

# CAPB NATIONAL

Dedicated to excellence in municipal police governance

March 2011

- CAPB on the Hill
- 10<sup>th</sup> Annual Meeting with CAPB, CACP & CPA
- Communications Strategy
- By-Law Review
- Welcome New Members!

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## CAPB ON PARLIAMENT HILL

On March 1 and 2, 2011, ten members of the CAPB Board of Directors and the Executive Director, Jennifer Lanzon, attended close to fifty meetings on Parliament Hill. A schedule was set up to accommodate teams of two and, despite weather delaying some members from arriving on time; the Lobby Days were considered a resounding success.

Some of the people that CAPB met with included the Minister of Public Safety, Minister of Justice, Minister of Labour, Minister of State for Seniors; Senator Bob Runciman, Senator Romeo Dallaire, Senator Catherine Callbeck, Senator Reynal Andreychuk; Speaker of the House Peter Milliken; Liberal Leader Michael Ignatieff; NDP Public Safety Critic Don Davies; Liberal Public Safety Critic Mark Holland; 19 Conservative MPs; 9 Liberal MPs and 7 NDP MPs. Informal meetings also took place in both the Government and Opposition Lobbies.

It was encouraging to realize that almost everyone we met with was familiar with CAPB and had read their briefing package in advance. A few Conservative backbenchers chose to focus on our actions in opposing Bill C-391 (Long Gun Registry) but the majority from all parties sincerely appreciated the work of CAPB and police boards across the country. We recognize that CAPB needs to express a

greater voice in government decision-making but collective actions like these two days on Parliament Hill have a maximum impact with limited resources.

The relationship building continues and we've made some great inroads with the right people. The annual CAPB Lobby Days are also augmented with bi-lateral meetings on a regular basis with the senior bureaucrats in Public Safety and the Department of Justice. Many of the people we met with agreed to provide ongoing support for our issues, suggestions on how we can make more headway and an eagerness to be consulted regularly.



CAPB President Ivan Court, Hon. Vic Toews, Minister of Public Safety, Mike Shaikh, CAPB Alberta Director

The Lobby agenda included: Lawful Access, Sustainable Policing and Justice on Time.

## **SUSTAINABLE POLICING**

The majority of Canadians are policed by local police services, either municipal in nature, or through contract with the Royal Canadian Mounted Police and two provincial police services (Provinces of Ontario and Quebec). The common thread is these services are funded by municipal property taxes. This has resulted in an unreasonable burden being placed on municipalities as policing has become more expensive as a result of downfalls from the other levels of government, the impact of judicial and legislative change, growth in technology, and the increased complexity of serious crime.

Without comprehensive change in the manner in which police services are funded in this country, significant erosion in the delivery of police services in Canada is inevitable.

### **Background and Supporting Information:**

In 2008, the Federation of Canadian Municipalities released a study that found that municipal police services were enforcing federal laws and mandates to the amount of \$500 million per year. The CAPB canvassed its members in late 2010 and within two weeks received numerous examples nationwide of municipal police services being impacted by providing services that should be the purview of the RCMP or funded by the federal government (please see the attachment).

It would be unrealistic to expect the RCMP to discharge its full range of responsibilities given its current contract obligations for municipal and provincial policing and funding constraints. The challenges faced by the RCMP have been extensively documented (Federal Auditor General, 2005; Brown Commission Report, 2007). The situation will only be exacerbated by media reports that the RCMP will be reducing its complement by over 1,100 members.

The situation facing those mandated to provide municipal police services can be summarized as follows:

Individual police officers overall provide an excellent level of service to communities across Canada

However, police services have not been able to keep pace with changing expectations resulting from the introduction of new legislation, technological advances, the increasing globalization of crime, the impact of judicial decisions and the unforeseen consequence of other government decisions (i.e., the termination or limiting of programs and treatment available for those with mental health issues)

This situation is compounded by a fiscal model from the 19<sup>th</sup> century which sees the majority of policing costs in Canada funded by municipalities with an over-reliance on the property tax

Failure to address this issue will result in a continued reliance on bandage solutions that will inevitably lead to an erosion to the level and quality of policing that Canadians have come to expect and rely upon

Any solution must include a fundamental review of the role and responsibilities of the Royal Canadian Mounted Police. The need to move quickly is underscored by stated plans for the RCMP to even further reduce its complement. Given its contractual obligations for providing provincial and municipal police services, any reduction will likely impact the RCMP's federal policing obligations. This, in turn, will put further pressure on municipal police services.

### **The Solution:**

The first step is for the federal government to acknowledge there is an issue, and that any solution will require the participation of the three levels of government and the expertise of those engaged in the delivery of police services.

Once this is accepted, the engaged parties must identify a process that will provide for a comprehensive set of recommendations that will lead to a modern and responsive funding model to meet priorities for all police services in Canada.

## **JUSTICE ON TIME**

One of the 'unseen' factors affecting the cost of policing is the pressure caused by the rules,

procedures, requirements related to the prosecution of criminal charges in courts. These include unanticipated impacts of judicial and legislative decisions. It results in hundreds to thousands of hours of preparation time, court appearances and inevitably overtime hours for police officers.

It is not just police services that are under pressure. As captured by an editorial in the February 17, 2011 edition of the *Globe and Mail*, 'Canada's judicial system is groaning under the weight of a procedural quagmire that threatens its very existence.'

#### **Background Information:**

The range of factors affecting court procedures include:

Court appearances, often as a result of procedural issues raised by the defence bar Demands for discovery, compounded by the requirements of the Stinchcombe decision as handed down by the Supreme Court in 1991 Inefficient utilization of modern technology

This has resulted in protracted court battles involving massive costs. Some examples:  
The disclosure process for the Basi-Virk case in British Columbia took almost four years  
The terrorist trials for the so-called Toronto 18 took over four years to conclude  
Even 'routine trials' are taking much longer. As an example, a recent case in Ottawa took 13 court appearances and more than 14 months

Chief Justice Beverley McLachlin has recently warned the legal system is becoming unaffordable except for the rich and powerful. In 2005 Mr. Justice Michael Moldaver of the Ontario Court of Appeal said long trials are a cancer on Canada's justice system. The situation has only worsened since then.

It is recognized that Ontario has introduced a project entitled 'Justice on Target'. It is also recognized the federal government has introduced Bill C-53 to attempt to streamline mega-trials. Disclosure requirements are the subject of an ongoing government review. However, more immediate and direction action is required.

#### **The Solution:**

The federal government commit to and initiate a 'Justice on Time' strategy which will ultimately reduce pressures on all partners in the justice system, and result in the freeing up of precious human resources for police boards/police services.

That such a strategy, led by the federal Ministers of Justice and Public Safety establish a working group of representatives of all stakeholders in the criminal justice system, including police board/commissions and police services to develop the 'Justice on Time' strategy and make recommendations for implementation to the Government of Canada.

#### **LAWFUL ACCESS AND PAYMENT FOR COURT ORDERED SERVICES**

On March 28, 2008 the Supreme Court of Canada heard the appeal of *Telus Mobility v. Her Majesty the Queen*. In its decision the S.C.C. noted the general moral and social duty imposed on citizens to comply with orders of the courts, and that there is no legislated right to compensation for compliance with general warrants and assistance orders. Despite this decision, telecommunications service providers continue to invoice police for court ordered services. There are several law enforcement agencies that are withholding payments for court ordered services: Calgary Police Service, Edmonton Police Service, Winnipeg Police Service and the Peel Regional Police Service. Bill C-52, the *Investigating and Preventing Criminal Electronic Communications Act*, proposes to make telecommunications services entitled to payment from police services for providing: subscriber information to police; and, "specialized telecommunications support" to police services when they comply with court ordered interceptions.

Bill C-52 does not change the authority for police to only intercept private communications when permitted by court order.

#### **Bill C-52 Proposes a Dangerous Precedent:**

Canada's justice system relies on the public duty and social responsibility of every citizen and corporation to contribute to its effective operation. Traditionally, witnesses, jurors, and

those persons or entities that are compelled to provide exhibits and evidence are not compensated for fulfilling their public duties. Allowing telecommunications service providers to collect fees for court ordered services and subscriber information creates a troubling and dangerous precedent for our justice system, with far-reaching consequences. Although other institutions, such as banks, insurance companies, and hospitals, are routinely required to provide court ordered documents, records and exhibits, to our knowledge none of these industries has demanded compensation from law enforcement.

No person or corporation should be permitted to erode the authority of the courts by imposing fees or other financial obligations as a condition of compliance with a lawful order from a court.

This undermines the effectiveness and integrity of our justice system. Imposing the financial burden on police services for court-ordered services will also compromise public safety, as investigations will be delayed or terminated due to financial concerns.

The economic viability of Canada's telecommunications industry is not compromised in any way by the requirement to provide subscriber information and comply with court orders. These are reasonable expenses these institutions can, and should be expected to sustain.

Under existing law, as confirmed by the Supreme Court of Canada, telecommunications service providers may seek exemptions from court-ordered services, if compliance with the order would be unreasonable. The law presently protects third parties from serious financial impact.

**The Solution:**

Canada needs to eliminate its "intercept safe havens" to protect law-abiding Canadians. Bill C-52 provides important changes to ensure that telecommunications service providers will have the technical ability and capacity required to enable police to lawfully intercept

communications, when warrants are issued by the courts.

Amendments to C-52 are required, however, to eliminate the proposed entitlement for telecommunications companies to demand payment from the police when providing subscriber information or complying with court ordered interceptions.

**10<sup>TH</sup> ANNUAL JOINT MEETING OF CAPB, CACP & CPA**

On Wednesday, March 3, 2011 the three national police associations gathered to discuss the following topics: Mental Health for Police, 700 mhz, Coalition on Sustainable Policing and Police Sector Council Competencies. The morning was spent mainly on the leadership and governance guidelines for mental health in the workplace of police. Superintendent Rich Boughen from the RCMP joined Bill Wilkerson, Global Business and Economic Roundtable on Mental Health, in defining the problem, outlining scenarios they've witnessed, guidelines for best practices for prevention and support and how the three national associations can move forward.

Some of the guidelines that Mr. Wilkerson recommended were:

1. To state clearly your commitment to mental health, mandate a 'duty to care' among your senior officers, adopt a policy of 'zero tolerance toward stigma'.
2. Reform those management practices – through education and training – that are most likely to aggravate or precipitate mental health problems.
3. Participate with the RCMP in civilian efforts to national to guide employers in creating a psychologically-healthy workplace.
4. Train your front-line managers to handle emotional distress among other police personnel calmly, kindly and in an informed way.
5. Be an informed employer: what is depression and post-traumatic stress, how can workplace-based

measures support employees so afflicted.

6. Encourage your people, and their families to learn as much as they can about mental health. Depression increases the risk of heart attack. Need to know that.
7. Suicide is now the leading cause of violent death in the world. Police services should be leaders in preventing suicides among their own people.
8. Take steps to audit the service's disability experience, cost it out, and make a dedicated effort to protect your investment in those members off long-term.
9. Evaluate the health resources currently in place for police and administrative personnel. Mental health competencies?
10. Root out heavy-handed, cold, bureaucratic, paper-bound 'due process' pension and benefit procedures imposed upon vulnerable employees and families.

Bringing emotionally-wounded members back to work is an obligation shared by management and unions alike, an expression of savvy, good management and simple human decency. And more than that, now, it is, in many respects, a matter of law.

The associations were encouraged to join a growing movement of employers that are promoting mental health in the workplace in face of rising rates of depression and anxiety, including post-traumatic stress disorder (PTSD). A joint press conference was held on Parliament Hill at midday and the story was picked up nationally.

Fred Biro updated the group on the work of the Coalition on Sustainable Policing, emphasizing the importance of having a strong strategy to move on in anticipation of upcoming federal election. With policing costs rising and policing moving to the centre of Ottawa's political

agenda the timing for the Coalition in pursuit of sustainable policing could not be better.

Lance Valcour provided recent information on the 700 mhz issue, underlying the support this has drawn from public safety/first response organizations across the country.

Geoff Gruson highlighted the work that the Police Sector Council has recently completed in preparing competency profiles for all levels of leadership in police services.

## **COMMUNICATIONS STRATEGY**

Communicating effectively is critical for an organization to stand out and CAPB has made a commitment to put more resources to doing this. The website is being evaluated and new resources are being catalogued for addition to the Members section of the site.

Weekly Quorum has been very well received and will continue.

A twitter account has been set up and will be used more frequently as we move forward. The CD Rom – Welcome to the Board – is in an obsolete format and is being reviewed to see if we can utilize any of the data. When the board training tools are updated, we will provide this to our members through the website.

## **BY-LAW REVIEW**

The Board did a comprehensive review of the proposed changes to the CAPB by-laws that the Governance Committee had put forward. Further changes were recommended. Once the changes undergo further review to see that they comply with the new Non-Profit Corporations Act, the draft by-laws will be circulated to CAPB members, likely in early May.

## **WELCOME NEW MEMBERS!**

We are pleased to welcome Federation of Canadian Municipalities (FCM), Canadian Police Association (CPA) and the Justice Institute of BC as new associate members.