Minutes – Executive Policy Committee – January 20, 2021

Report – Standing Policy Committee on Protection, Community Services and Parks – January 13, 2021

Item No. 3 Winnipeg Police Board By-law Review

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and submitted the following to Council:

1. That the Winnipeg Public Service be directed to:

    A. Review the Final Report on the Independent Review of The Manitoba Police Services Act, 2009 dated September 2020.

    B. Review appropriate by-laws and provincial legislation to determine if the City of Winnipeg has sufficient authority to enact recommendations under the current Police Services Act.

    C. Consult with the Manitoba Department of Justice and the Winnipeg Police Board on possible amendments to the Winnipeg Police Board By-Law No. 148/2012.

    D. Prepare a report back to the appropriate committee of Council within 120 days, with recommendations on possible amendments to the Winnipeg Police Board By-Law No. 148/2012.

2. That the Proper Officers of the City be authorized to do things necessary to fulfill the intent of the foregoing.

Minutes – Executive Policy Committee – January 20, 2021

Report – Standing Policy Committee on Protection, Community Services and Parks – January 13, 2021

DECISION MAKING HISTORY:

Moved by Councillor Rollins,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than four business days preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Rollins,

That the recommendation of the Standing Policy Committee on Protection, Community Services and Parks be concurred in and forwarded to Council.

Yea:	Bowman, Browaty, Gillingham, Gilroy, Rollins	5
Nay:		0

Carried

STANDING COMMITTEE RECOMMENDATION:

On January 13, 2021, the Standing Policy Committee on Protection, Community Services and Parks did not concur in the recommendation of the Winnipeg Public Service and submitted the following to the Executive Policy Committee and Council:

1. That the Winnipeg Public Service be directed to:

    A. Review the Final Report on the Independent Review of The Manitoba Police Services Act, 2009 dated September 2020.

    B. Review appropriate by-laws and provincial legislation to determine if the City of Winnipeg has sufficient authority to enact recommendations under the current Police Services Act.

    C. Consult with the Manitoba Department of Justice and the Winnipeg Police Board on possible amendments to the Winnipeg Police Board By-Law No. 148/2012.

    D. Prepare a report back to the appropriate committee of Council within 120 days, with recommendations on possible amendments to the Winnipeg Police Board By-Law No. 148/2012.

Report – Standing Policy Committee on Protection, Community Services and Parks – January 13, 2021

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

2. That the Proper Officers of the City be authorized to do things necessary to fulfill the intent of the foregoing.

COUNCIL DECISION:

On December 17, 2020, Council concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and adopted the following:

1. That an extension of time of 30 days be granted for the Standing Policy Committee on Protection, Community Services and Parks to provide a recommendation on the Winnipeg Policy Board By-law Review.

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

On September 30, 2020, Council concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and adopted the following:

1. That in order to ensure maximum transparency and neutrality when conducting a background check for the purpose of being appointed to the Winnipeg Police Board, the Winnipeg Public Service be directed to report back in 90 days with an up-to-date cross jurisdictional review regarding security checks for the purposes of serving on the Winnipeg Police Board that examines:

    A. Which Canadian jurisdictions require a background security check;
    B. Which agency performs said background security check;
    C. The breadth of the background security check conducted;
    D. The stated purpose of the background security check.

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

ADMINISTRATIVE REPORT

Title: **Winnipeg Police Board By-law Review**

Critical Path: **Standing Policy Committee on Protection, Community Services and Parks – Executive Policy Committee – Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Brown	D. Brown	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

In response to the direction of Council on September 20, 2020, a survey was sent out to police board's across Canada in regards to background security checks. The survey consisted of the four questions posed by Council and eight jurisdictions provided responses to all or part of the questions posed.

The responses show there is no single or consistent standard applied. Some jurisdictions require background checks, while others do not. In several cases the background check is completed by the police service which is subject to the jurisdiction of the civilian oversight board.

RECOMMENDATIONS

That this report be received as information.

REASON FOR THE REPORT

At its meeting of September 30, 2020, Council directed the public service to provide an up-to-date cross jurisdictional review regarding security checks required for the purposes of serving on a civilian police oversight board that examines:

A. What Canadian jurisdictions require a background security check;
B. Which agency performs said background security check;
C. The breadth of the background security check conducted;
D. The stated purpose of the background security check.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no implications as the report is to be received as information.

HISTORY/DISCUSSION

The Winnipeg Police Board receives its authority from *The Police Services Act* (Manitoba) and the regulations enacted under that legislation. City of Winnipeg by-law 148/2012 establishes the Winnipeg Police Board.

The following are the requirements relating to background checks for candidates seeking appointment to the Winnipeg Police Board:

Manitoba Regulation 130/2012
Eligibility Requirements
2(3) Before being appointed to a municipal police board, a person must provide the appointing authority with a signed consent authorizing inquiries to be made into the person's background, including a search of the child abuse registry established under *The Child and Family Services Act* and inquiries to determine whether the person has been convicted of, or found guilty of, contravening a federal or provincial enactment, or has any outstanding charges for contravening a federal or provincial enactment awaiting court disposition.

Appointment Considerations
3. Before appointing a person to a municipal police board, the appointing authority must be satisfied that the person
    (a) is of good character;
    (b) has a knowledge of community issues; and
    (c) Is able to commit the time and effort necessary to carry out his or her responsibilities on the board.

City of Winnipeg By-law 148/2012

12. Prior to their appointment, all potential Board members must pass background security checks including, without limitation, any background security checks required pursuant to the Act. Notwithstanding the foregoing, at any time during the term of a Board member, Council may require an updated criminal records search.

2013 Manitoba Police Board Report

The Manitoba Police Commission prepared a report for the Minister of Justice, Manitoba in July 2013 entitled *A Report Examining Security Clearance for Municipal Police Board Appointees* (a copy is attached to this report). The report includes a cross jurisdictional survey of background check requirements for a variety of other police boards across Canada.

The report concludes the "Manitoba Police Commission has found there is no standard practice across the country for conducting background checks on potential police board members". While there was no consensus as to the appropriate standard to be applied the report includes recommendations "based on a position of compromise between those municipalities which find the recommended background checks are not stringent enough and those which find them too stringent".

In response to the direction of Council on September 20, 2020 a survey was sent out to police board's across Canada. The survey consisted of the four questions posed by Council:
A. What Canadian jurisdictions require a background security check;
B. Which agency performs said background security check;

C. The breadth of the background security check conducted;
D. The stated purpose of the background security check.

A total of eight responses were received which are set out in the chart below.

City	Security Clearance Required	Agency Performs Check	Is there a Policy/Document How Check Will Be Used	Steps if Check Reveals Concern
Edmonton	Yes	Edmonton Police Service	(Not indicated in material)	(Not indicated in material)
Halifax	No	N/A		
Hamilton	Only on PSB member appointed by resolution of Council.	Hamilton Police	Policy check done on one individual who is appointed by resolution of Council. The background check is sent to the Police Service's Manager of Records to then forward to the police service to perform. The check is kept confidential and then forwarded to the City of Hamilton for review.	(Not indicated in material)
Peel	Yes	Done by Region Peel or Province of Ontario		
Ottawa	No	N/A		
Regina	No	N/A		
St. John	Yes	KV Police (Kennebecasis Valley) using Saint John Police form	Once completed and submitted back to the Clerk's office we then forward the document to the KV police. The KV police completes the clearance and sends a letter to Mr. Jonathan Taylor, the director Legislative Services/City Clerk, regarding whether the person has been cleared.	N/A
Vancouver	Yes	RCMP	Results of background, criminal record and reference checks are considered by the Director of Police Services in their recommendations about police board appointments to the Minister of Public Safety and Solicitor General	Results of background,criminal record and reference checks are considered by the Director of Police. Services in their recommendations about police board appointments to the Minister of Public Safety and Solicitor General.

The responses show there is no single or consistent standard applied. Some jurisdictions require background checks, while others do not. In several cases the background check is completed by the police service which is subject to the jurisdiction of the civilian oversight board.

FINANCIAL IMPACT

Financial Impact Statement

Date: November 2, 2020

Project Name:

Winnipeg Police Board By-law Review

COMMENTS:

There is no financial impact associated with receiving this report as information.

electronically signed by T. Yanchishyn
Tanis Yanchishyn, CPA, CA
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with: N/A

OURWINNIPEG POLICY ALIGNMENT

01-2 Safety and Security

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Legal Services
Prepared by: Doug Brown, Director & City Solicitor
Date: November 3, 2020

Attachment:

Ministerial Report on Background Checks for Police Board Members

Ministerial Report on Background Checks for Police Board Members

A Report Examining Security Clearance for Municipal Police Board Appointees

July 2013

Submitted by: The Manitoba Police Commission
Submitted to: The Minister of Justice, Manitoba

Current as of July 5 2013

Background:

On June 1, 2012, Manitoba proclaimed portions of *The Police Services Act* (PSA) relating to police boards. This proclamation required all Manitoba municipalities with their own police force to establish a municipal police board.

On October 12, 2012, the Province released its Police Board regulation. This regulation sets out the eligibility requirements for police board members. One of these eligibility requirements is that the appointees must consent to background checks prior to being appointed to the police board. Based on the background checks, the appointing authority determines whether the potential appointee is of good character and determines whether or not s/he meets the other appointment considerations.

On November 20th 2012, the province, after conducting its own background checks, appointed twelve provincial appointees to the municipal police boards. The municipalities were tasked with conducting their own background checks and making the remaining appointments.

In March 2013, the City of Winnipeg made the policy decision to require all potential board members to consent to a comprehensive security clearance and background check conducted by the Winnipeg Police Service. One of the provincial appointees raised concerns with both the province and the City of Winnipeg about the appropriateness and the potential conflict of interest in having the Winnipeg Police Service conduct these background checks on a board member who would ultimately be responsible for the oversight of the service. This individual accepted the need for a background check, but requested that it be undertaken by the RCMP.

The Minister of Justice requested that the Manitoba Police Commission (MPC) undertake a study on the issue of background checks for police board members.

The issues:

There are three questions involved with this issue.

1) What is the appropriate level of background check for a police board member and which police service should be conducting these background checks?
2) Is it appropriate for one appointing authority to require additional background checks on the other appointing authority's potential appointees?
3) Can additional checks be done on someone who has already been appointed to a police board? If so, can the results of this check influence whether or not the person retains their appointment?

Issue # 1: Scope of Background Checks and Agency Responsibility for Completing Background Checks

This issue is the primary focus of the request from the Minister. MPC reviewed practices across Canada to determine what types of background checks are undertaken by different provinces and municipalities across the country. The MPC chose several provinces with police boards and surveyed the various appointing authorities. Both large and small municipalities were contacted to see if the size of the

municipality factored into the types of checks completed. Appointing authorities were asked to comment on the types of background checks completed on potential appointees and were asked to specify who completed these checks on behalf of the appointing authority. Table 1 outlines the results of the survey. Because provinces differ in terms of composition of the board and who is the appointing authority for the various members the legislative requirements have also been included in the chart.

Table 1: Police Board Member Background Checks

Canadian Jurisdiction	Provincial Legislation re: Board Members	Checks Completed
Vancouver, BC	The mayor is always on the board. 1 municipal appointee No more than five appointees by the LG in C	**Province:** Conducts interviews, carries out reference checks, and completes a personal profile and criminal record check on **all** board members including the municipal appointee. The only check not done by the province is the reference checks for the municipal appointee. The criminal record check is completed by the RCMP and includes: *CPIC *Local indices[1] *All information related to non-convictions **City of Vancouver:** Leaves background checks to the province.
Saskatoon, SK	At least three board members all chosen by council: mayor, a councillor and another person. If the board is more than three: mayor, two councillors and two other members of the public. All chosen by council.	**City of Saskatoon**: No background checks completed

[1] Local indices refers to a review of local police files and occurrence reports in the area where the individual resides that could provide supporting or additional information that would be in addition to the criminal record check.

Edmonton, AB	The police board is entirely appointed by council. There are no provincial appointees.	**City of Edmonton:** A criminal record check and an "enhanced security check" are conducted on all board members except for members of council. The "enhanced security check" includes : • A warrant check • Check on all family members over 12 • Local indices check • No finance check is conducted This check is completed by the Edmonton Police Service
Calgary, AB	See above	**City of Calgary:** The following minimum checks are completed : • Police criminal record check including local indices • Reference checks • An interview of the applicant (including an assessment of overall suitability) • Credit check • Enhanced background checks are required for those serving as Public Complaint Directors/Regional Public Complaint Directors Checks are completed by the Calgary Police Service. According to the Alberta standards this check should also include councillors on municipal councils but in many jurisdictions this is not

		being done.
Toronto, ON	In Ontario, the police services board composition is as follows: < 25,000 (3 members) *head of municipal council or designate *one citizen appointed by council *one provincial appointee >25,000 (5 members) * head of municipal council or designate *one member of council *one citizen appointed by council *two people appointed by province > 300,000 (seven members upon approval from the Lieutenant Governor in Council) * head of municipal council or designate * two members of council * citizen appointed by council Three people appointed by the province.	**Province:** All provincial appointees go through a thorough check. The province has an MOU in place with the OPP. The OPP does all the provincial checks for provincial appointees. The provincial check includes: • Police record check • Local indices check • Internet check • Credit bureau check • Police info. Portal check **City of Toronto:** Does no background checks on its appointees .
Peel Regional (Ontario)	See above	**Province:** See above **Region:** Councillors who sit on this board do not go through additional background checks. The one citizen appointee goes through an application process where s/he gets interviewed and the successful candidate has the same criminal background check conducted on him/her as anyone else who would be employed by the police service. This means credit bureau check, character references, employment background and possibly medical records.

Ottawa, ON	See above	**Province:** See above **City of Ottawa:** The city of Ottawa does no checks on the members appointed to the police board. They are however vetted by a committee (information could not be confirmed with the city clerk's office).
Durham Regional (Ontario)	See above	**Province:** See above **Region:** Council representatives apply to be on the police board, are given a time to put their argument forward to council why they should be on the police board, and then the council appointees are selected via vote Citizen appointment is done via an advertisement to which potential appointees. Following an interview process the successful candidate is recommended to regional council. No further background checks are conducted.
Sault Ste. Marie, ON	See above	**Province:** See above **City of Sault Ste. Marie:** Neither the council appointees who are council members nor the citizen appointment receive checks prior to being appointed.
Cobourg, ON	See above	**Province:** See above **Town of Cobourg:** Citizens are selected for appointment via a committee application form which gets vetted. Personal references are checked and all successful appointees are

		subject to a criminal record check done by the Cobourg Police Service.
St. John, NB	One or more members appointed by the Minister One or more members of council, one of whom is the mayor or his/her designate One or more members appointed by council.	**Province:** For provincial appointments the Security Directorate liaises with J Division (RCMP) to conduct a Security Clearance Check. This check includes a criminal record search, a vulnerable sector screen and some financial background checks. **City of St. John:** Municipal appointments are done via an application process. Applicant is selected by a Nominating Committee from the Police Board. The only check conducted on appointees is a criminal record check which is done through the Rothesay Regional Police Service **NOT** the Saint John Police Service. This criminal record check is the only check completed on appointees.
Halifax, NS	Only one board member is a provincial appointee and the others are municipal appointees. Two of the members appointed by the municipality may be members of council or employees of the municipality, 2 additional members may not be council members or municipal employees.	**Province:** Appointments are done through an application process and potential appointees must submit a criminal record check with their application. The record check can be conducted by any police service in the province. **City of Halifax:** Citizen appointees apply via an application process. The only check completed on them is a police record check which is conducted by the Halifax Police Service.

This review shows that security clearance practices vary widely across Canada and even among appointing authorities in the same jurisdiction. Thus there is no clear "right answer" concerning background checks conducted on police board appointees.

Views of Manitoba Boards and Chiefs of Police

In order to seek further clarity on the issue of background checks, the Manitoba Police Commission sought feedback from the municipal police boards and police chiefs in Manitoba. A survey was generated based on the findings from the cross jurisdictional study. Both groups were provided with Table 1 and then asked to respond to survey questions found in Appendix I.

There are 12 municipal police services across Manitoba, including the Dakota Ojibway Police Service. Surveys were sent to both the chair of the police board and the police chief of the police service in these 12 municipalities. The response rate for police boards was 50% (6 of 12) and 58% (7 of 12) for police chiefs. Following are the results of an analysis of the survey responses.

a. Police Board Responses:

All police boards (100%) felt that it was important for police board members to be subject to a background check prior to being appointed to the police board. It was also important to them that both the provincial and municipal appointees be subject to the same checks. The boards felt background checks were important to ensure there was confidence in the integrity of those being selected to serve on the police board and that there was full transparency to the process. Having both municipal and provincial appointees go through the same checks ensured that all board members were "treated the same". One board responded: "We are all being asked to do the same job. Equality and transparency are important".

While there was complete agreement that security checks should be completed and that everyone on the board should undergo the same checks there was no agreement in terms of what checks should be conducted or by whom. Minimally, all boards agreed that board members should undergo a criminal record check and a child abuse registry check. Only two boards (17%) felt a vulnerable sector screen was necessary or that an adult abuse registry check was needed. Only one board felt further checks such as in-person interviews, reference checks or local indices checks were necessary.

One board stated that everyone on the current board was well known to council and that additional checks were not necessary because the members were already known in the community.

Of note, no board felt it necessary for a financial background check or interviews with immediate family members to be conducted as part of the background check for board members.

Most boards (4 of 6) felt that any police service, even the police service whose board the appointee sits on, should be able to conduct background checks on police board members.

b. Police Chief Responses:

Similar to police boards, all police chiefs responded that they felt it was necessary for police board members to undergo background checks. They also felt that all police board members should undergo the same background checks. Overall, the police chiefs felt that police board members should undergo more stringent background checks than police boards did. In addition to recommending criminal record checks and child abuse registry checks, all police chiefs but one (86%) recommended that a vulnerable sector screen and local indices check be completed. 71% (5 of 7) believed that a reference check should be completed. 57% (4 of 7) stated that applications should be required to be completed and reviewed for a person to be appointed by the police board. 43% (3 of 7) feel that immediate family members of the appointee should be interviewed and 29% (2 of 7) feel a financial background check should be conducted. One of the police chiefs who expressed the need for both family and financial background checks to be conducted encouraged these additional safeguards to ensure that they were doing their best to mitigate risk and making every effort to safeguard potential access and exposure to police intelligence and information.

6 of 7 (86%) of the police chiefs who responded believed that any police service, including the police service of the community whose board the appointee was going to sit on, should complete the background checks. One police service expressed the view that they didn't have the confidence that another police service could screen board members in their jurisdiction as well as they could, especially in terms of information on local indices. The police services who expressed concern about another police service conducting checks indicated if another police service had to do the checks, they would feel most comfortable if that police service was the RCMP.

Recommendation 1: The Manitoba Police Commission recommends that all police board members continue to undergo background checks prior to being appointed to serve on a police board.

Recommendation 2: The Manitoba Police Commission recommends that both provincial and municipal appointees be required to undergo the minimum background checks outlined in recommendation 4 prior to being appointed to serve on a police board.

Recommendation 3: As liability concerns may arise if one appointee is cleared at a different level than another by the same appointing authority, the Manitoba Police Commission recommends that all police board members appointed by the same appointing authority undergo the same background checks. Specifically, the Manitoba Police Commission recommends that all provincial appointees have identical checks completed regardless of the municipality the appointee will serve in.

Recommendation 4: The Manitoba Police Commission recommends the following minimum background checks be completed on all police board members across the province: 1) criminal record check, including a vulnerable sector screen 2) child abuse registry check 3) adult abuse registry check 4) local indices check 5) reference checks.

Recommendation 5: The Manitoba Police Commission recommends that any police service of the appointing authority's choice be used to complete the background checks on potential appointees. Where a potential appointee expresses concern with the police service of the appointing authority's choosing conducting a background check, it is recommended that an alternate police service be used. If possible, this should be the RCMP. It should be noted in cases where an alternate police service is used for a background check there may be a cost associated with conducting the background checks.

The Manitoba Police Commission recommends that recommendations 3, 4 and 5 be incorporated into the Police Board Regulation.

Issue # 2: Requiring Additional Background Checks on Potential Appointees

The appointments made by the municipal and provincial appointing authorities are made independently. In order to be appointed to the police board, the potential appointee must meet the eligibility criteria laid out in the Police Board Regulation (Appendix II). It is up to the appointing authority to determine if a potential appointee meets the eligibility criteria by examining the results of background checks conducted on the potential appointee and by making a determination of whether or not the individual is "of good character". It is up to the appointing authority to determine which checks are needed to make this determination[2].

It should be noted that "of good character" may mean different things to different municipalities and appointing authorities. Based on this appointment consideration, a criminal record, may not necessarily preclude an individual being appointed to the board. If a potential appointee is found to have a criminal record, the appointing authority may wish to reject the potential appointee's application or may decide to look into the matter further. Further examination may involve conducting an interview in which the potential appointee is asked direct questions about the nature of the offence and/or how long ago the offence took place. The results of the interview may help to satisfy the appointing authority that the potential appointee is in fact of good character.

Issue # 3: Additional Background Checks on Someone already Appointed to the Police Board

As noted above, the appointing authorities (province and municipality) operate independently, and neither has any influence over the appointments of the other. Each is responsible for selecting and screening their chosen appointees according to the criteria set forth in the Police Board Regulation. In addition to meeting the eligibility requirements, a potential appointee must provide the appointing authority with a signed consent authorizing inquiries into his/her background, including a child abuse

[2] *For example, in the Winnipeg case, if the individual had not already been appointed to the board, the province could have agreed to have had the potential appointee undergo further background checks. However, once those checks were done, it would be up to the province to determine if the person was suitable for appointment to the board. The municipality could not make this determination on behalf of the province.*

registry check, and allowing inquiries to be make into whether a potential appointee has been convicted of or found guilty of contravening a federal or provincial enactment, or has any outstanding charges for contravening a federal or provincial enactment awaiting court disposition. It is at the discretion of the appointing authority whether further inquiries are made.

Before appointing the individual, the appointing authority must satisfy itself that the person is of good character, has knowledge of community issues and is able to commit the time and effort necessary to carry out his or her appointment on the board.

Once the appointing authority satisfies itself that an individual has met the eligibility requirements and appointment considerations, it may make the appointment to the police board.

An appointing authority does not have the power to reject the appointment of the other appointing authority. Once an appointment is made by an appointing authority, the appointment stands until a) the expiry of the term of the appointment or b) the revocation of the appointment by the appointing authority. The appointing authority, in general, may only revoke the appointment for cause. This means that once an appointment is made it should be only revoked due to an act or omission on the part of the appointee. An example of act committed by an appointee could be the commission of a criminal offence while serving on the board or contravening the ethical code of conduct. An example of an omission committed by an appointee might be failure to disclose a conflict of interest. An appointment should not be revoked without cause, as this may have legal consequences for the appointing authority. In the Winnipeg situation outlined above, the province had already done their due diligence, completed its own background checks on this particular appointee and was satisfied that this individual met the appointment criteria and satisfied the appointment considerations. As a result, this individual was appointed to the Winnipeg Police Board. Requiring the individual to undergo further background checks or revoking the individual's appointment for failing to submit to further background checks could result in legal action against the province.

Conclusion:

The Manitoba Police Commission has found that there is no standard practice across the country for conducting background checks on potential police board members. A consultation with Manitoba's police boards and police chiefs did not result in consensus. As a result of this, the Manitoba Police Commission has drafted its recommendations based on a position of compromise between those municipalities which find the recommended background checks are not stringent enough and those which find them too stringent. The Manitoba Police Commission is committed to working with municipalities to develop an application process and reference check guidelines that will balance some municipalities' concerns with mitigating risk with other municipalities' concerns with the time and cost of completing extensive and expensive background checks.

Appendix I: Survey on Background Checks

As mentioned in our earlier correspondence, the Minister of Justice has asked the Manitoba Police Commission to conduct a study on background checks for police board members and we are looking for your input. Attached you will find a summary of what we learned from the other provinces regarding their practice of conducting background checks. As you can see, the practices elsewhere are quite diverse, so it appears there isn't any 'right' answer to this issue. Thus our challenge is to develop something that works for Manitoba.

Please review the attached document and provide your feedback. Your responses can be e-mailed by responding to this e-mail, faxed to 204-948-1389 or mailed to: The Manitoba Police Commission, 1802-155 Carlton, Winnipeg, MB R3C 3H8. The following questions will help to guide your responses:

1) Should all police board members be required to undergo a background check prior to being appointed to a police board?

□ Yes □ No

If yes, why do you feel this way?_____

_____

_____

_____

If no, who should be exempt and why?_____

_____

_____

_____

2) What level of background check to you feel is appropriate for a police board member? Please put a checkmark next to **all** checks you feel should be conducted.

□ No check should be required
□ Having the person fill out an application and screening the person based on his/her responses
□ Conducting an in-person interview with the individual
□ Checking references for the individual
□ Conducting checks on the person's immediate family

□ Conducting a criminal record search on the individual
□ Conducting a vulnerable sector screen which includes:

- Findings of not guilty by reason of mental disorder
- Probation, prohibition and other judicial orders which are in effect
- Convictions or pending charges under the *Child and Family Services Act*
- Apprehension under the *Mental Health Act*
- Notable incidents such as charges where no finding of guilt was made or where no charges were laid
- Pardoned sex offences

□ Conducting a child-abuse registry check on the individual
□ Conducting an adult abuse registry check on the individual
□ Conducting a local indices check (this refers to a check of police files and occurrence reports within a locale)
□ Conducting a Financial Background Check

3) Should provincial and municipal appointees go through the same checks? In other words, is it necessary for the provincial appointees and municipal appointees to be cleared to the same level in order to sit on the same board? Please explain.

_____

_____

_____

4) Who should conduct the criminal record checks? Please check one.

□ Police service of jurisdiction (whose board the member will be sitting on)
□ A neighbouring police service
□ the RCMP
□ Any police service should be able to conduct the checks
□ No check should be required

If you have further comments you would like to share on this issue, we would welcome them as well. Please feel free to be candid, your name will not be linked to your responses.

We appreciate your feedback and look forward to a reply by end of day on **April 30, 2013**.

Thank you.

Appendix II: Police Board Regulation

Definitions

1 The following definitions apply in this regulation.

"Act" means *The Police Services Act*.

"municipal police board" means the police board for a municipal police service.

"permanent resident" means a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada).

Eligibility requirements

2(1) Subject to this section, a person may be appointed to the police board for a municipal police service if he or she

(a) is at least 18 years of age;

(b) is a Canadian citizen or a permanent resident; and

(c) resides or is employed in, or has a business interest in, the municipality in question or another area in which the police service provides policing services.

2(2) The following persons may not be appointed to a municipal police board:

(a) a judge of the Court of Queen's Bench or The Court of Appeal;

(b) a provincial judge or justice of the peace;

(c) a member of the Legislative Assembly of Manitoba or of the Senate or House of Commons of Canada; or

(d) a current or former member of the police service for which the police board is responsible.

2(3) Before being appointed to a municipal police board, a person must provide the appointing authority with a signed consent authorizing inquiries to be made into the person's background, including a search of the child abuse registry established under *The Child and Family Services Act* and inquiries to determine whether the person has been convicted of, or found guilty of, contravening a federal or provincial enactment, or has any outstanding charges for contravening a federal or provincial enactment awaiting court disposition.

Appointment considerations

3 Before appointing a person to a municipal police board, the appointing authority must be satisfied that the person

(a) is of good character;

(b) has a knowledge of community issues; and

(c) is able to commit the time and effort necessary to carry out his or her responsibilities on the board.

Notice of meetings

4(1) For the purpose of subsection 34(2) of the Act, a municipal police board must give public notice of its meetings in accordance with this section.

4(2) A notice of a municipal police board meeting must set out the date, time and location of the meeting.

4(3) Subject to subsection (4), the notice must be posted in the office of the municipality in question as well as on the municipality's website at least 21 days before the meeting.

4(4) The timing requirements for posting notice of a municipal police board meeting do not apply when a meeting is called in exigent circumstances, but as much advance notice of the meeting should be provided as is possible in the circumstances.