

*Investigating the Need for Structural and Functional Reform of
Ottawa Police Service and Ottawa Police Services Board*

How Does Ottawa Council Ensure that a Police Reform Initiative Primarily Serves the Interests of Citizens?

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POLICE REFORM PROJECT Report 2

Ottawa, Canada
October 18, 2020

A. Introducing Question 1, Police Reform Pilot Study

As journalists and activist citizens can attest, asking some politicians questions is one thing, getting them to provide timely, pertinent, informative, unambiguous answers is often quite something else.

My recent, similar experiences in that regard involving City of Ottawa politicians directly, as well as indirectly through examination of governance materials involving accountability and transparency obligations of politicians include three related activities:

1. The transparency and accountability pilot study, [Chronicling the Use of Transparency and Accountability as Political Buzzwords, and as Drivers Ensuring the Standard of Access to Public Records in Canada is Best Practice](#);
2. Intensive examination of the terms of the City of Ottawa Code of Conduct for Politicians (<https://ottawa.ca/en/city-hall/accountability-and-transparency/accountability-framework/code-conduct-members-council-and-related-policies>); and,
3. Examination of the criteria used to select winners of the Code of Silence award which is presented annually by journalists to public agencies which are recognized for their failure to properly inform citizens. (https://caj.ca/blog/2019_code_of_silence_award_nominations)

Based on those and other governance experiences, and discussions with a panel of experts in public policy processes and policing, the following question was selected as the one to start the investigation into the need for structural and functional reform of Ottawa Police Service and Ottawa Police Services Board.

Question 1

In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens, and to also explicitly stipulate that the principle is to be fully respected in practice by Ottawa Police Service, Ottawa Police Services Board, Members of Council and staff, and city staff?

The next section outlines the rationale underlying the content and the directive nature of question 1.

B. The Rationale Underlying Question 1

The history of public inquiries hosted by federal, provincial, and municipal governments is a long, tedious, and distressing tale of taking too long, spending too much, producing too little, and achieving next to nothing in terms of substantive, systemic change, regardless of the topic.

Or, to re-phrase, keyword searches associating terms such as “success”, “benefits”, and “achievements” with “public inquiry”, “board inquiry”, and “public commission inquiry” produce numerous results in the way of promises before the inquiry begins.

However, when all is said and done, after numerous photo-ops, press releases, and group interviews, the inquiry outcomes are too frequently described by phrases such as

- “Same old, same old”;
- “All talk and no action”;
- “Plus ça change, plus c'est la même chose”;
- “Re-arranged the deck chairs on the Titanic”;
- “All that time and money for nothing”;
- “A total sham”;
- “The cover-up continues”;
- “It was designed to reveal nothing, and succeeded”; and,
- “The lawyers did very well.”

Given the uninspiring history of public inquiries across Canada, the first question among five is designed to serve multiple objectives with a cutting edge to them.

First, based on lessons learned from an extensive review of the literature, as a first step it is critical to make distinctions about the character of politicians, and especially when the issue is challenging, unsettling, and has strong advocates on both sides.

Question 1 therefore seeks to separate the ‘wheat from the chaff’, and the ‘fence sitters from decision makers’, so to speak, by causing the responses to be directed in such a way that they directly or indirectly inform citizens about the character of the politicians who are being asked their positions about the need for reform of Ottawa Police Service and Ottawa Police Services Board.

As for the reason to emphasize the character of politicians when it comes to the matter of doing their jobs, it appears fair to say that at minimum citizens as a group expect politicians to demonstrate

- honesty over lying,
- fairness over bias,
- transparency over secrecy,
- decency over meanness, and
- accountability over running for cover, hiding out, buck-passing, etc.

In the case of police reform, however, due to the nature of the issue the character bar has to be set much higher than just expecting politicians to perform as reasonable members of a civilized society.

That is, because of positive and negative aspects of the police presence in the daily lives of many citizens, there is a basic bottom line for citizens who favour the idea of investigating the need for police service and police service board reform.

Namely, concerned citizens need to know from the outset which politicians can be trusted to ensure that the reform process is above reproach.

Further, since the police reform issue is not likely to be resolved in the immediate future, this kind of finding could be a useful contribution to evaluating candidates in upcoming municipal elections.

Examination of comments about previous reform initiatives in Canada reveals that many comments have been made about the character strengths and flaws of participating politicians.

Question 1 is designed to assist in identifying the character make-up of City of Ottawa politicians, and to thereby provide an indication of the likely support for a police service and police services board reform initiative which is above reproach.

Towards that end, Table 1 presents a selection of character features which are pertinent to a police service and police services board reform initiative. Responses to question 1 by City of Ottawa politicians are intended to reveal which character strengths and flaws are present around the council table for this item.

Table 1. Character Strengths and Flaws of Politicians Pertinent to the Results of an Ottawa Police Service and Ottawa Police Service Board Reform Initiative

- Politicians who primarily serve the public interest in thought and deed, and those who do not;
- Politicians who are beholden to vested interests, and those who are not;
- Politicians who are in conflict of interest positions, and those who are not;
- Politicians who march to their own drummer during council discussions, and those who do not;
- Politicians who keep their constituents informed in a timely manner, and those who do not;
- Politicians who openly communicate their positions on topics of public interest, and those who do not;
- Politicians who know how to ‘think outside the box’, and those who do not;
- Politicians who are easily intimidated, and those who are not; and
- Politicians who meet or exceed standards of transparency and accountability stated in their Code of Conduct, and those who do not.

Second, when it comes to establishing the gravity of the reform movement, it should be clear to everyone that this is not a ‘here today gone tomorrow’ concern.

By way of brief illustration, pertinent yields from Google’s search engine include the following keyword phrases and numbers of results:

- “police reform” = 245,000,000
- “investigate police power” = 113,000,000
- “police reform in Canada” = 64,000,000
- “police reform ottawa” = 10,300,000
- “police corruption Ontario” = 4,200,000
- “defund police movement” = 3,550,000
- “ottawa police excessive force” = 2,300,000
- “defund police meme” = 1,600,000
- “police brutality ottawa” = 721,000
- “defund police ottawa” = 483,000

While there is duplication among the results for phrases, by any measure associated with designing, enacting, implementing, and enforcing laws in order to achieve peace, order, and good government in communities across Canada, these are large numbers.

Moreover, all of these numbers are increasing rather than decreasing, so from a public interest perspective police-related issues are accompanied by a gravity factor that is both apparent and societally significant.

Of course, the gravity of the issue can be denied or ignored by politicians, as broadcast and social media news reports so often inform us.

However, one purpose of this investigation is to identify the positions of City of Ottawa politicians on a matter which seemingly should be at the top of all their to-do lists now, rather than later.

There are numerous dimensions that express the gravity of the police reform issue, and one of them with practical, strategic, and tactical significance is that of money.

Apparently many readers learned from the first police reform pilot study report, [*Investigating the Need for Structural and Functional Reform of Ottawa Police Service and Ottawa Police Services Board*](#), that the Ottawa Police Service budget for 2020 is \$362,000,000.

Or, to re-phrase in the interests of clarity and emphasis, the Ottawa Police Service budget amount is 362 million dollars, or, if you wish, \$362 million.

That figure, regardless of how it is expressed, represents about \$360 for every individual resident of Ottawa, and is almost 10% of the entire City of Ottawa 2020 budget.

It therefore seems inevitable that as council proceeds with discussions about the 2021 budget, serious questions will be raised and vigorously debated about the need to significantly reduce the police service budget in view of the city's very difficult financial situation due to COVID-19.

By any municipal governance measure, therefore, since \$362 million is a substantial amount of money for any city in Canada, it is reasonable for citizens to want to engage their politicians in deep, information-based discussion about such things as value for money.

And, as a core part of a reform agenda, it is prudent to ask, “How much of that money could be returned to taxpayers with little loss to service, or, perhaps, allocated to other services and/or other service agencies”?

Third, based on broadcast and social media reports, it is imperative that question 1 cut to the chase and take into account the negative perception held by many citizens about the sincerity of Ottawa’s municipal politicians when asked to address a controversial and contentious issue such as the need for structural and functional reform of Ottawa Police Service and Ottawa Police Services Board.

Based on the experience of the Chronicling pilot study, [Chronicling the Use of Transparency and Accountability as Political Buzzwords, and as Drivers Ensuring the Standard of Access to Public Records in Canada is Best Practice](#), we know that it is no easy matter to obtain straightforward responses from some City of Ottawa politicians.

However, since it appears likely that City of Ottawa politicians will be asked question 1 and variations of question 1 many times this year and in the years ahead, it is important to have all sitting politicians on record from the earliest moment.

Question 1 is therefore designed to have staying power over the long term, and even after members of the current council leave office. A legacy consideration, you might say, resides in question 1 regardless of how politicians respond.

C. The Design of Question 1

Question 1

In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens, and to also explicitly stipulate that the principle is to be fully respected in practice by Ottawa Police Service, Ottawa Police Services Board, Members of Council and staff, and city staff?

Every municipality in Ontario has duty of care and standard of care obligations.

As a result, failure to meet them can have negative implications and consequences for citizens with regard to their mental health, physical health, emotional well-being, social well-being, peace of mind, financial well-being, use of time, quality of life, enjoyment of property, value of property, and however else citizens are affected by what a

municipality does and does not do when identifying, adopting, and implementing its politician-approved policies, plans, programs, and operational activities.

In addition, duty of care and standard of care conditions are frequently used in civil actions, whereby plaintiffs allege that because municipalities failed duty of care and/or standard of care obligations, injury, death, loss of quality of life, degradation of property, or other negative consequence occurred.

Ottawa Police Service, like other municipal police service organizations, has numerous interactions with citizens on a daily basis. Question 1 therefore has two parts connecting Ottawa politicians and citizens through OPS.

For the first part,

“In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens”

it might be perceived that it is a no-brainer for politicians to say Yes to the proposition that it is “...prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens.”

After all, what could be more straightforward and, truth told, more attractive for a politician than to enthusiastically step forward in full support of a proposition that attests to their respect for the public interest?

And, further in that regard, what could more straightforward and more attractive to any politician than a Yes to the first part of question 1, which also enables her or him to effortlessly wave the flags of accountability and transparency in the process?

As for the second part of question 1,

“...and to also explicitly stipulate that the principle is to be fully respected in practice by Ottawa Police Service, Ottawa Police Services Board, Members of Council and staff, and city staff?”

it could be construed as obvious, self-evident, goes without saying, etc.

However, based on experience it is advisable to not assume that Ottawa Police Service, Ottawa Police Services Board, members of council and their staff, and city staff would implicitly and sincerely follow council's direction without explicitly being told to do so.

The second part of question 1 therefore leaves nothing to chance by asking politicians to confirm whether they support expressly communicating the will of council on this matter, and emphasizing that the will of council is to be duly respected across the municipal government known as the City of Ottawa.

D. How Long to Wait for Responses? Just Long Enough

In terms of when to report on responses, experience suggests that a number of politicians subscribe to the view expressed many years ago by the late, great U.S. Republican Senator from Illinois, Everett Dirksen, who opined, "When I feel the heat I see the light."

And then there are those who respond in a timely manner by nature and do not require prodding, as well as those who have little regard for transparency or accountability and simply choose to not engage.

Further, because feedback on pilot study design is valued while the study is in progress, there are methodological reasons for getting on with the study rather than waiting around for responses to arrive when politicians finally deign to participate.

In this case the initial communication went to Mayor and Councillors on September 8, and each member of council received her or his personal communication on September 9.

In addition, the initial pilot study report, [*Investigating the Need for Structural and Functional Reform of Ottawa Police Service and Ottawa Police Services Board*](#), was posted on September 27, 2020.

Further, a reminder email was sent to members of council on October 5 with a due date of October 13 for responses. The email sent to Councillor Diane Deans, Chair, Ottawa Police Services Board serves is reprinted for illustrative purposes.

From: Barry Wellar [mailto:wellar.barry@gmail.com]

Sent: Monday, October 5, 2020 9:51 PM

To: Diane.Deans@ottawa.ca

Subject: Question 1, Need for Structural and Functional Reform of Ottawa Police Service and Ottawa Police Services Board: Deans

Good evening, Councillor Deans,

On September 09 2020 I sent you an email with the subject heading, Need for Structural and Functional Reform of Ottawa Police Service and Ottawa Police Services Board: Meehan, and on October 1, 2020 I informed council of the publication, [Investigating the Need for Structural and Functional Reform of Ottawa Police Service and Ottawa Police Services Board.](#)

I do not have a record of your response to survey question 1, which follows for your convenience.

Question 1. In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens, and to also explicitly stipulate that the principle is to be fully respected in practice by Ottawa Police Service, Ottawa Police Services Board, Members of Council and staff, and city staff?

I would appreciate receiving on or before October 13, 2020 your response to question 1, or confirmation that you are not responding to question 1.

Thank you.

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Moreover, regarding degree of difficulty, none of the five questions is likely to be breaking new ground for any citizen or any member of council, and no question is wrapped by intertwined layers of complexity.

Given that timeframe, the straightforward nature of question 1, and attributing the kinds of character strengths listed in Table 1 to all members of council, it appears reasonable to conclude that sufficient time has elapsed as of October 13 to provide responses to question 1.

E. Responses to Question 1

The reader might anticipate given the nature of question 1 that City of Ottawa politicians would promptly answer Yes or No to each part, and the research process could move forward in a quick-step fashion.

However, previous surveys ([*Chronicling the Use of Transparency and Accountability as Political Buzzwords, and as Drivers Ensuring the Standard of Access to Public Records in Canada is Best Practice*](#)) asking City of Ottawa politicians questions reveal two other possible outcomes:

1. No reply; and,
2. A comment which does not address the question.

For the purposes of this pilot study, responses of Yes, No, and No Reply are entered directly into Table 2 and Table 3.

In the case of comments which do not address the question, this approach reminds me of my professor days, and is treated in accordance with that recollection.

That is, for reasons best known to the students themselves, instead of answering a question on the exam sheet they would fill a page or two or more with material that had nothing to do with the question asked.

Possibly the hope was that while what they wrote had nothing to do with the matter at issue, they might get some credit for their effort.

Unfortunately for the hope-and-a-prayer student, and in fairness to students who took the exam as intended, the equivalent of a non-answer was assigned a zero.

It seems that a similar form of logic is equally applicable in this context, and especially given that the questions asked of politicians, all of whom are likely well beyond typical undergraduate student age, involves the important policy and program topic, [*Investigating the Need for Structural and Functional Reform of Ottawa Police Service and Ottawa Police Services Board*](#).

As a result, the well-known symbol “F” is used in Table 2 and Table 3 to identify materials received from members of council, City of Ottawa , which do not contain an explicit Yes or No to part 1 or part 2 of question 1.

The results of asking question1 are presented in Table 2 (part 1) and Table 3 (part 2).

Table 2. Response to Question 1, Part I, by City of Ottawa Politicians

Part 1: In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens?

<u>Member of Council</u>	<u>Response*</u>
Mayor Jim Watson**	No Reply
Councillor Riley Brockington.....	No Reply
Councillor Rick Chiarelli.....	No Reply
Councillor Jean Cloutier.....	No Reply
Councillor George Darouze.....	No Reply
Councillor Diane Deans**	F
Councillor Laura Dudas.....	No Reply
Councillor Keith Egli.....	No Reply
Councillor Eli El-Chantiry.....	No Reply
Councillor Mathieu Fleury.....	No Reply
Councillor Glen Gower.....	No Reply
Councillor Jan Harder.....	No Reply
Councillor Allan Hubley.....	No Reply
Councillor Theresa Kavanagh.....	F
Councillor Rawlson King.....	YES
Councillor Catherine Kitts.....	
Councillor Jeff Leiper.....	No Reply
Councillor Matt Luloff.....	No Reply
Councillor Catherine McKenney.....	YES
Councillor Carolanne Meehan**.....	No Reply
Councillor Shawn Menard.....	YES
Councillor Scott Moffatt.....	No Reply
Councillor Jenna Sudds.....	No Reply
Councillor Tim Tierney.....	No Reply

*The letter “F” is used to identify materials received from members of council, City of Ottawa, which do not contain an explicit Yes or No to part 1 of question 1.

** Mayor Watson and Councillors Deans, and Meehan represent council as elected members of the Ottawa Police Services Board.

Table 3. Response to Question 1, Part 2, by City of Ottawa Politicians

Part 2. In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council to also explicitly stipulate that the principle [any reform initiative is primarily intended and is so designed to serve citizens] is to be fully respected in practice by Ottawa Police Service, Ottawa Police Services Board, Members of Council and staff, and city staff?

<u>Member of Council</u>	<u>Response*</u>
Mayor Jim Watson**	No Reply
Councillor Riley Brockington.....	No Reply
Councillor Rick Chiarelli.....	No Reply
Councillor Jean Cloutier.....	No Reply
Councillor George Darouze.....	No Reply
Councillor Diane Deans**	F
Councillor Laura Dudas.....	No Reply
Councillor Keith Egli.....	No Reply
Councillor Eli El-Chantiry.....	No Reply
Councillor Mathieu Fleury.....	No Reply
Councillor Glen Gower.....	No Reply
Councillor Jan Harder.....	No Reply
Councillor Allan Hubley.....	No Reply
Councillor Theresa Kavanagh.....	F
Councillor Rawlson King.....	YES
Councillor Catherine Kitts.....	
Councillor Jeff Leiper.....	No Reply
Councillor Matt Luloff.....	No Reply
Councillor Catherine McKenney.....	YES
Councillor Carolanne Meehan**	No Reply
Councillor Shawn Menard.....	YES
Councillor Scott Moffatt.....	No Reply
Councillor Jenna Sudds.....	No Reply
Councillor Tim Tierney.....	No Reply

*The letter “F” is used to identify materials received from members of council, City of Ottawa, which do not contain an explicit Yes or No to part 2 of question 1.

** Mayor Watson and councillors Deans, and Meehan represent council as elected members of the Ottawa Police Services Board.

F. Comments on the Responses by City of Ottawa Politicians to the Question, How Does Ottawa Council Ensure that a Police Reform Initiative Actually Serves the Interests of Citizens?

Question 1 of the pilot study asks,

In order to meet duty of care and standard of care obligations, is it prudent and/or necessary that Council explicitly adopt the principle that any reform initiative is primarily intended and is so designed to serve citizens, and to also explicitly stipulate that the principle is to be fully respected in practice by Ottawa Police Service, Ottawa Police Services Board, Members of Council and staff, and city staff?

Comparison of question 1 to numerous survey questions put to politicians at all levels in Canada and abroad reveals that in terms of content and design question 1 is pertinent, straightforward, and reasonable.

Further, it should not require more than several minutes at most to provide Yes or No responses, with explanations should one choose to do so, for either component of question 1.

With regard to the absence of replies from Mayor Jim Watson or any councillor, that is a matter to be discussed in detail after reporting on the responses to all the questions.

In the meantime, however, it may be instructive to consider the character feature which is the focus of Table 1.

That is, because of the nature of this reform initiative, it seems reasonable to require that in order for it to be above reproach, the municipal politicians hosting the initiative must be people of substantial character.

Until we are informed otherwise, the results shown in Table 2 and Table 3 might be taken to suggest that some politicians comprising the City of Ottawa Council do not rank high on the character scale.

Whether they are alone in that regard, or have a lot of company in municipal governments across Canada and elsewhere remains to be confirmed by the administration of question 1 in those localities.

G. Next Step

The next report records and examines the responses or non-responses of City of Ottawa politicians to question 2.

Question 2

Is it necessary that an instruction be given to Ottawa Police Service to open its records to public access with reasonable invasion of privacy and confidentiality limitations rather than what amount to “cover-up restrictions”?

It may be instructive to recall that we took a trip down the institutional barrier path in the Chronicling project. Additional terms which describe institutional barriers include those mentioned in [Interim Report 14. Asking the Question: Is Freedom of Information Legislation a Citizens' Conduit to Public Records, or an Institutional Barrier to Public Records?](#), and in [Interim Report 15. Identifying Tactics Used By Politicians to Restrict Citizens' Access to Public Records.](#)

Question 2 directly addresses the institutional barrier issue which, as literature reviews reveal, is one of the major constraints limiting citizen access to police service records.