



TOWN OF WESTVILLE  
MUNICIPAL BOARD OF POLICE COMMISSIONERS  
INVESTIGATION REPORT

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DEPARTMENT OF JUSTICE  
PUBLIC SAFETY DIVISION  
POLICING STRATEGY BRANCH

DECEMBER 31, 2007

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1 BACKGROUND

1.01 On March 26<sup>th</sup>, 2007, on behalf of Justice Minister Murray Scott, the Executive Director of Policing and Victim Services Division ordered an investigation of the Westville Board of Police Commissioners (WBPC), including, but not limited to, the working relationship between members of the Police Board and the Chief of Police for the Town of Westville, Nova Scotia.

1.02 The decision to order this investigation under Section 7(1) of the Nova Scotia *Police Act* was driven by a number of factors. Information provided to the Policing Strategy Section within the Department of Justice (DOJ) in late 2006, and early 2007, indicated a progressive deterioration of the working relationships between members of the Police Board and the Chief of Police. These reported ongoing issues were seen to be key contributing factors within the Police Board functionality, and suggested the Police Board was operating contrary to the provisions contained within the Nova Scotia *Police Act* and Regulations.

1.03 In addition, the Mayor of the Town of Westville, the former Chief Administrative Officer (CAO), the Chief of Police for the Town of Westville, and the provincial appointee to the Police Board had all expressed concerns through meeting or correspondence with the Department of Justice.

2 INVESTIGATIVE COMPOSITION, MANDATE AND CONSULTATION

2.01 **Composition:**

2.02 Pursuant to Section 7 (2) of the Nova Scotia *Police Act*, two staff members of the Policing Strategy Section were appointed as an investigative panel:

2.03	Mark I. Furey	Policing Consultant - Chairperson/Lead
	Robert. E. Eyre	Policing Consultant

2.04 **Mandate:**

2.05 The mandate of the investigative panel was to conduct an investigation of the Police Board and its working relationship with the Chief of Police through:

- (a) interviews
- (b) gathering, managing and documenting information
- (c) providing progress briefings as required
- (d) compile and present an investigation report
- (e) providing advice to the Minister and Deputy Minister, based on the findings of the investigation

2.06 **Consultation:**

2.07 Beginning in April 2007, twenty six (26) individuals were identified and interviewed in the course of the investigation:

***Names of persons interviewed have been withheld as a privacy protection measure.***

### 3 SUMMARY OF KEY ISSUES

3.01 A number of key issues were consistently identified through the investigation. These issues and the findings of the investigative panel are summarized below.

#### 3.02 **Composition of the Police Board**

3.03 The Nova Scotia *Police Act* identifies the legislated make-up and governance model of the Municipal Boards of Police Commissioners within Nova Scotia.

3.04 **Section 44(3)** A five member board appointed pursuant to subsection (92) consists of:

- (a) two members of council appointed by resolution of the Council
- (b) two members appointed by resolution of the Council, who are neither members of Council nor employees of the municipality; and
- (c) one member appointed by the Minister

3.05 **Section 44(4)** A seven-member board appointed pursuant to subsection (1) consists of:

- (a) three members of council appointed by resolution of the Council;
- (b) three members appointed by resolution of the Council, who are neither members of Council nor employees of the municipality; and
- (c) one member appointed by the Minister

3.06 The composition of the Police Board was originally established and approved in August 1996 by the Minister of Justice, and the Minister of Housing and Municipal Affairs. This by-law reflected the circumstances at the time of the joint New Glasgow/Westville Police Commission that was comprised of seven (7) members.

3.07 Following the devolution of the New Glasgow/Westville Police Service in the Fall of 2002, the Town of Westville by-law was amended to reflect a five (5) person board. Although the by-law stipulates five (5) members, the current identified and documented list of members reflects six (6) individuals. Membership on the Police Board was identified as:

- (a) the Mayor
- (b) a Council member representing Ward 1 of the Town

- (c) a Council member representing Ward 2 of the Town
- (d) a Town citizen residing in Ward 1 of the Town
- (e) a Town citizen residing in Ward 2 of the Town
- (f) a person appointed by the Minister of Justice

- 3.08 Based on the information gathered through the course of this investigation, it appears that the Police Board operated with five (5) members, including the Mayor and excluding the provincial appointee, up until August 2005 when the provincial appointment was made. It appears that the Police Board operated with six (6) members, including the Mayor, from August of 2005 until December of 2006. In the Fall of 2006, the Town of Westville increased their Police Board to seven (7) members, excluding the Mayor. This change took effect in March 2007.
- 3.09 Individuals interviewed during the course of this investigation expressed the opinion that the increase from five to seven board members was put in place to "stack" the Police Board with individuals opposed to the Chief of Police.
- 3.10 This investigation determined that neither an amended by-law or new by-law was passed to reflect this change. Although some individuals indicated that a motion and resolution had been passed, or a by-law created, there is nothing in the meeting minutes or any hard copy documents to confirm such action was taken. The Town Solicitor normally responsible to draft and present town by-laws indicated that he was never asked to do so, and did not produce or present a by-law allowing for a seven person Police Board.
- 3.11 The resignation or end of term of sitting Police Board members occurred at the same time the Town of Westville increased their Police Board from five to seven members. These circumstances resulted in four vacancies on the Police Board.
- 3.12 A past Police Board member has indicated that previous Police Board interview panels to select board members were comprised of the Chairperson of the Police Board, the Pictou County RCMP Detachment Commander, a Department of Justice staff member, a Westville Town Councillor, and one other panel member.
- 3.13 In order to fill these vacancies, the Town of Westville advertised and implemented a different process to interview interested Police Board applicants. The interview panel consisted of the Westville Town Council. The selection process was completed and four (4) new Police Board members identified.
- 3.14 By their own admission and/or actions, three (3) of the four (4) newly elected Police Board members have demonstrated indifference in their working relationship with the Chief of Police. Five (5) of the seven (7) Police Board

members have expressed their dislike or displeasure with the Chief of Police through comments or written correspondence.

3.15 The collective circumstances surrounding the increase of the Police Board from five (5) to seven (7) members may create the perception that the Police Board membership is now comprised of individuals who do not support the Chief of Police.

3.16 The information gathered during the investigation relative to the past and recent behavior by members of the Police Board supports the view that some Police Board members interaction with the Chief of Police is counterproductive, rendering the board dysfunctional.

3.17 **Qualifications of Police Board Members**

3.18 A number of those interviewed reported that two members of the Police Board have been convicted of a criminal offence in contravention of Section 77(3) of the *Police Act* Regulations.

3.19 Section 77(3) a person must not be appointed as a board member if criminal and background checks show that the person has been convicted of any criminal offence, or has been or is the subject of a disciplinary proceeding in any jurisdiction that, in the opinion of the council, would reasonably be expected to have a negative impact on their acting as a board member or on the board generally

3.20 **Role of Police Board Members in Operational Police Matters**

3.21 A number of Police Board members interviewed acknowledged they are not comfortable or fully knowledgeable of the roles and responsibilities as a member of the Board. In some circumstances, the actions and behavior of some members are not consistent with their roles and responsibilities.

3.22 Information gathered during the investigation indicates that the Police Board and individual members have acted outside of their legislated mandate. This includes, presenting and passing motions specific to the hiring of police officers; attempting to become involved in discipline matters of individual police officers; and, involving themselves in the day to day operations of the Westville Police Department. Reference, to Board mandate under the Nova Scotia *Police Act* are found in:

3.23 Section 37(4) members, special constables, by-law enforcement officers and civilian employees of a municipal police department, other than the chief officer, shall be appointed, promoted, suspended, dismissed or re-

instated by the board on the recommendation of the chief officer, or by the chief officer in accordance with a by-law made by the municipality for that purpose.

3.24 Section 79(1)(c) not interfere with the police department's operational decisions and responsibilities or with the day-to-day operation of the police department, including the recruitment and promotion of officers

3.25 **Scheduling and Management of Police Board Meetings**

3.26 It was reported by a number of those interviewed that the scheduling, advertising and public notification of Police Board meetings were limited in most cases to the day of or the day before meetings are scheduled. Notification was by way of a single poster displayed at the main entrance to the Town Office.

3.27 A number of those interviewed reported meeting minutes are not being recorded and disseminated in a timely manner. At the time of his interview, the Acting Chairperson had not yet received the minutes for the previous three Police Board meetings.

3.28 It was reported by a number of those interviewed that the recording, compilation and retention of meeting minutes is poorly managed and that the management and physical location of meeting minutes is not clear or established.

3.29 Although Police Board meetings appear to occur on a regularly scheduled basis as required under Section 49 of the Nova Scotia *Police Act*, a number of those interviewed felt the limited posting of notices for the general public was not sufficient.

3.30 Although it appears that an agenda is compiled and distributed to Police Board members, distribution is often on the date of the meeting or the day prior to the meeting. Meeting Minutes are recorded by hand written notes, and recent meetings have been audio recorded for purpose of archives and review, in the event the content of the minutes are challenged. The retention and archiving of meeting minutes remains uncertain. It is not clear if there is a policy or procedure to address this requirement, or if the minutes of any one meeting are available upon request.

3.31 A request to review minutes of past Police Board meetings was presented to the Town Mayor. The investigative panel was provided with a folder containing numerous loose documents. The majority of these documents were copies of minutes of past Police Board meetings. These documents were loose within the folder and in no particular order.



- 3.32 Meeting minutes captured those quarterly meetings from December of 2004 up to September of 2006. A motion passed at the September 2006 meeting required meetings to be held monthly. Investigators have been unable to access or obtain minutes for the meetings from October of 2006 to April of 2007.
- 3.33 A review of the minutes and other information obtained from interviews indicates there is a general effort to maintain meeting minutes as required. However, there does not appear to be an established process for the retention of meeting minutes.
- 3.34 Although there is some official record of debate, tension and conflict between the Chairperson of the Police Board and the Chief of Police, the minutes recorded do not reflect the extent of the conflict disclosed in interviews with individuals who participated in this review. The conflict appears to have reached a stage where meetings are no longer conducted in a civil manner, and the board is dysfunctional.
- 3.35 A review of the minutes concludes the Chair of the Police Board openly questioned the honesty, integrity and judgement of the Chief of Police on several occasions. These findings are consistent with other information gathered throughout the investigation.
- 3.36 **Code of Conduct**
- 3.37 It was reported that the Chairperson of the Police Board has conducted himself in a manner contrary to the Code of Conduct for board members. This appears to have been a contributing factor in the decision by the Town of New Glasgow to dissolve the shared services agreement with the Town of Westville.
- 3.38 The Chairperson's behavior is further documented in statements by the majority of witnesses who observed or experienced this behavior within the Police Board meetings, within the Westville Recreation Committee meetings, and within the confines of the Westville Town Office public area. Various witnesses describe the behavior of the Chairperson of the Police Board as "temper tantrum outbursts", "good old fashioned bullying", "rage", and "hate". This behavior contravenes the Nova Scotia *Police Act*, the Police Regulations and the Code of Conduct.
- 3.39 It was reported by a number of those interviewed that the Police Board members have interfered in the employment or hiring and promotion of part-time police officers to full-time police officer status within the police service. Information gathered during the investigation indicated that individual Police Board members openly acknowledge and discuss their intentions and efforts, within the Police Board meetings, to ensure that specific individuals are hired to fill existing and future vacancies.

- 3.40 Police Board meetings in April, May and June dealt specifically with the efforts of the Police Board members to hire one of two part-time officers, without the recommendation of the Chief of Police, in contravention of the Nova Scotia *Police Act*:
- 3.41 Section 37(4) members, special constables, by-law enforcement officers and civilian employees of a municipal police department, other than the chief officer, shall be appointed, promoted, suspended, dismissed or reinstated by the board on the recommendation of the chief officer, or by the chief officer in accordance with a by-law made by the municipality for that purpose
- 3.42 It was reported by a number of the Police Board members as well as the Mayor and other Westville Town Councilors, that they do not agree with the authority extended to the Chief of Police, within the Nova Scotia *Police Act*, as it relates to the hiring of police officers.
- 3.43 In order to assist members of the Police Board in the interpretation and authority of the Nova Scotia *Police Act* as it relates to hiring, senior staff within the Department of Justice attended a Police Board meeting on June 21, 2007 for the sole purpose of discussing Section 37(4) and Section 79(c) of the Nova Scotia *Police Act*. Despite the Department of Justice senior officials having pointed out the requirements of the *Police Act*, following the departure of the Justice staff, the Police Board members passed a motion to hire one of the part-time officers without the recommendation of the Chief of Police.
- 3.44 **Rules of Order during Police Board Meetings**
- 3.45 Information gathered during interviews revealed past and ongoing issues that monopolize discussions at the Police Board meetings.
- 3.46 Those ongoing discussions include:
- (a) the planned move from the Westville Police Department to the Westville Recreation Building
  - (b) discussions around the purchase of “steel doors” by the Chief of Police
  - (c) staffing of a vacant position in the Westville Police Department as the result of the creation of the Pictou County Street Crime Enforcement Unit (SCEU) through the provincially funded “Additional Officer Program”

(d) the ongoing discussions and circumstances as they relate to the employee status of two part-time police officers within the Westville Police Department

3.47 The time spent addressing these issues has consumed a disproportionate amount of meeting time, significantly reducing time for other matters of the Police Board. There is nothing to indicate that the Police Board has a Strategic or Business Plan in place to support and guide their mandate.

3.48 It was consistently reported that the Police Board Chairperson, the Vice-Chairperson, and to a lesser degree other Councilors, have conducted themselves in a manner that was seen as aggressive, confrontational, and contrary to the Nova Scotia *Police Act* Regulations, including the Code of Conduct:

3.49 Section 79(1)(a) uphold the letter and spirit of the code of conduct set out in this section and discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the board

3.50 Section 79(1)(g) discharge their duties in a manner that respects the dignity of individuals, and is in accordance with the *Human Rights Act* and the *Canadian Charter of Rights and Freedoms*

3.51 It was consistently reported that these individuals have used intimidation tactics. It was reported that these outbursts are most often directed at the Chief of Police, and on at least one occasion, at the Attorney General appointment to the Police Board.

3.52 It appears that the Police Board meetings do not follow acceptable standards of conduct such as "Roberts Rules of Parliamentary Order". It was reported, the debate and discussions of individual agenda items generate heated discussions and behaviors that are inconsistent with an environment of civil governance.

3.53 **Personal Conflicts between Individual Members of the Police Board and the Chief of Police**

3.54 It was reported by a number of those interviewed that most members of the Police Board have expressed dislike, mistrust, and in some cases intentions to displace or dismiss the Chief of Police.

3.55 The personal conflicts have been exacerbated by a civil suit initiated by the Chief of Police against the Chairperson. The suit arose out of a January 2005 Westville Town Council meeting where the Chairperson publicly criticized the content of a Police Report. This civil action remains outstanding.

- 3.56 The persistent conflict is having an impact on the Police Board to be able to function effectively. This is also having a significant impact on the members of the Police Board and their individual abilities to cooperate and function, without bias or impartiality and objectivity, when interacting with the Chief of Police at Police Board meetings.
- 3.57 At that time, legal advice was sought and obtained from a New Glasgow Law Firm.
- 3.58 It was reported by a number of those interviewed that they were part of or overheard discussions; were aware of correspondence; or felt pressured to displace the Chief of Police by way of an administrative leave/suspension or termination of his employment.
- 3.59 It was apparent from the findings of this investigation, that in April 2007 there were specific efforts and actions on the part of one Councillor to pursue a suspension and termination of the Chief of Police pending a review by the Board.
- 3.60 In June 2007, it is also evident the same Councilor felt the Chief of Police was ignoring the wishes of council and not carrying out the wishes of Town Council specific to the hiring of a part-time officer, into a permanent full-time position.
- 3.61 The Councilor was of the opinion, the Police Board had reasonable grounds to release the Chief of Police.
- 3.62 When presented with the desire to dismiss the Chief of Police by town councilors, the former CAO was of the opinion the Chief had done nothing wrong and in the absence of a performance report such action could not be supported.
- 3.63 The past Chairperson of the Police Board advised that the Chief of Police had never been the subject of a public complaint or formal complaint from Police Board members.
- 3.64 Despite the efforts to remove the Chief of Police, he was not suspended and remains on active duty.
- 3.65 **Communications between Police Board Members and Operational Police Officers**
- 3.66 A number of those interviewed reported that internal information from within the Westville Police Department was making its way to individual councilors, and such items were presented as a topic for discussion at Police Board meetings, without prior knowledge of the Chief of Police.

- 3.67 It was also reported by more than one member of the Police Board that they had previously discussed internal operational police department information with individual members of the Westville Police Department.
- 3.68 Two members of the Westville Police Department reported, they had previously spoken with individual councilors who are members of the Police Board, and had discussed internal police department circumstances, relative to discipline and administrative matters involving themselves and the Chief of Police.
- 3.69 It has been established that some of the information raised at the Police Board meetings by these Councilors has been inaccurate, and further contributes to the dysfunction, mistrust and lack of constructive communication between Police Board members and the Chief of Police.
- 3.70 Although a contravention of Section 52 of the *Police Act* has not been established, the information presented by some persons interviewed for this report may be perceived by the public as contrary to the spirit and intent of the *Police Act*:
- 3.71 Section 52 on behalf of the board, the board chair or the chair's delegate may give advice or direction, in writing, to the chief officer on any matter within the jurisdiction of the board under this Act, but not to other members of the police department and, for greater certainty, no other member of the board shall give advice or direction to a member of the police department
- 3.72 **Evaluation of the Performance of the Chief of Police**
- 3.73 The Chief of Police indicates not having a performance appraisal completed by the Police Board since 2002.
- 3.74 Section 78 the role of the Chairperson of a board includes the following responsibilities:
- 3.75 Section 78(e) in conjunction with the board members and in consultation with the Chief Administration Officer of the municipality, to evaluate the performance of the chief officer on a yearly basis
- 3.76 The former CAO acknowledged that in his capacity as the CAO he was responsible, in consultation with the Chair of the Police Board, to complete an annual performance review of the Chief of Police. The former COA reports that this was not completed by the Police Board due to the negative working relationship between the Police Board members and Chief of Police.

**3.77 Police Agency Facilities**

- 3.78 A number of those individuals interviewed, including the Chief of Police and all members of the police service, expressed concerns that the facilities they presently occupy are not suitable for present day policing needs.
- 3.79 The Nova Scotia *Police Act* outlines the requirements of the municipality in establishing and maintaining a municipal police department:
- 3.80 Section 35(1) every municipality is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate, efficient and effective police department at its expense in accordance with its needs
- 3.81 Section 35(2) in providing an adequate, efficient and effective police department for the purpose of subsection (1), a municipality is responsible for providing all the necessary infrastructure and administration
- 3.82 The Westville Police Department presently occupies a small area on the main floor of the old Westville Town Civic building.
- 3.83 In a submission to the Minister of Justice in August of 2002, Department of Justice staff toured the proposed facilities prior to the reinstatement of the Westville Police Department, following the devolution of the New Glasgow/Westville Police shared services agreement. At that time, this location was identified as a suitable temporary facility until such time as more appropriate facility could be provided.
- 3.84 In January of 2004, Justice conducted a Focused Audit of the Westville Police Department operations. It was noted in the 2004 Audit Report that the facilities were inadequate for continued operations.<sup>1</sup>
- 3.85 The auditors who viewed the Westville Police Department facilities in 2002 and 2004, were of the opinion that the facilities were suitable, on the premise that other more appropriate facilities would be made available in the very near future.
- 3.86 Efforts to secure renovated facilities in the Fall of 2004 did not materialize within the Town of Westville. These circumstances were the subject of heated discussions, and identified by most of the subjects interviewed as the one key factor or reason for ongoing tensions, conflict and dysfunction within the Police Board. Although there was a budget (\$50,000), as well as

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<sup>1</sup> "The present building is small and probably inadequate for continued operation of an efficient and effective police service. It was suggested that removal of the Service to another location is being considered and this should be viewed as a great opportunity to ensure that any new location is both adequate and of suitable size".

donated material and labor identified to advance the renovation of the Westville Recreation Center, elected officials withdrew their support in early January of 2005. To this date, the Westville Police Department remain in the facilities that were deemed inadequate in 2004.

- 3.87 Subsequent plans in 2005 to expand on existing space by renovating adjacent rooms was initially pursued by the same Renovations Committee that was involved with the Westville Recreation Center renovations. Town Council subsequently advised the original funding was no longer available for this expansion.
- 3.88 The existing facilities are cramped with inadequate climate control. The police officer work area consists of one room with one work station and abuts the Breathalyzer/interview room and exhibit room.
- 3.89 In the opinion of the investigative panel, the present facilities utilized by the Westville Police Department are inadequate, and are not in keeping with modern policing operations.

#### 4 MEDIA COVERAGE

- 4.01 In conducting this review, it was appropriate to review those media articles that followed various meetings, events and circumstances within the Westville Town Council, and/or the Westville Board of Police Commission. The information presented in various media articles is consistent with the findings of this investigation.

#### 5 RAMSAY REPORT

- 5.01 In the absence of a full-time permanent CAO within the Town of Westville, and parallel to the review of the Police Board and their working relationship with the Chief of Police, Service Nova Scotia and Municipal Relations (SNSMR) funded an interim CAO for the Town of Westville. This funding supported a three (3) month administrative review expiring in late June of 2007, intended to provide recommendations on the future sustainability and governance models for the Town of Westville. The report of the interim CAO was presented to the Westville Town Council and SNSMR on July 16, 2007.
- 5.02 The findings of the Ramsay Report, were similar in many ways to the findings of this investigation report.

## 6 CONCLUSIONS

- 6.01 The investigation concluded that action is required in order to restore the integrity and functionality of the Police Board, and to provide support and confidence for the citizens of the Town of Westville.
- 6.02 The Westville Police Board is acting in contravention of the *Police Act* in specific circumstances, and relationships between the Chief of Police and some Board Members has digressed from collective or meaningful participation, to significant dysfunction. There is a lack of structure, legislative compliance and accountability in this relationship, and these elements have been key contributing factors for the absence of public confidence in the governance role of the Police Board.

## 7 RECOMMENDATION

- 7.01 **The Minister of Justice issue a directive to the Town of Westville and Westville Board of Police Commissioners to take corrective action.**



Mark Furey, Lead Reviewer  
Policing and Public Safety Consultant  
Public Safety Division

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