



INDEPENDENT CIVILIAN REVIEW INTO MATTERS RELATING TO THE G20 SUMMIT

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Honourable John W. Morden

June 2012



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June 29, 2012

Dr. Alok Mukherjee
Chair
Toronto Police Services Board
40 College Street
Toronto, Ontario
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Dear Dr. Mukherjee:

Having been appointed by the Toronto Police Services Board to conduct the Review described in the Board's Terms of Reference, dated the 23rd day of September, 2010, I submit to the Board the Review's Report.

Yours truly,

The Honourable John W. Morden
Reviewer

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Reviewer

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

CHAPTER ONE: THE LEGISLATION THAT GOVERNS THE TORONTO POLICE SERVICES BOARD AND THE TORONTO POLICE SERVICE

Public police services are governed by law. In the case of the Toronto Police Services Board (“the Board”) and the Toronto Police Service, the main legislative authority is the *Police Services Act*, R.S.O. 1990 c. P.15. The Board’s basic mandate is expressed in the opening words of s. 31(1) as follows:

A board is responsible for the provision of adequate and effective police services in the municipality [the City of Toronto]...

These opening words of s. 31 (1) state the basic purpose of the Board and, necessarily, frequent references will be made to them in this Report. They provide the answer to many questions on whether a particular action or a response by the Board is warranted and appropriate. Indeed, they are the authority on which the Board relies in establishing this Review.

The first general statute for what is now the Province of Ontario that was concerned with delivery of police services by cities was the *Municipal Institutions Act of Upper Canada* 1858. This legislation was amended in many particular respects between 1858 and the present. In 1946, the provisions in it were removed from the *Municipal Act* to the newly enacted *Police Act*.

Section 1 (2) of the *Police Services Act* provides:

Police services shall be provided throughout Ontario in accordance with the following principles:

2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.

The purpose of this provision is not to provide for the application of the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code* because, from their own force, their terms apply directly to every case in which the facts makes them applicable. The purpose of the provision is, rather, to remind those acting under the *Police Services Act* of the constant bearing of the *Charter* and the *Human Rights Code* on the performance of their duties. This is critically important because the exercise of so many police powers, for example, those of arrest, detention, and search and seizure, engage rights that are protected by the *Charter* or the *Human Rights Code*. These fundamental rights are highly valued in our society and must be protected from infringement by improper police action.

The main features of the *Police Services Act* are, as far as this Review is concerned, the changes made in the responsibilities and processes of police services boards. When the bill that became the *Police Services Act* was before the Legislative Assembly in 1989 and 1990, three features were stressed by the Solicitor General. The *Police Services Act* was intended: (1) to provide boards, police officers and chiefs of police with a “clear direction and a more precise definition of their roles and responsibilities”; (2) “to strengthen the role of the police services board”; and (3) it was to bring about “an enhanced level of interaction between the police and the community and to make our police services more reflective of the community they serve.”

Before 1990, the statute did not provide clear direction or definition of the roles and responsibilities of boards and chiefs of police. There was a general understanding that matters of “policy” were for the board and matters of “operations” were for the chief of police and that the two must always be kept separate. As will be shown in parts of this Report, this general understanding has been carried forward after 1990 although there is no statutory foundation for it. In fact, it is clearly inconsistent with the provisions of the *Police Services Act* – in particular, sections 31 (1)(b), 31 (1)(c), and 41 (1)(a). Sections 31 (1)(b) and 31(1)(c) provide, respectively, that a board “shall generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality” and shall “establish policies for the effective management of the police force.” Section 41 (1)(a) provides that the duties of a chief of police include “administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the Board under subsection 31 (1).”

Accordingly, the duties of the chief of police under section 41 (1)(a) dovetail with the board’s responsibilities under section 31 (1)(b) and (c). The chief of police has the duty to administer the police force and oversee its operation “in accordance with the objectives, priorities and policies established by the board under subsection 31(1).” It is important to note that under section 31 (1)(b) there is to be a “consultation” between the board and the chief of police before the board determines the objectives and priorities with respect to police services in the municipality.

The matter of operations is addressed in the *Police Services Act*. Section 31 (4) provides:

The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

This provision is the only one in the *Police Services Act* that imposes a limit on a board’s governance powers. It gives effect to the important principle of the independence of members of the police force in carrying out their law enforcement responsibilities. It is not infringed by the carrying out of the duties provided for in sections 31 (1)(b) and (c) and 41 (1)(a).

These statutory provisions are a clear reflection of the purposes of the *Police Services Act*, stated by the Solicitor General when it was before the legislature in bill form and also are fully consistent with sound principles of civilian oversight. It is important to note that neither of the prohibitions in section 31 (4) prevent a board from obtaining any information, including operational information, from the chief of police nor from discussing any matter relating to policing in the municipality with the chief of police. These prohibitions also do not prohibit a board from expressing its opinions, or making suggestions, to the chief of police on any aspect of policing in the municipality.

As far as the meaning and scope of what a “policy” is, it is clear that it cannot breach section 31 (4). The review agrees with the general statement in the Ontario Association of Police Service Board’s Handbook:

Section 31 (4) of the Act is intended to prevent direct Board interference in the actual policing function but not to prevent the Board from making decisions governing the structure and environment in which those policing functions occur.

Chief of Police William Blair in his interview with the Review said that he agreed with this general statement.

Chapter One sets out the complete text of six Toronto Police Services Board policies as examples of what, in fact, has been done under the Board's policy-making responsibilities. It may be noted that each one of them has some relevance to policing functions at the G20 Summit. A feature of some of these policies is that they do not state any policy. They merely provide what Ontario Regulation 3/99, made under the *Police Services Act*, requires – that the chief of police establish procedures and processes with respect to the subject in question. In other words, they provide no policy guidance to the police service, which was the clear intention of the statute.

It is not the standard practice for the procedures and processes made by the Toronto Police Service to be filed with the Board, whether made in relation to a matter covered by a Board policy or otherwise. Accordingly, having made a policy the Board does not see its consequences. The result is clearly inconsistent with the monitoring and oversight responsibilities of the Board.

Under the present arrangement for the provision of legal services to the Board, the Board is advised by a lawyer who is on the staff of the legal department of the City of Toronto and who also provides legal services to the Toronto Police Service. The Board's legal advisor should not be encumbered by the possibility of being in a position of conflict of interest.

Recommendation No. 1: Improving the nature and quality of Board policies

The Board, the Chief of Police, and the Ministry of Community Safety and Correctional Services should engage in consultation with a view to devising a method of improving the general nature and quality of Board policies made under O. Reg. 3/99 and otherwise.

Recommendation No. 2: Filing police service procedures and processes with the Board

All Toronto Police Service procedures and processes should be filed with the Board as a necessary step to strengthen the exercise of its monitoring and oversight responsibilities.

Recommendation No. 3: Legal counsel to the Board

The Board should have its own counsel whose legal services are not available to either the Toronto Police Service of the City of Toronto.

CHAPTER TWO: CIVILIAN OVERSIGHT IN POLICING

Civilian oversight of our police is essential. It acts as a check and balance against the legal powers society has given the police to enforce the law. Effective oversight of the police is the way that the public and police remain partners in the preservation of public safety. For the police to be effective in our communities, the public must have respect for those that perform the policing function. The governance and accountability that civilian oversight creates work in tandem.

The Ontario Legislature has adopted a system where, for municipal police services, a board comprised of persons unconnected with the police consult with the chief of police to identify objectives and priorities for the police service. The board also creates the policy framework in which those objectives and priorities will be achieved. The responsibility of police boards is considerable. Through their policy-making and resource allocation powers, police boards shape the way in which policing is done. Therefore, effective fulfillment of the governance role that police boards play ensures that decisions made and actions taken by police are reflective of the community's values.

In establishing objectives and priorities for the police service, a police board must be mindful of only one, albeit one very specific prohibition: not to direct the chief of police with respect to *specific* operational decisions or with respect to the day-to-day operation of the police service. Unfortunately, despite the clear wording of the *Police Services Act*, the Board has defined its responsibilities in terms of a separation between matters of policy and operational matters. The Board has limited its consultative mandate and has viewed it as improper to ask questions about, comment on, or make recommendations concerning operational matters. The Board's approach in this regard has been wrong.

Consultation between a police board and the chief of police is the main process through which the police board can engage in an assessment of the adequacy and effectiveness of the policing services which have been or will be provided. The overall purpose of a consultation between a police board and the chief of police is to identify the elements that are required for the police service to deliver adequate and effective policing within the municipality. Sometimes, this consultation will take place *before* a particular police operation or event. The police board can use the information to provide further guidance to the police service by creating policies that will frame the operation or event and assist in the achievement of identified outcomes. This consultation can also take place *after* a particular police operation or event and will take the form of deconstructing what happened and why, which can identify valuable lessons and lead to accountability for the decisions that were made.

I have designed a consultation protocol and recommend that the Board use this protocol in its interactions with the chief of police. This consultation protocol will help to ensure that the Board obtain relevant information that will assist it in identifying the objectives and priorities for the Toronto Police Service to achieve. There are three elements to the consultation protocol that I propose:

First element – Information exchange between the Board and Chief of Police: a reciprocal information exchange between the Board and Chief of Police must exist to ensure that each obtain information relevant to their respective roles. With this exchange, the Board will be provided with operational information that will inform its policy-making function and the Chief of Police will have an opportunity to provide his or her views on policy options the Board is considering. With this exchange, both policies and operations may be adjusted to address changing circumstances.

Where sensitive law enforcement matters are concerned, the Board should resort to the appropriate statutory measures to maintain confidentiality of information where appropriate.

Second element – Identifying the “critical points”: The Board should seek specific operational information from the Chief of Police where a “critical point” arises. These are policing operations (e.g. gun and gang operation), events (e.g. international summit of world leaders), or organizationally-significant issues (e.g. the use of Conducted-Energy Weapons, or TASERS, by the police) for which advance approval at the Toronto Police Service’s highest levels of command is required.

Third element – Board collaboration in defining the ‘what,’ but not the ‘how,’ of an operation: The Board should use the operational information it obtains from the Chief of Police to determine what the Toronto Police Service’s overall objectives and priorities will be for a particular operation, event, or organizationally-significant issue. With these established, the Toronto Police Service can create specific operational plans that will outline how the policing mission and objectives will be achieved. The Toronto Police Service must always maintain its autonomy to make and execute particular decisions during the operation. The Board should review the Toronto Police Service’s operational plans to ensure they are consistent with the mission or objectives stated by the Board and that they have the benefit of an adequate policy framework.

Proper application of this consultation protocol will ensure that policy vacuums do not develop that could compromise the attainment of the Board’s objectives and priorities. It will also permit the Board to provide recommendations, but not direction, to the Toronto Police Service where it believes that a particular aspect of an operational plan is inconsistent with applicable legal requirements or community norms and values.

The consultation protocol that I recommend, while in harmony with the framework and provisions of the *Police Services Act*, is not consistent with the way in which the Board has generally applied its oversight role to date. To be successful, the application of this consultation protocol will require a mutual commitment on the part of the Board and the Toronto Police Service to engage with one another as true partners in the delivery of policing services in Toronto.

Recommendation No. 4: Information exchange between the Board and the Chief of Police on all subject matters

The Board and the Toronto Police Service should ensure that an open exchange of information on all matters of operations and policy is established and maintained. The purpose of this information exchange is to ensure that both the Board and the Toronto Police Service are aware of the details necessary to engage in consultation concerning Board policies and Toronto Police Service operational mandates.

This exchange must permit a two-way transmission of information between the Board and the Toronto Police Service: the Board is to be made aware of all information relevant to its statutory role to determine “objectives, priorities and policies” for policing in Toronto and the Toronto Police Service is to be made aware of information that may assist it in commenting on policy options the Board is considering. In particular, this information exchange must include the provision to the Board of relevant operational information by the Toronto Police Service before operations actually unfold.

Recommendation No. 5: The Board should create a policy that defines “critical points”

The Board should, in consultation with the Toronto Police Service, draft a policy that defines what will constitute a “critical point” in municipal policing and identifies criteria that will be applied in determining when a “critical point” has arisen. This policy will assist both the Board and the Chief of Police in determining when operational information should be provided to the Board in advance of the “critical point.”

The Board should consider using the following definition of a “critical point”: a policing operation, event, or organizationally-significant issue for which advance planning and approval at the Toronto Police Service’s command level is required.

There should be clarity and consistency concerning the types of matters about which more detailed information, including operational information, should be provided to the Board by the Toronto Police Service. This policy should be reviewed by the Board with some frequency after it is established to ensure that it is enabling the Board to identify events and issues for which operational information should be provided in advance.

Recommendation No. 6: The Board should determine appropriate objectives, priorities, and policies for major events, operations, and organizationally-significant issues in which the Toronto Police Service will be involved

Where critical points in the policing of Toronto arise, the Board and Toronto Police Service should apply the consultation protocol and engage in a consultation about the major event/operation or organizationally-significant issue at the earliest possible opportunity. The Board should be provided with relevant operational and other information in order to understand the details of the major event/operation/issue. The Board should then work with the Chief of Police to identify the mission, objectives and priorities for the particular event/operation/issue, the achievement of which will result in the provision of adequate and effective policing in Toronto.

Once the mission, objectives and priorities have been defined, the Toronto Police Service must maintain the autonomy to develop and execute the appropriate operational plans. The Board should conduct a review of the Toronto Police Service’ operational plans to ensure that (a) they are consistent with the mission or objectives stated by the Board, (b) they are consistent with applicable Board policies, and (c) that no additional policies are required in order to provide guidance to the Toronto Police Service. Through this review process, the Board may provide recommendations to the Toronto Police Service where it believes that a particular aspect of the operational plan may result in the operational mission, objectives and priorities not being achieved. The Chief of Police, however, must remain entirely free to accept or reject the Board’s recommendations.

CHAPTER THREE: PLANNING AND POLICING FRAMEWORK FOR THE G20 SUMMIT

The Toronto Police Service was forced to plan for a major policing event in far less time than would usually be available for a security operation the scope of the G20 Summit. The G20 Summit was the largest security operation in Canada's history. In Chief William Blair's view, the planning required of the Toronto Police Service was "extraordinary." The Toronto Police Service depended entirely on others for the information it required to undertake its planning process. Information about the details and requirements for the G20 Summit was passed from the federal government, to the RCMP, and then to the Toronto Police Service. Until the federal government selected and announced the location and official venue for the event, the Toronto Police Service could not properly begin its planning process. After the location (Toronto) and venue (Metro Toronto Convention Centre) for the G20 Summit had been announced, the Toronto Police Service had only four months to develop its plans. As the entities that would bear the brunt of the policing and security for the G20 Summit, the Board and the Toronto Police Service should not have been excluded from the federal government's decision-making with regard to the event. The hallmarks one would expect to see in putting together a major international security event – deliberation, cooperation, and sufficient time to plan – were absent.

Three major areas of the Toronto Police Service's planning process became challenging because of the late point at which the federal government announced its location and venue decisions. In the area of funding, the Toronto Police Service was able to seek the Board's approval for a request to the City of Toronto for funds only five months before the G20 Summit. This funding request was unusual. The City was to pay millions of dollars up front with the expectation that it would be reimbursed by the federal government later. However, at the time, no arrangement for this funding had been entered into. Therefore, there was a risk that some of the funds provided by the City might not be recovered.

The Toronto Police Service also needed to acquire equipment and facilities for use during the event. It advised the Board that without certain equipment or facilities, its ability to deliver adequate and effective policing for the G20 Summit was compromised. Without, at least, knowing that Toronto was the location for the G20 Summit, the Toronto Police Service could not begin the process of securing the equipment and facilities. The process for these acquisitions and arrangements was shorter than would have been ideal.

Finally, the development of the Toronto Police Service's policing plans for the event was compromised. These types of plans would usually develop over the course of up to two years. In this case, the Toronto Police Service had only a matter of months. The planning process was made more complicated by the Toronto Police Service's reliance on the RCMP for information that was critical to its own planning. The short amount of time available for this process meant that operational and field commanders were not properly involved in the planning and did not develop an appropriate level of familiarity with the plans. It also meant that the Toronto Police Service was unable to test its plans in advance of the Summit.

The ability to deliver adequate and effective policing for the G20 Summit was put at risk by the short time made available to properly plan all components of the Toronto Police Service's operation. Had more time been available, the shortcomings of the Toronto Police Service's policing role at the event would have been minimized.

In reporting to the Board, Chief Blair identified the timing challenges faced by the Toronto Police Service only in general terms. The Board itself was concerned about the amount of time available to plan the policing for the G20

Summit. Had the Chief provided the Board with more detailed information about how the short timeline was affecting the Toronto Police Service's ability to properly plan and prepare for its policing role, the Board would have had a clearer picture of the potential risks to the Toronto Police Service's operations during the G20 Summit. With this awareness, the Board could have acted earlier in the process to obtain more detailed information from the federal government. This information could have assisted the Toronto Police Service in its planning.

The Integrated Security Unit ("ISU") was established to plan and coordinate security-related matters for the G8 and G20 Summits. For the G20 Summit, the ISU comprised five partners: the RCMP, the Ontario Provincial Police, the Toronto Police Service, Peel Regional Police and the Canadian Forces. Each ISU partner was required to develop its own set of operational plans to cover its own functions during the G20 Summit. The ISU partners collaborated during the planning process to ensure the plans could function in coordination with one another. However, the short amount of time available to plan made full integration of all plans impossible.

The RCMP was the lead entity on all matters of security at the G20 Summit and had ultimate decision-making authority over all security operations. The ISU operated under the leadership of the RCMP. The ISU determined the security responsibilities that would be assumed by its various partners for the G20 Summit. This included the policing responsibilities and geographic areas of jurisdiction the Toronto Police Service would assume. The Toronto Police Service ultimately accepted these responsibilities and geographic areas.

Four security zones for the G20 Summit were established: the Controlled Access Zone; the Restricted Access Zone; the Interdiction Zone; and the Outer Zone. The Toronto Police Service was responsible for the Interdiction Zone and Outer Zone. Geographically, the Interdiction Zone fence became an important boundary between the G20 Summit's high-security areas and the rest of Toronto. The decision that the Toronto Police Service would assume responsibility for the Interdiction Zone had implications both in terms of where Toronto Police Service deployed its officers and specific tactical decisions that were made during the G20 Summit.

Under the federal *Foreign Missions and International Organizations Act* ("FMIOA"), the federal government may enter into an arrangement with a provincial government to "facilitate consultation and cooperation" for the policing of international events. Despite a request by the Province of Ontario for an arrangement, no arrangement was made. The decision by the federal government not to enter into an arrangement under the FMIOA was a missed opportunity. An arrangement could have brought clarity to the division of policing responsibilities. It could have also brought clarity with regard to the legal authorities on which each partners' role during the G20 Summit would be based. Had discussions concerning an arrangement under the FMIOA taken place early on, possibly different decisions would have been made on which policing partner would assume the responsibility for the various security zones. In particular, these discussions may have resulted in the RCMP assuming responsibility for the policing of the Interdiction Zone. In that event, a request by the Toronto Police Service for new legislative powers under the *Public Works Protection Act* would have been unnecessary.

The Toronto Police Service did not engage the Board in the planning process for the G20 Summit and the Board failed to obtain the detailed information it required to address its gap in knowledge. The Board was never aware of the process used to develop plans for G20 Summit policing. The Board's knowledge of the ISU and its actual role was inadequate. The Board was also not aware to what extent the Toronto Police Service was subject to the planning direction of the RCMP, including the ability of the RCMP to override planning decisions made by the Toronto Police Service. The Board's lack of knowledge in each of these areas is a matter of concern.

The Toronto Police Service's planning for the G20 Summit included the development of a mission statement, a "Concept of Operations," and a 26-chapter operational plan for the event. The Board never received or reviewed any of these important planning documents before the G20 Summit. As a result, the Board was never in a position to evaluate whether the Toronto Police Service could fulfill its roles and functions for the G20 Summit adequately and effectively. The Board was also unable to engage in informed consultation with the Chief so that it could determine the Toronto Police Service's objectives, priorities, and policies for its policing role during the event. Without the information in these documents, and without even the knowledge that this information existed, the Board's oversight function was seriously impaired.

The short time for planning the policing for the G20 Summit and a failure on the Board's part to ask for information weakened the civilian oversight relationship between the Toronto Police Service and the Board. As a result, the Board did not have a clear sense of the framework and plan for the policing of the Summit. Instead of leading a consultative process with the Chief and setting the Toronto Police Service's objectives and priorities for the G20 Summit, significant matters were presented to the Board as 'done deals.' In general, the Board did not make the necessary inquiries to ensure it had the information it needed to fulfill its oversight function. In fact, even when Board members had questions or were unclear about a specific matter related to the policing of the G20 Summit, there is no evidence of any effort to pursue those matters and obtain responses that were available at the time.

Recommendation No. 7: Board to negotiate framework for funding conditions

In all cases where the Toronto Police Service will be involved in policing and security for a major event, the Board should, at a minimum, negotiate a framework funding agreement with the entity requiring the Toronto Police Service's assistance. This agreement should set out the funding and reimbursement conditions with respect to the Toronto Police Service's expenses associated with planning and policing the event.

Recommendation No. 8: Board involvement in consultation

Where the Board learns of the potential for Toronto to be selected as the host city for an event sponsored by the federal or provincial government, the Board should make a formal request that it be consulted, in advance of final decisions being made, on matters relevant to the Toronto Police Service's policing function at the event. In particular, the Board should request information that will enable it to understand the Toronto Police Service's role at the event, the legal framework applicable to the event's policing and other relevant matters.

Recommendation No. 9: Confirmation concerning Toronto Police Service's planning process

The Board should request regular updates concerning the progress of the Toronto Police Service in planning for the policing of a major event. In particular, the Board should seek information from the Toronto Police Service about (i) what mechanisms exist to capture, during the planning process, the input of those who will

have operational decision-making responsibilities during the event and (ii) what testing of the operational plans will be conducted before the event.

Recommendation No. 10: Time available for Toronto Police Service operational planning

Where the Toronto Police Service is required to develop operational plans for a major event, the Board should consult with the Chief of Police to determine whether there is a sufficient amount of time available for proper planning and, specifically, whether the adequacy and effectiveness of policing for the event may be compromised by the time available to plan.

If the adequacy and effectiveness of the Toronto Police Service's policing may be affected by the amount of time available for planning, the Board should communicate this to the government entity hosting the event and seek assistance to address challenges and gaps.

Recommendation No. 11: Board to be informed of possibility of major event

The Board should be informed, as soon as practicable, where a reasonable possibility exists that the Toronto Police Service may be involved in the policing of a major event hosted by a government entity. The Board should seek information and clarity concerning the proposed decision-making structure and process related to the policing of the event.

Recommendation No. 12: Board should insist on FMIOA agreement

Where the RCMP will be involved in an international event for which security arrangements are required, including the participation of the Toronto Police Service, the Board should encourage the federal and provincial governments to enter into an arrangement under section 10.1(4) of the *Foreign Missions and International Organizations Act*.

The Board should also seek an opportunity to provide input concerning the details of such an arrangement, including with respect to the policing functions the Toronto Police Service can fulfill for the event and the legal authorities on which the Toronto Police Service's involvement in the event's security will be based.

Recommendation No. 13: Toronto Police Service to provide information regarding planning structure to the Board

Where the Toronto Police Service is involved in a joint operation related to the policing of a major event, the Board should be provided with detailed information and briefings concerning the planning structure, including information regarding the Toronto Police Service's role in that structure and whether planning decisions by the Toronto Police Service are subject to the approval of any other entity.

CHAPTER FOUR: TORONTO POLICE SERVICE OBJECTIVES AND PRIORITIES FOR THE G20 SUMMIT

Although the *Police Services Act* requires the Board to set the objectives and priorities for the Toronto Police Service, this did not occur in advance of the G20 Summit. Instead, this role was assumed by the ISU, under the leadership of the RCMP. In the earliest days of the planning for the G20 Summit, a pattern was followed in which the ISU defined certain objectives, priorities, broad responsibilities, and geographic jurisdiction for the policing of the event and the Toronto Police Service adopted them. The Board was merely advised about general aspects of the Toronto Police Service's responsibilities at various points in time, without any specifics.

As a result, the Board was unaware of the specific policing functions that the Toronto Police Service had agreed to assume for the G20 Summit. At no point before the G20 Summit did the Board consult with the Chief concerning the details of the Toronto Police Service's role during the G20 Summit or what the full scope of policing required for the event would be. Board Chair Mukherjee confirmed this in his interview with the Review:

"...I don't think the Board understood. I mean, again, beyond the general sense that there'll be leaders to be protected and there will likely be protests and demonstrations, I don't believe there was any understanding of the full scope of policing that this would involve, or the nature of policing that would be involved."

One of the priorities for G20 Summit security was protection of the Interdiction Zone fence. This was the fence that served as a buffer between the G20 Summit site, which was controlled by the RCMP, and the rest of the city, which was policed by the Toronto Police Service. At no point was consideration given to the RCMP assuming responsibility for the Interdiction Zone rather than the Toronto Police Service.

The significance of this buffer to the overall security of the event, combined with the ISU's focus on the protection of Internationally Protected Persons, created a preoccupation with the Interdiction Zone fence. This preoccupation by the Toronto Police Service influenced its decisions concerning the allocation of resources and specific deployments. Officer notes made during the G20 Summit confirm that the Toronto Police Service's focus was protecting this fence:

MICC [Toronto Police Service Major Incident Command Centre] strategy to keep crowd away.

[L]eave units on fence but get them in a line.

OZ [Outer Zone] – plan to secure fence

The Toronto Police Service's preoccupation with protecting the Interdiction Zone detracted from its ability to police the rest of the city and caused a policing vacuum in the Outer Zone. On the afternoon of Saturday, June 26, the Toronto Police Service was unable to adequately and effectively manage the violence and property damage taking place in the city. Despite this violence and property damage, officers assigned to police the Outer Zone were often deployed near the Interdiction Zone fence. Ultimately, the Toronto Police Service lost control of the Outer Zone – the very area it had a statutory obligation to police.

It was a mistake for the Toronto Police Service to prioritize policing the Interdiction Zone. As a result of this mistake, a significant redeployment of resources was required. RCMP and OPP officers still at the G8 Summit in Huntsville were sent to Toronto. The Toronto Police Service also requested that the RCMP take over command of the Interdiction Zone. The request was made so that the Toronto Police Service could redeploy its resources to the

Outer Zone. Unfortunately, there was no plan in place for a large reallocation of resources or the transfer of command from one ISU partner to another. This planning gap meant that redeployment and transfer of command plans had to be created at a time of crisis. It also meant that twelve hours passed before the RCMP agreed to assume command of the Interdiction Zone from the Toronto Police Service. This passage of time was unacceptable. Given that violence and property damage were reasonably anticipated by the Toronto Police Service in planning for the G20 Summit, a contingency plan for the reallocation of officers and the transfer of command to the RCMP should have been prepared in advance of the event.

The combination of short timelines and a Board that did not assert its oversight role resulted in a planning error. In accepting the objective of securing the Interdiction Zone, the Toronto Police Service left the Outer Zone exposed to some of the violence and property damage that have become the unfortunate images of the G20 Summit. Had the Board and Chief engaged in proper consultation on the Toronto Police Service's focus for the G20 Summit, a more balanced approach to the Toronto Police Service's objectives and priorities for G20 Summit policing may have been established. Certainly, the Board would have emphasized the need to make the Outer Zone the Toronto Police Service's first priority. This could have minimized the extent of the breakdown that occurred on June 26.

CHAPTER FIVE: COMMAND AND CONTROL

In January 2010, a small working group of representatives from each of the ISU partners began meeting for the purpose of creating a document that would set out the command and control structure for the G20 Summit. Each ISU partner had the ability to raise particular concerns and suggest amendments to the draft document. Ultimately, the partners resolved all issues and produced a document that was "acceptable to all." The *2010 Summits Command and Control (C2) Document* ("C2 document") was approved on June 17, 2010.

The C2 document outlined the responsibilities of each of the ISU members. The RCMP was the "lead security agency" and was responsible for protecting the Internationally Protected Persons ("IPPs"), securing the G20 Summit site, and for supporting its policing partners. The Toronto Police Service was responsible for "its mandated obligations under the *Police Services Act*" and for supporting the RCMP is its "federally legislated mandate."

There were four layers of command for the G8 and G20 Summits. The Unified Command Centre ("UCC") was located at the ISU headquarters in Barrie, Ontario and was the highest level of command and control for the G8 and G20 Summits. It was comprised of commanders from all ISU members, but was under the command of an RCMP commander. The UCC Steering Committee was a body comprised of senior officials from each of the ISU partners and was responsible for providing "senior executive oversight during the [G20 Summit]." The Steering Committee was not, however, "a decision making body in the chain of command."

The next entities in the command structure were the Area Command Centres: one for Muskoka (G8 Summit) and another for the Toronto Area (G20 Summit – "TACC"). The TACC was located at Lester B. Pearson International Airport and served as a link to the UCC. It was also under the command of an RCMP commander.

The Major Incident Command Centre ("MICC"), located at Toronto Police Service Headquarters, exercised command and control of all Toronto Police Service resources, including external officers recruited from other police services, who were deployed to the Interdiction Zone and the Outer Zone. The MICC was under the command the Toronto Police Service and reported to the TACC, not the UCC. Finally, the last level of authority with respect to

the Toronto Police Service was a “site.” Toronto Police Service Site Commanders were deployed on the ground and were responsible for making specific tactical decisions. RCMP sites located in the RAZ and CAZ reported directly to the TACC.

The C2 document began with the general premise that the police force with command of a particular security zone (the RAZ, CAZ, IZ, or OZ) was responsible for authorizing all tactical decisions made in that zone. An annex to the C2 prescribed the level of command (Site Commander, MICC, TACC or UCC) that had the power to authorize a particular action, including the deployment of public order units, arrest and detention, and the use of tear gas. Only one level of command had the power to authorize a particular action. Once an authorization had been given, all other levels of command were to be informed that the authorization had been given.

The C2 document fell short in two important aspects. First, resources deployed to the Outer Zone were to be under the command of the MICC, but, the C2 document did not contemplate a direct command link between the MICC and RCMP and OPP resources (site commanders) deployed to that zone. Instead, it provided that RCMP and OPP resources were under the direct command of the TACC. During the G20 Summit, at least one RCMP troop deployed to the Outer Zone on June 27 was taking orders directly from the TACC, rather than the MICC. This meant that for a period of time on June 27, there were, in effect, two chains of command operating simultaneously in the Outer Zone. This created confusion for the RCMP site commander and created the potential for conflicting orders being given to officers in the same security zone. Indeed, this gap in the C2 document led to fairly widespread confusion among RCMP and OPP commanders deployed to the Outer Zone on June 27. In debriefing sessions, both RCMP and OPP site commanders reported that it was difficult to determine *who* was in charge.

The second gap in the C2 document was the lack of any process or procedure for the transfer of command of a particular security zone from one ISU partner to another. The violence and property damage that occurred on June 26 prompted the Toronto Police Service to move the majority of its officers deployed to the Interdiction Zone to the Outer Zone. Those officers were replaced by RCMP and OPP officers redeployed from the G8 Summit. As part of that process, the Toronto Police Service requested that the RCMP take command of the Interdiction Zone. The lack of an existing process meant that transfer of command took more than 12 hours and delayed the Toronto Police Service movement of much-needed resources into the city. Ultimately, this impeded the Toronto Police Service’s ability to adequately and effectively police the Outer Zone. Had the C2 document included a specific transfer of command process, many of those vital hours may not have been lost.

The more complex a police operation is the more essential it is that all of the police services involved have a clear understanding of the scope of their authority. The governing document that addresses this purpose should be clear, comprehensive, and sufficiently detailed. Given the size and complexity of the G20 Summit policing operation, these two gaps should have been addressed.

The Board received no information with respect to the command and control structure for the G20 Summit. Given its responsibility for the provision of adequate and effective policing in the City of Toronto, the Board should have sought sufficiently detailed information to be confident that mechanisms were in place to govern how the Toronto Police Service would give orders to the thousands of officers deployed to the areas under its command. In addition, given the multi-jurisdictional nature of the policing of the G20 Summit and the potential for police officers in the City of Toronto to become subject to the command of the RCMP, it was incumbent on the Board to understand what command and control structure was in place.

Recommendation No. 14: Board to obtain information concerning the command and control structure for multi-jurisdictional policing events

The command and control structure for the policing of a particular event has a direct impact on the manner in which police services will be delivered. When the Toronto Police Service is involved in a multi-jurisdictional policing event in Toronto, the Board shall require information from the Chief of Police concerning the command and control structure for the event. The Board shall also ensure that the command and control structure will enable the Toronto Police Service to adequately and effectively provide police services for the event and for the City of Toronto generally.

CHAPTER SIX: BOARD'S KNOWLEDGE OF G20 SUMMIT MATTERS

The Board must obtain all relevant information so that it can ensure adequate and effective policing in Toronto. The Board should be well-informed on community issues, public safety concerns, and policing strategies and tactics so that it can identify the information it requires to make a decision or recommendation, and to establish the Toronto Police Service's objectives and priorities.

The Board receives most of its information from the chief of police. This information is generally communicated during official Board meetings. All too often, the chief of police is required to act as the main "gatekeeper" of information transmitted to the Board. This places the chief of police in the position of having to regulate the flow and substance of information provided to the Board, as opposed to the Board having more control over what information it obtains. As a result, meetings between the chief of police and the Board often take the form of a one-way address as opposed to a consultation concerning issues and matters impacting the Toronto Police Service. True consultation – that is, an open exchange of information, ideas, and, sometimes, debate – is required if the Board is to meet its significant legislative duties.

There are two primary reasons why the chief of police has been unable to transition beyond this gatekeeper role. First, the Board, incorrectly, has the view that it is improper for it to seek information from the Chief on operational matters. However, correctly interpreted, the *Police Services Act* places no limit on the type of information the Board can obtain from the chief of police, including operational information. Second, the Board constantly struggles to identify what questions it needs to ask the chief of police to ensure it has sufficient information to perform its statutory functions. The Board's incorrect understanding of what information it is entitled to obtain and its challenge in asking the right questions have operated to unnecessarily constrict the flow of relevant information to the Board. This has weakened the Board's civilian oversight authority.

The recent experience with the G20 Summit in Toronto underscores the importance of developing a culture within the Toronto Police Service that is founded on the cooperative exchange of information, operational or otherwise, between the chief of police and the Board. The Board received very little information about the framework and plans for policing the G20 Summit. In certain instances, the Board was left completely in the dark on details of the Toronto Police Service's plans and priorities for the policing of the G20 Summit.

Some Board members felt that the Chief was quite "secretive" with the information he had about the G20 Summit. Certain Board members speculated that the Chief's handling of information stemmed from the Chief himself not being fully briefed on all relevant information pertaining to the G20 Summit. Other Board members indicated that

the Chief felt that he could not disclose certain information to the Board because of its confidential or sensitive nature. Still other Board members suggested that the Chief did not share certain information with the Board because, in the Chief's opinion, the information concerned operational matters and were not the Board's concern. What is clear from the record is that the Chief's non-disclosure of certain information to the Board with respect to the G20 Summit led to confusion, or even a complete lack of understanding, among Board members on a number of important policing issues. While the Chief had considerably more information about the G20 Summit than what was communicated to the Board, the Board must take responsibility for its own lack of knowledge concerning the Toronto Police Service's plans and priorities for policing the Summit. In fact, it was the Board's action – and inaction – that resulted in its lack of the information it needed on the G20 Summit to effectively discharge its oversight responsibilities.

For example, in an e-mail from Chair Mukherjee to the Chief on March 16, 2010, the Board directed the Chief to report on only three items: (i) budget, procurement and other financial issues, (ii) community and media relations issues, and (iii) human resource issues. This was the only specific direction the Board provided to the Chief regarding the information it wished to have on the policing of the G20 Summit. In the e-mail, the Chair specifically advised the Chief that it was not seeking information about confidential operational matters. This direction unnecessarily limited the information that would be provided to the Board over the coming months to these three basic items.

The Board could have asked questions about how the plans for the G20 Summit were unfolding, what specific policing role the Toronto Police Service would be discharging during the G20 Summit, or how decisions about critical aspects of policing the event were being made, but it did not. By not asking these and other questions, the Board created significant gaps in its knowledge regarding essential matters relating to the Toronto Police Service's planning and policing of the G20 Summit. These gaps concerned: the legal framework for policing the G20 Summit; the role and function of the ISU; the Toronto Police Service's operational plans for the event; the command and control structure and the Toronto Police Service's role, duties, objectives, and operational authority within that structure; and the nature of the relationship between the Board and the external police officers seconded to assist with the policing the G20 Summit.

Without this information the Board rendered itself a virtually voiceless entity. To a large extent, the Board became irrelevant throughout the G20 Summit planning process. In addition, without specifics about the Toronto Police Service's role within the larger security framework for the event, the Board did not have the information it needed to fulfill its oversight responsibilities under the *Police Services Act*.

There is one example of a Board member who attempted to seek detailed information about G20 Summit policing matters. In particular, this Board member sought information on whether appropriate safeguards would be in place for the use of the Long Range Acoustic Device (the "LRAD"). The record shows that these efforts to obtain information were not supported, encouraged, or fully and sufficiently addressed by the Board as a whole. Instead, the Board member was criticized by the Chair for raising this issue. The work done by this Board member to obtain relevant information and ask detailed questions is an example of the standard Board members should meet. The Board should have encouraged and facilitated these efforts rather than shutting them down.

Another Board member and city councillor also encountered some issues regarding the sharing of information on G20 Summit matters. A complaint was initiated by the Chair against Councillor Vaughan in respect of a newsletter that he distributed to his constituents on February 11, 2010. In that newsletter, Councillor Vaughan referred to a "classified briefing" that he had received. According to Chair Mukherjee, this reference suggested that the

newsletter contained information about matters that were discussed in a confidential Board meeting and, therefore, it was a breach of Councillor Vaughan's Board member oath of secrecy to have publically divulged this information. While Councillor Vaughan took responsibility for using the term "classified" in his newsletter and agreed that, in hindsight, the use of the term was inappropriate, he confirmed that the information contained in the newsletter was not information he received as a Board member. Based on my review of the record, I find that the content of Councillor Vaughan's newsletter did not include any information that he received at a confidential meeting of the Board. Therefore, there was no breach of his oath of secrecy. Unfortunately, the complaint against Councillor Vaughan negatively impacted on the information-sharing situation between the Chief and the Board in the lead up to the G20 Summit.

Collectively, these challenges in the flow of information led some Board members to become disengaged from their duties during the planning of the G20 Summit. This disengagement meant that the Board failed to seek the information it needed to discharge its civilian oversight obligations.

The recommendations that I have made regarding the information sharing practices between the Board and the Toronto Police Service are intended to ensure that where critical points arise – such as a major policing event in which the Toronto Police Service will participate – a mechanism will be in place to encourage and preserve the flow of relevant information to the Board.

Recommendation No. 15: The Board should record confidential Board meetings

Properly recording discussion and information provided during Board meetings is critical. It ensures that an accurate record of the questions asked and decisions or recommendations made is preserved. The Board should institute a practice of audio recording all confidential Board meetings.

Recommendation No. 16: The Board should develop a mechanism to ensure all Board members are canvassed in advance of pre-meeting agenda briefings

The pre-meeting agenda briefings present a useful opportunity for the Chair and Board Staff to identify areas and issues that may be of concern or interest to the Board and that should be placed on the agenda, and to work with the Chief and his staff to obtain information the Board requires. The Board should develop a mechanism that requires canvassing all members in advance of these briefings to identify questions or requests for information that can be conveyed by the Chair during the briefings.

Recommendation No. 17: The Board should create a policy requiring open communication and sharing of information between all Board members

The Board should develop a policy that sets guidelines for the exchange of information between Board members. Under this policy all Board members would be required to share, at the earliest opportunity, information he/she receives through informal communications with the Chief on a particular matter or issue that is before the Board or that otherwise falls within the Board's statutory role and responsibilities.

Recommendation No. 18: Where time is of the essence for procurement, the Board must maintain a monitoring role

While specific timing issues may require the Board to pre-authorize certain expenditures in order to hasten the procurement of equipment and other supplies, the Board should maintain an oversight role with regard to this process. Where time is of the essence and the Board decides to suspend or alter its usual procurement practices, the Board should establish a process that will ensure it receives relevant information from the Toronto Police Service regarding the purpose and justification of all expenditures.

Recommendation No. 19: The Board should be involved in the negotiation of contribution agreements pertaining to the Toronto Police Service's involvement in a policing event

Where a contribution agreement with a government entity will determine the recovery of costs applicable to the Toronto Police Service's involvement in a policing event, the Board must be involved in the negotiation of the contribution agreement. The Board should also obtain legal advice concerning the Board's financial exposure as a result of the contribution agreement and, in particular, whether there are any provisions that may place at risk the Board's ability to recover all funds spent for the policing event.

Recommendation No. 20: Board policies and Toronto Police Service procedures should apply to police personnel seconded to assist the Toronto Police Service in a joint operation

Board policy and Toronto Police Service procedures should apply to external police officers seconded to assist in policing the city of Toronto where those officers are under the command and control of the Toronto Police Service. The home police services boards should be required to formally adopt the relevant Board policies and Toronto Police Service procedures as their own. In that regard, the Board should provide its policies and the Toronto Police Service procedures to the home police services board so that it can help ensure that its officers are familiar with these policies and procedures. If external police officers violate Board policies or Toronto Police Service procedures while carrying out their duties in assisting the Toronto Police Service, the home board or their complaints and disciplinary oversight body should have the authority to discipline those officers, thereby avoiding any jurisdictional dispute between the Board and the home boards.

Recommendation No. 21: The Board should receive information on any training developed by the Toronto Police Service for a major event

The Board should receive information related to the training of Toronto Police Service officers and other external officers seconded to assist the Toronto Police Service with policing a major event. The information the Board receives should permit it to determine whether the training accords with the Board's existing policies and give the Board an opportunity to identify any gaps in its policies that need to be addressed prior

to the event. Such information should include, but is not limited to, any material developed to aid in the training, details concerning how the Toronto Police Service plans on monitoring compliance with the training and details concerning who is required to undergo the training and what form of training is being provided to the officers.

Recommendation No. 22: The Board should review the Toronto Police Service's continuity of service plans for major policing events

Where there is a large event that may impact upon the Toronto Police Service's ability to deliver regular policing officers in Toronto, the Board should consult with the Chief of Police concerning how continuity of service can be achieved. The Board should be provided with any plans developed by the Toronto Police Service to aid in the consultation.

Recommendation No. 23: The Board should amend its information sharing protocol with City Council

The Board should amend its existing information sharing protocol with City Council to include a mutual information sharing mechanism. This mechanism should address the type of information to be shared and the method and frequency for sharing such information. The Board should also work with City Council to develop a protocol that ensures there is a free flow of communication to and from the Board and City Council with respect to the policing of major events.

Recommendation No. 24: The Board should, with the assistance of the Ontario Association of Police Services Boards analyze the issues and concerns raised with respect to sharing confidential or classified information

Sharing confidential or classified information between different policing partners is a complex issue that requires further study. Accordingly, I recommend that the Board request that the Ontario Association of Police Services Boards examine this issue carefully and propose solutions that would ensure that sensitive information is protected without detracting from the requirement that municipal police services share relevant information with the police services boards.

Recommendation No. 25: The Board should develop an information sharing policy for major events

The Board should develop a specific information-sharing policy tailored specifically for major policing events. The policy should include a direction concerning the manner and frequency in which the information should be provided to the Board.

Under this policy, the Chief of Police would be required to provide the Board with information, at the earliest possible opportunity, with respect to the following matters, at a minimum: the nature of the event; the policing, security and other entities involved in planning the event; whether the Toronto Police Service is taking planning or operational direction from another entity; information about Toronto Police Service's proposed priorities and objectives; the need for any requests for legislative change to accommodate the Toronto Police Service's policing of event; and information about specific policing strategies or techniques that may be used during the event itself.

CHAPTER SEVEN: TRAINING OF POLICE FOR THE G20 SUMMIT

More than twenty thousand police, military, and security personnel across Canada came together to help police the G20 Summit in Toronto. All external police officers were generally required to abide by the Ontario *Police Services Act* and Toronto Police Service policies and operational guidelines. Officers from outside Ontario were appointed special constables for the purposes of ensuring they had the legal authority to enforce Ontario statutes that came into play during the policing of the G20 Summit.

Given the joint-operational nature of this event, the Toronto Police College developed and implemented a training program for all regular and special officers (e.g. Public Order Unit, or "POU") who would be under the operational command of the Toronto Police Service during the G20 Summit. The training program was aimed at providing these officers with a basic overview of the skills and tools they would require during the event.

The training was delivered through computer-based learning modules as well as face-to-face sessions. The computer-based training covered topics such as crowd dynamics and management; public order incidents; investigative detention; search and seizure the arrest process; and, the use of specialized equipment, such as the Long-Range Acoustic Device. Officers from outside Ontario who were deployed to police the G20 Summit received additional training on provincial laws they may have had to enforce during the event.

The face-to-face training focused on incorporating and reinforcing certain cognitive skills and providing practical instruction on use of force options. Training was provided on issues that might affect public and officer safety and included a review of crowd management protocols, operational considerations, and defensive and front-line tactics. Part of the training involved practical exercises which were evaluated and assessed by an instructor.

A separate, two-day training program was developed for the POU officers and used simulated scenarios to permit officers to practice specific skills, proper tactical formations, and arrests. POU teams also received training on the various legal authorities that could be engaged during the policing of the G20 Summit.

The substance of the training administered to officers covered a broad range of topics related to policing the G20 Summit, with a particular focus on crowd dynamics and management. Crowd management skills are a critical component of safety planning for any major event and were essential in the case of the G20 Summit given its unprecedented size, the thousands of police and security personnel involved, and the security requirements for the event. While the training materials developed were clearly presented and highly relevant to maximizing safety in mass protest situations, the training was lacking in several respects.

First, the training would have benefitted from a more detailed discussion of the relationship between the exercise of police powers, such as arrest, and the relevant *Charter* rights and freedoms engaged in policing mass public demonstrations, such as the freedom of peaceful assembly. There should have been a greater emphasis in training on the police officers' responsibility to protect and facilitate the public's exercise of their fundamental rights and freedoms under the *Charter*.

Second, many of the images and much of the language used in the training materials to depict protestors was unbalanced. Representations of rioting crowds, violent protestors, and anarchists left the impression that all protestors at the G20 Summit would engage in destructive protest activity and that police officers would be required to respond with aggressive crowd control measures.

Third, given the increased potential for violence and civil disorder in a mass protest situation, all officers deployed to the G20 Summit should have received more practical skills training than was offered. This should have included simulated scenario training with groups of non-violent and violent protestors that focus on the powers of police to detain or arrest, as well as the legal rights an individual has when the police engage in such conduct.

Overall, the lack of communication between the Board and the Toronto Police Service regarding officer training for the G20 Summit is a matter of concern. The Toronto Police Service did not consult with the Board before developing the training program and materials. The Board was also not advised of concerns raised by the Toronto Police Service Training Coordinator early in the development of the training program regarding the sufficiency and method of delivery of the training.

The Board itself made no effort to obtain specific information about the training that would be delivered. This is despite the fact that the Board was advised by Chief Blair on June 11, 2010 that external officers seconded to assist with policing the G20 Summit would be required to follow Board policies and Toronto Police Service procedures. The Board's lack of engagement in relation to training caused it to have absolutely no information on what topics the training would cover, who would receive training, or the training methods developed for the G20 Summit. As a result, the Board was not aware of whether the training adequately reflected its policies or whether the training covered areas of policing for which a new Board policy may have been usefully created.

Recommendation No. 26: The Toronto Police Service and the Board should work together to develop the training materials for a major event

The Toronto Police Service should share information with the Board on the training being developed for officers participating in a major event. This information should include: the topics to be covered, an overview of the general content, and any potential issues or concerns raised regarding the sufficiency of the training materials. The Board should examine the information provided with a view to maximizing the overall effectiveness of the training materials and ensuring that the materials properly reflect existing Board policies. This examination should include an assessment of the methods of delivery of the training (e.g. E-learning, practical exercises, etc.).

CHAPTER EIGHT: THE POLICIES AND PROCEDURE CONCERNING CROWD CONTROL AND MASS DEMONSTRATIONS

The Board had policies in place before the G20 Summit that dealt with aspects of crowd control and mass demonstrations. They were entitled “Arrest,” “Public Order Units,” and “Preliminary Perimeter Control and Containment.” However, the Board did not have a policy that squarely and comprehensively addressed the general subject.

The same can be said with respect to Toronto Police Service procedures bearing on crowd control and mass demonstrations. Two of its procedures made it reasonably clear that they were intended to relate to protester demonstrations of a much smaller order than those which took place during the G20 Summit.

Chief Blair advised the Review that he had “every expectation that the procedures would be integrated into the training material,” and that the police service “always monitors compliance” with procedures. Accepting that this latter statement may fairly relate to day-to-day policing, this was not the case during the policing on June 26 and 27, 2010.

The cases of ineffective policing and excessive use of force during the G20 Summit were not significantly the result of non-compliance with police service procedures but, rather, a host of other factors beginning with inadequate preparation time.

Crowd control and mass demonstrations is a policing function of increasing importance. To provide the Toronto Police Service with its guidance in this area the Board, working with the Ontario Association of Police Services Boards and other bodies that would be of assistance, should prepare a comprehensive policy on crowd control at mass demonstrations.

Recommendation No. 27: Board to create a comprehensive policy on crowd control at mass demonstrations

The Board, with the assistance of the Ontario Association of Police Services Boards and other bodies that would be of assistance, should prepare a comprehensive policy on crowd control at mass demonstrations. This policy should address the following subject matters, among others: necessary preparation times for adequate planning; command structures; the organization and dissemination of intelligence; incident management systems; the adaptation, if necessary, of existing services procedures for use during the contemplated event; and training.

CHAPTER NINE: POLICIES AND PROCEDURES ON THE WEARING OF NAME BADGES

The Board has a policy that has been in place since 2005 that requires police officers to wear name badges. Its only documentation is in the minutes of a board meeting held in September of 2005 that read: “It is recommended that: the Board approve the implementation of police identification uniforms in 2005.” This is a very important policy that should be made expressly as such and included in the catalogue of Board policies.

The Toronto Police Service, at all relevant times, had a procedure in place that required the wearing of name badges.

The non-wearing of name badges by Toronto Police Service officers was not brought to the attention of the Toronto Police Service through its own monitoring system, even though the non-wearing of name badges could not have gone unnoticed by senior officers.

Twenty-eight other police services from across the country assisted the Toronto Police Service during the G20 Summit. Chief Blair informed the Review that these police services had different requirements regarding the identification of officers and, accordingly, the Toronto Police Services procedures did not apply to them. This was a result of a provision in the standard memorandum of agreement between the Board and the external police services for policing of the G20 Summit. The effect of this provision was that the external officers policing the G20 Summit would act contrary to the Board policy without consequence. This issue and others should have been examined closely by the Board before the memoranda of agreements were approved and executed.

In terms of penalties imposed, 66 breaches of the rule requiring identifiers to be worn by Toronto Police Service officers were substantiated and led to the loss of an eight hour day of pay. Separately, 53 breaches were substantiated that lead to a penalty of two eight hour days of pay.

The intentional non-wearing of a name badge by an officer carrying out his or her duties is an extremely serious offence. It is a fundamental breach of duty for police officers to remove their name badges so that they may exercise their powers with intentional anonymity. The inevitable effect is to undermine the public’s trust in the police force, a trust that is essential to the provision of effective police services.

Recommendation No. 28: Board policy on the wearing of name badges and/or police badge numbers

The Board should express its policy on the wearing of name badges and/or police badge numbers in its standard policy format and include it in its catalogue of policies. The policy should require the chief of police to report to the Board on a regular basis concerning incidents of non-compliance with the policy.

CHAPTER TEN: THE *PUBLIC WORKS PROTECTION ACT* AND ONTARIO REGULATION 233/10

Three weeks before the G20 Summit began the Lieutenant Governor in Council made O. Reg. 233/10 under the *Public Works Protection Act* (“*PWPA*”). The regulation designated parts of the area within the Interdiction Zone as “public works.” That designation provided police officers with additional powers to search and arrest people without warrant and to refuse entry to those wishing to enter the Interdiction Zone.

The ISU considered it vital for the Toronto Police Service to establish a security perimeter around the Interdiction Zone. Early in the planning process, the Toronto Police Service Planning Team sought a legal opinion from City of Toronto Legal Services regarding the legal bases it could rely upon to establish a security perimeter and enforce an accreditation system. The opinion identified two potential sources of power: (1) police ancillary powers at common law and (2) an arrangement between the federal and provincial governments under s. 10.1(4) of the *Foreign Missions and International Organizations Act* (“*FMIOA* arrangement”). It concluded that neither would provide the “firm legal basis” the ISU or the Toronto Police Service was looking for. The opinion did not make any reference to the *PWPA*.

It appears that the *PWPA* was being considered as a possible source of power for the Toronto Police Service in April 2010. At that point, the *PWPA* and the *FMIOA* were being considered simultaneously as possible legal bases for the establishment of a security perimeter around the Interdiction Zone. On May 7, 2010, the Ontario Deputy Minister of Community Safety and Correctional Services wrote to the Deputy Minister of Public Safety Canada formally requesting that the provincial and federal governments enter into an *FMIOA* arrangement. The letter noted that such an arrangement would “enhance” the provision of security at the G20 Summit. On June 11, 2010, the federal Deputy Minister responded and denied the request. The Deputy Minister’s letter stated that sufficient common law and statutory powers already existed.

The Toronto Police Service was not satisfied without some additional source of power to secure the Interdiction Zone. On May 12, 2010, Chief Blair wrote to the Ontario Minister of Community Safety and Correctional Services and requested that the area within the Interdiction Zone fence be designated as a “public work” under the *PWPA*. In his letter, Chief Blair explained that the Interdiction Zone security perimeter was a “cornerstone” of the G20 Summit security plans and that the provisions of the *PWPA* would “offer legal support for the extraordinary security measures being undertaken for this unusual event.”

On June 15, 2010, the Ontario Minister of Community Safety and Correctional Services wrote to Chief Blair and informed him that O. Reg. 233/10 had been passed in response to the Chief’s request. O. Reg. 233/10 was a regulation made under the *PWPA* and provided that specific areas within the Interdiction Zone were designated as “public works.” The regulation came into force on June 3, 2010 and was revoked on June 28, 2010.

Chief Blair’s request under the *PWPA* was made before any discussion took place with Board. The Chief’s request was sent to the provincial government on May 12, 2010, eight days before the May 20, 2010 Board meeting at which the request was discussed for the first time. In addition, the information that was given to the Board at the May 20th meeting was unclear and incomplete. The agenda for the meeting said that the Toronto Police Service would be asking the Province “to designate various properties and/or spaces situated within the City of Toronto to ensure that they are properly protected subject to acts of violence.” While the Chief made a passing reference to the *PWPA* during the meeting, the Board was not provided with a copy of the *PWPA* or Chief Blair’s letter to the

Minister. It was not advised that the “properties and/or spaces” in question related to the Interdiction Zone. As a result, Board members did not understand that the Toronto Police Service was requesting a change in legislation that, if granted, would give its officers additional enforcement powers. When asked during her interview if she understood nature of the Chief’s request or its legal ramifications, one Board member answered simply, “No, not at all.”

Effective consultation between the Board and Chief on this issue required a level of basic information. In this case, that information should have at least included express reference to the provisions of the *PWPA*, an explanation of the additional powers that would be granted to police officers, and details of the request itself. Moreover, the information should have been provided *before* the Toronto Police Service made the request of the Ontario Government. There is little point in the Chief consulting the Board on a matter *after* a decision has been made or specific action has been taken.

There is currently no statutory provision in Ontario or Board policy that prescribes the process through which a police service or police services board may seek legislative changes. Ontario Regulation 544/91, which concerns the political activities of municipal police officers, and the related Board policy, are not relevant and I note that Chief Blair’s request under the *PWPA* did not contravene those authorities. The absence of a Board policy has led to confusion as to which entity – the Toronto Police Service or the Board – is responsible for seeking legislative changes that will affect law enforcement powers.

The Board is the proper entity to make requests of government for legislative change. Legislative action, including action that can result in the granting of additional law enforcement powers to police officers, affects the very framework in which police services are delivered in Toronto. It is the Board’s responsibility to maximize the delivery of adequate and effective policing within this framework and, where it believes the framework requires improvement in this regard, to seek those improvements.

On June 25, 2010, the day before G20 Summit began, Chief Blair was asked during a press conference about the boundaries of the area designated as a “public work” by O. Reg. 233/10. As part of his answer, Chief Blair told the reporters present that the *PWPA* applied within the Interdiction Zone and up to five meters *outside* of the Interdiction Zone fence. This interpretation of O. Reg. 233/10 was incorrect. Chief Blair answered the question on the basis of a briefing he had received from Toronto Police Service legal advisers before the press conference took place. There is no indication that this interpretation was offered as a result of any intention to mislead the public.

The source of the incorrect interpretation appears to have been a reference to “within 5 meters” in Schedule 2 to O. Reg. 233/10. To properly secure the Interdiction Zone, it was vital that its entire fence was located on a “public work.” The majority of the fence was located on public property, which automatically fell under the definition of “public works.” However, three small portions of the fence were located on private property. It was necessary, therefore, to designate specifically those strips of land as “public works” in Schedule 2 to O. Reg. 233/10 to ensure that the *PWPA* applied to the entire Interdiction Zone fence line. Reference to these five meter strips of land was included in Schedule 2. The confusion appears to have been caused by the complicated legal language Schedule 2 used to describe these three strips. The Toronto Police Service prepared for the G20 Summit on basis of the incorrect interpretation of O. Reg. 233/10 and officers were incorrectly advised that the *PWPA* applied up to five meters outside of the Interdiction Zone fence.

Following Chief Blair’s press conference on June 25, the Toronto Police Service was contacted by the Ontario Ministry of Community Safety and Correctional Services and informed that its interpretation of O. Reg. 233/10 was

incorrect. Chief Blair immediately directed his legal counsel to draft a clarification which could be distributed to officers to advise them of the limits of their authority. That clarification was distributed to officers in the early evening of June 25 as they were being deployed and was also transmitted by radio.

However, the Toronto Police Service took no steps to provide a correct interpretation of O. Reg. 233/10 to the public. While the Toronto Police Service should not generally be responsible for explaining legislation to the public, it was responsible for public dissemination of the incorrect interpretation. Therefore, the Toronto Police Service should have taken steps in this case to notify the public as soon as it became aware of its mistake. It was important for members of the public to understand what additional powers the police had been granted so that they could govern their conduct accordingly.

Chief Blair also addressed the “five meter rule” at a press conference after the G20 Summit had concluded. Following the conclusion of that press conference, he was asked in passing why the designation under the *PWPA* was required in the first place. Chief Blair responded that it was to “keep the bad guys out.” That comment referred to the need for O. Reg. 233/10 and not the Toronto Police Service’s failure to correct its incorrect interpretation of the regulation.

The events surrounding the incorrect interpretation of O. Reg. 233/10 highlight the need for Board involvement in communicating to the public changes in legislation that relate to police powers. The Board played no role in correcting the Toronto Police Service’s mistake because it played no part in communicating the effect of O. Reg. 233/10 to the public in the first place and was not aware that the “five meter rule” was incorrect until it was reported in the media. If a legislative change is made that affects the Toronto Police Service’s powers, the Board has an important role to play in communicating those changes and their consequences to the public. The Board’s role is particularly important where changes to the law have a direct impact on the scope of law enforcement powers that the police will have in their dealings with the public.

Recommendation No. 29: Creation of a Board policy concerning the seeking of legislative change

The Board should make a policy on the process governing the seeking of changes to legislation on the provision of police services. Under this policy, the Chief of Police should be required to advise the Board when the Chief of Police is of the opinion that the current legislative powers are not sufficient for the purposes of carrying out any police responsibilities or otherwise should be amended.

Once advised, the Board should obtain legal advice concerning the type of legislative change that would be required to address the Chief of Police’s concern and determine whether it wishes to make a request for change to the relevant level of government. All requests for legislative change that may affect the Toronto Police Service’s delivery of policing services should be made by the Board.

Following the implementation of this policy, the Board should also remove as a standing item on its agenda the opportunity for the Chief to inform the Board of his attempts to secure legislative changes.

Recommendation No. 30: Communication of legislative changes to the public

The Board should create a policy that addresses how legislative changes that may affect policing by the Toronto Police Service will be effectively communicated to the public in advance of major events. The policy

must ensure that the public receive adequate and correct information concerning police powers in a timely manner.

CHAPTER ELEVEN: THE PRISONER PROCESSING CENTRE

The Prisoner Processing Centre (“PPC”) was designed and built by the Toronto Police Service to be a central hub for the processing of persons arrested in relation to the G20 Summit. Early in the planning process, the Toronto Police Service analyzed its existing prisoner processing and holding facilities and concluded that they would be unable to handle the volume of arrests expected at the G20 Summit. The primary concern was that existing facilities were not large enough and that bottlenecks in prisoner processing would lead to delays. Because legal standards require prisoners to be processed in a timely manner, the Toronto Police Service determined that a new, large-scale facility was required for the G20 Summit.

The members of the Toronto Police Service Planning Team responsible for the PPC (“PPC Planning Team”) were required to design and construct a mass prisoner processing centre in less than four months. The City of Toronto located and leased a vacant film studio at 629 Eastern Avenue in March 2010. The facility then required significant renovations and technical upgrades. The extent of the work meant that the PPC was completed only days before it began operations on June 18, 2010. At the same time, the PPC Planning Team was responsible for designing the prisoner management process at the PPC.

The PPC was a facility without precedent in Ontario and, as a mass detention facility, posed unique operational challenges that required expert planning. However, the members of the PPC Planning Team had no particular experience or expertise in designing a mass prisoner processing facility. While expert advice on the structural and technical aspects of the PPC was sought (e.g. compliance with building codes) available expert advice in relation to prisoner care and management at a mass detention facility was not. Most notably, the PPC Planning Team did not solicit the input of the Ministry of Community Safety and Correctional Services, the provincial ministry responsible for the operation of Ontario’s jails and detention centres as well as the regulation of police services in Ontario. The Ministry was a readily available source of relevant expertise and the PPC Planning Team should have sought this out.

The PPC Planning Team intended that the PPC would operate in same manner as a Toronto Police Service divisional facility. It was designed to process – receive, book, investigate, and release – 500 prisoners within a 24-hour period, but was capable of housing in excess of 1,000 prisoners at one time. The PPC was intended to be a mass prisoner *processing* centre. Those arrested were supposed to be processed and released or transferred to a court facility for a bail hearing. It was not intended to be a *detention* centre where prisoners would be held for extended periods of time, and certainly not more than 24 hours.

The operational plan that governed prisoner care and management at the PPC (“PPC Plan”) was intended to “capture the universe” of the procedures to be followed at the PPC. In an effort to save planning and training time, standard procedures used at Toronto Police Service divisional facilities were incorporated without adaptation. This reliance on standard procedures was problematic. Standard Toronto Police Service procedures are designed to meet the everyday demands of a divisional facility and not the unique demands of mass prisoner processing centre. In particular, they are not designed to facilitate the processing of a large number of prisoners at one time. In certain instances, the PPC Plan incorporated multiple procedures that would apply to the same situation, making the plan

internally inconsistent. Collectively, these shortfalls meant that the PPC Plan provided little more than an overview of the prisoner management process and was not complete or detailed enough to provide guidance to those who would operate the facility.

The Board had almost no involvement in the planning for the PPC. It received an initial report from Chief Blair during a closed Board meeting on January 21, 2010 and was informed that a new prisoner processing facility was required because existing Toronto Police Service facilities were insufficient. Following that meeting, the Board received only informal briefings from Chief Blair and it was not provided with any of the PPC planning materials. Chief Blair made clear during his interview with the Review that, in his opinion, the details of the PPC Plan were “operational in nature” and were not properly a matter for the Board to consider. For its part, the Board took no active steps to obtain any detailed information from Chief Blair. It also failed to undertake a review of its own policies to determine whether they were adequate for the purpose of a facility like the PPC, or whether further policy direction was required. Unfortunately, the Board was satisfied with the general assurance that it would be “business as usual” at the PPC.

It was not “business as usual.” Under the *Police Services Act*, the Board was responsible for the provision of adequate policing facilities in Toronto. The express reason for building the PPC was that existing Toronto Police Service facilities were inadequate. This should have prompted the Board to question why existing facilities were inadequate and how the proposed facility would address those shortcomings. The need for Board oversight was particularly important in relation to the PPC. It was a unique, mass detention facility and the PPC Plan was a new procedure that had not undergone any operational testing. Had the Board engaged in a proper consultation with the Chief, shortfalls in the PPC Plan may have become evident. This may have helped to avoid some of the problems encountered during the G20 Summit.

While Toronto Police Service officers were responsible for the planning process, the PPC was commanded by a Court Services Superintendent (“PPC Incident Commander”) and was operated primarily by Court Services officers. Court Services is the unit within the Toronto Police Service responsible for prisoner care and management, and security at court facilities. Court Services officers follow unit-specific procedures and are not usually familiar with standard procedures followed by police officers.

The short transition from the planning phase to the PPC beginning operations meant that the Court Services officers who were responsible for prisoner care and management received minimal training: an orientation weekend conducted on June 16 and 17 and a series of mock exercises which took place the following week, after the PPC had already begun operations. This meant that the Court Services officers were required to learn a complex operational plan within a matter of days, including numerous standard Toronto Police Service procedures with which they would not have been familiar. This short transition period and the shortfalls in the PPC Plan meant that the Court Services officers had almost no guidance as to how they were to run the PPC. This led the PPC Incident Commander to impose three changes to the prisoner management process at the very last minute: (1) the inclusion of a single pre-booking officer who was responsible for screening every prisoner that arrived at the PPC; (2) the introduction of prisoner tracking systems in addition to the one already in place; and (3) the division of the PPC into four autonomous zones each under the command of a Court Services Supervisor.

The last-minute changes to the prisoner management process had a significant impact on the effective operation of the PPC and on those who were held at the facility. The inclusion of a single pre-booking officer resulted in a crippling bottleneck at the beginning of the prisoner booking process, which was precisely the situation the PPC was built to avoid. As prisoners were waiting to be screened by the pre-booking officer they were held in pre-booking

cells. While in those cells, prisoners were, in effect, being held in procedural “limbo” and were not afforded the same care as prisoners who had been through the booking process and were being held in the main holding cells: they were held in restraints, they were not given access to lawyers or a telephone, there was no record of when they were fed, and young people were not able to contact a parent or guardian. Given the extent of the delays, some prisoners were kept in pre-booking cells for over 24 hours. The combination of multiple tracking systems and the division of the PPC into four zones caused confusion on the part of Court Officers. It also led to an inability to track prisoner information in “real time” effectively and, as a result, additional delays, overcrowding, and a breakdown in prisoner care occurred.

The high incident of Level 3 searches (strip searches) at the PPC merits further investigation by the Board. The Board should require that the Chief of Police’s next quarterly report concerning Level 3 searches address the number of such searches at the PPC and the lack of proper documentation for many of those searches.

Recommendation No. 31: Early involvement of major event planning specialists and relevant experts

The Board should create a policy governing circumstances where the Toronto Police Service is required to design and plan for a unique operational requirement, such as the PPC. The Board’s policy should require that the Chief of Police ensure that major event planning specialists and other relevant experts are engaged to assist the Toronto Police Service with the development of operational plans and the design of specific processes associated with the operational plans. The event specialists should have a background and experience in planning for and overseeing large-scale security operations. Experts include relevant government ministries, agencies, and legal advisors. The input of planning specialists and experts should be solicited at the earliest possible opportunity.

Recommendation No. 32: Complete operational plan

Where the Toronto Police Service has created an operational plan for a major event, the Board should seek confirmation that the operational plan constitutes a complete document that addresses all potentially applicable policies and procedures. Further, where different units within the Toronto Police Service have different procedures that relate to the same matter, the Board should seek confirmation regarding how the Toronto Police Service has reconciled these different procedures.

Recommendation No. 33: Procedures concerning mass arrest and detention

The Board should make a policy that directs the Chief of Police to create an operational plan for a temporary mass prisoner processing centre, if such a facility is required at major events are held in Toronto. The plan should address the design and processes for the facility, including procedures concerning to prisoner care and management.

The Ministry of Community Safety and Correctional Services should be consulted with respect to the development of this operational plan.

Recommendation No. 34: Board guidance on unique operational requirements

In situations where the Toronto Police Service must plan for a unique operational requirement, like the PPC, the Board ensure that adequate and complete policy direction is in place. The Board must ensure it is provided with relevant information, including operational information, to enable it to decide if its existing policies are adequate and to engage in an informed consultation with the Chief of Police.

Recommendation No. 35: Creation of a Board Policy on mass detention

Mass detention centres to be used at large policing events pose unique policy concerns and operational demands, and bears on the rights of a large number of prisoners. For these reasons, the Board should develop a specific policy pertaining to mass detention that highlights the specific procedural matters the Chief of Police should address in a related Toronto Police Service procedure on mass detention. The Board should also consult with legal and policy advisors to create a policy that is in accordance with current Canadian legal standards.

Recommendation No. 36: Board to require a report on Level 3 searches conducted during the G20 Summit

The Board should require that the Chief of Police's next quarterly report address the number of Level 3 searches conducted at the PPC and lack of proper documentation for many of these searches.

After the Board considers this report, it should determine: (i) whether it is necessary to direct the Chief of Police to undertake a review of the procedure governing Level 3 searches; and (ii) whether consultation with the Chief of Police is required concerning the use of Level 3 searches in the context of public demonstrations, and whether further direction to ensure such searches are conducted only where specific justification for them exists would be necessary.

Recommendation No. 37: Amendment to Board Policy LE-016 – Prisoner Care and Control to ensure compliance with the *Youth Criminal Justice Act*

The Board should amend Board Policy LE-016 – Prisoner Care and Control to provide that where young people may be detained in the same facility as adults specific measures are taken to guarantee compliance with the *Youth Criminal Justice Act*, S.C. 2002, c. 1.

Recommendation No. 38: Amendment to Board Policy LE-016 – Prisoner Care and Control to ensure separation of male, female, transgendered, and transsexual prisoners

The Board should amend Board Policy LE-016 – Prisoner Care and Control to provide that where male, female, transsexual, and transgendered persons are to be detained in the same facility specific measures are taken to separate completely male, female, transsexual, and transgendered prisoners.

NATURE AND SCOPE OF THE REVIEW

Events as large and complex as those that took place during the G20 Summit of world leaders held in Toronto from June 25 to 27, 2010 afford the opportunity to conduct an impartial inquiry to determine, from hindsight, what can be learned from what happened.

The basic purpose of this Review is stated in the fourth paragraph of the preamble in the Review's Terms of Reference:

... 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.

The first paragraph in the preamble recites that the Board "is responsible, pursuant to section 31(1) of the *Police Services Act*, R.S.O. 1990, c. P.15, for the provision of adequate and effective police services in the City of Toronto."

Accordingly, the basic purpose of this Report is to assist the Board with statements of the facts and recommendations made in response to the subject matters referred to in the Terms of Reference (which are Appendix "A" to this Report) in carrying out its s. 31 (1) mandate as effectively as possible – in short, to ascertain the lessons learned from the G20 Summit and to benefit from them.

In the course of this Report, I make several findings that the Board fell short in carrying out its oversight responsibilities under the *Police Services Act*. The standard that I apply in making these findings is based on the principles of oversight based upon a proper interpretation of the *Police Services Act* as stated particularly in *Chapter 1 – Legislation that Governs the Toronto Police Services Board and the Toronto Police Service*. It is clear from the record that the Board, in many of its decisions, was applying the former "operations" and "policies" distinction that held sway before the *Police Services Act* and it is clear that it acted conscientiously in doing so. All of the "Board should have" criticisms should be understood in the light of this.

It is my intention that the conclusions and recommendations in this Report will strengthen the effectiveness of the Board's performance of its civilian oversight role. The Board and its staff in the past have increasingly shouldered a heavy burden in carrying out their responsibilities. If my recommendations are implemented, this burden will be increased. Likely, this will necessitate the devotion of further resources to support the Board's work.

Finally, I should say something about Terms of Reference that do not appear to have been expressly addressed in this Report. In *Chapter 7 – Training of Police for the G20 Summit*, I explain why I have not dealt with Terms of Reference 9(a) and 9(e). The reports by the Toronto Police Service and the Office of the Independent Police Review

Director canvassed issues raised in these Terms of Reference in significant detail.¹ My analysis of the materials that this Review has considered does not contradict the findings of these reports. Therefore, it was appropriate not to duplicate their efforts by responding to those specific Terms of Reference.

The Report does not deal expressly with paragraph 11 in the Terms of Reference, which is concerned with whether the nature of the demonstrations and actions of demonstrators differed from the previous experience of the Toronto Police Service and if it did, the impact, if any, it had on the Toronto Police Service's management of the policing of the G20 Summit. These matters are covered in the Toronto Police Service's *After-Action Review* and the Office of the Independent Police Review Director report.

With respect to paragraph 12(i) in the Terms of Reference, I refer to the recommendation made in *Chapter 8 – Policies and Procedures Concerning Crowd Control and Mass Demonstrations*. With respect to paragraph 12(ii), relating to assisting the Board in assessing its practices respecting the sharing of information during Board briefings by the Toronto Police Service and others, I refer particularly to *Chapter 6 – Toronto Police Services Board's Knowledge of G20 Summit Matters*.

With respect to recommendation paragraph 12(iii), relating to the Board in communicating to the public on whether extraordinary policing measures are being taken as a result of special circumstances, I refer to the recommendations made in *Chapter 10 – The Public Works Protection Act and Ontario Regulation 233/10*. With respect to paragraph 12(iv), I have concluded that no amendment to the *Police Services Act* is required with respect to any of the matters mentioned.

¹ Toronto Police Service, *G20 Summit After-Action Review* (June 2011); Gerry McNeilly, *Policing the Right to Protest – G20 Systemic Review Report* (Ontario: Office of the Independent Police Review Director, 2012).

PROCESS FOR THE REVIEW

A. INTRODUCTION

To address the issues and questions in the Terms of Reference, this Review needed to blend elements of legal research, analysis, public participation and information gathering from key sources. Over the course of approximately the last one and a half years, the Review's small team became familiar with the system that governs the municipal police services in Ontario, learned about what happened during Canada's largest security operation, and engaged the public in a process that facilitated its meaningful input into the challenging issues that the G20 Summit brought into focus.

My task was not simple. It required the dedicated participation of a small team who has focused on the work of this Review since it began. It comprised myself, the Reviewer; Ryan Teschner, Review Counsel; and, Kelly Henriques and Mark Hines, Associate Counsel. We were also assisted by articling students, summer law students, law clerks and administrative staff at Heenan Blaikie LLP.

There is not one particular to go about completing an investigation and final report of this nature. While there have been precedents for comprehensive examinations of this kind, each raises unique issues and challenges. Therefore, each also requires innovation and creativity to accomplish the objective in the most effective and efficient manner possible.

This Review was not a public inquiry under *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sched. 6. Accordingly, it did not possess the statutory powers available to an inquiry under that legislation. In particular, it did not have the legal power to compel the production of documents and information or the participation of relevant parties. Instead, it was necessary for the Review to utilize diplomacy to encourage the cooperation of the various law enforcement agencies and other entities that may have had evidence that was relevant to our Terms of Reference. When we approached the various organizations involved in the planning and policing of the G20 Summit, we did not know what our request for cooperation would be met with. Overall, I have been pleased with the participation of these agencies.

Below, I will summarize the key components of the process this Review followed in order to complete its task.

B. PROCEDURAL AND INITIAL MATTERS

i. Creation of the Review's Procedural Guidelines

As I have mentioned, this Review was not a public inquiry. Therefore, it did not begin with an explicit set of basic rules that applied to its process. As an important primary step, the Review created a set of Procedural Guidelines to govern its work and to ensure those who participated in it would be aware of the procedural safeguards available.

The Procedural Guidelines outlined the parameters that would govern each of the Review's major stages: investigation, document identification and production, interviews and consultations. The Procedural Guidelines were put in place to balance the need for an effective and efficient Review process with the importance of ensuring that the Review operated in accordance with the principles of procedural fairness. A copy of the Review's Procedural Guidelines is at Appendix "B."

ii. Analysis of the Terms of Reference

The Board's Terms of Reference were the Review's entire mandate. Therefore, it was important to be clear at the outset as to each of the issues and questions raised. This ensured that each of the stages that followed would aim to obtain information relevant to answering these questions and issues.

The Review team undertook a detailed review of the Terms of Reference to 'unpack' the many specific issues and questions included. In total, over 50 were identified. In addition, the team developed a document which contained 'lines of inquiry' which flowed from the Terms of Reference. These were central questions to which answers were sought early on and which helped build the factual foundation on which my later findings would rest. These 'lines of inquiry' also served as a roadmap for the information gathering phase of the Review.

C. RESEARCH

As with any other undertaking of this scope, a considerable amount of background work was required for the Review.

The Review team undertook extensive research early on. This research covered a wide range of subjects relating to how municipal policing is conducted, regulated and overseen in Ontario. Specifically, this included detailed research regarding the current *Police Services Act*, its associated regulations and its evolution from earlier versions of Ontario policing legislation; the role of the police services board; the difference between matters of policy versus matters of procedure in the policing context; the concept of civilian oversight in the policing context, including international research on this issue; the work of other inquiries arising from particular policing events around the world, and other research relevant to specific Terms of Reference.

Taken together, this research provided valuable context throughout the work of the Review and was essential in assisting me in my analysis.

D. MEETINGS WITH OTHER G20-RELATED INVESTIGATIONS

As of the time the Review was officially launched on September 23, 2010, the Reviewer and Review Counsel met face-to-face or via telephone with those responsible for all other investigations or inquiries arising from the G8 and G20 Summits. In particular, we met with the heads and support staff for the entities conducting the following investigations:

- Office of the Independent Review Director's investigation into policing matters related to the G20 Summit;
- Ombudsman of Ontario's investigation into the Ministry of Community Safety and Correctional Services' conduct in relation to Ontario Regulation 233/10 under the Public Works Protection Act;

- Hon. Roy McMurtry's assessment of the *Public Works Protection Act* (on behalf of the Government of Ontario);
- Ontario's Special Investigations Unit's investigation into the conduct of specific police officers during the G20 Summit; and
- Commission for Public Complaints Against the RCMP's review into RCMP conduct in relation to the G8 and G20 Summits.

In the case of the Office of the Independent Review Director, it was necessary to have multiple meetings due to the increased potential for overlap with the Review, and the desire to delineate areas of responsibility more clearly given that the OIPRD would be examining certain systemic matters associated with the G20 Summit's policing. The OIPRD's G20 Systemic Review Report was released on May 16, 2012.

E. PUBLIC CONSULTATION HEARINGS

The Review was a process established by a public body following a very public event. However, much of its work must, by necessity, be conducted in private. In this context, the public consultation process enabled the Review to conduct some of its work 'in the open' and with full transparency.

On May 12, 2011, the Review announced that it would hold Consultation Hearings open to all members of the public. The public consultation process had a dual purpose: first, to provide a reasonable opportunity for all interested members of the public who were affected or impacted by the events of the G20 Summit to be heard by the Reviewer, and second, to ensure that the Review had fully investigated all aspects of its mandate.

The hearings were held on June 1, 6 and 13, 2011 in three different locations in Toronto (downtown Toronto, Etobicoke, and Scarborough) to ensure members of the public, organizations and other stakeholders would have access to these sessions. Information on the Public Consultation Hearings was provided to the media and broadcast through newspapers, radio, television and the Internet. The Review's media releases relating to Public Consultation Hearings can be found at Appendix "C."

Individuals and organizations who wished to make submissions to the Reviewer were invited to complete a basic form that included background information about the Public Hearing Process and the issue on which the Review was requesting submissions: "What role should civilian oversight play with respect to the policing of major events?" A copy of the submission form can be found at Appendix "D."

F. DOCUMENT IDENTIFICATION, REQUEST AND PRODUCTION PROCESS

i. Board and Toronto Police Service documents

Given that the Review's Terms of Reference related both to the planning and policing of the G20 Summit, it was expected that there would be a considerable amount of documents and records of potential relevance. The Review made an initial request for documents and information from the Board and the Toronto Police Service. The request of the Board was fulfilled expeditiously, and covered all information in the Board's files regarding the G20 Summit, as well as more general information concerning the Board's role and function, including its policies, member training materials, and other information.

The Toronto Police Service initially responded to the Review's request with initial background information related to the Toronto Police Service's role in the planning and policing of the G20 Summit. The Toronto Police Service also advised that it had an inventory of approximately 100,000 files and documents associated with the G20 Summit. Therefore, from the outset, it was important to develop a system for the identification and collection of relevant documents that would minimize the time spent reviewing information of less significance.

Beginning in February, 2011, Review Counsel and associate counsel held document identification sessions with representatives of the Toronto Police Service's G20 Summit Disclosure Team.¹ These sessions, which occurred over the course of one and a half months, permitted the Review team to more quickly sift through the Toronto Police Service's electronic disclosure file and, with the assistance of the officers present, identify and inventory the specific documents that the Review thought necessary to review in more detail. The assistance of the Toronto Police Service's G20 Disclosure Team throughout this process bears specific mention. At all times, these officers conducted themselves professionally and with a spirit of full cooperation that accommodated the Review's desire to move expeditiously. These officers were responsive to the Review's requests and I appreciate their valuable assistance.

Once the Document Identification Process was complete, the Review had compiled an inventory of approximately 2,500 documents. The Review then prepared a detailed request of the TPS for all of these documents. They were provided in September, 2011.

ii. RCMP documents

The Review also made an initial request for the production of documents from the RCMP on March 1, 2011. In response, the RCMP advised that it would host two informational briefings for the Review. These briefings were held on March 7, 2011 in Ottawa, and on March 18, 2011 in Toronto.

At the briefings, the RCMP provided presentations which covered background information concerning the planning, policing and certain operational matters related to the G8 and G20 Summits, including the roles played by the various policing agencies that participated in the G20 Summit. The Review also held two brief interviews with representatives of the RCMP following these briefings. At this point, the Review still had not been provided with documents in response to its initial request of the RCMP. Additional requests for information and documents from the RCMP were met with a response March 25, 2011 that the RCMP would receive the Review's summary of its facts related to the RCMP's involvement in the G20 Summit and the RCMP would provide its comments on those facts. The Review began preparing this comprehensive summary.

As the Review continued its work, it became even more apparent that obtaining documents from the RCMP was important. On December 9, 2011, the Review wrote the RCMP again and reiterated the importance of it receiving all relevant information that could bear on its Terms of Reference. On December 13, 2011, the RCMP advised the Review that it was then prepared to produce documents. When these documents were made available, the Review quickly initiated a document identification process similar to the one held with the TPS. This process was

¹ Following the G20 Summit, the TPS assigned to a team of officers the responsibility to design and populate an electronic library. This library now stores all of the electronic files that relate to the Toronto Police Service's planning and the operations of the G20 Summit. These electronic files include various types of Microsoft Word, Excel, and PowerPoint documents. The library also includes imaged e-mails from various members of the Toronto Police Service, audio files, video files, and other items. In total, the library contains close to 100,000 files and documents.

completed in a much shorter time-frame. The Review ultimately requested and obtained 260 documents from the RCMP following this process.

While I appreciate the cooperation the RCMP ultimately provided to the Review in the production of documents, the stage at which it occurred caused delay in the ultimate completion of this Report.

iii. Joint documents

For completeness, I note that there was a small category of documents that the Review requested and which were jointly held by the City of Toronto, Province of Ontario, Federal Government and RCMP. These documents were not produced on the basis of an assertion of common interest privilege. The Review was not advised which entity or entities within the group were asserting the privilege. I was not empowered by statute to review this assertion of privilege and adjudicate the matter. Therefore, The Review attempted to negotiate a system by which it could view these documents and not reveal their specific content. This request was denied.

The Review's requests for information are located at Appendices "E," "F," and "G."

G. INTERVIEWS

Once the Review had obtained and analyzed the documents produced by the Board and Toronto Police Service, Review Counsel began preparing for interviews of each of the members of the Board, staff to the Board and the Chief of Police.

Review Counsel prepared a detailed set of interview questions based on the Terms of Reference, the lines of inquiry and the specific information contained in the documents that had been produced.

Interviews were conducted of all seven individuals who served on the Board in the lead up to and during the G20 Summit. These interviews generally lasted one full day, and in the case of the Chair of the Board, two full days. A joint interview was also conducted of the Executive Director, Senior Advisor and Counsel to the Board in the course of an afternoon. Finally, the Chief of Police agreed to be interviewed as the representative of the Toronto Police Service, with the understanding that undertakings to obtain information from officers directly involved with aspects of the planning and policing of the G20 Summit would be given where necessary. The Chief's interviews took place over the course of almost five full days, and he had counsel present at his interviews. I thank Mr. Brian Bellmore and Ms. Karen Mitchell, the Chief's counsel, for their cooperation.

Before each interview, Review Counsel prepared a list of subject matters that would be canvassed during the interview. Interviewees were also provided with their own set of Reference Documents which included all documents that could be referred to during the course of their interview. This ensured that interviewees could familiarize or reacquaint themselves with the material in advance of the interview.

The interviews were conducted in the location most convenient to the interviewee. Review Counsel assumed primary responsibility for leading the interview and asking the questions, and I asked additional or follow-up questions from time to time. All interviews were audio recorded, and a typed transcript was prepared following the interview. Each interviewee was given the opportunity to review the transcript of his or her interview and provide Review Counsel with any corrections (e.g. a typographical error) or additions (e.g. to fill in a word that was inaudible on the audio recording), that were then implemented before the transcript was deemed final.

The inability to compel witnesses to give information to the Review meant that, with the Toronto Police Service, the Chief was responsible for providing answers on behalf of the organization even though other officers may have been better placed or more familiar with particular subject matter. The Chief gave undertakings to provide answers where he did not know the answers personally or thought the information would be better obtained from another member of the Toronto Police Service. However, some of the responses provided to these undertakings were general or revealed that not all steps possible were taken to obtain the response required. The Review lacked the power to compel individual officers to provide information where those officers had subject-matter expertise in relation to G20 Summit. This had a limiting effect.

H. CONSULTATIONS WITH EXPERTS

Review Counsel identified two experts whose academic and professional focus was on issues related to the civilian oversight and governance of police.

Professor Michael Kempa is an associate professor in the Department of Criminology at the University of Ottawa. His academic work focuses on emerging trends and developments in policing around the world. In particular, he has analyzed and written on the mechanisms used to govern the police. Review Counsel met with Professor Kempa for an afternoon in Ottawa on September 14, 2011.

Professor Andrew Graham is an adjunct professor at the Queen's University School of Policy Studies. Mr. Graham has over 30 years of government service experience in, among others, the area of correctional services. Mr. Graham's academic work focuses on public sector management, governance, including modern police governance. The Review team met with Professor Graham in Toronto on May 11, 2011.

Both consultative sessions with these experts were audio recorded and a transcript was prepared. I am grateful for both Professor Kempa and Professor Graham for giving their time to provide their valuable insights concerning many of the public policy issues that have arisen in relation to the governance of the police in Ontario and other parts of the world. Their remarks were illuminating and useful.

I. PUBLIC COMMUNICATION AND INFORMATION

It was important for the Review to maintain transparency concerning its progress and for members of the public to have timely access to information about the Review's work.

To assist in keeping the public informed, the Review created a website (www.g20review.ca) that was launched on the same day the Board announced my appointment, September 23, 2010. The website was accessible to all members of the public throughout its mandate. The website served as an information hub to which members of the public could access the Review's Terms of Reference, information about public hearings and recordings of the hearings once completed and updates concerning the Review's progress. Over the course of the Review, the website remained up-to-date and received continuous traffic.

The Review also provided media with information through news releases and status updates. Review Counsel acted as the media spokesperson for the Review, offering interviews and further information at various stages. These news releases and updates are included at Appendix "H."

ACKNOWLEDGMENTS

The production of this Report has been a team effort throughout. The team comprises Ryan Teschner, the Review's Counsel, and Kelly Henriques and Mark Hines, Associate Counsel – all colleagues of mine at Heenan Blaikie LLP.

Ryan Teschner assumed many heavy burdens that included organizing the various kinds of work that was required to be done to carry out the Terms of Reference, representing the Review in all communications with various segments of the public on a whole range of matters relating to the Review, preparing in detail the Review's interviews with the Board Members, the Board staff, and Chief of Police Blair, and in taking the lead in the questioning during the interviews. In addition he drafted and aided in the re-drafting of many parts of the Report.

Kelly Henriques and Mark Hines engaged heavily in basic legal research in the early stages of the Report, drafted and re-drafted parts of the Report, and engaged constructively in team discussions of issues, large and small, that required some form of resolution.

In addition, the Review has received substantial assistance from a large number of members of the Heenan Blaikie staff: assistants, law clerks, students, and technicians, all of it directed to one facet or another of the preparation of the Report.

All of the assistance that I have received has been marked with dedication and distinction and I express my profound gratitude for it.

I am also grateful for the time and attention members of the public gave at the Review's Public Hearings.

I confirm that the conclusions and recommendations in this Report are mine.

