

Strategy for a Safer Ontario – Additional Input

29 April 2016

Introduction

OAPSB has participated actively on the Future of Policing Advisory Committee (FPAC) and its working groups, representing our member police services boards and engaging them through surveys and conferences seminars; and informing them of developments to the extent allowed in the FPAC process. We also submitted Proposed Legislative Language regarding police board responsibilities on 14 March 2016¹, which is based largely on the article “*Police Governance Reform – The Age of Enlightenment*”².

From the onset of the FPAC process, some years ago, we have consistently advocated for the legislative change that:

- Facilitates substantively broader police board discretion to out-source some community safety functions to non-police agencies
- Compels cooperation between police and other community health and safety agencies
- Ensures, through legislative design and oversight, meaningful and effective police governance

The aim of this submission is to address the Strategy for a Safer Ontario more broadly, and police governance reform in more depth.

SERVICE DELIVERY

Service Delivery Options

Financial sustainability of the current policing model is a huge concern. In determining how best to provide community safety service provision, benefits, costs and risks should be taken into account.

Police boards have responsibility for ensuring the delivery of the full range of services identified in the Adequacy and Effectiveness Regulation. It makes sense then that police boards should have the flexibility and authority to select community safety services from a variety of suppliers, both police and non-police, public and private sector-based, on behalf of their local jurisdiction.

Special Constables

Special constable appointments should be made by boards/OPP Commissioner, without MCSCS final approval.

MCSCS should develop legislated standards regarding:

¹See http://www.oapsb.ca/2016/03/17/proposed_legislative_language-police_board_responsibilities.pdf

² See http://www.oapsb.ca/2016/02/25/police_governance_reform-age_of_enlightenment-fjk7mar2016.pdf

- The basis/justification for granting special powers and use-of-force options
- Mandatory record keeping regarding use-of-force, training, appointments, approvals, renewals and revocations

A standardized MOU between special constable employer and the approval authority (board or OPP commissioner) should be mandatory; the MOU should contain:

- Supervision
- Discipline
- Roles and responsibilities
- Training
- Process for dealing with complaints
- Working conditions
- Reporting requirements
- Legal liabilities

MCSCS should develop a standardized system of oversight of special constables. It should be similar to that regarding police officers, particularly regarding the investigative process and witness officer obligations (unions not supportive of the second sentence).

MCSCS should develop a code of conduct for special constables.

MCSCS should institute a regulatory-compliance inspection program.

HEALTH AND SAFETY SERVICE PROVIDER COLLABORATION

Community Safety Planning

Community safety planning is a new initiative under the Strategy for a Safer Ontario. Such planning will require the input of a wide range of safety and health service providers, and it will require coordination. It is recommended that Community Safety Planning be a joint responsibility of municipalities and local police boards.

POLICE GOVERNANCE REFORM

Roles and Responsibilities

Form follows function. Our submission on function (roles and responsibilities) can be found at http://www.oapSB.ca/2016/03/17/proposed_legislative_language-police_board_responsibilities.pdf . Roles and responsibilities need to be identified before anything else about police board composition, size, function, support, or compensation.

Delegation

Police boards should be able to delegate anything to their chief of police, save and except:

- Connecting with the public to determine community-owners, needs, values and expectations (which could be contracted to a third-party on the board's behalf)
- Developing police service outcomes and limitations policies (with which third party assistance could be engaged by the board)
- Evaluating police service performance/verifying compliance with policies, legislation and regulations (police chief should be required to submit evidence regarding police service performance, in accordance with established metrics)

Labour Relations/Human Resources

The police board should not be compelled to actively participate in collective bargaining with its police association(s). Boards and their members should not participate in bargaining itself, as it is not the governance job and boards have no inherent expertise. Bargaining is a labour relations management function. Accordingly, police boards should:

- Establish the bargaining parameters (the 'mandate')
- Subsequently delegate bargaining to the Chief of Police
- Ultimately ratify the collective agreement upon completion of bargaining

This is how bargaining is conducted in every other sector in society, and it is time the police sector adapted a like approach.

Furthermore, police boards should not be compelled to hold accommodation hearings regarding injured or sick officers who cannot be accommodated by the Chief. This is not a governance function, and boards have no such expertise.

Ontarians don't have jobs for life. Either should police in Ontario. Creditable allegations of serious misconduct should be grounds for suspension without pay, and should those allegations prove accurate, then dismissal. On the other hand, incidents of minor misconduct should be dealt with informally and documented as such, thereby avoiding costly, distractive and oft counter-productive disciplinary hearings.

Budgeting

There has been much discussion of police costs in recent years. If funding for local police/policing is to continue to be funded by property tax, then police portion of the property tax should be clearly disclosed.³ Such transparent disclosure to those that actually do the paying for local policing would

³ The idea of direct taxation for police came from AMO staff

replace rhetoric with evidence, and alleviate local councils of police-budget burdens. This move would not in itself address sustainability or the cost to rate payers, but it would clearly and transparently attribute policing costs to police boards and away from municipal councils.

Board Size and Composition

3 board members is not enough to generate the diversity of views that reflects the community needs, values and expectations, or facilitate critical discussion – especially when and where a position is vacant or a member is absent. Between five and fifteen board members are required, depending on the size and scope of the governance workload.

Future board composition has been a contentious issue. Given the diversity and strength of opinions in this matter, the lack of confirmation of future board roles and responsibilities, and the likely expansion/amalgamation of OPP-related boards, the matter of board composition and size be addressed outside of the Police Services Act, perhaps in related regulation.⁴

Board Resources

Boards must have direct access to the information and the independent expert assistance/advice they need to fulfill their roles and responsibilities.⁵

Board Training

Roles and responsibilities, authorities and limitations need to be established before police governance training requirements can be determined. The training could be tiered and/or phased. Police governance training should be mandatory for all police board members and police chiefs.

Reading legislation is not adequate and effective training. Training needs to develop critical thinking, analysis and decision-making skills – the fundamental governance skills. Trainers must appreciate governance, exemplify governance skills, and be adept in adult education methodology. If the Ministry lacks the capacity to deliver such training, then it should out-source police governance training to an organization that has the training skills and capacity, such as OAPSB.

Board Member Compensation

Police governance is an essential component of public safety in a democracy. Police board members – whose role is to govern police – should be compensated in accordance with the importance and gravity of their roles and responsibilities. Police governance should not be seen as an un(der)-paid, volunteer undertaking, and must not be viewed as subordinate to or less important than policing.

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⁴ The idea of addressing board composition in regulation rather than legislation came from AMO staff

⁵ For more on Resources boards require, see:

http://www.oapsb.ca/2015/04/10/indep_cit_gov_police_oapsb_4_nov_2014_final.pdf