

Item No. 7.1

Request for Consideration

- | | | |
|---|---|---|
| <input type="checkbox"/> Agenda Item
(Submitted to Municipal Clerk's Office by Noon at least 5 working days prior to the meeting) | <input type="checkbox"/> Added Item
(Submitted to Municipal Clerk's Office by Noon at least one day prior to meeting) | <input type="checkbox"/> Request from the Floor
<input checked="" type="checkbox"/> Notice of Motion |
|---|---|---|

Council or Committee: Halifax Board of Police Commissioners:

Date of Meeting: October 18, 2021

Subject: Drafting of mandate and terms of reference for independent civilian review of the oversight, governance, and policy aspects of the HRP's handling of the protests on August 18, 2021

Motion for Council to Consider:

That the Board of Police Commissioners prepare a draft of a mandate and terms of reference for an independent civilian review of the oversight, governance, and policy aspects of the HRP's handling of the protests on August 18, 2021, which mandate and terms of reference will be received and reviewed by the Board at their November meeting.

Reason:

1. Legislative authority
a. Police Act

Section 55(1) of the *Police Act*, SNS 2004, c 31 reads:

- 55 (1) The function of a board is to provide
- (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

Additionally, s 55(3) reads in part:

- (3) Without limiting the generality of subsection (1), a board shall
- ...
 - (d) ensure that police services are delivered in a manner consistent with community values, needs and expectations.

b. Examples of police board-initiated civilian reviews across Canada

Independent civilian reviews initiated by municipal police boards are not a new thing. According to HRM legal counsel, aside from the police department's relationship to Council and the Municipality, in many respects the role of the Halifax Board of Police Commissioner (the "Board") is very similar to other boards across Canada. The division of responsibilities which places the power over policy making with the Board, while leaving responsibility for day-to-day operations with the Chief Officer, is standard across Canada.

Below, I provide various examples of civilian reviews initiated by municipal police boards. These

examples are intended to illustrate that the Board has the legal authority to initiate a review.

i. Street checks

Edmonton, AB

Street Check Review, 2018.

- Edmonton's *Street Check Review* was an independent, third-party report ordered and funded by Edmonton Police Commission ("EPC") on the practice of street checks
- Report was led by Curtis Taylor Griffiths, a criminology professor at Simon Fraser University that was appointed by the EPC.
- The review's recommendations include increasing diversity in Edmonton Police Service, considering specific issues faced by communities most likely to be checked, engaging in more public dialogue and education, addressing privacy concerns and monitoring officer behaviour.

Vancouver, BC

Street Checks Review, 2018-2021

- In June 2018, the British Columbia Civil Liberties Association ("BCCLA") and the Union of British Columbia Indian Chiefs ("UBCIC") launched a joint complaint with the Office of the Police Complaint Commissioner, calling for an immediate investigation of the racial disparity in the VPD's practice of street checks.
- In July 2018, the Vancouver Police Board informed the BCCLA and UBCIC that the VPD would be conducting the investigation into the complaint, since "the Department investigates all Service and Policy complaints." The VPD brought forward their report "*Understanding Street Checks*" which contained six recommendations that were adopted by the Vancouver Police Board. One of these recommendations was to "formalize the existing VPD street check standards into policy."
- The BCCLA and UBCIC wrote to the Vancouver Police Board arguing that a VPD self-investigation in relation to street checks complaint is problematic.
- The Vancouver Police Board then hired Pyxis Consulting to conduct an external review of police street checks in Vancouver. The *Vancouver Police Board Street Check Review Report* was released to the public in February 2020. The report concluded that "the available data and information could neither confirm nor deny police racism."

ii. Police handling of largescale protests

In response to the police handling of protests arising from the G20 summit in Toronto, the Toronto Police Service Board ("TPSB") initiated an independent civilian review of the oversight, governance and policy aspects of this incident. This review, which was conducted by retired Ontario Court of Appeal Justice John Morden, ultimately resulted in the 2012 report *Independent Civilian Review into the Matters relating to the G20 Summit* (the "Morden Report").

When the review was first initiated, the Chair of the TPSB described it as follows (emphasis added):

Under [Ontario's *Police Services Act*], in communities where a municipal police service exists, the responsibility for oversight of policing rests with a civilian police services board. The Act spells out the roles and responsibilities of police services boards. In the City of Toronto, that oversight is exercised by the 7-member Toronto Police Services Board.

The G20 Summit was a federal undertaking. Policing of the G20 Summit in Toronto on June 26 and 27, therefore, was a joint responsibility of several jurisdictions, with planning and execution being carried out by an Integrated Security Unit ("ISU"). It was a complex operation insofar as the authorities of different jurisdictions as well as cultures and practices of a large number of police services were required to be integrated to ensure a seamless operation.

There is need now to carry out an independent review of the oversight, governance and policy

aspects of this integrated security operation to understand how its complex, multi-jurisdictional nature affected the exercise of the Board's oversight responsibilities vested in it by Ontario's Police Services Act.

I am, therefore, proposing an Independent Civilian Review of the oversight of G20 policing in the context of our Board's governance role and policies conducted by a person of high credibility with an extensive background in dealing with issues of police governance (the Reviewer). This Reviewer will carry out a comprehensive review in order to identify issues and concerns regarding oversight, governance, accountability, transparency, as well as communication and supervision issues arising from the multi-jurisdictional model of policing applied to policing the G20 Summit.

As part of the mandate, the Reviewer may seek the input of any individuals, agencies, organizations or associations who may have information that could assist in the review. In addition, he or she will review relevant legal authorities, policies and practices as well as decision-making structures and processes with respect to policing during the Summit.

Following completion of the review, the Reviewer will submit his report to the Toronto Police Services Board with recommendations related to policy, structural and systemic issues for consideration and any action, as he deems necessary.

See Morden Report attached, in which the terms of reference for the TPSB's independent civilian review of the G20 summit are included as Appendix A.

2. Rationale

The Board is in receipt of a petition, which, as of October 14, 2021, has 4,243 signatories. The petition reads in part (emphasis added):

The actions of the Halifax Regional Police in the mass evictions that occurred on August 18, 2021 reflect longstanding and systemic issues with policing in HRM, including the Municipality's reliance on police to address complex social needs; excessive force by police; and the militarization of the police.

Some of the policing incidents that local media have reported include:

- demanding that journalists move away from the areas where they were covering the police response, and threatening them with arrest if they did not;
- physically interfering with at least one journalist trying to film the events;
- using disproportionate and excessive force with protesters;
- some police officers removing name tags;
- deploying pepper spray indiscriminately in a busy downtown area without clearing the streets first, injuring children as well as adults; and
- unnecessarily escalating tensions (putting on riot gear, as one example).

This violence happened because people were being forcibly removed from their homes, with no viable plan in place to provide them with safe housing elsewhere. It represents a policy failure at multiple levels. Housing is a human right.

The Halifax Board of Police Commissioners is the civilian oversight body for the Halifax Regional Police. The Board has the statutory duty to ensure policing services are delivered in accordance with community values. It would be within the Board's scope of authority under section 55 of the Nova Scotia Police Act to order an independent, civilian review of the HRP's response to the events of August 18, 2021.

I demand that the Halifax Board of Police Commissioners order an independent, civilian review of the Halifax Regional Police's actions on August 18, 2021, in coordination with any related reviews or investigations that may be ordered by HRM Regional Council.

As the petition rightly points out, given its roles and responsibilities under section 55 of the *Police Act*, the Board is uniquely well situated to initiate the kind of broad-based review intended to promote (and, if necessary, regain) public confidence in policing services. This is especially so in light of the Board's statutory duty under s 55(3)(d) to "ensure that police services are delivered in a manner consistent with community values, needs and expectations" (emphasis added).

The Board's responsibilities in this regard are unlike those of the two other bodies that could conceivably conduct such a review: the Serious Incident Response Team ("SIRT") and the Professional Standards Unit through HRP. Under the *Police Act*, once a SIRT investigation is completed, the Director's authority is limited to determining whether a charge will be laid. Likewise, where a complaint from the public has been received, an investigation through Professional standards is restricted to determining whether a disciplinary default under s 24 of the *Police Regulations*, NS Reg 230/2005 has occurred.

By contrast, on account of its statutory duty under s 55(3)(d), only the Board has the more general authority to determine whether the delivery of policing services is or has been consistent with "community values, needs and expectations." By the same token, only the Board is capable of initiating a comprehensive review in order to identify issues and concerns regarding oversight, governance, accountability, transparency, as well as communication and supervision issues arising from, the HRP's handling of the protests in response to the police-enforced evictions of homeless people from temporary shelters in the HRM on August 18.

Outcome Sought: A draft of a mandate and terms of reference for an independent civilian review of the oversight, governance, and policy aspects of the HRP actions on August 18, 2021, which documents will be reviewed by the Board at their November meeting.

<i>Commissioner Harry Critchley</i>	
-------------------------------------	--