

To: GVTA Board of Directors

From: Ian Jarvis, Chief Operating Officer

Date: December 1, 2003

Subject: **TransLink Security – Designated Police Unit Application**

Staff Recommendation:

That the Board direct staff to submit a formal application, as detailed in the report, to the Ministry of Public Safety and Solicitor General to designate TransLink Transit Security as a “Designated Policing Unit” under section 4(1) of the Police Act and report back on progress of the application on a regular basis.

PURPOSE

The purpose of this report is to seek the Board’s approval for TransLink Transit Security to become a “Designated Policing Unit” in order to provide Transit security staff the appropriate tools they need to carry out their responsibilities and improve safety and security for the travelling public and employees. In doing so, this will make transit a more attractive alternative and improve ridership.

CONTEXT

TransLink Transit Security “Special Provincial Constables” is currently empowered under Section 9 of the British Columbia Police Act. In 1998, the Police Act was amended to include section 4.1 “Designated Policing Unit” and section 18.1 “Designated Law Enforcement Unit”. The Special Provincial Constable status was no longer intended for enforcement activities as conducted by agencies such as TransLink Transit Security.

The Director of Police Services recognizes that many of the problems encountered by Transit Security constables result from many offenders not recognizing the authority of the Transit Security enforcement staff. In addition, under the current Section 9 designation, Special Provincial constables are not authorized to arrest on municipal/provincial/federal outstanding arrest warrants. The current limited authority also prohibits any arrests where persons are found in possession of stolen

property, illegal drugs, or any other Federal Statutes offences, such as the Immigration Act.

DISCUSSION

Designated Police Unit status will eliminate current confusion that exists with the authority of our Transit Security constables. Possessing “police” identity will reduce the number of complaints currently being encountered, as the travelling public will know what the universally accepted “Police” identity means.

The current limited law enforcement authority placed on our Special Provincial constables greatly reduces their effectiveness in creating and maintaining a safe environment for our employees and passengers.

Police Services (Ministry of Public Safety and Solicitor General) has determined that the Section 4.1 “Designated Policing Unit” is required by Transit Security in order to provide the required policing and law enforcement capability in and on TransLink’s entire transit system. The new designation will allow for a more “seamless” form of policing on all of TransLink properties and modes of transportation. The new status will also provide a much improved policing and security environment more capable of protecting our passengers, employees and property both on transportation systems and properties as well as the surrounding communities through which we travel.

The Director of Police Services has the concurrence of the BC Chiefs of Police to proceed with the 4(1) designation.

Should the authorization to proceed with the application be approved by this Board and eventually by the Ministry, the “Designated Policing Unit” process will require the following steps prior to full implementation:

1. An Order in Council to designate GVTA/TransLink as an entity under the Police Act.
2. The formal approval of the 4(1) designation by the Minister Public Safety and Solicitor General.
3. An Order in Council enacting TransLink Transit Security as a Designated Policing Unit.
4. Review and evaluation by the Justice Institute to determine the working environment/use of firearms and if determined that firearms are required, what level/degree of weapon should be utilized.
5. The creation of a memorandum of understanding (MOU) between GVTA/TransLink and the Ministry of Public Safety and Solicitor General. The MOU will formalize the agreement between TransLink and the Ministry on the 4(1) appointment, guide both parties in the adoption of policies and implementation procedures and document specific requirements as set out in the Police Act.

6. The creation of protocol agreements with affected jurisdictional police agencies by ways of letters of agreements. The protocols will detail operational and procedural agreements with each jurisdiction police agency in order to establish and maintain effective working relationships between TransLink and police agencies.
7. The creation of a Police Board – as required under the Police Act.
8. The creation and approval of new constable job descriptions.
9. Submission of job descriptions to Justice Institute for review and evaluation of upgrade training needs in order to meet the standards of a designated police officer. Training will then be required for the identified upgrades.
10. Uniform approval by the Director, Police Services and subsequent procurement. Transit Security has been advised that Police Services requires the new appointment to be “more police like” in appearance.
11. Design of new shoulder flash with “police” insignia.
12. Communication strategy.

It is the view of the staff that the law enforcement enhancements will not impact nor create additional liability, that in fact, many of the claims that currently come forward have arisen as a result of public questioning our existing enforcement authority.

Police Board: The creation of a Police Board is a requirement under the Police Act when a “Designated Policing Unit” is being created.

The Police Board will be comprised of the following voting members:

- a. The Chief of Police of Vancouver Police Department,
- b. The Chief of Police of New Westminster Police Service,
- c. The Officer In Charge of North Vancouver RCMP,
- d. The Officer In Charge of Burnaby RCMP,
- e. The Officer In Charge of Surrey RCMP, and
- f. The Chief Operating Officer of TransLink.

There may be additional non-voting representatives on the board from the Ministry’s office (Police Services).

The make up of the board is designed to enable effective working relationships with the police forces having jurisdiction throughout the transportation service region.

The role of the unit is will defined by the application process of the Ministry of Public Safety and Solicitor General. The policing and law enforcement services will provide for a safe travelling environment for the general public and a safe working environment for transit employees by providing immediate response capability on or in respect of transit vehicles and other transit property to preserve and maintain public peace and serve the safety and security needs of transit passengers, transit employees

and the general public. Within this context, the role of the board is to provide an oversight of the working functions of the designated policing unit, however, the budget will continue to be established by TransLink.

Formal Complaint Procedures: With the approval of the designation policing unit application, all formal serious complaints will be handled through a third-party internal investigation unit. The role of a neutral police agency will be to conduct a full investigation of all serious complaints and then forward the results to the Police Complaint Commissioner, who oversees the handling of all police complaints within the province, for final decision. The complaint process is required under section 9 of the Police Act. The decisions of the Police Complaint Commissioner ranges from making informational reports, make recommendations to boards, prepare guidelines respecting followed procedures, recommend a review or audit be conducted to assist designated policing units, recommend public inquiries or refer to Crown counsel a complaint for possible criminal prosecution.

Presently our complaints are investigated by New Westminster Police and their recommendations are forwarded to Police Services only.

Financial Implications: The 4(1) designation will require both start-up and on-going costs due to legislative and normal yearly operating requirements. The following is a listing of preliminary tentative costs, excluding salaries:

Start-Up Costs	Uniforms	\$140,000
	Training Upgrades	\$172,500
	Firearms (if required)	\$140,000
	Vehicle Emergency	\$ 48,000
	CPIC Installation	\$ 12,000
	Ops. Manual Update	\$ 30,000
	Projected Total:	\$542,500
On-Going Costs:	Uniforms	\$ 35,000
	Training Upgrades	\$ 35,000
	Firearm Training	\$ 35,000
	Municipal Costs	\$ 75,000
	BC Prime Computer	\$ 28,300
	CPIC Access	\$ 6,000
	Police Board Mbrs.	\$ 5,000
Projected Total:	\$219,300	

These costs are incorporated into the 2004 budget.

Indemnity: A new indemnity agreement will be required between GVTA/TransLink and the Ministry Public Safety and Solicitor General to address issues such as personal/corporate liabilities, claims, demands, losses, damages, etc. as result of execution of duties by the 4(1) Designated Policing Unit appointments.

ALTERNATIVES

The alternatives to the 4(1) Designated Policing Unit application are:

1. Remain as a section 9 Police Act – Special Provincial Constable. While the ability to remain “as is” is available, it is only a matter of time that TransLink will be forced into something that they may not suit the Transit Security department or possibly further limit its law enforcement capability. As outlined earlier, the section 9 categories is being restricted by Police Services for special use/purpose. Eventually all agencies within the province that currently have Special Provincial Constable status will be directed to another enforcement authority section under the Police Act.
2. Pursue an 18(1) “Designated Law Enforcement Unit (DLEU)” designation. This approach would not provide for necessary authorities deemed essential to provide the services needed on and with the GVTA/TransLink area of operations. Those limitations would include:
 - a. A DLEU designation would not provide the authority to deal with drugs offences committed on GVTA/TransLink properties.
 - b. There would be limited powers to deal with Canadian Criminal Code offences encountered on GVTA/TransLink property such as possession of stolen property that was deemed to have been stolen off GVTA/TransLink property. The DLEU would not be able to detain, arrest and/or charge for this offence, as it does not directly impact GVTA/TransLink employees or its passengers.
 - c. A DLEU cannot use the word “police” to identify themselves, which would again lead to perplexity and confrontation, as identity confusion would surface during arrest and detention of people.
 - d. The DLEU would not have the authority to enforce other Federal statutes such as Immigration Act nor detain on outstanding arrest warrants.
 - e. Limited and very restricted duties would remain consistent with those currently provided under section 9 of the Police Act.

Police Services have reviewed what TransLink Transit Security does in its current law enforcement capacity and has determined that the only way to ensure the public know who Transit Security constables are and what powers they possess to do the job, is to have the department identified as “police” and the only way that can be done is by way of the 4(1) designation.

CONCLUSION

It is recommended that the Board approve the 4(1) Police Act “Designated Policing Unit” application for TransLink Transit Security and that a formal request for this designation be submitted to Ministry Public Safety and Solicitor General. The 4(1) designation will provide the necessary law enforcement tools for Transit Security and will improve the policing and security environment to protect our passengers, employees and property both on transportation systems and properties, as well as the surrounding communities that TransLink serves.

Attachment: “Application for Designation as a Designated Policing Unit”