

May 1, 2020

## **AMO releases OPP Detachment Boards Discussion Paper**

The AMO Board recently approved a [discussion paper](#) on the establishment of new OPP detachment boards. The paper is designed to help municipal officials assess key issues, lead informed conversations, and lay the foundation for successful governance in the future.

The paper recognises the importance of municipal self-determination and cooperation in re-establishing OPP boards. The paper asserts twelve guiding principles to inform that discussion. Of note, AMO recommends the provincial government relinquish its authority to make appointments to OPP detachment boards.

Canadian precedence for fully municipally appointed boards exists in Alberta, Quebec, and Saskatchewan. Municipal employees may be appointed to a board in Manitoba and Alberta.

AMO sees merit in municipally selected board members being composed of local elected officials, community representatives (ie. not holding elected office), and a municipal staff member to support the policy drafting functions of a board.

While the exact composition of each board will vary, AMO believes all municipalities should have the opportunity to select a representative on an OPP detachment board. Municipalities in a detachment (or a portion of a detachment) should be provided every opportunity to develop and propose locally developed board composition ideas to the province.

Regulatory discussions regarding the establishment of new detachment boards are not expected to resume until the public health emergency is over. As local circumstances and priorities permit, the OPP Detachment Board paper is submitted for municipal discussion. This is an opportunity for municipalities to consider what the future of police governance should look like once that conversation restarts.

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# New Ontario Provincial Police Detachment Boards: Building a Framework for Better Policing Governance

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Discussion Paper

May 1, 2020

## Introduction

Police service boards are the vital link between the police and democratic governance.

This is just as true for municipalities who contract with the Ontario Provincial Police for public safety services.

The government has launched a consultation with municipalities on re-constituting OPP Detachment Boards. With all governments now seized with COVID-19 emergency response, all consultations on new policing regulations have now ceased. The immediate public health crisis is the first priority of the provincial and municipal governments. Consideration of the issues raised in this paper must not distract from that priority. However, policing regulation discussions will resume at some point in the months ahead. It remains valuable for municipalities to consider what the future of police governance should look like once that conversation restarts.

At present, OPP boards are aligned within existing municipal boundaries. In the future, the government is aiming to create regional or detachment-based boundaries for boards (with some exceptions). However, the details of these new boards have not been determined. This is an opportunity for municipalities to provide input to the government on board boundaries, the size and composition of those boards, and whether provincial appointees continue to be made.

The government has not made any decisions on these issues. If any municipal council or a group of councils has suggestions on how these boards should be established, this is an opportunity to put those ideas forward.

This paper is not an exhaustive list of issues presented by the establishment of new OPP detachment boards. Rather it is intended to help guide municipal input to the Ministry and lay the groundwork for a successful transition to new boards. It asserts a number of key principles to inform the discussion and attempts to lay the framework for the future of successful OPP governance at a local or regional level.

## Background

Policing is a vital local service. Out of fiscal necessity, the Association of Municipalities of Ontario (AMO) has put forward comprehensive recommendations during the provincial government's lengthy review of policing legislation in recent years. The need to modernize the delivery of this service is well-documented in the many submissions AMO has made to the government on behalf of our municipal members. Here are three examples:

In 2014, AMO's OPP Billing Steering Committee put forward a [report](#) which researched options to equitably allocate policing costs for municipalities which use the Ontario Provincial Police. The Committee conducted a review of the government's proposed billing model and examined other model options so implications could be understood. It also underscored the need for efficiency and effectiveness improvements for policing in general.

In 2015, AMO's Policing Modernization Task Force issued its [report](#) which included 34 recommendations on how to modernize policing for the future. The task force interviewed experts, reviewed the best academic research available, sent representatives to the 2015 Summit on the Economics of Policing and Community Safety in Ottawa, and had thorough and lengthy discussions

on specific issues about the future of policing. These recommendations were divided into four key themes: Partnership, Productivity, Performance, and Personnel.

In 2016, AMO issued a *Municipal Guide to Police Services Act Consultations*. The [guide](#) highlighted municipal issues associated with community safety and well-being planning; modernizing what police do; the education and training of officers; and accountability to the public and governance.

In particular, the Policing Modernization Report prioritized three key recommendations above all else:

1. Make changes to the interest arbitration system.
2. Improve the quality of the existing governance and civilian oversight system.
3. Make legislative changes to permit the greater transfer of specific functions to civilians or other security providers where appropriate.

In 2019, the Ontario Legislature passed Bill 68 the *Comprehensive Ontario Police Services Act, 2019*. While the Act did not address interest arbitration, it did make some significant changes to the second two priorities – improving governance and providing some allowance for the role that civilians play in delivering public safety and security.

With the legislation passed, the focus of this paper is on the regulations needed to support priority recommendation #2 as it pertains to OPP detachment boards.

## Guiding Principles

Key principles and objectives which guide AMO on the issue of establishing new OPP local governance boards include the following:

1. Policing governance is a valuable means of ensuring community expectations are reflected in how a community is policed.
2. Good governance of policing matters to municipalities of all sizes, contract or not.
3. Municipalities should be provided every opportunity to develop and propose locally developed board composition ideas to the province.
4. Successful governance includes provincial support and funding for training new board members in alignment with the municipal electoral cycle.
5. All municipalities should have the opportunity to select a representative on an OPP detachment board.
6. Community or municipal staff representatives (i.e. municipally selected, non-elected officials) should serve on OPP detachment boards wherever possible.
7. To achieve municipal representation, detachment-based boards (or portions of a detachment) will need to be larger than they have been in the past.
8. If municipalities are to be adequately represented on consolidated OPP detachment boards, the province should relinquish responsibility for provincial appointments to OPP detachment boards.
9. Detachment boundaries should change in cases where it would support good governance and municipal representation.

10. Explore the potential use of DSSABs as OPP detachment boards in the north through discussions with FONOM, NOMA, DSSABs, and northern municipalities on a case by case basis. This could be a potential opportunity to align social services with policing in ways that have been provincially mandated through municipal community safety and well-being planning and which minimize administrative duplication. (See below for specific considerations and exemptions.)
11. OPP detachment board operation costs should, 1) be provincially supported through training and grants and 2) equitably distributed between municipalities.
12. Memoranda of Understanding with the Ministry of the Attorney General or transfer agreements between municipalities which govern *Provincial Offences Act* administration and fine revenue distribution may need to be updated depending on local circumstance.

### **Government Consultations to date - Regional Roundtables – OPP Detachment Boards**

The government recently held seven discussion meetings across the province in February 2020 focusing on OPP detachment boards and the new policing legislation. The province did not lead discussions that provided specific details on how boards would be reconstituted. No plans have been announced.

Key municipal considerations included:

### **Structure of Boards and Local Say**

- There shall be one OPP detachment board per detachment (with flexibility for unique circumstances/geography). A board's composition, terms of office, and remuneration will be provided for in regulations and has yet to be determined.
- In effect, these changes extend police governance to about 200 municipalities (which do not have a board, i.e. Section 5.1) but will consolidate multiple existing boards within a detachment.

### **Activity of Boards**

- Boards shall determine local objectives, priorities, and policies in consultation with the Detachment Commander, consistent with the Solicitor General's strategic plan for the OPP.
- The Commissioner of the OPP shall consult with a Board regarding the selection of the Detachment Commander.
- The Detachment Commander shall prepare and adopt a local action plan in consultation with the board.
- Training for board members will become mandatory (Ministry support and funding is needed).

### **Financial Considerations**

- There will be no distinction between contract and non-contract in the future. Effectively all policing will become contract.
- The focus of the billing-related regulations will be to address transition matters and to account for service differences between municipalities as well as existing contracts expiring at the end of 2020.

- It should be noted, billing model changes will not lower the overall cost of policing for the municipal sector.

AMO has impressed upon the Ministry of the need for:

- Open and transparent discussions;
- A recognition that policing is fundamentally local (i.e. it is important to maintain the close proximity of a community to its board and the police);
- Locally workable governance arrangements; and
- The representation of every municipal council.

## Considerations for municipalities without existing detachment boards

Boards are an opportunity to expand the democratic oversight and governance of policing. In the words of Sir Robert Peel, the father of modern policing, “the police are the public and the public are the police.”

A detachment board helps to align policing objectives, priorities, and policies with community expectations. If your municipality is unaccustomed to having a board, the establishment of a board is an opportunity for a municipality of any size to have a greater say and establish a relationship with your Detachment Commander and the officers who police your community. It is also an opportunity to align municipal public safety expectations with those of neighbouring communities and clearly express those views in a coordinated manner with the Detachment Commander.

There is also the simple fact that policing is all the better for it. Good governance includes police officers who know their work matters to people who care. Good governance includes Chiefs and Detachment Commanders who are supported. Boards legitimize the work of the police. Municipal elected officials ask the public to pay for all of it and therefore municipalities need a say in policing on behalf of the community, through a board. It should not be viewed as an imposition but rather a democratic opportunity.

Financially and administratively, transfer agreements between municipalities regarding *Provincial Offences Act* fine revenue may need to be updated. This might include the need to review the Memoranda of Understanding with the Ministry of the Attorney General depending on local circumstance.

## For communities with existing OPP boards

The legislation aims to consolidate existing municipal board boundaries with OPP detachment board boundaries (thus potentially including multiple neighbouring municipalities in the same detachment). However, the legislation provides for flexibility to address unique geographic circumstances. If you feel your area’s needs are unique, help the Ministry understand that uniqueness in a province-wide context.

In addition, attendees to roundtable meetings were told the Ministry is open to considering board composition suggestions from municipalities within regions or detachments. This is an opportunity to potentially shape the composition of a board in your area and develop a local solution.

While legislation dictates the size and composition of municipal police service boards (non-OPP), no such restriction exists for OPP detachment boards at present. Also undetermined at this point is

which bodies (provincial or municipal or both) will appoint board members. Municipal police service boards (non-OPP) have municipally and provincially appointed representatives. Future OPP detachment boards could be composed entirely of municipal appointees. Please see below for more information regarding provincial appointees.

## Provincial Appointees

AMO values the importance of all police service/OPP detachment board members regardless of which authority has made the appointment. AMO's commentary on provincial appointees is not intended to detract from the contributions these individuals have made to good governance.

However, one of the issues which has historically plagued policing governance are delays associated with the provincial government making its appointments in a timely way.

Unfilled provincial appointees make good governance more difficult. AMO sought legislative change to improve the provincial appointment process for all boards (OPP and municipal) but that change did not occur in legislation. The need remains and it can still be addressed in regulations for OPP policed municipalities.

Unfilled or delayed provincial appointments are an impediment to diversity, representativeness and good governance practice. According to the Ontario Association of Police Service Boards, in March 2017 over 90 of 250 provincial board positions were unfilled and vacant. Challenges with timely provincial appointments are a long-standing historical issue which is not confined to 2017.

To be clear, the province already has a significant role to play with the OPP. The provincial government hires the Commissioner and negotiates the collective agreement with the Ontario Provincial Police Association. Municipalities pay the contracts for the services of the OPP to deliver local public safety. Communities need local representatives who can be diligently selected and, on the job, without the delays and extended vacancies associated with the provincial OPP detachment board appointment process. Diligent selection of appointees is now enshrined in law. Now is the time to let municipalities meet those legal expectations without the red tape of appointments from Queen's Park.

Given the above issues, and if municipalities are to be adequately represented on consolidated boards, it is the time to dispense with provincial appointees to OPP detachment boards. There is plenty of Canadian precedence for fully municipally appointed police service boards:

In **Alberta**, police boards (called policed commissions or committees) are composed entirely of municipal council appointees which include municipal staff and community representatives.

Similarly in **Quebec**, Surete du Quebec (SQ) policed municipalities have public security committees composed of 4-7 members of a municipal council.

In **Saskatchewan**, police commissions are composed of all municipally appointed representatives, including the mayor, councillors, and community representatives (members at large).

**Manitoba** permits the appointment of municipal employees to boards.

Therefore, while some municipalities might like to keep existing boards as they are, there is also an opportunity for fully municipally appointed boards, subject to provincial regulation. This would be a step in the right direction.



## Other Appointees

There is precedence in Canada for municipal staff members to be appointed to police service boards (i.e. Manitoba and Alberta). Municipal staff representation on OPP detachment boards in Ontario could help to better support, for example, the policy drafting functions of a board.

Community representatives (as selected by a municipal council, but not elected officials) have also played an important role in reflecting community expectations and policing governance. That should continue in the future provided all municipalities are represented.

## Northern District Social Services Administration Boards (DSSAB)

Existing board structures between multiple municipalities currently exist in Northern Ontario through District Social Services Administration Boards. These existing structures and board representation frameworks could be used to function as an OPP detachment board. Thus, a DSSAB could fulfill a dual role – existing social service responsibilities and a new mandate of policing.

Individual municipal governments would continue to be billed separately for OPP services. Therefore, existing rules regarding DSSAB apportionment of costs would NOT apply.

Given the provincial desire for a greater alignment of community safety and well-being objectives with policing, DSSABs could be an effective vehicle for such alignment. This is especially the case when considering the new municipal mandate of required community safety and well-being plan development.

Of course, there would need to be some specific carve outs for a DSSAB functioning as an OPP detachment board. First, northern cities with their own police services would need to be excluded from OPP detachment board composition. Second, representation from unincorporated areas on boards would need to be restricted given that municipal property taxes are not paid in these areas. Third, the expense of an OPP detachment board would need to be divided only among those using the OPP.

The appropriateness of DSSABs fulfilling this added function is best assessed on a case by case basis. Some DSSABs have multiple OPP detachments within them. What works in one catchment area (or district) might not work in another.

This idea is subject to the review, consideration, and input of FONOM, NOMA, DSSABs, and northern municipalities. AMO emphasizes municipal self-determination and cooperation in re-establishing OPP Boards. The idea is best assessed at a local level.

## OPP Advisory Council

The establishment of this Council is to provide advice to the Solicitor General with respect to the use of the Solicitor General's powers related to the OPP. More generally, this change will enhance civilian governance of the OPP.

The AMO Board has recently adopted a position regarding the Council's composition. With over 300 municipalities using the services of the OPP, AMO seeks the authority to recommend municipal appointees to the Council. AMO's position is that half of Council's composition should be designated municipal appointees.

In addition, given the purpose of the Council, no member should be a former or current member of an Ontario police service or police association. This emphasizes the distinction between employee and employer and the civilian role in the function of advising the Solicitor General.

### **Conclusion and Next Steps**

This paper aimed to summarise some key issues and assert principles to guide the new OPP detachment board framework. AMO encourages municipalities to share their thoughts, questions and board proposals. Together, and with provincial leadership, we can build a successful local governance framework for policing in over 300 municipalities.

The twelve principles are designed to establish a framework for successful governance which emphasizes municipal self-determination and cooperation in re-establishing OPP boards. While the government's regulatory development is on hold, this is an opportunity to discuss with neighbouring municipalities, locally workable options regarding board representation to present to the Ministry.

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