadowed the benefits.

There were other concerns related to the burden of work that would now be shifted from the Commission to the Board of Commissioners and the legislative changes that would be required. It was felt that these concerns did not provide sufficient reason not to proceed.

On May 21, 1986, Council adopted By-law No. 4322/86 to repeal By-law No 784/74 and all pertaining amendments, thereby disbanding the Winnipeg Police Commission effective November 4, 1986.

4. Lessons Learned

- Separate the areas of conflict.

  What is clear from the experience of the previous Police Commission is that there is inherent conflict in the roles that a commission might be asked to fulfill. Broadly speaking, the former Police Commission was asked to play two roles: firstly to provide governance to the department as the paramount authority for its operations; and secondly to provide independent oversight as a quasi-judicial body.

There appears to be merit in separating these functions to remove any real or perceived conflict of interest.

- Grant powers commensurate with roles.

  Past experience also appears to indicate that when certain powers are granted, they must be granted to the fullest extent possible. For a commission to be effective as the paramount authority governing police department operations, it must be granted the powers to do so.

  That is, wherever possible, the governance model should be the final decision-making entity in matters such as the hiring of the Chief of Police, in adopting long-range plans, in providing policy direction for program delivery, and in recommending (if not approving) a departmental budget.

  Similarly, if the governance body is expected to act as a quasi-judicial tribunal in matters of complaints and internal investigations, then its decisions should be final.

Financial Impact Statement

Date:

No financial impact

"Original signed by R. Smolik"

R. Smolik
Controller / Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Legal Services Division, Corporate Services Department

External Consultation With:

Canadian Association of Police Boards

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