Report to the Task Force on Governance and Cultural Change in the Royal Canadian Mounted Police: Examination of Internal Management Structures of Police Forces

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Introduction

The Task Force on Governance and Cultural Change in the Royal Canadian Mounted Police requested assistance from the Police Executive Research Forum (PERF) to examine internal and external oversight bodies for police forces. PERF was contracted to research and analyze internal management structures of police forces to:

- Highlight structures that incorporate appropriate challenge and oversight into executive decision-making.
- Describe structural alternatives in place that enhance executive accountability to internal stake holders.
- Assess a wide array of police force internal management structures and identify best practices based on accountability, transparency and results.

External oversight bodies were also examined in order to accomplish the following objectives:

- Describe the range of police oversight operations and identify those most conducive to policing in democratic societies.
- Highlight oversight bodies that focus primarily on misconduct review versus those that are designed to provide general oversight.
- Identify international best practices in police oversight based on those that best combine
 independence for policing operational functions and appropriate accountability,
 transparency and oversight of executive decision-making.

This first report is dedicated to the research and findings of the internal management structure analysis.

SUMMARY

The Police Executive Research Forum (PERF) examined internal law enforcement oversight mechanisms pursuant to a request by the Task Force on Governance and Cultural Change in the Royal Canadian Mounted Police.

Our research did not yield any examples of police forces having an **internal** challenge and/or oversight body in regards to executive decision-making. Staff also reviewed agency grievance procedures to examine the nature and scope of avenues for internal stakeholders to seek resolution for issues they have with their agency (such as harassment or inequitable treatment). Procedures were examined for the New York City Police Department (New York City Patrolman's Benevolent Association), Chicago Police Department (Fraternal Order of Police - Chicago Lodge 7), Vancouver Police Department (Vancouver, Washington US), Frederick Police Department (City of Frederick, Maryland), Federal Bureau of Investigation, Metropolitan Police Service, UK (Metropolitan Police Association), Dumfries and Galloway Constabulary, (UK), Ontario Police Department (Ontario, Canada), South Australia Police and Northern Territory Police (Australia).

To complete these analyses, PERF engaged in exhaustive internet and literature searches. Organizational charts and policies from United States local, state and federal departments, in addition to international forces, were examined. Research findings are described below.

FINDINGS

Internal Oversight Bodies

Our research did not yield any specific instances of police forces having an **internal** challenge and/or oversight body for executive decision-making accountability. This lack of an internal oversight body with the authority to challenge executive decisions is not surprising considering the nature of the position. One of the primary functions of a police agency head is to provide leadership and set the direction for the organization; that is why they are placed in the top executive position. This is best accomplished by a **single person**, certainly with input from others, leading the organization.

Internal oversight bodies do exist within departments in the form of Internal Affairs or Professional Standards Units; however, these units do not have the authority to challenge the chief executive's decisions.

Internal Accountability Processes

A grievance procedure is an example of internal stakeholders' ability to hold executives accountable for their actions. Grievance procedures generally involve an employee filing an objection for inequitable treatment or an alleged misinterpretation or misapplication of policies or contractual agreements. The grievance will then follow a process that involves different levels in the chain of command with specific time frames for response. If the employee is not satisfied with the decision, there can be an appeal to a body outside the police agency for mediation or arbitration.

In the United States, grievance processes are generally found in one or both of two documents. The first is a Memoranda of Understanding (MOU) between the city, or jurisdiction, which outlines working conditions of those employees specifically represented under the MOU. The second document is an agency's policies, procedures or directives. When the procedure is included within department orders, all members of the department may initiate a grievance in accordance with the process and timeline outlined in the policy.

Below are examples of grievance procedures for U.S. and international departments and a comparison between those policies and the RCMP procedures:

New York City Police Department / New York City Patrolman's Benevolent Association

The definition of a grievance includes a violation, misinterpretation or misapplication of the Collective Bargaining Agreement between the City of New York and the Patrolman's Benevolent Association (PBA). The first step in the procedure is the presentation of the grievance, orally or in writing, to the Commanding Officer. The matter is typically handled by a delegate (like a shop steward in a union) at the precinct/borough level. If not resolved at this level, it becomes a Step 3 grievance which has to be in written form and submitted to the NYPD's Office of Labor Relations. The issue is further investigated at this level and is approved or denied. This decision can be appealed to the NYPD Commissioner. If the commissioner denies the appeal, pursuant to the New York City Collective Bargaining Law and the Consolidated Rules of the New York City Office of Collective Bargaining, the union may then bring the grievance to impartial arbitration. There is a rotating panel of arbitrators assigned to hear cases. The decision after arbitration is binding.

• Chicago Police Department / Fraternal Order of Police (FOP) – Chicago Lodge 7

The FOP defines a grievance as a "dispute or difference between parties of the contract concerning interpretation and/or application of the contract or its provisions." The first step is the initiation of the grievance. The officer has seven working days to file the grievance either after a suspension or the event/circumstances that gave rise to the grievance. The second step involves the supervisor's response. Once filed with the immediate supervisor, the response will be completed within seven calendar days. The supervisor must then submit the form/response to the Unit Commanding Officer who will have 14 calendar days to respond in writing. The third step in the process is mediation. Suspension grievances are resolved in one of two forums: Summary Opinions which allows for

the grievance to be reviewed by an arbitrator or *Settlement Conferences*, where the opinion issued by the arbitrator is discussed with the Management Labor and Affairs Section. If an officer's grievance has not yet been settled, the fourth step is an arbitration hearing.

Vancouver Police Department / Vancouver Police Officers Guild (Washington, US)

A grievance is defined as "any dispute between the employer and the Guild or employee concerning the interpretation, application or alleged violation of any term of the agreement involving the aforementioned parties." The written grievance should be presented to the employee's first level supervisor outside the bargaining unit within 21 days of the alleged violation. The first step toward resolution involves an interest-based, problem-solving process. If not resolved within 21 days, the grievance advances to the second step where the chief of police may meet with the employee and his/her representative. The chief will make a decision within 21 days. If not resolved, the grievance proceeds outside the police department to step three which will be either arbitration or civil service appeal. The guild will decide between the two final options and provide written notice to the city within ten days of the delivery of the chief's decision.

• City of Frederick, Maryland

The first step in the grievance process is a supervisor review. If it is not resolved there, it moves to the deputy chief. The grievance moves to the Chief of Police if it still has not been resolved. In the event that the grievance cannot be resolved within the police department, the grievance is referred to a labor relations panel. Decisions of the labor relations panel are binding on the employee organization and employer. Under some circumstances, decisions may be appealed to the Frederick County Circuit Court.

Federal Bureau of Investigation

The FBI Ombudsman's office is situated in the Director's office. The Ombudsman serves all FBI employees and supervises a staff of five. The Office of the

Ombudsman offers confidential assistance on any work related issue, question, or concern with the largest set of issues pertaining to personnel, rules and regulations, pay, performance and staffing transfers. People also seek out the Ombudsman if they feel FBI policy has been misinterpreted. Conflict resolutions and addressing interpersonal disputes also fall under the purview of the Ombudsman's office but no decision by the Ombudsman is binding.

• Ontario Police Officers Association (Ontario, California)

The first level in the grievance process is an informal grievance. The informal grievance shall be presented to the employee's immediate supervisor during a Level I meeting, within 15 working days of the event causing the grievance. The immediate supervisor should provide an answer to the employee no later than 14 working days after the Level I meeting. If not resolved, the employee may file a Level II grievance with the Bureau Commander within ten working days of the Level I response. There will be a meeting between the employee and the Bureau Commander within 14 working days of receipt of the grievance and the Bureau Commander shall issue a written response within ten working days following the Level II meeting. If the grievance is not resolved at Level II, it will proceed to Level III which is a review by the chief of police. The chief will meet with the grieving employee within ten working days of receipt of the Level III grievance and respond within ten working days. Grievances not settled at Level III will move to Level IV. At Level IV, the grievance is presented to the City Manager within ten working days of the Level III response. The City Manager has ten working days to meet with the employee and an additional ten working days to respond to the grievance after the meeting. If the grievance has not been settled at Level IV, then within 21 days of receiving the written response from Level IV, the grievance will move to arbitration in Level V. The arbitrator will be selected and agreed upon by both parties and the decision will be subject to the approval of the City Council.

Metropolitan Police Service / Metropolitan Police Association, UK

The process is referred to as the Fairness at Work Procedure. Members of the Metropolitan Police Service staff are able to use this procedure if they feel they have been mistreated by a colleague, manager or other staff member while at work. The informal process includes a discussion between the staff member and the line manager. If the issue cannot be solved informally, the formal process begins. There are two stages to the formal process and both are recorded in writing. Stage one involves a grievance manager, a manager who has received training in the applicable policy and has no previous knowledge of the case, reviewing the circumstances. If the originating staff member is not satisfied with the outcome, it may be appealed in the second stage. The appeal will be carried out by an appeal advisor, who is a more senior manager with no prior knowledge of the case. If not satisfied at the conclusion of this stage, any further concerns will be addressed through external action, such as an Employment Tribunal which is a judicial body that settles disputes between employers and employees over employment rights.

• Dumfries and Galloway Constabulary, UK

The formal grievance procedure has two stages. In the first stage, the staff member should approach his/her immediate supervisor and detail the grievance and outcome they are seeking, in writing. The supervisor will then notify the Head of Personnel and Training and complete a grievance record and monitoring form. The grievance will then be investigated by the supervisor and a response will be delivered to the staff member in writing, normally within ten working days of the grievance being raised. The staff member then has five working days to confirm whether the supervisor's response constitutes a resolution. If the response is not acceptable, the Head of Personnel and Training will advance the grievance to stage two, where the grievance will be referred to the Head of the Department/Divisional Commander. The Head of the Department will provide a response in writing after completing any inquiries and a consultation with the employee, usually within ten working days. The staff member has five days to accept the resolution. If the grievance still remains unresolved, the Head of Personnel and Training will file confidential

papers with the Grievance Appeals Panel. The Panel is chaired by the Constabulary's Superintendent of Corporate Services and has three other members which usually include a department head and an independent staff association representative. The Panel's decision is final; however, the employee has the right to take the grievance to an Employment Tribunal if not satisfied.

• Ontario Police Arbitration Commission, Canada

The Ontario Police Arbitration Commission is responsible for administering the conciliation and mediation/arbitration process as prescribed by the Ontario Police Services Act. Their main function is to appoint conciliators and arbitrators to assist the police associations and police services boards resolve disputes that stem from the negotiation and administration of collective bargaining agreements. There are two types of disputes: rights disputes and interest disputes. Rights disputes occur over issues with an existing collective agreement. Interest disputes involve settling terms of a new collective agreement.

The first step of the process is to bring the dispute before the Negotiating Committee, made up of three members of the bargaining agency representing employees ("staff side") three members of the employer ("employer side") and a Chair agreed upon by both parties who does not vote and does not represent either party. The Negotiating Committee establishes binding arbitration procedures to deal with any grievance concerning working conditions or terms of employment aside from: issues that are to be resolved under the Police Services Act, pension issues, grievances that require new classification systems (or alterations of systems) of employees, or issues involving interpretation or clarification of any clause in an agreement. For a decision to be binding, it must be approved by a decision of the board of directors of the bargaining agency for the staff side, and the Management Board of Cabinet for the employer side. If a majority of the members of the Negotiating Committee are not able to come to an agreement, the Chair, at the request of a member, will request the Solicitor General appoint a conciliation officer.

Should affected parties not be able to resolve disputes via negotiation (involving either rights disputes or interest disputes), the Police Services Act requires that an outside and neutral conciliation officer be appointed to assist parties in resolving an issue or reducing the number of issues that, if unresolved, might be referred to arbitration. The conciliation officer confers with the Negotiating Committee and reports to the Solicitor General within 14 days regardless as to whether an agreement was reached. Neither party may request an arbitrator until the Solicitor General has informed all parties in writing of the findings of the conciliation officer. This 14-day period may be extended if agreed to by both parties.

Arbitration process for interest disputes: If an interest dispute is not resolved via conciliation, the matter moves to arbitration. If the parties are unable to agree on an arbitrator or the chair of a board of arbitration, either party can ask the Chair of the Arbitration Commission to appoint an arbitrator. The main mode of arbitration is mediation-arbitration, unless the Chair selects mediation-final offer selection or conventional arbitration.

- Mediation-arbitration: The first stage of the process is mediation. A mediator-arbitrator attempts to facilitate a solution that both parties find mutually agreeable. If mediation is unsuccessful, the matter moves to arbitration, whereupon the mediator-arbitrator issues a written decision that is final and binding. Before arriving at a decision, the arbitrator is presented with written and oral arguments on the matter and bases an award according to the evidence produced.
- Mediation-final offer selection: the mediation stage in this phase is the same
 as in mediation-arbitration. In the arbitration stage, the selector requests a
 final offer from each party, hears arguments supporting the parties, and selects
 one of the final offers. The decision is final and binding. The final offer
 selection can either consist of the "total package" offer or issue-by-issue
 bases.
- Conventional arbitration: Parties present their issues to an arbitrator, who makes an award that is final and binding based on the evidence produced.

The hearing must start within 30 days after an arbitrator or mediator-arbitrator is appointed unless the parties agree to extend this time frame. Decisions must be made within 90 days of appointment unless the parties agree to extend this time frame.

Each party pays half of the remuneration and expenses of the arbitrator or chair. The arbitrator or chair of the arbitration board is required to file a copy of the decision or award with the Arbitration Commission. The Chair of the Police Services Board is required to file a copy of all current collective agreements with the Arbitration Commission.

Arbitration process for rights disputes: If a rights dispute is not resolved via conciliation, the matter moves to arbitration. If the parties are unable to agree on an arbitrator or the chair of a board of arbitration, either party can ask the Chair of the Arbitration Commission to appoint an arbitrator.

Conventional arbitration is used in rights disputes. An arbitrator hears arguments from parties and makes a final and binding decision based on the evidence produced. The first hearing must take place within 30 days after an arbitrator is appointed, unless the parties agree to extend the time frame. A decision must be rendered within a reasonable amount of time after the last day of the hearing. Each party is responsible for their own costs of the proceedings, but the fees of the arbitrator or chair, appointed by the Solicitor General, are fixed and paid for by the Arbitration Commission.

The arbitrator or chair of a board of arbitration is required to file a copy of the decision or award with the Arbitration Commission.

The Ontario Police Arbitration Commission is made up of five members appointed by the Lieutenant Governor in Council. The commission is composed of two members recommended by the Ontario Association of Police Services Boards, two members recommended by the Police Association of Ontario and a chair, appointed by the Lieutenant Governor in Council. There is no legislated limitation to the length of term commissions may serve.

• South Australia Police

There are three stages to the grievance and dispute avoidance procedures. Stage one involves discussions between the employee and the supervisor. Stage two discussions are between the employee and/or nominated delegates and the Human Resources Manager. In the event the dispute/grievance is not resolved, Stage three discussions involve nominated delegates and the Human Resources Manager. Discussions at this stage may include representatives from the Public Sector Work Force Relations Division of the Department of the Premier and Cabinet. The Division is responsible for taking a comprehensive approach to government and the public sector workforce and plays a key role in workforce relations, wellbeing, performance and evaluation.

• Northern Territory Police / Australia

The Northern Territory Police defines a grievance as a "complaint, misinterpretation or misapplication of matters affecting terms and conditions of service." A dispute is defined as an industrial matter which can be heard before the Police Arbitral Tribunal and excludes matters concerning discipline, transfer and promotion, other than entitlements on transfer. The first step in the grievance/avoidance procedure involves discussions between the officer or concerned member and the supervisor, with or without the assistance of a Branch or other Association official. If those talks fail, further discussions will be held between the Branch, or other Association official, and the appropriate Divisional Officer, who will inform the Director of Personnel of the grievance. If not resolved at that level within three working days, the grievance will be referred to the relevant Assistant Commissioner who will review the matter and offer a final position on the issue. If all efforts to resolve the grievance have not been effective by this point in

the process, the parties will give three days notice of intent and the issue will be taken before the Police Arbitral Tribunal.

Royal Canadian Mounted Police

Grievances for the RCMP are found in the Royal Canadian Mounted Police Act under the section titled *Commissioner's Standing Orders (Grievances)*. After a thorough comparison to other grievance policies and procedures examined in this effort, one main difference stood out. According to the policy reviewed, a Level I grievance can be considered by a number of different people depending on the nature of the complaint and who the Commissioner appoints rather than taking the issue to the employee's first-line supervisor. For example, a Deputy Commissioner will review a stoppage of pay grievance; a Deputy Commissioner designated by the Commissioner will review an objection to a decision, act or omission made by another Deputy Commissioner; an officer or senior manager designated by the Commissioner, from a specific region, will review a decision, act or omission made in that region that resulted in a grievance; an officer or senior manager designated by the Commissioner for headquarters will review a grievance resulting from a decision, act or omission made in headquarters; all others will be reviewed by an officer or senior manager designated by the Commissioner.

CITATIONS OF ORGANIZATIONS EXAMINED

New York City PBA, Grievances and Arbitration Procedures:

http://nycpba.org/gc/grievance.html

http://nycpba.org/gc/filing_grievances.html

FOP-Chicago Lodge 7, Grievance Procedures:

http://www.chicagofop.org/Grievances.html

City of Frederick MD, Grievance Procedure:

http://www.cityoffrederick.com/charter/_data/title17/ARTICLE_II__POLICE_EMPLOYEE_RE

LATI/Sec 17 28 Grievance procedur.html

Federal Bureau of Investigation:

http://www.opm.gov/er/adrguide_2002/section1-justice.asp

Ontario Police Officers Association (Ontario, California):

http://www.ci.ontario.ca.us/index.cfm/35040/32839

Metropolitan Police Authority, UK. Review of the MPS grievance procedure:

http://www.mpa.gov.uk/print/committees/x-hr/2002/020307/12.htm

http://www.employmenttribunals.gov.uk/

Dumfries and Galloway Constabulary Grievance Policy and Procedure:

http://www.dg.police.uk/foi/class_cat/policy/grievance.pdf

Vancouver Police Officers Guild, Grievance Procedure:

http://www.citvofvancouver.us/upload/images/HR/PoliceOfficersGuild_2007-2009.pdf

Ontario Police Arbitration Commission:

http://www.policearbitration.on.ca/english/content/process/dispute.htm#con

http://www.policearbitration.on.ca/english/content/process/arbitration.htm

http://www.policearbitration.on.ca/english/default.htm#members

http://www.e-laws.gov.on.ca/html/statutes/english/elaws statutes 06o35 e.htm#BK4

http://www.pas.gov.on.ca/scripts/en/BoardDetails.asp?boardID=1115

South Australia Police Enterprise Agreement 2001:

http://64.233.167.104/search?q=cache:APTk7eJgEuEJ:www.industrialcourt.sa.gov.au/download.

cfm%3Fdownloadfile%3DE4A6FB8D-E7F2-2F96-

3287C2ED39B54C25+Australia+police+grievance&hl=en&ct=clnk&cd=2&gl=us

http://www.premcab.sa.gov.au/

http://www.pswr.sa.gov.au/

Northern Territory of Australia, Police Arbitral Tribunal Determination No. 1 of 2000: <a href="http://64.233.167.104/search?q=cache:P2zVJxnpgCYJ:www.nt.gov.au/pfes/documents/File/police/careers/lateral/det1-2000.pdf+Australia+police+grievance&hl=en&ct=clnk&cd=3&gl=us

Royal Canadian Mounted Police, Royal Canadian Mounted Police Act, Commissioner's Standing Orders (Grievances):

http://canadagazette.gc.ca/partII/2003/20030604/html/sor181-e.html

CITATIONS EXAMINED – UNUSED

Access Democracy:

http://www.accessdemocracy.org/library/1906_gov_policing_080105.pdf

Alaska State Troopers:

http://www.dps.state.ak.us/AST/

Australian Institute of Criminology:

http://www.aic.gov.au/

Bakersfield Police Officers Association:

http://www.bpoa.us/

Canada Gazette:

http://canadagazette.gc.ca/partII/2003/20030604/html/sor181-e.html

Carabineros de Chile:

http://www.carabineros.cl/sitioweb/web/verSeccion.do

Cheshire Police:

http://www.cheshirepa.police.uk/uploads/policy%20-%20grievance%20procedure.pdf

City of Albuquerque, New Mexico:

http://www.cabq.gov/council/apdrpt.html

http://www.cabq.gov/iro/EvidenceRoomExecSummary.html

City of Davis, California:

http://www.city.davis.ca.us/cmo/ombudsman/

City of Decatur, IL:

http://www.ci.decatur.il.us/police/professionalstandards.htm

City of Riverside, California:

http://aquarius.riversideca.gov/citypolicy/III-5.pdf

Connecticut State Police:

http://www.ct.gov/dps/cwp/view.asp?a=2153&Q=294392&dpsNav_GID=1673&dpsNav=

County of Fresno:

http://www.co.fresno.ca.us/portal/Default.asp

Delaware State Police:

http://dsp.delaware.gov/

Devon and Cornwall Constabulary:

http://www.devon-cornwall.police.uk/v3/pdfstore/HR_D39.pdf

Federal Labor Relations Authority:

http://flra.gov/

Federation of American Scientists:

http://fas.org/irp/world/chile/carabineros.htm

Hawaii Department of Public Safety:

http://www.hawaii.gov/psd/psd_home.php

Idaho State Police:

http://www.isp.state.id.us/

Illinois State Police:

http://www.isp.state.il.us/

Kent Police:

http://www.kent.police.uk/home.htm

Kentucky State Police:

http://www.kentuckystatepolice.org/

Lothian and Borders Police:

http://www.lbp.police.uk/

Louisiana State Police:

http://www.lsp.org/index.html

Maine State Police:

http://www.maine.gov/dps/msp/

Maryland State Police:

http://www.mdsp.org/

Massachusetts State Police:

http://www.mass.gov/?pageID=eopsagencylanding&L=3&L0=Home&L1=Public+Safety+Agencies&L2=Massachusetts+State+Police&sid=Eeops

Metropolitan Police Federation:

http://www.metfed.org.uk/

Michigan State Police:

http://www.michigan.gov/msp

National Policing Improvement Agency:

http://www.npia.police.uk/en/index.htm

New Hampshire State Police:

http://www.michigan.gov/msp

New Mexico State Police:

http://www.nmsp.com/

New York State Police:

http://www.troopers.state.ny.us/

Office of Personnel Management:

http://www.opm.gov/flsa/main.asp

http://www.opm.gov/flsa/limit.asp

Ontario Police Arbitration Commission:

http://www.policearbitration.on.ca/

Oregon State Police:

http://egov.oregon.gov/OSP/

Pennsylvania State Police:

http://www.psp.state.pa.us/

Peoria (Arizona) Police Department:

http://www.peoriaaz.com/PoliceDepartment/administration/docs/policy_manual/3.09_Grievance Procedures.pdf

Police Association of Ontario:

http://www.pao.on.ca/

Police Complaints Authority:

http://www.pca.govt.nz/

Police Federation of England and Wales:

http://www.polfed.org/SCC_Grievance_Procedure_amended_Feb_2007_70207.pdf

Police Internal Oversight (Bangladesh):

http://www.police.gov.bd/pio/mission.php

Police National Legal Database:

http://www.askthe.police.uk/content/default.mth

Rhode Island State Police:

http://www.risp.ri.gov/

Staffordshire Police Authority:

http://www2.staffordshire.gov.uk/policeauthority/personnel/2005/17january05/Item%209.pdf

State of Delaware:

http://delcode.delaware.gov/title11/c092/index.shtml

Tayside Police:

http://www.tayside.police.uk/foidocs/policy/GriveanceProcedure-Policy-270206pdf.pdf

Toronto Police Association:

https://www.tpa.ca/TPA/Index.aspx

University of Chicago:

http://hr.uchicago.edu/employeelabor/unions/police/article10.html

US Customs and Border Protection:

http://www.cbp.gov

Vermont State Police:

http://www.dps.state.vt.us/vtsp/index main.html

Virginia State Police:

http://www.vsp.state.va.us/

West Virginia State Police:

http://www.wvstatepolice.com/