



The following *draft* Minutes of the special public meeting of the Toronto Police Services Board held on September 14, 2010 are subject to adoption at its next regularly scheduled meeting.

MINUTES OF THE SPECIAL PUBLIC MEETING of the Toronto Police Services Board held on **SEPTEMBER 14, 2010** at 4:00 PM in the Auditorium, 40 College Street, Toronto, Ontario.

PRESENT:

Dr. Alok Mukherjee, Chair
Ms. Pam McConnell, Councillor & Vice-Chair
Mr. Frank DiGiorgio, Councillor & Member
Mr. Hamlin Grange, Member
Mr. Adam Vaughan, Councillor & Member
Ms. Judi Cohen, Member

ALSO PRESENT:

Mr. William Blair, Chief of Police
Mr. Albert Cohen, City of Toronto - Legal Services Division
Ms. Sheri Chapman, Board Staff

**THIS IS AN EXTRACT FROM THE MINUTES OF THE SPECIAL PUBLIC MEETING
OF THE TORONTO POLICE SERVICES BOARD HELD ON SEPTEMBER 14, 2010**

**#P243 TERMS OF REFERENCE FOR INDEPENDENT CIVILIAN REVIEW OF
G20**

The Board was in receipt of the following report September 01, 2010 from Alok Mukherjee, Chair:

Subject: TERMS OF REFERENCE FOR INDEPENDENT CIVILIAN REVIEW OF G20

Recommendation:

It is recommended that:

- (1) The Board approve the Terms of Reference for the Independent Civilian Review attached to this report;
- (2) The Board authorize the Chair to retain a Reviewer to conduct the Independent Civilian Review in accordance with the Terms of Reference and to negotiate the terms of the retainer with the Reviewer; and
- (3) The Board authorize the Chair to announce publicly the name of the Reviewer, once negotiations with the Reviewer have been completed.

Financial Implications:

The financial implications arising from approval of this report are not known at this time. A budget for the ICR will be provided to the Board, for approval, as soon as possible.

Background/Purpose:

At its special meeting on July 6, 2010, the Board approved my proposal to carry out an Independent Civilian Review of the policing of the G20 Summit held in Toronto on June 26 and 27, 2010 (Min. P189/10 refers). The Independent Civilian Review will identify issues and concerns, raised by the public and the Board, regarding oversight, governance, accountability, and transparency as they relate to the multi-jurisdictional model of policing applied at the Summit. These issues will be reviewed in the context of the governance role, legislated mandate and policies of the Board.

Further, at that time, the Board directed that:

1. The Board approve the proposal for the creation of an Independent Civilian Review contained in this report;

2. The Board approve the mandate of the Independent Civilian Review which is appended to this report;
3. The Board authorize the Chair to develop Terms of Reference within 2 (two) weeks and bring back for Board approval;
4. The Board authorize the Chair to engage communications consulting advice and any other professional services that may be required and that these costs be borne by the Special Fund; and
5. The Board authorize the Chair to identify for Board approval a Reviewer who will carry out this independent civilian review.

The Board, at its meeting of July 22, 2010, approved a two-step approach to the Independent Civilian Review (Min. No. P192/10 refers). The first step was the development of scope of work and Terms of Reference by Mr. Doug Hunt, Q.C., in consultation with the Board and other appropriate parties, and the second step is the review itself, to be carried out by an independent Reviewer.

The Board also approved a recommendation stating that, as part of this approach, it would "...accept submissions from members of the public concerning the content of the scope of work and the Terms of Reference for the Independent Civilian Review, consistent with the Board's statutory role and responsibility."

Discussion:

The Terms of Reference have now been drafted by Mr. Hunt and are attached for your review.

At the July 22, 2010 Board meeting, the Board heard deputations from a number of members of the public. In addition, the Board has received a number of written submissions from the public. In drafting the Terms of Reference, Mr. Hunt has utilized an inclusive, consultative process, incorporating the input from the community as well as key stakeholders. The Terms of Reference, therefore, represent a comprehensive effort to ensure that input from a variety of people has been appropriately included. I recommend that the Board approve the Terms of Reference for the Independent Civilian Review attached to this report.

As stated above, at its July 6, 2010 meeting, the Board authorized the Chair to identify for Board approval a Reviewer who will carry out the Independent Civilian Review. Negotiations are progressing with a possible Reviewer on the terms of the retainer and are expected to be successfully concluded in the near future. As soon as these negotiations have concluded, it is recommended that the Board authorize the Chair to announce the Reviewer's name. It is imperative that the important work of the Reviewer commence as soon as possible.

Conclusion:

Therefore, it is recommended that:

- (1) The Board approve the Terms of Reference for the Independent Civilian Review attached to this report;
- (2) The Board authorize the Chair to retain a Reviewer to conduct the Independent Civilian Review in accordance with the Terms of Reference and to negotiate the terms of the retainer with the Reviewer; and
- (3) The Board authorize the Chair to announce publicly the name of the Reviewer, once negotiations with the Reviewer have been completed.

The following persons were in attendance and made depositions to the Board:

- **Vikram Mulligan ***
- **John Sewell ***

*** written submission also provided; copy on file in the Board office.**

The Board was also in receipt of written submissions from the following:

- **Vanessa Brustolin**
- **Nathalie Des Rosiers, General Counsel, Canadian Civil Liberties Association**

Copies of the foregoing written submissions are on file in the Board Office.

The Board discussed the foregoing report as well as the comments raised by the deputants.

The Board approved the following Motions:

1. **THAT the Board receive the depositions and the written submissions and that they be referred to the Reviewer, once named, for consideration;**
2. **THAT item 9(d) in the Terms of Reference be amended to reflect that Yonge Street and Queen Street were also areas of the city that were affected during the G20 Summit; and**

3. **THAT recommendation no. 3 in the foregoing report be amended to read: that the Board authorize the Chair to announce publicly, on September 23, 2010, the name of the Reviewer, once negotiations with the Reviewer have been completed.**

The Board approved the foregoing report and extended its appreciation to Mr. Hunt for his outstanding work in drafting the Terms of Reference.

Appendix A
Terms of Reference for the Independent Civilian Review

HUNT PARTNERS LLP

170 HURON STREET WEST
SUITE 1103
TORONTO, ONTARIO
M5S 1T9

September 8, 2010

Dr. Alok Mukherjee
Chair
Toronto Police Services Board
40 College Street
Toronto, Ontario
M5G 2J3

Dear Dr. Mukherjee,

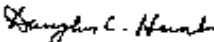
Re: Terms of Reference – Independent Civilian Review

The Toronto Police Services Board (“the Board”) has asked me to draft Terms of Reference for an Independent Civilian Review into the planning and implementation of policing services for the G20 by the Toronto Police Service and into the role played by the Board with respect to the planning for and policing of the G20. Attached you will find the Terms of Reference.

In preparing these Terms of Reference I have considered the limits of the Board’s jurisdiction pursuant to the *Police Services Act*, R.S.O. 1990, c. P.15 and I have attempted to provide as broad a mandate as possible to the Reviewer within the limited jurisdiction that the Board has. I have also been cognizant of the fact that the Board and, therefore, the Reviewer do not have available subpoena powers or the power to compel evidence under oath or affirmation and pursuant to cross-examination, as would be the case in an inquiry pursuant to the *Public Inquiries Act*, R.S.O. 1990, c. P.41.

Most importantly, I have given careful consideration to the written submissions and deputations that the Board received from the public with respect to potential areas for review. In addition, I have met with you and with the members of the Board and considered the concerns and the suggestions for areas of review and recommendation that were raised. While it is not possible to include all of the terms for the review that have been submitted or suggested, principally because of the limited jurisdiction of the Board and the absence of the important powers that I have referred to above, these Terms of Reference will, in my opinion, allow the Reviewer the widest possible latitude to inquire into and report upon the major issues arising out of the planning for and policing of the G20.

Regards,


Douglas C. Hunt, Q.C.

Direct: 416-559-2939

Fax: 416-943-1484

dhunt@huntlegal.com

Toronto Police Services Board

Terms of Reference for the Independent Civilian Review

WHEREAS the Toronto Police Services Board (“the Board”) is responsible, pursuant to section 31(1) of the *Police Services Act*, R.S.O. 1990, c. P.15 (“the Act”), for the provision of adequate and effective police services in the City of Toronto;

AND WHEREAS the Board must, pursuant to section 31(1) of the Act, generally determine after consultation with the Chief of the Toronto Police Service (“the Chief”) objectives and priorities with respect to police services for the City of Toronto, establish policies for the effective management of the Toronto Police Service and direct the Chief and monitor his performance;

AND WHEREAS the Toronto Police Service played a lead role along with other federal, provincial and municipal police agencies and other security agencies in the development and implementation of strategies for policing the G20 meeting of world leaders (“the G20”) that was held in Toronto, from June 25 through June 27, 2010;

AND WHEREAS the Board believes that it would be beneficial and of assistance to the Board in carrying out its responsibilities pursuant to section 31(1) of the Act to conduct a Review of the role played by the Toronto Police Service in developing and implementing the strategies for policing the G20 to determine whether those strategies were adequate and effective police services and to conduct a Review of the role of the Board with respect to the planning for and policing of the G20;

THEREFORE the Board is appointing the Reviewer to conduct an Independent Civilian Review (the “Review”) into the role played by the Toronto Police Service in the development and implementation of the strategies for policing the G20;

AND to conduct the Review the Reviewer shall be provided with such resources as are required, and be authorized by the Board and shall have the authority to engage lawyers, experts, research and other staff as the Reviewer deems appropriate, at reasonable remuneration approved by the Board;

AND the Chief will cooperate fully with the Reviewer in conducting the Review;

AND the Chair and members of the Board will cooperate fully with the Reviewer in conducting the Review and will instruct all personnel employed by the Board to cooperate fully with the Reviewer in conducting the Review;

AND the Reviewer may request any person, organization, the Chief and any personnel employed by the Board to provide relevant information or records, including video recordings, for the Review where the Reviewer believes that the person or organization has such information or records in his, her or its possession, custody or control;

AND the Reviewer may hold such public or private meetings, interviews and consultations, and may make such procedural decisions with respect thereto, as the Reviewer deems advisable in the course of the Review;

AND the Reviewer shall conduct the Review and make a report to the Board without expressing any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization and without interfering in any ongoing criminal, civil or other legal proceedings;

AND the Reviewer may produce an interim report at the Reviewer's discretion and shall produce a final report containing the Reviewer's findings, conclusions and recommendations and deliver it to the Chair and members of the Board for distribution to the public;

AND the reports shall be prepared in a form appropriate for release to the public, pursuant to the Freedom of Information and Protection of Privacy Act;

AND these Terms of Reference shall be interpreted in a manner consistent with the limits of the jurisdiction of the Board;

AND in the event that the Reviewer is unable to carry out any individual term of these Terms of Reference, the remainder of the Terms of Reference shall continue to operate, it being the intention of the Board that the provisions of these Terms of Reference operate independently;

AND the subject matter of the Review shall be:

Pre-G20

1. (a) A review of whether or not after Toronto was selected as the location for the G20, the Toronto Police Service had sufficient time to adequately develop a framework and plan the strategy for policing the G20 and to provide adequate information to the Board so that the Board had sufficient time to discharge its responsibilities pursuant to the Act.

(b) A review of the role that the Toronto Police Service played in developing the framework and plan for policing the G20.

(c) A review of the role played by the Toronto Police Service in the command structure for the policing of the G20, including whether the fact that a number of other police agencies and security agencies were involved with the Toronto Police Service impacted on the Toronto Police Service delivery of police services or created complications in the command structure during the G20.

2. (a) A review of the information given to the Board by the Toronto Police Service and other agencies concerning the framework and plan for policing the G20 and the issues that were anticipated to arise in connection with the policing of the G20 and whether it was adequate to allow the Board to discharge its responsibilities pursuant to the Act.

(b) A review of any issues or problems faced by Board members with respect to the information that they received, or felt that they ought to have received, having regard to the multi-faceted nature of the responsibilities that Board members had within the City of Toronto governance structure and/or with respect to the community.

(c) A review of the briefings with respect to G20 policing issues that were provided to the Board by the Toronto Police Service and other City of Toronto officials and whether the manner in which the Board received the information was adequate to allow the Board to appropriately consider it.

3. With respect to the following matters, a review of the information that the Board was given, if any, and the role, if any, the Board played in:

- (i) considering and approving the framework and the strategy for the policing of the G20 including the command structure;
- (ii) considering and approving any request of the Ontario government by the Toronto Police Service for additional legal powers to protect an area inside the security fence that resulted in the passing of Ontario Regulation 233/10;
- (iii) erroneously communicating to the public or in failing to correct an erroneous communication to the public by the Toronto Police Service that Regulation 233/10 applied to a five-meter zone outside the security fence;
- (iv) considering and approving directions or instruction that would be given to or by police officers with the Toronto Police Service who were going to be performing policing duties at the G20 with respect to:
 - (a) their obligations under the Charter of Rights and Freedoms and under the Criminal Code,
 - (b) demanding identification from people,
 - (c) their powers to search individuals without a search warrant,
 - (d) their powers to arrest individuals without an arrest warrant, and
 - (e) the use of force on people participating in a demonstration.
- (v) considering and approving the use of a strategy, colloquially known as “kettling”, for detaining and/or arresting people participating in a demonstration;
- (vi) entering into agreements relating to police officers who were not with the Toronto Police Service but who were assisting with the policing of the G20 with respect to whether or not or how they would be held accountable for their conduct while assisting with the policing of the G20;
- (vii) negotiating contracts, setting or approving budgets, making decisions with respect to human resource issues and procurement issues relating to the policing of the G20 and was the role that the Board played appropriate.
- (viii) considering and approving the principles and policies governing the design of and/or the use that would be made of the Prisoner Detention Centre.

4. (a) Was the information given to the Board by the Toronto Police Service and relevant City of Toronto officials sufficient to allow the Board to properly discharge its responsibilities under the Act in relation to the policing services provided to the City of Toronto during the G20.

(b) Did the Board ask appropriate questions of the Chief and of relevant City of Toronto officials sufficient to allow the Board to properly discharge its responsibilities under the Act in relation to the policing service provided to the City of Toronto during the G20.

5. (a) Did the Board have policies in place prior to the G20 for dealing with crowd control at mass demonstrations and, if so, what were they.

(b) Did the Board have policies in place prior to the G20 requiring police officers with the Toronto Police Service to wear name badges and/or police badge numbers while on duty and, if so, what were they.

6. (a) Did the Toronto Police Service have procedures in place prior to the G20 for dealing with crowd control at mass demonstrations and, if so, what were they and did the Toronto Police Service monitor compliance with them.

(b) Did the Toronto Police Service have procedures in place prior to the G20 requiring police officers with the Toronto Police Service to wear name badges and/or police badge numbers while on duty and, if so, what were they and did the Toronto Police Service monitor compliance with them.

7. (a) What role, if any, did the Toronto Police Service play in requesting additional legal powers to protect an area inside the security fence that resulted in the passing of Ontario Regulation 233/10.

(b) What role, if any, did the Toronto Police Service play in erroneously communicating to the public or in failing to correct an erroneous communication to the public that the additional legal powers contained in Regulation 233/10 applied to a five-meter zone outside the security fence.

8. What policies and principles were used to design the Prisoner Detention Centre on Eastern Avenue with respect to medical care for prisoners, access to lawyers, access to Duty Counsel, housing of prisoners with disabilities, housing of young people, access of young people to their parents, strip searches of prisoners, supply of food and water for prisoners, access to toilet facilities, personal property of prisoners, and releasing prisoners without charge. Were there any difficulties in the implementation of the policies and principles. Was the Prisoner Detention Centre adequate with respect to these policies and principles.

During the G20

9. (a) What were the reasons that the Toronto Police Service gave orders or instructions to disperse demonstrators from the designated demonstration area at Queen's Park on June 26, 2010.

(b) What were the reasons that the Toronto Police Service gave orders or instructions to detain and/or arrest people participating in a demonstration on The Esplanade on June 26, 2010.

(c) What were the reasons that the Toronto Police Service approved of and used a strategy, colloquially known as “kettling”, at Queen Street and Spadina Avenue during the evening on Sunday, June 27, 2010 for detaining and/or arresting people participating in a demonstration.

(d) What orders or instructions were given by the Toronto Police Service, and what were the reasons for them being given, in response to the situation that arose when people were destroying Toronto Police Service police cruisers and damaging other property in and around the financial district.

(e) What orders or instructions were given by the Toronto Police Service, and what were the reasons for them being given, with respect to the use of tear gas or some similar substance to disperse people outside the Prisoner Detention Centre on the morning of June 27.

(f) What orders or instructions were given by the Toronto Police Service, and what were the reasons for them being given, to police officers with the Toronto Police Service or were given by officers with the Toronto Police Service to police officers who were not with the Toronto Police Service but who were assisting with the policing of the G20 with respect to:

- (i) their obligations under the Charter of Rights and Freedoms and the Criminal Code,
- (ii) demanding identification from people,
- (iii) conducting searches of individuals and their property without a search warrant,
- (iv) arresting people without an arrest warrant, and
- (v) the use of force towards people participating in a demonstration.

10. Did police officers with the Toronto Police Service remove or cover their name badges or police badge numbers during the policing of the G20 contrary to Toronto Police Service and Board policy.

11. Did the nature of the demonstrations and the actions of some people who were demonstrating differ from the previous experience of the Toronto Police Service and what impact, if any, did it have on the Toronto Police Service management of the policing of the G20.

Recommendations

12. In addition to reviewing and reporting on policing by the Toronto Police Service during the G20, the Reviewer should make such recommendations as the Reviewer deems fit to assist the Board in discharging its responsibilities pursuant to the Act, including, but not limited to, recommendations:

- i) to assist the Board in formulating policies relating to all aspects of the policing of mass demonstrations, including policies relating to the command and control structure relating thereto;
- ii) to assist the Board in assessing its practices with respect to the manner in which it receives information during Board briefings by the Toronto Police Service and others;

iii) with respect to the role of the Board in communicating to the public when extraordinary policing measures are being taken as a result of special circumstances; and,

iv) with respect to whether the Act ought to be amended to clarify the role and responsibilities of the police service boards in Ontario and to clarify the role and responsibilities of police agencies in Ontario with respect to providing information to their respective police service boards, particularly in circumstances where the police agency is interacting with or has interacted with other police and/or security agencies, including the Integrated Security Unit.

Approved at Toronto, Ontario this day of September, 2010.

Dr. Alok Mukherjee,
Chair, Toronto Police Services Board

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OF THE TORONTO POLICE SERVICES BOARD HELD ON SEPTEMBER 14, 2010**

#P244 ADJOURNMENT

Alok Mukherjee
Chair