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## **International Panel – Policing the Police, Al Hutchinson, Oversight Commissioner For Policing Reform in Northern Ireland**

**Presentation by Al Hutchinson**

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*Concerns about police investigating complaints and the impact of misconduct issues on public confidence*

### **1 Framing the Issue – Police Trust and Policing the Trust**

- **Public trust and confidence in the police** is a valued commodity in western democratic policing models, and trust and confidence are built over time through the integrity of the police leadership and the efforts of individual officers
- **Trust assurance** can also be built over time by independent bodies that review, investigate and report on the activities of the police
- **Trust in the police** can quickly disappear or suffer rapid erosion as a result of a single incident; consider Canadian examples currently under review such as the Ipperwash Inquiry or the Arar Commission; US examples from Los Angeles such as the Rodney King or Rampart scandals, or the UK independent investigation into the police shooting in London of Mr De Menezes
- **Trust in police** can be also be eroded over time, as is the case in Northern Ireland, as a result of historical societal conditions and the policing response to those conditions
- Increasing emphasis is being placed on **policing the trust**, an issue that all of us revolve around to differing degrees The conditions that bring outside scrutiny of the

police are: **i)** individual or organizational police abuses of that sacred commodity – *trust* **ii)** a modern world with instant communications and experts shining a spotlight on police actions, as well as the actions, or inactions, of bodies intended to hold the police to account **iii)** a need for bodies independent of the police to ensure that the police navigate the paradoxical waters of increased personal liberties, conflicted by increasing demands for restricted freedoms in the fight against the terrorism that assaults the very ideals of western democratic freedoms that we desire

- Into this rich stew, I can now add another ingredient – concerns about police investigating complaints – investigating themselves - and the impact of misconduct issues on public confidence

**2. What are the concerns with police investigating complaints *and* the impact of misconduct issues on public confidence?**

- It is important to note that misconduct in some cases is a misnomer, simply because some cases are outright criminal activity by police officers. Therefore, some police actions are so repugnant that they affect public confidence and trust simply by their very nature and gravity
- As a former police officer, I have investigated police misconduct allegations both within the RCMP and in other police organizations. I have also ordered investigations of RCMP misconduct, by the RCMP, and requested other police organizations to investigate RCMP members for the sake of independence and public confidence. For the last 4 ½ years I have been involved in the oversight of policing reform in Northern Ireland, which has allowed me particular insight into police accountability and public confidence in that part of the world

## **Public Concerns with police investigating complaints**

- Lack of openness and transparency, both real and perceived
- Police culture presenting an impenetrable 'blue' wall
- Perceived adversarial nature of investigation
- Disincentive to complain when police both take the complaint, filter and then investigate
- Concerns, both real and perceived, with fairness, adequacy and impartiality of police investigations
- Finally, even if complaints are independently reviewed, lack of trust in processes
- However, to acquire a balanced picture we need to understand a flavour of the police perspective;

## **Police Concerns with 'outsiders' investigating complaints**

Here the police culture is in full spring bloom. Its strength becomes its weakness and vision can come from the rear-view mirror. For example, if as a police officer I am doing the 'right thing' to protect the public, how can I be wrong? My police colleagues cannot possibly have done something wrong because they wear the same uniform as me, and I have never been involved in misconduct!

'They' do not understand policing complexity and the issues

The public complaining is simply pre-disposed to do so, from a particular 'anti-police' group and is represented by an interest group with an agenda

'Outsiders' do not have the skills, experience or resources to properly investigate

Public resources could be better spent fighting crime

Finally, the system ignores police officer rights

### **What is the impact of misconduct issues on Public Confidence?**

- We have just seen the traditional arguments trotted out for both sides of the proverbial same coin. Yet the common goal, *surely*, is to have a fair, impartial and accountable police service. The irony of course is that police have generally adopted the nomenclature of 'police service' as opposed to police force, and preach a philosophy of community policing. The obvious question, yet without answer, is *why would the police not welcome independent investigation, or review, to further service and community policing goals through increased public confidence?*
- The lack of public confidence is a vicious circle. The goal, *these days more than ever*, must be public confidence in their police services and in their ability to deliver personal and community safety. This is an environment where, as previously noted, conflict exists between demands for guarantees of personal liberties, and societal pressures to actually limit freedoms in the fight against terrorism.
- Can the issues be reconciled? I believe they can, nevertheless there is a cost that cannot be simply ignored.

3. **Are oversight mechanisms simply due diligence expected by society, or a dysfunctional response to police misconduct? Observations from Northern Ireland**

Due Diligence

- communities throughout the democratic world are demanding more accountability, openness and transparency from their police services
- police leadership efforts at self-regulating behaviour, instilling ethics and cultural change do not seem to be achieving the behaviour expected by the public, certainly in the time expected
- if we therefore fail to exercise due diligence through citizen oversight, are we not failing the public? Do we not in fact risk being negligent because lack of due diligence?

Northern Ireland is a conflicted society, faced with allegations of decades of police abuse and consequential loss of public confidence. My observation of that environment is that the multiple levels of oversight, in particular the independent investigation of policing complaints and police activities by the Ombudsman, are in fact increasing public confidence in policing.

Nonetheless, the question remains as to whether multiple layers are value-added or dysfunctional?

Dysfunctionality

- in a business sense, oversight shifts production (front line policing resources) to overhead
- Northern Ireland has some 15 agencies overseeing the police in some form or another, including my own role. The allocation of finite public funds has to

be carefully considered, again in a business sense for its net return – *no one wants to have the proverbial successful operation, resulting in the death of the patient!*

- oversight systems, in some cases, cause police to abdicate their own responsibility to self-regulate conduct and maintain public trust and confidence. I would argue that this initially happened in Northern Ireland, however, leadership is now returning a balance to the equation

### Achieving the balance – observations of the principle lessons for Canadian Policing and Oversight from the Northern Ireland experience

It is my belief that the starting principle should be that police retain the fundamental *responsibility* of self-regulating their behaviour – they should not abdicate this responsibility, because ethical police behaviour is the key to public trust and confidence, as is the openness and transparency of the means and methods regulating police conduct

While this is necessary, it is no longer a sufficient condition to achieve full public confidence in investigations of the police, by the police. At a minimum, public confidence requires **trust assurance measures**, which are brought about by both public and non-governmental agencies, and are designed to hold the police to account

Do not let the solution defeat the purpose. We need to remember that effective policing delivering community safety and security is as fundamental to society as is the right of the public to have trust and confidence in the police and their conduct

There are a variety of models of policing oversight throughout the world, representing a continuum of trust assurance means and methods. **However, one size does not fit all**. In Northern Ireland, investigations of police misconduct were taken from

the police for a variety of complex reasons, but the lesson for Canada is clear – if the police lose or abuse the sacred public trust, they will no longer be entrusted with maintaining it

Police leadership, including policing associations, need to become more involved as stakeholders in the oversight processes. Police self-regulation has failed and the public is increasingly placing its desire for trust assurance in agencies external to the police. To the police community - ignore this at your peril!

Finally, the world of policing governance, accountability and oversight is becoming increasingly complex, national and international in scope. The globalisation of policing networks is occurring in tandem with an increasingly global society and economy, and the parasitical organized crime that accompanies the new world order. In the interest of both national and local public confidence in policing, the oversight community increasingly has an international obligation to share, learn and examine the impact of local policing in a world venue, and concurrently understand how global policing networks affect local policing. CACOLE's leadership in this regard in fostering debate for action on an international association of oversight is a welcomed step.

#### 4. **Closing Comments**

- In the Trust Continuum, the goal lines have moved over time
- The responsibility for public trust and confidence must begin with the police officer on the street, extend through to the police leadership and increasingly *include* an independent citizen oversight methodology
- One model does not fit all circumstances when it comes to engendering public trust and confidence through citizen oversight. Nevertheless, the oversight community needs to share and learn from other

successes and failures, applying those lessons to their unique jurisdictions

- There needs to be both national and international dialogue on appropriate oversight in an increasingly global society. This needs to include the police leadership who *must* understand increasing public demands for public accountability for policing can be a healthy adjunct to policing with the community
- We all need to be aware that there is a cost from the overburden associated with multiple layers of accountability. At the extreme, extraneous oversight could risk subverting the very goal we seek - effective and accountable policing that the public have confidence in. The dilemma is that without effective contemporary citizen oversight, public confidence in policing can be eroded
- There is a need to work with the policing agencies and in particular its leadership to explain the mutually reinforcing benefits of citizen oversight. My panel colleagues will speak of stakeholder outreach efforts, among other issues of independent oversight