



Nova Scotia Policing Policy Working Group

June 14, 2020

Commissioner Natalie Borden
Chair, Halifax Board of Police Commissioners
Halifax City Hall
1841 Argyle Street
Halifax, NS B3J 3A5

Re: Proposed changes to the format of and procedures for Halifax Board of Police Commissioners meetings

Dear Commissioner Borden,

We are writing as the steering committee for the newly formed Nova Scotia Policing Policy Working Group (“NS PPWG”), a coalition of organizations and citizens concerned with advancing legislative and policy reforms relevant to policing in the province.

Under the *Police Act* (“the Act”), the Board of Police Commissioners (“the Board”) serves as the civilian oversight body for policing in the municipality. In particular, the Board is required to serve the twofold functions of providing:

- (a) civilian governance on behalf of the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality; and
- (b) the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department.¹

Under s 55(1), the Board has no jurisdiction with respect to complaints, discipline or personnel conduct except in respect of the chief officer of the municipal police department; a specific prosecution or investigation; and the actual day-to-day direction of the police department.² However, s 55(3) sets out a list of statutory duties that the Board must fulfill, which we have reproduced here for your convenience:

- (a) determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community;

¹ *Police Act*, SNS 2004, c 31, ss 55(1)(a)-(b).

² *Ibid*, ss 55(1)(c)-(e).

- (b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;
- (c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;
- (d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;
- (e) act as a conduit between the community and the police service providers;
- (f) recommend policies, administrative and organizational direction for the effective management of the police department;
- (g) review with the chief officer information provided by the chief officer respecting complaints and internal discipline;
- (h) ensure a strategic plan and business plan is in place; and
- (i) ensure the department is managed by the chief officer according to best practices and operates effectively and efficiently.³

Although municipal police boards are provided for under the relevant policing legislation of virtually every province and territory in Canada, it is worth noting that the Board's enumerated duties under s 55(3) are amongst the most expansive, and yet also the most highly specified. By contrast, under British Columbia's *Police Act*, for example, the municipal police board's responsibilities are restricted to "[determining] the priorities, goals and objectives of the municipal police department" by taking into account the priorities, goals and objectives for policing and law enforcement in British Columbia as established by the minister, as well as those of the council of the municipality.⁴

Despite these clear duties under the Act, there have been longstanding concerns that the Board has in large part abdicated its responsibilities. For example, a 2016 self-study of the Board conducted by former Commissioners Fred Honsberger and Mike Moreash concluded that "the Halifax Board of Police Commissioners has failed to meet its legislated governance requirements under the 2006 *Police Act* for the past 10 years," a failure which the reviewers attributed to "longstanding systemic flaws in the framework and support network of the Board."⁵

In light of these concerns, and in service of ensuring the Board make good on its statutory duties under s 55(3) of the Act, the NS PPWG writes to request that the following changes be made to all future Board meetings:

³ *Ibid*, ss 55(3)(a)-(i) [emphasis added].

⁴ *Police Act*, RSBC 1996, c 367, ss 26(4), 26(4.1)(a)-(b).

⁵ Fred Honsberger and Mike Moreash, *Halifax Board of Police Commissioners Governance Review* (2016) at 4, online: <https://drive.google.com/file/d/0B4qRxNNKc-P2WXNqeF9WLUZwMHM/view> [Honsberger & Moreash, *Review*].

- (1) Members of the public should be allowed to submit requests for 10-minute presentations up until the morning of a Board meeting. Currently, members of the public are required to submit requests to present the Wednesday before the meeting. Typically, however, the agenda for Board meetings is not released until Friday. In practice, this means it is extremely difficult for members of the public to know what topics will be discussed at upcoming Board meetings, and consequently whether they should appear for the purpose of providing a presentation.
- (2) The process of requesting to present at Board meetings should be simplified to encourage greater public participation. Currently, having to provide details of a proposed presentation ahead of time in writing and over email is a barrier for many people. Instead, there should be a simple, accessible way to sign up to speak. As with Budget Committee meetings, there should also be an opportunity for members of the public to provide feedback—perhaps for a shorter period of time than with presentations—without having to sign up ahead of time.
- (3) The format of presentations should be changed to ensure that public presentations before the Board do not become a *pro forma* exercise. Currently, members of the public are required to provide their presentation, then answer any questions that Commissioners may have. In responding to presentations, Commissioners should always be sure to treat members of the public with respect. They should also ensure that their questions are directed specifically to the presenter and are meaningfully related to the topic of their presentation. After the question and answer period, the Chief of the Halifax Regional Police (“HRP”) is in practice afforded a “right of reply” for the purpose of responding to the presentation. This has sometimes been used in the past to dispute presenters’ findings or rebut their points. However, the presenter is not similarly afforded a right to reply to the Chief. Where the Chief or some other policing official disputes an aspect of a public presentation, then the Commissioners should ensure that the presenter is provided with an opportunity to offer a reply to their comments.
- (4) Members of the Board should endeavour to provide opportunities for in-person public feedback outside of formal meetings. The Board meets in the middle of the day during work hours, making them largely inaccessible for many members of the public. Accordingly, the Board should conduct evening consultation sessions at sites outside of Halifax Hall at least quarterly. Ideally, the Board should also move its regular meetings to the evenings to improve their accessibility.
- (5) As noted above, under s 55(3)(f) of the Act, the Board has a duty to “recommend policies, administrative and organizational direction for the effective management of the police department.”⁶ However, the 2016 self-study found that “the Board has no policy of its own, provides no policy to police, approves no existing police policy and does not assess police compliance with policy.”⁷ In order to remedy this discrepancy, the Board should provide the public with access to the HRP’s policies and procedures, which should be posted online in an accessible place on the HRM’s website. Allowing for public access

⁶ *Supra* note 1.

⁷ Honsberger & Moreash, *Review*, *supra* note 5 at 2.

to the HRP's policies and procedures will better enable members of the public to provide informed feedback to the Board both through presentations and other means, so as to ensure the Board fulfills its responsibility under s 55(3)(d) of the Act of "[ensuring] that police services are delivered in a manner consistent with community values, needs and expectations."

It is our contention that these changes will allow for greater democratic participation in Board meetings and, ultimately, improve the capacity of the Board to act in its civilian oversight capacity on behalf of the citizens of Halifax.

It is our hope that the Board will consider these proposals at their upcoming meeting on June 15, 2020. Given the significant confusion regarding whether the June 15 meeting would go ahead or instead be cancelled, we ask that the Board waive the normal requirement under s 47(2) of *Administrative Order One: The Procedure of the Council Administrative Order* that petitions be delivered to the Clerk not later than 12:00 o'clock noon on the Thursday immediately preceding the Board's meeting.

We also ask that you provide written reply detailing an action plan in respect of our proposed changes no later than two (2) weeks after Monday's meeting.

We look forward to cultivating a productive working relationship with the Board going forward.

Sincerely,

Harry Critchley
Vice-Chair, East Coast Prison Justice Society
Chair, Advocacy Committee, Elizabeth Fry Society of Mainland Nova Scotia

El Jones
Board Member, East Coast Prison Justice Society

Martha Paynter RN
Chair, Women's Wellness Within
PhD Candidate, Dalhousie University School of Nursing
Research Scholar, Health Law Institute

Tari Ajadi
Board Member, Health Association of African Canadians
PhD Candidate, Dalhousie University Department of Political Science

cc. Commissioner Carole McDougall, Vice-Chair
Commissioner Carlos Beals
Commissioner Tony Mancini
Commissioner Anthony Thomas
Commissioner Lindell Smith
Commissioner Lisa Blackburn