



CAPB National

December 2004

CAPB Activities

CAPB Sets the Course for its Future

Early in 2004 the CAPB Board of Directors decided to embark on a process to plan for the future success of the Association. It determined the need to undertake a strategic planning process and engaged a facilitator to assist it through the process.

Strategic planning seeks to develop a long range plan for an organization by assuring that issues facing the CAPB are identified and plans developed to resolve those issues in ways that benefit the organization and its key stakeholders. The CAPB settled on a standard strategic planning process often used within the public sector. This process includes developing values and a mission for the organization by determining the overarching purpose of the association (the "why"); establishing strategic directions or those things the association will strive to achieve (the "what"); developing objectives or the ways in which the Association plans to achieve its objectives (the "how"); identifying activities and processes to achieve the objectives and determining who will do what and when; and finally setting out the measures the CAPB will use to track how well it is doing, providing continuous feedback that leads to improvement (change) in each area.

A one year process is underway to develop the CAPB's strategic plan with the following steps already complete: Board questionnaire and analysis; members' survey at conference and analysis; review of financial statements and member information; and a one day Strategic Planning Workshop with Board and staff.

The following steps have yet to be completed: preparation of a draft plan by the consultant; review of draft plan by Board and staff; input by Board and staff to the draft plan; posting of the draft plan on CAPB web site and circulation of the plan to gain input to the draft plan by members; Board consideration of input received and amendments to the draft plan; presentation of the amended draft plan to membership at its next AGM; finalization of the strategic plan and implementing the plan. Once implemented, the plan will be reviewed annually.

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Leadership Change

In November the CAPB's President, Edward Keyes, regrettably submitted his resignation, as he was not re-appointed by the City of Saint John Council to his local Board of Police Commissioners. Ed's resignation is a significant blow to the organization at a time when the CAPB is in the midst of some critical initiatives. Ed's leadership, his tempered approach and his dedication to his role and to this organization will be very much missed.

The CAPB extends its appreciation to Ed Keyes and wishes him every success in the future. The Vice President at the time of Ed's departure was Don Robinson, Chair of the Halton Police Services Board. The CAPB Board of Directors has appointed Don to serve as President for the duration of the 2004/2005 term.

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CAPB Sets the Course for its Future...continued

Key to developing the strategic plan is gaining a full understanding of the service priorities for the organization into the future. The Board was asked to consider the strengths and weaknesses of the CAPB as an organization and to identify service priorities for the Association. It selected the following as key services for the members: the annual conference; collaboration and partnerships; advocacy; board training; and research.

At the conference, a survey was available for CAPB members to complete. Members were asked what they believed were service priorities for the Association. The members who responded to the questionnaire indicated the following service priority preferences: annual conference; advocacy; networking/exchanging; and position papers. They grouped the following as important but not as high a priority: newsletter, web site, research and resource/clearinghouse for information and best practices.

Both the Board and the members were asked to identify measures that could be used to help determine the success of the Association as it goes forward to implement its strategic plan. There were a number of similarities between the responses which included: results from lobbying & networking; national reputation as a strong contributor to policing issues; good value for the membership fee; active participation by members; positive and productive collaboration with other stakeholders; and membership levels.

Members will be invited to provide input to the draft plan early in 2005. It will be important for the membership to take the time to review the draft plan and consider what it believes should be the future direction for the CAPB. The purpose of the Association is to assist and support the members but it can only be successful in this endeavour through the thoughtful participation of the membership. Stay tuned to get involved in helping to set the course for the future direction of the CAPB!

Ontario Court of Appeal Judgement on Infra-Red Technology Overturned

In 2003, the CAPB wrote to the Justice Minister of Canada urging him to commence an appeal of a Ontario Court of Appeal judgement that determined the use of "Forward Looking Infrared Radar" (FLIR) to detect heat emanating from a private residence is not an "investigative technique" that can be used by police to detect marijuana home grows, but rather, constitutes a "search" and is therefore in breach of the Charter of Rights and Freedoms unless prior authorization has been obtained. This ruling was of great concern to police officers, who consider the use of FLIR to be a valuable tool in detecting home grows.

The Justice Minister did commence an appeal and the Supreme Court of Canada (SCC) subsequently overturned the Ontario Court of Appeal decision in *R. v. Tessling*. It found that the use of infra-red technology in police helicopters is not contrary to the Charter of Rights. Specifically, the SCC found that:

- 1) The use of this technology in flight did not violate the accused's right to be free from unreasonable search and seizure; and
- 2) That patterns of heat distribution on the external surface of a house is not information in which a person has a reasonable expectation of privacy as it offers no insight into the person's private life or "biographical information."

We Want Your Input!

If your Board has something it would like featured in the newsletter, please send it to us either by email to wendy.fedec@ottawa.ca or by snail mail. We can only share information that we are aware of, so please, send in your latest policies, innovations and challenges.

We would also appreciate any feedback you have on the newsletter. Does it meet your Board's needs? How can we improve to serve you better?

CAPB Activities...continued**CACP, CAPB & FCM Address
Need for a Policy Framework for Integrated Policing**

Submitted by Dorothy Ahlgren Franklin, Associate Member, CACP

A small delegation of representatives of the Canadian Association of Chiefs of Police (CACP), Canadian Association of Police Boards (CAPB) and Federation of Canadian Municipalities (FCM) met with the Federal-Provincial-Territorial (FPT) Assistant Deputy Ministers' (ADMs) Committee on Policing Issues on December 1, 2004 in Ottawa to make the case for a discussion - involving federal, provincial and municipal orders of government in Canada - on a policy framework for "integrated policing". The CAPB was represented by Past President and current Director, Herb Kreling.

"Integrated policing" is a term that is loosely applied to police efforts at working in a more collaborative fashion at tactical, operational and strategic levels. However, there is no common definition, and therefore diverse ideas abound on what this concept means in practical terms and how integration at the strategic levels might be achieved. Police are pushing forward to integrate at the operational level, without knowing exactly what the final result might or should look like, and what the roles and responsibilities of those involved are.

In an era of heightened public security threats of an immediate and global nature, juxtaposed against public and political expectations of transparency and accountability on the part of police, this ambiguity and lack of a governance structure constitutes a potential risk to public safety. This was the message communicated by the delegation.

ADMs and the delegation had a fruitful discussion on the delegation's proposal. The consensus view was that a number of questions warranted further consideration: What is integration? What areas of integration are critical? What successful examples do we currently have? What pressures are at play? What are the gaps? What tools are in hand and which ones are needed? What are the challenges? What can help us move forward?

ADMs agreed to support a study and report on some of the key issues and concepts in policing, and committed to following up with the delegation associations in order to scope out the next steps leading to tri-government discussions. The delegation expects to be actively involved in the work ahead.

Legislative Update**Government Moves to Modernize Mental Disorder
Provisions in the Criminal Code**

Irwin Cotler, the Minister of Justice and Attorney General of Canada, introduced reforms early in October to the laws and procedures that govern people who are found unfit to stand trial or not criminally responsible on account of mental disorder.

Under existing law, when a person is tried for an offence and found not criminally responsible on account of mental disorder, the accused is neither convicted nor acquitted and, as a result, is not sentenced. Instead, a court or Review Board determines the appropriate disposition - an absolute discharge, a discharge with conditions or detention in hospital based on several criteria set out in the *Criminal Code*. The Review Board continues to monitor and review the disposition, making any necessary changes, until such time as the accused is absolutely discharged.

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Legislative Update ...continued

The proposed amendments include expanding the powers of review boards to make decisions about the detention, supervision or release of persons found unfit to stand trial or not criminally responsible on account of mental disorder. They include expanding the options available to police to improve the enforcement of orders made by the court or Review Board, streamlining provisions governing the transfer of the accused person and addressing the situation of an accused person who may never be able to be tried.

These reforms were outlined in the Government of Canada's November 2002 response to the report of the House of Commons Standing Committee on Justice and Human Rights (*Review of the Mental Disorder Provisions of the Criminal Code*). In addition, the amendments respond to the case law, including the decision of the Supreme Court of Canada in *Demers*, which called for provisions to address the permanently unfit accused who does not pose a significant threat to public safety.

The Department of Justice continues to consult with provincial and territorial officials responsible for justice and mental health issues to implement the Standing Committee's non-legislative recommendations.

The legislation is accessible through <http://www.parl.gc.ca>.

Marijuana Legislation Re-introduced

Early in November the federal government re-introduced legislation to decriminalize possession of marijuana for personal use. Like similar legislation that died with the federal election call, Bill C-17 would treat possession of small quantities of pot much like a speeding ticket.

Instead of jail time, the punishment would be a \$150 fine for adults and \$100 for minors holding 15 grams or less - enough to roll about 30 joints. But anybody caught with more than 15 grams would still face jail time - with a possible six months in prison - and a maximum fine of \$1,000. The CAPB remains concerned about aspects of the proposed legislation and will be making its views known.

On the same date, the Liberals also re-introduced a bill to toughen the rules against drug-impaired driving. This responds to calls from the CPPA, CACP, CAPB and MADD not to weaken Canada's marijuana laws before the problem of drug-impaired driving is addressed. Police would gain the power to force motorists to submit to drug testing, and refusal to comply would be punishable by the same laws against drunk driving. In Canada, drivers cannot yet be legally required to submit to drug testing.

The tougher rules against impaired driving mean anyone refusing to submit to a motor-skills test could be fined \$600 for a first offence, 14 days in jail for a second offence and 90 days for a subsequent one. Police officers would gain the legal power to force motorists to submit to a roadside test, then come in for further drug testing at a police station if they appear drug-impaired.

The government is also committing \$6.5 million over three years to train police officers to become certified drug-recognition experts. Similar programs exist in B.C., Alberta, Manitoba, Ontario and Quebec, in numerous U.S. states and in several other countries.

**In the News...****National News****Supreme Court – Search of Persons**

The Supreme Court of Canada has decided not to re-hear a case involving how far police can go in searching and questioning suspects. The Supreme Court ruled in July that police officers across the country can no longer go on “fishing expeditions” for evidence when questioning potential suspects. But Manitoba’s Crown had asked the court for a new hearing, claiming the ruling is unclear as to how far police can go. Late in October the Supreme Court disagreed, saying its decision is clear and will not be expanded on.

This case was the first time the high court had examined an everyday police practice that many law officers and prosecutors take for granted. The Supreme Court’s decision overturned the Manitoba Court of Appeal and ruled Winnipeg police had no right to search the pocket of an aboriginal man found walking downtown in December 2000.

Police Advocate Need for Surveillance Fee

Canada’s police chiefs are advocating for a surcharge of about 25 cents on monthly telephone and Internet bills to cover the cost of tapping into the communications of terrorists and other criminals. The suggestion comes from the Law Amendments Committee of the Canadian Association of Chiefs of Police (CACP). It is intended to resolve a standoff between police forces and telecommunications companies over who should pay for providing investigators with access to phone calls and e-mail messages.

Police say they should not be forced to pay the often hefty costs involved in carrying out court-approved wiretaps and message searches, warning that investigations will suffer if they are expected to pick up the tab. But many of the phone companies believe that telecommunications firms and law enforcement agencies, not subscribers, should split the costs.

The matter has taken on new urgency as the federal government prepares legislation aimed at preventing criminals from using new digital technologies to shield their communications from police and intelligence agencies. Authorities argue the lawful access measures are needed to keep up with sophisticated criminals involved in such activities as terrorism, money laundering, child pornography and murder.

The legislative proposals, outlined two years ago, have raised concerns amongst privacy advocates and civil libertarians. Under the federal proposals, service providers would be required, when upgrading their systems, to build in the technical capabilities needed by police and intelligence agencies to easily tap communications.

The controversy revolves around the ongoing costs of looking up phone numbers, hooking up to networks and relaying communications from one city to another – individual services that may cost anywhere from pocket change to thousands of dollars.

Currently, a hodgepodge of payment practices applies, from negotiation of fees by the parties involved to refusal by some police forces to accept the bills. The CACP, which represents the majority of Canadian police chiefs, believes the costs should be spread as widely as possible to avoid unduly burdening a small number of parties. It argues that one way to accomplish that is by adding a fee to each subscriber’s monthly telephone, cellular or Internet bill. Phone company customers already pay to support 911 emergency service, which ranges from 25 to 50 cents a month depending on the type of telephone plan.

Federal officials have convened meetings of the various players to try to work out the issues and are interested in a solution that would balance the costs as equitably as possible.

Provincial News

Getting Tough on Drunk Drivers

The B.C. government has introduced legislation to get tough on drunk drivers, including impounding vehicles and installing ignition interlocks for repeat offenders. Solicitor General Rich Coleman says alcohol-related traffic accidents claim more lives in British Columbia each year than homicides, drowning and fires combined.

Every year 40,000 B.C. drivers get 24-hour driving suspensions. But British Columbia has been the only province without rehabilitation programs for drunk drivers. That will change under the new law, which will see mandatory treatment for impaired drivers and the introduction of ignition interlock devices for repeat offenders.

Police will get new powers to impound vehicles, and hand out bigger fines - from \$300 dollars to \$500. In addition, people will have to pay liquor infraction fines before they can renew their driver's licence.

Criminal Property Forfeiture Act

The Manitoba government is moving ahead with a law that would strip suspected gang members of their assets even if they are not convicted of a crime. The Criminal Property Forfeiture Act was approved by the legislature last spring. Since then, Justice officials have been working out details of the law before enacting it. The detailed regulations will outline how the seized assets are to be handled.

The law would allow police to seize the homes, cars, cash and other property of any person, as long as they can convince a judge that the person is a member of a criminal organization. The onus would then be on the suspected gang member to prove the assets were earned through a legitimate income and not the proceeds of crime.

The Manitoba government would sell the forfeited property and use the proceeds to fund legal aid or crime-prevention initiatives. A similar piece of federal legislation is being promoted by the three opposition parties in Ottawa.

Tracking Bracelet Program Rejected

The Manitoba government has decided not to outfit dangerous offenders with tracking bracelets. According to Justice Minister Gord Mackintosh a department review found the technology is unreliable and creates a false sense of security in the community.

In May, Mackintosh said the province would implement an ankle bracelet program on a trial basis some time this year. Mackintosh later said a review found there were shortcomings with the technology, such as a tendency for signals from the bracelets to cut out behind buildings, in vehicles and in parking garages. The Justice Minister also said he's concerned judges would let more dangerous offenders serve their sentences in the community if they had the option of ordering them to wear the bracelets.

Mackintosh said he would be willing to look at bracelets again once the technology improves. His review indicated that there have been mixed results in other provinces that use the devices, including British Columbia, Saskatchewan and Ontario.

Provincial News...continued**Legislation to Crack Down on Pawn Shops**

Manitoba government officials are working on legislation to crack down on pawn shops that deal in stolen property. Provincial authorities have been discussing the issue with police and the pawn industry for the past year.

Winnipeg police would like to see an existing city bylaw expanded all over Manitoba. That bylaw requires pawn shops to check the identification of sellers and report all serial numbers to police. Saskatchewan is the only province with legislation governing all pawn shops. This matter is the subject of CAPB Resolution 04-1 approved in August.

Marijuana Grow Op Equipment No Longer for Sale

Ottawa has been holding public auctions to sell lights, fans, humidifiers, and other equipment seized in marijuana grow operations. But Public Works Minister Scott Brison has ended the sales after learning the equipment was being bought and re-used by drug dealers. Brison says he acted after getting a letter from the York Regional Police Service in Ontario.

Officers said they were discouraged to learn that equipment they seized in a pot raid just north of Toronto two months ago had been confiscated by police in a previous raid. Upon investigation the police found that drug dealers bought the gear at a public auction.

Increased Prosecution Resources Needed

People charged with drug trafficking and other federal offences in Ontario may get off scot-free if federal prosecution resources are not beefed up, according to senior government prosecutors. The problem is described in two strongly worded letters sent by 12 of Ontario's top federal prosecutors to their bosses in Ottawa.

According to a recent Toronto Star article, Morris Pistyner, the Acting Director of the Ontario Prosecution Office, has conceded that a new era of restraint in the federal government is contributing to the pressure on prosecutors. "Government efficiency is the order of the day. There is no special treatment for us in Justice." Pistyner said the problem is not so much the number of cases but their complexity, and cases aren't dropped because of an overload of work but if there is no reasonable chance of conviction. With each passing year, cases brought in by police, such as drug busts, grow larger. There are more accused in each bust, and more and more disclosure is required to defence lawyers.

New System of Arbitration

Nova Scotia police officers will make an appointment with an arbitrator rather than hit picket lines now that amendments to the Trade Union Act have passed final reading.

The private member's bill replaces the police officers' right to strike with a system of arbitration. Police in Nova Scotia are the last in Canada to have the right to strike. The amendments block the police's ability to strike, and also stop municipalities from locking out police officers. If negotiations move to arbitration, the two parties will appoint a single arbitrator who will hear submissions from both sides.



Season's Greetings!

**On behalf of the
Board of Directors
and Staff, please have
a safe and enjoyable
holiday season.**



Upcoming Events

Ontario Association of Police Services Boards - 2005 Conference

May 5, 6, 7, 2005
Valhalla Inn
Thunder Bay, Ontario

Ontario Association of Chiefs of Police 2005 Annual Conference

June 19 - 22, 2005
Toronto Harbour Castle Westin Hotel
Toronto, Ontario

CAPB 2005 Conference

August 18 - 20, 2005
Westin Ottawa Hotel
11 Colonel By Drive
Ottawa, Ontario

A golf tournament will be held prior to the conference on August 17. Rooms can be booked at the Westin by calling 800-937-8461 or 613-560-7000. The CAPB conference rate is \$155 plus taxes.

Further details will be available in the spring.

The Toronto Police Service will host the OACP's 54th Annual Conference. Watch for further details.



People

Appointments

Vancouver Police Board

The Vancouver Police Board has a new Executive Director, **Ms. Shona McGlashan**, who has recently moved to Canada from Scotland where she worked with parliamentary committees. Shona replaces **Beth Nielsen**, whom many of you know from past CAPB conferences and particularly from this year's conference in Vancouver, to which she made a significant contribution.

The CAPB extends its best wishes and thanks to Beth for her many years of work in support of the CAPB, and extends a warm welcome to Shona.

More on CAPB Leadership Changes

With the resignation of **Ed Keyes**, the CAPB's new President is **Don Robinson**. He was Vice President at the time of Ed's departure, and Chairs the Halton Regional Police Services Board, Ontario. The CAPB Board of Directors confirmed Don as President for the duration of the current term on November 16, 2004.

It has also confirmed the move of Secretary-Treasurer **Lynne Kennedy** (Vancouver Police Board) to the position of Vice President, and has appointed **Maureen Meikle** (Victoria Police Board) as the new Secretary-Treasurer.

Their appointments take effect immediately and will extend until the next Annual General Meeting on August 19, 2005, when the annual election for positions on the Board and Executive will be held. CAPB members can be assured that these individuals and the entire Board of Directors will continue to work diligently on your behalf on issues pertaining to police governance.

Niagara Regional Service Police

Wendy Southall has been appointed the new Chief of Police for the Niagara Regional Police Service effective November 17th, 2004.