

Transportation Report to
SPC on Transportation and Transit
2019 June 26

ISC: UNRESTRICTED
TT2019-0684

Review of the Calgary Transit Public Safety Citizen Oversight Committee

EXECUTIVE SUMMARY

The Calgary Transit Public Safety Citizen Oversight Committee (PSCOC) was established in 2002 at the request of the Calgary Police Service as a pre-condition for Calgary Transit Special Constables (now Calgary Transit Public Safety and Enforcement Officers) to carry pepper spray and ballistic batons. The Calgary Police Service supported the application contingent upon Calgary Transit having a Citizen Oversight Committee to review completed public complaint use-of-force investigations.

Since 2002, the delivery of policing services in the Province of Alberta has undergone significant transformation, which includes the establishment of the Peace Officer Act and two corresponding regulations (2006) which operationalize the Alberta Government's Law Enforcement Framework. These new policies have established greater accountability for peace officer teams in the province.

While significant changes have occurred in relation to the delivery of law enforcement services, the mandate of the Citizen Oversight Committee has not broadened. With the committee's current mandate limited to reviewing public complaints, it has only reviewed two complaints in 2017 and three in 2018, while Calgary Transit Public Safety and Enforcement section has initiated 121 use-of-force reviews in 2017 and 146 in 2018.

The lack of public investigations is currently not using the full potential of the PSCOC. It is recommended that the committee's membership increase from three to five, with a selection of candidates with qualifications that include experience with law enforcement. In addition to this, look at expanding policy development and education around use-of-force to build resiliency and prepare for future demands of Calgary Transit Public Safety and Enforcement Officers.

ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Transportation & Transit recommends that Council direct Administration to:

1. Increase the number of citizen members on the Calgary Transit Public Safety Citizen Oversight Committee from three to five; and
2. Broaden the mandate of the committee to include:
 - a. Oversight of employer initiated use-of-force investigations;
 - b. Participation in use-of-force reviews undertaken by Calgary Transit's Officer Safety Incident Review Team; and
 - c. Policy formation and educational development related to use-of-force.

PREVIOUS COUNCIL DIRECTION / POLICY

2019 February 25 Notice of Motion, Review of the Protective Services Citizen Oversight Committee Mandate C2019-0220, moved by Councillor Colley-Urquhart, seconded by Councillor Jones

That Council postpone the following to the end of 2019 March 04 Special Meeting of Council:

Approval(s): **Michael Thompson** concurs with this report. Author: Brian Whitelaw

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- 12.1.1 Review of the Protective Services Citizen Oversight Committee Mandate, C2019-0220...

Motion Carried.

2019 March 04 Special Meeting of Council, Review of the Protective Services Oversight Committee Mandate, C2019-0220. Copies of a document entitled 'Terms of Reference' were distributed with respect to Report C2019-0220.

Moved by Councillor Colley-Urquhart, seconded by Councillor Farrell, that with respect to Councillor Colley-Urquhart's proposed motion C2019-0220, the following be adopted:

NOW THEREFORE BE IT RESOLVED that Council direct Administration to consult with key stakeholders including Members of Council, and to:

- a. Examine best practices on public transit governance oversight models;
- b. Review the current Terms of Reference – including but not limited to citizen membership (skills and attributes required), citizen appeal mechanisms and reporting to Council.

Report back to Council through the SPC on Transportation and Transit Committee no later than June 2019 so that required changes can be reflected in advertising for Council appointments in October 2019.

BACKGROUND

The creation of a Calgary Transit Public Safety Citizen Oversight Committee (formerly Protective Services Citizen Oversight Committee) stemmed from an application made by Calgary Transit in 2002 to equip Peace Officers with oleoresin capicum 'pepper' spray and batons. The Calgary Police Service supported the application contingent upon Calgary Transit having a citizen lead oversight committee to review completed public complaint use of force investigations.

Any person may, in accordance with the regulations, make a complaint in writing regarding a peace officer to the peace officer's authorized employer. Complaints against Calgary Transit Public Safety and Enforcement Officers are investigated by the Professional Standards Inspector with the Public Safety and Enforcement Peace Officer division. Once the Professional Standards Inspector concludes their investigation, and appropriate action has been taken, the report and recommendations are provided to the Calgary Transit Public Safety Citizen Oversight Committee (PSCOC).

The purpose of the committee set out in the Terms of Reference (Attachment 1) is to act as an objective body by reviewing all public use-of-force complaints after the investigation concludes to ensure that the investigation was conducted in a proper and professional manner. In addition, to ensure that the investigation aligns with the requirements of the [Peace Officer Act](#), the [Peace Officer Regulation](#) and the [Peace Officer \(Ministerial\) Regulation](#).

The committee consists of three citizen members and one use-of-force instructor (an advisory role, non-voting) and based on workload, is scheduled to meet on a quarterly basis. Upon receipt of the investigative results regarding the complaint, the committee will evaluate the process to determine if further investigation is required, the policy was adhered to, appropriate force was used, the force was justified, and recommended follow-up such as:

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- Further investigation by CPS of possible criminal charges;
- Advise the Justice Department that they may have to investigate;
- Advise the Law Department of possible litigation, if they have not already been briefed; and
- Suggest training and policy revisions that may be necessary.

Calgary Transit regards the role as an important means for ensuring transparency, accountability and building public trust. The level of public trust translates into greater user compliance and encourages new ridership based on elevated perceptions of safety.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Since the inception of the Calgary Transit Public Safety Citizen Oversight Committee (PSCOC), the delivery of policing services in the Province of Alberta has undergone significant transformation, which includes the establishment of the Peace Officer Act in 2006 and two corresponding regulations, which provides the governance for the investigation of complaints.

The establishment of a new model of community policing described as [the Law Enforcement Framework of Alberta](#) in 2011 has broadened the scope whereby Peace Officers are reviewed and created a higher accountability that peace officers are now held to.

As Calgary Transit's peace officer program has grown from 32 personnel in 2002 to 102 in 2019, there has been a significant increase in the volume of peace officer-citizen contacts. The expansion of authority through the Peace Officer Act and volume of contacts with citizens has resulted in the increased incidences of use-of-force, most of which fall outside the scope of review in the current mandate of the PSCOC. Currently it only reviews public initiated complaints under Section 14 of the Peace Officer Act, while there has been an increase of employer initiated use-of-force investigations, under Section 16. (Attachment 3)

The number of public use-of-force complaints made in relation to Calgary Transit peace officers is very low making it difficult for the PSCOC to develop a working body of knowledge and frame of analysis to exercise the oversight role.

While there are very few public complaints falling within the scope of review of the PSCOC, there is an opportunity for the PSCOC to participate in file reviews conducted by the Officer Safety Incident Review Team (OSIRT), an internal group within the Calgary Transit Public Safety and Enforcement. This team conducts peer reviews related to elevated use-of-force incidents with the goal of reducing use-of-force incidents overall and the associated injuries to both peace officers and citizens. In addition to being a participant in OSIRT, PSCOC members would be involved in monitoring recommendations from Fatality Inquiries or independent reports including the [Use of Force Review](#), that Hon Chief Justice Wittmann, QC conducted for the Calgary Police Service.

While there is no statutory requirement to maintain a citizen oversight committee, having one serves the public's interest in accountability, transparency and legitimacy of the people entrusted with maintaining the safety of the transit system. The following recommendations support these principles:

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- Membership of the committee be increased to five members from three. This will facilitate the creation of sub-committees including a review of force committee, an audit committee to monitor use-of-force recommendations made by fatality inquiries and court rulings;
- Selection of candidates to include qualifications such as having a good understanding of governance and oversight, the role of law enforcement in modern society, the challenges faced by law enforcement, and how to oversee a law enforcement body;
- The work of the committees includes participation in the Officer Safety Incident Review Team which reviews over 150 use-of-force incidents per year and meets monthly; and
- Broaden the current file review mandate to include files that have made their way into the public domain, typically through social media, and other means.

Stakeholder Engagement, Research and Communication

The following agencies were consulted in preparation of this report:

- Calgary Community Standards
- Provincial Public Security Peace Officer Program
- Calgary Legal Guidance
- Calgary Police Service
- Calgary Police Commission
- Citizen Oversight Committee
- Alberta Serious Incident Response Team

A survey was sent to all major transit public safety enforcement agencies across Canada to benchmark governance structures in other jurisdictions. Apart from BC Transit Police where there is a statutory requirement for a police board/commission, in the rest of the country, oversight and governance of transit law enforcement authorities is generally through the employer and accountability to the local police agency.

Strategic Alignment

Maintaining and supporting a Public Safety Citizen Oversight Committee (PSCOC) is a critical component of citizen engagement and allows community members input in how to make Calgary Transit safer for customers, peace officers and all transit users, particularly vulnerable users who are often in conflict with the law. Expansion of the role and mandate of the committee corresponds with Calgary Transit's Customer Commitment for providing safe and informative transit service and also aligns with RouteAhead direction to ensure Calgary Transit continues to be safe and secure.

Exposing the committee to use-of-force incidents reviewed by the Officer Safety Review Team (OSRT) will broaden the PSCOC awareness and understanding of conditions faced by peace officers daily which will enable prescriptive work in areas of peace officer mental health. This aligns with recent developments in provincial Occupational Health and Safety legislation, namely 'psychological safety'. Finally, a broadened mandate for the PSCOC aligns with citizen requirements for municipal government transparency and accountability.

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Social, Environmental, Economic (External)

Expanding the role of the Public Safety Citizen Oversight Committee, there is a social return on investment (SROI) by creating access to a broader range of use-of-force files serves the ongoing needs of Calgarians for transparency and accountability in government. Broadly, the community consents to having their safety and security needs addressed by peace officers.

Public trust assumes peace officer authority, including critical authorities such as the power of arrest and authority to use force will be exercised judiciously and professionally. When trust and confidence are high, transit user's compliance for laws and policies are generally easier to achieve. In addition, the community of transit riders assumes some ownership for a safe transit system as well.

Financial Capacity

Current and Future Operating Budget:

Broadening the mandate of the committee will require some reorganization of administrative tasks and increased capacity within the Calgary Transit Public Safety and Enforcement division to manage increased demands from the Public Safety Citizen Oversight Committee as well as potential for training opportunities of committee members. Additional costs can be covered by the current operating budget. Current and Future Capital Budget:

No impact to capital budget.

Risk Assessment

Expanding the role of the committee results in increased complexity and a change management strategy will be required to ensure the effort is clearly understood by key partners including Calgary Community Standards, the Calgary Police Service and the Provincial Public Security Peace Officer Program. It is vitally important to build acceptance with these partners which legitimizes the role of the Public Safety Citizen Oversight Committee.

REASON(S) FOR RECOMMENDATION(S): That as the model of public safety and law enforcement evolves, new demands will be placed on Calgary Transit and the role of its peace officers. These recommendations prepare a foundation for ongoing evolution and professionalization of Calgary Transit Peace officers and ultimately a high level of customer focused services.

ATTACHMENT(S)

1. Attachment 1 – C2019-0220 Notice of Motion
2. Attachment 2 – Terms of Reference
3. Attachment 3 – Public and Employer Initiated Investigations