



**The following *draft* Minutes of the meeting of the Toronto Police Services Board held on July 29, 2004 are subject to adoption at its next regularly scheduled meeting.**

**The Minutes of the meeting held on June 21, 2004 previously circulated in draft form were approved by the Toronto Police Service Board at its meeting held on July 29, 2004 with the exception of Minute No. P184/04 – Lease Renewal for Parking Enforcement Premises – 1500 Don Mills Rd., and P208/04 – Response to Recommendations of the Community Safety Task Force which were amended. Details of the specific amendments are noted in the Minutes.**

**MINUTES OF THE PUBLIC MEETING** of the Toronto Police Services Board held on **JULY 29, 2004** at 1:30 PM in the Auditorium, 40 College Street, Toronto, Ontario.

**PRESENT:**

**Mr. A. Milliken Heisey, Q.C.**, Chair  
**Ms. Pam McConnell**, Councillor & Vice Chair  
**Mr. John Filion**, Councillor & Member  
**Dr. Benson Lau**, Member  
**The Honourable Hugh Locke, Q.C.**, Member  
**Mr. Case Ootes**, Councillor & Member

**ALSO PRESENT:**

**Mr. Julian Fantino**, Chief of Police  
**Mr. Albert Cohen**, City of Toronto - Legal Services Division  
**Ms. Deirdre Williams**, Board Administrator

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P210.           INTRODUCTIONS**

The following members of the Service were introduced to the Board and congratulated on their recent promotions:

Staff Sergeant Kim Scanlan  
Detective Sergeant Jim Mackrell  
Detective Sergeant Doug Peacock  
Sergeant Arthur Bannagan  
Sergeant Charles Johnston  
Sergeant Sean Lenfesty  
Sergeant Leo MacDonald  
Sergeant Claude Musclow

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P211.           OUTSTANDING AND PENDING REPORTS**

The Board was in receipt of the current list of pending and outstanding public reports. A copy is attached to this Minute for information.

**The Board received the foregoing.**

## Public Reports

### Requested by the Toronto Police Services Board

Updated: July 20/04

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P291/02 P34/03	<p><b>Alternatives to the Use of Lethal Force</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> recommendations from the conference forwarded to Chairman for comments and response</li> <li>• Recommend's 1, 2, 4, 19, 20, 21, 22 &amp; 23 have been referred to the Board/Service Race Relations Joint Working Group</li> </ul>	<p>Report Due: May 29/03</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:.....outstanding</b></p>	Chair, Police Services Board
P111/01 P301/01	<p><b>Framework – Governance &amp; Business Plan 2005 – 2007</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> submit a report for approval re: 2005-2007 business plan that complies with the <i>PSA</i> &amp; Adequacy &amp; Effectiveness of Police Service Regulation</li> <li>• should also include policing priorities approved by the Board</li> <li>• Board members to participate in the development of the business plan</li> </ul>	<p>Report Due: not later than Dec. 2004</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p> <p>Report for the 2008-2010 Governance and Business Plan due: December 2007</p>	Chief of Police

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P283/02 P315/02 P33/03 P34/03 P35/03	<p><b>Race Relations</b></p> <ul style="list-style-type: none"> <li>Issue: the Board/Service Race Relations Joint Working Group final report will address on race relations issues, some recommend's from the <i>Saving Lives</i> report, third-party complaints &amp; City Council Motions</li> </ul>	<p>Report Due: Sept. 23/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Joint Working Group
P216/03	<p><b>Follow-Up Review of Parking Enforcement Unit</b></p> <ul style="list-style-type: none"> <li>Issue: results of follow-up review of the Parking Enforcement Unit</li> </ul>	<p>Report Due: Oct. 16/03            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status: matter is still being reviewed by Auditor General (May 2004)</b></p>	Auditor General, City of Toronto
P225/03	<p><b>Policy Governing Non-Acceptance of Fees, Gifts or Personal Benefits</b></p> <ul style="list-style-type: none"> <li>Issue: review, in consultation with Mr. Albert Cohen, the policy noted above</li> </ul>	<p>Report Due: Feb. 26/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:.....outstanding</b></p>	Chair, Police Services Board
P276/03	<p><b>Conditions of Appointment for Chair, TPSB</b></p> <ul style="list-style-type: none"> <li>Issue: to review conditions of appointment for the Chair, TPSB</li> </ul>	<p>Report Due: Feb. 26/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:.....outstanding</b></p>	Board Staff

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P298/03	<p><b>Fee Structure for External Legal Services</b></p> <ul style="list-style-type: none"> <li>Issue: to identify a proposed fee structure for the Board to approve with regard to external legal services</li> </ul>	<p>Report Due: Jan. 22/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:.....outstanding</b></p>	City of Toronto – Legal Services
P273/03 P23/04 P129/04	<p><b>Parking Enforcement Unit – Facility Requirement</b></p> <ul style="list-style-type: none"> <li>Issue: to report on alternative options for the locations of the parking enforcement facilities</li> </ul>	<p>Report Due: Jan. 22/04            Extension Reqs'd: Jan. 22/04            Extension Granted: Yes, Jan. 22/04            Revised Due Date: Apr. 29/04            Extension Reqs'd: Apr. 29/04            Extension Granted: Yes, Apr. 29/04            Revised Due Date: July 29/04  <b>Status:.....outstanding</b></p>	Chief of Police
P339/03	<p><b>Converting Records into Digital or Electronic Format &amp; Copyright</b></p> <ul style="list-style-type: none"> <li>Issue: feasibility of converting police records, including notebooks, into digital or electronic format</li> <li>include initiatives to protect the intellectual property, including copyright, of software &amp; other materials produced as part of Occurrence Re-Engineering.</li> </ul>	<p>Report Due: Mar. 25/04            Extension Reqs'd: Mar. 25/04            Extension Granted: Yes, Mar. 25/04            Revised Due Date: Sept. 23/04  <b>Status:</b></p>	Chief of Police

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P07/04	<p><b>Political Activity of Police Officers</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: draft a policy indicating that the endorsement, or opposition, of candidates is prohibited by the <i>PSA</i> and the Regulations</li> <li>• Chair to meet with representatives of the TPA for comments prior to adopting the policy</li> </ul>	<p>Report Due: May 27/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:.....outstanding</b></p>	<p>Board Staff in consultation with Toronto City Legal</p>
P35/04	<p><b>IT Governance Framework</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: Chief to develop IT Governance Framework for the Service that reflects the Service's overall strategic plan and priorities</li> </ul>	<p>Report Due: May 27/04            Extension Reqs'd: June 21/04            Extension Granted: Yes, June 21/04            Revised Due Date: Sept. 23/04  <b>Status:</b></p>	<p>Chief of Police</p>
P77/04	<p><b>Potential for Federal Funds</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: investigate possibility of obtaining funds related to: intelligence and national security; coast guard responsibilities, consulate protection; and drug money seizures</li> </ul>	<p>Report Due: July 29/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status: matter is pending a meeting of the Board's Budget Task Force.</b></p>	<p>Chief of Police, report through the Board Budget Task Force</p>
P77/04	<p><b>Lifeguards</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: Chief to meet with Comm. of Economic Develop. to review issues regarding employment of lifeguards</li> </ul>	<p>Report Due: July 29/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status: matter is pending a meeting of the Board's Budget Task Force</b></p>	<p>Chief of Police, report through the Board Budget Task Force</p>

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P77/04	<p><b>Increasing Foot and Bike Patrols</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: identify whether the Service can increase the number of foot and bike patrol officers in divisions</li> </ul>	<p>Report Due: July 29/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status: matter is pending a meeting of the Board's Budget Task Force</b></p>	<p>Chief of Police, report through the Board Budget Task Force</p>
P77/04	<p><b>2005 Operating Budget Process</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: develop a mandate, process and timelines for review of the 2005 budget</li> </ul>	<p>Report Due: July 29/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status: partially addressed in Min. No. P207/04, remaining matter is pending a meeting of the Board's Budget Task Force</b></p>	<p>Chair, Police Services Board</p>
P71/04 P128/04	<p><b>eCOPS</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: the Service's strategy for the complete implementation of eCOPS and the Service's plans to address budget issues associated with eCOPS</li> </ul>	<p>Report Due: Apr. 29/04            Extension Reqs'd: Apr. 29/04            Extension Granted: Yes, Apr. 29/04            Revised Due Date: May 27/04  <b>Status:.....outstanding</b></p>	<p>Chief of Police</p>
P85/04	<p><b>Format Guidelines – Board Reports</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: report on the changes made to the format for Board reports, including technical improvements</li> </ul>	<p>Report Due: June 21/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status: meetings on-going, waiting for response from Information Technology.</b></p>	<p>Chair, Police Services Board</p>
P135/04	<p><b>Towing and Pound Services Contracts</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: to report in a timely manner outlining a process on how to deal with various towing issues prior to the next contract</li> </ul>	<p>Report Due: June 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	<p>City of Toronto – Legal Services</p>



Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P134/04	<p><b>High Risk Areas – Screening Process</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: Chief Fantino and Justice Ferguson to indicate which types of management or supervisory positions should also require the same screening process as high risk areas</li> </ul>	<p>Report Due: June 21/04  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status: one comprehensive report will be submitted addressing all issues regarding the “Ferguson Recommendations”</b></p>	Chief of Police
P134/04	<p><b>Protection of “Whistle-Blowers”</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: Chief Fantino and Justice Ferguson to report on the design of a process to protect “whistle-blowers”</li> </ul>	<p>Report Due: Sept. 23/04  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status: one comprehensive report will be submitted addressing all issues regarding the “Ferguson Recommendations”</b></p>	Chief of Police
C92/04	<p><b>Health and Safety Training</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: role and responsibilities of the Board re: health and safety training and obligations, if any, for representatives of the CJHS committee to undertake specific education or specialized training</li> </ul>	<p>Report Due: Aug. 26/04  Extension Reqs'd:  Extension Granted:  Revised Due Date: Sept. 23/04  <b>Status:</b></p>	City of Toronto – Legal Services
C99/04	<p><b>Attendance at Public Events - Political</b></p> <ul style="list-style-type: none"> <li><u>Issue</u>: develop a policy identifying the specific activities or events, or circumstances, in which the Chief and Deputy Chiefs may participate when the attendance at those activities or events may also involve elected public officials or be sponsored by a specific political group</li> </ul>	<p>Report Due: Aug. 26/04  Extension Reqs'd:  Extension Granted:  Revised Due Date: Sept. 23/04  <b>Status:</b></p>	Chair, Police Services Board

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P134/04	<p><b>Recommendation by Justice George Ferguson, Q.C. – Drug Testing</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> develop an implementation plan, including timelines and target dates to implement the “drug testing” recommendation</li> <li>• include a feasibility study and plan to establish a random drug testing policy governing all Service members</li> </ul>	<p>Report Due: June 21/04  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status: one comprehensive report will be submitted addressing all issues regarding the “Ferguson Recommendations”</b></p>	Chief of Police
P134/04	<p><b>Recommendations by Justice George Ferguson, Q.C. – Internal Affairs</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> report on the implementation of the recommend. to move the location of Internal Affairs</li> </ul>	<p>Report Due: June 21/04  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status: one comprehensive report will be submitted addressing all issues regarding the “Ferguson Recommendations”</b></p>	Chief of Police
P144/04	<p><b>Police Identification of Uniforms</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> report on how the Service could implement recommend. No. 16 contained in <i>Paying The Price</i> re: officers wearing name badges</li> <li>• include: issues from the perspective of the TPA; and history of police ident. on uniforms</li> </ul>	<p>Report Due: Sept. 23/04  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status:</b></p>	Chief of Police

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P182/04	<p><b>A Police Officers' Duty To Report</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> provide response to issues raised by Mr. John Sewell and take into consideration recommendations by The Honourable Sydney Robins, Q.C. report on how the Service could implement</li> </ul>	<p>Report Due: Sept. 23/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P185/04	<p><b>Employment Equity Representation</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> coordinate the preparation of an action plan to improve recruitment, retention and promotion of employees, particularly women, who are members of a racialized group</li> </ul>	<p>Report Due: July 29/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chair, Police Services Board
P185/04	<p><b>Employment Equity Representation</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> report on a police services board's obligations, if any, under the PSA to ensure that the employment composition of a police service reflects the demographic composition of the community</li> </ul>	<p>Report Due: Sept. 23/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	City of Toronto – Legal Services Division
P185/04	<p><b>Responsibility/Authority - Promotions</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> clarify the Board's role and responsibility with regard to the approval of promotions of Services members</li> </ul>	<p>Report Due: Sept. 23/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	City of Toronto – Legal Services Division

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P208/04	<p><b>Domestic Violence Training</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> details of domestic violence training provided to Service members and whether there are opportunities for community members to participate in that training</li> </ul>	<p>Report Due: Sept. 23/04            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police

## Quarterly Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P366/99 P99/01	<p><b>Special Fund</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> quarterly statements, budget forecasts of potential revenues and expenses</li> <li>• also include outstanding encumbrances that would impact the balance of the Special Fund</li> <li>• quarterly reports will be submitted: May, August, November &amp; April</li> </ul>	<p>Report Due: Aug. 26/04</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date: Sept. 23/04</p> <p><b>Status:</b></p>	Chief of Police
P529/00 P91/01 P167/01 P119/02 P338/02	<p><b>CIPS enhancements – Searches of Persons</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> to provide quarterly reports on the implementation of CIPS enhancements into the new Records Management System and advise the Board if the Service is unable to provide electronic gathering of statistics by the third quarter of 2001</li> </ul>	<p>Report Due: Oct. 21/04</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p>	Chief of Police
P304/01 P356/01 P121/02	<p><b>Enhanced Emergency Management</b></p> <ul style="list-style-type: none"> <li>• <u>Issues:</u> to periodically report to the Board with respect to the Service's role in the City's enhanced emergency management initiative</li> <li>• quarterly commencing Apr. 2002</li> </ul>	<p>Report Due: Oct. 21/04</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p>	Chief of Police
P208/04	<p><b>Domestic Violence Training</b></p> <ul style="list-style-type: none"> <li>• <u>Issues:</u> quarterly submissions on the domestic violence quality control reports</li> </ul>	<p>Report Due: <b>date of 1<sup>st</sup> report to be determined</b></p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p>	Chief of Police

## Semi-Annual Reports

<i>Board Reference No's.</i>	Issue - Pending Reports	Report Status	Recommendation Action Required
P199/96 P233/00 #255/00 P463/00 P440/00 P255/00 P26/01 P27/01 P54/01	<b>Professional Standards</b> <ul style="list-style-type: none"> <li>• <u>Issue:</u> interim report (for the period January – July) to be submitted in November each year</li> <li>• annual report (for the period January – December) to be submitted in May each year</li> <li>• see also Min. No. 464/97 re: complaints</li> <li>• see also Min. No. 483/99 re: analysis of complaints over-ruled by OCCPS</li> <li>• revise report to include issues raised by OCCPS and comparative statistics on internal discipline in other police organizations</li> <li>• note: police pursuit statistics should be included - beginning ... Nov. 2001 rpt.</li> <li>• note: annual report now to include the # of civil claims that occurred as a result of complaints (Min. No. 463/00 refers)</li> <li>• note: searches of persons statistics should also be included in annual report</li> <li>• revise format of report, based upon recommendation by Hicks Morley, so that tracking acquittals on or withdrawal of related criminal charges is possible</li> <li>• include OPAC information on lethal and non-lethal weapons</li> </ul>	Next report Due: Nov. 18/04 Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b>	Chief of Police

	<ul style="list-style-type: none"> <li>• include evaluations of M26 Advanced TASER &amp; Bean Bag &amp; Sock Round Kinetic Energy Impact Projectiles</li> <li>• this report should now include information on when the Service will be in full compliance with the Board's reporting requirements which is dependent upon implementation of PSIS (P551/00, P135/01, P158/01, P202/01, P178/02 &amp; P341/02 refer)</li> <li>• identify and include an appropriate comparator or baseline, if possible, in future reports to better assess the complaints data (P209/03 refers)</li> </ul>		
P394/00 P229/01 P334/01 P209/02	<p><b>Parking Enforcement Unit – Absenteeism</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> semi-annual statistics on absenteeism requested by the City of Toronto Policy &amp; Finance Committee</li> <li>• reports should include actual numbers in addition to percentages</li> <li>• also include, if possible, absenteeism data providing comparison with other Service units &amp; City outside workers</li> <li>• also include the average # of sick days per officer</li> <li>• reports to be submitted in Feb. &amp; Aug.</li> </ul>	Next report Due: Aug. 26/04 Extension Reqs'd: Extension Granted: Revised Due Date: Sept. 23/04 <b>Status:</b>	Chief of Police

<i>Board Reference No's.</i>	<b>Issue - Pending Reports</b>	<b>Report Status</b>	<b>Recommendation Action Required</b>
P5/01	<p><b>Legal Indemnification</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> a report relating to the payment of all accounts for labour relations counsel, legal indemnification claims and accts relating to inquests that are approved by Human Resources and Labour Relations</li> <li>• reports will be submitted in August and February each year</li> </ul>	<p>Next report Due: Aug. 26/04  Extension Reqs'd:  Extension Granted:  Revised Due Date: Sept. 23/04  <b>Status:</b></p>	Manager, Labour Relations
P5/01	<p><b>Tracking Implementation of Board Directions</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> pertains to recommends 17 and 18 in Chief's response to OCCPS</li> <li>• <u>Reference:</u> OCCPS Review</li> </ul>	<p>Report Due: February 2005  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status:</b></p>	Chief of Police
P337/98 P491/99 P8/00 P476/00 P121/01 P289/01	<p><b>Audit – Sexual Assault Investigations</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> to provide semi-annual updates on the implementation of the City Auditor's recommendations</li> <li>• Report in November (for May to Oct) and May (November to April)</li> </ul>	<p>Report Due: Nov. 18/04  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status:</b></p>	Chief of Police
P111/03	<p><b>Follow-Up Audit</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> a follow-up review of the investigation of sexual assaults will be conducted and reported to the Board</li> </ul>	<p>Report Due: Aug. 14/03  Extension Reqs'd:  Extension Granted:  Revised Due Date:  <b>Status: matter is still being reviewed by the Auditor General (May 2004)</b></p>	Auditor General, City of Toronto



## Semi-Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P66/02	<p><b>Grant Applications &amp; Contracts</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> semi-annual summaries of all grant applications and contracts initiated by the Service and approved by the Chairman</li> <li>• reports will be submitted in April and Oct.</li> </ul>	<p>Report Due: Oct. 21/04            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P342/02 P81/04	<p><b>“60/40” Staffing Model</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> semi-annual public reports on the implementation of the “60/40” staffing model in police divisions</li> <li>• reports submitted in conjunction with the confidential reports in Feb. &amp; Aug.</li> <li>• include how the divisional boundary changes will impact staffing divisions</li> </ul>	<p>Report Due: Aug. 26/04            Extension Req's'd:            Extension Granted:            Revised Due Date: Sept. 23/04  <b>Status:</b></p>	Chief of Police
P132/03 P65/04	<p><b>TPS – Write Offs</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> semi-annual report identifying all write-offs and the reasons for those write-offs</li> <li>• to be submitted in March &amp; September</li> </ul>	<p>Report Due: Sept. 23/04            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status</b></p>	Chief of Police

## ANNUAL REPORTS

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P343/93 P344/97 P156/00 P5/01	<p><b>Victim Services Program</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> be submitted in June each year</li> </ul>	<p>Next Report Due: June 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P200/96 P89/99 P156/00 P5/01	<p><b>Hate Crime Statistics</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> to be submitted in Feb. each year</li> <li>• include mechanism to evaluate effectiveness of Service initiatives</li> <li>• report annually now rather than semi-annually – Min. No. 156/00 refers</li> </ul>	<p>Next Report Due: Feb. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P156/00 P264/03	<p><b>Audit Recommendations</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> tracking implementation status of external and internal audit recommendations</li> <li>• to be submitted in a format suitable for the public agenda, any matters which conform with s.35 of the <i>PSA</i> can be provided in a separate conf report.</li> </ul>	<p>Next Report Due: July 29/04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:.....outstanding</b></p>	Chief of Police

## Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P333/95 P97/01 P89/03	<p><b>Training Programs</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: annual reports which evaluate the effectiveness of internal Service training programs</li> <li>• include results of the review of the Advanced Patrol Training course</li> <li>• to be submitted in June each year</li> </ul>	<p>Next Report Due: June 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P292/96	<p><b>Special Constables - Univ. of Toronto</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: to be submitted in April each year</li> </ul>	<p>Next Report Due: Apr. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P39/96	<p><b>Special Constables – TTC</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: to be submitted in April each year</li> </ul>	<p>Next Report Due: Apr. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P414/99	<p><b>Special Constables – MTHA (now TCHC)</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: to be submitted in April each year</li> </ul>	<p>Next Report Due: Apr. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police

## Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P80/02 P249/02 P45/03	<p><b>Professional and Consulting Services</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> semi-annual reports on all consulting expenditures, sorted into project categories</li> <li>• include recommendation that the reports be forwarded by the Board to the City CFO &amp; Treasurer</li> <li>• include each consultant contract individually, specific project, total dollar amount, particular company or individual hired and any over expenditures for individual contracts</li> <li>• will now be submitted annually rather than semi-annually – in February</li> </ul>	Report Due: Feb. 2005 Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b>	Chief of Police
P107/97 P27/01	<p><b>Program Review of R.I.S. (now C.I.S.)</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> status of staffing changes</li> <li>• financial statement with savings to-date including staffing</li> <li>• report to be submitted in October</li> </ul>	Next Report Due: Oct. 21/04 Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b>	Chief of Police

## ANNUAL REPORTS

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P65/98 P51/01 P195/03	<p><b>CPLC Committees/Divisional Activities</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> summary of all activities funded by the Board</li> <li>• Chief will be responsible for all requests for funds related to the CPLC annual conference</li> <li>• to be submitted in January each year</li> </ul>	<p>Next Report Due: Jan. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P195/03	<p><b>CPLC Annual Conference</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> request for funds for the annual conference to be submitted in March</li> </ul>	<p>Next Report Due: March 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P66/99	<p><b>“Rules” Changes</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> changes to existing rules to be submitted annually</li> <li>• policy amended (Min. No. 264/99) so that changes can be submitted on an as-needed basis if necessary</li> </ul>	<p>Next Report Due: May 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P156/00 P5/01 P157/03 P166/03	<p><b>Environmental Scan &amp; Statistics</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> report crime &amp; traffic statistics annually as part of the annual Environmental Scan</li> <li>• full scan every 3 years: 2002, 2004, 2007, 2010</li> <li>• update annually – every May</li> <li>• now submitted - in Sept. each year</li> <li>• compare property crime stats to socio-economic factors, if possible</li> </ul>	<p>Next Full Scan Due: Sept. 23/04            Next Update Report Due: Sept. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police

## Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P27/01	<p><b>Community &amp; Corporate Donations</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> to identify all the donations that were provided to the Service based upon approvals by the Board and Chief of Police.</li> <li>• to be submitted in April each year</li> </ul>	<p>Next Report Due: April 2005            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P4/01 P5/01 C31/01	<p><b>Secondments</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> annual reporting of all secondments approved by the Chief of Police</li> <li>• to be submitted in February each year</li> <li>• include RCMP-UN Peacekeeping secondments</li> </ul>	<p>Next Report Due: Feb. 2005            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P156/00	<p><b>Annual Review of Reports to be Submitted</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> to review the quarterly, semi-annual and annual reports submitted to the Board at the first meeting in each new year.</li> </ul>	<p>Next Report Due: Jan. 2005            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chair, Police Services Board
P106/96 P450/00 P55/01	<p><b>Secondary Activities</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> <i>Police Services Act</i> indicates that annual reports must be submitted re: secondary activities by members</li> <li>• include a preamble describing policy, reporting requirements &amp; criteria</li> </ul>	<p>Next Report Due: Feb. 2005            Extension Req's'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police

## Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P173/96 P139/00	<p><b>Use of Police Image &amp; Crest</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> a summary of the requests for use of the Toronto Police image that were approved and denied during the year</li> <li>• to be submitted in April each year</li> </ul>	<p>Next Report Due: April 2005</p> <p>Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b></p>	Chief of Police
	<p><b>Audited Reports</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> audited financial statements of the Board's Special Fund and Trust Funds</li> <li>• to be submitted in August each year</li> </ul>	<p>Next Report Due: Aug. 26/04</p> <p>Extension Reqs'd: Extension Granted: Revised Due Date: Sept. 23/04 <b>Status:</b></p>	Chief of Police
P4/01 P27/01 P74/01 C59/04	<p><b>Operating &amp; Capital Budgets</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> annual operating and capital budgets to be submitted for approval</li> <li>• Operating budget to include special activities</li> <li>• Policy &amp; Finance Cttee requested that operating budget be submitted in alignment with business plan and include performance indicators</li> <li>• operating budget to include opportunities for the Board to request funding support from the provincial and federal governments and also at any time during the year as issues arise</li> <li>• beginning 2005 detailed cost element breakdowns to be provided to the Board on a confidential basis when the Board first considers the operating budget request for the next year</li> </ul>	<p>Next Report Due: capital Sept. 02/04 operating Nov. 01/04</p> <p>Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b></p>	Chief of Police

	<ul style="list-style-type: none"><li>• feature category summaries be made available publicly when the Board first considers the operating budget request for the next year</li></ul>		
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## Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
	<p><b>Human Resources Strategy</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> annual strategy, coinciding with annual operating budget, to be submitted to the Board for approval</li> </ul>	<p>Next Report Due: Nov. 01 /04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
	<p><b>Police Services Board – Office Budget</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> to review and approve the operating and capital estimates for the Board's operations</li> </ul>	<p>Next Report Due: Nov. 01 /04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
	<p><b>Parking Enforcement Unit Budget</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> to review and approve the Parking Enforcement Unit annual operating budget</li> </ul>	<p>Next Report Due: Nov. 01 /04            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
P160/99 P192/00 P83/02 P122/03	<p><b>Race Relations Plan</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> to report annually on the status of the Service's multi-year race relations plan and adjustments where necessary</li> <li>to be submitted in March each year</li> </ul>	<p>Next Report Due: March 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police
City Council request	<p><b>Parking Tag Issuance</b></p> <ul style="list-style-type: none"> <li><u>Issue:</u> annual parking tag issuance statistics</li> </ul>	<p>Next Report Due: Feb. 2005            Extension Reqs'd:            Extension Granted:            Revised Due Date:  <b>Status:</b></p>	Chief of Police



## Annual Reports

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P106/00 P156/00 P211/00  P486/00 P61/01 P111/03 P151/03	<p style="text-align: center;"><b>Annual Audit Work Plans</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: annual audit work plan to be approved by the Board</li> <li>• note: 2002 Audit Workplan to include audits of the enhanced HRMS system and/or PSIS system</li> <li>• also include follow-up audit - review of the investigation of sexual assaults</li> </ul>	Next Report Due: under review Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b>	Auditor General, City of Toronto
C30/03	<p style="text-align: center;"><b>Grievances</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: to provide an annual statistical summary report outlining the status of grievances, costs &amp; successful party</li> <li>• for review at the February Board meeting each year</li> </ul>	Next Report Due: Feb. 2005 Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b>	Manager, Labour Relations
P136/03	<p style="text-align: center;"><b>Promotions</b></p> <ul style="list-style-type: none"> <li>• <u>Issue</u>: to provide an annual summary report on all uniform promotions to the ranks of Sgt. or Det. and S/Sgt. or D/Sgt.</li> <li>• to be submitted in February each year</li> </ul>	Next Report Due: Feb. 2005 Extension Reqs'd: Extension Granted: Revised Due Date: <b>Status:</b>	Chief of Police

### Required every 2 years

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P464/97 P534/99	<p><b>Complaints – Board’s Policy Directive</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> review policy Directive every two years</li> <li>• policy approved – Dec. 1999</li> </ul>	<p>Report Due: Dec. 2005</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p>	Chair, Police Services Board

### Required every 3 Years

Board Reference No's.	Issue - Pending Reports	Report Status	Recommendation Action Required
P254/00	<p><b>Adequacy Standards Compliance</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> to review and update Board policies and Service procedures and processes at least once every three years in accordance with the Adequacy Standards Regulation</li> </ul>	<p>Report Due: 2006</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p>	Chair, in consultation with Chief of Police
P416/00	<p><b>Skills Development &amp; Learning Plan</b></p> <ul style="list-style-type: none"> <li>• <u>Issue:</u> in accordance with the Adequacy Standards Regulation, prepare, at least once every three years, a skills development and learning plan</li> <li>• to be submitted in Sept. 2004 &amp;, 2007</li> </ul>	<p>Report Due: Sept. 23/04</p> <p>Extension Reqs'd:</p> <p>Extension Granted:</p> <p>Revised Due Date:</p> <p><b>Status:</b></p>	Chief of Police

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P212. COMMUNITY SECURITY ISSUES – CANADIAN JEWISH CONGRESS**

The Board was in receipt of the attached correspondence, JULY 13, 2004, from Len Rudner, Director, Community Relations, Canadian Jewish Congress – Ontario Region, requesting an opportunity to make a deputation to the Board with regard to community security issues.

Mr. Rudner was in attendance and made a deputation to the Board. A copy of a written submission also provided by the Rudner is on file in the Board office.

**The Board approved the following Motions:**

- 1. THAT the deputation and written submission by Mr. Rudner be received;**
- 2. THAT, during the development of the 2005 operating budget, the Chief provide a report to the Board on the number of policing responsibilities that have been downloaded to the Toronto Police Service by the federal and provincial governments and describe the extent of the impact those responsibilities have had upon the Toronto Police Service and, if possible, identify the approximate financial equivalent that the Service has incurred for each of the responsibilities, which were clearly rightfully the responsibility of the federal or provincial governments,**
- 3. THAT, upon the receipt of the report noted in Motion No. 2, the Board advocate, through Toronto City Council, for reimbursement of the funds from the federal and provincial governments;**
- 4. THAT the Chair and any interested Board Members meet with the Chief to review draft priorities for the 2005-2007 Business Plan and the Chair report back to the Board at its September 23, 2004 meeting; and**
- 5. THAT the Chair be directed to discuss with the Chief the allocation of scarce resources to meet specific community needs.**



קאנאדער יידישער קאנגרעס הקונגרס היהודי הקנדי

**Community Relations Committee**  
Of the

**CANADIAN JEWISH CONGRESS - Ontario Region**  
**CONGRÈS JUIF CANADIEN - Région de l'Ontario**

Chair  
Dr. FRANK BIALYSTOK

Vice-Chair  
NANETTE ROSEN

Director  
LEN RUDNER

CANADIAN JEWISH CONGRESS  
ONTARIO REGION

Chair  
JOEL RICHLER

Executive Director  
BERNIE M. FARBER

National President  
PROFESSOR ED MORGAN

Executive Vice President  
M. JACK SILVERSTONE

Sent via **facsimile**: 416-808-8082

July 13, 2004 / 24 Tammuz 5764

Deirdre Williams  
Board Administrator - Police Services Board  
Toronto Police Service  
40 College Street  
Toronto, ON M5G 2J3

**DATE RECEIVED**

JUL 13 2004

TORONTO  
POLICE SERVICES BOARD

**Dear Ms Williams:**

Police Service Board Chairman Alan Heisey was kind enough to attend a **meeting** of **the** Community Relations Committee of Canadian Jewish Congress Ontario Region (CJCONT) on June 23, 2004. Following Mr. Heisey's comments we enjoyed a wide-ranging discussion **that** touched on many topics. One such **topic** was community security. We had the opportunity to share our community's concerns on **this** matter and Mr. Heisey suggested That CJCONT might wish to make a presentation to **the** Police Services Board at its July 29<sup>th</sup> meeting. We welcome the opportunity to do so.

- Our presentation will focus on the issue of security as it **pertains** to the Jewish community.
- We will present information to the Board to demonstrate the significant **financial** burden that security has imposed upon the Jewish community.
- We will request the assistance/involvement of the Police Services Board to address this issue,
- Dr. Frank Bialystok, chair of **CJCONT's** Community Relations Committee, will represent CJCONT at this meeting. I will accompany Dr. Bialystok **in** a staff capacity.

Please advise me if **you** require any other information in **support** of **this** request.

Yours truly,

Len Rudner

Director Community Relations  
Canadian Jewish Congress **Ontario** Region

4600 Bathurst Street  
North York, Ontario  
M2R 3V2  
Phone: (416) 635-2883  
Rudner - Ext. 147  
Secretary - Ext. 126  
Fax: (416) 635-1408  
E-Mail: lrudner@on.cjc.ca

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P213. UPDATE ON THE PROGRESS OF THE RECOMMENDATIONS  
CONCERNING VARIOUS ASPECTS OF POLICE MISCONDUCT –  
MEETINGS WITH JUSTICE GEORGE FERGUSON, Q.C.**

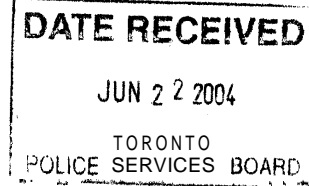
The Board was in receipt of the following updates from the Honourable George Ferguson, Q.C., on the progress of the recommendations contained in the report *Review and Recommendations Concerning Various Aspects of Police Misconduct*:

- correspondence dated June 18, 2004;
- correspondence dated July 09, 2004; and
- correspondence dated July 23, 2004.

Copies of the foregoing correspondence are appended to this Minute for information.

**The Board received the foregoing and also appointed the Honourable Hugh Locke, Q.C., as the Board's official representative on the Implementation Committee.**

HON. GEORGE FERGUSON, Q.C.  
ONE BENVENUTO PLACE, SUITE 405  
TORONTO, ONTARIO  
M4V 2L1



June 18, 2004

Alan Milliken Heisey, Q.C., Chair  
Toronto Police Services Board  
40 College Street  
Toronto, ON  
M5G 2J3

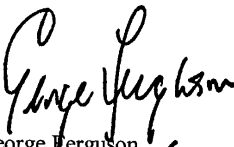
Dear Chair Heisey:

Following my original commitment to keep the Board up-to-date with regard to the progress of the implementation of my recommendations, please be advised of the following:

- The Implementation Committee continues to meet weekly on Thursday mornings.
- The Honourable Mr. Hugh Locke attended the Implementation Committee meeting on June 10, 2004.
- The job descriptions for the full time psychologist(s) and the career development officer have been prepared.
- Substantial progress has been made on identifying and costing a suitable venue for the relocation of Professional Standards, Investigative Unit.
- A comprehensive plan for the commencement of the drug testing program will be tabled for consideration by the Committee at the next meeting.
- Significant progress has been made on the development of the new Source Management System.

Should you or any member of your Board have any questions or comments, please feel free to contact me by telephone at (416) 922-2170 or by email at [gfergjudge@sprint.ca](mailto:gfergjudge@sprint.ca) i v e l y , you may contact my research assistant, Ms. Erin Sweeney, by telephone at (416) 808-7807 or by email at [erin.sweeney@torontopolice.on.ca](mailto:erin.sweeney@torontopolice.on.ca).

Yours truly,

  
George Ferguson

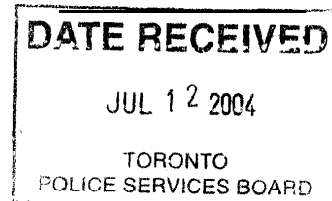


Cc: Councillor Pam McConnell, Vice Chair  
Dr. Benson Lau, Member  
Councillor Case Ootes, Member  
Councillor John Filion, Member  
The Honourable Hugh Locke, Member

**HON. GEORGE FERGUSON, Q.C.**  
ONE BENVENUTO PLACE, SUITE 405  
TORONTO, ONTARIO  
M4V 2L1

July 9, 2004

Alan Milliken Heisey, Q.C., Chair  
Toronto Police Services Board  
40 College Street  
Toronto, ON  
M5G 2J3



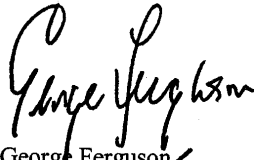
Dear Chair Heisey:

I wish to inform you and members of the Board of the following points of interest, with regard to the progress made by the Implementation Committee:

- The Honourable Mr. Hugh Locke attended the Implementation Committee meeting on July 8, 2004.
- The job descriptions for the full time psychologist(s) and the career development officer have been finalized and will be submitted to the Board for consideration and approval in the near future.
- Concerns raised by the Senior Officer's Organization and the Toronto Police Association with regard to the possible impact of conducting credit checks on an individual's credit rating have been fully alleviated.
- On June 24, 2004, a comprehensive plan for the drug-testing program was tabled for consideration.
- The scope of the financial, psychological and drug testing programs was also tabled on Thursday June 24, 2004, and is in the process of being finalized.
- Architects are finalizing their reports with regard to the assessment of the possible location for Professional Standards, Investigative Unit.
- The underlying principles of the whistleblower programme have now been established and details of the programme are in development.
- A draft procedure is being currently being developed for the new Source Management System.

Please feel free to contact me should you or any member of your Board have any questions or comments. I can be reached by telephone at (416) 922-2170 or by **email** at [gfergiudge@sprint.ca](mailto:gfergiudge@sprint.ca). Alternatively, you may contact my research assistant, Ms. Erin Sweeney, by telephone at (416) 808-7807 or by **email** at [erin.sweeney@torontopolice.on.ca](mailto:erin.sweeney@torontopolice.on.ca).

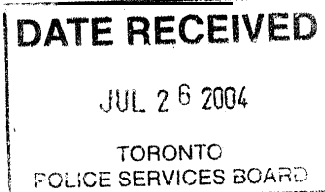
Yours truly,



George Ferguson

Cc: Councillor Pam McConnell, Vice Chair  
Dr. Benson Lau, Member  
Councillor Case Ootes, Member  
Councillor John Filion, Member  
The Honourable Hugh Locke, Member

**HON. GEORGE FERGUSON, Q.C.**  
ONE BENVENUTO PLACE, SUITE-403  
TORONTO, ONTARIO  
M4V 2L1



July 23, 2004

Alan Milliken Heisey, Q.C., Chair  
Toronto Police Services Board  
40 College Street  
Toronto, ON  
M5G 2J3

Dear Chair Heisey:

I am pleased to report that the Implementation Committee has continued to make progress in respect of the implementation of my recommendations. The following items highlight said progress:

- Councillor Case Ootes attended the meeting on July 22, 2004.
- Based on feedback from Committee members, a few minor amendments were made to the scope of the financial, psychological and drug testing programs. This is expected to be finalized at the first meeting in August.
- Professional Standards, Corporate Planning and Counsel to the Chief are collaborating on a draft whistleblower procedure.
- On July 15, 2004, the Toronto Police Association advised that a legal opinion had been sought in relation to the proposed drug-testing **program** and will be presented to the Committee in the second or third week of August.

Please feel free to contact me should you or any member of your Board have any questions or comments. I can be reached by telephone at (416) 922-2170 or by email at [gfergjudge@sprint.ca](mailto:gfergjudge@sprint.ca). Alternatively, you may contact my research assistant, Ms. Erin Sweeney, by telephone at (416) 808-7807 or by email at [erin.sweeney@torontopolice.on.ca](mailto:erin.sweeney@torontopolice.on.ca).

Yours truly,

George Ferguson

**Cc:** Councillor Pam McConnell, Vice Chair  
Dr. Benson Lau, Member  
Councillor Case Ootes, Member  
Councillor John Filion, Member  
The Honourable Hugh Locke, Member

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P214. GUNS, GANGS, DRUGS AND STREET VIOLENCE IN TORONTO**

The Board was in receipt of the following report JUNE 04, 2004 from Julian Fantino, Chief of Police:

Subject: GUNS, GANGS, DRUGS AND STREET VIOLENCE IN TORONTO

Recommendation:

It is recommended that:

- 1) the Board receive the following report detailing responses to the recommendations and action plan of Councillor Michael Thompson, City of Toronto.
- 2) the Board request the City of Toronto, the Province of Ontario and the Federal Government to work collaboratively to implement a sustainable funding program for joint forces investigations.
- 3) the Board request the Minister of Public Safety and Emergency Preparedness Canada, to conduct a review of the federal parole system as it relates to early release eligibility for persons convicted of serious drug offences.
- 4) the Board request the Attorney General of Ontario to conduct a review of the extent to which inadequate custodial facilities and resources are contributing to offenders being released on bail where circumstances would otherwise warrant detention.
- 5) the Board request the Minister of Justice and Attorney General of Canada to establish funding for witness protection programs in relation to drug offence prosecutions.
- 6) the Board forward a copy of this report to the City of Toronto's Advisory Council on Community Safety being chaired by The Honourable Justice Roy McMurtry.

Background:

At its meeting of February 26, 2004, the Board was in receipt of a report from Mr. Michael Thompson, Councillor, City of Toronto (Board Minute #P69/04 refers). The Board requested that the Chief of Police provide a report on the following:

- The applicable Federal and Provincial legislation, regulations, procedures, or administrative changes, funding programs, justice and sentencing issues, and any other issues as identified by the Chief which need reform, amendment, or change in Ottawa, or at Queen's Park, to allow the Toronto Police greater flexibility in providing such things as: less red tape, the improved deployment of existing resources, savings in costs and/or efficiencies and improvements in service;

- That once the report has been reviewed, considered, and approved by the Board, the specific recommendations for change to legislation or regulations be forwarded to City Council for discussion and support, as well as to the applicable Federal and Provincial Ministers, and to all Toronto Members of Parliament and Members of Provincial Parliament for further action, and that the Police Services Board, with the Police Service, ask Council to form a joint working group to develop, and then carry out, a strategy to follow up and actively advocate with key decision-makers, government officials, and Ministries for these changes;
- That the report also review, and provide comment on the set of proposals and recommendations in the document “Action Plan of Councillor Michael Thompson”, dealing with the serious issue of guns, gangs, drugs and criminal gangs.

This report will provide an overview of the amendments to the Firearms Act and the Criminal Code that are necessary to support our efforts to combat gang and gun crimes in the City of Toronto. Further, this report will speak to Councillor Thompson’s Action Plan and the role the Toronto Police Service can play in respect thereof.

Gun and Gang violence in our communities is intolerable and every effort is being undertaken to curtail these activities. As has been discussed over the past year, there are a number of challenges that must be met in order to accomplish our goal of maintaining the City of Toronto as the best and safest place to live. At its meeting of August 14, 2003, the Board was in receipt of a detailed report on proposed amendments to the Criminal Code of Canada with regard to firearm related crimes, and the administration of the legislation relating to firearms (Board Minute #P230/03 refers). Appendices A and B from that Board report are attached hereto, and so named, for referral in response to Councillor Thompson’s request with respect to amendments to Federal and Provincial legislation. The Appendices contain specific recommendations to amend the Criminal Code of Canada to provide for stronger penalties for gun-related crimes and enhancements to the administration of the legislation relating to firearms.

Recommendation # 2 of Appendix A, sets out a proposal for an amendment to Section 85 of the Criminal Code of Canada with regard to the using of a firearm in the commission of an offence. Whereas the current minimum sentence varies from one to three years, dependent upon previous convictions, the proposed amendment would establish a minimum ten-year sentence upon conviction for any violation of Section 85.

Presently, the possession of a firearm with ammunition is prosecutable only where the firearm is prohibited or restricted. Recommendation # 3 of Appendix A, proposes that Section 95 of the Criminal Code of Canada be amended to expand this coverage to all firearms regardless of their designation.

The existing regulations related to firearms are obscure. Persons lacking specific training and knowledge of the intricacies of the legislation encounter significant difficulty in understanding and therein complying with the regulations. Recommendations #4 and #5 set out in Appendix A propose amendments to the Firearms Act to enhance clarity in the requirements for safe storage, handling and display of firearms.

There are a number of issues surrounding the administration of the regulations regarding firearms that are addressed in the recommendations set out in Appendix B. One of the primary concerns in the administration of the regulations is the lack of an enforcement component within the Office of the Chief Firearm Officer for the Province of Ontario. Recommendation # 4 of Appendix B, proposes that the Chief Firearm Officer conduct inspections and actively enforce the regulations of the Firearms Act as it applies to persons, licensed firearm businesses and collectors.

### Response to the Action Plan of Councillor Thompson

#### Economic Root Issues

Councillor Thompson's proposals to attack the economic root issues of drugs, gangs, gun and street violence very much mirror those put forward at the two-day summit, called Rallying Toronto Against Violence: In Pursuit of Community-Based Solutions, held March 30 and 31, 2004. This summit, brought together a number of the people and agencies identified in the proposal. The summit focused on gang culture, gun violence, community-based solutions, addressing underlying causes and justice system issues. Members of discussion groups made individual and group commitments to take action within the year on a number of initiatives including:

- Involvement of youth in decision-making;
- Seeking business partners to participate in and fund programs;
- Providing job opportunities to at-risk youth;
- Increasing the number and variety of programs available during the after school hours;
- Working with schools, Parks and Recreation and other groups to ensure programs are available to young people at risk.

Each of the aforementioned initiatives is to be encouraged and strongly supported by all members of the community, police and government. The Toronto Police Service will continue to work with all involved groups to move these initiatives forward. Ultimately the success of these initiatives is dependent upon sustained funding from all levels of government and the committed leadership of community groups, social agencies and government.

It is up to the leaders of these groups to work together to make critical decisions with respect to the availability of facilities, funding issues, economic disparity and other socio-economic concerns. The Toronto Police Service has and will continue to work with all of our partners to advance the well being, safety and security of all members of our community.

#### Substance Abuse

The Toronto Police Service supports the idea of a Toronto addiction action plan and is currently working with the Toronto Health Department and other interests to create the City of Toronto Drug Strategy. This strategy will encompass the four Pillar approach- Prevention, Treatment, Harm Reduction and Enforcement. Councillor Kyle RAE is the chair of the Council reference group on this initiative. Councillor Thompson has pointed out that current waiting times for



access to drug treatment in Toronto are now a matter of weeks not days. It is anticipated that the development of the City of Toronto Drug Strategy will address concerns regarding access to drug treatment services.

The renewed National Strategy on Substance Abuse (announced May/2003) speaks to an approach on a variety of fronts. Enforcement must always be one of the methodologies employed in an effort to address substance abuse. Local or municipal police should receive funding from the Federal government to achieve the goals of the National Strategy. If supply reduction is part of a successful national strategy, cities must be able to access funding for targeted investigations that work in congress with all other efforts so that the greater goal is realized. The absence of sustainable and appropriate levels of funding from the Federal government will negatively impact the buy-in of the cities and the ability of municipal police agencies to sustain a high level of enforcement.

Drug enforcement provides an opportunity for the police and the criminal justice system to satisfy a community need for effective prosecution of the root causes of much of the gun and gang violence, and at the same time apply a compassionate understanding of drug addiction through the Drug Treatment Court. The Toronto Police Service supports the Drug Treatment Court and encourages officers to recommend those addicts that fit enrolment criteria to request application. Investigators may make a recommendation to Crown counsel with regard to those accused who may benefit from such judicial oversight.

#### Drugs, Guns and Criminal Gangs

In the United States, the Drug Enforcement Agency provides strong leadership and co-ordination of drug interdiction and enforcement. Federal funding is provided for joint forces operations in problem areas. This type of federal leadership and funding for local drug enforcement initiatives does not currently exist in Canada.

The Toronto Police Service is involved in a number of joint forces investigations aimed at investigating criminal organizations, including biker gangs, and their illicit activity be it drug trafficking or the smuggling of firearms, through co-ordinated multi-level enforcement strategies. The funding for these extensive and resource demanding investigations comes primarily from municipalities, regions and the Province. These investigative efforts must be supported through sustained appropriate levels of funding and a solid commitment from all levels of government to move forward with legislation and by-laws that will assist police in effectively prosecuting these criminal organizations.

Once again, Canada's renewed National Drug Strategy should be providing funding to drug enforcement at the local, and provincial level, as well as having a greater role in joint forces investigations. Funding must also be allocated toward sustaining the tremendous and successful efforts of the Toronto Police Service Gun and Gang Task Force.

The crimes committed by gangs in the City of Toronto ultimately effect all citizens of the City, the Province and the country. The investigative costs incurred are minute in comparison to the societal costs inflicted by the offenders. Continued support from all levels of government and appropriate funding will ensure that the Toronto Police Service can bring these offenders to justice where they are effectively prosecuted and incarcerated.

Councillor Thompson has proposed that gun smuggling into our urban areas must be a national priority. Gun smuggling is a priority of the Toronto Police Service and efforts have been undertaken to establish a number of partnerships with other law enforcement and customs agencies in Canada and the United States. At its meeting of January 22, 2004, the Board was in receipt of a report on the use of illegally imported firearms in Toronto (Board Minute #P8/04 refers). That report identified the scope of the issue and a number of investigative initiatives that have been undertaken to curtail this activity. As stated in that report, the Toronto Police Service has formed a strong partnership with Canada Customs, United States Customs, The United States Bureau of Alcohol, Tobacco and Firearms and other involved agencies to further their investigative efforts to stop the smuggling of firearms into Canada.

These groups have come together to form the Canada/United States Cross-Border Crime Forum. This standing body meets annually and invites stakeholders to participate in topical discussions. In his action plan, Councillor Thompson proposes that key parties from Canadian and United States Customs, law enforcement and others be convened in Toronto for a meeting to discuss the smuggling of illegal weapons and drugs into Canada. The Canada/United States Cross-Border Crime Forum may provide a solid starting point for Councillor Thompson in respect of this particular proposal

The Justice and Sentencing issues are complex and beyond significant representation in any one report. A concerted and co-ordinated effort by all interests to bring the issues to the table in open and frank discussions is required. From this discussion, reasonable initiatives can be moved forward for action and implementation. Among the issues that are of concern to the Toronto Police Service in respect of gun, gang and drug crime are new technology employed by organised crime, lack of funding, and inadequacies of the parole system in relation to drug offences.

A review of the federal parole system is needed as it relates to the manner in which convicted drug importers and traffickers are made eligible for early parole. As it stands today, a convicted heroin importer (even a repeat offender) who is sentenced to twelve years in jail and has no record of violent crime can be out on day parole in as little as two years. Drug trafficking offenders need to be treated in the same fashion as violent criminals.

A review is also needed of the extent to which a lack of jail space and correctional resources, and other factors, are contributing to offenders being released on bail when they should be detained. As a result of these factors, offenders who have served a period of pre-trial custody are, upon conviction and sentencing, having the time served awaiting trial credited at double or triple the actual time served and then applied against the term of imprisonment imposed at sentencing. Therefore, where an offender has served six months in pre-trial custody, upon sentencing those

six months are doubled in recognition of the time served, effectively applying a credit of twelve months against the sentence being imposed by the Justice.

This practice of providing discounts on sentences is less than palatable to victims, and their families, who expect and demand that the criminal justice system put their need for closure through appropriate punishment ahead of any inconvenience an offender may have incurred through less than optimal pre-trial custodial facilities.

Inappropriate funding of the Department of Justice is another issue in need of redress. The Department of Justice is not appropriately funded to adequately support drug enforcement. Over the past several years, the cost of prosecutions has become an issue of discussion in the consideration of whether to continue with the prosecution or withdraw the charges. Unlike the Province of Ontario, the Department of Justice does not have funding in place for witness protection in relation to strictly drug matters. These funding inadequacies must be addressed with the Federal government and a reasonable solution sought in order to ensure continued high quality drug investigations and prosecutions.

Councillor Thompson has put forward a number of proposals in his action plan that must be fully explored by all levels of government, law enforcement, the community and all other stakeholders. Communication is a key to success in any endeavour and the Toronto Police Service supports Councillor Thompson's efforts to so engage all those involved. A concerted effort must be undertaken by all to come together to review these proposals. Understanding the issues and challenges at play and collaboratively putting in place reasonable and affordable solutions must be the focus of any action plan. The Toronto Police Service will continue to provide the leadership and support to bring forward new ideas and resolutions that will improve the safety and quality of life for all citizens of the City of Toronto.

Acting Deputy Chief David Dicks, Policing Support Command, will be in attendance to respond to any questions.

**Toronto City Councillor Michael Thompson was in attendance and made a deputation to the Board in response to Chief Fantino's report.**

**The Board approved the foregoing report and commended Councillor Thompson for the comprehensive action plan he developed and his continuous efforts to address the important issue of attempting to reduce the amount of violent crime in Toronto.**

## APPENDIX A

### Proposed amendments to the Criminal Code of Canada

#### Recommendations:

1. That the Criminal Code of Canada be amended to add offences and provide increased sentences for individuals convicted of carrying a firearm while involved in other criminal activity.

#### RATIONALE

Investigations across the Service have identified the magnitude of the proliferation of firearms in the City of Toronto. Possession of a firearm is a significant intimidation factor used by the possessor in the conduct of drug related and other criminal acts, and poses a significant threat to the safety of police officers.

The possession of a firearm should be an additional charge to the primary offence and included during sentencing as an aggravating factor.

2. That the Criminal Code of Canada be amended to provide increased minimum sentences of 10 years imprisonment for individuals convicted under Section 85 of the Criminal Code.

#### RATIONALE

Section 85 of the Criminal Code of Canada:

##### Using firearm in commission of offence

*85. (1) Every person commits an offence who uses a firearm*

*(a) while committing an indictable offence, other than an offence under 220 (criminal negligence causing death), 236 (manslaughter), 239 (attempted murder), 244 (causing bodily harm with intent -- firearm), 272 (sexual assault with a weapon), 273 (aggravated sexual assault), 279 (kidnapping), 279.1 (hostage-taking), 344 (robbery) or 346 (extortion),*

*(b) while attempting to commit an indictable offence, or*

*(c) during flight after committing or attempting to commit an indictable offence,*

*whether or not the person causes or means to cause bodily harm to any person as a result of using the firearm.*

*Using imitation firearm in commission of offence*

*(2) Every person commits an offence who uses an imitation firearm*

- (a) while committing an indictable offence,*
- (b) while attempting to commit an indictable offence, or*
- (c) during flight after committing or attempting to commit an indictable offence,*

*whether or not the person causes or means to cause bodily harm to any persons as a result of using the imitation firearm.*

### **Punishment**

*(3) Every person who commits an offence under subsection (1) or (2) is guilty of an indictable offence and liable*

- (a) in the case of a first offence, except as provided in paragraph (b), to imprisonment for a term not exceeding fourteen years and to a minimum punishment of imprisonment for a term of one year;*
- (b) in the case of a first offence committed by a person who, before January 1, 1978, was convicted of an indictable offence, or an attempt to commit an indictable offence, in the course of which or during flight after the commission or attempted commission of which the person used a firearm, to imprisonment for a term not exceeding fourteen years and to a minimum punishment of imprisonment for a term of three years; and*
- (c) in the case of a second or subsequent offence, to imprisonment for a term not exceeding fourteen years and to a minimum punishment of imprisonment for a term of three years.*

### **Sentences to be served consecutively**

*(4) A sentence imposed on a person for an offence under subsection (1) or (2) shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events and to any other sentence to which the person is subject at the time the sentence is imposed on the person for an offence under subsection (1) or (2).*

Based on the increased number of occurrences involving firearms, be it murder, robbery or shootings, it is obvious that persons involved in these activities have no concern for human life and are not deterred by the current punishment available under the criminal code for using a firearm. It is suggested that the imposition of a minimum 10-year mandatory sentence would act as a deterrent. Furthermore, sentences for repeat offenders should also be increased.

3. **That Section 95 of the Criminal Code of Canada be amended to include all firearms.**

### **RATIONALE**

Section 95 of the Criminal Code reads as follows:

#### *Possession of prohibited or restricted firearm with ammunition*

*95. (1) Subject to subsection (3) and section 98, every person commits an offence who, in any place, possesses a loaded prohibited firearm or restricted firearm, or an unloaded prohibited firearm or restricted firearm together with readily accessible ammunition that is capable of being discharged in the firearm, unless the person is the holder of*

*(a) an authorization or a licence under which the person may possess the firearm in that place; and*

*(b) the registration certificate for the firearm.*

Through the various calls attended and investigations conducted by the Toronto Police Service, history shows that persons involved in criminal activity do not limit their illegal firearm use to restricted or prohibited firearms. On many occasions, these persons are using any firearm available to them including those classified as non-restricted.

Section 95 allows for a maximum sentence of 10 years, a 1 year minimum when proceeded by indictment and a 1 year maximum on summary conviction.

Under the current legislation, an individual arrested with a loaded non-restricted firearm would likely be charged with Careless Use of a Firearm, under Section 86(1) of the Criminal Code, for transporting a firearm contrary to the Safe Handling, Storage and Transportation of Firearm Regulations. Obviously, if a person involved in criminal activity is carrying a load non-restricted firearm, the purpose is to further their illegal dealings.

Section 86(3) allows for a maximum sentence of five years for the second or subsequent offence.

4. **That the current regulations of the Firearms Act governing the safe handling, storage, and display of firearms by an individual be amended to clearly outline the legal requirements of safe storage, including the proper definition of a “container”.**
5. **That the current regulations of the Firearms Act governing the safe handling, storage, and display of firearms by an individual be amended with the added requirement that all types of ammunition must be stored in a locked container.**

## **RATIONALE**

The Regulations of the Firearms Act governing storage, display, transportation and handling of firearms by individuals reads as follows regarding the storage of firearms and ammunition:

### **Storage of Non-Restricted Firearms**

**5. (1) An individual may store a non-restricted firearm only if**

- (a) it is unloaded;**
- (b) it is**
  - (i) rendered inoperable by means of a secure locking device,**
  - (ii) rendered inoperable by the removal of the bolt or bolt-carrier, or**
  - (iii) stored in a container, receptacle or room that is kept securely locked and that is constructed so that it cannot readily be broken open or into; and**
- (c) it is not readily accessible to ammunition, unless the ammunition is stored, together with or separately from the firearm, in a container or receptacle that is kept securely locked and that is constructed so that it cannot readily be broken open or into.**

### **Storage of Restricted Firearms**

**6. An individual may store a restricted firearm only if**

- (a) it is unloaded;**
- (b) it is**
  - (iv) rendered inoperable by means of a secure locking device and stored in a container, receptacle or room that is kept securely locked and that is constructed so that it cannot readily be broken open or into, or**
  - (v) stored in a vault, safe or room that has been specifically constructed or modified for the secure storage of restricted firearms and that is kept securely locked; and**
- (c) it is not readily accessible to ammunition, unless the ammunition is stored, together with or separately from the firearm, in**
  - (vi) a container or receptacle that is kept securely locked and that is constructed so that it cannot readily be broken open or into, or**
  - (vii) a vault, safe or room that has been specifically constructed or modified for the secure storage of restricted firearms and that is kept securely locked.**

### Storage of Prohibited Firearms

#### **7. An individual may store a prohibited firearm only if**

**(a) it is unloaded;**

**(b) it is**

**(i) rendered inoperable by means of a secure locking device and stored in a container, receptacle or room that is kept securely locked and that is constructed so that it cannot readily be broken open or into, and, if the prohibited firearm is an automatic firearm that has a removable bolt or bolt-carrier, the bolt or bolt-carrier is removed and stored in a room that is different from the room in which the automatic firearm is stored, that is kept securely locked and that is constructed so that it cannot readily be broken open or into, or**

**(ii) stored in a vault, safe or room that has been specifically constructed or modified for the secure storage of prohibited firearms and that is kept securely locked; and**

**(c) it is not readily accessible to ammunition, unless the ammunition is stored, together with or separately from the firearm, in**

**(i) a container or receptacle that is kept securely locked and that is constructed so that it cannot readily be broken open or into, or**

**(ii) a vault, safe or room that has been specifically constructed or modified for the secure storage of prohibited firearms and that is kept securely locked.**

After reading the above regulations, it is obvious that unless an officer has received specific training on the Regulations of the Firearms Act, it is difficult to arrive at a clear understanding of the storage requirements for firearms and ammunition and what is the true definition of a container.

Front line police officers or the public, not having received specific training on the applicable Regulations, can not reasonably be expected to make a correct determination on the storage requirements for firearms and ammunition. Therefore, the Regulations should be amended so that a lay person can interpret them.

#### **6. That the current Regulations of the Firearms Act governing the safe handling, storage, transportation and display of firearms by a business, be amended to require businesses to adhere to more stringent display and storage regulations.**

### RATIONALE

There are a number of concerns regarding both the storage and display regulations for businesses.



## **Storage**

The Regulations, with respect to Storage of Firearms, allow business owners to store their firearms *in a location that is readily accessible only to the owner or an employee of the business; and it is stored on premises where there is an electronic burglar alarm system, and every window that can be opened, and every exterior door, can be securely locked.* This can include behind the counter or a room off the main business area, however, when in this area, the firearms do not have to be secured. This can be extremely hazardous in the event of a robbery. Regardless of the alarm requirements, the firearms will be easily accessible in the event of a Break and Enter.

It is therefore suggested that all firearms within a business, primarily a storefront operation, be secured at all times unless they are being shown to a customer or actively worked on by an employee.

## **Display**

Upon examination of the display regulations and a comparison of the differences between the requirements for non-restricted versus restricted and prohibited firearms, it is difficult to understand why the regulations for the non-restricted firearms appear to be more stringent than the restricted/prohibited requirements. It is suggested that restricted and prohibited firearms should be stored with a secure locking device, secured to the display cabinet via chain or cable, and that the display case should be made of a material that cannot be readily broken into.

- 7. That the Criminal Code of Canada be amended to create a Reverse Onus burden of proof with respect to the authorisation to possess a firearm.**

### **RATIONALE**

Currently, where an individual is charged under Section 91 or 92 of the Criminal Code, the Crown is required to produce documentation, through the police, that proves an arrested party was not authorised to possess, transport or carry a firearm. This has occurred in relation to accused persons who have lengthy criminal records and/or are prohibited from possessing firearms and would never be issued a firearm licence.

The criminal code should be amended to clearly place the onus on the accused to prove authority to possess.

## **APPENDIX B**

### **Improvements to the Administration of Firearms Legislation**

#### **Recommendations**

- 1. That the Minister of Public Safety and Security direct the Chief Firearms Officer for the Province of Ontario to follow the requirements of Section 116 of the Criminal Code of Canada when an individual is arrested and subsequently released on an Judicial Interim Release Order and ordered not to possess any firearms, ammunition and explosives.**

#### **RATIONALE**

Section 116 of the Criminal Code reads as follows:

##### **Authorizations revoked or amended**

**116. Every authorization, licence and registration certificate relating to any thing the possession of which is prohibited by a prohibition order and issued to a person against whom the prohibition order is made is, on the commencement of the prohibition order, revoked, or amended, as the case may be, to the extent of the prohibitions in the order.**

In June 2002, the Toronto Police Service opted out of the Firearm Licencing Program operated by the Chief Firearms Officer for the Province of Ontario (CFO) At that time, the policy of the CFO was to disregard the requirements of Section 116. The CFO was of the opinion that revocation of the persons' firearms licence would be too harsh as the matter before the courts was only an accusation at that point.

The CFO advised firearm officers in the Province to place the individual's Firearm Licence "Under Review". Originally, Firearms Officers for the Toronto Police Service believed that the "Under Review" status in effect "Suspended" the licence and that status would appear on CPIC if the accused subsequently had contact with the Police. Firearm Officers of the Toronto Police Service were subsequently advised by Legal Counsel for the Chief Firearms Officer that there was no authority in law to place a licence under review, and they were instructed to follow the policy of the Chief Firearm Officer. Legal Counsel advised that the only licence status permitted through the Firearms Act was "Valid" or "Revoked".

As a result, the CFO's current directive leaves a potential Public Safety concern that could effect the citizens in the City of Toronto and the rest of Canada.

2. **That the current Firearms Legislation be changed to allow the legal authority for a Firearms Officer to place a licence “Under Review” or “Suspend” a Firearms Licence when the Licence Holder is under investigation relating to a Public Safety or Criminal Code matter.**
3. **That when a licence is placed “Under Review” or “Suspended”, that licence status must be reflected in CPIC to alert front line officers who may be in contact with the individual.**

### **RATIONALE**

This recommendation would allow a Firearms Officer to suspend a Firearm Licence as opposed to revoking it. Upon revocation of a licence, the licence holder must be served documentation and advised of the court process available to him/her to appeal the revocation. Providing the legal authority to “Suspend” will provide the Firearms Officer an opportunity to properly investigate the issue in question, possibly resolving the issue while protecting the public and avoiding an unnecessary court proceeding.

4. **That the Minister of Public Safety and Security direct the Chief Firearm Officer for the Province of Ontario to conduct inspections and actively enforce the regulations of the Firearms Act, including licenced firearm businesses and collectors.**

### **RATIONALE**

Currently, the Office of the Chief Firearms Officer for the Province of Ontario operates solely as an administrative body and will not participate in any type of enforcement. In addition there are no active inspections being conducted on gun collectors and the CFO has previously indicated that they were going to inspect firearm businesses once every three years. The currently policy of the CFO is to forward any enforcement issues to the local police service for the area involved, suggesting the local police service conduct the investigation. Unless specific members are designated as Firearm Officers, police services are not permitted to conduct inspections.

The current Firearms Act regulations regarding businesses are somewhat complex and most police services do not have personnel trained in the current business regulations that would allow them to conduct a proper investigation into the parties involved. Over the past few years, the Toronto Police Service and Provincial Weapons Enforcement Unit have been involved in large-scale criminal investigations involving firearm businesses in the City of the Toronto. These investigations include:

- Project Replica – store owners selling starter pistols and advising the buyer how to alter the pistol to live and then selling ammunition for the firearm.
- Project Driveshaft - Firearm business in Toronto smuggling firearm parts and receivers of M1 Garand rifles to the USA
- Project TUG - Internal theft from a firearm manufacturing plant in the Scarborough area.

- 5. That the Minister of Public Safety and Security direct the Chief Firearm Officer for the Province of Ontario to identify and advise police services of locations within their jurisdiction where 10 or more firearms are stored.**

### **RATIONALE**

It is a unit specific policy of the Gun Task Force that upon becoming aware of an address that has a large number of guns stored at the location, the address is to be flagged by the Special Address System.

Entering this information into the Special Address System will ensure front line officers are alerted to the storage of a large number of firearms at the given location in the event a call is received for a Break and Enter in Progress, Domestic Violence, or other urgent matter.

Currently, there is no automated system that will alert police to this fact. Officers seeking to determine if a licenced firearm owner or firearms are registered to a specific address must make an enquiry through CPIC using CFRO (Canadian Firearm Registry On-line).

- 6. That the Minister of Public Safety and Security direct the Policing Services Division to distribute to all Police Services, a policy applying to Section 115 of the Criminal Code of Canada.**

### **RATIONALE**

**Section 115 reads as follows:**

#### **Forfeiture**

**115. (1) Unless a prohibition order against a person specifies otherwise, every thing the possession of which is prohibited by the order that, on the commencement of the order, is in the possession of the person is forfeited to Her Majesty.**

This section of the Criminal Code is relatively new and has not been used to its full potential. Police Services appear reluctant to use this section and there is no clear policy on how it should be administered. A policing standards directive that outlines procedural issues would assist in this section being properly utilised. This section allows automatic forfeiture and should be promoted by the Policing Services Division.

- 7. That the Minister of Public Safety and Security direct the Chief Firearms Officer for the Province of Ontario to establish a policy that requires Firearms Officers to confirm the address of a person requesting an Authorisation To Transport or registering firearms to an address, by comparing the address information with Ministry of Transportation records before the transfer is authorised.**

## **RATIONALE**

**The current Firearm Legislation requires that a licenced firearm owner have their restricted and/or prohibited firearms registered to their residence (home address) or a place approved by the Chief Firearms Officer.**

**Through a number of investigations, members of the Toronto Police Service have found that licensed individuals had firearms registered to locations other than their home residence. When looking into these cases, investigators were advised that the addresses given were not verified using the MTO system due to a backlog of outstanding files. Individuals would register their guns to other addresses. Once the Firearms Officer approved the transfer, the registration in reality was legal because a representative of the Chief Firearms Officer had approved it, thereby complying with the legislative requirements.**

- 8. That the Director of CPIC (Canadian Police Information Centre), add to CPIC via CFRO, information relating to all firearm Transfer Authorisation Numbers, Authorisations to Transport, Authorisations to Carry and Firearm Business information such as business employees, so that it is available to front line and investigative officers 24 hours a day, seven days a week.**

## **RATIONALE**

Currently, limited firearm licence and registration information is available to police agencies through CPIC using CFRO. On a daily basis, there are numerous permits issued by the Chief Firearms Officer and the Canadian Firearm Registry allowing the citizens of Ontario and Canada to possess, move and carry firearms.

In order for a citizen to move a restricted or prohibited firearm, the citizen must be in possession of an Authorisation to Transport (permit). Armed Guards employed by companies such as Brink's and Securcor, who carry loaded firearms as part of their job, must be in possession of an Authorisation to Carry. In some cases, employees of firearm businesses such as gunsmiths and sporting good stores can move or transport firearms based on the conditions of the Firearms Licence issued to the business. None of this information is readily available to the police.

Police can only access this information by contacting the Chief Firearms Officer or Canadian Firearms Registry, during business hours. This requires a front line officer or an investigator to speak to a person from these offices on the phone. When dealing with a criminal investigation or investigations dealing with sensitive matters, the possibility of the investigation becoming common knowledge is increased, thereby jeopardising the investigation and possibly the safety of the officers involved.

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P215. MOBILE CRISIS INTERVENTION TEAM – PARTNERSHIP WITH ST.  
MICHAEL’S HOSPITAL**

The Board was in receipt of the following report JULY 08, 2004, 2004 from Julian Fantino, Chief of Police:

Subject: MOBILE CRISIS INTERVENTION TEAM

Recommendation:

It is recommended that: the Board authorize the Chair of the Toronto Police Services Board to enter into an agreement with St. Michael’s Hospital on behalf of the Board for the Mobile Crisis Intervention Team (MCIT) for a term of two (2) years commencing August 1, 2004, and ending July 31, 2006.

Background:

At its meeting of October 26, 2000, the Board approved the Services’ participation in a joint partnership with the St. Michael’s Hospital Mobile Crisis Intervention Team (MCIT) to improve the response and provision of services to emotionally disturbed persons for a two year term commencing November 6, 2000 and ending November 5, 2002. (Board Minute #478/2000 refers) The project involved the teaming of two first class constables from 51 Division and an experienced mental health nurse from St. Michael’s Hospital operating out of a mobile unit within the boundaries of No. 51 Division between the hours 1300 and 2300, seven days a week.

This project began in response to growing concerns regarding the first response to emotionally disturbed persons calls. The recommendations from the Coroner’s inquests into the police-related deaths of Lester Donaldson and Edmund Yu both highlighted a need for the Police to work more closely with the mental health community. The project has been developed as a partnership between the police and the mental health unit at St. Michael’s Hospital as a first response unit, able to attend to people in crisis situations. They are trained and equipped to deal with all facets of crisis situations, including full use of force options should an arrest be required.

The unit first became operational in November 2000. One officer and one nurse are teamed up and work from 1300 – 2300 each day, seven days a week. These hours have been shown to cover the greatest number of calls for emotionally disturbed persons in 51 Division, accounting for 54% of all such calls.

During the period from November 6, 2000 to September 26, 2002, the Mobile Crisis Intervention Team had contact with emotionally disturbed persons on 537 occasions.

The following tables illustrate a breakdown of the contacts with Emotionally Disturbed Persons (E.D.P.), and the dispositions of those contacts.

**CONTACTS**

Total	Single contact	Multiple contacts
537	358 persons	61 persons *

\*61 persons involved in a total of 179 contacts

**DISPOSITIONS**

Left at scene or referral	Taken to E.R. (admission)	Taken to E.R. (form 1, 2, or 9)*	Police Custody (criminal charge)	Other
204	232	60	13	28

\*Form 1,2 or 9 are involuntary admission forms under the Mental Health Act

There were a number of times that the MCIT was called to scenes of “a possible E.D.P.” by Primary Response Units. On these occasions the MCIT attended, were able to determine that the individual was not suffering from mental illness or distress, and consequently did not note the incident as a contact with an E.D.P.

Of the E.D.P. contacts, 204 (38%) were dealt with at the scene. These contacts were deemed by the team to not require hospitalization, and were instead given referrals to appropriate agencies or programs. This ability to determine appropriate alternate means of dealing with persons in crisis resulted in saving numerous hours of unnecessary transportation and attendance at St. Michael’s Hospital, thereby freeing up not only the MCIT, but also any attending uniform officers.

A detailed statistical overview of the contacts, numbers of contacts, locations, dispositions, and age and gender specific information can be found in Appendix A.

The MCIT has been very successful in saving numerous Primary Response Units from spending large portions of their shifts dealing with E.D.P. calls, by relieving the Primary Response Units at the scene, freeing them up to handle other police service calls. This has led to a direct saving in hours of Primary Response Unit attendance at the scene (see table below), as well as the indirect savings in time that has come with the increased speed of admissions by the MCIT.

**Primary Response Unit hours saved**

**2000.11.06 – 2001.11.01**

Calls	PRU did not attend	PRU relieved at scene	PRU hours saved
589	225	364	410.6

**2001.11.01 – 2002.09.26**

Calls	PRU did not attend	PRU relieved at scene	PRU hours saved
449	160	289	305.3

**E.M.S. (ambulance) calls**

EMS attended	Relieved by MCIT	Transported by EMS
119	69	50

An indirect saving in Primary Response Unit time that does not show up in any measurable way, is the saving of hours that would have been spent waiting at a facility while guarding an E.D.P. In the past, it has not been unusual to spend up to four hours at a psychiatric facility, waiting to have a person admitted. The assigned Primary Response Unit is responsible for the care of the person until hospital staff makes a decision on whether or not to admit the person.

The MCIT has made great strides towards more time efficient admissions once at the mental health facility. Having a mental health worker effectively triage the individual at the scene has led to considerably shorter waiting periods upon attendance at the hospital, reducing waiting periods from hours to minutes. This not only saves time for Primary Response Units, it also makes the MCIT available for further calls in a timely fashion. The improved relations between police and hospital staff since the inception of this program has also highlighted the importance of working partnerships.

During the two years of operation, regular meetings were held involving members of the MCIT and supervisory staff from both St. Michael's hospital and 51 Division. As a result of these meetings, it became clear that the MCIT could handle more than the calls they were routinely receiving in 51 Division. As a result, the unit began accepting E.D.P. calls in 52 Division whenever they could, in order to establish a level of service more in keeping with their availability.

Since the original Memorandum of Understanding (M.O.U.) expired in November 2002, the project has continued to operate in partnership with St. Michael's Hospital, within the guidelines established in the original Memorandum of Understanding, in good faith until a new Memorandum of Understanding could be entered into. This partnership has continued to operate in order to answer to the needs of the community.

Both staff at 51 Division and St. Michael's Hospital, agreed to continue operation of this project while awaiting a new MOU. Since November 2002 the M.C.I.T. and Toronto Police experienced several external impacts that led to the delay of this new MOU. SARS, political elections, internal staffing changes were, but some of the external influences coupled with staffing and border changes within 51 and 52 Divisions that have been the contributing factors



resulting in the delay of the new MOU. Temporarily suspending this project would have interrupted an established service and caused an upheaval for service providers in the community who had come to depend on the M.C.I.T. for prompt and efficient handling of Emotionally Disturbed Persons.

During the first two years of the project there was a strong focus on daily operational issues, including, but not limited to:

- Project management
- Staffing and staff turnover
- Training and education for unit members, hospital staff, and front line officers
- Issues regarding confidentiality of hospital (patient) and police (arrest) records
- Day to day procedures and reporting mechanisms

The focus on establishing the unit and overcoming operational obstacles as they arose overshadowed the request to explore external funding. In addition, supervisory turnover further complicated matters, requiring new supervisors to become involved in learning the daily operations of the unit. As a result, there was no sustained effort made to secure funding for the costs of police participation in the program. As of this time, funding has not been secured. No grant applications or other funding proposals were made prior to the end of the two-year term of the original Memorandum of Understanding.

Although external funding has not been secured by the TPS, this program has proven to be a highly effective utilization of police resources. It is recommended that this program continue without said funding for the following reasons:

1. The program has proven to be highly cost effective in the terms of timesaving for the responding Primary Response Units, allowing them to focus on service priorities.
2. The program has been an effective and efficient response to incident calls for emotionally disturbed persons in the downtown area. The unit allows for these calls to be handled by one Constable working with a nurse, as opposed to requiring a minimum of two constables from the Primary Response Unit.
3. During this critical time of operational difficulties between the Toronto Police Service and some area Hospitals, this project helps maintain positive contact and communications with St. Michael's Hospital.
4. When the hours of operation were reduced during the spring of 2003, with respect to the policing resources required during the Iraq situation, we received correspondence from local Social Service providers regarding the negative impact it was having on those in need of this type of service in the community.
5. The program has expanded into 52 Division. This enables the unit to effectively deal with a larger base of Emotionally Disturbed Persons throughout the downtown core.

The operational issues of the unit have now been dealt with, and the focus is now squarely on securing the external means of funding.

The Centre for Addiction and Mental Health (CAMH) has been approached by members of the Toronto Police Service associated with this project. As of the writing of this report, CAMH has expressed an interest in pursuing grant applications through various Provincial Ministries, for the purpose of covering the costs of maintaining a police presence in this project. The Service will vigorously pursue these avenues of external funding with the assistance of CAMH.

Further, from the point of view of our partners in the community, this unit has become a valuable service. It has provided persons in crisis with appropriate, at scene, crisis resolution and subsequent treatment or referrals. It has strengthened the ties between the Toronto Police Service and St. Michael's Hospital, as well as gaining recognition for a groundbreaking program in other parts of the City of Toronto.

Local Social Service agencies such as outreach, shelter and program providers in the area have come to appreciate the work of the MCIT with their clients suffering from mental health problems. There have been numerous requests for the unit from outside of 51 Division, and now 52 Division, showing the need for a unit of this type throughout the city. Requests have also been made for information about starting similar types of units in other areas of the city.

With the recent expansion of the program into 52 Division, the number of contacts attended by the M.C.I.T. have increased substantially, without the need to add further police personnel. This will result in further savings in related time for Primary Response Units in 52 Division, making the MCIT more cost-effective, and helping to establish a greater response to E.D.P. calls in the downtown core.

The first two-year term of the MCIT has been an intensive learning experience. The demand for front-line, specialized response to Emotionally Disturbed Persons and issues surrounding mental health problems in the community is well documented.

It is in the best interests of the Service to continue to provide this service to the community for another term while attempts to gain the necessary funding continue.

St. Michael's Hospital remains firmly involved with the program, and wishes to have it continue in its current format. Local agencies dealing with mental health services are also interested in seeing this program continue, as evidenced by their concern when the hours of operation were shortened for a period of time in the spring of 2003.

Attached to this report are three supporting documents, listed as Appendices A, B, and C, as well as letters of support from St. Michael's Hospital staff.

Jerry Wiley, Criminal and Corporate Counsel for the Toronto Police Service has reviewed the Memorandum of Understanding between St. Michael's Hospital and the Toronto Police Services Board in areas of procedure and indemnity. In addition, a copy of this report and the Memorandum of Understanding has been reviewed by Staff at Toronto City Legal who are satisfied with the legal aspects of the report and the agreement.

Deputy Chief Steven Reesor, Policing Operations Command, will be in attendance to answer any questions if required.

**The Board approved the following Motions:**

- 1. THAT the Board approve the recommendation by the Chief of Police in the foregoing report subject to approval as to form by the City Solicitor;**
- 2. THAT the Chief of Police provide the Board with a report in February 2006 as to the status of the agreement and/or the potential for renewal of the agreement; and**
- 3. THAT, as a matter of policy, in future, when the Board enters into a time-limited agreement, the Chief of Police provide the Board with a status report a minimum of six months prior to the expiry of the agreement.**

**MEMORANDUM OF UNDERSTANDING**  
**WITH RESPECT TO**  
**THE MOBILE CRISIS INTERVENTION TEAM**

BETWEEN:

**TORONTO POLICE SERVICES BOARD**

- and -

**ST. MICHAEL'S HOSPITAL**

## **PREAMBLE**

WHEREAS the Toronto Police Services Board (the "Board") and St. Michael's Hospital ("St. Michael's"), in conjunction with the Ontario Ministry of Health and Long Term Care (the "Ministry"), have identified the need for an extended crisis intervention service for citizens of the City of Toronto suffering from acute illness who are unable or reluctant to utilize existing emergency services;

AND WHEREAS a community response team consisting of members of the St. Michael's mental health care unit teamed with members of the Toronto Police Service (the "Service"), hereinafter referred to as the Mobile Crisis Intervention Team ("MCIT"), has been developed to provide prompt assessment and needed support to the citizens of the City of Toronto;

AND WHEREAS the Service and St. Michael's may have in their respective possession information relating to members of the community that the MCIT may become involved with, disclosure of which information may be required to ensure a safe and effective response by the MCIT to emergent situations;

AND WHEREAS subsections 41(1.1) and (1.2) of the Ontario Police Services Act permits the Chief of the Service or his or her designate to disclose personal information for specified purposes and in accordance with Ontario Regulation 265/98 made under the Ontario Police Services Act;

AND WHEREAS section 35 of the Ontario Mental Health Act and Regulations under the Ontario *Public Hospitals Act* impose restrictions on the disclosure of patient information, which restrictions St. Michael's is obligated to comply with;

AND WHEREAS this Memorandum of Understanding ("MOU") has been developed and executed by the Board on behalf of the Service and St. Michael's to set out the conditions and procedures for the operation of the MCIT and for the exchange of information between the Service and St. Michael's as it relates to the operation of the MCIT and also to ensure compliance with applicable laws;

NOW THEREFORE the parties hereby agree as follows:

### **Part 1 – Term and Termination**

1. This MOU shall be for a term of two (2) years beginning on August 1, 2004 and ending on July 31, 2006.
2. This MOU may be renewed for further terms as the parties may agree to in writing.
3. This MOU may be terminated at any time by either party provided one (1) month's prior written notice is delivered to the other party in accordance with this MOU. Notwithstanding the foregoing, this MOU may be terminated without prior notice by either party if the other party causes a breach of security as a result of its improper use or disclosure of information.

## **Part 2 - Permitted Disclosure of Information**

4. Each of the Service and St. Michael's may provide the other with information as permitted by law and in accordance with this MOU. The parties acknowledge that each may, in their discretion, refuse to disclose any information in the interest of protecting the privacy of third parties or confidential informants, and to prevent any interference with, or disclosure of, law enforcement techniques.

5. The parties shall collect, disclose and use the information provided under this MOU only for the purposes specifically authorized herein, or as may otherwise be legally required.

6. Any records maintained by the Service in accordance with the provisions of the federal *Youth Criminal Justice Act* shall not be disclosed to St. Michael's pursuant to this MOU unless otherwise permitted pursuant to that *Act*.

7. The parties undertake to apply their respective standards in accordance with applicable legislation, to the administrative, technical and physical safeguarding of personal information exchanged pursuant to this MOU.

8. The parties shall develop and implement any policies and practices necessary to ensure compliance with this MOU. Such policies and practices shall be developed collaboratively, in writing, between the parties.

## **Part 3 – Records**

9. The parties agree that any records generated by the parties in implementing this MOU shall be the exclusive property of St. Michael's and shall be retained by St. Michael's. Notwithstanding the foregoing, the parties agree that any Service occurrence reports generated by the Service in relation to activities undertaken in furtherance of this MOU shall be the exclusive property of the Service and shall be maintained by the Service.

10. In the event that one of the parties receives a request for information with respect to a record in the possession of the other party, the recipient of such a request shall immediately refer the request to the other party, if legally permitted to do so.

11. Any request by third parties for disclosure of records shall be addressed by the party responsible for such records as permitted by law.

12. Each party shall be responsible for any administrative costs it incurs as a result of its responding to requests from third parties for disclosure of information generated in accordance with this MOU.

#### **Part 4 – Obligations of the Service**

13. The Service shall make available two constables from 51 Division of the Service to the MCIT for the term of this MOU or any renewal term thereof. The two constables shall be dedicated to the MCIT on a full time basis, except when the Chief of the Service or his or her designate requires the constables to perform police duties in another capacity. Where practicable, the Service shall provide St. Michael's with twenty-four (24) hours prior notice of such service disruption.

14. It is acknowledged that the duties assigned to the Service constables deployed to the MCIT shall be confined to police duties only, as defined in the Ontario *Police Services Act* and at common law, and also in accordance with the Rules, Directives, Policies and Procedures of the Service. The responsibilities assumed by the MCIT constables shall be subject to the approval of the Chief of the Service or his or her designate.

15. The Service constables deployed to the MCIT shall be qualified to perform the services required pursuant to this MOU and may not be deployed to the MCIT until such time as they have completed the five day Service training course on Crisis Resolution/Officer Safety.

16. The two constables deployed pursuant to this MOU shall be and remain employees of the Board and the Toronto Police Service Uniform Collective Agreement shall apply to the MCIT constables.

17. The Service acknowledges that the hours worked by the members of Service assigned to the MCIT will generally involve an evening or a night shift. The Service shall ensure that hours worked by the constables of the MCIT shall not exceed eighty (80) hours in a two (2) week cycle, subject to any approved overtime. In the event that the officers incur overtime, they shall notify the Officer-in-Charge of 51 Division as soon as practicable and request approval as may be required by unit policies.

18. Any misconduct by the constables deployed to the MCIT shall be addressed by the Service in its sole discretion, in accordance with current Rules and Directives of the Service and the Ontario *Police Services Act*.

19. The Service shall be liable for the negligent acts or omissions of the constables assigned to the MCIT that occur while performing duties associated with the MCIT.

20. The Unit Commander of 51 Division or his or her designate shall act as the liaison officer with St. Michael's. The liaison officer shall be responsible for engaging in regular communication with St. Michael's on behalf of TPS, with respect issues arising from this MOU, including but not limited to work performance and disciplinary procedures, as required, and to attend scheduled meetings, as required.

## **Part 5 – Obligations of St. Michael's**

21. The provision of psychiatric nursing care shall be the responsibility of the mental health unit staff from St. Michael's assigned to the MCIT.

22. It is acknowledged that the mental health unit staff assigned from St. Michael's to the MCIT shall carry out their duties in accordance with:

- (a) the policies, by-laws, mission statement, values and procedures of St. Michael's;
- (b) the requirements of any professional body or college of which they are members;  
and

shall be subject to the approval of the Board of Directors of St. Michael's through the Vice President, Inner City Health or his or her designate.

23. The mental health unit staff assigned to the MCIT from St. Michael's shall be and remain employees of St. Michael's Hospital.

24. St. Michael's acknowledges that the hours worked by the members of St. Michael's assigned to the MCIT will generally involve an evening or a night shift. St. Michael's shall ensure that hours worked by the mental health unit staff of the MCIT shall not exceed thirty-seven and a half (37.5) hours per week, subject to any approved overtime. Overtime incurred by the mental health unit staff shall be dealt with in accordance with St. Michael's policies and procedures.

25. St. Michael's shall be liable for the negligent acts or omissions of any of its staff assigned to the MCIT. The Chief of St. Michael's Mental Health Service or his or her designate will act as the liaison officer with respect to work performance and disciplinary procedures, as required.

## **Part 6 – Operation of the MCIT**

26. The MCIT constitutes a dedicated team responsible for responding to incoming calls for service. Referrals for MCIT's services may be received directly from field officers through 51 Division and or the Toronto Police Service, Communications Services.

27. The parties agree to use their best efforts to ensure that two constables and one mental health unit staff member are available for deployment to the MCIT at all times during the term of this MOU.

28. It is acknowledged that a two officer Primary Response Unit (PRU) will be dispatched to all potential emotionally disturbed person calls to assess potential safety issues, need for criminal charges and general suitability of the situation for the MCIT to attend, subject to the priorities determined by the Service, in its sole discretion.



29. Where multiple requests for service are received, the member of the MCIT from St. Michael's shall be responsible for triaging and prioritizing such calls to the best of their ability given available information.

30. It is acknowledged that in the event there are more requests than the MCIT can reasonably be expected to respond to in a timely manner, as determined solely by St. Michael's, the PRU will be responsible for resolving any such event.

31. The mental health unit staff assigned to the MCIT will follow the instructions of the Service, including the constables assigned to the MCIT, with respect to any officer or citizen safety issues.

32. The constables assigned to the MCIT shall at all times be subject to the general supervision and direction of the Service during the performance of their duties, including any duties performed when deployed with the MCIT. Similarly, the mental health unit staff from St. Michael's assigned to the MCIT shall at all times be subject to the general supervision of the Program Director, Mental Health Service and the Medical Director, Crisis Service of St. Michael's.

33. The constables assigned to the MCIT shall be supplied with an unmarked police vehicle equipped with a police radio, mobile workstation and screen, at the discretion of the Chief of the Service. The cost of the vehicle shall be solely borne by the Service, including any costs incurred in fueling and servicing the vehicle to ensure it is safe for operation. Only Service personnel shall operate this vehicle and they shall do so in accordance with Service Rules and Directives with regard to Police Service Vehicle Operations.

34. The vehicle shall not be used for transportation of any persons arrested or detained pursuant to applicable sections of any federal, provincial or city statutes or by-laws unless so required due to emergent circumstances.

35. PRU officers shall transport persons taken into custody in accordance with current Service Rules and Directives. It is understood that the constables assigned to the MCIT shall maintain, and be solely responsible for, the person in custody.

## **Part 7 – Insurance & Indemnity**

36. Each party (the "Indemnifying Party") shall indemnify and hold harmless the other party (the "Indemnified Party") against any and all liabilities, claims, damages, amounts paid in settlement, losses, costs and expenses, including reasonable lawyers' fees and court or arbitration costs which the Indemnified Party may incur as a result of the negligent acts or omissions of the Indemnifying Party or those for whom it is legally responsible.

37. Each party will include the other party as an additional insured on its commercial general liability policy to cover any indemnity expenses which might otherwise be incurred by the other party due to the negligent acts or omissions of the insuring party.

38. Each party shall provide the other with proof of insurance that contains a provision whereby there shall be no reduction in coverage or policy limits without the express written consent of the other party.

### **Part 8 – Roles and Responsibilities**

39. Each party has provided information to the other regarding their respective roles and responsibilities in conjunction with the MCIT and this MOU. Each party expressly agrees to continue to provide updated information to the other party relevant to the services of the MCIT on a continuing basis during the term and any renewal terms of this MOU.

40. The Service shall be responsible for ensuring that its constables receive annually required and/or legislated training.

41. St. Michael's shall be responsible for ensuring that its mental health unit staff maintain their discipline specific training (i.e. C.P.I., C.P.R.) and licensure in accordance with St. Michael's policies and procedures and also those of the professional regulatory bodies or colleges to which the staff belong.

### **Part 9 - General**

42. The parties agree that this MOU is the complete agreement between the parties and replaces all prior communications related to the subject matter of this MOU.

43. This MOU may not be supplemented, modified or amended unless any such supplement, modification or amendment is executed in writing by the duly authorized representatives of the parties.

44. Neither party may assign or otherwise transfer this MOU or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, such consent will not be required if such assignment or transfer is to a wholly owned or controlled affiliate of a party or in connection with the sale of all or a substantial part of its assets or business of a party or in connection with a reorganization or merger, provided that the assignee agrees in writing to be bound by the provisions of this MOU.

45. This Agreement shall inure to the benefit of and be binding upon the parties' successors and permitted assigns.

46. No waiver of any breach of any term or provision of this MOU will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

47. If any provision of this MOU is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

48. Notices under this MOU shall be in writing and delivered personally or by ordinary prepaid mail. Notices delivered by mail shall be deemed to have been received on the fourth business day after the date of mailing. In the event of an interruption in postal service, notice shall be given by personal delivery or by fax. Notices delivered by fax shall be deemed to have been received at the time of delivery or transmission, provided a transmission receipt is obtained. All correspondence and other notices related to the terms of this MOU shall be delivered as set forth below:

To: **Toronto Police Services Board**

c/o Executive Director  
Toronto Police Service  
40 College Street  
Toronto, ON M5G 2J3

Fax: (416) 808-8082

To: **St. Michael's Hospital**

c/o Vice President, Patient Care Programs & Chief Nursing Officer  
30 Bond Street  
Toronto, ON M5B 1W8

Fax: (416) 864-5460

49. Each of the parties shall from time to time execute and deliver such further documents and instruments and do acts and things as the other party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this MOU.

50. The parties are independent contractors, and no agency, partnership, joint venture, employee-employer, or franchisor-franchisee relationship is intended or created by this MOU. Neither party will make any warranties or representations on behalf of the other party.

51. Neither party will be liable for failure to perform one or more of its obligations under this MOU when such failure is due to a cause or causes beyond the reasonable control of such party.

52. This MOU shall be governed exclusively by the laws of the Province of Ontario and the laws of Canada applicable therein.

53. Each party agrees to comply, at its own expense, with all applicable laws, regulations, rules, ordinances, and orders regarding its activities related to this MOU.

54. This MOU may be executed in counterparts, each of which shall be deemed to be an original and if taken together shall be deemed to constitute one and the same document.

IN WITNESS WHEREOF, this Memorandum of Understanding has been signed on behalf of the Toronto Police Services Board and St. Michael's Hospital by their duly authorized officers on the dates noted below:

**Toronto Police Services Board**

Per:

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name and Title (please print)

\_\_\_\_\_  
Date of Signature

**St. Michael's Hospital**

Per:

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name and Title (please print)

\_\_\_\_\_  
Date of Signature

# Appendix 'A'

Statistics from St. Michael's Hospital

1

**Mobile Crisis Intervention Team**

St. Michael's Hospital and Toronto Police Service, 51 Division

Update: October 2002

Nancy Read  
Program Director,  
Mental Health Service,  
Inner City Health Program,  
St. Michael's Hospital

**Description of MCXT Service**

- Partnership with the Toronto Police Service 51 Division and St. Michael's Hospital Crisis Service.
- Partnered a crisis worker and non-uniformed police officer to respond to radio dispatch EDP calls from 51 Division in unmarked police car 7 days A wk. 1300 - 2300. Psychiatrist on call for consultation.

**Major Objectives of MCIT Service**

- To assist the police in interacting with individuals initially identified as emotionally disturbed persons (EDP)
- To prevent serious emotional, physical, and social dysfunction of EDP by facilitating police access to mental health assessment, treatment, and community referral networks
- To divert EDP from the criminal system to mental health services when appropriate

**Demographics of MCIT sample (N=419)**

<u>Age</u>	40.7 (14.1)	<u>Housing</u>	
<u>Gender</u>	40% Female 60% Male	House/Apt or Supportive Housing	67%
<u>Marital status:</u>		Shelter/Hostel	18%
Single	81%	NFA/Other	15%
Married	7%		
Other	12%		

10% are missing data

**Number of Visits**

- 537 contacts have been recorded since November 2000\*
- ⊖ 358 people utilized MCIT 1 time
- 61 people utilized MCIT more than 1 (range: 2 - 16 visits)
- Repeat users accounted for a total of 179 contacts

\* There are only contacts where MCIT has completed assessment forms.

**Reason for referral to MCIT  
N = 528**

Self-harm	8.1%
Suicidal	23.1%
Mental Status	22.1%
Bizarre behaviour	13.1%
Criminal activity	1.7%
Harm to others by others	9.5%
Execute Form 1,2,9	13.3%
Other	7.9%

### Mental Health Characteristics

- 62% of clients have a reported mental illness
- Psychotics and Mood Disorders are the most common conditions
- The most common precipitating crisis events are mental/emotional issues followed by substance use

### Location of MCIT Contact N = 518

Apartment/House	54 %
Shelter/Hostel	16 %
Street/Public Place	27 %
Police station	3 %

### MCIT Disposition N = 537

All clients were evaluated by MCIT team and decisions were made based on risk assessment to:

Leave at scene:	38.0 %
Bring to ER:	43.2 %
Transport to ER on Form 1, 2, or 9:	1.1.2 %
Police Custody:	2.4%
Other Disposition:	5.2%

### Reason for Referral by Gender

	Male	Female
Self Harm	55%	45%
Suicidal	63%	31%
Mental Status	45%	55%
Bizarre Behaviour	68%	32%
Criminal Activity	86%	14%
Harm to/by Others	62%	38%
Form 1, 2 or 9	72%	28%
Other	45%	55%

(P .008; n = 413)

### Location Seen by Gender

	Male	Female
House/Apt	44%	66%
Shelter/Hostel	18%	11%
Street/Public Place	34%	21%
Police Station	3%	2%

(P < .000)

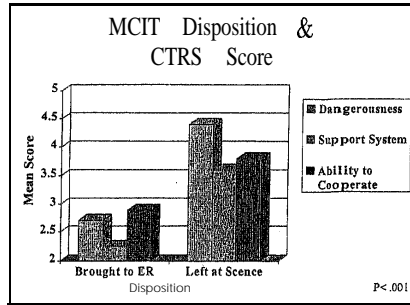
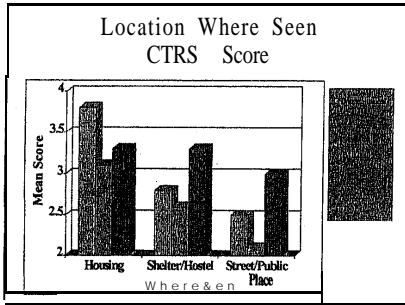
### Crisis Triage Rating Scale (CTRS)

A total of 1 to 9 means the individual requires assessment for the need for hospital intervention. A total of 10 or more means the individual should be supported to utilize existing or newly acquired community resources.

A. Dangerousness (rate the statement number)	
1	Expresses or hallucinates (hears comments) suicidal/homicidal ideas, or has made attempt in present (in weeks, long-term) in past (in weeks)
2	Expresses suicidal ideation but behaviour is somewhat disordered on the street in the assessment. History of violent or impulsive behaviour but no current signs.
3	Some suicidal/homicidal ideas with ambivalence or has made ineffective gestures. Questionable knowledge of consequences.
4	Some suicidal/homicidal ideation or behaviour, or history of same, but clearly wishes it is able to control it or behavior. No suicidal/homicidal ideation or behaviour. No history of violent/impulsive behaviour.
B. Support System (rate the statement number)	
1	No family, friends or others. Agencies cannot provide immediate support needed.
2	Some support might be available, but it is unclear how well it will be.
3	Support system potentially available, but significant difficulties exist mobilizing it.
4	Interested family, friends or others, but some question ability or willingness to help.
5	Interested family, friends or others able and willing to provide support needed.
C. Ability to Cooperate (rate the statement number)	
1	Unable to cooperate or actively refuses.
2	Shows little interest in or comprehension of efforts to be made on shelter's behalf.
3	Passively accepts shelter's intervention.
4	Wants to get help but is ambivalent or motivated to not accept.
5	Actively seeks shelter's treatment, willing and able to cooperate.

1981, Toupin, H., M.D., Levy, L., M.D., Dimech, R., Ph.D. and Beale, P.A., Ph.D. Journal of Nervous & Mental Disease, 69, 4  
Crisis Triage Rating Scale: Theoretical Assessment of Progress at Risk in Homelessness

2003.01.10





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# Appendix 'B'

Statistics from Mobile Crisis Intervention Team  
(Primary Response Unit hours saved)



Dates	2001/11/02	2002/09/26		
	No PRU	PRU Relieved	Time Saved PRU mins	Time Saved PRU hrs
Section #17	9	52	3941	65.68333333
Form #1	15	21	2243	37.38333333
Form #2	3	12	1000	16.66666667
Form #9		1	30	0.5
Voluntary	15	49	3323	55.38333333
No Apprehension	78	124	5631	93.85
Follow Up Visit	27	2	660	11
Follow Up Phone	5			0
Provincial Offence	2	5	300	5
Criminal Offence	6	23	1190	19.83333333
<b>TOTALS</b>	<b>160</b>	<b>289</b>	<b>18318</b>	<b>305.3</b>
<b>TOTAL CALLS B+C</b>	<b>449</b>			

Ambulance	DAS Attended	Relieved by MCIT	DAS Transported
Totals	119	69	50

Unit down from 02/06/01 - 02/07/21

Dates	2000/11/06	2001/11/01		
	No PRU	PRU Relieved	Time Saved PRU mins	Time Saved PRU hrs
Section #17	13	80	7372	122.8666667
Form #1	7	37	2540	42.33333333
Form #2	2	12	836	13.93333333
Form #9	1	5	403	6.716666667
Voluntary	24	68	3716	61.93333333
No Apprehension	84	129	6225	103.75
Follow Up Visit	69	2	523	8.716666667
Follow Up Phone	9		50	0.833333333
Provincial Offence	8	7	641	10.68333333
Criminal Offence	8	24	2331	38.85
<b>TOTALS</b>	<b>225</b>	<b>364</b>	<b>24637</b>	<b>410.6166667</b>
<b>TOTAL CALLS B+C</b>	<b>589</b>			

## **Appendix 'C'**

Excerpt from the report "Status of the Initiatives of the Toronto  
Police Service in response to Mentally Ill, Emotionally Disturbed  
Persons, October 25, 2002"  
(submitted by Sgt. Scott Weidmark)



## 51 Division Mobile Crisis Intervention Team

The Mobile Crisis intervention Team (MCIT) is a pilot project for the Toronto Police Service initiated in November, 2000, that is operating out of 51 Division. 51 Division is in the core of the city and has the highest concentrations of government assisted housing in the city. The MCIT is a partnership between 51 Division and the St. Michael's Hospital.

The MCIT partnership joins a mental health crisis worker (nurse) and a non-uniformed police officer in an unmarked police car 7 days a week, from 1:00pm to 11:00pm. Two officers have been assigned full time to this team with a back-up officer to cover vacations and other leaves. This team includes the resource of a psychiatrist on call for consultation.

There are a number of reasons why this project was developed. This concept was first recommended to Toronto Police in 1994. Recommendations 21 and 43 of the Donaldson Inquest suggested a Crisis Intervention Unit with mobile capacity partnering Toronto Police and the mental health profession. The Antidormi Inquest (2000) recommended to all Police Services of Ontario a similar partnership based on the Hamilton Police's Crisis Outreach and Support Team. While, in Toronto, it is generally accepted by all stakeholders that the police are not the best agency to deal with the mentally-ill emotionally disturbed persons (EDP's), there has always been a tendency for the police to be the front line in the mental health care system. In recent years advocates for the mentally-ill, mental health providers and the police have all taken a close look at the existing systems. All of these groups have been looking for alternatives to Police Officers attending to the mentally-ill in crisis.

All of the stakeholder groups fundamentally recognize the importance of the police role in situations where the mentally-ill EDP is potentially violent. But all groups acknowledge that in situations where the EDP is not violent or when the EDP is stabilized after an episode of violence, the needs of the individual are better treated by the mental health profession.

As an improvement to the existing system of police as front line responders, other jurisdictions have been experimenting and have been successful at partnering a health care worker and a police officer. Projects such as "Car 57" in Vancouver, and the "Coast" project in Hamilton are such systems and are the model of the Toronto project.

There are a number of advantages of this project to the Toronto Police Service. The Police Officer and Health Care Worker become the primary response to EDP calls where violence is not anticipated. The MCIT team also relieves frontline officers at calls where they have stabilized the situation. This team has also become a point of direct contact for some repeat customers. When the MCIT attends St. Michael's Hospital, the mental health nurse has already considered the Crisis Rating Triage Scale (CRTS) and is prioritized for service. When frontline officers attend mentally-ill, EDP calls, two man cars must attend. Traditionally these officers will be at hospitals for two hours or more awaiting the hospital to take custody. This process is a substantial drain on Police resources to deal with a person who is suffering an illness. The MCIT frees frontline officers for calls of service and is more efficient at dealing with EDP's.

### Major objectives of the MCIT:

- To assist the frontline responding officers in interacting with individuals initially identified as emotionally disturbed persons (EDP)

- To prevent serious emotional, physical and social dysfunction of EDP by facilitating police access to mental health assessment, treatment, and community referrals networks
- To divert EDP from the criminal system to mental health services when appropriate

The MCIT project became operational in November 2000.

### **Operational Statistics updated to October 2002.**

Contacts - 419 individuals have been dealt with by the MCIT since Nov, 2000.

- Of these contacts, 358 have been single contacts, while 61 have had multiple contacts for a total of 537 contacts.
- 60 % of the contacts were with males, 40 % were females
- 81% were single, 7% were married, and 12% were 'other'
- 67% were living in their own house or apartment, 18% were living in supportive housing or shelters, and
- 15% were NFA

Reason for contact - the reasons for contact, in descending order, were:

- Suicidal 23.1%
- Mental status 22.7%
- Execution of Form 1,2, or Q (Mental Health Act Apprehension Warrants), 13.3%
- Bizarre behaviour 13.1%
- Harm to others 9.5%
- Self harm 6.7%
- Other 7.9%
- Criminal activity 1.7%

Results of contact- 38% of the contacts were left at the scene after assessment and referral.

- 43.2% were taken to St. Michael's Hospital emergency room for admittance
- 1 1.2% were taken to St. Michael's Hospital emergency room on Forms (1,2, or 9)
- 2.4% were taken into police custody
- 5.2% were marked 'other' (no further explanation)

Time Saved the Priority Response Unit (PRU)

2000/1 1/06 to 2001/1 1/01 410.6 hours (820 officer hours based on a two officer response)

2001/1 1102 to 2002/09/26 305.3 hours (607 officer hours based on a two officer response?)

The MCIT pilot project is scheduled to end on November 6, 2002. A final report is currently being finalized for the consideration of the service to continue as a pilot, expand to other divisions, or to come to an end.



**Letters of support from St. Michael's Hospital**





Leading with Innovation  
Serving with Compassion

**ST. MICHAEL'S HOSPITAL**  
*A teaching hospital affiliated with the University of Toronto*

Friday, October 25, 2002

Chief Julian Fantino  
Chief of Police  
Toronto Police Services  
40 College Street  
Toronto ON

Dear Chief Fantino,

I am writing to you on behalf of the consumers and community members of the St. Michael's Hospital, Mental Health Community Advisory Panel (CAP) with respect to our joint program – the Mobile Crisis Team. The CAP is composed of mental health consumers and community agencies that access care from St. Michael's Hospital either for themselves or on behalf of the clients they serve. We act in an advisory capacity to the St. Michael's Hospital Mental Health Program and we were strongly supportive when the initial idea to form a joint Mobile Crisis Team between the Toronto Police and the hospital was brought forward to us. With the hospital and your officers we provided input into the design and implementation of the Mobile Crisis Team. We were delighted when the project received funding. We were then further delighted to meet and work with the dedicated officers who you assigned to this team. Together, hospital staff and police officers have worked diligently to provide this vital, innovative option for individuals requiring assistance in 51 Division.

The need for such a service has been documented for many years from consumers, families, community agencies and the police themselves. A need to discover a way to approach individuals in crisis in a non-threatening manner. These situations are often frightening, not only for the person who is ill, but for the family, the friends, the agency worker who is trying to help and the police officers who arrive in the middle of such an episode. The police in most cases are the first people called in these circumstances.

The success of our joint venture has been reported to us from every level. The clients who have been served by our joint team have felt respected, cared for and less afraid to call the police the next time they may need help. In fact, the trust level between the mental health community, mental health consumers, community agencies and the Toronto Police has been drastically increased through this partnership.

The number of visits to the emergency room has declined due to the Mobile Crisis Team's ability to often stabilize situations in the neighborhood. This then frees up your Officers to attend other calls and serve the community while the individual in crisis is assessed and directed to the most appropriate care.

30 Bond Street  
Toronto, Ontario  
M5B 1W8 .../2  
416-360-4000  
[www.stmichaelshospital.com](http://www.stmichaelshospital.com)



Community agencies who provide services to this population feel better having that our joint Mobile Crisis Team is available to them to offer a stable, supportive and effective backing up if they are in a difficult situation.

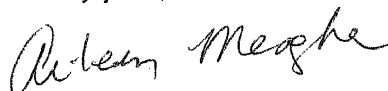
Family and friends of clients have reported that they feel more confident reaching out for assistance as they have become aware of the supportive work done by the Mobile Crisis Team.

Chief Fantino, on behalf of the many people who have been helped by this wonderful team, I urge you to continue this partnership between the Metro Police and St. Michael's Hospital. The Mobile Crisis Team has demonstrated that it is a vital community support and that it should be expanded to better serve the needs of more citizens.

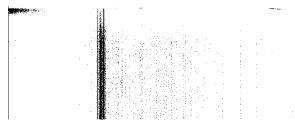
We, the members of the St. Michael's Hospital Community Advisory Panel congratulate you and the Police Commission for daring to be proactive and creative to attempt to serve these vulnerable citizens in a compassionate manner. Together through this unique partnership between St. Michael's Hospital, Mental Health Program and the Toronto Police Service; we have discovered unprecedented success in assisting some of our most vulnerable citizens in crisis.

We urge you to continue your support and funding of the Mobile Crisis Team and to continue this innovative, cost effective, compassionate service with St. Michael's Hospital Mental Health Program as your community partner.

Sincerely yours,



Aileen Meagher  
Chair  
St. Michael's Hospital  
Mental Health Service  
Community Advisory Panel



**Patricia Petryshen, RN PhD**  
Executive Vice President  
Programs, Hospital Relations and  
Chief Nursing Office



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Serving with Compassion

**ST. MICHAEL'S HOSPITAL**  
*A teaching hospital affiliated with the University of Toronto*

Thursday, November 07, 2002

Chief Julian Fantino  
Chief of Police  
Toronto Police Service  
40 College St.  
Toronto, ON

Dear Chief Fantino,

On behalf of St. Michael's Hospital, I would like to congratulate you on the Mobile Crisis Intervention Team, an innovative partnership between St. Michael's Hospital Crisis Service and the Toronto Police Service 51 Division. The pairing of a mental health professional with a police officer to respond to 911 calls for people experiencing a mental health crisis has resulted in individuals being maintained in the community and thus freeing up time for the police primary response units.

In the past, police officers without the mental health professional support would bring these individuals directly to emergency departments, often resulting in precious resources taken from the community while the officers waited for the individual to be admitted or referred.

St. Michael's Hospital has had a very positive response from our community to the Mobile Crisis Intervention Team. The clients feel less threatened when they are seen in their own environment, community agencies appreciate the on site expertise, and the trust level between the mental health community and the police has been greatly enhanced.

The Toronto Police Service mission statement "We are dedicated to delivering police services, in partnership with our community to keep the City of Toronto the best and safest place to be." is reflected in the success of the Mobile Crisis Intervention Team. St. Michael's Hospital looks forward to continuing this meaningful partnership with the Toronto Police Service, 51 Division.

Yours truly,

Patricia Petryshen, RN, Ph.D.  
Executive Vice President,  
Programs, Hospital Relations &  
Chief Nursing Officer  
St. Michael's Hospital

cc: Mr. Jeffrey C. Lozon, President & CEO, St. Michael's Hospital

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**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P216. CHANGES TO THE COMPLAINTS SYSTEM – FINAL  
RECOMMENDATIONS**

The Board was in receipt of the following report JULY 20, 2004 from A. Milliken Heisey, Q.C.,  
Chair:

Subject: CHANGES TO THE COMPLAINTS SYSTEM – FINAL  
RECOMMENDATIONS

Recommendation:

It is recommended the Board:

- (1) approve the eight recommendations pertaining to a new complaints system, as outlined in the following report and;
- (2) forward this report as the Board's submission to the Honourable Patrick LeSage for consideration in his ongoing review of the complaints system.

Background:

At its meeting on November 21, 2002, the Board, as part of one of its motions, requested the then-Ministry of Public Safety and Security to review submissions by deputants "with the intention of amending the present complaints process to create a more independent civilian-oriented complaints process." (Min. No. P292/02 refers.)

At its meeting on January 6, 2004, the Board requested Board staff to prepare a report on alternative models to the current complaints system. (Min. No. P4/04 refers)

The Board, at its February 26, 2004 meeting, received the report on the Complaints System and approved, among others, a motion to reformat this report into a discussion paper containing the "Principles of an Effective Complaints System" and circulate it to interested stakeholders, including the Toronto Police Association. The Board, at this time, also approved a motion to schedule a special Board meeting to receive public deputations on the discussion paper, *Models for Police Complaints Review: A Discussion Paper*.

On June 16, 2004, the Board held a special meeting to receive deputations from members of the public and community groups regarding the Board's Discussion Paper. At this meeting, the Board received the deputations and written submissions, referred them to Chief Fantino for his review in preparing a report for the Board. The Board also requested the Chair to prepare a final report on changes to the complaints system which would then be provided to the Honourable

Patrick LeSage, who has been appointed by the Attorney General to review the complaints system and recommend changes. (Min. No. P178/04 refers)

### Principles in a New Complaints System

In analyzing alternative models to the complaints system, the Board deemed it useful to first articulate those principles that the Board views as the hallmarks of a successful system. Board staff reviewed complaint system models in use in other jurisdictions and drafted the list below. At its February 26, 2004 meeting, the Board adopted the following list as representative of these fundamental principles:

- An open and accessible system that is accountable to the public
- Thorough and comprehensive investigations
- The use of highly trained investigators
- Public awareness of the availability of the system and how the process operates
- Public confidence in the system
- A system that is fair and appears to be fair to both complainants and to the police
- Investigations completed within a timely manner and within prescribed timelines
- Complaints dealt with consistently in accordance with uniform principles
- Mechanisms to deal with a multiplicity of proceedings arising from the same incident
- Avenues for review and appeal of decisions

### Deputations at the June 16 Special Board Meeting:

At its special Board meeting held June 16, 2004 at City Hall, the Board received deputations from a total of 19 groups or individuals. While there was some limited support for the current complaints system, most deputants were strongly in favour of the establishment of a more independent system. The principles of accountability, transparency, fairness and accessibility were emphasized. Among the attributes that the deputants wanted to see incorporated into a new system are the following:

- Civilian-based body to oversee complaints (with potential police participation)
- Independence in terms of staffing and administration in all areas (receiving complaints, investigation and adjudication)
- Sufficient staffing, funding and resources for the system
- Significant powers for the system
- Application of complaints process to anyone engaged in law enforcement process
- Ability to make third-party complaints (with reasonable limits)
- Recording and tracking of all complaints and ensuring complainants are kept apprised of status
- Appeal process
- Regular and independent audits of the system

Deputants noted concerns about public accessibility to the system, education and outreach and the need to maintain public confidence in the system and in the police. They also raised issues about language and cultural barriers that may exist for complainants because of the unique nature of Toronto's diverse community.

### Changes to the Current Complaints System:

Over the past several months, a number of issues have been raised in relation to a new complaints system. I have selected what I view to be key issues in any new complaints system, reviewed various options for each (see Appendix A) and have provided recommendations. As part of my analysis, I have reviewed complaints models in use in other jurisdictions as well as the current complaints system in use in Ontario under the *Police Services Act*. In considering the key issues and making the following recommendations, I have also incorporated the public deputations as detailed above.

#### ***1. Composition of review body***

While there have been many calls for an independent body to receive, review, investigate and adjudicate complaints, there are a variety of ways in which this body could be composed. There are some who favour a completely independent body, with no police involvement at all. There are others who advocate for a police role of some kind, perhaps in the investigation of complaints but not in the adjudication of them. Lastly, there are those who believe that our current system, in which the police, in most cases, are responsible for the receipt, investigation and adjudication of complaints, is the preferred model.

#### *Former Public Complaints Commission (PCC)*

Some members of the public favour a return to the system in place under the former Public Complaints Commission (PCC). In 1981, as part of a pilot project in Toronto, the Office of the Public Complaints Commissioner was created. Under this system, in most circumstances, police retained initial responsibility for the investigation of public complaints. However, the PCC monitored police progress and was designed to maintain public confidence in the system. The complainant had a right of appeal to the PCC. After conducting a review, the PCC could decide that no further action was required or could, alternatively, order a hearing by an independent civilian board of inquiry, the composition of which was variable depending on the matter. Where the board found misconduct, it could impose a penalty – ranging from a reprimand to dismissal from the force – directly on the officer. In addition, the legislation gave the PCC the power to make recommendations with respect to the practices or procedures of the force, or any law affecting the resolution or prevention of public complaints. The Office of the Public Complaints Commissioner was made permanent pursuant to the *Metropolitan Toronto Police Complaints Act, 1984* and for the next six years was Ontario's sole civilian oversight body.

### *New Complaints System in U.K.*

The U.K. has recently adopted a new police complaints system. The system was designed to ensure that complaints against the police are handled in an open, efficient and fair way. As part of the system, a new body, the Independent Police Complaints Commission (IPCC) was established.<sup>(1)</sup> The IPCC has overall responsibility for the complaints system. It aims to raise standards, reduce delays, increase public confidence and transform the way police forces handle complaints. The IPCC has the power to initiate, carry out and oversee investigations. In its guardianship or watchdog role, it is also responsible for monitoring the way complaints are handled by local police forces. Lastly, the IPCC ensures that lessons learned in its work are provided to police forces so that they can improve the way they deal with complaints.

Under the new system, most complaints continue to be investigated by local police forces. However, all forces are now required to meet strict new IPCC standards. A number of investigations into serious issues are run by the IPCC's own investigators. In certain circumstances, IPCC investigators have full police powers and rights of access to premises, documents and other evidence. Complainants have a right of appeal to the IPCC if they feel that they have not been given sufficient information by the police or are unhappy with the outcome of a police investigation into a complaint. There is now a legal obligation on police forces to keep complainants informed of the progress of an investigation.

In terms of composition, the IPCC has both police and civilian members. The independent investigation teams are comprised of a mix of police officers and non-police officers. Each team is overseen by an Independent Commissioner and managed by a civilian manager. Disciplinary panels arising from a complaint have three members, one of whom must be independent of the police. The Police Authority maintains a list of independent people who can sit on disciplinary panels in each area.

#### **Recommendation 1:**

- **Establish a new independent body to receive, review, investigate and adjudicate complaints. The review body would be responsible for the intake of all complaints and would make decisions including whether a complaint should not be dealt with (on the grounds that it is frivolous, vexatious or made in bad faith) and whether a complaint should proceed under the process of local or informal resolution (see discussion below.)**
- **The independent review body would be located outside of a police facility.**
- **The independent review body would be sufficiently funded to ensure adequate resources, staff and budget to meet its comprehensive mandate.**
- **Investigations would be carried out by completely independent investigative teams. The adjudicative body would have police representatives as part of its composition but would not have a majority of police representatives.**

- **The governing body for this new system would be a Board of Directors, comprised of both police and non-police representatives. The role of the Board of Directors would be that of policy-making and governance. Membership of the Board of Directors would include representatives from police bargaining groups and organizations representing police services boards and chiefs of police. However, the Board of Directors should not disproportionately represent bodies involved in policing. The remainder of the membership of the Board of Directors would be comprised of representatives independent of any police-associated organizations.**
- **Appeals from any decision of the new independent review body would be made to Divisional Court, similar to the current process.**

## *2. Application of complaints system*

The issue of widening the application of the complaints system was raised in one of the deputations. It was recommended that the complaints system should apply not only to sworn police officers, but also to anyone, including civilian members and special constables, who wield significant police powers. It is arguable that auxiliary members, too, should be added to this list.

The new complaints system in use in the U.K. aims to widen the scope of the system by having it apply more broadly. While the former complaints system applied only to “regular members” of a police force and excluded special constables and civilian employees, the new system standardized the complaints system to apply to any person “serving with the police.” (2)

One related emerging issue that requires review is that of the private security industry on Ontario. Currently, those working within this industry have no system of regulation. This is so despite the fact that many individuals working for private security firms exercise quasi-police powers and may appear, to the public, to be police officers. This challenging but important area is one that requires careful examination in the near future.

### **Recommendation 2:**

- **Legislation should include a provision that the complaints system applies to all police officers as well as any individuals exercising police powers. All special constables should be subject to the complaints system.**

In the event that auxiliary officers are granted greater authority, akin to police powers, the legislation should be amended to ensure that they, too, are subject to the complaints system.

### 3. *Third-party complaints*

This is an area that has generated a great deal of discussion. Section 57(1) of the *Police Services Act* provides that a complainant must be “directly affected” by the policy, subject or conduct that is the subject of the complaint. Prior to the passage of Bill 105, which changed the complaints section of the *Act*, a complaint was allowed where a person merely observed a matter.

Many deputants recommended that third-party complaints be allowed. However, when asked, some agreed that limitations could be placed on the ability of an individual to make a third-party complaints. For example, a new provision could specifically exclude from this category the complaint of an individual who merely observes an incident of alleged misconduct on television or the Internet. In addition, the limitations imposed may differ based on the type of complaint being made (as characterized in the current system). For example, a new provision may allow an individual who does actually not witness the alleged misconduct to make a third-party complaint about a *policy* of a police service but not about the *conduct* of an officer.

The new U.K. complaints system defines broadly who may make a complaint (3). A complaint can be made by any member of the public who:

- (a) Has been the victim of misconduct by a person serving the police.
- (b) Was present when the alleged misconduct took place, or close enough to see or hear the misconduct, and as a result, suffered a loss, damage, distress or inconvenience or was put in danger of risk.
- (c) Is a friend or relative of the victim of the alleged misconduct, distressed by the effects of the incident on the victim.
- (d) Has witnessed the alleged misconduct.
- (e) Is acting on behalf of any of the above, with the written consent of the complainant.

In examining third-party complaints, it is important to look, too, at the role of organizations such as the Canadian Civil Liberties Association (CCLA) in initiating complaints on behalf of members of the public. The CCLA has become involved in advocating on behalf of a number of complainants over the years. While the *Police Services Act* does not specifically state that an organization or corporation cannot make a complaint, “the weight of authority favours the view that a ‘member of the public’ refers to individuals only.” (4) However, there is arguably a public interest role for these types of organizations in the complaints system as a whole and this issue requires further examination.

#### **Recommendation 3:**

- **Establish new language allowing third-party complaints, defined broadly, similar to the system in place in the U.K., with one major amendment and several minor amendments as follows:**



**A complaint can be made by any member of the public who:**

- (a) Is the victim of misconduct by a person serving the police.**
- (b) Was present when the alleged misconduct took place, or close enough to see or hear the misconduct, and as a result, suffered a loss, damage, distress or inconvenience or was put in danger of risk.**
- (c) Is acting on behalf of an individual who suffers from a physical or mental disability rendering the individual unable to make a complaint him or herself.**
- (d) Has personally witnessed the alleged misconduct.**
- (e) Is acting on behalf of any of the above, with the verified written consent of the complainant.**

The addition of the situation included in part (c) above is in response to an important need. A new legislative provision should expressly allow for third-party complaints where the alleged victim of police misconduct is suffering from a physical or mental disability rendering the individual unable to make a complaint him or herself. Currently, the practice of the Toronto Police Service provides that when a complainant is unable to communicate in writing, or due to any disability is unable to attend a police facility, a supervisory officer shall be detailed to attend and take the complaint. As this is a situation that arises in practice, it should be expressly included in any new legislation.

#### ***4. Informal resolution***

Currently, section 58 of the *Police Services Act* contains a mechanism to facilitate informal resolution of non-serious complaints. This requires the consent of all parties affected and may occur at any time before or during an investigation. The informal resolution process was intended to represent the move away from complex and bureaucratic complaint schemes in favour of more service-oriented responses to less serious complaints.

Before changes to the *Act*, only a small number of complaints were resolved by informal resolution. However, since that time, it has become a significant method of resolving complaints. In 2003, approximately 14% of concluded complaints within the Toronto Police Service were resolved through some form of informal resolution. Informal resolution can include a situation in which an officer makes an apology, an officer is made aware of a complainant's concern or a Unit Commander is made aware of the issue and counsels an officer.

While it is encouraging to see the relatively large number of complaints being resolved through informal resolution, there is some concern that informal resolution cannot be wholly effective as long as it is the police themselves that are administering it. Because of the power imbalance that often inevitably exists as between complainant and police officer, some argue that informal resolution in this context cannot be seen as completely voluntary. Even where no improper pressure has been exerted, the police will face criticism regarding the potential impropriety involved.

Some deputants raised the example of the system in use in Quebec. The Quebec complaints system uses a process called conciliation to informally resolve non-serious complaints. In this process, the complainant and police officer are required to meet in the presence of a conciliator. The Police Ethics Commissioner receives and studies any complaints and may decide to refer a complaint to conciliation, with the permission of the parties. The Commissioner may also impose conciliation, if he or she considers that the reasons invoked by the complainant to refuse conciliation are not valid. Under the Quebec model, eighty to eighty-five percent of cases sent to conciliation are resolved. Some have argued that adoption of the conciliation process to replace the current informal resolution process would improve communication between complainants and police officers and enhance understanding of all parties involved.

Another system worth examining is the model of local resolution, included in the new police complaints system that the U.K. has recently adopted. Local resolution, which replaced informal resolution, was designed to be an efficient and conciliatory process for minor cases so that a complainant can feel ownership over the process. It is flexible in its forms and may include management resolution (like informal resolution), a restorative conference, where the parties come together to speak openly, or mediation, using an independent mediator. Local resolution is a no-consequence procedure; it does not constitute a finding against the individual and there are no disciplinary proceedings if an issue is resolved through local resolution.

In adopting a system like this, it is important to expressly define what types of alleged misconduct would be referred to informal resolution or local resolution. Currently, the *Police Services Act* provides for informal resolution where the Chief believes that the misconduct or unsatisfactory work performance “was not of a serious nature.” There are some criticisms that it is currently unclear as to what limits constrain an informal resolution.(5) In practice, matters referred to informal resolution include using profane, abusive or insulting language to a member of the public or a police service, neglect of duty or causing damage to police clothing or equipment.

In the U.K., the relevant legislation, the *Police Reform Act 2002*, specifically outlines those categories of complaints that are suitable for the local resolution process.(6) The legislation provides that local resolution can be used where the conduct complained of, even if proven, would not justify the bringing of any criminal proceedings and that in the event any disciplinary proceedings were brought in relation to the conduct, the proceedings would be unlikely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine. I believe the *Police Services Act* should be amended to include similar provisions governing the use of informal resolution or local resolution.

#### **Recommendation 4:**

- **Expand the current informal resolution process into a process similar to the local resolution model currently used in the U.K.**
- **Ensure that the legislation expressly defines situations in which informal resolution/local resolution should be used.**

- **The new independent review body would have the discretion to refer cases deemed to be minor or non-serious to the local police service for local resolution; all intake and complaint classification would still be the responsibility of the independent review body. In addition, any appeal of a decision reached through the informal resolution/local resolution process could be made to the independent review body.**
- **Where mediation is used, independent mediators would be employed. The independent review body would maintain a list of mediators to be used by local police services.**

### ***5. Standard of proof***

A number of deputants raised the issue of the standard of proof to be used when reviewing complaints. Of those who raised this issue, all concluded that the standard of proof should be the balance of probabilities and that the burden should rest with the complainant.

In order to assess this submission, it is useful to first look at how the system operates at this time. The current complaints system is divided into a number of phases, each of which contains its own criteria for threshold decisions.

At the initial phase, a complaint can only be made by a member of the public who has been “directly affected.” The chief may decide not to deal with a complaint if he or she deems it to be frivolous, vexatious or made in bad faith. In addition, the chief may decide not deal with a complaint if it was made more than six months after the facts on which it was based occurred. All other complaints are automatically reviewed. At this phase, the chief decides whether to take any action, or no action, in response to the complaint as he or she considers appropriate; the *Police Services Act* provides no standard of proof or threshold here. All conduct complaints, except for those exempted as outlined above, are investigated.

Once the chief reviews the report of the investigation and is of the opinion that the police officer’s conduct may constitute misconduct or unsatisfactory work performance, he or she shall hold a hearing into the matter; again, there is no threshold outlined in the *Act* for this determination. If the complaint is referred to a disciplinary hearing, the hearing operates under its own standard of proof, that of “clear and convincing evidence.” This has been defined to mean “weighty, cogent and reliable evidence upon which a trier of fact, acting with care and caution, can come to the fair and reasonable conclusion that the officer is guilty of misconduct.”(7)

Adjudicators in some administrative and civil proceedings allow for the application of a different standard of proof depending on the seriousness of the misconduct or the evidence presented. This is so within the context of labour arbitration, where the standard used “is flexible enough to allow the decision-maker to require evidence that is commensurate with the seriousness of the alleged offence and the consequences which may follow.”(8) I believe that disciplinary hearings under the *Police Services Act* should operate in a similar manner. The standard of proof should change depending on the circumstances involved, so that the applicable standard is either that of clear and convincing evidence or the balance of probabilities. Where the standard of proof used

is the balance of probabilities, this will represent a lowering of the current threshold necessary to secure a conviction under the *Police Services Act*. The decision of what is the appropriate standard of proof to be used in a case should be left to the adjudicator or hearing officer.

#### **Recommendation 5:**

- **The legislation should be amended to change the standard of proof used at the disciplinary hearing. The standard applied should be a flexible one that shifts between clear and convincing evidence and the balance of probabilities depending on the seriousness of the alleged misconduct.**

#### ***6. Combining a multiplicity of proceedings arising out of a single incident***

I personally believe that any new complaints system should address the issues surrounding the multiplicity of proceedings (such as civil proceedings, internal *Police Services Act* charges and *Human Rights Code* complaints) that may be brought against officers arising out of a single incident. I am concerned about the gauntlet of proceedings that both officers and complainants face within the current regime and the effect this has on all parties involved. This includes, too, the families of officers and complainants.

A new system should aim to reduce the number, duration and expense of these multiple proceedings. Currently, complainants and those commencing a civil action have to turn to multiple forums, where standards of proof and evidentiary rules differ. As a result, decisions arising in these different forums may be inconsistent and can appear unfair.

In addition, officers who are named in a complaint or a civil action are often engaged for months and even years in complex investigations and litigation. There is also a risk that an accused in a criminal case will, as a defence tactic, launch a civil suit against an officer who is testifying in the accused's case. This can have a considerable impact on the officer named in the action as the time and cost involved in defending oneself in a civil action can be significant. Often, it can take many years before all of the issues related to a single incident are finally adjudicated.

It should be noted that not all of the deputants the Board heard from agreed with the recommendation that the multiplicity of proceedings arising out of a complaint should be combined, noting that the right to bring a civil action should not be undermined. In addition, deputants drew a distinction between the type of conduct that is usually the subject of a complaint as opposed to the type of conduct that founds the basis for a civil action.

It is my opinion that all parties to a complaint have an interest in seeing that complaint dealt with in the most effective and efficient way possible. A single body that could deal with disciplinary, human rights and compensation matters would create a process that is more efficient, more consistent and more accessible. The standard of proof applied should be a flexible one that shifts between clear and convincing evidence and the balance of probabilities depending on the seriousness of the alleged misconduct (see discussion in *Standard of proof* above) with the onus placed on the complainant.

Some have argued that justification exists for pursuing a resolution in an alleged police misconduct matter through a civil action on the basis that the current complaints system is inadequate. Under this analysis, the civil courts operate in the stead of a proper and functioning complaints system. It is my belief that a new complaints system, founded on an independent and well-resourced review body, will adequately address all issues, including those currently arising in civil actions.

**Recommendation 6:**

- **Provide that the new independent review body has the authority to deal with internal discipline, human rights complaints and civil proceedings in a single, comprehensive process.**

**7. *Auditing of the complaints system***

Many deputants raised the issue of establishing an external audit function for any new complaints system. Regular audits can identify emerging issues, detect problem areas and track trends in a systematic matter. In addition, a system that opens itself to external scrutiny is better able to withstand criticism. As public perception is a key issue in any complaints system, many argue that independent auditing is imperative to the maintenance of public confidence.

Currently, there is no specific external audit function within the complaints system. However, over the years, some audits have been conducted. For example, in November 1996, the Board adopted a recommendation that called for an annual audit of the discipline and public complaints process. The Board subsequently requested the City Auditor to conduct a review of the administration of the complaints system. In September 2002, the Board received from the City Auditor a report of the Performance Audit of the Public Complaints Process of the Toronto Police Service. The report included 27 recommendations; some were directed to the Board, others to the Chief.

I believe that the new complaints system should be subjected to periodic audits to ensure that the system is operating effectively and efficiently and to maintain public confidence in the system. These audits should be conducted by the Provincial Auditor of Ontario. This is an independent audit office serving Ontario's Legislative Assembly that conducts independent attest, value-for-money and compliance audits of government programs and Crown agencies as well as independent audits of the province's financial statements. (9) The new independent review body would develop an audit plan that would ensure that police services across the province were subject to periodic audits by the Provincial Auditor.

**Recommendation 7:**

- **Build into the new complaints system a periodic external auditing function and ensure that the new independent review body develops an audit plan.**
- **Audits would be conducted by the Provincial Auditor of Ontario.**

## **8. Complaints Against the Chief or Deputy Chief**

Currently, a police services board has the responsibility under the *Act* to review every complaint made about the conduct of the Chief or of a Deputy Chief. The police services board makes the initial decision as to whether the complaint should be accepted. Then, after a review of the complaint, if the board is of the opinion that the alleged conduct may constitute an offence, misconduct or unsatisfactory work performance, the board is required to ask the Ontario Civilian Commission on Police Services (OCCPS) to have the complaint investigated by another police service. If another police service is of the opinion that the conduct may constitute misconduct or unsatisfactory work performance, the police services board is required to hold a hearing into the matter. The police services board may also choose to resolve the matter through informal resolution if it is of the opinion that the conduct is not of a serious nature.

I believe that under the new complaints system, a police services board should retain responsibility for the administration of complaints against a Chief or Deputy Chief. While any complaint against a Chief or Deputy Chief, like all complaints, would be received by the new independent review body, where it is deemed that the alleged misconduct is minor or not of a serious nature, as defined for informal resolution/local resolution, these complaints should be referred to the local police services board. Where the alleged misconduct falls beyond this threshold, the independent review body should conduct its own investigation into the complaint.

### **Recommendation 8:**

- **The new complaints system should provide a role for police services boards in dealing with complaints against a Chief or Deputy Chief. Where the alleged misconduct meets the threshold established for informal resolution/local resolution, the complaint should be referred to the local police services board. Where the alleged misconduct falls beyond this threshold, the independent review body should conduct its own investigation into the complaint and provide a report of its finding to the local police services boards.**

### Conclusion:

It is my opinion that the recommendations as outlined above, if implemented in a new complaints system, would assist in making a process that is fair, accessible and transparent. The Board, as indicated in its previous decisions with respect to the complaints system, is committed to the establishment of a more civilian-oriented and independent process. A complaints system that operates fairly, efficiently and effectively serves both the public and the police.

Endnotes:

- (1) See <http://www.ipcc.gov.uk>.
- (2) See <http://www.ipcc.gov.uk>.
- (3) See <http://www.ipcc.gov.uk>.
- (4) P. Ceysens, S.C. Dunn and S. Childs, Ontario *Police Services Act*, Fully Annotated, 2002-2003 ed. (Saltspring Island, B.C.: Earls court, 2002) at p. 112.
- (5) *Ibid.* at p. 137.
- (6) *Police Reform Act 2002*, U.K., Schedule 3, paragraph 6.
- (7) *Allan v. Munro*, Ont. Bd. Inq., 27 July 1994.
- (8) M. Mitchnick and B. Etherington, *Leading Cases on Labour Arbitration*, Volume 2, Chapter 10 at 10.4.
- (9) See <http://www.auditor.on.ca>.

## **Appendix A**

### **Options Considered in Making Recommendations Regarding Changes to the Complaints System**

#### ***1. Composition of review body***

Options:

- (a) Establish a new independent review body to receive, review, investigate and adjudicate complaints. This body would not have any police representatives as part of its composition.
- (b) Establish a new independent review body to receive, review, investigate and adjudicate complaints. This body would have police representatives as part of its adjudicative but not its investigative function.
- (c) Establish a new body similar in structure to the Independent Police Complaints Commission (IPCC) recently created in the U.K., which leaves the investigation of most complaints to the local police service but has overall responsibility for the administration of the complaints system.
- (d) Re-establish a body similar to the former Public Complaints Commission (PCC).
- (e) Recommend no changes to the current system.

#### ***2. Application of complaints system***

Options:

- (a) Legislation should include a provision that the complaints system applies to all police officers as well as any individuals exercising police powers. All special constables should be subject to the complaints system.
- (b) Recommend no changes to the application of the complaints system.

#### ***3. Third-party complaints***

Options:

- (a) Revert back to the former language in the legislation, which allowed for third-party complaints.
- (b) Establish new language allowing third-party complaints, but with specific restrictions (i.e. a complainant must view the alleged misconduct him or herself and not on television or through other recorded means).
- (c) Establish new language allowing third-party complaints, defined broadly, as modelled on the system in place in the U.K.
- (d) Recommend no changes to the existing legislation.



#### ***4. Informal resolution***

Options:

- (a) Replace the current informal resolution process with a process similar to the conciliation process currently used in Quebec.
- (b) Expand the current informal resolution process into a process similar to the local resolution model currently used in the U.K.
- (c) Recommend no changes to the current informal resolution process.

#### ***5. Standard of proof***

Options:

- (a) Recommend changes to/additions of thresholds at all phases of decision-making.
- (b) Recommend changing the standard of proof at the disciplinary hearing from clear and convincing evidence to the balance of probabilities.
- (c) Recommend no changes in this area.

#### ***6. Combining a multiplicity of proceedings arising out of a single incident***

Options:

- (a) Provide that the new independent review body has the authority to deal with internal discipline, human rights complaints and civil proceedings in a single, comprehensive process.
- (b) Recommend no changes in this area.

#### ***7. Auditing of the complaints system***

Options:

- (a) Build into the new complaints system a periodic external auditing function.
- (b) Build into the new complaints system an internal mechanism for periodic audits.
- (c) Allow members of the review body of the new complaints system to call either internal or external audits on an ad hoc basis.
- (d) Make no recommendations with respect to auditing.

#### ***8. Complaints Against the Chief or Deputy Chief***

Options:

- (a) Complaints against a Chief or Deputy Chief should be handled by the independent review body in the new complaints system.
- (b) The new complaints system should provide a role for police services boards in dealing with complaints against a Chief or Deputy Chief.

**The Board was also in receipt of the following report JULY 14, 2004 from Julian Fantino, Chief of Police:**

Subject:           RESPONSE TO PUBLIC DEPUTATIONS REGARDING CHANGES TO THE  
CURRENT COMPLAINTS PROCESS AND AN ALTERNATIVE  
COMPLAINTS SYSTEM

Recommendation:

It is recommended that: the Board receive this report for information.

Background:

On June 16<sup>th</sup>, 2004 the Board held a special public meeting to receive depositions from members of the public and community groups regarding the Board's *Models for Police Complaints Review: A Discussion Paper*. At that meeting I was requested to provide a report to the Board containing my comments following a review of the meeting (Board Minute No. P178/04 refers). In addition, I was requested to provide my views as to an appropriate alternative complaints system (previously requested in Board Minute No. P34/04).

At the June 16<sup>th</sup> meeting nineteen persons made depositions to the Board. Although the deponents represented various community groups, the overwhelming theme from all deponents was the need for a complaint process that is fair, transparent, equitable, and accountable. As well, all persons spoke to the need for civilian oversight. The following is a summary of the common, re-occurring topics brought forward by the deponents, accompanied by my response:

Independent Civilian Complaint Oversight Body

- |          |  |
|----------|--|
| Summary  | - There is a need for independent complaint intake, investigation, resolution and adjudication.<br>- No police personnel should be involved in any aspect of the process.<br>- The system does not work if police investigate police.<br>- An independent system is seen as the way to restore public confidence.  |
| Response | - The Service agrees that there should be independent oversight of the complaints system. In any democracy the police must be accountable to a civilian oversight authority. However, it is the Service's belief that the current process contained in Part V of the Police Services Act (PSA) works well. Police should continue to investigate public complaints in the first instance. Police investigators have the skills, expertise and knowledge and the investigations are thorough, impartial and completed in a timely manner. |

The principles behind the current civilian oversight body, the Ontario Civilian Commission on Police Services (OCCPS), are sound, however, its working practises need to be improved. Administrative functioning is as important as the investigative functioning; for example, OCCPS must better promote itself and educate the public as to its function and complainant's rights. Most importantly, as a civilian oversight body, OCCPS itself must be seen as being accountable and transparent otherwise it undermines its purpose.

### Third Party Complaints

- Summary - Virtually all deputants agreed on the need to accept third party complaints with varying definitions of what 'third party' should include.
- Response - The Service believes that the current legislation prohibiting third party complaints, with the exceptions provided in the Act, is appropriate. It is important to remember that the PSA provides the Chief with the authority to initiate a complaint based upon information received from a third party. The Service believes this is sufficient means to deal with serious third party allegations.

### Accessibility

- Summary - Various mediums must be available to lodge complaints at locations other than police stations.  
- There must be customer-oriented assistance available throughout the process.
- Response - The current methods of filing a complaint, allowable under the PSA, are exhaustive (i.e. in person, by agent, by mail, or telephone facsimile). A complaint can be delivered to any police facility or to OCCPS. Because of the options available, a complainant is not required to attend a police facility. In addition to the aforementioned list of options, our Service accepts complaints received by electronic mail provided there is an electronic signature.

Other services to assist with accessibility (i.e. assistance with the complaint process or translation) could be made available through OCCPS (expand their role to being more than just a conduit for receiving complaints).

### Education

- Summary - There must be a comprehensive educational process to allow for thorough understanding by all persons of the complaints system and methods of access.
- Response - As this is provincial legislation, the main responsibility for public education should fall to OCCPS, the provincial oversight body, and not the individual police services. OCCPS should actively engage in community outreach through lectures, brochures, informal meetings, statistical and annual reports

and its website. The police services should educate internally to ensure proper and informed response to the public, compliance with the law and understanding of the level of investigation that is expected and deserved in complaint investigations.

### Independent Audit

- Summary - There should be an audit of the complaint system by an additional independent body to ensure the philosophical ideals of fairness and transparency are maintained.
- Response - Our Service believes that independent audits of the complaints system are necessary to ensure the integrity of the system and to uphold public confidence in the system. Accountability and integrity of the process is as important as the result.

### Alternative Complaints System

As previously stated, our Service believes, that while not perfect, the current system works well and there is full confidence in its administration by the Service. However, as a Service we recognize the need for new efficiencies to ensure fairness, transparency, and accountability for all persons involved in the process. In addition to the positions stated in the responses to the deputations, it is believed that the following items are essential in any new system that is considered:

- Informal resolutions must remain available for less serious misconduct.
- OCCPS' profile must be expanded in order to increase the effectiveness of its office. OCCPS is duty bound to protect the public interest and therefore, should play a more public role.
- It is essential that any new legislation take into consideration that policing is still an employer/employee relationship. Legislation must not remove the employer's ability to administer discipline, for doing so would remove a police manager's ability to manage and supervise effectively. For effective accountability of members, the role of 'chief' can not be completely removed from the discipline process.
- The current time limitations for filing a complaint, as set out in the PSA, should remain.
- The PSA or OCCPS should define serious misconduct and less serious misconduct. Currently it falls to the individual services to decide what is serious and less serious misconduct, therefore the system is not equitable across the province (i.e. what is considered less serious misconduct in Toronto may not be considered less serious in another municipality or jurisdiction).
- As it does with other specialized policing functions, the PSA should set minimum standards to ensure that persons assigned to investigate complaints have the appropriate knowledge, skills, and abilities.
- There should be the ability to apply for a PSA pardon.

## Conclusion

Part V of the PSA does not need to be replaced merely retooled to speak to the needed amendments that address the concerns of both the public and the police and strengthens the confidence and trust of all involved in the process.

Our Service believes that police actions are legitimized by civilian oversight as is mandated to OCCPS, and we embrace civilian oversight that is competent, fair, accountable, and works in the best interest of public and police.

Acting Staff Superintendent Richard Gauthier, Professional Standards, will be in attendance to answer any questions the Board may have.

### **The following persons were in attendance and made deputations to the Board:**

- **Inspector Bernie Power, President, Senior Officers' Organization;**
- **Mr. Stephen McCammon, Canadian Civil Liberties Association;**
- **Mr. Colin Brown, African Canadian Legal Clinic\*;**
- **Mr. George Tucker, Director, Uniform Field Services, Toronto Police Association; and**
- **Mr. Kurt Wildman.**

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

**The Board discussed the comments made by the deputants regarding the Board's proposed recommendations pertaining to a new complaints system and agreed that further consideration of some of the recommendations would be necessary.**

**Board members Councillor Filion, Vice-Chair McConnell and Councillor Ootes provided specific suggestions for amendments to some of the proposed recommendations. These suggestions were noted by Chair Heisey and he agreed to prepare an addendum to his July 20, 2004 report which would address, where possible, the suggestions made by the deputants and Board members.**

### **The Board approved the following Motions:**

- 1. THAT the deputations and written submission be received;**
- 2. THAT the Board receive the foregoing reports and defer final consideration of the proposed recommendations pertaining to a new complaints system to its special meeting scheduled for September 02, 2004;**
- 3. THAT, in the interim, Chair Heisey prepare an addendum to his July 20, 2004 report and that it be circulated prior to the special meeting so that anyone interested in commenting upon the addendum report can make final deputations to the Board on September 02, 2004.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P217. TRANSPORTATION OF YOUNG PERSONS TO THE BROOKSIDE  
YOUTH CENTRE AND THE HAMILTON-WENTWORTH DETENTION  
CENTRE**

The Board was in receipt of the following report JUNE 21, 2004 from Julian Fantino, Chief of Police:

Subject: TRANSPORTATION OF YOUNG PERSONS TO THE BROOKSIDE YOUTH CENTRE OR THE HAMILTON-WENTWORTH DETENTION CENTRE.

Recommendations:

It is recommended that:

- (1) the Board approve entering into two Memoranda of Understanding with the Ministry of Community Safety and Correctional Services regarding the transportation of male young persons between the Courts of Ontario and, respectively, the Brookside Youth Centre and the Hamilton-Wentworth Detention Centre; and
- (2) the Board authorize the Chair to execute the two Memoranda of Understanding on behalf of the Board.

Background:

The Ministry of Community Safety and Correctional Services (MCSCS) has made the decision to reduce the number of young persons housed at the Toronto Youth Assessment Centre (TYAC), located at 130 Horner Avenue, Toronto, with the aim of closing the facility at the end of June, 2004.

Since the MCSCS's decision to downsize TYAC male young persons who would have normally been detained within the facility now require transportation to outlying provincial correctional centres, specifically the Brookside Youth Centre, located in Cobourg, and the Hamilton-Wentworth Detention Centre, located in Hamilton.

Section 134 of the Municipal Act, 2001, states:

If the attendance of a prisoner in a correctional institution is required at a hearing or proceeding, the municipality that was responsible for delivering the prisoner to the correctional institution is responsible for conveying the prisoner from the correctional institution to the place of the hearing or proceeding and for the prisoner's return.

Section 134 of the Municipal Act, 2001, places the responsibility on the municipality for transporting accused persons to and from correctional facilities. However, given its role of providing law enforcement and court security in the municipality, the Toronto Police Service (TPS) has traditionally and consistently carried out the transportation function on behalf of the municipality. While the municipality is responsible for prisoner transportation and the TPS carries out the function, the MCSCS has the authority to determine where male young persons are housed.

MCSCS has determined that male young persons that had been previously housed at TYAC will now be housed at the Brookside Youth Centre or the Hamilton-Wentworth Detention Centre. The MCSCS has undertaken to absorb the prisoner transportation costs that result from the closure of a correctional facility in the City of Toronto and where a prisoner is to be housed in a correctional facility outside of the City's geographical boundary.

MCSCS identified a cost-effective method for transporting young male persons to/from Toronto and the Brookside/Hamilton-Wentworth Centres. MCSCS has contracted the Ontario Provincial Police (OPP) to carry out the physical transport of the male young persons. As a temporary measure, until the Memorandums of Understanding are finalized, there is an informal agreement in place between the TPS and OPP allowing for the transportation of male young persons between the City of Toronto and these facilities.

Other police services, such as, York, Durham, Niagara, Waterloo, Barrie, Guelph and Peterborough, have entered into similar Memoranda of Understanding with MCSCS.

Should the Board elect not to enter into these Memoranda of Understanding, the Toronto Police Service will be required to assume the responsibility for transporting the male young persons to and from these outlying detention centres, with the associated costs absorbed by the TPS.

Staff at the City of Toronto, Legal Services have reviewed this report and the attached memoranda (Appendix A & B refers), and are satisfied with its contents.

Acting Deputy Chief David Dicks, Policing Support Command will be in attendance at the Board meeting to answer any questions with respect to this report.

**The Board was also in receipt of correspondence, dated June 28, 2004, from the Honourable Marie Bountrogianni, Minister of Children and Youth Services, regarding the closure of the Toronto Youth Assessment Centre. A copy of the correspondence is appended to this Minute for information.**

**The Board approved the following Motions:**

- 1. THAT the Board approve the recommendations by the Chief of Police in the foregoing report subject to approval as to form by the City Solicitor; and**
- 2. THAT the Board receive the correspondence from the Minister.**

**Appendix A**

**MEMORANDUM OF UNDERSTANDING**

**FOR THE TRANSPORTATION OF  
LEVEL II MALE YOUNG PERSONS**

**BETWEEN THE COURTS OF ONTARIO  
AND  
PROVINCIAL CORRECTIONAL INSTITUTIONS  
(the “MOU”)**

**Between:**

**THE TORONTO POLICE SERVICES BOARD**

(hereinafter referred to as the “Board”)

and

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**, as represented by the Minister of Community Safety and Correctional Services (hereinafter referred to as the “Ministry”)

**WHEREAS** the level II male young persons unit at the Toronto Youth Assessment Centre has been downsized and the Toronto Youth Assessment Centre level II male young persons have been relocated to the level II male young person unit at the Brookside Youth Centre (a provincial correctional institution) located at the Town of Cobourg, Ontario on January 26<sup>th</sup>, 2004;

**AND WHEREAS**, the *Police Services Act* requires that the City of Toronto provide adequate and effective police services in accordance with its needs, and further that the Board is specifically responsible for the provision of such services in the municipality;

**AND WHEREAS**, pursuant to Section 204 of the Municipal Act, R.S.O. 1990, c. M.45 as amended, and its successor provision Section 134 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended (in force effective January 1, 2003), the City of Toronto, and therefore the Board, is responsible for conveying a prisoner from a correctional institution to the place of any hearing or proceeding at which the prisoner’s attendance is required, and for the prisoner’s return, in circumstances where the Board was responsible for first delivering that prisoner to the correctional institution;

**AND WHEREAS** the Ministry, through the Ontario Provincial Police (“O.P.P.”), is prepared, on behalf of the Board, to transport level II male young persons between the Ontario Courts at 1911 Eglinton Avenue East (Scarborough Court), in the City of Toronto, Ontario and the level II male young person unit at Brookside Youth Centre (a provincial correctional institution) located at the Town of Cobourg, Ontario;



**THEREFORE** in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration the receipt of which is hereby acknowledged, the Ministry and the Board agree as follows:

1. The Ministry agrees to provide transportation services for level II male young persons (the "Services") in *non-high risk* situations, between the Ontario Courts at 1911 Eglinton Avenue East (Scarborough Court, in the City of Toronto, Ontario, and the level II male young person unit at the Brookside Youth Centre (a provincial correctional institution) located at the Town of Cobourg, Ontario;
2. Notwithstanding Article 1 where the Ministry, in consultation with Toronto Police Service, determines that the transportation of specific prisoners poses an unacceptable level of risk to Ministry personnel, the Ministry will not be required to provide transportation for such young persons;
3. The Board hereby confirms its appointment of the Ministry to provide transportation services for level II male young persons between the Ontario Courts at 1911 Eglinton Avenue East (Scarborough Court) in the City of Toronto, Ontario and the level II male young person unit at the Brookside Youth Centre (a provincial correctional institution) located at the Town of Cobourg, Ontario, all in Ontario.
4. The term of this agreement will commence on January 26<sup>th</sup>, 2004 and shall continue until terminated by either party in accordance with the provisions of this MOU.
5. Either party may terminate this MOU without cause or liability by giving the other party *ONE HUNDRED AND EIGHTY (180)* days notice in writing.
6. Notwithstanding any other clause in this MOU.
  - (a) This MOU may only be amended, altered or added to by written agreement between the parties, and any such agreement will be supplemental to and thereafter form part of this MOU;
  - (b) This MOU shall ensure to the benefit of and be binding upon the parties and their successors, executors, administrators and their assigns;
  - (c) The Ministry shall not disclose or publish any information provided by the Board except with the express consent of the Board or as otherwise required by law. The Board acknowledges that any information or documents provided to it by the Ministry may be released pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31.

This acknowledgement shall not be construed as a waiver of any right in the Board to object to the release of any information or document. The Ministry will notify the Board where it receives a request for access to any information provided by the Board;

- (d) The Board shall not disclose or publish any information provided by the Ministry except with the express consent of the Ministry or as otherwise required by law. The Ministry acknowledges that any information or documents provided to it by the Board may be released pursuant to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56. This acknowledgement shall not be construed as a waiver of any right in the Ministry to object to the release of any information or document. The Board will notify the Ministry where it receives a request for access to any information provided by the Ministry;
  - (e) If any term or condition of this MOU, or the application thereof to any persons or circumstances is to any extent invalid or unenforceable, the remainder of the MOU, and the application of such terms or conditions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby;
  - (f) The Ministry shall not be liable for any injury, death or property damage to the Board or its agents, or for any claim of such by any third party against the Board or its agents, unless it was caused by the negligence or willful act of an employee or agent of the Ministry while acting within the scope of his or her employment or agent respectively;
  - (g) The Ministry will be excused for any delays in the delivery of the Services to the extent that such delays are caused by acts of God, strikes or lockouts that are beyond the reasonable control of the Ministry;
  - (h) Notices under this MOU shall be given in writing by the personal delivery, or by ordinary prepaid mail;
  - (i) Notices under this MOU shall be addressed respectively to The Regional Commander, Greater Toronto Region, Ontario Provincial Police, 100 Bloomington Rd. W. Aurora, Ontario, L4G 7N5 and to the Chief of Police, Toronto Police Service, 40 College Street, Toronto, Ontario M5G
  - (j) The validity and interpretation of this MOU shall be governed by the laws of the Province of Ontario.
  - (k) The OPP agrees that it shall comply with all applicable federal and provincial laws while performing the services pursuant to this MOU, including but not limited to the *Human Rights Code*, and the *Freedom of Information and Protection of Privacy Act*.
7. The Ministry agrees to provide the services seven (7) days per week, three hundred and sixty-five (365) days per year, as required.

8. The Ministry shall provide all vehicles, staff, equipment, maintenance and repairs necessary for the completion of the Services.

**IN WITNESS WHEREOF the Ministry and the Board have caused this instrument to be executed by their duly authorized officers.**

**DATED at Toronto, Ontario this \_\_\_\_ day of \_\_\_\_\_, 2004.**

**THE MINISTRY OF COMMUNITY  
SAFETY AND  
CORRECTIONAL SERVICES**

**THE TORONTO  
POLICE SERVICES  
BOARD**

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**Gwen M. Boniface  
O.P.P. Commissioner  
(pursuant to delegated authority)**

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**Chair, Toronto  
Police Services Board**

**Appendix B**

**MEMORANDUM OF UNDERSTANDING**

**FOR THE TRANSPORTATION OF  
LEVEL II MALE YOUNG PERSONS**

**BETWEEN THE COURTS OF ONTARIO  
AND  
PROVINCIAL CORRECTIONAL INSTITUTIONS  
(the “MOU”)**

**Between:**

**THE TORONTO POLICE SERVICES BOARD**

(hereinafter referred to as the “Board”)

and

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**, as represented by the Minister of Community Safety and Correctional Services (hereinafter referred to as the “Ministry”)

**WHEREAS** the level II male young persons unit at the Toronto Youth Assessment Centre has been downsized and the Toronto Youth Assessment Centre level II male young persons have been relocated to the level II male young person unit at the Hamilton-Wentworth Detention Centre (a provincial correctional institution) located at the City of Hamilton, Ontario on January 26<sup>th</sup>, 2004;

**AND WHEREAS**, the *Police Services Act* requires that the **City of Toronto** provide adequate and effective police services in accordance with its needs, and further that the Board is specifically responsible for the provision of such services in the municipality;

**AND WHEREAS**, pursuant to Section 204 of the *Municipal Act*, R.S.O. 1990, c. M.45 as amended, and its successor provision Section 134 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended (in force effective January 1, 2003), the city of Toronto, and therefore the Board, is responsible for conveying a prisoner from a correctional institution to the place of any hearing or proceeding at which the prisoner’s attendance is required, and for the prisoner’s return, in circumstances where the Board was responsible for first delivering that prisoner to the correctional institution;

**AND WHEREAS** the Ministry, through the Ontario Provincial Police (“O.P.P.”), is prepared, on behalf of the Board, to transport level II male young persons between the Ontario Courts at 2201 Finch Avenue West (Toronto West Court) in the City of **Toronto**, Ontario and the level II male young person unit at the Hamilton-Wentworth Detention Centre (a provincial correctional institution) located at the City of Hamilton, Ontario;

**THEREFORE** in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration the receipt of which is hereby acknowledged, the Ministry and the Board agree as follows:

1. The Ministry agrees to provide transportation services for level II male young persons (the "Services") in *non-high risk* situations, between the Ontario Courts at 2201 Finch Avenue West (Toronto West Court) in the City of **Toronto**, Ontario, and the level II male young person unit at the Hamilton-Wentworth Detention Centre (a provincial correctional institution) located at the City of Hamilton, Ontario;
2. Notwithstanding Article 1 where the Ministry, in consultation with Toronto Police Service, determines that the transportation of specific prisoners poses an unacceptable level of risk to Ministry personnel, the Ministry will not be required to provide transportation for such young persons;
3. The Board hereby confirms its appointment of the Ministry to provide transportation services for level II male young persons between the Ontario Courts at 2201 Finch Avenue West (Toronto West Court) in the City of Toronto, Ontario and the level II male young person unit at the Hamilton-Wentworth Detention Centre (a provincial correctional institution) located at the City of Hamilton, Ontario, all in Ontario.
4. The term of this agreement will commence on January 26th, 2004 and shall continue until terminated by either party in accordance with the provisions of this MOU.
5. Either party may terminate this MOU without cause or liability by giving the other party ONE HUNDRED AND EIGHTY (180) days notice in writing.
6. Notwithstanding any other clause in this MOU.
  - (a) This MOU may only be amended, altered or added to by written agreement between the parties, and any such agreement will be supplemental to and thereafter form part of this MOU;
  - (b) This MOU shall ensure to the benefit of and be binding upon the parties and their successors, executors, administrators and their assigns;
  - (c) The Ministry shall not disclose or publish any information provided by the Board except with the express consent of the Board or as otherwise required by law. The Board acknowledges that any information or documents provided to it by the Ministry may be released pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31.

This acknowledgement shall not be construed as a waiver of any right in the Board to object to the release of any information or document. The Ministry will notify the Board where it receives a request for access to any information provided by the Board;

(d) The Board shall not disclose or publish any information provided by the Ministry except with the express consent of the Ministry or as otherwise required by law. The Ministry acknowledges that any information or documents provided to it by the Board may be released pursuant to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56. This acknowledgement shall not be construed as a waiver of any right in the Ministry to object to the release of any information or document. The Board will notify the Ministry where it receives a request for access to any information provided by the Ministry;

(e) If any term or condition of this MOU, or the application thereof to any persons or circumstances is to any extent invalid or unenforceable, the remainder of the MOU, and the application of such terms or conditions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby;

(f) The Ministry shall not be liable for any injury, death or property damage to the Board or its agents, or for any claim of such by any third party against the Board or its agents, unless it was caused by the negligence or willful act of an employee or agent of the Ministry while acting within the scope of his or her employment or agent respectively;

(g) The Ministry will be excused for any delays in the delivery of the Services to the extent that such delays are caused by acts of God, strikes or lockouts that are beyond the reasonable control of the Ministry;

(h) Notices under this MOU shall be given in writing by the personal delivery, or by ordinary prepaid mail;

(i) Notices under this MOU shall be addressed respectively to The Regional Commander, Greater Toronto Region, Ontario Provincial Police, 100 Bloomington Rd. W. Aurora, Ontario, L4G 7N5 and to the Chief of Police, Toronto Police Service, 40 College Street, Toronto, Ontario M5G

(j) The validity and interpretation of this MOU shall be governed by the laws of the Province of Ontario.

(k) The OPP agrees that it shall comply with all applicable federal and provincial laws while performing the services pursuant to this MOU, including but not limited to the Human Rights Code, and the Freedom of Information and Protection of Privacy Act.

7. The Ministry agrees to provide the services seven (7) days per week, three hundred and sixty-five (365) days per year, as required.

8. The Ministry shall provide all vehicles, staff, equipment, maintenance and repairs necessary for the completion of the Services.

**IN WITNESS WHEREOF** the Ministry and the Board have caused this instrument to be executed by their duly authorized officers.

**DATED** at Toronto, Ontario this \_\_\_\_ day of \_\_\_\_\_, 2004.

**THE MINISTRY OF COMMUNITY  
SAFETY AND  
CORRECTIONAL SERVICES**

**THE TORONTO  
POLICE SERVICES  
BOARD**

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**Gwen M. Boniface  
O.P.P. Commissioner  
(pursuant to delegated authority)**

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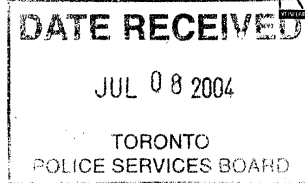
**Chair, Toronto  
Police Services Board**

**Ministry of Children  
and Youth Services**

Minister's Office  
56 Wellesley Street West  
14<sup>th</sup> Floor  
Toronto ON M5S 2S3  
Tel.: (416) 212-7432

**Ministère des Services  
à l'enfance et à la jeunesse**

Bureau de la ministre  
56, rue Wellesley Ouest  
14<sup>e</sup> étage  
Toronto (Ontario) M5S 2S3  
Tél.: 416 212-7432



June 28, 2004

Mr. Alan Heisey  
Chair, Police Services Board  
40 College Street  
7<sup>th</sup> Floor  
Toronto, Ontario  
M5G 2J3

Dear Mr. Heisey:

This letter is to advise you that, in keeping with the transformation of youth justice in Ontario, the Ministry of Children and Youth Services plans to close the Toronto Youth Assessment Centre (TYAC). This week, all young persons from TYAC will be transferred to the Hamilton-Wentworth Detention Centre and the Brookside Youth Centre, located in Cobourg.

Effective June 28, 2004, the Toronto Youth Assessment Centre will no longer accommodate young persons in conflict with the law.

Should you have any questions about the closure of TYAC, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mane Bountrogianni".

Dr. Mane Bountrogianni  
Minister





**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P218. REVISED BOARD POLICY FOR THE DESTRUCTION OF ADULT  
PHOTOGRAPHS, FINGERPRINTS AND CRIMINAL HISTORY**

The Board was in receipt of the following report JULY 08, 2004 from Julian Fantino, Chief of Police:

Subject: REVISED BOARD POLICY FOR THE DESTRUCTION OF ADULT  
PHOTOGRAPHS, FINGERPRINTS, AND CRIMINAL HISTORY

Recommendation:

It is recommended that:

1. the Board approve the revised policy entitled, "Requests for Destruction of Adult Fingerprints, Photographs, and Records of Disposition" and
2. the Board approve the collection of an application fee of \$50.00 plus GST per occasion for the process of expunging Adult Fingerprints, Photographs, and Records of Disposition in accordance with recommendation (1).

Background:

This Board report pertains to the destruction of an individual's fingerprints, photographs, and Record of Disposition in relation to criminal charges. The federal Identification of Criminals Act, R.S.C. 1985, c.I-1, as amended (the Act), provides the authority for a police service to collect the fingerprints and photographs of a person *charged* with an indictable offence; however, the Act is silent with respect to the subsequent destruction of such records when the underlying criminal charge does not result in a conviction. In fact, there is no legislative direction specifying what a police service should do with such fingerprints and photographs in these circumstances.

Criminal courts dispose of criminal charges by way of conviction or non-conviction dispositions. The federal pardons process covers destruction procedures for conviction dispositions not by actually destroying, but by sealing the file when the appropriate conditions are met.

However, the pardons process does not address charges disposed of by non-conviction. Under these circumstances, police services have historically been free to set their own policy regarding the circumstances under which they would entertain an application from an individual to have his or her fingerprints, photographs, and Record of Disposition removed from file. The Toronto Police Services Board set such a policy (Board Minute 454/69 refers) dealing with the destruction of fingerprints and photographs. This policy is still in effect, and states as follows:

“Fingerprints and photographs concerning withdrawn or dismissed charges against first offenders shall be expunged from the files of the Metropolitan Toronto Police when a request is received, in writing, for the return of the material from the individual concerned or his solicitor.”

Such requests are forwarded to Corporate Information Services – Criminal Records for processing.

The term ‘first offenders’ was reinterpreted in 2002 by the Ontario Court of Appeal in the matter of *Regina v. Duale Dore* to convey a different meaning than that originally intended in 1969 when the policy was drafted.

From the inception of this policy, the Toronto Police Service has defined ‘first offender’ as an individual who had not previously been charged with a criminal offence regardless of whether or not the charge resulted in a finding of guilt. Fingerprints and photographs taken for a subsequent criminal charge that, again, did not result in a conviction would be retained. The failure by the person to request that such records be destroyed in the circumstances of the first offence resulted in a refusal to destroy in the case of the subsequent non-conviction disposition.

The general public now recognizes the term ‘offender’ as applying to an individual who has been convicted rather than one who has simply been charged. This has brought about significant complications in relation to requests for destruction of records for those persons receiving a non-conviction disposition who, therefore, do not consider themselves an ‘offender.’ The new policy is intended to clarify the meaning of the wording by introducing the term ‘non-conviction disposition’ rather than ‘first offenders.’

What must also be taken into consideration when processing such requests is the nature of the offence. The Service must exercise discretion and caution in destroying files pertaining to non-conviction dispositions for charges linked to violence, sexual issues, guns, weapons, or explosives. The new policy incorporates a stipulation whereby the Service can deny an application for file destruction (even in circumstances of a non-conviction) should the nature of the offence justify the retention of such files to protect the public interest. Patterns can be detected to assist in police investigations. If the individual has been cleared of the offence his/her fingerprints and photographs will not be disclosed for clearance letters.

In 2003, the Toronto Police Service received 3237 requests for file destruction relating to non-conviction dispositions. Given the volume of applications received to date, it is projected that a comparable number of applications will be processed in the current year.

Therefore, the estimated annual cost recovery given the institution of an application fee for file destruction is approximately \$161,850 (plus GST). The monies collected for processing such requests will be incorporated into the Service’s net operating budget.

Historically, the Service has not charged for this destruction process, although each occasion has an associated cost of approximately \$50.00. To recover costs and be consistent with fees charged by other police services, an application fee of \$50.00 plus GST is proposed for processing a file destruction request (with the exception of acquittals where no charges shall apply).

It should be noted that young offender processes in relation to fingerprints and photographs are mandated under the Youth Criminal Justice Act and are, therefore, not affected by this policy.

The new policy is intended to achieve the following:

1. Clarify the procedure by changing the wording from a first offender to a non-conviction disposition.
2. Provide a mechanism to permit the Service to retain those files on non-conviction where it is necessary in the public interest.

The new recommended revised policy entitled, "Request for Destruction of (Adult) Photographs, Fingerprints, and Criminal History" will read:

"Adult photographs, fingerprints, and criminal record files related to a non-conviction disposition shall be destroyed on application by the individual or their representative in all cases except where violence, sexual issues, guns, weapons, or explosives are involved."

Such destruction will only take place following expiration of any associated prohibitions, court orders or Peace Bonds, and appeal periods.

Conclusion:

It is therefore recommended that the Board approve the revised policy and approve a cost recovery fee of \$50.00 plus GST per occasion for the process of expunging Adult Fingerprints, Photographs, and Records of Disposition in accordance with this policy.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, and Staff Inspector George Cowley, Professional Standards – Legal Branch, will be in attendance to answer any questions that the Board members may have.

**Consideration of the foregoing report was deferred to the Board's September 2004 meeting.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P219. AUTOMATED PAWN REPORTING SYSTEM**

The Board was in receipt of the following report July 05, 2004 from Julian Fantino, Chief of Police:

Subject: AUTOMATED PAWN REPORTING SYSTEM

Recommendation:

It is recommended that:

- 1) the Board receive this report for information; and
- 2) the Board send a request to City of Toronto, Planning and Transportation to amend the City of Toronto Municipal Code, Chapter 545 – Licensing, to make Automated Pawn Reporting mandatory.

Background:

At its meeting of July 18, 2002, the Command received a report prepared by Special Investigation Services – Pawn Unit recommending the Service enter into a pilot project in order to evaluate new technology in the area of automated pawn and second-hand store police reporting systems. The Command unanimously endorsed support for this project and the Board received this report at its meeting of August 20, 2002 (Board minute P225 refers).

Currently in Toronto there are twenty-one (21) licensed pawnbrokers and over seven hundred (700+) businesses licensed for trade in second-hand goods and salvage material. The growth of these industries over the years has placed a heavy demand on Service resources to maintain effective policing services in these areas.

A pilot project commenced in January 2003 and ended in December 2003 involving the participation of Divisional Major Crime Units from each of sixteen (16) Divisions and Special Investigation Services (S.I.S.) - Pawn Unit. During the pilot project selected pawnbrokers and second-hand shops recorded transactions into a computer database by direct data entry at the time of purchase. This database was separate and apart from the Toronto Police Service Mainframe Pawn System and was interfaced with the Canadian Police Information Centre (CPIC) and accessible to participating Service investigators.

The previous pawn reporting system involving the personal collection of pawn and second-hand registers so that clerical support staff could manually enter information into a police database for later analysis is no longer cost effective or efficient. This manual data entry by Service personnel costs the Service approximately \$257,403.84 in wages per year. This, combined with

the fact that the Mainframe Pawn System has now been decommissioned, means that if the Service is to continue maintaining a pawn database for intelligence and investigative purposes an alternative system is essential.

A solution lies in the forging of new partnerships with the business community that will allow for electronic outsourcing in lieu of less cost effective police resources. The implementation of this new technology has offered mutual benefits to the City of Toronto, the Police Service and all legitimate businesses. The cost saving to the Service with full implementation of the Automated Pawn Reporting System would be the salaries and benefits for data-entry clerks and associated expenses of collecting register sheets along with numerous computer property checks that will be done automatically.

The full implementation of this technology will require automated pawn and second-hand reporting becoming a mandatory component of the City of Toronto Municipal Code. This will require pawn and second-hand shops, as a condition of their business licence, to perform direct data entry at the time of purchase allowing Service personnel to concentrate on other duties.

Given the shared enforcement responsibilities of the Toronto Municipal and Licensing By-law Enforcement Branch and the Toronto Police Service, the Service has involved the City of Toronto Department of Urban Development Services - Municipal Licensing and Standards Division (ML&S) as a partner. In order for businesses in the pawn and second-hand industry to conduct business in the City of Toronto, they must obtain a license from the City. License regulations stipulate that this type of business must report transactions in hard copy format, to the Service, on a report called a "Second-Hand Register". In order to implement this technology to its fullest, amendments to the City of Toronto Municipal Code are required to allow this process to be replaced with Automated Pawn Reporting.

The pilot Automated Pawn Reporting project has allowed the Service to build a very large and impressive database in a short time period. The multifaceted search engines that form part of this system allow the data that is collected to be secure and accessible only by accredited law enforcement agencies. The database is cross-referenced daily to CPIC, has the capability to remotely monitor a store's transactions on a real-time basis, and to flag an individual or property and receive a text message when a transaction is made. This capacity to flag, hold and seize items enhances the Service's ability to monitor active customers who frequently sell items and investigate known offenders in multiple jurisdictions. These types of searches and many others were not available with previous pawn technology.

The Automated Pawn Reporting system was presented to the Toronto Cycling Committee (TCC) at its meeting held July 14, 2003. The TCC are fully supportive of the system and further have recommended that the Planning and Transportation Committee be requested to include a bicycle registry component as a theft reduction strategy. This registry would assist in recovering stolen bicycles that have been sold to pawn and second-hand shops.

Automated Pawn Reporting Technology is an invaluable investigative tool in the recovery of stolen property and arrest of suspects involved in serious criminal offences. The project began January 21, 2003 with set-up of computers, training of officers and clerks on this technology.

Data started going into the system by the beginning of April 2003. The data for the remaining 9 months of 2003 showed the recovery of property worth a total value of \$448,080.77, or \$49,786.75 per month with 667 Criminal Code charges laid against 203 persons. The full implementation of this technology with the requirement for automation in the Municipal Code will see the recovery rate of stolen property increase.

Automated technology allows investigators more time to concentrate on the recovery of stolen property and the apprehension of property crime suspects. Data available as of December 31, 2003 shows that the 21 stores doing direct data entry completed 30,972 transactions or an average of 1474.9 transactions per store. In comparison Service personnel manually processed 39,460 transactions for the remaining 82 stores or an average of 481.2 transactions per store,

This comparison shows the stores to be three times more efficient at entering their own data through Automated Pawn Reporting. The amount of data entered by the volunteer businesses has already provided the Service with greater efficiency, as set out below.

#### Volume of Transactions Entered - Pilot Project Year 2003

	Business Data Entry	Police Data Entry	Total
January	515	904	1,419
February	491	3,538	4,029
March	1,370	4,685	6,055
April	2,425	2,943	5,368
May	3,273	3,925	7,198
June	3,003	3,201	6,204
July	2,983	4,629	7,612
August	3,031	2,102	5,133
September	2,871	3,269	6,140
October	2,725	4,853	7,578
November	4,885	3,181	8,066
December	<u>3,400</u>	<u>2,230</u>	<u>5,630</u>
<b>Total</b>	<b>30,972</b>	<b>39,460</b>	<b>70,432</b>

The above table demonstrates that Automated Pawn Reporting is a far more efficient and effective means of doing business.

It is recommended that the Board receive this report for information and that the Board send a request to City of Toronto, Planning and Transportation Committee to amend the City of Toronto Municipal Code – Chapter 545 – Licensing to make automated pawn reporting mandatory.

Acting Deputy Chief David Dicks, Policing Support Command will be in attendance to respond to any questions.

**The Board approved the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P220. POLICE TOWING CONTRACT – DISTRICT No. 3**

The Board was in receipt of the following report July 02, 2004 from Julian Fantino, Chief of Police :

Subject: POLICE TOWING CONTRACT – DISTRICT No. 3

Recommendation:

It is recommended that: the Board award the towing and pound services contract for District No. 3 to 1512081 Ontario Ltd., operating as Abrams, effective September 1, 2004 to May 31, 2007.

Background:

At its April 21, 2004 meeting, the Board approved the awarding of the police towing and pound services contracts in Districts No. 1, 2, 4, 5 and 6. The sole bid for District No. 3 was found to be non-compliant. A problem was identified with the bid of 1512081 Ontario Ltd. in respect to the registration certificate issued under the Motor Vehicle Dealers Act (MVDA), which is a requirement for all bidders under the quotation request. The certificate provided by 1512081 Ontario Ltd. at the time of bid closing was not in the name of the bidder. Although the bidder subsequently supplied a registration certificate in its name, at the time of bid closing, 1512081 Ontario Ltd. did not technically comply with the bid requirements for MVDA registration in its name. The Board approved re-issuing the towing and pound services quotation request for that district (Board Minute P135/04 refers).

As a result of that approval, a quotation request was issued, with a closing date of June 7, 2004. In accordance with the quotation request, towing operators were permitted to submit a response in respect to District No. 3, however the quotation request specified, “the Board will not award contracts for more than one district to the same towing operator.”

The District No. 3 contract is scheduled to commence on September 1, 2004, and is to be in effect until May 31, 2007, with an option for a fourth year at the discretion of the Board. The current expiry date of this contract will coincide with the expiry date of the contracts for the other five towing districts.

Bid Information:

Bidders were instructed to submit a bid that was a combination of a towing charge and the first day’s storage charge (24-hour period), not to exceed \$150.00. The following bid was the only one received for District No. 3:

District	Bidder	Towing Charge (\$)	Storage Charge (\$)	Total Bid (\$)
3	1512081 Ontario Ltd.	100	50	150

Compliance with Quotation Request:

During the month of June, staff from Traffic Services conducted an inspection of the documentation, equipment, facilities and background of the bidder. It was found that 1512081 Ontario Ltd complied with all requirements of the quotation request.

For the Board's information, quotation requests require the following:

- \$100,000 line of credit
- Motor vehicle dealer's licence
- Toronto Licensing Commission public garage licence
- Must not be involved with an auto body repair business, provide municipal law enforcement services or operates a collision reporting centre
- Submit a current and certified survey of property indicating all buildings and storage space for vehicles, must meet square footage criteria
- Fences surrounding pound shall be a minimum of six feet in height and in good repair
- Pound area must have fence alarm or video surveillance
- All towing vehicles must be insured
- All towing vehicles must be registered in the name of the bidder and shall produce all vehicle leases, vehicle ownerships, by-law licences and vehicle lien searches.
- Must be in good standing with the City of Toronto, Municipal Licensing and Standards Division
- Bidders must have an unrestricted right to occupy and lawfully operate a pound for the full period of the contract.

Conclusion:

It is recommended that the Board award the towing and pound services contract for District No. 3 to 1512081 Ontario Ltd., operating as Abrams, effective September 1, 2004 to May 31, 2007.

City of Toronto, Legal Services has reviewed the contents of this report and is satisfied with the recommendation contained therein.

Acting Deputy Chief David Dicks, Policing Support Command, will be in attendance at the Board meeting to answer any questions with respect to this report.

**The Board approved the foregoing.**



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P221. PROGRAM ENHANCEMENTS AND CONSOLIDATION OF BY-LAWS  
AFFECTING PARKING ENFORCEMENT ON PRIVATE PROPERTY –  
TWO YEAR REVIEW**

The Board was in receipt of the following report June 30, 2004 from Julian Fantino, Chief of Police:

Subject: PROGRAM ENHANCEMENTS AND CONSOLIDATION OF BYLAWS  
AFFECTING PARKING ENFORCEMENT ON PRIVATE PROPERTY; TWO  
YEAR REVIEW

Recommendation:

- (1) It is recommended that: the Board receive this report for information and;
- (2) That the Board recommends to City Council that the Municipal Service Delivery Model not be implemented;
- (3) That the Board agree that the Toronto Police Service will not implement any service fees for annual site renewals, permit fees, signage or training;
- (4) That the Board request the City of Toronto amend the current by-law to enable MLEOs to tow un plated vehicles.
- (5) That the Board request the City of Toronto make amendments to the licensing bylaw, regarding look-alike tickets, invoices and demand notices, to require MLEO certification for any person issuing documents related to private parking.

Background:

At its meeting of March 25, 2004, the Police Services Board was in receipt of a report in which a three-month extension was approved pertaining to a two year review of the new Private Property Parking Enforcement Bylaws (Minute No. P98/04 refers).

In October 2000, City Council considered Clause #1 of Report #17 of the Administration Committee entitled "Program Enhancements and Consolidation of By-laws Affecting Parking Enforcement on Private Property." The clause incorporated recommendation number #7 as found in a report dated May 30, 2000, from the City Solicitor and the Commissioner of Urban Development Services. The recommendation adopted by Council requires that the Chief of Police report at the completion of two years, or earlier if circumstances warrant, on the operation of the Private Property Enforcement Program, with recommendations as to whether a municipal service delivery model should be implemented (Board Minute P282/00 refers).

### Municipal Service Delivery Model:

The new Agency Appointment Bylaw was established to separate the municipal type service agencies from the private service agencies. For example, there are separate appointment bylaws in place for Toronto Parking Authority, Toronto Transit Commission, City of Toronto Works and Emergency Services, Toronto Police Service and Private Parking Enforcement Agencies. Although there were never concerns regarding the municipal type agencies, the new bylaws were established to ensure that the appropriate controls were in place to direct, supervise and control the activities of the Private Parking Enforcement Agencies and to ensure that the integrity of the Municipal Law Enforcement (MLE) program was maintained.

The enhancements made to the private property parking bylaw have been effective. Currently, all Private Municipal Law Enforcement Officers (MLEOs) operating within the Municipal Law Enforcement Program, under the direction of the Police Service, are operating in compliance. MLEOs are issuing Part II, Provincial Offences Act tickets and towing vehicles under bylaw when necessary. Public inquiries are reviewed by the Parking Enforcement Unit and the Agencies' activities are closely monitored and supervised.

As a result of the high level of compliance, a municipal service delivery model is not recommended.

### MLEO User Fees and Options to Improve the Program:

In addition, in May 2001, City Council considered Clause #1, of Report #4, of the Planning and Transportation Committee, headed "Program Enhancements and Consolidation of By-laws Affecting Parking on Private Property." The clause, as adopted by Council, included recommendation #8 contained in a report dated February 21, 2001, from the City Solicitor and the Commissioner of Urban Development Services. This recommendation requires that the Chief of Police, as part of a two-year review of the Private Property Enforcement Program, consider whether an annual permit requirement and related fees should be implemented for signs required on private property under the program. Additionally, the report is to address options to improve the program.

### MLEO User Fees:

The Police Service, Parking Enforcement Unit, provides all necessary services to the MLE Agencies at no cost. These services include MLEO and MLE Manager training, site inspections, annual site renewal and officer certification and renewal. Through the provision of these services, the MLE Agencies are able to sell their customized parking enforcement services to property owners. All of the revenues that result from the enforcement conducted by MLEOs, is returned to the City of Toronto. In 2003, tag issuance on private property by MLEOs was approximately 227,000 tags which equates to approximately \$4.7 million in collectable revenue. The annual operating costs for the Parking Enforcement Unit, Contract Services Program that is responsible for overseeing the MLEOs is approximately \$880,000. As a result there is a net return of approximately \$3.82 million to the City of Toronto on an annual basis.

The Toronto Police Service benefits from the MLE Program. The MLEOs deal with a large percentage of private property enforcement calls, enabling the Parking Enforcement Unit to focus on the primary enforcement mandates of “on street” enforcement, including rush hour routes, stopping and standing offences, no parking offences and meters/machines, as well as enforcement of disabled parking spaces and fire routes. Property owners who do not wish to have a MLE Agency provide customized services on their property continue to have the option of contacting the Police Service on a call for service basis.

At this time, it is not recommended that the Police Service charge the MLEO Agencies any service fees for annual site renewals, permit fees, signage or training.

Program Improvement - Towing of Un-plated Vehicles by MLEOs:

One of the challenges, since the inception of the new bylaw, has been the inability for MLEOs to tow un-plated vehicles. Discussions are ongoing with City Legal in relation to the affects of bylaw changes in reference to the new Municipal Act so that administrative procedures can be developed and appropriate time lines can be determined.

It is recommended that the Board request the City of Toronto amend the current by-law to enable MLEOs to tow un-plated vehicles.

#### Look-alike Tickets, Invoices and Demand Notices:

Most recently, a Motion was adopted by City Council at its meeting held on April 15 and 16, 2004, on a Proposed Amendment to the Licensing Bylaw to Regulate Issuance of Parking Tickets. This motion was referred to the City of Toronto, Planning and Transportation Committee, Clause 13, Meeting No. 4, held April 28, 2004.

“It was resolved that the Commissioner of Urban Development Services, in consultation with the City Solicitor and the Toronto Police Service, be requested to report with respect to an appropriate amendment to Chapter 545, Licensing, of the Municipal Code, to eliminate the ability of private parking enforcement agencies, to issue invoices or look-alike tickets, and restrict the issuance of tickets to legal City of Toronto tickets issued by certified municipal law enforcement officers.”

This motion came about as a result of some recent media attention and the resulting public outcry in relation to this matter. The Commissioner of Urban Development Services forwarded a report to the Planning and Transportation Committee for its meeting of June 28, 2004.

Agencies that employ MLEOs and are participating in the police supervised MLE Program are operating in compliance with the applicable bylaws, however, there are still some companies operating who issue invoices, payment demand notices or look-alike tickets. There are eight companies the Service is aware of operating without a Private Property Enforcement Agency (PPEA) License that are issuing look-alike tickets and/or demand notices, and there are two

licensed PPEA agencies issuing demand notices. To clarify, these ten companies do not come under the jurisdiction of the MLE Program supervised by the police service. The demand notices come in various designs and colours, amounts and fees, and often specify penalties to vehicle owners. These include reporting the debt to a collection agency or credit bureau and “real” ticketing and towing for any subsequent offence. Often, other actions are suggested such as court proceedings, including prosecution through the Trespass to Property Act. Experience has shown that the public perceives these documents to be official tickets and this in turn reflects poorly on the Police Service. The Police Service continues to receive calls from the public in relation to documents issued outside of the MLEO bylaw.

In the interest of public protection and based on the success of the MLE Program all parking enforcement on private property by private agencies, property owners, and commercial parking lot owners should be restricted to the issuance of documents in accordance with the Appointment Bylaw for Employees of Licensed Private Parking Enforcement Agencies, Toronto Municipal Code, Chapter 150, Article III.

It is recommended that the Board request the City of Toronto make amendments to the licensing bylaw, regarding look-alike tickets, invoices and demand notices, to require MLEO certification for any person issuing documents related to private parking. Amendments to the licensing bylaw would be required to provide for a clearer and all encompassing definition of a Private Parking Enforcement Agency and Parking Enforcement Services. The Planning and Transportation Committee, at its meeting of June 28, 2004, passed a motion in support of Recommendation 5 contained herein. The motion will be forwarded to City Council for their July 20-22, 2004 meetings.

Once this is in place, the Police Service will be able to monitor and supervise all participants and ensure that enforcement on private property is conducted fairly and equitably across the City of Toronto. In addition, this will provide members of the public with an objective dispute resolution system through the Provincial Court system. With all participants operating under the same rules and, subsequently, on a level playing field, public confidence and program integrity will be preserved. Failure to do this may result in property owners and commercial parking lot operators continuing with, and/or switching to, private demand notices that offer no impartial dispute resolution system and consequently no public protection. It is therefore probable that many in-house MLEOs (i.e. condominium owners and property owners in general) and agencies for hire will abandon the MLE Program to engage in the revenue generated private invoicing method of enforcement.

Should a large number of in-house agencies, currently participating in the MLE Program, switch to private invoices or agencies for hire change their business direction (from parking enforcement to parking lot operators), it is likely that there would be negative financial implications to the City and a poor reflection on the image of the Police Service.

Acting Deputy Chief, David Dicks, Policing Support Command, will be present to answer any questions.

**The Board approved the following Motions:**

- 1. THAT the Board approve recommendations no. 1, 3, 4 and 5 in the foregoing report; and**
  
- 2. THAT, with regard to recommendation no. 2, the Board defer consideration of this recommendation pending a further report from Chief Fantino which provides a more comprehensive explanation of the municipal service delivery model that was considered by the Service; how it compares to the current service delivery; and which identifies, if any, the benefits or implications that would occur if the Service decided to implement a municipal service delivery model.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P222. INTERNATIONAL ACCREDITATION OF THE TORONTO POLICE  
SERVICE BY THE COMMISSION ON ACCREDITATION FOR LAW  
ENFORCEMENT AGENCIES (“CALEA”)**

The Board was in receipt of the following report July 07, 2004 from Julian Fantino, Chief of Police:

Subject: INTERNATIONAL ACCREDITATION OF THE TORONTO POLICE  
SERVICE BY THE COMMISSION ON ACCREDITATION FOR LAW  
ENFORCEMENT AGENCIES (CALEA)

Recommendation:

It is recommended that: the Board endorse and support the international accreditation of the Toronto Police Service by the Commission on Accreditation for Law Enforcement Agencies (CALEA).

Background:

Policing a major North American city today is becoming increasingly more of a challenge. Toronto is no exception. Gun violence, the use of modern technology to commit crime, and the threat of terrorism, combined with the fact that the Toronto Police Service has four hundred fewer officers than a decade ago, has made policing this city a very complex and difficult undertaking.

The Toronto Police Service has had to bear the additional burden of intense public and media attention to issues regarding the Police Services Board, the Police Association and so-called “police corruption”.

Through it all, the Service has not only endured, it has flourished. We have become a highly educated, more professionally trained, more ethnically representative and progressive Service.

Over the years the Toronto Police Service has been subjected to unprecedented number of reviews, studies and analyses which have ensured that this Service is performing to the highest possible standards.

I have compiled a thirty-two page inventory of internal measures taken since the year 2000. This document is categorized into Command initiatives, Procedural, Structural and Organizational Improvements, Enhanced Policing Initiatives, Community Programs and Training.

Other examples of the scrutiny to which the Service has been subjected are the 1999 review of the Service's discipline process by the Ontario Civilian Commission on Police Services, and a consulting firm's study of the Service's organizational and management structure compared to other large North American municipal police Services.

More recently, the Honourable George Ferguson, Q.C., conducted an exhaustive study dealing with issues related to police misconduct. The breadth of Justice Ferguson's study is unprecedented in North American policing. Justice Ferguson canvassed best practices around the world and interviewed dozens of stakeholders from the community. After two and one half years of intensive work, Justice Ferguson produced a report containing thirty-two recommendations ranging from recruiting, to disclosure, to informant handling. The recommendations are practical and implementable. This groundbreaking work is being sought by law enforcement agencies around the world.

I have also asked Justice Ferguson to oversee the implementation of his recommendations. To my knowledge, never before in North American policing has the author of a report also supervised the implementation of his recommendations.

As of this date, nearly half of the recommendations have been implemented. Full implementation will be completed by year-end.

Despite all of these initiatives we continue to strive for improvement. Intense public scrutiny, increased civil litigation and media sensationalism are not about to go away. The Service needs to constantly look for ways to improve and to have that improvement measured against a recognized standard. This is crucial to securing the confidence of the public that the police Service is performing to the highest standards of professionalism and efficiency.

One method of accomplishing this is to pursue certification from the Commission on Accreditation for Law Enforcement Agencies (CALEA).

CALEA was created in 1979 as a result of the efforts of the International Association of Chiefs of Police, The National Organization of Black Law Enforcement Executives, The National Sheriff's Association and the Police Executive Forum.

CALEA's purpose is to establish standards of professional excellence for public safety agencies and to administer a process for recognizing professional excellence.

I am particularly impressed by the specific goals of CALEA:

- Strengthen crime prevention and control capabilities.
- Formalize essential management procedures.
- Establish fair and non-discriminatory personnel practices.
- Solidify interagency co-operation and co-ordination.
- Boost citizen and staff confidence in the agency.

CALEA is a private, non-profit corporation. Accreditation by CALEA is an impartial, unbiased recognition of the professional excellence of the accredited agency. Accreditation will also provide objective, independent evidence that we are committed to and succeeding in achieving excellence in leadership, resource management and ethical service delivery.

The accreditation process will also enable the Toronto Police Service to manage risks, adopt internationally accepted best practices and create efficiencies.

While we can be justifiably proud of the world-wide reputation enjoyed by the Toronto Police Service, I believe that accreditation by CALEA will ensure that the citizens of Toronto are receiving the best possible police services tailored to the special needs of our multi-cultural community.

Accreditation is by no means easy. In order to successfully complete the programme, the dedication and support of the Service's leadership and that of the Board will be essential.

The cost of making the application for accreditation is \$16,150.00 (U.S.). When the Service is ready for an on-site assessment, CALEA will invoice the Service for the estimated cost of the assessment. It is estimated that the cost of the on-site assessment, plus the preparation of the final report, would be approximately \$60,000.00 (U.S.). This amount, totalling approximately \$103,000.00 (CDN) will be absorbed in the 2004 Operating Budget.

The accreditation process, in addition to the on-site assessment by CALEA staff, includes a monitored self-assessment by the Service seeking accreditation. During the on-site assessment, a team of trained assessors verifies the Service's compliance with standards by checking its proofs and interviewing operational and management personnel. The assessors also conduct public hearings to solicit input from the community.

Currently, 560 agencies have been awarded CALEA accreditation including, in Canada, Edmonton Police Service, Winnipeg Police Service and Peel Regional Police Service.

Finally, I wish to emphasize that it is a proven fact, that accreditation works. Accreditation is about recognizing and accepting the challenge of achieving the required standards. To be accredited is to be recognized as being on the leading edge of progressive policing, especially regarding the concept of community-based policing. It is about delivering the highest standard of professional police services. The citizens of Toronto deserve no less.

**Consideration of the foregoing report was deferred to the Board's September 2004 meeting.**



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P223. RECRUITMENT OF CHIEF OF POLICE AND DEPUTY CHIEF OF  
POLICE – POLICING SUPPORT COMMAND**

The Board was in receipt of the following report July 15, 2004 from A. Milliken Heisey, Q.C.,  
Chair:

Subject: RECRUITMENT OF CHIEF OF POLICE AND DEPUTY CHIEF – POLICING  
SUPPORT COMMAND

Recommendation:

It is recommended that:

1. The Board issue a Request for Proposals with the objective of engaging a consulting firm, on a fee for service basis, to assist the Board in the recruitment process for the position of chief of police,
2. The Board approve the draft Request for Proposals appended to this report, and
3. The Board defer the selection of the Deputy Chief – Policing Support Command until a new Chief of Police has been identified.

Issue:

At Section 31(1), the *Police Services Act* establishes that:

*A board is responsible for the provision of adequate and effective police service in the municipality and shall,  
(d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account*

The Board must determine the process that it wishes to use in the recruitment and appointment of a new Chief of Police. Based on the timelines included in the attachment to the draft request for proposals (RFP), if the Board initiates the search process at the July 29, 2004 Board meeting, the Board could expect to be in a position to name a new chief at its January 2005 Board meeting.

This timeline is based on the Board's experience in past command-level recruitment processes. The important inclusion of community consultation in the process also impacts upon the length of the selection process.

Background:

The Board most recently administered the selection of command officers in 1994 and again in 1995 and 1999.

Earlier this year the Board initiated the process to select a new Deputy Chief – Policing Support Command and engaged the firm of Ray & Berndtson/Lovas Stanley. Board and Service consultations have been completed in this process and a job call is ready for release; however, that process was halted by the Board pending any decision with respect the selection of a new Chief of Police.

I recommend that the Board not resume the deputy chief selection process until the Board has named its new chief. In this way, the Board will be able to consult with, and involve, the Chief in the selection process. Based on the estimated timelines appended to the draft RFP the Board would likely be able to issue the job call for the Deputy Chief in early 2005.

Selection Process

The processes used by the Board to fill command level vacancies in the past have included, among others, the elements outlined below:

<b>1994 Deputy Chiefs</b>	<b>1995 Deputy Chief</b>	<b>2000 Chief of Police</b>
All board members participate in all aspects of selection process including selection of consultants	All board members participate in all aspects of selection process including selection of consultants	All board members participate in all aspects of selection process including selection of consultants
Use of consulting firm to integrate Deputy Chief selection criteria and leadership competencies, organize consultations, draft final competency model, pre-screen applications, conduct pre-interviews, candidate summaries and interview questions	Use of consulting firm to intake applications, conduct initial screening of candidates, conduct assessments of candidates, provide written reports regarding each candidate as well as written interview questions, develop short list, conduct reference checks, provide final written report on the recruitment and selection process	Use of consulting firm to conduct a search, create job description, organize consultations, pre-screen applications, develop short list, provide interview techniques and options

<b>1994 Deputy Chiefs</b>	<b>1995 Deputy Chief</b>	<b>2000 Chief of Police</b>
Application open to internal and external candidates, uniformed and civilian senior officers	Application open to internal candidates who are sworn police officers, regardless of rank	Application open to internal and external candidates.
Use of competency model	Use of competency model	Use of job description, competency profile
Community consultations	No community consultations	Public consultation forum, internal focus groups
Management assessments of candidates not conducted	Management assessments of candidates conducted	Management assessments of candidates not conducted
Chief consulted with the Board on the selection process to be used	Chief a full participant in final interviews and decision-making.	Not applicable

With respect to the selection of a Deputy Chief – Policing Support Command, the Board has already decided to conduct limited internal consultations, and to conduct both an internal and external search for candidates but will not be engaging in broader community or internal consultation.

Proposed Selection Process – Chief of Police

I recommend that, with respect to the selection of a new Chief, the Board proceed to retain consulting assistance and that the Board work with the consultants to develop the most appropriate recruitment process given the current needs of the Board, the Service and the community. At a minimum, the process used by the Board should include community consultation around the development of a competency profile and both an internal and external search for candidates.

**The Board was also in receipt of the following report, July 08, 2004, from John Sewell, Toronto Police Accountability Coalition:**

**Subject: Looking for a new police chief**

Toronto Police Accountability Coalition wishes to present this brief to the Board meeting in July.

The Board is about to embark on a search for a new chief of police. This provides an excellent opportunity to talk publicly about and the function of the police in Toronto and the principles that should underlie the recruitment and selection of candidates for these positions. Public debates on these issues are very much needed in Toronto.

## **A. A process to select a new chief**

Toronto has begun a new era in community police relations and police governance, one that is more open and transparent than in the past, one that involves more discussion and consultation. These changes are positive and while change always presents new tensions, they can do nothing but improve the delivery of policing services and improve the day-to-day operations of the police department.

Before any formal selection process is undertaken, a debate on the key issues facing the Toronto Police department should be undertaken. This debate should include the functions of the police in the city, and the qualities that would be looked for in new police leaders. It should be open, wide-ranging and comprehensive, and open to all members of the Toronto community, including members of the police force.

The debate should be led by a representative panel of Torontonians, appointed by City Council and the Toronto Police Services Board, and reporting publicly to the Board. The panel should publish and distribute a draft paper on the issues involved; it should then hold public hearings and meetings on this draft; it should redraft the paper as a result of the feedback, then ask for written submissions on the final draft; and finally it should prepare a final position paper on the three major topics (issues, functions, and qualities) which is presented to the Board. This process will take three or four months but it is very necessary to signal that a new approach to policing is being taken in Toronto and ensure the much needed public support for policing.

Once the public consultation is completed, and the report prepared and adopted by the Board, the advertising, interview and selection process for a new chief should be undertaken by a group of key people consisting of members of the Toronto Police Service Board, advised by other selected community leaders who represent Toronto's diverse population, and who would be part of the interview and decision-making process. The Board should undertake a broad search – certainly Canada-wide, given the importance nationally of the Toronto police service, and probably international - and postings should not be limited to those who are or who have served with the Toronto Police force.

## **B. Criteria in the selection of a new chief**

These criteria are a beginning point for the public discussion recommended above.

### **1. Police and other public services**

It is critical to define how the Toronto Police force relates to other government services and social agencies. In recent years the Toronto Police force has “gone it alone” and has not had the good working relationships with other government agencies or social agencies that one would wish. (For instance, it has consumed extraordinary sums of money which might have been more effectively used by other government programs.) It would be best if we began to restate a new view of how the police work in our society. That view might be as follows:

The Toronto Police Service recognizes that it alone is incapable of improving security and safety in society but that it is one service among many with that objective. The Toronto Police Service will work closely with other government departments, social agencies, and community groups to help improve safety and security in the city.

One of the first questions for a candidate is whether that person shares that vision of policing, and has demonstrated that commitment in the past.

## **2. Management skills**

Superior management skills are often lacking in senior police managers since police managers are hired from within, and in every case have had to work their way up from the very bottom of the organization. Unlike other public and private organizations, good managers are not brought into the police service from other organizations. It is critical that a new chief has demonstrated management skills including the ability to delegate to others; to share decision-making with others; sensitivity to the human needs of his/her immediate staff and other senior managers; and the ability to encourage the best decisions from others.

Candidates should be asked their opinions on bringing into positions of senior management individuals who may have limited knowledge of policing, but strong management skills. While this has not been done in the Toronto Police force, it is long overdue. Good management has a very positive effect throughout the organization in terms of productivity, imaginative solutions, and personal relationships. In many cases good managers are able to function well in senior positions even though they may not have 'walked the walk' of those they are managing.

## **3. Finances**

The financial demands of the Toronto Police Service are extraordinary, and in their current state are probably unsustainable. Methods must be found of reducing expenditures while delivering first class service. This will probably be accomplished by being much clearer about the function of the police (which should probably be much more narrowly defined) and by carrying out effective research and development experiments about how public safety programs can be best delivered. As is clear from City Council's adoption of the Community Safety program, prevention is often a better way to spend money than enforcement. A new chief requires demonstrated skills in this area. This includes an interest in making details of the budget public, and a willingness to discuss those details with those interested.

## **4. Good relationships with the community**

As many have pointed out, the success of policing depends to a large extent on the police service taking instructions of the communities and their leaders. In the past it was assumed that this would occur with what was called "community policing", but resources have been stripped away from community policing in the last five years so that its operation is all but non-existent in Toronto. Recently there has been an attempt to re-establish better relations with communities by holding Town Hall community meetings which, although welcome, have not forged lasting links.

New attempts must be made to ensure that police and communities feel at ease with each other. This must be done in cost-effective ways which move beyond simply good public relations into programs that are effective both for police and communities, creating more safety and security, and a sense that crime is under control. There must be an atmosphere of mutual respect and trust. The police force must make much more serious headway in beginning to reflect the racial and cultural diversity of Toronto – the force must proactively recruit and retain members of the diverse communities that exist in Toronto - and officers must be encouraged to live in the city.

## **5. Accountability**

Many have noted in recent years that it does not feel that the police are accountable to the public. This might be a result of the demise of the independent complaints mechanism but it may also be a sign of a broader trend.

Accountability must be re-established. As a start, this can be done by the new chief making it clear that s/he is directly accountable to the Police Services Board and to City Council. A new chief must require that members of the force be open and transparent in their dealings with the public and with agencies such as the Special Investigations Unit. A new chief must support an independent complaints mechanism and have demonstrated skills in public accountability.

## **C. Critical issues**

In the last few years, several issues have been of great public concern, and the way they are approached will be critical for new leaders to be successful. They are as follows:

1. Recognition of the existence of racial profiling and willingness to take effective action to limit and prevent it.
2. Support for public expressions of dissent, and a willingness to use police resources to enable the public to demonstrate dissent and not to harass and intimidate demonstrators.
3. Ability to address corruption and allegations of corruption within the force.
4. Support for an independent review of complaints against the police.
5. Willingness to ensure that strip searches occur as only an extraordinary police procedure (as called for in the Golden decision of the Supreme Court of Canada) , and that such searches as documented and fully reported.
6. Willingness to implement inquest recommendations (such as the Edmond Yu inquest concerning policing and the mentally ill) and social audit recommendations (such as the Jane Doe Audit regarding sexual assault.)
7. Undertaking neither to engage in nor to tolerate police officers engaging in, partisan political activity.

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

- **Mr. John Sewell, Toronto Police Accountability Coalition; and**
- **Mr. George Tucker, Director, Uniform Field Services, Toronto Police Association.**

**cont...d**

**The Board considered the following Motion:**

**THAT consideration of the foregoing report with regard to the recruitment of the Chief of Police and Deputy Chief of Police be deferred until the three new members of the Board are appointed.**

**Following a vote by the Board, the foregoing Motion failed.**

**The Board also considered the following Motion:**

**THAT the foregoing report be approved with an amendment to indicate that item no. 2 under Objective in the RFP will include consultation with the Toronto Police Association and the Senior Officers' Organization.**

**Following a vote by the Board, the foregoing Motion failed.**

**The Board received the deputations and the foregoing reports.**



## **Toronto Police Services Board**

### **Request for Proposal**

#### ***Background***

The Toronto Police Services Board, is responsible under the Police Services Act (s.31(1)(d)), for "recruiting and appointing the Chief of Police and any Deputy Chief of Police".

The Toronto Police Service consists of approximately 5,000 sworn officers and 2,000 civilian employees.

#### ***Objective***

To assist the Board in updating the competency profile, recruiting and conducting assessments of candidates for the position of Chief of Police.

The consultant will report to the Board and will be responsible for the following:

- (1) drafting a job description including updating the existing competency profile,
- (2) consulting with the Toronto community, members of the Police Services Board, members of the Toronto Police Service and others as necessary,
- (3) conducting an external search for potential candidates,
- (4) developing an application package, conducting the initial screening of the candidates and developing a short list of candidates,
- (5) providing the Board with a methodology to assess the candidates,
- (6) providing a final report to the Board summarizing the recruitment and selection process; and,
- (7) providing any necessary follow-up support to the Board during the first three months following appointment.

#### ***Phase one - creation of position description***

The consultant will be responsible for creating a position description including updating the competency profile. This phase will require community consultation, as well as consultation with the members of the Toronto Police Services Board and members of the Toronto Police Service.



### ***Phase two - development of recruitment process***

The consultant will be responsible for the following:

- conducting an external search for potential candidates,
- development of a job posting, and
- development of an application package according to the timetable appended to this RFP.

### ***Phase three - initial screening***

The consultant will be responsible for the following:

- intake of all applications;
- conducting the preliminary pre-screening of applications;
- providing the Board with a short list of eligible candidates, and
- according to the timetable appended to this RFP.

The consultant will also be required to prepare a written report summarizing the initial screening.

### ***Phase four - interviews***

While the consultant may or may not participate in the actual interview, the consultant will be required to provide the Board with:

- options regarding interview techniques and tools (e.g., assessment center and psychological testing);
- guidance with regard to interview techniques, and
- according to the timetable appended to this RFP.

### ***Phase five - reports to the Board***

The consultant will be required to provide the Board with a final report upon the completion of the search process summarising the recruitment process and results. The Board may release some (or all) of this report publicly.

### ***Phase six – follow up with Board***

The consultant will be available in the first three months following appointment to provide any support that the Board may require during this period of transition.

### *Selection Criteria*

Proposals will be evaluated on the following list of criteria each weighted at 25%:

- demonstrated understanding of the purpose and scope of the project
- demonstrated progressive experience in senior management recruitment and selection
- competitiveness of the budget for the work proposed (consulting firms are urged to provide public sector rates)
- references for relevant projects that have been undertaken

### *Submission of Proposal*

The proposal should include:

- a description of your understanding of the project;
- the names, qualifications and experience of all personnel assigned to the project;
- an outline of the approach that will be taken to the project;
- descriptions of similar projects which your firm has carried out for each client, along with references;
- the per diem (public sector) rates of each of the personnel to be assigned and the number of days that each will work on the project;
- an accounting of your costs and a description of your method of charging, including invoicing and payment procedures;
- declaration of any conflict of interest.

Any questions pertaining to the content of the RFP may be asked in writing, up to 5 business days before the final date for Bidders submissions. The Toronto Police Services Board will respond in writing to requests for clarification as soon as possible and at its discretion. The Toronto Police Services Board reserves the right to make any or all questions and answers available to all other Bidders at its discretion. Generally speaking, only answers to issues of substance will be distributed to all Bidders. The name of the Bidder asking a question will not be identified.

All questions must be in writing and sent to the attention of:

Ms Joanne Campbell  
Executive Director  
Toronto Police Services Board  
Tel 416-808-8081  
Fax 416-808-8082  
E-mail [joanne.campbell@torontopoliceboard.on.ca](mailto:joanne.campbell@torontopoliceboard.on.ca)

### ***Evaluation of Proposals***

The Toronto Police Services Board will review the proposals to prepare a list of proponents who may be selected to be interviewed. The final decision with respect to retention will be made by the Board.

### ***Time Line***

The deadline for submissions shall be the 25<sup>th</sup> of August, 2004, by 10:00 AM at the Toronto Police Services Board, 7th Floor, 40 College Street, Toronto, Ontario, M5G 2J3.

Late submissions or proposals sent by facsimile will not be accepted.

### ***Administrative Requirements***

Proposals submitted to:        Mr. A. Milliken Heisey, Q.C.  
   Chair  
   Toronto Police Services Board  
   40 College Street  
   Toronto, Ontario  
   M5G 2J3

General Information:        Ms Joanne Campbell  
   Executive Director  
   Toronto Police Services Board  
   Tel 416-808-8081  
   Fax 416-808-8082  
   E-mail [joanne.campbell@torontopoliceboard.on.ca](mailto:joanne.campbell@torontopoliceboard.on.ca)

### Time-line for recruitment of Chief of Police

MILESTONES	ESTIMATED DATE OF COMPLETION
Issue Request for Proposal (RFP)	August 9, 2004
Return date for RFPs from consultants/consulting firms	August 25, 2004
Review RFPs – Shortlist of consultants/consulting firms	September 17, 2004
Approve the selection of consultant/consulting firm (Board Meeting)	September 23, 2004
Community Consultation, Development of competency profile and applicant package	October 22, 2004
Deadline for receipt of Applications	November 15, 2004
Candidate Assessments	December 3, 2004
Candidate Short-list (Board Meeting)	December 16, 2004
Further Candidate Assessments, if required	December/January
Board Interviews	January 2005
Announcement of selection of new Chief (Board Meeting)	January 2005

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P224. APPOINTMENTS – ACTING VICE-CHAIR, TORONTO POLICE  
SERVICES BOARD**

The Board was in receipt of the following report July 19, 2004 from A. Milliken Heisey, Q.C., Chair:

Subject: APPOINTMENTS - ACTING VICE-CHAIR, TORONTO POLICE SERVICES BOARD

Recommendation:

It is recommended that the Board ratify a decision made by a quorum of the Board through a telephone poll confirmed on Monday, July 19, 2004 which approved the appointments of Acting Vice-Chairs during the periods between July 15 and August 10, 2004 inclusive, and August 17 and August 29, 2004 inclusive, for the purposes of execution of all documents that would normally be signed by the Vice-Chair on behalf of the Board.

Background:

On July 13, 2004 I authorized Board staff to conduct a telephone poll of Board members to appoint an Acting Vice-Chair during the periods between July 15 and August 10, 2004, and August 17 and August 29, 2004. Prior to the telephone poll, I had been advised that Vice-Chair Pam McConnell would not be available during those specific periods of time.

The telephone poll was conducted in order to appoint an Acting Vice-Chair during Vice-Chair McConnell's absence for the purposes of execution of all documents normally signed by the Vice-Chair on behalf of the Board.

Councillor John Filion indicated that he would be available during the period between July 15 and August 10, 2004, and The Honourable Hugh Locke, Q.C., indicated that he would be available during the period between August 17 and August 29, 2004. I recommended that the Board approve the appointments of these members as Acting Vice-Chairs during the abovenoted periods of time.

On July 19, 2004 a quorum of the Board approved my recommendation.

I have placed this matter before the Board now and recommend that the Board formally ratify the decision that was approved through the telephone poll confirmed on July 19, 2004.

**The Board approved the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P225. LIVE AGENT TRAINING PROGRAMS WITH THE DEPARTMENT OF  
NATIONAL DEFENCE**

The Board was in receipt of the following report July 09, 2004 from A. Milliken Heisey, Q.C.,  
Chair:

Subject: LIVE AGENT TRAINING PROGRAMS WITH THE DEPARTMENT OF  
NATIONAL DEFENCE

Recommendation:

It is recommended that the Board ratify a decision made by a quorum of the Board through a  
telephone poll confirmed on Thursday, July 08, 2004 which approved the recommendation  
contained in a report, dated June 04, 2004, from the Chief of Police regarding the participation in  
live agent training programs with the Department of National Defence.

Background:

On June 30, 2004, the Board office was in receipt of a report from Chief of Police Julian Fantino  
regarding the opportunity for members of the Toronto Police Service to participate in the Live  
Agent Training Programs offered by the Department of National Defence located at Defence  
Research and Development Canada – Suffield, Alberta, between August 01, 2004 and August 1,  
2009.

The report indicated that, before the Toronto Police Service could send members to participate in  
the training, a representative of the Toronto Police Services Board would be required to enter  
into an Institution Waiver and Indemnification Agreement with the Department of National  
Defence. Each individual Service member participating in the training would also be required to  
sign an Individual Indemnification Agreement and Liability Waiver.

Since the next regularly scheduled meeting of the Board would be on July 29, 2004, and given  
the Chief's desire to take maximum advantage of the opportunity to participate in this training,  
there would not be sufficient time to complete the necessary documentation and confirm travel  
arrangements for the Service members prior to August 01, 2004. Chief Fantino requested that  
the Board consider his report prior to the July 29, 2004 meeting.

On June 30, 2004 I authorized a “telephone poll” to be conducted in response to Chief Fantino’s request to consider this matter as quickly as possible. Board members were provided with copies of Chief Fantino’s report via e-mail and facsimile and by July 08, 2004 a quorum of the Board had approved his report. I have placed this matter before the Board now and recommend that the Board formally ratify the decision that was approved through the telephone poll completed on July 08, 2004.

A copy of the June 04, 2004 report from Chief Fantino is attached for information.

**The Board approved the foregoing.**

**Reported dated June 04, 2004 from Chief of Police Julian Fantino:**

To: Chair and Board Members  
Toronto Police Services Board

From: Julian Fantino  
Chief of Police

Subject: AGREEMENT BETWEEN THE TORONTO POLICE SERVICES BOARD  
AND THE DEPARTMENT OF NATIONAL DEFENCE

Recommendation:

It is recommended that the Board authorize the Board Chair to execute an Institution Waiver and Indemnification Agreement with the Department of National Defence ("DND") on behalf of the Board that will enable members of the Service to participate in ongoing Live Agent Training Programs at Defence Research & Development Canada (DRDC) - Suffield, Alberta, between August 1, 2004 and August 1, 2009.

Background:

As a result of the events of September 11, 2001, the federal, provincial and municipal governments have been under increasing pressure to develop programs and to provide emergency services personnel with training in effective counter-terrorism measures and, more generally, adequate emergency preparedness.

The potential for the use of "live agents" as weapons for terrorist activities, particularly in large urban centres, has been a significant concern for all levels of government. "Live agents" are contaminants that include chemical, biological, radiological and nuclear materials. Various forms of live agents are capable of causing immediate death or incapacitation and may also have secondary, long-term effects. Many live agents are reasonably easy to manufacture and disseminate and yet are difficult to detect and, ultimately, to investigate. For these reasons, and others, the use of live agents is feared to be an attractive method of attack for terrorist groups.

Government Response and Training Provisions:

In April 2002, the City of Toronto responded to these concerns by creating and funding a Joint Chemical, Biological Radiological or Nuclear ("CBRN") Response Team, in which the Toronto Police Service was partnered with Toronto Emergency Medical Services and Toronto Fire Services. The Joint CBRN Response Team currently consists of over 300 members who are trained to the technical specialist level. For obvious reasons, however, live agent training was deemed to be vital for effective emergency preparedness. As such, Vanguard Response Systems was contracted to facilitate live agent training for members of the Joint CBRN Response Team. To date, 42 members of the Joint CBRN Response Team, including 14 members of the Toronto Police Service, have received this training.



As part of its emergency response plan, the federal government developed a training program for organizations responsible for providing first level response in the event of a CBRN emergency. The First Responder Training Programme ("FRTP") was developed and delivered for the first time in June 2003, by the Canadian Emergency Preparedness College (CEPC), Ottawa. Two members of the Emergency Task Force participated in that program.

The FRTP was designed with an emphasis on a joint service approach to teach participants about the nature and hazards of live agents and the safety measures in effect before, during and after a CBRN event. The training also included, among other things, recognition of various live agents; the use of detection equipment; the signs and symptoms of exposure to live agents; the appropriate medical counter measures; and the selection and proper wearing of personal protective equipment.

From August 30 to September 3, 2004, another FRTP course has been scheduled at DRDC - Suffield, exclusively for Toronto's Joint CBRN Response Team. Ten spots have been designated for Toronto Police Service personnel. The City of Toronto is funding all costs for the program and the Toronto Police Service will only be responsible for the usual salary costs of its members.

In order to increase the skill development and confidence levels of first responders, DRDC - Suffield designed an advanced level live agent training program to build upon the foundation provided by the first level FRTP. DRDC - Suffield is the only location in North America that provides advanced level training in a live agent environment. Course participants perform live chemical sampling and testing exercises as well as a series of field exercises. Training topics include dirty bombs, radiological effects, nerve agents, blister agents, blood agents, biological terrorism, air monitoring, mass decontamination, personal decontamination, cross-contamination and personal protective equipment. Like the first level FRTP, this program was designed to emphasize a joint service approach to emergency management.

The advanced level live agent training program was originally piloted in late April 2004. Another course is scheduled for October 18 - 22, 2004. As previously mentioned, two Emergency Task Force officers are eligible to participate in this program, having successfully completed the first level FRTP in June 2003.

The Office of Public Safety and Emergency Preparedness Canada, and the City of Toronto will be jointly funding the attendance costs for the two eligible Toronto Police Service officers. The Toronto Police Service will only be responsible for a breakfast/dinner per diem and any usual salary costs. The per diem costs will be paid from the Emergency Task Force's training budget.

It is anticipated that over the next several years, DRDC - Suffield will continue to offer these or similar CBRN training programs. The continued participation of Toronto's Joint CBRN Response Team, including the Toronto Police Service, will ensure an adequate number of trained personnel for effective emergency preparedness and management. For this reason, a five year term, from August 1, 2004 to August 1, 2009, has been included in the Institution Waiver and Indemnification Agreement.

### Institution Waiver and Indemnification Agreement :

Before participation in any of the aforementioned training programs, DRDC - Suffield requires the Toronto Police Services Board to sign an Institution Waiver and Indemnification Agreement (attached hereto as Appendix "A") and each individual to sign, among other things, an Individual Indemnification Agreement and Liability Waiver.

The Institution Waiver and Indemnification Agreement contains an indemnity provision, which, given the potential financial ramifications, requires the approval of the Board. Despite the potential risk of costs that might arise, the actual benefit from this training far outweighs the potential costs. Further, the participants are highly trained professionals, which will assist in reducing their risk when completing the training and stringent safety protocols must be followed while conducting exercises in the field.

Personnel from the City of Toronto, Insurance and Risk Management reviewed the agreement and were satisfied with the language contained in the indemnification provision. They advised that it is not unusual for a property owner to require an organization, that will benefit from activities taking place on the premises, to accept the risks inherent in such activities, especially when the activities to be performed are potentially dangerous or there is a potential exposure to harm by simply being on the premises where dangerous activities are taking place.

The City Solicitor was involved in the negotiation of the Indemnification Agreement with representatives of DND on behalf of both the City of Toronto and the Board and believes that the attached Agreement is the only version that is acceptable to DND that also adequately limits the Board's exposure to potential liability. Staff Inspector George Cowley, Professional Standards, Risk Management (Prosecutions and Legal) also reviewed the Institution Waiver and Indemnification Agreement to ensure that the Service's operational issues are adequately addressed.

For your information, in May 2004 (Motion J(14)), City Council approved the City of Toronto entering into the same Institution Waiver and Indemnification Agreement on behalf of Toronto Emergency Medical Services and Toronto Fire Services.

### Conclusion:

As one provider of emergency services in the largest urban centre in Canada, it is particularly important for the Toronto Police Service, in cooperation with other emergency service providers, to ensure a competent, cutting edge approach to emergency preparedness. As such, it is recommended that the Board authorize the Board Chair to execute the attached Institution Waiver and Indemnification Agreement with the DND on behalf of the Board. This will enable members of the Toronto Police Service to participate in the ongoing training programs offered by DRDC - Suffield, and will ensure an opportunity for increased competence in emergency management techniques.

Acting Deputy Chief W. David Dicks, Policing Support Command will be in attendance to address any questions the Board may have in respect of this issue.

Respectfully submitted,

Julian Fantino  
Chief of Police

Encl.

EKS/es

A: dnd (suffield) training agmt.doc

Institution Waiver: CBRN Training Programs

**INDEMNIFICATION AGREEMENT**

I, A. Milliken Heisey, Chair of the Toronto Police Services Board (the “Board”) in consideration of personnel of the Toronto Police Service (the “Personnel”) being permitted to participate in live agent training programs offered by Defence Research and Development Canada - Suffield, Alberta, at any time between August 1, 2004 and August 1, 2009, on behalf of the Board hereby:

- a. Acknowledge and agree that live agent training is inherently hazardous and may result in personal injury, whether physical or otherwise, and/or damage to property, and wishing in any event to allow the Personnel to participate in the live agent training, voluntarily consent to assume any and all risks that may be associated with said training;
- b. Acknowledge, agree and declare that the Toronto Police Service has advised and trained the Personnel, at a level at least equal to training offered by the Government of Canada, on the nature and hazards of live agent training and on the procedures and safety measures in effect before, during and after the live agent training;
- c. Acknowledge and agree that, medical care, including the administration of counter-measures that may not be licensed for general medical use by Health Canada, can and will be provided as required by Canadian medical personnel, including, but not limited to, Canadian Forces medical personnel, provided that:
  - (i) Health Canada has approved Defence Research and Development Canada’s acquisition of these counter-measures as part of the live agent training through Health Canada’s Special Access Program, developed under sections C.08-010 and C.08-011 of the *Food and Drug Regulations* made pursuant to the Canadian *Food and Drugs Act*; and
  - (ii) the Personnel participating in the live agent training have individually consented to the use of the counter-measures; and

- d. Agree that at all times, the Board will indemnify and save harmless Her Majesty the Queen in Right of Canada, Her officers, servants, agents, employees and members of Her Canadian Forces from and against all claims and demands, loss, costs, disbursements, damages, actions, causes of action, suits or other proceedings made or brought by the Personnel in relation to any loss, property damage, personal injury or death, resulting from, occasioned by or attributable in any way to their presence or participation during the live agent training or medical care associated thereto, except to the extent caused or contributed to by any wilful, unlawful or gross negligent act or omission of Her Majesty the Queen in Right of Canada, Her officers, servants, agents, or employees or any members of Her Canadian Forces.

**DATED at the City of Toronto, this**

\_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
**Witness signature**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Witness name and address  
(PRINT)**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P226. 2004 HOURLY RATES FOR LEGAL SERVICES – HICKS MORLEY  
HAMILTON STEWART STORIE LLP**

The Board was in receipt of the following report July 06, 2004 from William Gibson, Director, Human Resources:

Subject: 2004 HOURLY RATES FOR LEGAL SERVICES -- HICKS MORLEY  
HAMILTON STEWART STORIE

Recommendation:

It is recommended that the Board approve the hourly rates for legal services provided by Hicks Morley Hamilton Stewart Storie retroactive to May 1, 2004.

Background:

At its meeting on December 11, 2002 (Board Minute #P333/02 refers), the Board approved the selection of the law firm of Hicks Morley Hamilton Stewart Storie to provide supplementary legal services in the area of employment and labour law issues to the Toronto Police Services Board. The Board also authorized the Chairman to execute an agreement between the Board and the law firm of Hicks Morley Hamilton Stewart Storie to provide legal services for a five-year period from October 1, 2002 to September 30, 2007, inclusive.

The agreement in part states that “Hicks, Morley acknowledges that the fee estimates set out in paragraph 1 of Schedule “B” are the maximum amounts authorized to be paid by the Board and any invoiced amount for fees in excess of this will require further authorization, which may or may not be forthcoming”. Attached is a list outlining the current fee schedule.

On June 8, 2004, Labour Relations was in receipt of a letter from Mr. Michael Hines of Hicks Morley Hamilton Stewart Storie proposing the following increases to the hourly rates for the Board’s consideration:

<u>Lawyer</u>	<u>Regular Rate</u>	<u>Toronto Police Services Board Rate</u>
Senior Partner – 15 + years of experience	\$395.00	\$335.00
Partner – 7 to 14 years of experience	\$340.00 to \$385.00	\$250.00 to \$325.00
Senior Associate	\$210.00 to \$330.00	\$170.00 to \$240.00
Junior Associate	\$205.00	\$150.00 to \$160.00
Students	\$125.00	\$105.00

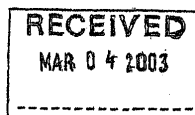
Hicks Morley Hamilton Stewart Storie has indicated that this type of increase is necessary to offset escalating expenses at the law firm and, in particular, to ensure that the salary structure for the more junior members of the law firm are comparative with other major firms in the Greater Toronto Area.

It is hereby recommended that the Board approve the above hourly rates retroactive to May 1, 2004. Funds are available in the Board's Professional and Consulting Budget Account #BRD 4199.

I will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the foregoing.**

Attachment



SCHEDULE "B"

The following is the basic fee schedule for work with the Board until the conclusion of the current calendar year. Any proposed changes thereafter will be raised with you in advance and no changes will occur without prior approval.

Lawyer	Hourly Rate	Current Toronto Police Services Board Rate
<b>Senior Partner</b> (15+ years of experience)	\$375	\$315
Bruce Stewart, Elizabeth Brown, Carolyn Kay-Aggio, Michael Hines, David Brady, Chris Riggs		
<b>Partner</b> (8 to 14 years of experience)	\$330 - \$375	\$280-\$300
Patricia Murray	\$330	\$280
Dolores Barbini	\$290	\$270
<b>Intermediate Lawyer</b>	\$250-\$255	\$210-\$230
Glenn Christie	\$250	\$230
<b>Junior Lawyer</b>	\$150-\$165	\$140
Seann McAleese	\$165	\$140

**Note:** These rates reflect a significant reduction from our standard schedule applicable to public sector clients. These rates do not include applicable GST.

The Firm does not charge cancellation fees (e.g., if a case is settled the morning of a hearing). We only charge for the services rendered or the time actually expended. No supplemental or premium rate is charged for evening or weekend service or for professional services undertaken on an urgent or emergency basis. Incidental disbursements are passed along to the client at cost.



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P227. MOBILE WORKSTATION UPGRADE**

The Board was in receipt of the following report July 07, 2004 from Julian Fantino, Chief of Police:

Subject: MOBILE WORKSTATION UPGRADE

Recommendation:

It is recommended that:

1. the Board authorise the Chair to enter into an agreement with the recommended vendor from the Request for Proposal (RFP) to lease mobile workstations;
2. the Board authorize the Chair to execute all documents, including contracts, on behalf of the Board, subject to approval by the City Solicitor as to form; and
3. the Chief of Police report to the Board the details of the mobile workstation lease at the September 23, 2004 Board meeting.

Background:

The Service's current mobile workstations were installed in 1999. This equipment is now five (5) years old and is no longer manufactured. Police vehicles are frequently taken off the street for service and we use that opportunity to repair the mobile workstations. It is becoming increasingly difficult to obtain spare parts to repair the mobile workstations. In addition, experience over the past few years has uncovered a number of issues with this in-car design. In particular, the current mobile workstation is a laptop mounted between the two front seats of the police vehicles. This configuration takes up a considerable amount of useful space, and has proven to be intrusive to officers. Other issues with respect to the brightness of the screen, and placement and flexibility of the keyboard have also caused a number of safety problems. There is also a need to move to the latest version of the Operating System (Microsoft XP) in order to work with the latest release of the CAD/E911 system.

The Service's current mobile workstations were due for replacement this year based on the lifecycle replacement plan for this equipment. As a result, a Request for Proposal (RFP #ITS-3401-1102) was issued on October 20, 2003. The stated purpose of this RFP was to:

- provide an in-vehicle solution that provides significant usability and ergonomic improvements over the current design;
- provide a secure, powerful mobile workstation platform that can support the Service's current and future applications;

- provide a platform that is reasonably adaptable and expandable to future technology innovations and technology improvements;
- optimise the space required by the workstation in the vehicle's front seat compartment;
- provide a safer working environment where the technology complement's the occupants of the vehicle and does not interfere with them;
- provide a mobile platform that can be effectively maintained and serviced; and
- select a partner that can provide the necessary components, and work with the Service to provide the best design possible.

The RFP was evaluated by three separate areas of the Service:

- a focus group of police officers, who evaluated the ergonomics of the installation in terms of safety, access, and flexibility
- a technical group who evaluated the workstations' technical capabilities such as processor speed, memory and its ability to handle complex interface issues and a workstation that would have the ability to support mobile applications well into the future;
- a maintenance and engineering group who evaluated the robustness of the components of the proposals, the ease of serviceability and their optimum placement.

There were seven respondents to the RFP:

Bell Canada,  
 Data911,  
 Datalux Corporation,  
 Hewlett-Packard Canada Ltd.,  
 IBM Canada Inc.,  
 Motorola Canada Inc., and  
 Panasonic Canada Ltd.

As outlined in the RFP, a short list of vendors was recommended and approved by the Mobile Computing Steering Committee. The recommended vendor short list included; Data911, Hewlett-Packard, Motorola and Panasonic. As part of the review, short-listed vendors were required to provide an installation in a standard Service police vehicle to aid the focus group of police officers in evaluating and grading the options. It was the primary focus of the evaluation team to ensure that the Officer needs were met first and foremost.

The recommended vendor is Data911. The primary reasons included:

- best overall cost
- a superior in-car 3 piece design and maintenance capability, and
- Data911 met the required technical specifications of memory and speed.

The recommended proposal includes a 12" screen with a swivel mount attached to the dashboard, a backlit keyboard, and the computer components secured in the trunk of the vehicle. It also provides the maximum space, in the front seat, for the officers, promotes ease of use and enhanced officer safety.

The number of units required is 500 and will accommodate the primary and secondary response vehicles. In addition, 50 units will be obtained as spares to accommodate faster turn-around times when servicing vehicles and for use as spare parts.

The purchase cost for this equipment is as follows:

Computer Hardware	\$4,641,500
1.6 GHz processor	
1 Gigabyte Memory	
Swipe card reader	
Front Mount	275,000
Trunk Mount	260,000
<u>Misc. (peripherals, media, etc)</u>	<u>49,200</u>
Total	\$5,225,700
With taxes (15%)	\$6,009,600

The current plan is to have 250 mobile workstations (the primary response vehicles) replaced by the end of 2004. This installation is being coordinated with a number of projects including eCOPS, and I/Mobile. This is necessary in order to minimize the disruption of having to bring in vehicles for installation and customisation work multiple times. The current plan has Information Technology Services bringing in the vehicle once for the main installation of the mobile workstation component and the installation of the required software. Subsequent software releases will be handled through the Services Divisional Parking Lot Network (DPLN) and Software Distribution System. If we are unable to rollout mobile workstations in the required time-frame, vehicles will have to be brought in for an upgrade to the current workstations or delays will be incurred in their respective projects. This will incur additional costs for installation, support, development and maintenance. Therefore, it is important that this project proceed as quickly as possible.

The Service intends to lease the mobile workstations through an operating lease arrangement. An operating lease provides the Service with the ability to replace the hardware based on a lifecycle replacement plan. This greatly minimises the risk for the Service as the equipment can be returned at the end of the lease term and another lifecycle program can commence. Data 911 has been selected as the supplier of the equipment however, the third party leasing company will purchase, and own, the equipment from Data911 and then lease it to the Service through an operating lease.

An RFP for the lease of the mobile workstations has been issued. It is anticipated that responses to the RFP will be received in July at which time an analysis of the responses will be conducted. Timing of this process will not allow a report to be prepared in time for the Board's July meeting. In order to achieve the target of replacing 250 mobile workstations by the end of 2004, the Service must commence the replacement of these by October 1, 2004. Therefore, approval to proceed must be obtained in August so that the leasing arrangements can be finalised by September and work commence in October. Given that the Board's August meeting has been cancelled the Service is requesting that approval be obtained from the Chair prior to the September meeting.

Therefore, it is recommended that:

1. the Board authorise the Chair to enter into an agreement with the recommended vendor from the RFP to lease mobile workstations;
2. the Board authorise the Chair to execute all documents, including contracts, on behalf of the Board, subject to approval by the City Solicitor as to form; and
3. the Chief of Police report to the Board the details of the mobile workstation lease at the September 23, 2004 Board meeting.

The Chief Administrative Officer has certified that funding is available in the 2004 Operating budget and that funds will be included in future year's base operating budget submissions to accommodate the lease

Mr. Frank Chen, Chief Administrative Officer, will be in attendance at the Board meeting to respond to any questions in this respect.

**The Board approved the following Motions:**

1. **THAT the Board receive the foregoing report and request Chief Fantino to provide a further report to the Board when the responses to the RFP have been received and all proposed financial arrangements, such as interest rates, capital costs and debt service costs, related to the operating lease agreement have been determined, and identify the proposed length of the term of the agreement and a maintenance plan, if necessary, to support the costs of the mobile workstation equipment; and**
2. **THAT the Board schedule a special public meeting to consider the report from Chief Fantino noted in Motion No. 1, if necessary, during the month of August in order to ensure that the replacement of the mobile workstations can commence by October 01, 2004.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P228. QUOTATION FOR ON-LINE AUCTIONEERING SERVICES**

The Board was in receipt of the following report June 23, 2004 from Julian Fantino, Chief of Police:

Subject: QUOTATION FOR ON-LINE AUCTIONEERING SERVICES

Recommendation:

It is recommended that:

1. the Board award the quotation for on-line auctioneering services to Rite Auctions, a Division of 1083078 Ontario Inc. for a period of three (3) years effective August 1, 2004 until July 31, 2007 with the Board's option to extend for an additional two (2) twelve-month periods, and
2. the Board authorize the Chair to execute a contract, including the terms and conditions on behalf of the Board, subject to approval by the City Solicitor as to form

Background:

At its December 11, 2003 meeting, the Board approved the issuance of a Request for Quotation for on-line auctioneering services. (Board Min. No. P342/03 refers).

On April 30, 2004, the City of Toronto, Management Services, Purchasing and Materials Management Division, on behalf of the Toronto Police Service (TPS), issued a Request for Quotation (RFQ #9109-04-7184) for on-line auctioneering services. Twenty firms were invited to bid. In addition, the Request for Quotation was posted on the City of Toronto web-site. A mandatory meeting for firms interested in providing this service was held on May 11, 2004. Twelve firms attended the mandatory meeting. One firm, Rite Auctions, a Division of 1083078 Ontario Inc., subsequently submitted a quotation.

Bid Information:

The commission rate quoted by Rite Auctions, a Division of 1083078 Ontario Inc., City of Toronto, for providing this service on behalf of the TPS is fifty percent (50%). While this rate is significantly higher than the commission rate applied during the on-line auction pilot project, namely, twenty-four percent (24%), it is consistent with commission rates applied by firms who provide this type of service to various police agencies in the United States. The commission rate applied in the United States, which is known to TPS is no less than fifty percent (50%) of the sale price of each item sold and as high as seventy-five percent (75%) of the sale price of each item sold.

During the on-line auction pilot project, significant demands were placed on resources preparing the listings and presentations, digitally photographing the property, maintaining the web-site, preparing items for shipment, and customer service assignments. It was discovered that the commission rate applied throughout the pilot project was insufficient to offset the salary expenditures required to facilitate the mandate and core responsibilities of this initiative. In addition, certain requirements specified in the Request for Quotation were designed to address concerns raised by members of the community and the Property and Evidence Management Unit (PEMU) during the pilot project, and to heighten the quality of customer service levels. These requirements included:

- establishment of a minimum square footage of five thousand (5000) feet for any secured premise used for the storage of property
- necessity for the contractor to pick-up all property scheduled for auction from the Property and Evidence Management Unit rather than PEMU personnel delivering the items to the auction site
- necessity for the contractor to allow bidders access to the premises used for the storage of the property for the purpose of viewing the property
- necessity for the contractor to respond to all service inquiries from members of the public within two (2) business days

The sole respondent to the Request for Quotation has also proposed a sliding scale commission rate based on projected product sales during the term of the quotation (three years with the option to extend for an additional two twelve-month periods) as follows:

\$0 - \$519,000.00 = 50%

\$519,000.00 - \$750,000.00 = 45%

\$751,000.00 - \$1,000,000.00 = 40%

Historical Revenue:

The following is a comparison of the revenue generated at the auctions held over the previous five years:

HISTORICAL REVENUE

Year	Number of Auctions Held	Number of Items/Lots	Net Revenue	Average Price Point per Item/Lot	Increase in Revenue Over Previous Year per Item/Lot
1998	6	2398	\$129,621.59	\$54.05	Not Applicable
1999	12	4508	\$263,968.33	\$58.55	+8.32%
2000	10	2737	\$147,569.33	\$53.91	-7.93%
2001	11	5103	\$160,170.77	\$31.39	-41.77%
2002	6	2643	\$74,598.29	\$28.22	-10.1%
January 27 to May 15, 2003	On-Line	1783	\$106,112.19	\$59.51	+110.88%

If the level of revenue generated during the pilot project remains static, it is conceivable that a sliding commission rate of forty-five percent (45%) could be applied during the second year of the quotation. However, the quantity and quality of items designated for auction purposes remains dynamic in nature and cannot be fully quantified.

If the level of revenue remains static, the following comparative figures define the average net revenue that would be recognized based on the proposed sliding commission rate:

**AVERAGE NET REVENUE BASED ON PROJECTED COMMISSION RATE(S)**

<b>Year</b>	<b>Commission Rate</b>	<b>Average Gross Revenue</b>	<b>Less Applied Commission</b>	<b>Average Net Revenue</b>
January 27 to May 15, 2003	24%	\$131,579.12	\$25,466.93	\$106,112.19
Future Dates	50%	\$131,579.12	\$65,789.56	\$65,789.56
Future Dates	45%	\$131,579.12	\$59,210.60	\$72,368.52
Future Dates	40%	\$131,579.12	\$52,631.65	\$78,947.47

The above figures are based on the on-line auction revenue generated during a sixteen (16) week period. The following comparative figures are indicative of the anticipated average net revenue that would be generated during a one (1) year period:

50% = \$213,816.07

45% = \$235,197.69

40% = \$256,579.28

**Compliance with Quotation Request:**

The appropriate TPS personnel have reviewed the only quotation received including the proposed storage site(s). It has been determined that Rite Auctions, a Division of 1083078 Ontario Inc. has complied with all of the requirements of the quotation request.

**Alternatives:**

Several alternatives to conducting the auctions on-line were defined in the on-line auction report accepted by the Board at its December 11, 2004 meeting. (Board Min. No. P342/03 refers). These alternatives included:

1. In-House Public Forum
2. Rental of a Facility
3. On-Line Auction Utilizing PEMU Personnel
4. Conducted in a Public Forum by a Third Party

Options #1 through #3 were clearly defined as unacceptable due to their cost-prohibitive nature. One advantage previously defined in Option #4 was the opportunity for potential bidders to publicly view the items prior to registering a bid, thereby, reducing or eliminating the necessity to institute a return policy and enhancing consumer satisfaction. However, the opportunity for bidders to publicly view the items was incorporated into the on-line auction Request for Quotation.

Recommended Preferred Option:

The tangible benefits of conducting auctions on-line outlined in the report accepted by the Board at its December 11, 2004 meeting are still valid despite the increase in the commission rate proposed by the sole respondent to the Request for Quotation.

These tangible benefits included:

1. A significant increase in the accessibility to the auction process by a much broader spectrum of the community, not just within the immediate boundaries of the City of Toronto as was evident by the geographical diversity of the winning bids that were registered during the pilot project.
2. Through the on-line process, bidders and buyers are afforded the opportunity to provide immediate on-line feedback which allows the auction process to be both transparent and pristine, thereby, instilling a high level of public confidence.
3. On-line auctioning occurs 24 hours a day – 7 days a week as opposed to public forum auctions which traditionally have been conducted once every five weeks and augmented with inventory from other sources. This expedited processing procedure reduces inventory levels and the stockpiling effect, which occurs when items are held internally until one week before a scheduled public auction. A continuous turnover of inventory results in the reduction of TPS storage and management costs, and in the double handling of property.

Despite the increase to the proposed commission rate, the anticipated revenue that will be generated through an on-line auction process is still higher than the revenue that would be generated in a brick and mortar setting. This increased revenue affords the Board the unique opportunity to increase funding currently allocated to community initiatives and endeavours.

Conclusion:

It is therefore recommended that:

1. the Board award the quotation for on-line auctioneering services to Rite Auctions, a Division of 1083078 Ontario Inc. for a period of three (3) years effective August 1, 2004 until July 31, 2007 with the Board's option to extend for an additional two (2) twelve-month periods, and
2. the Board authorize the Chair to execute a contract, including the terms and conditions on behalf of the Board, subject to approval by the City Solicitor as to form



Mr. Frank Chen, Chief Administrative Officer – Corporate Support Command will be in attendance to respond to any questions that the Board members may have.

**Staff Inspector Marlene Watson and Ms. Brenda Radix, Property and Evidence Management Unit, were in attendance and responded to questions by the Board about this report.**

**The Board approved the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P229.           AWARD OF “VENDOR OF RECORD” STATUS FOR THE PROVISION  
OF OFFICE FURNITURE AND RELATED SERVICES**

The Board was in receipt of the following report June 15, 2004 from Julian Fantino, Chief of Police:

Subject:        AWARD OF “VENDOR OF RECORD” STATUS FOR THE PROVISION OF  
OFFICE FURNITURE AND RELATED SERVICES FOR THE TORONTO  
POLICE SERVICE

Recommendation:

It is recommended that: the Board approve the award of “Vendor of Record” status for the provision of furniture and related services for a period of three (3) years commencing July 1, 2004 to June 30, 2007, including a provision for a further two (2) one year extensions at the discretion of the Board to Mayhew & Associates Inc.

Background:

On April 20, 2004, the City of Toronto, Management Services, Purchasing and Materials Supply Division, on behalf of the Toronto Police Service (TPS), issued “Request for Proposal” (RFP #1004-04-3131) for the award of the “Vendor of Record” status for the provision of office furniture and related services. Currently, Mayhew & Associates Inc. of Thornhill provides this service. The RFP was circulated to one hundred potential suppliers. A mandatory meeting for the service providers was held on April 27, 2004. Nine firms attended the mandatory meeting. Two firms subsequently submitted proposals.

The intent of this RFP was to identify a service provider with the capabilities of providing office furniture and related services for the TPS. The “Vendor of Record” will be required to submit cost estimates for all work for review by TPS personnel prior to the commencement of any work.

The appropriate TPS personnel have reviewed the RFP submissions. The submissions were evaluated independently using a weighted matrix format, and were evaluated based on the following criteria:

1. Qualifications and experience of the service provider’s staff.
2. Past history with the TPS and City.
3. Past history with projects of a similar nature.
4. Analysis of pricing information provided.
5. Compliance with the furniture specifications.
6. Financial stability of the firm.

7. Analysis of Q/A and OHS programs.
8. Compliance with WSIB and City requirements (i.e.- fair wage, etc.)

The service provider with the highest average rankings is recommended as the, "Vendor of Record". The final average ranking of the various service providers were:

- |                               |       |
|-------------------------------|-------|
| 1. Mayhew & Associates Inc.   | 181.3 |
| 2. Renaissance Interiors Inc. | 137.3 |

Mayhew & Associates Inc., being the highest rated service provider, is the firm best able to meet the needs of the TPS. Under this agreement the selected service provider will be required to work with TPS personnel and appointed consultants to complete various TPS projects. Mayhew & Associates will be responsible for related services such as, inventory preparation, bill of materials, installation drawings, etc. Currently the TPS spends approximately \$1.0M/year on furniture.

Therefore, it is recommended that the Board approve the award of "Vendor of Record" status to Mayhew & Associates Inc. for a period of three (3) years commencing July 1, 2004 to June 30, 2007, with two (2) one year extensions, at the discretion of the Board. Funding for this agreement is provided in the TPS Capital and Operating Budgets.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, will be in attendance to answer any questions that Board members may have.

**The Board approved the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P230. AWARD OF “VENDOR OF RECORD” STATUS FOR THE PROVISION  
OF CONSTRUCTION MANAGEMENT SERVICES FOR THE  
CONSTRUCTION OF TORONTO POLICE SERVICE FACILITIES**

The Board was in receipt of the following report June 15, 2004 from Julian Fantino, Chief of Police:

Subject: AWARD OF “VENDORS OF RECORD” STATUS FOR THE PROVISION OF  
CONSTRUCTION MANAGEMENT SERVICES FOR THE CONSTRUCTION  
OF TORONTO POLICE SERVICE FACILITIES

Recommendation:

It is recommended that: the Board approve the award of “Vendors of Record” status for the provision of Construction Management services for a period of five years commencing August 1, 2004 to July 31, 2009, to the following firms: Eastern Construction, Ledcor Construction, Aecon Buildings, Dineen Construction, and EllisDon Construction.

Background:

On March 9, 2004, the City of Toronto, Management Services, Purchasing and Materials Supply Division, on behalf of the Toronto Police Service (TPS), issued “Expression of Interest” (EOI #9119-04-7056) for the award of the “Vendors of Record” status for the provision of Construction Management services. The EOI was advertised to the construction industry in general. A mandatory meeting for the service providers was held on March 17, 2004. Twelve firms attended the mandatory meeting. Eleven firms subsequently submitted, “Expressions of Interest.”

The intent of this EOI was to short list service providers who have the capabilities of providing Construction Management services for the construction of TPS facilities. The intent was to pre-approve four to six service providers who will be invited to submit proposals on TPS construction projects for the period of the agreement.

The appropriate TPS, City, and TPS Consultant staffs have reviewed the EOI submissions. The submissions were evaluated independently using a weighted matrix format and were evaluated based on the following criteria:

1. Qualifications and experience of the service provider’s staff.
2. Past history with the TPS and City.
3. Past history with projects of a similar nature.
4. Analysis of generic Work Schedule submitted.
5. Financial stability of the firm.
6. Compliance with WSIB and City requirements (i.e.- fair wage, etc.)

The five service providers with the highest average rankings are recommended as the “Vendors of Record.” The final average rankings of the various service providers were:

1. Eastern Construction	125.8
2. Ledcor Construction	121.6
3. Aecon Buildings	115.6
4. Dineen Construction	107.6
5. EllisDon Corporation	103.6
6. Bondfield Construction	98.9
7. Gestpro Inc.	98.6
8. Mayhew & Associates	90.1
9. J.S. Watson & Associates	86.8
10. Dalton Engineering & Construction	77.7
11. Belrock Construction	66.6

Under this agreement, the selected service providers will be invited to compete for the various TPS construction projects, exclusively. The successful service provider will assist TPS, City, and Consultant personnel in the design of new facilities, in the preparation of working drawings, and specifications with the intent to ensure Quality Engineering and cost reductions are included prior to the start of construction. The TPS expects to spend approximately \$10.0M/year on the construction of new facilities for the next few years.

Therefore, it is recommended that the Board approve the award of “Vendors of Record” status for the provision of Construction Management services for a period of five years commencing August 1, 2004 to July 31, 2009 to Eastern Construction, Ledcor Construction, Aecon Buildings, Dineen Construction and EllisDon Construction. Funding for this work is provided in the TPS Capital Budget.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, will be in attendance to answer any questions that Board members may have.

**The Board approved the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P231. DISBURSEMENT FROM THE BOARD'S SPECIAL FUND – BANK OF  
NOVA SCOTIA**

The Board was in receipt of the following report MAY 27, 2004 from Julian Fantino, Chief of Police :

Subject: DISBURSEMENT FROM THE POLICE SERVICES BOARD SPECIAL FUND

Recommendation:

It is recommended that: the Board authorize Finance and Administration to disburse the sum of \$1,597.91 from the Police Services Board Special Fund to the Bank of Nova Scotia.

Background:

Finance and Administration has standing authority to make payments up to \$1,500.00 out of the Special Fund for monies deposited into this account for found or unclaimed money that is subsequently claimed by either the owner, finder or the next of kin. The payments made by Finance and Administration are included in the quarterly reports provided to the Board. (Board Minute #448/93 refers).

On August 26, 2000 a male was arrested and charged with Possession of Property Obtained by Crime. At the time of the arrest, \$1,597.91 was seized from the male, which previously had been stolen during a robbery at the Bank of Nova Scotia on August 25, 2000. (Occurrence #00/143471, Property Receipt #00K53281 in the amount of \$1,597.91 refers).

On October 28, 2003 authorization was received from the case manager to release the seized funds to the lawful owner, namely, the Bank of Nova Scotia.

In accordance with unit specific procedures, a registered letter was sent to the Bank of Nova Scotia on October 29, 2003 advising of the necessity to claim the funds prior to November 11, 2003. (See Appendix A). The bank failed to claim the funds as directed in the registered letter, therefore, the "unclaimed" funds (\$1,597.91) were deposited into the Board's Special Fund account on November 27, 2003.

On April 19, 2004 a Customer Service Manager representing the Bank of Nova Scotia, contacted the Property and Evidence Management Unit with the intent of claiming the funds. The claimant was advised the request would be submitted to the Board for consideration and approval.

Conclusion:

It is therefore recommended that the Board authorize Finance and Administration to disburse the sum of \$1,597.91 from the Police Services Board Special Fund to the Bank of Nova Scotia.

Mr. Frank Chen, Chief Administrative Officer – Corporate Support Command will be in attendance to respond to any questions that the Board members may have.

**The Board approved the foregoing.**



# Toronto Police Service

40 College Street, Toronto, Ontario, Canada. M5G 2J3  
(416) 808-2222 FAX (416) 808-8202  
Website: www.TorontoPolice.on.ca



Julian Fantino  
Chief of Police

File Number: .....

03.10.29

Bank of Nova Scotia  
845 Finch Avenue West  
Toronto, ON  
M3H 4X7

RE: 00K53281 & 00K53282

We are currently in possession of the following property which MAY or MAY NOT belong to you.

A sum of money 1597.91 & \$100.00.

You may claim this property at the Property and Evidence Management Unit, 799 Islington Ave., Etobicoke Ontario **M8Z 5W8** (SEE MAP ON REVERSE) upon presentation of this letter and sufficient identification,

If you do not wish to claim the property OR reside outside the Toronto area, please notify this office by phone at (416) 808-3750 or in writing. You may also request by phone or in writing to have the property delivered to the division closest to your location provided it is within the Toronto Police Service boundaries. Address all correspondence to: PROPERTY & EVIDENCE MANAGEMENT UNIT, TORONTO POLICE SERVICE, 799 ISLINGTON AVE. ETOBICOKE, ONTARIO **M8Z 5W8**. Property not claimed by November 19, 2003 will be deemed abandoned and will be disposed of in accordance with appropriate sections of The Police Services Act.

It is an offence to claim property where an insurance settlement has been made.

Yours Truly

Staff Inspector M. Watson  
Unit Commander  
Property and Evidence Management Unit  
MW/pr



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P232.           LEGAL INDEMNIFICATION:   P.C. AARON DENNIS (5209)**

The Board was in receipt of the following report JUNE 08, 2004 from Julian Fantino, Chief of Police:

Subject:       LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Harry Black Q.C., Barrister, in the total amount of \$47,178.00 for his representation of Police Constable Aaron Dennis #5209 .

Background:

Police Constable Aaron Dennis has requested payment of legal fees under the legal indemnification clause of the Uniform Collective Agreement. The statement of account from Mr. Harry Black, Q.C., Barrister, in the amount of \$47,178.00 for representing the aforementioned officer has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the recommendation of Chief Fantino not to approve legal indemnification in this case and noted that additional information was also received during the in-camera meeting (Min. No. C129/04 refers).**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P233. LEGAL INDEMNIFICATION: P.C. MICHAEL CARRINGTON (1648)**

The Board was in receipt of the following report JUNE 18, 2004 from Julian Fantino, Chief of Police:

Subject: LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Harry Black Q.C., Barrister, in the total amount of \$47,402.37 for his representation of Police Constable Michael Carrington #1648 .

Background:

Police Constable Michael Carrington has requested payment of legal fees under the legal indemnification clause of the Uniform Collective Agreement. The statement of account from Mr. Harry Black, Q.C., Barrister, in the amount of \$47,402.37 for representing the aforementioned officer has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the recommendation of Chief Fantino not to approve legal indemnification in this case and noted that additional information was also received during the in-camera meeting (Min. No. C130/04 refers).**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P234.           LEGAL INDEMNIFICATION:   SGT. RODERICK LAWRENCE (5901)**

The Board was in receipt of the following report JUNE 15, 2004 from Julian Fantino, Chief of Police:

Subject:       LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Gary Clewley, Barrister and Solicitor, in the total amount of \$243,725.32 for his representation of Sergeant Roderick Lawrence #5901.

Background:

Sergeant Roderick Lawrence has requested payment of legal fees under the legal indemnification clause of the Uniform Collective Agreement. The statement of account from Mr. Gary Clewley, Barrister and Solicitor, in the amount of \$243,725.32 for representing the aforementioned officer has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The foregoing report was withdrawn at the request of the Chief of Police.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P235.           LEGAL INDEMNIFICATION:   P.C. GARY CORBETT (4855)**

The Board was in receipt of the following report JUNE 15, 2004 from Julian Fantino, Chief of Police:

Subject:       LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Earl J. Levy, Q.C., Barrister, in the total amount of \$112, 472.04 for his representation of Police Constable Gary Corbett #4855 .

Background:

Police Constable Gary Corbett has requested payment of legal fees under the legal indemnification clause of the Uniform Collective Agreement. The statement of account from Mr. Earl J. Levy, Q.C., Barrister, in the amount of \$112, 472.04 for representing the aforementioned officer has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the recommendation of Chief Fantino not to approve legal indemnification in this case and noted that additional information was also received during the in-camera meeting (Min. No. C132/04 refers).**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P236. LEGAL INDEMNIFICATION: P.C. MAJA SCHLEGEL (2972)**

The Board was in receipt of the following report JUNE 15, 2004 from Julian Fantino, Chief of Police:

Subject: LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Jimmy Lee, Barrister and Solicitor, in the total amount of \$1,292.02 for his representation of Police Constable Maja Schlegel #2972.

Background:

Police Constable Maja Schlegel has requested payment of legal fees under the legal indemnification clause of the Uniform Collective Agreement. The statement of account from Mr. Jimmy Lee, Barrister and Solicitor, in the amount of \$1,292.02 for representing the aforementioned officer has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the recommendation of Chief Fantino not to approve legal indemnification in this case and noted that additional information was also received during the in-camera meeting (Min. No. C133/04 refers).**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P237. LEGAL INDEMNIFICATION: PEO SONIA BUPHINDER SINDE (65536)**

The Board was in receipt of the following report MAY 26, 2004 from Julian Fantino, Chief of Police:

Subject: LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Andrew McKay, Barrister and Solicitor, in the total amount of \$1,939.38 for his representation of Parking Enforcement Officer (PEO) Sonia Buphinder Sinde #65536.

Background:

PEO Sonia Buphinder Sinde has requested payment of legal fees under the legal indemnification clause of the Unit C Collective Agreement. The statement of account from Mr. Andrew McKay, Barrister and Solicitor, in the amount of \$1,939.38 for representing the aforementioned member has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the recommendation of Chief Fantino not to approve legal indemnification in this case and noted that additional information was also received during the in-camera meeting (Min. No. C134/04 refers).**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P238.           LEGAL INDEMNIFICATION:   OFFICER “Q.J.”**

The Board was in receipt of the following report MAY 12, 2004 from Julian Fantino, Chief of Police:

Subject:       LEGAL INDEMNIFICATION

Recommendation:

It is recommended that: the Board deny payment of an account from Mr. Peter M. Brauti, Barrister and Solicitor, in the total amount of \$92,186.52 for his representation of Q.J.

Background:

Due to a Court Order, the officer involved in this legal indemnification cannot be identified to the public. For this reason, the officer will be referred to as “Q.J.”

Q. J. has requested payment of legal fees under the legal indemnification clause of the Uniform Collective Agreement. The statement of account from Mr. Peter M. Brauti, Barrister and Solicitor, in the amount of \$92,186.52 for representing the aforementioned officer has been received.

This report corresponds with additional information provided on the Confidential Agenda.

It is recommended that this account be denied.

Mr. William Gibson, Director, Human Resources, will be in attendance to respond to any questions the Board may have in regard to this matter.

**The Board approved the recommendation of Chief Fantino not to approve legal indemnification in this case and noted that additional information was also received during the in-camera meeting (Min. No. C135/04 refers).**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P239. REVIEW OF SEARCH OF PERSONS POLICY**

The Board was in receipt of the following report MARCH 03, 2004 from A. Milliken Heisey, Q.C., Chair:

Subject: REVIEW OF SEARCH OF PERSONS POLICY

Recommendation:

It is recommended that: in light of the direction from the Ontario Civilian Commission on Police Services (OCCPS), the Board direct the Chief to review the Toronto Police Service Policy and Procedure Directive 01-02 entitled Search of Persons and report back to the Board.

Background:

The Board is in receipt of a letter dated December 19, 2003 from the Ontario Civilian Commission on Police Services (OCCPS). The letter, addressed to Superintendent Roy Pilkington, contains an OCCPS Review Panel decision with respect to a complaint about a "strip search" of a 14-year old boy.

After reviewing the matter, the Review Panel upheld the decision of the Unit Commander and determined that there was "insufficient evidence of misconduct" in this case. However, the Review Panel wanted to bring to the attention of the Toronto Police Service and the Toronto Police Services Board a concern it had with the Service's Policy and Procedure Directive governing "Search of Persons." The Review Panel stated that it "has concerns about the policy which is so broadly worded that it appears that anyone entering into the cell area would be deemed to be entering the prison population and must be subject to a strip search." The Review Panel, therefore, directed the matter to the Board "to be dealt with as a policy issue." OCCPS directed that:

"the policy for conducting Level 3 searches be reviewed to ensure that the search of persons policy is consistent with the decision and philosophy directed by the Supreme Court of Canada in the case of R. v. Golden and individuals in the Service's custody and control are afforded the right to be secure against unwarranted and unreasonable strip searches.

As a result, Board staff have reviewed the Toronto Police Service Policy and Procedure Directive 01-02 entitled Search of Persons.



### Service Policy and Procedure Directive:

The issue of searches of persons, or Level 3 searches, is dealt with in the Toronto Police Service Policy and Procedure Directive 01-02 Search of Persons (“the Directive”).

The Directive defines a Level 3 search as follows:

formerly known as a ‘complete search’, a Level 3 search includes the removal of some or all of a person’s clothing and a visual inspection of the body. More specifically, a Level 3 search involves the removal of clothing that fully exposes the undergarments or an area of the body normally covered by undergarments. (genitalia, buttocks, women’s breasts)...

The Directive describes the impact of the *Golden* decision on Service policy and procedures as follows:

In 2001, the Supreme Court of Canada, in the matter of *R. v. Golden*, while upholding the common law right to search a person who had been lawfully arrested, placed restrictions on police officers contemplating Level 3 searches.

In light of this decision, the Toronto Police Service has adopted the following official policy in regard to Level 3 searches of persons who are in custody, incident to arrest.

All persons who are held in custody pending a Show Cause hearing, are deemed to be entering the prison population. As such, the Officer in Charge (OIC) shall ensure that all persons held for a Show Cause hearing are subject to a Level 3 search, prior to entering the cells or being transported to court or to another facility.

Where a person in custody is held in short term detention and will be released from the station by the OIC, reasonable grounds are required prior to conducting a Level 3 search. Where reasonable grounds do not exist for a Level 3 search, a Level 2 search shall be conducted. (A Level 3 search may be conducted if reasonable grounds are established as a result of the Level 2 search.)

### Justification for the Practice of Conducting Complete Searches of Prisoners Being Held for Show Cause Hearings:

At the Board meeting of May 30, 2002, the Board received from the Chief a report entitled “Review of the Supreme Court Ruling in the Matter of *R. v. Golden*” (Board Minute No. P142 refers). In this report, the Chief stated as follows:

Prisoners held at police facilities operated by the Toronto Police Service fall into two distinct categories; those held in short term detention, and those being held pending transportation to court for a Show Cause hearing.

The Supreme Court decision distinguishes between searches immediately incidental to arrest, and searches related to safety issues in a custodial setting. It acknowledges (at line 96) that where individuals are going to be entering the prison population, there is a greater need to ensure that they are not concealing weapons or illegal drugs on their persons.

Prisoners being held for Show Cause hearings are typically repeat offenders, those previously charged with or convicted of Fail to Appear or Fail to comply, and those charged with indictable offences, many of which include violence and/or drug possession. Whatever the reason, these prisoners will be held at a police facility until they are transported to court. These prisoners will be directly exposed to other prisoners during transportation, and will be lodged together with other prisoners in common cells while at court. Many of the prisoners in court cells will have arrived directly from correctional institutions.

In light of this process, and the increased risks of exposure to assault, robbery, and other persons, the need to ensure these persons have been properly searched is greatly increased. Furthermore, Part X of the Police Services Act of Ontario directs that the Board is responsible for ensuring the security of judges and persons taking part in or attending proceedings. As such, the unanimous decision of the committee, which I endorse, is that all persons held in custody pending a Show Cause hearing are deemed to have entered the prison system, and will be treated as such. By making this distinction, I believe that we are justified in continuing the practice of conducting complete searches of prisoners being held for Show Cause hearings.

## Conclusion

The OCCPS-ordered review of the Search of Persons directive was made subsequent to the Chief's response in the above-noted Board report from the Board's May 30, 2002 meeting.

It is, therefore, recommended that in light of the direction from OCCPS, the Board direct the Chief to review the Toronto Police Service Policy and Procedure Directive 01-02 entitled Search of Persons and report back to the Board.

**The Board was also in receipt of the following report, dated February 26, 2004, from Julian Fantino, Chief of Police, which responds to the request for a report noted in the Chair's March 03, 2004 report:**

Subject: REVIEW OF SEARCH PROCEDURE

Recommendation:

It is recommended that:

- (1) the Board approve the Chief's response to the policy review; and
- (2) the Board provide a copy of this report to the Ontario Civilian Commission on Police Services.

Background:

In August, 2002, a young person was arrested for Failing to Comply with his Recognizance, transported to a police station and processed on the charge. He was held in custody for a Show Cause hearing and, as a result, a Level 3 search, formerly known as a complete search, was conducted.

On March 8, 2003, a written complaint was filed alleging that the complete search was conducted without reasonable grounds. The results of an investigation indicated that there was insufficient evidence to support the misconduct allegation against the officers.

On December 19, 2003, the Toronto Police Service received correspondence from the Ontario Civilian Commission on Police Services (OCCPS) indicating that the review panel also found insufficient evidence of misconduct. However, the panel had concerns about the policy governing Level 3 searches. In OCCPS' view, they believe it is broadly worded and that it appeared that anyone entering the cell area would be deemed to be entering the prison population and subject to a search.

The OCCPS panel directed that the policy for conducting a Level 3 search be reviewed to ensure that it is consistent with the decision and philosophy as directed by the Supreme Court of Canada in the case of R. v. GOLDEN, and that individuals in the Service's custody and control are afforded the right to be secure against unwarranted and unreasonable searches.

Response:

A policy review was conducted and it was determined that the Toronto Police Service procedure entitled "Search of Persons" 01-02, conforms to the decision/philosophy of the Supreme Court of Canada and affords the rights of individuals in custody to be secure against unwarranted/unreasonable searches.

The philosophy of the Supreme Court of Canada is to ensure that Level 3 searches of persons in custody are not carried out as a matter of routine policy and that they do not infringe on s. 8 of the Canadian Charter of Rights and Freedoms. Level 3 searches must be for a valid objective and justified by existing conditions.

The procedure provides clear guidance to Toronto Police Service members when a Level 3 search is to be conducted. It specifically states that “All persons who are held in custody pending a Show Cause hearing, are deemed to be entering the prison population. As such, the Officer in Charge shall ensure that all persons held for a Show Cause hearing are subject to a Level 3 search, prior to entering the cells or being transported to court or to another facility”. This does not mean that every person in custody entering the cell area would be subject to a Level 3 search. It is not uncommon for a person that is being held in short term custody to be placed in the cells without a Level 3 search. Only persons held in custody and being placed in the cells, or transported to court or another facility, would be subject to a Level 3 search.

TPS Court Services personnel are responsible for transporting prisoners who are held in custody from cells in police divisions to their respective court locations for Show Cause hearings or transporting inmates from provincial correctional institutions for an appearance in court (as mandated by the Municipal Act, 2001). Depending on the court location within the city, it is possible for eighty to one hundred prisoners to mingle together for hours in the general population cell awaiting their court appearance.

Failure to conduct a Level 3 search increases the risk of weapons or drugs entering the general prison population by contact with other prisoners. This contact could take place in the police cells, during transportation in a prisoner van or in the court holding cells. The objective of Level 3 searches is to ensure the safety of Court Services personnel, court officials (including Justices, Crown Attorneys and Defense lawyers), other prisoners and witnesses.

Additional information regarding this matter has been provided to the Board on its confidential agenda.

As a result, I recommend that no further action should be taken in respect to this policy review.

### Conclusion:

It is recommended that:

- (1) the Board approve the Chief’s response to the policy review; and
- (2) the Board provide a copy of this report to the Ontario Civilian Commission on Police Services.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, will be in attendance to answer any questions concerning this report.

**The Board was in receipt of a report, dated March 24, 2004, from John Sewell, Toronto Police Accountability Coalition, with regard to a review of the search of persons policy. A copy of Mr. Sewell's report is appended to this Minute for information.**

**The Board noted that it was originally in receipt of Chair Heisey's report and Mr. Sewell's report at its March 25, 2004 meeting, and that the Board agreed to defer consideration of those reports pending a further report from Chief Fantino containing the history of search of persons policies and guidelines and details of all previous reports submitted to the Board (Min. No. P84/04 refers).**

**The Board was also in receipt of the following report, dated June 16, 2004, from Julian Fantino, Chief of Police, which responds to the request for a report noted in Minute No. P84/04 from the March 25, 2004 meeting:**

Subject: REVIEW OF SEARCH OF PERSONS POLICY

Recommendation:

It is recommended that: the Board receive this report.

Background:

At the Board meeting of March 25, 2004, the Board requested that the Chief of Police provide a report containing the history of search of persons policies and guidelines and details of all previous reports submitted to the Board. (Board Minute #P84/04 refers)

A review of previous board reports addressing search of persons, indicates that this issue was brought to the forefront during the period of 1998 to the present day. Therefore, in determining a timeframe from which to address this request, 1998 was chosen as the starting point for the research provided in this report.

As this request deals with a large quantity of information, in order to provide clarity to this issue, the details of all Board minutes addressing search of persons have been summarized chronologically in a chart, which is attached to this report (See Appendix "A"). The attached chart highlights the key issues contained in each Board minute. The matters addressed in these minutes touch on a variety of issues surrounding search of persons. For example, the change in terminology from 'strip search' to 'complete search', the collection of searches of persons data for statistical purposes and the request for the enactment of legislation by Parliament to provide clear and unequivocal rules to police officers outlining when, where and how strip searches, incident to arrest, shall be conducted.

Since 1998, there have been two revisions to the 'Search of Persons' procedure (formerly known as a directive). Highlights of all Board minutes concerning the development of these two versions are contained within the attached chart as well. The following is a brief outline of what initiated the procedure reviews and what their outcomes were.

At its meeting held on February 26, 1998, the Board approved a motion requesting that the Chief of Police review the existing Service procedures governing strip searches and provide the Board with a report which includes:

*“the development of a new comprehensive policy governing strip searches including specific guidelines indicating when strip searches can and cannot be conducted.” (Board Minute #P53/98 refers)*

An enormous amount of effort went into the development of a new Service procedure on search of persons. Numerous deputations and written submissions were considered, public input was sought, the policies of other police services were reviewed, and legal opinion was requested during the development of this procedure. In addition, Mr. Jeff Lyons, a Board member at the time, was mandated by the Board to:

*“review the research and methodology that the Toronto Police Service used to develop the new Search of Persons Directive and review whether the new procedure meets the Board’s Policy expectations.” (Board Minute #P501/98 refers)*

At the conclusion of his review Mr. Lyons presented the Board with ‘*The Search of Persons – A Position Paper*’. (Board Minute #P196/99 refers) This report was also reviewed and considered by the Service in the development of its comprehensive procedure on search of persons.

At the Board meeting on July 22, 1999 the Board approved the revised Procedure 01-02 entitled ‘Search of Persons’. (Board Minute #P325/99 refers) This revised procedure was published on routine orders on September 28, 1999, for the information and governance of Service members.

The revisions to Procedure 01-02 were extensive, some of which included:

- sections were added outlining grounds for searching a person as well as search authorities
- an explanation of the 3 levels of search was added (General, Complete [formerly referred to as strip search] and Body Cavity)
- the requirement was added that full details of all searches must be recorded in an officer’s memorandum book and that a supplementary report (TPS 101) must be submitted each time a member conducts a complete search

In addition to the revised procedure, a brochure entitled ‘Search of the Person’ was created to provide the community with an overview of the Toronto Police Service policy on search of persons. This brochure was distributed to all divisions for the purpose of educating the public as well as informing individuals of their rights with regard to search. A sample of this brochure is attached. (See Appendix “B”)

On April 22, 2003, an amended version of Procedure 01-02 was published. This revised procedure addressed changes to Service policy as a result of the Supreme Court of Canada decision in the matter of R. v. Golden. Changes to the procedure included:

- a change in the terminology used to describe the different types of searches and a clearer definition of each of the levels of search. The searches were now referred to as 'Level 1 Search', 'Level 2 Search', 'Level 3 Search' and 'Level 4 Search'.
- a clear distinction between prisoners held in short term detention who would be released from the station and those who are held for Show Cause hearings, and direction to officers contemplating Level 3 searches of those individuals, pursuant to the Supreme Court ruling in the matter of *R. v. Golden* (this matter had been previously outlined for members in Routine Order 2002.04.25-0712)
- a prohibition on Level 3 searches in the field for the sole purpose of discovering evidence pursuant to the above mentioned ruling (this matter had been previously outlined for members in Routine Order 2002.05.17-0906)
- a revised Search of Person template, to be completed when conducting a search of person, with categories that more accurately define the authorities for conducting Level 3 and Level 4 searches of persons.

This April 22, 2003 version of Procedure 01-02 currently governs the members of the Toronto Police Service.

After reviewing the attached chart, if the Board requires further detail than has been provided, a package of the complete minutes has been compiled and can be provided to the Board upon request.

Conclusion:

It is recommended that the Board receive this report.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, will be in attendance to answer any questions concerning this report.

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

- **Mr. Colin Brown, African Canadian Legal Clinic \***
- **Mr. John Sewell, Toronto Police Accountability Coalition**

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

**Chief Fantino advised the Board that the Ontario Superior Court of Justice recently released its decision in the matter of *R. v. Clarke, Heroux and Pilipa* which he believes indicates that Toronto Police Service Procedure 01-02 – Search of Persons is consistent with the December 06, 2001 Supreme Court of Canada decision in the matter of *R. v. Golden*. Copies of the *Clarke* decision were provided to the Board and are filed in the Board office.**

**The Board approved the following Motions:**

- 1. THAT the Board receive the depositions and the written submission from the African Canadian Legal Clinic;**
- 2. THAT the Board receive the report from Mr. Sewell and the June 16, 2004 report from Chief Fantino;**
- 3. THAT the Board approve the report from Chair Heisey and the February 26, 2004 report from Chief Fantino;**
- 4. THAT the Board request City of Toronto – Legal Services to review the policies and procedures of the Toronto Police Service pertaining to searches of persons and provide a report to the Board with an opinion as to whether the interpretation as outlined by the Chief in his reports (dated February 26, 2004 and June 16, 2004) is consistent with the principles as set out by the Supreme Court of Canada in its decision in *R. v. Golden*; and**
- 5. THAT, upon receipt of the report noted in Motion No. 4, the Board conduct a further review of the written submissions provided by the Toronto Police Accountability Coalition and the African Canadian Legal Clinic in conjunction with the report from City of Toronto – Legal Services.**



March 24, 2004.

To: Toronto Police Services Board  
From: Toronto Police Accountability Coalition  
Subject: Item 6, March 25 board meeting  
Review of Strip search policy

We would request that this letter be considered during the discussion of Item 6.

TPAC made several presentations to the Board regarding the strip search policy following the important decision of the Supreme Court of Canada in the Golden case. Like the Review Panel of OCCOPS which provoked the report contained in Item 6 from the Board chair, we are concerned that the current policy of the Toronto force is much too open, and that many individuals are stripped search contrary to the general principles of the Supreme Court ruling.

On February 28, 2002, TPAC wrote the Board and asked that specific matters be inserted in the strip search policy, but the Board did not agree. Now, when the police is being reviewed, we believe it is appropriate for these ideas to be included.

Specifically, we believe the policy should note that the Supreme Court sees strip searches as a exceptional step, and there should be strong reporting mechanisms to ensure the policy is closely followed.

We would ask that the Chief be requested to report on including the following principles and actions in the revised policy:

- a) including a statement that strip searches are not a routine police practice but are done only in exceptional circumstances, that is, no more than 5 per cent of all searches;
- b) deleting the consent of a person as an authorization for a strip search, since any consent will most often be given under duress;
- c) requiring that in advance of any strip search, the officer write, on a form designed for this purpose, the reasonable and probable grounds making the search necessary, and that these grounds be approved by a supervisor before a strip search may take place;
- d) strip search authorization forms be forwarded to the Chief on a monthly basis so the chief may report monthly to the Board to ensure the Supreme Court decision is being complied with;
- e) where it is necessary, and there are appropriate grounds, to conduct a strip search, it must be conducted not only by a member of the same sex but outside of the presence of members of the opposite sex. Transgender/transsexual people must be accommodated and their Charter rights protected • consultation with this community is required;

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f) Anyone subject to a search should be advised of available complaint procedures, and given the extreme violative nature of an illegal strip search (as recognized in Golden), the complaint procedures be improved to address such complaints;

We would ask that when the chiefs report is available, it be well publicized and that times be provided for deputations and discussion at the Board.

Yours truly,

John Sewell for  
Toronto Police Accountability Coalition.  
[www.tpac.ca](http://www.tpac.ca)  
416 977 5097.

**Attachment to the report, dated June 16, 2004, from Chief Fantino**

<b>Meeting Date</b>	<b>Board Minute and Subject</b>	<b>Key Issues</b>
February 26, 1998	#P53 Post-Arrest Detention & Strip Searches	<p>Deputations were made to the Board by Mr. A. Alan Borovoy, General Counsel, Canadian Civil Liberties Association and Kimberly R. Murray, Staff Lawyer, Aboriginal Legal Services of Toronto regarding the Service’s policies and practices governing strip searches. Copies of these deputations are attached to the board minute.</p> <p><i>“The Board approved the following motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT the deputations be received and that the written submissions be referred to the Chief of Police for review;</i></li> <li><i>2. THAT the Chief of Police review the existing Service procedures governing strip searches and provide the Board with a report which includes the following:</i> <ul style="list-style-type: none"> <li><i>– the development of a new comprehensive policy governing strip searches including specific guidelines indicating when strip searches can and cannot be conducted</i></li> <li><i>– ensure that the Flintoff case (referred to in the Routine Order) has been taken into consideration during the development of the new policy</i></li> <li><i>– that the Service begin record-keeping on the number of strip searches conducted and that the statistics be provided to the Board</i></li> <li><i>– that the Service contact other major police forces in North America and obtain their policies governing strip searches, guidelines to ensure uniformity of strip searches and any statistical information or analysis they have on strip searches</i></li> <li><i>– a response to the deputant’s comments that the manner in which strip searches conducted by Toronto Police is not consistent across the Service</i></li> <li><i>– the authors of the policy should be mindful that one of the objectives is to enhance the public’s confidence in policing</i></li> <li><i>– a response to the comments and recommendations contained in the deputant’s written submissions.”</i></li> </ul> </li> </ol>

Meeting Date	Board Minute and Subject	Key Issues
September 24, 1998	#P423 Update – Post-Arrest Detention Strip Searches	At its February 26, 1998 meeting the Board requested that the Chief prepare a report addressing the motions as outlined in Board Minute #P53/98. A “draft” final report, addressing the motions, was prepared and forwarded to Mr. Albert Cohen of Metro Legal for a legal opinion. The final report was to be submitted for the November 19, 1998 meeting.
November 19, 1998	#P501 New Directive - Search of Persons	<p>In response to the request made by the Board at its February 26,1998 meeting, a draft of Service Directive 01-02 entitled ‘Search of Persons’ was provided to the Board.</p> <p>Deputations were made by:</p> <p>A. Alan Borovoy, General Counsel, Canadian Civil Liberties Association  Kimberly Murray, Acting Clinic Director, Aboriginal Legal Services of Toronto  Police Constable Karen Chapman (5108), No. 51 Division  Craig Bromell, President, Toronto Police Association</p> <p>The Board was also in receipt of written Motions from Vice-Chair Judy Sgro.</p> <p><i>“The Board approved the following Motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT, given that the Board received the foregoing report this afternoon and that neither the Board nor the community have had an opportunity to review it, the Board defer consideration of the Chief’s report to its December 15, 1998 meeting;</i></li> <li><i>2. THAT the Board hear deputations with regard to the policy at its December 15<sup>th</sup> meeting;</i></li> <li><i>3. THAT the written submissions from Vice-Chair Sgro, Mr. Borovoy and Ms. Murray be referred to Chief Boothby for review and that he provide a response in a report for the December 15, 1998 meeting;</i></li> <li><i>4. THAT Chairman Gardner provide a report for the December 15, 1998 meeting on a strategy for public consultation with regard to the draft Search of Persons Directive; and</i></li> <li><i>5. THAT, on behalf of the Board, Mr. Jeff Lyons be mandated to review the research and methodology that the Toronto Police Service used to develop the new Search of Persons Directive and review whether the new procedure meets the Board’s policy expectations. Mr. Lyons’ report will be considered by the Board at the February 1999 meeting.”</i></li> </ol>

Meeting Date	Board Minute and Subject	Key Issues
December 15, 1998	#P507 New <i>Draft</i> Directive – Search of Persons	<p>This Board minute addressed several reports, deputations and written submissions concerning search of persons.</p> <p>Members of Training and Education were in attendance and provided a demonstration on how a search of person is conducted. (Board Minute #C344/98 refers)</p> <p>Deputations were made by:  Anne-Marie Aikins - Children’s Counselor Advocate Program, George Brown College  Andrea Ritchie - Nellie’s Shelter for Women  Andre Fiset  Rene Pineda  Kimberly Murray - Aboriginal Legal Services of Toronto  A. Alan Borovoy - Canadian Civil Liberties Association</p> <p>Written submissions were also received from the following people: Anita Dermer, Alastair Grant and Victoria Grant, Jon Storms, Fred Bealle, Furrukh Ali, David L. Jones, Jack Diamond, Marbeth Greer - Committee on the Status of Women, City of Toronto.</p> <p>This Board minute dealt with the motions passed on February 26, 1998. (Board Minutes #P53/98 and #P501/98 refer)</p> <p>In this report, the Chief of Police recommended:</p> <ol style="list-style-type: none"> <li>“1. <i>THAT the Board receive this report for information purposes.</i></li> <li>2. <i>THAT the Board postpone gathering statistics on the frequency of strip searches until a process for capturing this information can be created within the Criminal Information Processing System (CIPS).</i></li> <li>3. <i>THAT the Board request legislative change pursuant to Service Rule 5.7.6, to create a Regulation under the Police Services Act which will allow police officers to lawfully conduct detention/incarceration searches of prisoners.”</i></li> </ol>

The Board was informed in this report that since the term “Strip search” has some negative connotations, the term has been replaced with ‘complete search’ both in this report and in the proposed procedure.

The Board was also informed in this report that the search of persons procedure that was received by the Board at its meeting of November 19, 1998 took into account the following:

- the comments and recommendations contained in the deputations made by Mr. Borovoy, Ms. Murray, and Board Vice-Chair, Ms. Judy Sgro
- Service members were canvassed to determine whether arrested persons were being searched in a consistent manner and inconsistencies were found in when, where and how searches are conducted.
- An analysis of the search policies from 25 major police services throughout North America was conducted
- A legal opinion on the topic of search was received from the City Solicitor, Legal Services
- Specific guidelines on the topic of complete searches and includes the issues that arise from the *FLINTOFF* decision (R. v. Flintoff, O.C.J. (Gen. Div.), September 1997, unreported, and, additionally, the Ontario Court of Appeal decision relating to Flintoff in June 1998.)

The Board was also in receipt of a report from Chairman Gardner in response to the Board’s request for the Chairman to “*provide a report for the December 15, 1998 meeting on a strategy for public consultation with regard to the draft Search of Persons Directive*”.

The report explained:

- the November meeting was highly reported in the media
- information on this issue was added to the Board’s website
- past deputants were informed that this issue was being reviewed by the Board at the December meeting

		<p><i>“The Board approved the following Motions:</i></p> <ol style="list-style-type: none"><li><i>1. THAT the written submissions be forwarded to the Chief of Police for review and that he provide a response in a report for the Board’s January 1999 meeting;</i></li><li><i>2. THAT, with regard to Mr. Borovoy’s recommendation, the report noted in Motion No. 1 also include a response to each of the original cases involving strip searches;</i></li><li><i>3. THAT copies of the written submissions and the recommendation noted in Motions #1 and #2 also be referred to Jeff Lyons, Board Member, for consideration during his review of the research and methodology that the Service used to develop the new draft Search of Persons Directive (Min. No. 501/98); and</i></li><li><i>4. THAT the following issues be referred to Jeff Lyons for consideration during his review:</i><ul style="list-style-type: none"><li><i>• broadening the public consultation process</i></li><li><i>• whether the public consultation process will include provision for in-camera depositions if requested</i></li><li><i>• whether the term “strip search” should be included in the new Directive.”</i></li></ul></li></ol>
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Meeting Date	Board Minute and Subject	Key Issues
January 28, 1999	#P54 Searches of Persons	<p>The Board was in receipt of a report from Pam McConnell, Toronto Councillor &amp; Chair, Audit Reference Group, City of Toronto, stating:</p> <p><i>“At its meeting on January 13, 1999 the Audit Reference Group asked me to write to the Police Services Board and recommend:</i></p> <ol style="list-style-type: none"> <li><i>1. That the Board provide further opportunity for community input on search of persons policy in order to provide more time for organizations and individuals to prepare submissions.</i></li> <li><i>2. That a copy of all the written submissions to the Police Services Board on search of persons policy be attached to the Minutes of the meeting of the Board held on December 15, 1998 (Minute 507/98) and be included in the official record.”</i></li> </ol> <p>The Board noted that several meetings with Councillor McConnell, members of the Audit Group and other community members had been scheduled by Jeff Lyons, Q.C., as part of the consultation process on strip searches.</p> <p>Recommendation no. 2 was received by the Board.</p>
January 28, 1999	#P59 Search of Persons	<p>At the Board meetings of February 26, 1998 (Board Minute #P53/98 refers) and November 19, 1998, (Board Minute #P501/98 refers), numerous deputations and submissions were made. Legal opinions and a partial response to the previous submissions were received at the December 15, 1998 closed meeting. (Board Minute #C362 and #C363 refer)</p> <p>At the December 15, 1998 public meeting, 2 of the approved Motions were:</p> <p><i>“1. THAT the written submissions be forwarded to the Chief of Police for review and that he provide a response in a report for the Board’s January 1999 meeting; and</i></p> <p><i>2. THAT, with regard to Mr. Borovoy’s recommendation, the report noted in Motion No. 1 also include a response to each of the original cases involving strip searches.”</i></p>



		<p>The written submissions and depositions were referred to Corporate Planning for review. Corporate Planning took the recommendations into account in the development of the proposed procedure. Members of Corporate Planning were interviewed by Mr. Jeff Lyons as part of his review regarding the research and methodology used in the development of the proposed 'Search of Persons' procedure.</p> <p>As a result of issues raised by Mr. Lyons, additional research was conducted including an expanded survey of other police organizations throughout North America.</p> <p>Corporate Planning continued to review submissions and a full reply to the Board along with a final draft of the 'Search of Persons' procedure was anticipated for the April 1999 Board meeting.</p>
<p>March 26, 1999</p>	<p>#P163 Strip Searches – Guidelines Pertaining to Incidents Involving Mistaken Identities</p>	<p>The Board was in receipt of a letter from Mr. Clayton C. Ruby, Ruby &amp; Edwardh making a formal complaint about the treatment of British Lawyer John Hanson who was arrested and strip searched during a visit to Toronto. Mr. Ruby stated, "I ask that you investigate this matter and issue the appropriate policy directions to the force which would demand that a system be put in place which does not allow mistaken identity cases like this and to institute restrictions on police power of arrest that will prevent this kind of situation from happening again."</p> <p><i>"The Board referred Mr. Ruby's correspondence to Jeff Lyons, Board Member, for consideration during his on-going review of the new draft Search of Persons Directive."</i></p>

Meeting Date	Board Minute and Subject	Key Issues
April 22, 1999	#P196 Toronto Police Services Board Review – Search of Persons Policy – “ <i>The Search of Persons – A Position Paper</i> ”	<p>The Board received the report from Mr. Lyons entitled ‘<i>The Search of Persons – A Position Paper</i>’ with the following recommendations:</p> <ol style="list-style-type: none"> <li>1. <i>THAT the Board receive the following report for information;</i></li> <li>2. <i>THAT the following report be forwarded to the Chief of Police for review and consideration;</i></li> <li>3. <i>THAT the Board hear final public deputations on the search of persons policy at the May 20, 1999 meeting from any interested persons or community groups;</i></li> <li>4. <i>THAT the Chief of Police provide the Board with a revised Service Directive on Search of Persons following his review of “The Search of Persons – A Position Paper” and any public deputations; and</i></li> <li>5. <i>THAT the revised Directive noted in recommendation #4 be provided to the Board for approval at its June 17, 1999 meeting.”</i></li> </ol> <p>This report also suggested that the Board hear final public deputations on the Search of Persons policy at the May 20, 1999 meeting. The Board approved the Motions in this Board report.</p>
May 20, 1999	#P206 Deputations – <i>The Search of Persons Policy – A Position Paper</i>	<p>Deputations were made to the Board by the following persons:</p> <p>James Putt, Urban Alliance on Race Relations  Andre Fiset  Kara Gillies, Maggie’s &amp; the Toronto Migrant Sex Worker Advocacy Group  Michelle Williams, African Canadian Legal Clinic  Madeleine Mariano, Angela Stevens, and Andrea Ritchie, Nellie’s Shelter for Women</p> <p>A written submission was received May 5, 1999 from Ann Cavoukian, Information and Privacy Commissioner/Ontario.</p>

		<p><i>“The Board received the depositions and the (sic) approved the following Motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT copies of the written submissions be provided to the Chief of Police for consideration for the revised Service Directive; and</i></li> <li><i>2. THAT the Chief of Police also consider the comments made by P.C. Karen Chapman (5108), No. 51 Division, at the November 19, 1998 meeting, be included in the revised Service Directive.”</i></li> </ol>
<p>July 22, 1999</p>	<p>#P325 “Search of Persons” Report</p>	<p>The revised Service directive entitled “Search of Persons”, was received by the Board. This revised directive was a result of considerable research and consultation with other Police Services, coupled with the community consultations and review by Mr. Lyons.</p> <p>The Board was informed that the Corporate Planning Unit of the Toronto Police Service was also currently developing a brochure concerning Search of Persons for members of the community.</p> <p>In response to the Board request:</p> <p style="padding-left: 40px;"><i>“ that the Service begin record-keeping on the number of strip searches conducted and that the statistics be provided to the Board” (Board Minute #P53/98 refers)</i></p> <p>the Board was informed that CIPS would be enhanced to capture all the information relating to searches. This would include the ability to capture multiple searches of different types, by different officers, at different times and locations for any person under arrest. It was anticipated that these enhancements to CIPS would take place in the second half of 1999. When these enhancements were completed the Service was to commence gathering the statistics and the information would be presented at the direction of the Board.</p> <p><i>“The Board approved the following Motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT the deputation and the correspondence from the Solicitor General be received;</i></li> <li><i>2. THAT the Board approve the foregoing revised directive entitled “Search of Persons”;</i></li> <li><i>3. THAT the Board approve changes to the Criminal Information Processing System to allow the Service to capture statistical data relating to complete searches; and</i></li> <li><i>4. THAT copies of the new directive and brochure be sent to all participants in the “Search of Persons” consultative process.”</i></li> </ol>

Meeting Date	Board Minute and Subject	Key Issues
November 23, 2000	#P487 Adequacy Standards Regulation – Police Services Board Policies	The Board received the Adequacy Standards Regulation Policy ‘LE-012, Search of Persons’ for approval and requested that the Chief of Police provide the Board with the Service procedures implementing this policy at the December 14, 2000 Board meeting.
December 14, 2000	#P529 Gathering of Statistics in Relation to Complete Searches	<p>It was recommended to the Board that the practice of gathering statistics on complete searches be terminated.</p> <p>The explanation provided for this request was as follows:</p> <ul style="list-style-type: none"> <li>– The CIPS enhancements which were anticipated for the early part of 1999 were postponed due to complications with the NT rollout and the continuing concerns regarding Y2K.</li> <li>– In early 2000, it was determined that CIPS enhancements were now linked to the new Records Management System and were not expected to occur until the third quarter of 2001.</li> <li>– Other measures were taken to collect the required information and to develop a database to permit analysis. Due to restrictions on the TPS record system, the program could not be automated, therefore, the process required that the information be manually re-entered into a database from printouts of all the TPS 101 forms submitted.</li> <li>– A 6-week study period was initiated to assess the process for the collection of data. At the conclusion of the six-week study, it was found that 26% of arrests resulted in complete search.</li> <li>– The projected annual cost for continuing the complete search database was estimated at \$157,928.</li> <li>– At the time of this report, the Service had only received nine complaints concerning complete searches.</li> </ul>

Meeting Date	Board Minute and Subject	Key Issues
		<p><i>“The Board approved the following Motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT the deputation by Mr. Lyons be received;</i></li> <li><i>2. THAT the Board receive the report dated October 20, 2000 from Chief Fantino;</i></li> <li><i>3. THAT the Board re-affirm that its policy on Search of Persons adopted November 23, 2000 (Board Min. No. 487/00 refers) requires the Chief to report on searches of the person in the Annual Statistical Report;</i></li> <li><i>4. THAT the Board confirm that the purpose of such reporting is to demonstrate compliance with the Board policy;</i></li> <li><i>5. THAT the Chief provide the Board with further details regarding the nature and disposition of the nine complaints referenced in the October 20, 2000 report; and</i></li> <li><i>6. THAT the Chief provide the Board with quarterly reports on the implementation of CIPS enhancements into the new Records Management System and advise the Board if the Service is unable to provide electronic gathering of statistics by the third quarter of 2001.”</i></li> </ol>
March 22, 2001	#P91 Status of the Implementation of “CIPS” Enhancements Related to Gathering of Statistics	<p>At its meeting on December 14, 2000, the Board directed quarterly status reports on the implementation of CIPS enhancements into the new Records Management System eCOPS.</p> <p>In this quarterly report the Board was informed that CIPS will be incorporated into ‘eCOPS’ and eCOPS is targeted for rollout in the fourth quarter of 2001. This rollout was expected to take 6 months to complete, making the second quarter of 2002 the anticipated time to begin the collection of complete search data.</p> <p>A complete search template was added to the CIPS application as an interim measure to allow the Service to collect complete search statistics, until the completion of the eCOPS rollout.</p>

Meeting Date	Board Minute and Subject	Key Issues
April 19, 2001	#P125 Gathering of Statistics in Relation to Complete Searches	<p>At the December 14, 2000 Board meeting, the Board approved 6 Motions, Motion no. 5 reads as follows:  <i>“THAT the Chief provide the Board with further details regarding the nature and disposition of the nine complaints referenced in the October 20, 2000 report; and”</i>  <i>(Board Minute #P529/2000 refers)</i></p> <p>The nine complaint files were reviewed and the information contained in each was summarized and provided to the Board.</p>
June 21, 2001	#P167 Quarterly Report: Status of the Implementation of “CIPS” Enhancements Related to the Gathering of Statistics for Complete Searches	<p>The Board was provided with a quarterly report on the implementation of CIPS enhancements into the new Records Management System eCOPS.</p> <p>The eCOPS rollout was anticipated to commence in the fourth quarter of 2001 and take approximately 6 months to complete. The collection of complete search data from eCOPS was expected to begin by the third quarter of 2002.</p>
December 13, 2001	#P349 Quarterly Report: Status of the Implementation of “CIPS” Enhancements Related to the Gathering of Statistics for Complete Searches	<p>The Board was provided with a quarterly report on the implementation of CIPS enhancements into the new Records Management System eCOPS.</p> <p>The eCOPS rollout was expected to commence by the second quarter of 2002, making the collection of complete search data available by the end of the fourth quarter of 2002.</p>

Meeting Date	Board Minute and Subject	Key Issues
December 13, 2001	#P363 Supreme Court of Canada Decision – Strip Searches	<p>The Board was in receipt of correspondence from Mr. John Sewell of the Toronto Police Accountability Coalition, concerning the recent Supreme Court of Canada decision on strip searches.</p> <p>The following Motion was approved by the Board:  <i>“THAT the Board receive the foregoing correspondence and request Chief Fantino to review all Service procedures pertaining to Searches of the Person and report back to the Board at its January 24, 2002 meeting with respect to the Service’s compliance with the December 6, 2001 Supreme Court of Canada decision Regina vs Golden.”</i></p>
January 24, 2002	#P21 Review of the Supreme Court of Canada Decision on Strip Searches	<p>A report was provided to the Board in response to the request made of the Chief to review all Service procedures pertaining to searches of the person with respect to the Service’s compliance with the Supreme Court of Canada decision Regina vs Golden. (Board Minute #P363/2001 refers)</p> <p>It was found that Service Procedure 01-02, entitled ‘Search of Persons’, was compliant with the majority of the ruling. The report explained that the decision would however, affect two areas:</p> <ul style="list-style-type: none"> <li>– For persons detained in police facilities, the practice of routinely strip searching prisoners before lodging them in police cells was no longer acceptable.</li> <li>– With strip searches incident to arrest, in addition to officers having reasonable grounds to make the arrest, the officer must also have reasonable and “probable” grounds to determine the strip search is necessary.</li> </ul> <p>In this report the Chief made the following recommendation to the Board:</p> <p><i>“(2) the Board request legislative changes to provide clear and unambiguous rules governing strip searches.”</i></p>

		<p>This report was deferred to the February 28, 2002 Board meeting, at which time Chairman Gardner advised that he would be recommending the following motion for the Board's approval.</p> <p><i>“THAT recommendation no 2. be replaced with the following recommendations:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT the Board write to the Federal Minister of Justice requesting that, in light of the suggestion by the Supreme Court of Canada that Parliament should enact legislation which would provide clear and unequivocal rules to police officers with respect to when, where and how “strip searches” incident to arrest should be conducted, the Minister enact such legislation; and</i></li> <li><i>2. THAT the Board, because of the ambiguous state of the law and potential liability regarding “strip searches” of persons being detained in police facilities, write to the Solicitor General of Ontario requesting that police officers, court officers and custodial officers (matrons) be given the same powers of search when detaining a person as have been given to correctional service officers when detaining a prisoner.”</i></li> </ol>
<p>February 28, 2002</p>	<p>#P33 Review of the Supreme Court of Canada Decision – Complete Searches (Searches of the Person)</p>	<p>The Board addressed the report, which was deferred from its January 24, 2002 meeting. (Board Minute #P21/02 refers)</p> <p>Sgt. Scott Weidmark and Court Officer Peter Skrivanos, Officer Safety Section, Training and Education provided the Board with a demonstration on how searches of persons are conducted.</p> <p>Mr. John Sewell, Toronto Police Accountability Coalition, made a deputation to the Board.</p> <p><i>“The Board approved the following Motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT the Board receive Mr. Sewell’s deputation and his written submission;</i></li> <li><i>2. THAT, with respect to the foregoing report from Chief Fantino, recommendation no. 2 be replaced with the following recommendations and approved as amended:</i></li> </ol>



		<p><i>(a) THAT the Board write to the Federal Minister of Justice requesting that, in light of the suggestion by the Supreme Court of Canada that Parliament should enact legislation which would provide clear and unequivocal rules to police officers with respect to when, where and how “strip searches” incident to arrest should be conducted, the Minister enact such legislation; and</i></p> <p><i>(b) THAT the Board, because of the ambiguous state of the law and potential liability regarding “strip searches” of persons being detained in police facilities, write to the Solicitor General of Ontario requesting that police officers, court officers and custodial officers (matrons) be given the same powers of search when detaining a person as have been given to correctional service officers when detaining a prisoner;</i></p> <p><i>3. THAT the Chief of Police provide a report to the Board recommending a protocol and/or interim guidelines or policy that complies with the Supreme Court of Canada decision in the matter involving of R. v. Golden pending passage of appropriate search rules in federal and/or provincial legislation;</i></p> <p><i>4. THAT the report noted in Motion No. 3 also include whether the British search rules referenced in the R. v. Golden decision and the rules in other jurisdictions and the possible application of the legislative model in other jurisdictions in Toronto, satisfy the requirements of the Supreme Court of Canada;</i></p> <p><i>5. THAT all future references to searches of the person used by the Service in reports, routine orders and policies be identified as complete searches or searches of the person rather than strip searches;</i></p> <p><i>6. THAT the Board send copies of this Minute to the Ontario Association of Police Services Board and the Canadian Association of Police Boards along with a request that they support the Board’s recommendation noted in Motion No. 2 and that they send similar recommendations to the federal and provincial governments.”</i></p>
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Meeting Date	Board Minute and Subject	Key Issues
April 25, 2002	#P119 Quarterly Report: Status on the implementation of "CIPS" Enhancements Related to the Gathering of Statistics for Complete Searches	<p>The Board received a quarterly report on the implementation of CIPS enhancements. (Board Minute #P529/00 refers)</p> <p>The Board was informed that eCOPS was scheduled for rollout from November 2002 through May 2003.</p> <p>The Board approved the recommendation that the next quarterly report be provided in December 2002, at the start of the rollout.</p>
April 25, 2002	#P123 Response: Request to Establish Legislation Governing Searches of Persons	<p>The Board received correspondence dated April 8, 2002 from Wendy Fedec, Executive Director, Canadian Association of Police Boards (CAPB).</p> <p>The Board was informed through this correspondence that its recommendation, that CAPB support its recommendation that legislation be established to govern searches of persons, would be forwarded to the full membership for consideration at the annual general meeting in August.</p>
May 30, 2002	#P142 Review of the Supreme Court Ruling in the Matter of R. v. Golden	<p>In response to Motion no. 3, approved by the Board on February 28, 2002 (Board Minute #P33/02 refers), the Chief provided a report which outlined the interim guidelines that have been put in place to ensure the safety of police officers, prisoners and others, while complying with the ruling handed down by the Supreme Court of Canada in the matter of R. v. Golden.</p> <p>The report reads as follows:  <i>"I have directed that, in order to ensure the safety of all persons, and to address the heightened safety concerns in relation to persons who are entering the prison population, the Officer in Charge (OIC) shall ensure that all persons held for a Show Cause hearing are subject to a complete search, prior to entering the cells or being transported to court, or to another facility.</i></p> <p><i>Where a prisoner is held in short-term detention and will be released from the station by the OIC (Promise to Appear, Provincial Offences Ticket, etc.), the Golden decision requires that reasonable grounds exist for conducting a complete search. In these</i></p>

*circumstances, officers contemplating complete searches are instructed to consider all the circumstances including, but not limited to:*

- *the details of the current arrest;*
- *the history of the person;*
- *any items already located on the person during a general search;*
- *the demeanour or mental state of the individual; and*
- *the risks to the individual, the police or others associated with not performing a complete search.*

*A Routine Order (2002.04.25 – 0712) outlining this policy was published on the Service Intranet.”*

*In response to Motion no. 4 of the February 28, 2002 meeting (Board Minute #P33/02 refers), the Chief reported “that in terms of authority to conduct a complete search, our revised policy regarding complete searches is in keeping with the Supreme Court of Canada decision. In terms of how a complete search is conducted, our existing Service procedure on Search of Persons is compliant with the Supreme Court decision, with the exception of complete searches conducted in the field.”*

The Supreme Court ruling prohibits officers from conducting complete searches in the field for the purpose of discovering evidence. Routine Order 2002.05.17-0906 was published to inform members of this information, until such time that that Procedure 01-02 entitled “Search of Persons” could be amended.

The Board was in receipt of correspondence dated May 9, 2002 from Mr. John Sewell concerning search of persons.

The Chief advised the Board that a copy of Routine Order 2002.05.17-0906 could be provided to Mr. Sewell through the Chairman’s office.

This Report was received by the Board.

Meeting Date	Board Minute and Subject	Key Issues
June 27, 2002	#P175 OAPSB Resolution Regarding Searches of Persons	<p>The Board was in receipt of correspondence from Chris Moran, Ontario Association of Police Services Boards (OAPSB), in reply to its request for support to its Motion no. 2 passed on February 28, 2002 (Board Minute #P33/02 refers):</p> <p><i>“(a) THAT the Board write to the Federal Minister of Justice requesting that, in light of the suggestion by the Supreme Court of Canada that Parliament should enact legislation which would provide clear and unequivocal rules to police officers with respect to when, where and how “strip searches” incident to arrest should be conducted, the Minister enact such legislation; and</i></p> <p><i>(b) THAT the Board, because of the ambiguous state of the law and potential liability regarding “strip searches” of persons being detained in police facilities, write to the Solicitor General of Ontario requesting that police officers, court officers and custodial officers (matrons) be given the same powers of search when detaining a person as have been given to correctional service officers when detaining a prisoner;”</i></p> <p>The Resolutions Committee of the OAPSB recommended support of this resolution, which was approved by the delegates. This resolution was forwarded, by the OAPSB Board of Directors, to the appropriate Minister for consideration and reply.</p>
July 31, 2002	#P210 Response to Request for Legislation Governing Searches of Persons	<p>The Board was in receipt of correspondence from The Honourable Robert Runciman, Minister of Public Safety &amp; Security, dated June 25, 2002. In his letter, he mentions that there is no framework for the conduct of police searches of persons in either the Police Services Act or the Criminal Code of Canada. He goes on to explain that police services are required by Ontario Regulation 03/99, to have policies and procedures in place addressing search of persons. This correspondence was in response the Board’s recommendation that legislation be developed to govern searches of persons. A copy of the correspondence is attached to this minute.</p>

		<p><i>“The Board received the foregoing and approved the following Motions:</i></p> <ol style="list-style-type: none"> <li><i>1. THAT, given that the Minister’s response does not specifically address the Board’s original recommendation with regard to powers of search for police officers, court officers and custodial officers, the Chairman send another letter, on behalf of the Board, to the Minister recommending that when detaining prisoners, police officers, court officers and custodial officers be provided powers of search consistent with the powers of search provided to correctional officers when detaining prisoners; and</i></li> <li><i>2. THAT, given that the Minister indicated that powers of search have developed “over time through court decisions dealing with police searches” and “not set out in legislation”, the Chairman specifically refer to the December 6, 2001 decision of the Supreme Court of Canada pertaining to searches in his correspondence to the Minister to request that as the result of the court’s decision, legislation is required.”</i></li> </ol>
September 26, 2002	#P258 Apology – Mr. John Sewell	The Chief provided to the Board a copy of a letter received from Mr. John Sewell apologizing for comments made during his deputation on May 30, 2002, regarding the Service’s procedure on search of persons. The apology was accepted by the Chief and received by the Board.
December 11, 2002	#P338 Quarterly Report – “CIPS” Enhancements Related to Gathering of Statistics for Complete Searches	<p>The Board received its quarterly status report on the enhancements to CIPS with the following recommendation:</p> <p><i>“2) the Board receive a final report on this issue at its December 2003 meeting.”</i></p> <p>This report explained that the eCOPS system was scheduled to commence rollout by the second quarter of 2003 and would take approximately 6 months. Completion of this rollout was expected during the fourth quarter of 2003, at which time full data collection on search of persons would be available.</p> <p>The Board approved the following Motion: <i>“THAT the Board receive recommendation no. 2 and that quarterly reports continue to be submitted in the usual manner.”</i></p>

Meeting Date	Board Minute and Subject	Key Issues
March 27, 2003	#P97 Quarterly Report: Implementation of "CIPS" Enhancements Related to Searches of Persons	The Board received their quarterly report on the CIPS enhancements. This report informed the Board that the eCOPS rollout was to commence in the second quarter of 2003 and would take approximately 6 months to complete. Full data collection was expected to be available at the end of the fourth quarter of 2003.  The Board received this report.
June 19, 2003	#P175 Quarterly Report: Status of the Implementation of "CIPS" Enhancements Related to Statistics on Complete Searches	The Board received their quarterly report on the CIPS enhancements. This report informed the Board that the eCOPS rollout was to commence in the third quarter of 2003 and would take approximately 3 months to complete. Full data collection was expected to be available at the end of the second quarter of 2004.  The Board received this report.
June 19, 2003	#P178 Response to Board's Recommendation for Amendment to the <i>Police Services Act</i> Regarding Searches of Persons.	The Board was in receipt of correspondence, dated May 07, 2003, from The Honourable Robert Runciman, Minister of Public Safety and Security, in response to the Board's request for changes to the <i>Police Services Act</i> regarding searches of persons. The Board was advised through this correspondence that " <i>the government is not planning to undertake further legislative changes at the present time</i> ".  The Board received the correspondence from The Honourable Robert Runciman and approved the following Motion: <i>"THAT the Board send correspondence to the Minister of Public Safety and Security and request an opportunity to meet with him to discuss this matter further."</i>
September 18, 2003	#P261 Legislation Governing Search of Persons	The Board received correspondence dated August 26, 2003 from The Honourable Robert Runciman, Minister of Public Safety and Security, in response to the Board's request to meet with him to discuss the guidelines governing search of persons. In this correspondence he advised: <i>"I have referred this matter to Mr. Saad Rafi, Deputy Minister of Public Safety and Policing Services, so that the Policing Services Division may have the Standards Committee review the Search of Persons guideline."</i>

Meeting Date	Board Minute and Subject	Key Issues
October 16, 2003	#P294 Quarterly Report: June to September 2003: Report on Complete Searches	The status of the CIPS implementation was a duplication of that reported on June 19, 2003. (Board Minute #P175/03 refers)
January 22, 2004	#P22 Quarterly Report: Status of Data Relating to Complete Searches: October – December 2003	The Board received their quarterly report on the CIPS enhancements. This report informed the Board that the eCOPS rollout commenced in September 2003. Full data collection is expected to be available in the third quarter of 2004.  The Board received this report.
March 25, 2004	#P84 Review of Search of Persons Policy	With regard to a review of the search of persons policy, the Board was in receipt of a report from Chair A. Milliken Heisey, Q.C., and written submissions from the Toronto Police Accountability Coalition. The Board deferred these reports and asked the Chief to <i>“prepare a report containing the history of search of persons policies and guidelines and details of all previous reports submitted to the Board”</i> .

## Search of the Person

The application of the Toronto Police Service Policy on “Search of the Person” can be best summarized as follows:

“Recognizing the importance of safeguarding fundamental rights guaranteed by the *Charter* and *Human Rights Code* and the need for sensitivity to the pluralistic; multi racial and multi cultural character of Ontario society, this policy shall be applied without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap.”\*

This statement is a blending of the Police Services Act, the Canadian Charter of Rights and Freedoms, and the Ontario Human Rights Code. The statement was submitted by Michelle Williams of the African Canadian Legal Clinic as part of a deputation during the community consultation process which led to the development of the current Toronto Police Service directive entitled “Search of Persons”.

\*Used with permission, submitted to the Toronto Police Services Board on May 20, 1999.

### APPENDIX “B”

## General Principles of Search

The **authority** to conduct a search of the person comes from the common law. The common law provides that once a person has been lawfully arrested that person may be searched by a police officer. The search is “incident to arrest”.

The **purposes** for which a search “incident to arrest” can be conducted are limited. The police officer may only search for:

- ◆ weapons or anything capable of being used as a weapon
- ◆ items or substances that could cause injury to a person
- ◆ anything that could be used to assist in an escape
- ◆ evidence in the possession of a person.

A person may also **consent** to be searched. A person can consent to being searched only **after** having been informed of why the officer wants to conduct the search and what the possible consequences may be (evidence could be seized and charges

laid). To be searched ‘on consent’, a person must be **fully** informed and the consent must be freely given. A person who is not under arrest may withdraw consent at any **time**, and the searching officer must discontinue the search.

## Complete Search

Complete search, formerly referred to as ‘strip search’, is recognized to be very intrusive and can be humiliating for the person being searched. Due to the high degree of intrusiveness of this type of search, it shall only be conducted when it is reasonable and necessary, considering the purpose, and considering the grounds that exist at the time.

Prior to conducting a complete search at a police station, officers are required to consult with the officer in charge. This consultation process further ensures that the search to be conducted is justified, necessary and reasonable.

A complete search may include the removal of some or all of a person’s clothing and a visual inspection of the



outer body. Two officers of the same sex as the person being searched shall conduct complete searches. Ordinarily, the search shall be done in a private area with no persons other than the two searching officers able to see the search. Complete searches will not be videotaped.

A **report** will be submitted each time that a complete search is conducted. This report must include the following information:

- ◆ the grounds and circumstances that existed at the time
- ◆ the date and time the search was conducted
- ◆ the location of the search
- ◆ the names and badge numbers of the searching officers
- ◆ the name and badge number of the officer in charge
- ◆ the results of the search (weapons/evidence found)
- ◆ any other pertinent details, (such as communication barriers, disability of accused, interpreter required, adult contacted)

The reports submitted for complete searches are kept as part of permanent Toronto Police Service records and the information can be reviewed by the Police Services Board. The Toronto Police Service will ensure that the directive entitled "Search of Persons" remains current and continues to give clear direction to police officers involved in search of the person.

**For further information regarding "Search of the Person" call (416) 808-2222. Complaints regarding a search may be made at any Toronto Police Station or for information call (416) 808-2222.**

**In addition, the Ontario Civilian Commission on Police Services (OCCOPS), is an independent civilian agency that can assist with complaints. To reach OCCOPS call (416) 326-1189, fax (416) 314-2036 or write to:**

**Ontario Civilian Commission on Police Services, 25 Grosvenor Street, 1<sup>st</sup> Floor, Toronto, Ontario M7A 1Y6.**

SP 81 I-E, 1999109



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## Toronto Police Service Policy:

# "Search of the Person"

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**For further information regarding  
"Search of the Person" attend at  
any Toronto Police Station or call  
(416) 808-2222.**

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**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P240.           RESPONSE TO THE CITY AUDITOR'S REPORT ON THE TORONTO  
POLICE SERVICE'S PUBLIC COMPLAINT PROCESS – STATUS OF  
RECOMMENDATIONS**

The Board was in receipt of the following report JUNE 03, 2003 from Julian Fantino, Chief of Police:

Subject:           CITY AUDITOR'S REPORT  
                      AUDIT OF THE TORONTO POLICE SERVICE'S  
                      PUBLIC COMPLAINT PROCESS – STATUS OF RECOMMENDATIONS

Recommendation:

It is recommended that: The Board receive the following report for information.

Background:

At its meeting held on November 21, 2002 the Board approved the following two motions with respect to the City's Audit of the Toronto Police Services public complaint process. (BM #P292/02 refers).

That, with the exception of recommendations #3 and #20, the recommendations contained in the City Auditor's report be referred to me for consideration and, with respect to recommendation #27, a report be provided to the Board in six months containing a response to each of the recommendations, including a specific work plan and timetable for the implementation of the recommendations, as appropriate.

That the report also include a response to comments made by Councillor Bas Balkissoon at the Board's community consultation on race relations and policing held on November 16, 2002 that some drivers are unable to determine the badge numbers on police officers' uniforms when they have been stopped by police for traffic violations.

The following, outlines the steps taken by the Toronto Police Service in respect to compliance with the audit report on the Public Complaint Process. Each recommendation has been studied in detail and outlines measures taken by the Service to enhance and improve current practices.

**Recommendation 1:**

**Response: Implemented**

**The Chief of Police ensure that information on the public complaints process and the standard complaint forms be available in languages other than english. Such materials be available in languages appropriate to the cultural makeup of the City.**

Complaint pamphlets in various languages are available through the Ontario Civilian Commission on Police Services. Police divisions across the City were canvassed to determine the predominant languages in their area. Pamphlets were obtained in English, French, Greek, Italian, Chinese, Urdu, Punjabi, Spanish, Portuguese, Vietnamese, Korean, Hindi, Arabic, Somali, Tamil and Russian. These pamphlets were then distributed and are readily available in public areas of all divisions across the Service. Standard public complaint forms and instructions on how to complain are available at the divisions. Unit Commanders have been instructed to ensure that a supply of these forms continue to be readily available to the general public. This information is also available on the Service web site. The logistics of providing the standard complaint form in different languages is still being studied by the Province.

**Recommendation 2:**

**Response: Implemented**

**The Chief of Police give consideration to making informational material on the public complaints process available at convenient locations throughout the City, such as City of Toronto civic centres and public libraries. In addition, the Chief of Police ensure that information on the complaints process is readily accessible at all police divisions.**

Pamphlets on the complaint process are available in the public areas of all police divisions throughout the City. These pamphlets are available in the various languages that reflect the cultural diversity that is unique to each division. Each division has been contacted and supplied with pamphlets in different languages for distribution to diverse community groups, libraries and cultural centres throughout their areas. Unit Commanders have been instructed to ensure that a supply of these forms continue to be made available to the general public. The public complaint form and instructions on how to complain are also readily accessible through the Service and Board web site.

**Recommendation 3:**

**Response: Implemented**

**The Toronto Police Services Board include information on the public complaints process on its internet web site. In addition, the Toronto Police Service and the Toronto Police Services Board make public complaint forms available on their respective web sites.**

Information on the public complaint process and complaint forms with instructions on how to complain are readily available on the Service and Board internet web sites.

**Recommendation 4:**

**Response: Implemented**

**The Chief of Police ensure that all officers, particularly officers in charge, are aware of:**

- a) their responsibility in providing information on the public complaints process to members of the general public; and**
- b) the importance of creating an environment where the reporting of police officer misconduct is as stress free as possible for members of the general public.**

Training has been provided to ensure that officers, particularly officers in charge, are aware of their responsibilities in respect to providing information on the public complaints process to members of the general public. Members of Professional Standards conduct ongoing training sessions with management and recruit classes at C.O. Bick College. Quarterly training sessions are held with Unit Complaint Coordinators and the importance of compliance with the audit recommendations has been stressed. Unit Commanders have also been in attendance to ensure that they are well versed in the necessity of ensuring that officers are aware of their responsibilities in respect to the public complaint process and ensuring that a stress free environment for making complaints is afforded to the general public. Pamphlets on the public complaint process in various languages are available in the public areas of all police divisions across the Service. Complaint forms and instructions on how to complain are also readily available on the Toronto Police Service web site.

**Recommendation 5:****Response: Implemented**

**The Chief of Police establish clear written guide lines for the classification of all complaints and direct senior staff of the Professional Standards Division to review the classification of complaints on a random basis.**

Professional Standards is currently being reorganized and enhancements have been made to the classification of complaints. Duty Inspectors will now be responsible for the classification of complaints. Written guidelines have been provided and their classifications will be subject to a random audit by a senior member of Professional Standards. Complaints are classified as serious or less serious. Serious complaints involve an element of criminality or conduct which would discredit the Service. Serious complaints are assigned to Professional Standards - Criminal and Conduct Investigation Section. Less serious complaints are investigated at the unit level. In accordance with the Police Services Act, complaints are classified as being about conduct, service or policy. The Police Services Act also permits the Chief of Police or his designate to deem some complaints as being frivolous, vexatious, made in bad faith, indirectly affected or made beyond the six months limitation. Complaints of this nature are not generally investigated unless they are alarming in nature. Once classified, complainants are notified accordingly but have the option to appeal this classification to the Ontario Civilian Commission on Police Services. Although, guidelines exist, there is an element of subjectivity in determining classifications. It is important to note that an appeal to the Ontario Civilian Commission on Police Services is an option for all complainants and they are notified accordingly with explicit directions on how to appeal these decisions.

**Recommendation 6:****Response: Implemented**

**The Chief of Police clarify the roles and responsibilities of officers in charge with respect to the complaints process, ensure they have the necessary knowledge of the process, and emphasize the importance and benefits of their active involvement in informally resolving less serious complaints as soon as they are reported.**

Ongoing training has been afforded to management personnel in respect to the complaint process and the importance of informally resolving less serious complaints as soon as they are reported. Personnel from Professional Standards provide ongoing management training on the complaint process at C.O. Bick College. Quarterly training sessions are also held with Unit Complaints Coordinators who are tasked with training divisional personnel on the public complaint process. The importance of informal resolutions in the first instance has been stressed to all Unit Commanders. Unit Commanders have been directed to conduct customer service audits of all complaints involving informal resolutions and these dispositions are subsequently reviewed by Professional Standards to ensure compliance and consistency.

**Recommendation 7:**

**Response: Implemented**

**The Chief of Police direct that all complaint files relating to informal resolutions be forwarded to the Professional Standards Division for review. Deficiencies identified during the review process be communicated to the respective officers in charge for follow-up with the appropriate Unit Complaints Coordinator. Corrective action be communicated to the Professional Standards Division.**

All complaints involving informal resolutions are reviewed by Professional Standards and a data base is maintained. Unit Commanders have been directed to conduct customer service audits of all complaints involving informal resolutions. Feedback is obtained, enhancements are made and the results are noted. Ongoing management training is provided to field personnel by members of Professional Standards to ensure accuracy and compliance with the public complaints process, particularly in respect to complaints involving informal resolutions.

**Recommendation 8:**

**Response: Implemented**

**The Chief of Police direct that information from complaint files which have been subject to informal resolution be retained such that problem areas can be readily identified and appropriate action taken.**

The current policy of the Toronto Police Service is that complaint files involving informal resolutions are destroyed and identifiers removed from the data base maintained by Professional Standards. (*Policy 13-02*), states in part:

*Unit Commander*

*Upon receiving a TPS 901 indicating that an informal resolution has been achieved shall*

- *detach and destroy "Part C" of the form, along with the attachments and/or investigative file, except the TPS 904.*

The TPS 901 is the initial form which is used to indicate the complaint as being about policy, service or conduct. The TPS 904 is a complaint statistical report which is used to track the type of complaint allegation and other descriptors such as location, precipitating factors and years of service. The current practice has been ongoing as a result of an informal agreement reached between the Toronto Police Service and the Toronto Police Association when amendments to Part V of the Police Services Act involving public complaints were enacted in 1997. The Professional Standards Information System is anticipated to be operational during the third quarter of the year and will provide a more accurate data base for the recording of this information. The current policy is in the process of being revised to ensure that identifiers and dispositions of these matters are properly recorded and will be retained for a period of two years.

**Recommendation 9:**

**Response: Implemented**

**The Chief of Police postpone the destruction of files relating to complaints, which have been informally resolved, until completion of the annual audit of the public complaints process.**

(See Recommendation 8) Files involving informal resolutions will be captured by the Professional Standards Information System, which will become operational in the third quarter of this year. These dispositions will be retained for a period of two years and will be available on an annual basis for the audit of the public complaint process.

**Recommendation 10:**

**Response: Implemented**

**The Chief of Police direct the Professional Standards Division to monitor the withdrawal of public complaints in all police divisions to ensure that withdrawals are not used as a means of expeditiously resolving complaints. Where withdrawn complaints at certain divisions are inordinately out of line, the Professional Standards Division determine the reasons and where appropriate, take corrective action.**

All complaints are reviewed by Professional Standards. An interim review process has been established to track withdrawals and if certain divisions have inordinate numbers of complaints that are withdrawn, a review will be conducted. The new Professional Standards Information System which will be operational during the third quarter of the year has the capacity to track this type of information more efficiently. Most divisions are consistent in respect to the withdrawal of complaints and Unit Commanders must concur with these final dispositions.

**Recommendation 11:**

**Response: Implemented**

**The Chief of Police ensure that all Unit Complaint Coordinators are aware of the level of documentation required for investigative files, and that such files are clear, concise and presented in a manner that supports the final conclusions of the investigations. Where appropriate, training be provided to meet this objective.**

All complaint files are reviewed by Professional Standards to ensure completeness, consistency and accuracy. Deficiencies are noted, individual investigators are counselled and guidance is provided where necessary. Ongoing training sessions are provided to Unit Complaint Coordinators and other members of the Service involved in complaint investigations.

Management personnel are lectured by members of Professional Standards at C.O. Bick College and training sessions are held with Unit Complaint Coordinators on a quarterly basis. Ongoing training is necessary because of turnover and new members constantly entering the field of complaint investigation. Generally, deficiencies are the result of inexperience. Appropriate training and tenure appear to enhance the calibre and completeness of investigations.

**Recommendation 12:**

**Response: Implemented**

**The Chief of Police direct Unit Commanders to review all public complaint investigation files in their respective divisions before signing off, to ensure that files are complete, that all appropriate investigative procedures were performed, and that the investigations are free of bias. This review should be conducted prior to the final adjudication of the complaint.**

Unit Commanders have been instructed to ensure that all complaint files are complete, that all appropriate investigative procedures were performed and the investigation is free of bias. Professional Standards reviews all complaint files, deficiencies are identified and Unit Commanders are notified accordingly. Ongoing training sessions are held with management personnel and members involved in complaint investigations to ensure that all investigations are complete, in compliance with existing procedures and free of bias.

**Recommendation 13:**

**Response: Implemented**

**The Chief of Police direct the Professional Standards Division that interviews with complainants be audiotaped where possible. Audiotaping of interviews only be conducted with the written approval of the complainant. If a complainant does not wish to be audiotaped, this fact be included in the complaint file.**

Investigators have been directed by Professional Standards to comply with this recommendation. Audiotaping is a best practice and most interviews are in fact audiotaped. However, there are circumstances where interviews are not taped, often at the behest of complainants. Investigators have been directed to obtain written approval from complainants where interviews are audiotaped and maintain accurate records, particularly in respect to instances where interviews are not subjected to audiotaping. All files are reviewed by Professional Standards to ensure compliance and consistency.



**Recommendation 14:**

**Response: Implemented**

**The Professional Standards Division, on a sample basis, review audiotape recordings of interviews to ensure that investigations are complete, thorough and free of bias. Any problems identified during this process be communicated to senior staff and appropriate action, including training, be initiated.**

Professional Standards conducts reviews of all complaint files, including random audits of audiotape interviews. Problems are identified and senior staff are notified regarding concerns and deficiencies. These areas are noted and investigators are counselled accordingly. Training issues are constantly being identified because of the changing landscape of complaint investigations. Ongoing training is provided to management personnel and particularly members involved in the investigation of public complaints. Professional Standards is constantly refining its methods of review and the new Professional Standards Information System will greatly enhance the efficiency of the complaint process.

**Recommendation 15:**

**Response: Not Implemented**

**The Chief of Police direct that a conflict of interest declaration be signed by investigative officers on appointment to the Public Complaints Investigation Bureau or assignment to a Unit Complaint Coordinator position. Specific guidelines relating to what constitutes a conflict of interest should be developed and communicated to investigators.**

The importance of declaring a conflict of interest has and continues to be emphasized to all members of the Toronto Police Service. All police officers are compelled to swear an oath of office upon appointment as police constables with the Service. Integrity is an integral part of policing and is one of the core values and competencies necessary for effective performance. Officers selected to perform investigative functions relating to public complaint investigations are carefully screened and only the most suitable are placed in these positions of trust. It would be redundant to expect officers of this calibre, in addition to all these other requirements, to also swear to a declaration of trust. Based on the foregoing this recommendation has not been implemented.

**Recommendation 16:**

**Response: Implemented**

**The Chief of Police develop, where public complaints are substantiated, internal controls to ensure that the appropriate and necessary disciplinary action is imposed on police officers. In addition, the Chief of Police ensure that the information pertaining to disciplinary action is retained for the required time period in the subject officer's file. Disciplinary action taken be reported to the Professional Standards Division.**

In the past a data base was maintained to track all complaint files and dispositions. However, this system became antiquated and the accuracy of the data was dependent on information that flowed from the field units in respect to public complaint outcomes. Professional Standards currently reviews all files for accuracy and action is taken on incomplete files. A new Professional Standards Information System has been developed and will be operational during the third quarter of the year. This system will more efficiently track public complaints and red flag files that are outdated or not acted upon. This will alleviate previous problems that existed and ensure that in all cases where disciplinary action is necessary, the penalty will be imposed in a timely manner and a record properly retained in officers' personnel files for the requisite period.

**Recommendation 17:**

**Response: Implemented**

**The Chief of Police disclose the range of discipline imposed on police officers in the Professional Standards Division Annual Public Report prepared by the Professional Standards Division.**

Misconduct is classified as being serious or less serious. Less serious misconduct is handled at the divisional level and disciplinary action can range from a reprimand to a loss of three days pay. These penalties are imposed by Unit Commanders. A Police Services Act Hearing is conducted when serious misconduct has been identified and the range of discipline imposed can range from a reprimand to dismissal. The new Professional Standards Information System will provide an accurate picture of the types of discipline imposed in respect to police officer misconduct. Statistics will be easily compiled and the range of discipline imposed on officers will be reflected in the annual report provided by Professional Standards.

**Recommendation 18:**

**Response: Implemented**

**The Chief of Police give consideration to the retention of outside legal representation for the complainant at formal disciplinary hearings, where appropriate.**

All complainants are granted standing at all formal disciplinary hearings held in accordance with the Police Services Act for cases of serious misconduct. Members of the Legal and Prosecution Section are tasked with the preparation and prosecution of these matters, which are presided over by senior members of the Service acting in the capacity of hearing officers. The interests of the complainants in these matters are represented by members of the Service acting as prosecutor. This is similar to the Criminal Court process where the interests of the complainants are represented by crown prosecutors. In more complex cases Service solicitors assigned to the Legal and Prosecution Section are called upon to fulfill the role of prosecutor and act for the complainant. Police Services Act Hearings vary in degree of complexity and are addressed on a case by case basis. Legal representation for complainants is viewed in this context as being provided on an ad hoc basis by the Service. It should be noted that the costs involved for the retention of outside legal counsel for these cases is prohibitive.

**Recommendation 19:**

**Response: Implemented**

**The Chief of Police develop a plan to measure the performance of the Toronto Police Service relative to its business plan as it relates to the complaints process. Such a plan to include a recommendation relating to the report of results of this process.**

The Service currently has in place a process for the measurement of all performance objectives/indicators listed in the Business Plan, as well as for the reporting on the results of this measurement. Such measurement and reporting are required of the Service under Ontario Regulation 3/99 (Adequacy Standards), section 31:

- 31. Every chief of police shall prepare an annual report for the board relating to the activities of the police force during the previous fiscal year, including information on,*
- (a) its performance objectives, indicators and results;*
  - (b) public complaints; and*
  - (c) the actual cost of police services.*

Since 2000, the Service has produced an annual report on its performance that includes performance relating both to the Priorities, Goals, and Performance Objectives outlined in the Business Plan, and to general indicators relative to police services. This year-end performance report is typically presented to the Police Services Board in the first half of the following year.

Since 1999, the Service has included funding in its operational budget to conduct an annual survey of the community. The survey focuses on community perceptions of quality of TPS service delivery, suggestions for improvement to service, and perceptions of safety in neighbourhoods, as well as perceptions Toronto as a safe city, perceptions regarding the Service's complaints process, and issues of concern (e.g. crime, gangs, drugs, etc.). Beginning in 2000, the questions relative to the complaints process were asked of all respondents, rather than just of the subset of respondents who'd had contact with police in the preceding 12 months.

The questions dealing with public complaints ask how confident respondents are that the Toronto Police Service can impartially investigate public complaints against officers and if respondents have ever had any experience with the police complaints process. If respondents answer 'yes' to the latter questions, they are asked both how satisfied they were with the process and how satisfied they were with the outcome. The responses to these questions are outlined in the Service's annual performance report.

Provided following are the results as reported in the 2001 Service Performance report.

In the section reporting on performance related to the Service Priorities:

**Priority:       Infrastructure**

Goal:       Strengthen the confidence of the public and Service members in the impartiality and the integrity of the Service's administration of Part V of the Police Services Act - the complaints system.

***Performance Objectives/Indicators:***

♦ ***INCREASED PERCEPTION OF PUBLIC CONFIDENCE IN THE IMPARTIALITY OF THE SYSTEM***

*Results of general community telephone surveys showed increased confidence in 2001 compared to 2000, that the Service can impartially investigate public complaints against officers:*

*felt very or somewhat confident that the Toronto Police Service could impartially investigate public complaints against officers in 2000 – 57%*

*felt very or somewhat confident that the Toronto Police Service could impartially investigate public complaints against officers in 2001 – 66%*

♦ ***INCREASE IN SATISFACTION WITH THE COMPLAINTS PROCESS FOR MEMBERS OF THE PUBLIC WHO HAD EXPERIENCE WITH THE COMPLAINTS SYSTEM***

In 2000, 23% of the 1,200 respondent community telephone survey said that they'd had experience with the complaints process; 12% said they'd had experience in 2001. In both years, respondents were more satisfied with the process than the outcome, with more satisfaction with both expressed in 2001 over 2000:

*of those who'd had experience with the police complaints process:*

*very or somewhat satisfied with the process in 2000 – 65%*  
*very or somewhat satisfied with the process in 2001 – 69%*  
*very or somewhat satisfied with the outcome in 2000 – 56%*  
*very or somewhat satisfied with the outcome in 2001 – 64%*

And, in the section reporting on performance related to general policing indicators:

*As part of the general community survey conducted for the police in 2000 and 2001, respondents were asked about public complaints and the Service's complaints system. In 2001, two-thirds (66%) of respondents were somewhat or very confident that the Toronto Police Service could impartially investigate public complaints against officers, up from 57% in 2000. One-quarter (25%) of respondents in 2001 were not very or not at all confident the police could impartially investigate complaints, down from 32% in 2000.*

*Only about 1 in 10 (12%) respondents in 2001 had ever had any experience with the police complaints process. Of those few who had, 69% said they were very or somewhat satisfied with the process, and 64% said they were very or somewhat satisfied with the outcome. In 2000, 23% had ever had experience with the police complaints process; 65% said they were very or somewhat satisfied with the process, but only 56% said they were very or somewhat satisfied with the outcome.*

Results from the community survey questions on the complaints process will continue to be reported in the Service's annual performance report. Information from the 2002 community survey will be presented in the 2002 Service Performance report.

**Recommendation 20:**

**Response: Implemented**

**The Toronto Police Services Board:**

- a) **consider the concerns raised by the general public with respect to the complaints process, specifically, the administration of the public complaints process by the police and the ability to investigate complaints filed by third parties; and**
- b) **take the necessary action to deal with these issues, including communicating these concerns to the Ministry of the Attorney General for consideration and appropriate action.**

The current public complaint process does not permit third parties to file complaints against police officers. *Section 57(1)* of the Police Services Act expressly prohibits the Chief of Police from accepting complaints from third parties who are not directly affected and not involved parties. Legislative changes need be sought to the existing Police Services Act before third party complaints could be entertained by the Service. This recommendation was discussed at the Board meeting on February 20, 2003 (BM #P39/03 refers). At that meeting it was decided that this issue would be referred to the Board/Service Race Relations Joint Working Group for consideration.

**Recommendation 21:**

**Response: Implemented**

**The Chief of Police review the complaint investigation process to ensure that the concerns identified by both the general public and complainants, as outlined in this report, are appropriately addressed.**

The Professional Standards is currently undergoing a reorganization, which will enhance the levels of customer service provided to the general public. Duty Inspectors are being introduced to the complaint process and will be tasked with the classification of all complaints. This will provide entry level training for officers promoted to the rank of Inspector who may later become Unit Commanders. Duty Inspectors will acquire a more in depth knowledge of the complaint process and will be in a better position to handle these situations upon assuming field responsibilities. The new Professional Standards Information System which will be implemented in the third quarter of the year will provide a more accurate data base This data base will provide an early warning system to identify problem areas and potential risks. Unit Commanders have been directed to conduct customer service audits of all complaints so that feedback will be obtained from the general public on how the Service can do things better. Surveys have also been distributed by Corporate Planning to Service members on a random basis to gauge their levels of satisfaction and to solicit their feedback and concerns.

**Recommendation 22:**

**Response: Implemented**

**The Chief of Police direct the Professional Standards Division to solicit feedback from complainants and police officers involved in public complaints, and that the survey results be returned directly to the Complaints Review Unit for analysis and the identification of any issues or deficiencies that need corrective action.**

Unit Commanders have been directed to conduct random customer service audits of all complaints. Feedback obtained from complainants will then be directed to Professional Standards so that enhancements can be made to the current complaint process to better serve members of the general public. Random surveys have been sent out to a broad cross section of police officers to gauge their overall satisfaction with how the Toronto Police Service conducts its business. Corporate Planning is currently tasked with reviewing the results of these surveys and directing concerns involving the complaints process to Professional Standards. The Professional Standards - Complaints Administration is constantly soliciting feedback from officers in the field by conducting quarterly training sessions with Unit Complaint Coordinators, attending management training sessions at C.O. Bick College and also lecturing to new recruit classes. Valuable feedback is obtained from Service members directly involved in the intake and investigation of public complaints and recruits who, not so long ago, were members of the general public. Feedback obtained from these sources is constantly being analysed by members of the Professional Standards - Complaints Administration, deficiencies are identified and enhanced levels of training are being provided to Service members.

**Recommendation 23:**

**Response: Implemented**

**The Chief of Police review the concerns of officers relating to the public complaints process as identified in this report, and take appropriate action to address these concerns.**

The auditors have indicated in their report that officers have suggested that complainants sign an affidavit attesting to the accuracy of their complaints and further that repercussions should be forthcoming for complainants who file frivolous and vexatious complaints. The Police Services Act provides that all complaints must be signed by complainants. In this respect, the signing of a complaint is in a sense an endorsement by the complainant attesting to the accuracy of the complaint. The auditors have also raised concerns about the Service taking any action, which will potentially deter the general public from filing complaints against police officers and do not support this course of action, which has been suggested by field officers. It should also be noted that the Police Services Act, section 59(3), provides that the Chief of Police is not required to investigate complaints that he determines are frivolous, vexatious or made in bad faith. Random surveys are currently being conducted across the Toronto Police Service to solicit feedback from officers of all ranks to determine their levels of satisfaction. Feedback on the complaint process

will be directed to Professional Standards so that concerns and deficiencies in current practices are identified, and addressed accordingly.

**Recommendation 24:**

**Response: Implemented**

**The Chief of Police expedite the implementation of the Professional Standards Information System and ensure that the informational requirements of the system are clearly defined to meet the needs of the Professional Standards Division.**

The requirements for the Professional Standards Information System have been identified through a number of information sessions conducted with members of Professional Standards and field units. This system will provide a centralized data base which will provide statistical information on all complaints of officer misconduct. Trends will be identified and it will provide an early warning system so that preventative measures or training can be provided to Service members. In the past, several stand alone data banks were maintained by the various units, which comprise Professional Standards. These systems did not necessarily communicate with each other and members needed to consult these various data banks, which were often duplicitous and time consuming. The new Professional Standards Information System will provide a one stop source for all information concerning officer misconduct and will ensure accurate, and timely information. It is anticipated that this new system will be up and running by the third quarter of 2003.

**Recommendation 25:**

**Response: Implemented**

**The Chief of Police direct Toronto Police Service Legal Services to maintain information on civil litigation that relates to public complaints and to report this information to the Professional Standards Division, such that the risk and cost of not effectively dealing with public complaints is monitored on a regular basis.**

The Complaint Administration maintains an ongoing liaison with the Legal and Prosecution Section so that public complaints that lead to civil litigation can be identified and monitored. The new Professional Standards Information System will enhance this monitoring capability in that all units of Professional Standards will provide input to the system data base. Complaints involving civil litigation will be identified on the system and monitored on a regular basis by the new analyst position, which is to be part of the reorganization of the Professional Standards Unit. Information will then be communicated to the involved units so that cost effectiveness of all public complaint investigations can be monitored and addressed accordingly.



**Recommendation 26:**

**Response: Ongoing**

**The Chief of Police direct the Professional Standards Division to develop a time tracking system to capture the amount of time investigators spend on investigation of public complaints, such that the resources deployed in performing these investigations can be more effectively managed.**

Complaint investigators maintain detailed log notes in respect to the investigation of all complaints. The amount of time investigators spend on these investigations can easily be recorded in the log notes, which form an essential part of each case file. Supervisors who are tasked with reviewing these investigations can easily monitor the time spent on each investigation and ensure that investigators effectively manage their time. A new Time Reporting Management System (TRMS) is currently being studied for implementation across the Toronto Police Service. This new system will provide a time tracking tool, which will effectively monitor officer performance. The system should be fully operational by the third or fourth quarter of 2003.

**Recommendation 27:**

**Response: Implemented**

**The Chief of Police report to the Toronto Police Services Board, within six months, with a response to each of the recommendations contained in this report, including a specific work plan and timetable for the implementation of the recommendations, as appropriate.**

The foregoing report contains a comprehensive response on the status of all public complaint process audit recommendations. The majority of these recommendations have been implemented with the exception of the few as indicated. A timetable for implementation or a rationale for non implementing can be found in the body of this report.

In respect to the concerns raised by Councillor Bas Balkissoon, every effort has been taken by the Toronto Police Service to ensure that badge numbers on officers uniforms are clearly visible for members of the public. Badge numbers are displayed on the front of the forage cap worn by officers as well as on their uniform epaulet sleeves, which are worn on both shoulders. Car numbers are also clearly displayed on all uniform patrol vehicles, which affords members of the community another easy means of identifying officers. The Service has clear rules governing the wearing of identification numbers as well rules governing all Service members when asked to identify themselves to members of the public. The following *Service Rules* govern identification:

**Rule 4.11.12**, states in part:

*“while in uniform, members shall not: conceal from view or remove their identification badge number from its prescribed*

*location on their headdress, or numerals from epaulet sleeves on prescribed outerwear or shirt.”*

**Rule 3.1.2**, states in part:

*“outside a police building, police officers working in other than a uniform function shall immediately produce their identification card and badge when identifying themselves in an official capacity, and if requested, supply their name and badge number.”*

Breaches of these rules are taken very seriously and members that do not comply are dealt with accordingly through the prescribed discipline procedure.

It is, therefore, recommended that the Board receive the foregoing report for information.

Staff Superintendent David Dicks of Professional Standards will be in attendance to answer any questions that the Board members may have.

**The Board deferred consideration of the foregoing report to its September 02, 2004 meeting.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P241.            RIGHTS AND RESPONSIBILITIES OF PEDESTRIANS**

The Board was in receipt of the following report JUNE 24, 2004 from Julian Fantino, Chief of Police:

Subject:            RIGHTS AND RESPONSIBILITIES OF PEDESTRIANS

Recommendation:

It is recommended that: the Board receive the following report for information.

Background:

At its April 29, 2004 meeting, the Board requested that the Toronto Police Service prepare a response to the report submitted by Chair A. Milliken Heisey, entitled 'Rights Of And Protections For Pedestrians'. The Board requested a report be prepared, in consultation with representatives of the City, with a focus on the legislative amendments outlined in Chair Heisey's report, including the creation of a 'fail to yield to pedestrian' offence, as well as, pedestrian responsibilities and any additional initiatives that could be implemented to make Toronto a safer place for pedestrians (Board Minute P131/04 refers).

Historically, approximately 50% of fatal collisions reported to the Toronto Police Service (TPS) each year, involve pedestrians. The TPS continues to focus on pedestrian safety in support of the 2002-2004 Service Priority 'Traffic Safety'. Through corporate and localized traffic safety campaigns, the TPS continues to raise the issue of pedestrian safety, with an aggressive philosophy of awareness, education and enforcement.

In 2003, 74 traffic fatalities were reported to the Service, reflecting a significant reduction when compared to the 97 traffic fatalities reported in 2002. In 2003 there were 43 pedestrian fatalities, compared with 50 pedestrian fatalities reported in 2002.

While any traffic related death is unacceptable, the latest available statistics from 2002 indicate that Toronto has one of the lowest total traffic and pedestrian fatality rates compared with cities of similar size across North America. Compared to other cities with a population base of over 2 million, Toronto remains the safest city in North America, with a pedestrian fatality rate of 1.91 per 100,000 population.

The goal of the TPS is to reinforce the shared responsibilities of all road users to ultimately make the streets of the City the safest that they can be for everyone.

### Service Initiatives and Activities:

Members of the Service are actively involved in monthly traffic safety initiatives, such as, 'Operation Transit Watch' and the Provincial 'Aggressive Driving Campaign', which focus on the activities of all road users, including pedestrians. In 2003, the following initiatives and activities related specifically to pedestrian safety;

'Operation Ped Safe' Spring and Fall campaigns:

'Operation Ped Safe' is a combined public awareness and enforcement campaign, which directs all police officers to pay particular attention to road users who jeopardize the safety of pedestrians. This includes those motorists and cyclists who commit offences at pedestrian crossings, sidewalks, footpaths and crosswalks. Additionally, the campaign targets pedestrians who disobey traffic signals, fail to yield to traffic or commit any other pedestrian violations.

In excess of 1400 offence notices were issued during the spring campaign that ran from March 17 to 21, 2003. The Fall campaign was originally scheduled to run from November 7 to 16, 2003, but was extended until December 7, 2003 due to a rash of pedestrian deaths. This campaign resulted in excess of 5,200 offence notices being issued.

Strategic Traffic Enforcement Measures (STEM) Team:

The Strategic Traffic Enforcement Measures (STEM) team is a specialized enforcement unit attached to Traffic Services (TSV) which relies on the analysis of collision data to strategically deploy their enforcement activities. The team focuses on high-risk locations such as school zones, community safety zones, continuous complaint areas, high collision areas, and areas where excessive speed is an issue.

Implementation of a 'Ped Squad' pilot project:

This initiative was announced at the media launch for the Fall 2003 'Ped Safe' campaign. The TSV 'Ped Squad' was implemented to address pedestrian injuries and deaths. The role of the 'Ped Squad' is to augment the efforts of front line officers through enhanced education and enforcement programs. Vigorous targeted enforcement is used to change the behaviour of motorists, cyclists and pedestrians found committing offences that jeopardize the safety of pedestrians.

Analysis of collision data is ongoing, continuing to identify high-risk areas and factors to be used in the strategic deployment of the 'Ped Squad' and STEM team, and in support of TSV/Divisional pedestrian initiatives.

Development and co-ordination of service-wide traffic safety initiatives:

TSV is responsible for the development and co-ordination of service-wide traffic safety initiatives. A recent survey found that in 2003, Divisions made in excess of 300 presentations to schools and community groups relating specifically to pedestrian safety, including the Elmer Safety Program, Over Here (No. 41 Division), and the Parent School Safety Program (Parking Enforcement). Additionally, in excess of 140 presentations were made to seniors, including 60 presentations of the 'Daredevil' program. The one-hour 'Daredevil' presentation provides safety tips to senior pedestrians, and is delivered by police officers and the staff at Sunnybrook and Women's College Health Sciences Centre.

TSV works in partnerships with community interest groups and many road safety partners, such as the Toronto Pedestrian Committee, the TSV Community Police Liaison Committee (CPLC), CAA Central Ontario, the Road Safety Coalition of Greater Toronto, the Ministry of Transportation (MTO) and City of Toronto-Transportation Services, to deal with pedestrian safety concerns and issues.

#### Enforcement:

Enforcement is a key component in achieving a reduction in deaths and injuries caused through preventable collisions and poor driving behaviour. In 2003, traffic enforcement levels service-wide increased by 18%. This included a 54% increase by TSV personnel. A comparison of January 1 to June 9, 2003 to January 1 to June 9, 2004 reveals a decrease in all categories of collisions reported to the Service, with an overall decrease of approximately 28% service-wide.

#### Media:

The TPS works in partnerships with Toronto and area television, radio and print media to promote public awareness of traffic safety programs and initiatives. TSV continues to work closely with media outlets to ensure traffic safety messages receive maximum coverage.

#### Additional Service Initiatives and Activities:

The Service will continue to proactively address the issue of pedestrian safety through current initiatives and activities while taking every opportunity to develop and implement new initiatives in consultation with our road safety partners. The TPS is creating a decentralized training video which is to be shown to front line officers regarding pedestrian fatalities in the City. The video will outline the roles and the responsibilities of front line officers when dealing with pedestrians engaged in risk taking behaviour. This video is scheduled to be available in July 2004. Further, in the Fall of this year, the Service will explore hosting a pedestrian safety summit with our road safety partners, involving information sharing and a consultative process to further address potential solutions to this ongoing issue.

#### City of Toronto – Transportation Services Initiatives and Activities:

Les Kelman, Acting General Manager, City of Toronto, Transportation Services was consulted and provided the following pedestrian safety initiatives that are presently in place or that will be in place during 2004 including;

- Red Light Cameras – to reduce the frequency of red light runners and the number of right angle collisions. Currently the City has 10 cameras, which can be moved to any of the 38 equipped intersections.
- High Reflective Fluorescent Yellow-Green Crossing Signs – replace school crossing signs with highly reflective fluorescent yellow-green crossing signs. This provides greater visibility from dusk to dawn.
- Don't Block the Box – pilot project implemented on 5 downtown intersections to reduce intersection gridlock through the use of cross-hatched intersection pavement markings and signage.
- We're All Pedestrians Program – the program has 2 components; the first is a safety and awareness campaign focusing on kids at play and school zones. The second is a pilot project to test different techniques for reducing pedestrian/motor vehicle collisions at signalized intersections.
- Pedestrian Refuge Island Guidelines – new design guidelines for the location and construction of pedestrian refuge islands.
- Pedestrian Crossover Review – all pedestrian crossovers on arterial roadways are being reviewed from both a safety and operational perspective to ensure they are still appropriate for the surrounding conditions.
- Safety and Operational Improvements Program – a capital works program that identifies and prioritizes road modifications or improvements to the road system that will mitigate safety and operational problems at specific locations or intersections.
- Traffic Safety Bureau – the goal of the Traffic Safety Bureau is to initiate, support and co-ordinate successful internal and external traffic safety programs and to increase the safety awareness within the City.
- Partnerships with External Groups – working together with external partners to promote traffic safety in the city, e.g. CAA Central Ontario and the Road Safety Coalition of Greater Toronto Police Service.

#### Legislation:

The Highway Traffic Act of Ontario (HTA) places responsibility on motorists and pedestrians, and holds both responsible for their actions through the offence section of the Act.

Chair Heisey has suggested that section 10 of the Metropolitan Toronto Uniform Traffic By-law 32-92 be amended to allow pedestrians to cross 'only where traffic conditions warrant, using the shortest path necessary, as quickly as reasonably possible, and being aware of all vehicle traffic'. The additional requirements may be worthy additions to the current wording, however, care must be taken to ensure that any change does not encourage pedestrians to cross a roadway without due care and attention, with the assumption that motorists will stop for them. Repealing the existing requirement for pedestrians to yield the right-of-way in the Metropolitan Toronto Uniform Traffic By-law may fail to adequately protect their interests. Additionally, any amendments to the bylaw should create offences for both motorists and pedestrians.

All road users must share in the responsibility of road safety and offences must reflect that shared responsibility. Motorists must be cognizant of their surroundings and potential hazards, while pedestrians should not place themselves in high risk or potentially dangerous situations.

City of Toronto, Legal Services, is preparing a response on behalf of the City, which to date, has not been received.

Initiatives and Activities – Other Jurisdictions:

The Chair has outlined a number of European countries as models for pedestrian friendly jurisdictions. Countries such as Germany and The Netherlands have taken proactive measures to promote pedestrian safety, including vehicle free pedestrian zones, high visibility intersection markings, pedestrian activated signals at intersections and crossovers, pedestrian refuge islands, traffic calming, and wide, well lit sidewalks. With the exception of the vehicle free pedestrian zones, Toronto has these measures in place in various areas of the City. The TPS would welcome any expansion of these programs by City of Toronto, Transportation Services.

The differences in reporting statistics make it difficult to compare between Toronto, Canada, The Netherlands and Germany. The last year in which comparable statistics were available for analysis, with the exception of Canada, was 1996, and those results are reflected in the following chart. The ‘Total Pedestrian’ statistics are for information only as they cannot be put into context for comparison purposes:

	1996 Pedestrian Fatality Rate/100,000 Population	Total Pedestrian Fatalities 1980	Total Pedestrian Fatalities 2001	Total Pedestrian Fatalities 2002
Toronto	1.88	61	32	50
Canada	N/A	817	334	370
The Netherlands	0.70	295	106	97
Germany	4.47	3,720	900	873

There are a number of philosophies that have been successful in these countries that may be difficult to incorporate into the City infrastructure, including;

- Residential and commercial developments designed to provide safe and convenient pedestrian access; with quieter, less travelled road networks and numerous amenities in close proximity to encourage walking.
- Restrictions on the use of motor vehicles. Many European countries have restricted the use of motor vehicles by implementing vehicle free pedestrian zones, low speed limits in residential neighborhoods, limited the supply of parking spots, and prohibiting right turns on red lights. Between 1975 and 2001, total pedestrian fatalities declined by 82% in Germany and by 73% in The Netherlands.

- Extensive traffic education is provided to drivers and students. A crucial aspect of driver training in both The Netherlands and Germany is the need to pay special attention to avoiding collisions with pedestrians. This training is both extensive and expensive. It is assumed that pedestrians will make unsafe moves in traffic and drivers are required to anticipate these moves by carefully noting the presence of pedestrians as they drive. Anticipation of pedestrian movement is tested during the drivers license examination. Traffic safety education is a high priority with every school providing comprehensive programs to educate children on pedestrian safety, including how to walk defensively, anticipate dangerous situations and to react appropriately.

As new development continues and re-development occurs, opportunities exist for the City to ensure designs reflect a more pedestrian friendly environment. Additionally, opportunities exist to address, with The Ministry of Transportation, current pedestrian safety training presently being delivered in driver training courses.

Conclusion:

Pedestrian safety is and must remain a shared responsibility of all road users and road safety partners. Striking a balance between ‘pedestrian friendly’ and ‘pedestrian safety’ initiatives is key to achieving safer streets and an improved quality of life for all citizens.

Acting Deputy Chief, David Dicks, Policing Support Command, will be present to answer any questions.

**The Board was also in receipt of the following report JULY 27, 2004 from Albert Cohen, Director, Litigation, City of Toronto – Legal Services Division:**

Subject:        RIGHTS AND RESPONSIBILITIES OF PEDESTRIANS

Recommendation:

It is recommended that this report be received for information.

Background:

At its April 29, 2004 meeting, the Board had before it a Report dated March 18, 2004 submitted by the Chair, entitled “Rights of and Protections for Pedestrians” (hereinafter referred to as the “Report”).



The Board adopted the recommendations in the Report. The Board, among other things, also requested that the Chief of Police prepare and submit a report, in consultation with representatives of the City of Toronto, not only commenting on the March 18<sup>th</sup> Report and the proposed legislative amendments, but also commenting on what additional changes could be implemented to make Toronto a safer place for pedestrians together with the issue of pedestrians' responsibilities. (Min. No. P131/04 refers)

Discussion:

**1. Former Municipality of Metropolitan Toronto Uniform Traffic By-law 32-92**

Pursuant to recommendation 2 of the Report, after receiving the Chief's response, the Board is to consider sending a request to Toronto City Council to amend former Municipality of Metropolitan Toronto Uniform Traffic By-law 32-92 (hereinafter referred to as "By-law 32-92").

According to the *City of Toronto Act, 1997*, the by-laws of the seven former area municipalities, which were in force immediately prior to January 1, 1998 when the new City of Toronto was created, remain in force until Council repeals them or provides otherwise. These by-laws, however, only apply to the part of the City to which they respectively applied on December 31, 1997.

Accordingly, By-law 32-92 applies only to former Metropolitan roads, those being roadways which were expressways or major arterials, such as the Don Valley Parkway, the F. G. Gardiner Expressway, Bayview Avenue, Yonge Street, Eglinton Avenue, Finch Avenue, Steeles Avenue, etc.

Staff in the Works and Emergency Services Department, Transportation Services Division, of the City of Toronto (hereinafter referred to as "Transportation Staff") have been consulted in the preparation of this report and have advised that the other six former area municipalities also have in place sections similar to the current section 10 found in By-law 32-92, as set out below in Section 2 of the Discussion portion of this report.

Thus, in order to ensure consistency across the City of Toronto, amendments would need to be made to not only By-law 32-92 but also to the by-laws of the other six former area municipalities which contain provisions similar to section 10 found in By-law 32-92.

**2. Proposed Recommendation 2(a) of the Report:**

Recommendation 2(a) as contained in the body of the Report proposes to repeal section 10 and to specifically remove any provision requiring a pedestrian to yield the right-of way.

Section 10 of By-law 32-92 provides as follows:

10. Except where the traffic control signals are in operation or where traffic is being controlled by a police officer, a pedestrian crossing a highway at a place other than a

pedestrian crossover shall yield the right-of-way to all vehicles and streetcars upon the roadway, but nothing in the section shall relieve the driver of a vehicle or streetcar from the obligation of taking all due care to avoid an accident.

By repealing the requirement for a pedestrian to yield the right-of-way to vehicles when crossing a highway outside of a pedestrian crossover in situations other than where traffic control signals are in operation or where traffic is being controlled by a police officer, a pedestrian could simply step off the curb at the side of the highway onto the highway to cross it. Transportation Staff have advised that such a by-law amendment would raise issues of traffic safety, both for pedestrians and drivers and may also lead to increased risk of accidents.

As a result of the City's duty to maintain its highways under the *Municipal Act, 2001*, Transportation Staff have advised that implementation of this proposed recommendation would necessitate the re-evaluation of all traffic operations on every street, including posted speed limits, roadway construction, etc. City Staff would have to ensure that all roadways were constructed such that drivers would have clear and unobstructed views so that they could view a pedestrian prepared to step off the curb and react to stop the vehicle in time. Transportation Staff have further advised that the proposed amendment may necessitate the removal of on-street parking as parked vehicles may be deemed to obscure the sight-line of drivers.

### **3. Proposed Recommendation 2(b) of the Report:**

The meaning of pedestrian crossing is not defined in the Report nor can a definition be found in the *Highway Traffic Act* (hereinafter referred to as the "HTA"). Assuming that "pedestrian crossing" as referenced in the Report is to have meant a "pedestrian crossover", the current HTA places a number of responsibilities and duties on pedestrians crossing a roadway other than at a "pedestrian crossover" and approaching either a traffic control signal or a pedestrian control signal. These provisions are outlined in Appendix A attached hereto.

The Report also references the legislation used in Germany. According to the German legislation, as outlined in the Report, pedestrians, when using the roadway, "must walk within certain sections or on the left hand side. When walking in the dark, pedestrians must walk in single file".

Similar legislation already exists in the HTA.

Subsection 179(1) of the HTA provides that, where sidewalks are not provided on a highway, a pedestrian walking along the highway must walk on the left side of the highway facing oncoming traffic and, when walking along the roadway, must walk as close to the left edge of the highway as possible.

#### **4. Proposed Recommendation 2(c) of the Report:**

Recommendation 2(c) of the Report provides that By-law 32-92 be amended to "make it an offence to fail to yield to a pedestrian within a pedestrian crossing as outlined in the parallel legislation used in England".

As the meaning of "pedestrian crossing" is not defined in the Report nor can a definition be found in the HTA, both pedestrian crossovers and pedestrian crosswalks are discussed below.

##### **(a) Pedestrian Crossover:**

Section 140 of the HTA specifically addresses the issue of vehicles yielding the right-of-way to pedestrians within pedestrian crossovers and specifically outlines the particulars of when vehicles must yield to pedestrians in a pedestrian crossover. The text of subsections 140(1) and (2) are provided in Appendix B attached hereto.

If reference to "pedestrian crossing" in recommendation 2(c) was meant to have been reference to "pedestrian crossover", the proposed recommendation attempts to expand the duty of a driver or a streetcar to yield to pedestrians crossing a roadway within a pedestrian crossover as currently provided for in the HTA to include all circumstances where a pedestrian is within the pedestrian crossover, even if the pedestrian has only just stepped into the pedestrian crossover.

Subsection 140(4) of the HTA, however, provides that "no pedestrian or person in a wheelchair shall leave the curb or other place of safety at a pedestrian crossover and walk, run or move the wheelchair into the path of a vehicle or street car that is so close that it is impracticable for the driver of the vehicle or street car to yield the right of way."

Accordingly, the intention of the proposed recommendation appears to contradict subsection 140(4) of the HTA.

##### **(b) Crosswalk:**

If the reference to "pedestrian crossing" in recommendation 2(c) of the Report was meant to refer to "pedestrian crosswalk", the provisions of the HTA, as outlined in Appendix C attached hereto, already provide that a pedestrian lawfully within the crosswalk has the right of way over vehicles. As such, a by-law provision is not required.

In addition, proposed recommendation 2(c) fails to limit the pedestrian's right of way to situations where the pedestrian is lawfully within the pedestrian crosswalk. Rather, it provides that a by-law provision should be created making it an offence to fail to yield to a pedestrian within a pedestrian crossing as outlined in the parallel legislation used in England. As outlined in the Report, in England, there is no penalty for a pedestrian who fails to yield to traffic or disobeys a red light. The Report points out that "the spirit of the law is that motorists have to be mindful of pedestrians".

Any by-law provision which would provide a pedestrian unlawfully within a pedestrian crosswalk with the right-of-way over vehicles would conflict with the HTA provisions.

(c) By-law Provisions which contradict HTA provisions:

Pursuant to subsection 195(1) of the HTA, if a provision of a municipal by-law passed by the council of a municipality or a police services board for (a) regulating traffic on the highway or (c) prohibiting or regulating the operation of motor vehicles or any type or class thereof on the highway is inconsistent with the HTA or its regulations, the provision of the by-law shall be deemed to be repealed upon the inconsistency arising.

The proposed recommendation 2(c) could possibly create a conflict between the proposed by-law provision and the HTA. Accordingly, given subsection 195(1) of the HTA, the proposed by-law provision would be deemed to be repealed upon the inconsistency arising.

If the Board still wishes for the City by-laws to be amended as recommended, the Board may wish to first consider requesting the Province to amend the HTA. If the HTA provisions are amended to incorporate the intent of the Recommendations in the Report, the City may then subsequently make amendments to the various by-laws and Codes without risking that they be later repealed due to inconsistency with the HTA.

(d) The England Model:

Recommendation 2(c) of the Report proposes that the offence be paralleled to the legislation in England. According to the England model set out in the Report, in England the penalty for the offence of failing to yield to a pedestrian within a pedestrian crossing is a fixed rate of 60 pounds and three demerit points and the offender is given up to 24 days to pay. The Report points out that, in England, if a plea of not guilty is entered, then the presiding magistrate can impose up to the maximum penalty for Level 3 offences and increase the demerit points up to 12.

The penalty structure set out in the "England" section cannot, however, be imported to Ontario. In Ontario, the Demerit Point System is set out in Regulation 339/94 to the HTA. The Table that is attached to Regulation 339/94 sets out the number of demerit points for certain offences. If a conviction is entered for one of the offences listed in the Table, the Registrar of Motor Vehicles must record the prescribed demerit points. Further, a Justice of the Peace has no discretion with respect to the demerit points, as the points for the prescribed offences cannot be increased, reduced or waived in court. The only exception to this is where the defendant negotiates a guilty plea with the prosecutor for another offence, the Justice of the Peace approves the offence amendment, and the offence on the ticket is amended. The Justice of the Peace is then bound by the prescribed points as set out in the Table for the amended offence.

**Conclusion:**

Recommendation 2 of the Report proposes to amend Section 10 of By-law 32-92. As pointed out above, By-law 32-92 applies only to former Metropolitan Roads. Accordingly, if amendments were to be made, not only would amendments need to be made to By-law 32-92,

but amendments to by-laws containing provisions similar to section 10 found in By-law 32-92 would also be required in order to ensure consistency across the City of Toronto.

Further, as discussed above, the meaning of “pedestrian crossing” as referenced in the Recommendations is uncertain and would also need to be clarified in order for the Board to make specific recommendations to City Council with regard to the necessary by-law changes which the Board considers necessary to achieve the objective of enhancing pedestrian safety in Toronto.

In addition to the previous comments, I have been advised by Transportation Staff that the Works and Emergency Services Department is not in support of the proposed amendments to section 10 of By-law 32-92 or to any similar provisions in the by-laws or codes of the other former area municipalities for safety reasons. Further, Transportation Staff point out that the City’s by-laws as they currently read in relation to this issue are consistent with most by-laws in force in Canada.

Transportation Staff have advised that amendments to the various by-laws or Codes should neither encourage nor permit pedestrians to cross a highway without due care and attention to drivers of vehicles on the highway and on the assumption that drivers will automatically yield to them. Transportation Staff are of the view that recommendation 2(a) of the Report would have that result. Accordingly, the Works and Emergency Services Department is of the opinion that such a recommendation would be undesirable.

Any proposed by-law amendments to the various by-laws or codes should also not result in provisions which conflict with HTA provisions. Unfortunately, it is likely that the proposed 2(c) recommendation conflicts with HTA provisions and as such would be subject to legal challenge.

If the Board still wishes for the City by-laws to be amended as recommended, the Board may wish to first consider requesting the Province to amend the HTA. If the HTA provisions are first amended to incorporate the intent of the Recommendations in the Report, the City may then subsequently consider making amendments to the various by-laws and Codes without risking that they be later repealed due to inconsistency with the HTA.

Transportation Staff have also pointed out that HTA amendments would ensure consistency across the province and would not result in driver and pedestrian uncertainty as to the rules and regulation in effect according to municipality.

**The Board deferred consideration of the foregoing reports to its September 23, 2004 meeting.**

## Appendix A

### Subsections 144(22) to 144(27) of the Highway Traffic Act:

Subsection 144(22) of the HTA provides that "where portions of a roadway are marked for pedestrian use, no pedestrian shall cross the roadway except within a portion so marked."

Subsection 144(23) of the HTA provides that "subject to subsections (24) and (27), a pedestrian approaching a traffic control signal showing a circular green indication or a straight-ahead green arrow indication and facing the indication may cross the roadway."

Subsection 144(24) of the HTA provides that "no pedestrian approaching a traffic control signal and facing a flashing circular green indication or a solid or a flashing left turn arrow indication in conjunction with a circular green indication shall enter the roadway."

Subsection 144(25) provides that "no pedestrian approaching a traffic control signal and facing a red or amber indication shall enter the roadway."

Subsection 144(26) provides that "where pedestrian control signals are installed and show a "walk" indication, every pedestrian facing the indication may cross the roadway in the direction of the indication despite subsections (24) and (25)."

Subsection 144(27) provides that "no pedestrian approaching pedestrian control signals and facing a solid or flashing "don't walk" indication shall enter the roadway".

## Appendix B

### Subsections 140(1) and 140(2) of the Highway Traffic Act:

140. (1) Subject to subsection (2), when a pedestrian or a person in a wheelchair crossing a roadway within a pedestrian crossover,
- (a) is upon the half of the roadway upon which a vehicle or street car is travelling; or
  - (b) is upon half of the roadway and is approaching the other half of the roadway on which a vehicle or street car is approaching so closely to the pedestrian crossover as to endanger him or her,
- the driver of the vehicle or street car shall yield the right of way to the pedestrian or a person in a wheelchair by slowing down or stopping if necessary.
- (2) When a vehicle or street car is stopped at a pedestrian crossover, the driver of any other vehicle or street car overtaking the stopped vehicle or street car shall bring the vehicle or street car to a full stop before entering the crossover and shall yield the right of way to a pedestrian or a person in a wheelchair,
- (a) who is within the crossover upon the half of the roadway upon which the vehicle or street car is stopped; or
  - (b) who is within the crossover and is approaching such half of the roadway from the other half of the roadway so closely to the vehicle or street car that he or she is in danger if the vehicle or street car were to proceed.

## **Appendix C**

### **Subsections 144(7) and 144(28) of the Highway Traffic Act:**

Subsection 144(7) of the HTA provides that "when under this section a driver is permitted to proceed, the driver shall yield the right of way to pedestrians lawfully within a crosswalk".

Subsection 144(28) provides that "every pedestrian who lawfully enters a roadway in order to cross may continue the crossing as quickly as reasonably possible despite a change in the indication he or she is facing and, for purposes of the crossing, has the right of way over vehicles."



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P242.           RESPONSE TO CONCERN'S REGARDING THE BOARD'S  
RECOMMENDATIONS PERTAINING TO POLICING YONGE-DUNDAS  
SQUARE**

The Board was in receipt of the following report JUNE 22, 2004 from Julian Fantino, Chief of Police:

Subject:        RESPONSE TO BOARD'S RECOMMENDATIONS REGARDING POLICING  
YONGE-DUNDAS SQUARE

Recommendation:

It is recommended that: the Board receive this report for information.

Background:

The Board at its meeting on February 26th, 2004 was in receipt of a copy of correspondence (see attached Appendix 'A') from Mr. Ron Soskolne, Chair, Yonge-Dundas Square Board of Management. (Board Minute #P38 refers). The Board approved the following motion:

**THAT the Board refer the correspondence from Mr. Soskolne to Chief Fantino and request that he provide a report to the Board addressing Mr. Soskolne's comments.**

Issue

Mr. Soskolne suggested the Service staffing estimates for Yonge-Dundas Square events were unrealistic. He based his conclusion on the first year of operation. Based on events in 2003, Mr Soskolne indicated that events were fewer and smaller than predicted. Mr. Soskolne requested that the Toronto Police Service give consideration to re-calculating the potential policing costs associated to Yonge-Dundas Square.

Response

In the original submission to the Board on the "Impact of Dundas Square on Police Operations" (Board Minute P252 from September 18, 2003) the Service identified the maximum potential annual financial impact for policing special events at Yonge-Dundas Square. The \$1.4 million projection was based on seventy (70) dates set aside for City sponsored events with the assumption that each event would require the highest level of policing as per the operational policing plans. There are three different operational plans to provide policing to Yonge-Dundas Square events. The size of the police response varies in each plan according to the anticipated size and nature of the event.

The original projection of the maximum potential annual financial impact for policing special events at Yonge-Dundas Square remains valid. The Service recognizes that during the first year of operation the actual costs were much lower than that \$1.4 million projection. Neither the 2003 nor the 2004 Police Service operating budget included extra money for policing events at Yonge-Dundas Square. To date, additional policing costs have been absorbed by the Service.

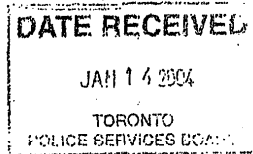
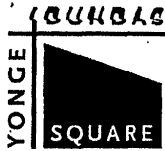
### Conclusion

The Service has worked with representatives from the City and the Yonge-Dundas Square Board of Management during the planning phase of all events and is committed to continuing to do so. The Service will ensure that the level of police response is kept to the minimum required to deal with all aspects of public safety.

Deputy Chief Steven Reesor, Policing Operations Command, will be in attendance to answer any questions the Board may have.

**The Board deferred consideration of the foregoing report to its September 23, 2004 meeting.**

APPENDIX 'A'



Jan. 7, 2004

Mr. Alan Heisey, Chair  
Toronto Police Services Board  
40 College Street  
Toronto, Ontario M5G 2J3

Dear Mr. Heisiy,

**Re: Police Board motions regarding Yonge-Dundas Square**

The Yonge-Dundas Square Board of Management has received a copy of a letter drafted by the Toronto Police Services Board dated Oct. 10, 2003 and submitted to the Toronto City Clerk. The letter outlines two motions approved by the Police Board that rely on misperceptions that we'd like to take the opportunity to address.

**Yonge-Dundas Square** is managed under municipal code 636 by a volunteer board representing various community partners including a representative of the Toronto Police Service. The **current** representative is **Superintendent Paul Gottschalk**, Unit Commander of **52 Division**.

The Yonge-Dundas Square Board issues permits for events and related activities at the Square. However, it should be noted that the municipal code allows for other public uses of the Square. In the case of rallies and protests, the public has occasionally exercised their right to use the Square as a platform for civic expression without the Board of Management's express consent. While integral to our democratic principles, this type of activity is not representative of the day to day usage of the Square.

The Square was envisioned as a welcoming environment for Toronto's citizens and visitors that would help rejuvenate a deteriorating downtown core. In its short life we are already seeing the positive impact of the redevelopment. The atmosphere of the Square is open and relaxed. Many patrons enjoy sitting at the **café** seating available to eat their lunch or watch some of our great community programming. The Square has been active almost daily since its grand opening and the ownership of the space by the general public has discouraged undesirable elements from gathering.

We have taken every precaution to ensure a safe environment for our patrons. The Square has been diligent to provide **onsite** security and monitoring through our CCTV camera program. The number of incidents requiring police assistance has been very few and typically of the nuisance variety. Our efforts have no doubt reduced the requirement for police to have a **large** presence in the area.

YONGE-DUNDAS SQUARE | Atrium on Bay, P.O. Box 95, 40 Dundas Street West, Suite 227, Toronto ON M5G 2C2  
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The Square's ability to host events has a direct relationship to the perception of the downtown as a vibrant community and creates economic benefit for area businesses and therefore tax revenues.

The Police Board motions contain a reference to 70 annual City-sponsored events with a policing cost as high as \$1.4 million. While the City retains the ability to use the Square for up to this number of days per year, this is far from the practice. In 2003 there were 22 so-called City days, the majority of which were used for small scale community events such as a performance by Serbian Folk dancers, a walk for SARS workers and a Bike Day. Attendance at these events was well below the capacity of the Square and the environment fostered was extremely positive.

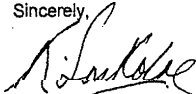
Of the 6 days of street closure it should be noted that "Celebrate Toronto" accounted for 2 days. This is an event that takes place annually on Yonge Street would the Square exist or not. Another day was for our grand opening - a one-time only, family oriented festival to mark the beginning of a new chapter in the history of downtown. The Square also hosted a concert by Canada's foremost rock group, Nickelback, as part of the City's "Toronto You Belong Here" campaign to raise the City's profile following a devastating year for civic morale and the local economy.

These 3 events represent the biggest impact on policing requirements for the Square but experience demonstrates even these activities required far fewer officers than the number anticipated by the 'Level Three' plan developed by the Police Services. It is important to note that traffic was kept moving during these events along Dundas Street, including the streetcar line, except during a brief pyrotechnic display. In the wake of our first year of experience we trust the Police Services will be revisiting the response plans with a mind to implementing more realistic staffing models.

All events proposing to exceed the capacity of the Square have involved planning consultation with the City's Street Events team including members of the Police Service. This is the standard process used in other areas of the city and would seem to address the concerns of your second motion. The economic and cultural benefit of street closure events to the City is extremely important and it is our hope that the Police Services will support such efforts.

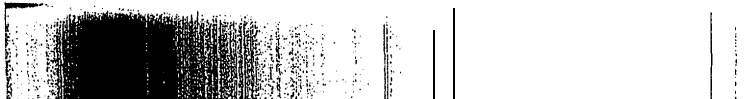
A mechanism exists for Police Services participation in the management of the Square at the Board level but to date has been underutilized. We encourage your input and would welcome the opportunity to meet and discuss these issues. Together we can make this new model for civic revitalization a success.

Sincerely,



Ron Soskolne  
Chair

cc. Joe Halstead, Commissioner - Economic Development, Culture and Tourism  
Ulli S. Walkiss - City Clerk



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P243. REVIEW OF THE 2003 PUBLIC SECTOR SALARY DISCLOSURE  
REPORT**

Subject: 2003 PUBLIC SECTOR SALARY DISCLOSURE

Recommendation:

It is recommended that: the Board receive this report for information.

Background:

At its meeting on April 29, 2004, the Board requested that a report on whether or not any specific issues had been identified with regard to the 2003 public sector salary disclosure listing (Board Minute #P127/04 refers). The 2003 listing was submitted to the City of Toronto Finance department and included in a corporate filing with the Ministry of Municipal Affairs and Housing.

The April 29, 2004 Board report outlined several factors that contributed to the number of individuals, whose base salary is normally below \$100,000, being included on the list. The report also identified monitoring and control strategies that Service Managers use to control premium pay expenditures.

In addition to the aggressive strategies in place, Unit Commanders are made aware of the individuals whose base salary is normally under the legislated disclosure amount. On a quarterly basis, reports are provided to all Unit Commanders and Senior Management team members who have individuals earning over \$25,000, \$50,000 and \$75,000 respectively. These reports allow Unit Commanders to reallocate responsibilities from individuals earning excessive premium pay to those with less overtime hours.

Through review of the above and other premium pay reports, Unit Commanders can ensure that overtime rules are followed. Non-compliance is dealt with at the Unit Commander level where appropriate disciplinary action is taken. However, in the event that criminal/Police Service Act issues are suspected, Unit Commanders are obligated to report these to Professional Standards, who are ultimately responsible for conducting an investigation.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, will be available at the Board meeting to answer any questions that Board members may have.

**The Board received the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P244.           RESPONSE TO TORONTO CITY COUNCIL MOTION REGARDING  
THE SEX OFFENDER REGISTRY**

The Board was in receipt of the following report JUNE 25, 2004 from Julian Fantino, Chief of Police:

Subject:           MOTION FROM CITY COUNCIL RE THE SEX OFFENDER REGISTRY

Recommendation:

It is recommended that: The Board receive this report and the Board forward a copy of this report to the City Clerk's office at the City of Toronto.

Background: In April 2001, the Province of Ontario created the Sex Offender Registry commonly called Christopher's Law requiring all persons convicted of certain sex crimes to register with their local police. The Toronto Police Service created a unit at the Reporting Centre to ensure compliance with the law and take enforcement action where necessary.

To date, there are 846 active cases of persons who live in the City of Toronto who have registered pursuant to Christopher's Law and are being monitored by the Toronto Police Service.

In the months following the tragic murder of Holly Jones in May 2003, the then Provincial Minister of Solicitor General and Corrections announced \$700,000.00 in funding to the Toronto Police Service to assist in the investigation of persons required to register as sex offenders.

An election soon followed and with a change in government the funding did not arrive.

During the discussions of the Toronto Police Service budget at Toronto City Council in the period April 19 to 28, 2004, Councillor Gloria Lindsay Luby placed a motion at council that was accepted requesting that the Police Services Board consider finding \$100,000.00 in funding from the operating budget for the Toronto Police Service to investigate persons required to register with the Sex Offender Registry. (Clause 2 contained in Report No. 3 of the Policy and Finance Committee-Amendment (13) ( c ) refers.)

In May 2004, on the first anniversary of the murder of Holly Jones, the media reported that promised funding from the Province had not been provided to the Service.

On May 12 2004, the matter was raised during question period in the Ontario legislature and the Attorney General, Michael Bryant advised that the funding from the province was still in place and would occur.

On June 16 2004, the Ministry of Community Safety and Correctional Services announced by way of a press release that they were providing \$700,000.00 in funding for a two-year pilot project. This funding will provide for three additional detective constables and necessary equipment to perform address verification checks and enforcement.

Minister Monte Kwinter was quoted as saying “We need to improve their ability to keep close track of sex offenders. This funding will allow police to hire more officers to make regular visits to verify the registered offenders are actually living at the addresses they have provided.”

Since the Province has now commenced to fund additional officers and equipment, there is no need for the Police Services Board to attempt to find funding from within the police-operating budget pursuant to the city council motion.

Officials from the Ministry of Community Safety and Correctional Services have met with senior police officers and the first instalment has been received. There are no unusual conditions except that the funding must be used for Sex Offender Registry related matters.

A/Deputy Chief David Dicks, Policing Support Command, will be present to answer any questions.

**The Board received the foregoing and agreed to forward a copy to the City of Toronto - City Clerk's Department.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P245. RESPONSE TO REQUEST FOR INFORMATION REGARDING THE  
EXPANSION OF THE STRATEGIC TRAFFIC ENFORCEMENT  
MEASURES PROGRAM**

The Board was in receipt of the following report JUNE 21, 2004 from Julian Fantino, Chief of Police:

Subject: RESPONSE TO REQUEST FROM BUDGET ADVISORY COMMITTEE TO  
ACCOMMODATE EXPANSION OF STRATEGIC TRAFFIC  
ENFORCEMENT MEASURES (STEM) PROGRAM WITHIN CURRENT  
BUDGET

Recommendation:

It is recommended that:

- 1) The Board receive this report for information, and
- 2) The Board forward this report to the City's Chief Financial Officer for information.

Background:

The following report addresses the request from the Budget Advisory Committee in their correspondence, dated May 25, 2004, regarding the expansion of the STEM Program within the Toronto Police Service's current 2004 Operating Budget:

*The Budget Advisory Committee requested the Chief Financial Officer and Treasurer and the Chair of the Toronto Police Services Board to see how the STEM Program can be accommodated within the current budget and existing resource and report thereon to the Budget Advisory Committee.*

At its meeting of April 1, 2004, the Board received a report discussing the feasibility of expanding the STEM initiative (BM #P105/04 refers). The report stated that the deployment of four additional police officers to the STEM initiative would generate additional fines of approximately \$522,240 for the City of Toronto. The report indicated that four officers could be redeployed from the existing Service strength; however, requisite equipment such as vehicles, radios, and laser radar equipment would have to be purchased. The estimated costs associated with the STEM expansion totalled \$129,300. The result would be a net revenue to the City of \$400,000 (excluding any City Court Services costs). At that time, City Court Services and the Chief Financial Officer recommended any expansion of the STEM initiative be delayed pending a verification of estimated additional revenues to the City based on actual STEM revenues.



At the request of the Budget Advisory Committee, the Toronto Police Service reviewed the expansion proposal to determine whether the expanded program could be accommodated within the current budget using existing resources. It has been confirmed that the Service is able to redeploy four officers from within its current strength to this program expansion; however, we can neither absorb the cost of requisite equipment, nor redeploy equipment from other programs. Therefore, the option to absorb the cost of all equipment within the current budget is not possible.

As was reported in the 2004 Operating Budget Variance Report (as at April 30, 2004) at the Board's meeting of June 21, 2004, the Service is not anticipating any surplus funds. Furthermore, the Service is already facing additional funding pressures (e.g. implementation of the recommendations of the Ferguson Report) to be accommodated within the current budget.

It is recommended that the Board receive this report for information, and that the Board forward this report to the City's Chief Financial Officer for information.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command will be in attendance to answer any questions.

**The Board deferred consideration of the foregoing report to its September 23, 2004 meeting.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P246.           REDUCTION OF STAFFING IN CORPORATE COMMUNICATIONS**

The Board was in receipt of the following report JULY 13, 2004 from Julian Fantino, Chief of Police:

Subject:           REDUCTION OF STAFFING IN CORPORATE COMMUNICATIONS

Recommendation:

It is recommended that:

1. the Board receive this report for information purposes, and
2. the Board forward a copy of this report to the City's Policy & Finance Committee for their information.

Background:

During the 2004 budget process, the City's Budget Task Force recommended a reduction in salaries and benefits of \$100,000 from the Corporate Communications Unit, being the equivalent of two positions. This was discussed with Service members, and the Service agreed to this reduction. During its consideration of the Task Force recommendations, the Board recommended that I identify a further \$75,000 in proposed reductions to the Corporate Communications 2004 budget, and that I provide a report to the Board on the manner in which the additional reduction is accomplished. The total reduction to the Corporate Communications budget amounted to \$175,000 (Board Minute #P105/04 refers).

In addition, Toronto City Council passed a motion with respect to the Corporate Communications Unit at the Toronto Police Service. The motion reads "the Toronto Police Services Board be requested to consider reducing staff in the Communications Division with an equivalent increase to the Internal Affairs Department".

The purpose of this report is to provide an update for the Board and City Council on the budget reduction recommended during the budget process and to respond to Council's request that the Board consider a reduction in Corporate Communications with a corresponding increase at Internal Affairs.

Reorganisation:

Subsequent to the budget process, Corporate Communications was reorganized to eliminate two positions and to redistribute the work performed by the positions eliminated. As agreed, the Unit's budget was reduced by \$175,000. This was achieved through the elimination of 1 civilian

position (Ethnic Media Specialist) and the redeployment of one Inspector (Second in Command) position to a front-line, Police Constable position. This is in keeping with the Task Force, Board and Council's direction to keep the Service's uniform staffing target at 5,260.

In addition, effective September 1, 2004, the Media Relations Sergeant's position will be replaced by a police constable, thereby creating a further reduction in the Unit's budget. The work normally performed by the second in command (Inspector's) position has been assumed by others in the Unit. The work performed by the Ethnic Media Specialist has been assumed by the head of the Communications section.

Full savings will not be realized in 2004, as the \$175,000 reduction represents an annualized amount. In 2004, the differential will be absorbed elsewhere in the Service's budget. It should be noted that the changes made to Corporate Communications' staffing complement amount to a fully-annualized budget reduction of \$168,000. The Unit's budget is not being reduced further in 2005, as this was a one-time, full-year savings amount. The remaining \$7,000 will be absorbed within the Service's total budget request for 2005.

#### Further Reductions:

In considering Council's request that the Board consider a reduction to the Corporate Communications Unit in addition to the \$175,000 reduction agreed to with the Budget Task Force and a corresponding increase to the Internal Affairs Unit, it is my opinion that this is not operationally feasible. Further reductions to the Corporate Communications Unit are not possible without drastically impacting the vital work performed by the Unit. The Unit is responsible for how the Service communicates both internally with its members and externally with the public on issues as varied as Community Safety Notices, appeals for public assistance to help solve crimes, the Service's Annual Report, and satisfying the media's seemingly insatiable appetite for information on crime and policing in Toronto. If further permanent staff is required at Internal Affairs, I will follow the established process to request an increase or find an alternative from within our existing strength.

Mr. Frank Chen, Chief Administrative Officer will be in attendance to answer any questions the Board may have with respect to this report.

**The Board deferred consideration of the foregoing report to its September 23, 2004 meeting.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P247. COMPLIANCE STATUS OF THE TORONTO POLICE SERVICE -  
ADMINISTRATIVE REVIEWS INTO MATTERS INVESTIGATED BY  
THE SPECIAL INVESTIGATIONS UNIT**

The Board was in receipt of the following report JUNE 21, 2004 from Julian Fantino, Chief of Police:

Subject: COMPLIANCE STATUS OF THE TORONTO POLICE SERVICE IN  
RELATION TO S11 (4) OF ONTARIO REGULATION 673/98.

Recommendation:

It is recommended that: the Board receive this report for information

Background:

At the public meeting of the Police Services Board on April 29<sup>th</sup>, 2004, the Board requested the Chief provide a report to advise the Board as to whether the Chief is in compliance with the requirements that he report to the Board within 30 days with findings made and actions recommended as a result of an administrative review into a matter investigated by the Special Investigations Unit (S.I.U.) as provided by ss.11(4) of Ontario Regulation 673/98 (Board Minute P134/04 refers). Every time the SIU completes an investigation and files a report with the Attorney General of Ontario, the police agency involved must complete an administrative review within 30 days and report the results to the Board.

Ontario Regulation 673/98 came into effect on January 1<sup>st</sup>, 1999. Since that time, the SIU has invoked its mandate on the Service in 173 incidents, as follows:

14 times in 1999  
20 times in 2000  
33 times in 2001  
41 times in 2002  
43 times in 2003  
22 times, year to date 2004

The majority of investigations resulted in the SIU filing a report with the Attorney General, thus requiring an administrative review with a subsequent report to the Board. The administrative reviews and Board report preparation was assigned to the Planning position within the Professional Standards Unit. With the increase in the workload assigned to that function, combined with the restructuring of the Professional Standards Unit and the complexity of these

reviews, the demand came to exceed the abilities of the assigned resource, resulting in 36 outstanding administrative reviews from 2003.

To rectify this situation, two full time investigators have been permanently redeployed to fully meet the requirements of Ontario Regulation 673/98. It is the objective of the Service to complete all the outstanding administrative reviews and report to the Board on these matters by year end.

Acting Staff Superintendent Richard Gauthier of Professional Standards will be in attendance to answer any questions that the Board members may have.

**The Board received the foregoing report and approved the following Motion:**

**THAT, given that in order to comply with s.13(4) of Regulation 926 of the Revised Regulations of Ontario, the Board is required to submit copies of the Chief's reports on the results of administrative reviews to the Minister of Community Safety and Correctional Services in circumstances where a firearm has been discharged by a member of the Toronto Police Service, and given that some of the outstanding administrative reviews from 2003 and 2004 may pertain to incidents where a firearm was discharged, the Board provide a copy of this report to the Minister for information.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P248.           LEGAL FEES:   REPORT – ALLEGED COMMUNICATION BETWEEN  
POLICE SERVICES BOARD MEMBER AND MEMBERS OF THE POLICE  
SERVICE**

The Board was in receipt of the following report JULY 08, 2004 from Pam McConnell, Vice Chair:

Subject:           LEGAL FEES:   REPORT – ALLEGED COMMUNICATION BETWEEN  
POLICE SERVICES BOARD MEMBER AND MEMBERS OF THE POLICE  
SERVICE

Recommendation:

It is recommended that the Board receive the following report.

Background:

The Board, at its meeting on January 14 and 15, 2004, agreed to retain an independent lawyer to conduct a review of the facts and circumstances surrounding the statements contained in a confidential internal memorandum involving the Chair of the Board that was subsequently released to the news media. The Board also agreed that the costs associated with the retention of outside counsel would be paid from the Board's Professional and Consulting Account (Min. No. C07/04 refers).

The Board approved the retention of The Honourable Sydney L. Robins, Q.C. at a rate of \$350.00 per hour to conduct the review (Minute No. C28/04 refers).

Copies of Justice Robins' report: Alleged Communication Between Police Services Board Member and Members of the Police Service were released by the Board at its meeting on March 25, 2004 (Min. No. P102/04 refers).

The total expenditure incurred by the Board for Justice Robins' review was \$19,399.87. Payment from the Board's operating budget has been processed in accordance with the authority granted by the Board.

**The Board received the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P249. TORONTO POLICE SERVICE - 2004 CAPITAL BUDGET VARIANCE  
REPORT AS AT APRIL 30, 2004**

The Board was in receipt of the following report JUNE 29, 2004 from Julian Fantino, Chief of Police:

Subject: 2004 CAPITAL BUDGET VARIANCE REPORT FOR THE TORONTO  
POLICE SERVICE AS AT APRIL 30, 2004

Recommendation:

It is recommended that:

- (1) the Board receive this report; and
- (2) the Board forward this report to the City Chief Financial Officer and Treasurer, and to the City Policy and Finance (P&F) Committee.

Background:

Toronto City Council, at its meeting held on April 19 to April 23, 2004, approved the Toronto Police Service's (TPS) 2004 Capital Budget at a total expenditure of \$27.5 Million (M), and a total of \$188.4M for 2004 – 2008.

At the Board's meeting on October 16, 2003, the Service requested a 2004 - 2008 capital program of \$188.8M with a 2004 request of \$33.3M. The Board recommended various cash flow deferrals to the 2004 request resulting in the Board approved capital program for 2004 - 2008 of \$188.8M with a 2004 amount of \$28.3M (Board minute #271/03 refers). Subsequently, further reductions were made in order to achieve the City's 2004 affordability target by deferring, or phasing in projects wherever possible. This resulted in a revised 2004 capital budget of \$27.5M and \$188.4M for 2004 –2008 (Board minute #359/03 refers). This report provides details regarding the capital budget variance for year 2004 as of April 30, 2004.

Summary of Capital Projects:

Attachment A provides a summary of the twenty-one projects in 2004, of which thirteen projects are continuing from 2003, and eight projects commenced in 2004. Capital projects are managed within a total approved project amount that spans over several years, and any unspent budget allocation from previous years is carried forward to future years. The carry forward amount prior to 2003, not included in the \$27.5M, is \$5.4M and therefore, the available expenditure for 2004 is \$32.9M (\$27.5M + \$5.4M).

The Service is projecting a year-end expenditure of \$32.89M against the \$32.9M available spending amount. This provides an under-expenditure of \$0.008M that is projected to be carried forward to 2005.

### Variances

The following explanations are provided for 2004 projects reflecting a variance when compared to the available spending amount.

- The 51 Division project – At the time of year-end reporting, only \$0.5M of cash flow carry forward was reported; however, work was delayed and additional cash carry forward was realized. This project is now complete and spending is within the total budget.
- The Livescan Fingerprinting System project – Phase 2 of this project includes \$0.2M for system acceptance (testing, sign off, etc.) which is not expected to be completed until early 2005. The \$0.2M remaining amount in 2004 will be carried forward to 2005.
- The New Training Facility – This project provides for the construction of a new Police College (replacing C.O. Bick), a training facility for Firearm / Defensive Tactics and a Driver Training Track. It is anticipated that only \$2.3M of \$2.9M available funding will be utilised during 2004. Currently the TPS is adjusting the feasibility study to include the Department of National Defence (DND) requirements. The TPS intends to have a Consultant and Construction Manager under contract by the end of 2004. The \$0.6M remaining amount in 2004 will be carried forward to 2005.
- The 23 Division project – Currently the TPS has applied for Site Plan approval and that process is underway. The TPS will be retaining the services of a Construction Manager over the next few months and pending approvals, it is anticipated that the construction work will begin before the end of 2004. At this time, the Service is projecting to spend \$1.5M of the \$2.9M in 2004. The remaining amount will be carried forward to 2005.
- The Boat Replacement project – The 2004 budget provides for the continuing lifecycle replacement of the TPS boats. Two boats require replacement in 2004. The cost is slightly higher than expected; however, the total project cost remains within the total approved budget.
- The Mobile Command Post Vehicle project – These vehicles are custom made and require extensive construction, and the required technology is very complex (computer, telecommunications including radio, satellite, video, and landline telephone). TPS is presently researching the best technologies to integrate into this Mobile Command Post Vehicle, and will be issuing an RFP shortly. At this time, the Service is projecting to spend \$0.4M of the \$0.8M in 2004. The remaining amount will be carried forward to 2005.



## Summary

The Toronto Police Service is projecting a 2004 year-end under-expenditure of \$0.008 M. This under-expenditure will continue to be monitored, and if necessary carried forward into 2005, and reflected in the 2005-2009 Capital submission. Projects continue to be monitored closely to ensure that they remain within the total project budget and on schedule.

It is recommended that the Board receive this report, and the Board forward this report to the City Chief Financial Officer and Treasurer, and to the City Policy and Finance (P&F) Committee.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command will be in attendance to answer any questions the Board may have.

**The Board received the foregoing and agreed to forward a copy to the City of Toronto Chief Financial Officer & Treasurer and the Policy and Finance Committee.**

## CAPITAL BUDGET VARIANCE REPORT AS AT APRIL 30, 2004

Project Name (\$000s)	Available to Spend in 2004	YTD Actual + Commitment as at April 30, 2004	2004 Projected Actual	Year-End Variance (Over)/ Under	Total Project Cost	Total Variance (Over)/ Under
<b>Continuing Projects:</b>						
Long Term Facilities - 51D	567.0	2,719.7	2,803.0	(2,236.0)	18,580.0	0.0
Time Resource Management System	186.0	186.0	186.0	0.0	4,500.0	0.0
Livescan Fingerprinting System	3,714.7	1,055.5	3,514.7	200.0	4,979.4	0.0
Police Integration System	1,650.0	162.0	1,650.0	0.0	5,250.0	0.0
State of Good Repair-Police	1,770.0	706.6	1,770.0	0.0	6,530.0	0.0
New Training Facility	2,870.0	848.3	2,270.0	600.0	48,900.0	0.0
23 Division	2,687.0	598.7	1,500.0	1,187.0	13,424.0	0.0
11 Division	200.0	0.0	200.0	0.0	15,800.0	0.0
TPS Headquarter Renovation	575.0	14.7	575.0	0.0	1,400.0	0.0
Boat Replacement	467.0	68.5	560.0	(93.0)	1,368.0	0.0
43 Division	5,608.0	151.2	5,608.0	0.0	12,700.0	0.0
IT Lifecycle Replacement	139.0	76.0	139.0	0.0	3,900.0	0.0
Traffic Services and Garage	5,100.0	8.1	5,100.0	0.0	5,100.0	0.0
<b>Projects Commencing in 2004:</b>						
Mobile Data Network Conversion	900.0	0.0	900.0	0.0	900.0	0.0
Voice Logging Recording System	400.0	0.0	400.0	0.0	804.0	0.0
Lawfully Authorized Electronic Surveillance	1,850.0	0.0	1,850.0	0.0	1,850.0	0.0
Investigative Voice Radio System	1,200.0	0.0	1,200.0	0.0	3,600.0	0.0
Occupational Health & Safety Furniture Life Cycle Replacement	750.0	0.0	750.0	0.0	3,000.0	0.0
Mobile Command Post Vehicle	750.0	0.0	400.0	350.0	750.0	0.0
Police Command Centre	605.0	0.0	605.0	0.0	725.0	0.0
Facility Fencing	915.0	0.0	915.0	0.0	3,660.0	0.0
<b>TOTAL:</b>	32,903.7	6,595.3	32,895.7	8.0	151,290.4	0.0

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P250. TORONTO POLICE SERVICE: PARKING ENFORCEMENT UNIT:  
2004 CAPITAL BUDGET VARIANCE REPORT AS AT APRIL 30, 2004**

The Board was in receipt of the following report JUNE 29, 2004 from Julian Fantino, Chief of Police:

Subject: 2004 CAPITAL BUDGET VARIANCE REPORT FOR THE TORONTO POLICE SERVICE - PARKING ENFORCEMENT AS AT APRIL 30, 2004

Recommendation:

It is recommended that:

- (1) the Board receive this report; and
- (2) the Board forward this report to the City Chief Financial Officer and Treasurer, and to the City Policy and Finance (P&F) Committee.

Background:

Toronto City Council, at its meeting held on April 19 to April 23, 2004, approved the Toronto Police Service - Parking Enforcement 2004 Capital Budget, at a total expenditure of \$1.67 Million (M) and a total of \$1.72M for 2004 – 2008. The budget approved by the Toronto Police Services Board at its meeting of October 16, 2003 was for \$1.9M for 2004 and a total of \$5.1M for 2004 - 2008 (Board Minute #P272/03 refers). The Board approved the requested capital budget with the exception of the costs associated with Parking Enforcement East and Parking Enforcement West which were deferred pending the receipt of further reports on alternative options for the location of the Parking Enforcement facilities. The revised amount is the same as the City Council approved amount.

Summary of Capital Projects:

The following table provides a summary of the Parking Enforcement project in 2004. Capital projects are managed within a total approved project amount that spans over several years, and any unspent budget allocation from previous years is carried forward to future years. The carry forward amount prior to 2004, not included in the \$1.67M, is \$1.15M and therefore, the available expenditure for 2004 is \$2.82M (\$1.67M + \$1.15M).

Project Name (\$000s)	Available to Spend in 2004	YTD Actual + Commitment as at April 30, 2004	2004 Projected Actual	Year-End Variance (Over)/ Under
Handheld Parking Devices	2,815.1	40.6	1,149.5	1,665.6
<b>TOTAL:</b>	<b>2,815.1</b>	<b>40.6</b>	<b>1,149.5</b>	<b>1,665.6</b>

Based on the above, the Service is projecting a year-end expenditure of \$1.15M against the \$2.82M available spending amount. This provides an under-expenditure of \$1.67M that is projected to be carried forward to 2005.

### Variiances

- The Handheld Parking Devices – Due to the uniqueness of this project, consultation is required with the IT Departments of both the City of Toronto and the Toronto Police Service, this is taking longer than anticipated. Also, in relation to the Bylaw Consolidation aspect of this project, the City of Toronto has been reviewing options for recording the bylaw schedules and there is some delay as a result of that. The Service is projecting a year-end expenditure of \$1.15M against the \$2.82M available spending amount. This provides an under-expenditure of \$1.67M that is projected to be carried forward to 2005.

### Summary

The Toronto Police Service is projecting a 2004 year-end under-expenditure of \$1.67 M. This under-expenditure will continue to be monitored, and if necessary carried forward into 2005, and reflected in the 2005-2009 Capital submission.

It is recommended that the Board receive this report, and the Board forward this report to the City Chief Financial Officer and Treasurer, and to the City Policy and Finance (P&F) Committee.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command will be in attendance to answer any questions the Board may have.

**The Board received the foregoing and agreed to forward a copy to the City of Toronto Chief Financial Officer & Treasurer and the Policy and Finance Committee.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P251. TORONTO POLICE SERVICES BOARD – 2004 OPERATING BUDGET  
VARIANCE REPORT AS AT APRIL 30, 2004 AND MAY 31, 2004**

The Board was in receipt of the following report JUNE 25, 2004 from A. Milliken Heisey, Q.C.,  
Chair:

Subject: 2004 OPERATING BUDGET VARIANCE FOR THE TORONTO POLICE  
SERVICES BOARD AS AT APRIL 30, AND MAY 31, 2004

Recommendation:

It is recommended that:

- (1) the Board receive this report; and
- (2) the Board forward this report to the City Chief Financial Officer and Treasurer,  
and to the City Policy and Finance (P&F) Committee.

Background:

Toronto City Council, at its meeting held on April 19 to April 23, 2004, approved the Toronto Police Services Board Operating Budget at a net amount of \$1.38 Million (M). Subsequently, the Toronto Police Services Board requested a technical adjustment for the movement of a uniform Senior Officer position from the board office to Toronto Police Service (TPS). This resulted in an adjustment of \$0.12M to bring the board's operating budget to \$1.27M.

Operating Budget Variance

As at April 30, and May 31, 2004, the Board is projecting a zero variance.

STAFFING

The staffing budget for the Board office is \$686,900, or 54.3% of the total net budget. Currently, there is a vacant civilian position.

NON-SALARY ACCOUNTS

The non-salary budget for the Board office is \$578,200. The majority of the Board's costs are related to arbitration and grievance hearings. No variance is anticipated in these accounts at this time.

**The Board received the foregoing and agreed to forward a copy to the City of Toronto Chief Financial Officer & Treasurer and the Policy and Finance Committee.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P252. TORONTO POLICE SERVICE – 2004 OPERATING BUDGET  
VARIANCE AS AT MAY 31, 2004**

The Board was in receipt of the following report JUNE 25, 2004 from Julian Fantino, Chief of Police:

Subject: 2004 OPERATING BUDGET VARIANCE REPORT FOR THE TORONTO  
POLICE SERVICE AS AT MAY 31, 2004

Recommendation:

It is recommended that:

- (1) the Board receive this report; and
- (2) the Board forward this report to the City Chief Financial Officer and Treasurer, and to the City Policy and Finance (P&F) Committee.

Background:

Toronto City Council, at its meeting held on April 19 to April 23, 2004, approved the Toronto Police Service (TPS) Operating Budget at a net amount of \$679.2 Million (M), which is the same amount as the revised budget approved by the Toronto Police Services Board at its meeting of April 1, 2004 (Board Minute #P105/04 refers). The Council-approved budget provides sufficient funding to maintain the same level of service as in 2003 as well as funding for costs related to the 2002 to 2004 salary settlements.

2004 Operating Budget Variance

As at May 31, 2004, no overall variance is projected, which is the same as reported last month.

STAFFING

A net shortfall of \$0.3M is projected for staffing costs to year-end, which is the same as reported last month.

Projected uniform separations for 2004 are currently estimated to be on budget at 224 (compared to 150 separations in 2003) as follows:

	<b>2004 Estimate</b>	<b>2004 Actual/ Projection</b>	<b>2003 Actual</b>
Year to date	129	114	88
Full year	224	224	150

Although to date separations are less than anticipated, no impact on expenditures is currently identified, as future separations are expected to offset current variances.

Based on experience to date, salaries are projected to be underspent by \$0.8M. This savings is due in large part to a greater than expected number of staff on long term sick. There are currently 27 members funded from the Central Sick Bank Reserve (CSB), compared to the budget of 14, which is based on historical averages. Members are not eligible to receive funding until they have exhausted all of their own leave accumulations that are payable by the Service. Therefore, the number of members funded from the CSB can fluctuate based on leave accumulations as well as the number of sick members. Eligible staff are paid from the CSB and represent savings in the Service's salary accounts. As per the collective agreement, funding to the CSB is provided by the Service through a contribution of 1/6 of one percent of total payroll to the CSB. The Service's operating budget includes a contribution to the CSB.

Premium pay expenditures are estimated to be \$1.7M over budget, \$1.2M of which is recoverable, resulting in a net variance of \$0.5M over budget. This recovery is due to the combined Service and City initiative to schedule officers to attend night court while off duty as previously reported to the Board at its meeting of June 19, 2003 (Board Minute P165/03 refers). At present, this initiative is expected to net the City \$720,000 in excess of the \$1.2M premium pay cost due to increased Provincial Offences Act revenues. Data is currently being analyzed with respect to this initiative and will be reported on at future board meetings.

The remaining \$0.5M projected expenses are associated with major investigations such as guns and gangs (for example, project Impact where over 60 suspected gang members were arrested), seizure of marijuana grow operations (resulting in increased costs due to dismantling, evidence continuity and security), investigation and prosecution of violent hold-ups, and complex homicide investigations.

The Service continues to strictly enforce the monitoring and control of premium pay. Overtime can only be worked with supervisor approval or in an emergency situation. Attendance at court is minimized as much as possible. Furthermore, the Service has established a working group to review all aspects of criminal court attendance, in an effort to reduce these costs.

Not included in the above projection is a proposal for the Community Action Policing Program (CAP) which was approved by the Board and forwarded to Council. This program would cost \$1.2M if implemented; however, funds are not available within the TPS budget.

The Service was able to avoid several major crimes, including homicides, and solve others through the increased proactive use of part-time detective support staff in several police investigations. Use of part-time detective support staff is strictly controlled and restricted to high-risk projects. However, the associated unfunded costs are currently projected to be \$0.6M. Every effort is being made to reduce this projected over expenditure while balancing the need to provide support to ongoing investigations.

## BENEFITS

Benefits are projected to be underspent by \$0.8M, which is the same as reported last month.

Starting with the first full pay in 2004, OMERS required employers and employees to remit pension costs at 100% of the increased rate, compared to 33% during 2003. The Service budgeted for the increased pension contribution costs for the full year. However, the remittance of 100% was applicable to the first full pay of the year. The Service's first full pay of 2004 was in late January and therefore, the first 12 days of the year were remitted at 33%, resulting in a one-time savings of \$1.1M.

During the 2004 budget process the Service reduced the medical/dental accounts, based on 2003 spending. In order to achieve City funding targets, the Service took an aggressive approach and further reduced these accounts. The Service reported previously that medical/dental spending would be overspent by at least \$0.3M. Service Staff are performing a detailed review of the medical/dental accounts and may have to modify this projection (initial indications are that overspending may be higher than currently estimated).

As part of its recent budget, the provincial government delisted several services previously covered by OHIP and introduced a new health premium. In addition, the Association has advised the Board that it is the position of the Association that, pursuant to Article 11:02 of the uniform agreement (and the equivalent article in civilian agreements), the Board is responsible for payment of the health premium. The Association is planning on filing a grievance since these premiums are going to be deducted from members' pay cheques. We are currently reviewing any impact of the delisting of services, and the potential grievance.

## NON SALARIES

Non salary accounts are projected to be overspent by \$0.5M, which is the same as reported last month.

Based on current information, it is expected that the budget for legal indemnification of officers will be overspent by \$0.5M by year-end. Per the collective agreements, a member charged with but not found guilty of a criminal or statutory offence, because of acts done in the attempted performance in good faith of his/her duties as a police officer, shall be indemnified for the necessary and reasonable legal costs in the defense of such charges. During the 2004 budget process, the budget for legal indemnification of officers was reduced by \$0.4M based on historical average spending patterns. It was reported at the time that this account is unpredictable and subject to large fluctuations based on the types and number of cases experienced each year. Legal bills for a recently settled case are in excess of the liability set aside to cover this case by an amount equal to the entire 2004 budget that was set up for legal indemnification of officers. This projected variance of \$0.5M assumes that no further large cases will impact the Service this year.



The Service has experienced pressures in some non-salary accounts, but is attempting to offset these with reductions in other accounts, or through increased revenues. For example, an increase in gasoline prices was anticipated and had been budgeted for. However, experience to date suggests that year-end expenditures may exceed budget. This and other pressures are offset by savings in other accounts, or increased revenues (for example, paid duty equipment rental revenue is projecting somewhat higher than anticipated). We will continue to monitor all accounts, and if the shortfall in any one account (such as gasoline) becomes significant, the variance and resultant pressure will be identified in future reports.

In addition to the above, the Service is faced with the need to implement recommendations from the Judge Ferguson report. Every attempt is being made to reallocate funding to accommodate anticipated expenditures, but full implementation of the recommendations may require additional funding.

All accounts are monitored closely on a monthly basis, to ensure costs are contained as much as possible, and unforeseen expenditures such as those mentioned above can be accommodated within the total budget.

#### SUMMARY

As at May 31, 2004, no overall variance is projected. The Service will continue to control costs and defer discretionary expenses in an attempt to remain within the approved budget.

The above variances can be summarized as follows:

	<u>Budget</u>	<u>Projection</u>	<u>Savings / (Shortfall)</u>
Staffing	\$528.3	\$528.6	(\$0.3M)
Benefits	\$106.8	\$106.0	\$0.8M
Non Salaries	<u>\$44.1</u>	<u>\$44.6</u>	<u>(0.5M)</u>
Total	<u>\$679.2</u>	<u>\$679.2</u>	<u>\$0.0M</u>

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command will be in attendance to answer any questions the Board may have.

**The Board received the foregoing and agreed to forward a copy to the City of Toronto Chief Financial Officer & Treasurer and the Policy and Finance Committee.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P253. TORONTO POLICE SERVICE - PARKING ENFORCEMENT UNIT:  
2004 OPERATING BUDGET VARIANCE REPORT AS AT MAY 31, 2004**

The Board was in receipt of the following report JUNE 25, 2004 from Julian Fantino, Chief of Police:

Subject: 2004 OPERATING BUDGET VARIANCE REPORT FOR THE TORONTO  
POLICE PARKING ENFORCEMENT UNIT AS AT MAY 31, 2004

Recommendation:

It is recommended that:

- (1) the Board receive this report; and
- (2) the Board forward this report to the City Chief Financial Officer and Treasurer, and to the City Policy and Finance (P&F) Committee.

Background:

Toronto City Council, at its meeting held on April 19 to April 23, 2004, approved the Parking Enforcement Operating Budget at a net amount of \$30.9 Million (M), which is the same amount as the base budget approved by the Toronto Police Services Board at its meeting of November 13, 2003 (Board Minute #P330/03 refers). The Council-approved budget provides sufficient funding to maintain the same level of service as in 2003 as well as funding for costs related to the 2002 to 2004 salary settlements.

No variance was projected as at April 30, 2004. This remains unchanged, and as at May 31, 2004, no variance is projected.

Salaries & Benefits

No variance is projected for salaries and benefits. Parking enforcement officer (PEO) staffing can usually be managed quite closely, as staffing turnover is high, and class size and timing is at the discretion of the Service. Attrition is currently in line with what was projected during the budget process.

Parking Tag Revenue

Budgeted revenue from parking tags is \$70.6M (based on a Toronto Police Parking Enforcement processible rate of 97%). As of May 31, 2004 no variance is projected.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, Acting Deputy Chief David Dicks, Policing Support Command and Acting Superintendent Gary Ellis will be in attendance to answer any questions the Board may have.

**The Board received the foregoing and agreed to forward a copy to the City of Toronto Chief Financial Officer & Treasurer and the Policy and Finance Committee.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P254. ANNUAL REPORT: 2003 SERVICE PERFORMANCE YEAR-END  
REPORT**

The Board was in receipt of the following report MAY 19, 2004 from Julian Fantino, Chief of Police:

Subject: 2003 SERVICE PERFORMANCE YEAR END REPORT

Recommendation:

It is recommended that: the Board receive the report on 2003 Service Performance.

Background:

Each year, as part of the strategic planning process, the Service prepares an annual report on the activities of the previous year. Attached for the information of the Board is the 2003 Service Performance Year End Report. The first section of the report provides the results of the 2003 measurement of the 2002-2004 Service Priorities, using the performance indicators set out in the 2002-2004 Business Plan. The second section of the report provides information on the two additional areas required by Section 31 of the Adequacy Standards Regulation (Ontario Regulation 3/99).

In summarising Service achievement for 2003, a goal was considered to have been achieved if **all** performance objectives/indicators were accomplished. Likewise, a goal was classified as having not been achieved if **none** of the performance objectives for the goal were reached. The Board will note that strict adherence to the definitions of “achieved” and “not achieved” were observed in the summation of Service achievement of the Service Priorities. A goal was considered partially achieved if some performance objectives for the goal were achieved.

The number of objectives/indicators varied with each goal. In the development of the Business Plan, in each instance, the objectives/indicators were identified as realistic, measurable indicators of the proposed goal. The objectives/indicators were approved along with the proposed priorities and goals, and were reported in the 2002-2004 Business Plan (Board Minute P301/2001 refers).

For 2002-2004, 7 priorities were identified with 37 specific goals. Compared with data from the year prior to the beginning of the Business Plan period, during 2003, the majority of goals were achieved (12) or partially achieved (21). While four goals were considered ‘not achieved’ during this second year, it should be emphasized that the priorities and goals are set as part of a longer term, three-year plan. It should also be emphasized that while some goals were considered ‘not achieved’ in terms of the performance objectives/indicators specified in the Business Plan, this

does not mean that no effort was put forth by the Service in these areas. On the contrary, much work was done and is ongoing in efforts to achieve all the Service goals.

This first three-year Business Plan has provided the Service with further experience in the development of performance objectives/indicators. While there were no difficulties with many of the indicators selected for the measurement of goals, for others, the indicators were focused more towards process rather than outcome and different objectives/indicators may have been more appropriate. For example, an objective/indicator that required an increase in number of members trained each year could perhaps have been focused more appropriately on ensuring all members in relevant functions received training by the end of the three-year Plan period. While resource constraints (for example, restrictions in available data or the time/labour intensive requirements of some outcome measures) may continue to require that process indicators are occasionally used, in developing the next Business Plan, the Board should be aware that the choice of indicator can be a critical factor in the achievement or non-achievement of goals.

The four goals considered 'not achieved' during 2003, were:

(i) Priority: Youth Violence and Victimization of Youth

Goal: Increase efforts to educate Service members about issues relating to youth street gangs, including the link between street gangs and organised crime.

The performance objectives/indicators for this goal were the number of training sessions offered and the number of Service members trained. This goal was considered 'not achieved' at this stage as neither of these performance indicators showed an increase between 2001 and 2003, the period covered by the Business Plan to date. It should be noted, however, that the number of training sessions and the number of officers trained in 2003 were a significant increase over the numbers in 2002, even though they failed to exceed 2001 levels. Also, in addition to this formal training, information on street gangs was disseminated to Service members by a variety of other means, including a conference held in the fall by the Ontario Gangs Investigators Association, and a seminar held in the fall by the Gun and Gang Task Force for Service members and Crown Attorneys. Intelligence Support also continued to develop and use the Intranet for the publication of bulletins, officer safety warnings, articles, etc. specifically related to gangs, guns, and violence.

(ii) Priority: Traffic Safety

Goal: Increase focus on pedestrian safety, especially seniors.

The performance objectives/indicators for this goal were a decrease in the number of pedestrian traffic-related injuries, a decrease in the number of senior pedestrian injuries, a decrease in the number of pedestrian traffic-related fatalities, and a decrease in the number of senior pedestrian fatalities. The Service did not achieve this goal, since the numbers of pedestrians overall and senior pedestrians in particular who were injured or killed in traffic collisions increased between 2001 and 2003, the period covered by the Business Plan to date. It should be noted, however, that the number of senior pedestrians injured, the number of pedestrian fatalities, and the number of senior pedestrian fatalities all showed a decrease

between 2002 and 2003. For example, there were 12 senior pedestrian fatalities in 2001, 28 senior pedestrian fatalities in 2002, and 16 senior pedestrian fatalities in 2003.

The Service was involved in a number of efforts during 2003 to address pedestrian safety. Operation Ped Safe in the early spring and late fall resulted in over 7,500 offence notices being issued, and at the launch of the fall Ped Safe campaign, the Ped Squad began as a six-month pilot project. This Squad was implemented in an attempt to decrease pedestrian injuries and deaths through enhanced education and enforcement programs focusing on the behaviour of motorists, cyclists, and pedestrians.

Traffic Services also co-ordinated and supported local efforts by other units. Further, more than 140 presentations were made to seniors, including 60 presentations of the 'Daredevil' program. This program is a one-hour presentation delivered to high risk seniors groups by both police officers and the staff at Sunnybrook and Women's College Health Sciences Centre providing safety tips to senior pedestrians. Since its inception in 1996, there have been no recorded fatalities among the seniors groups that have had the 'Daredevil' presentation.

(iii) Priority: Drug Enforcement and Education

Goal: Broaden Service response to drug enforcement by increasing referrals to diversion programs.

The performance objective/indicator for this goal was the number of people arrested for drugs recommended for the Drug Treatment Court. This goal was considered 'not achieved' since there were fewer people referred to the Drug Treatment Court in 2003. This was felt to be due to a number of factors, including a decrease in the number of offenders that, following assessment by a health worker, met criteria for such referral.

(iv) Priority: Human Resource Development

Goal: Continue efforts to have the membership of the Toronto Police Service reflect the community we serve.

The performance objective/indicator for this goal was an increase in number of women, racial minorities, aboriginals, and people with more than one language hired. The Service did not achieve this goal since the number of new officers hired who were women, racial minority/aboriginal, or spoke more than one language decreased between 2001 and 2003, the period covered by the Business Plan to date. This decrease in number reflects the fewer officers hired overall in 2003 than in 2001. It should be noted, however, that the percentages of new hires who were women, racial minority/aboriginal, or spoke more than one language of the total number hired were greater in 2003 than in 2001. In relation to the previous discussion on the importance of the objective/indicator used, this goal might have been better served with an indicator that measured proportions of the above groups hired. Such a measure would then be unaffected by changes in the actual number hired each year. The

Board has received, under separate cover, full explanation of the Service's Human Resources Strategy (Board Minutes P168/03 and P307/03 refer).

Again, the current results represent an interim report on progress made during the middle year of implementation. The Service continues to develop and refine strategies that will bring us closer to achieving our goal; we will continue to monitor our progress toward that end. Current year to date information provides positive indications that goals not achieved in 2003 may yet be achieved by the end of the Plan period. For example, year-to-date comparisons with 2003 show that traffic fatalities and pedestrian fatalities are down and current levels of hiring of female officers and racial minority officers are already approaching last year's total levels.

At this time, the 2003 Service Performance Year End report is provided for the Board's information, consistent with the requirements for an annual report in Section 31 of the Adequacy Standards Regulation (Ontario Regulation 3/99). It is recommended that the Board receive the 2003 Service Performance Year End report.

Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command will be in attendance to answer any questions that may arise.

**The Board received the foregoing. A copy of the complete report is on file in the Board office.**



**EXECUTIVE SUMMARY:  
2003 SERVICE PERFORMANCE**

Toronto is **Canada's** largest and one of its most **dynamic** municipalities, with an enviable international reputation. Every three years, as part of the business planning cycle and in our efforts to maintain and improve the quality of life and level of safety in the City, the Toronto Police Service determines where our resources and activities will be focused. This is done within the context of responsibilities mandated by the **Police Services** Act and its accompanying regulations, and within the framework provided by the Service's own Mission, Statement and Values. Our Priorities represent those areas within our mandated responsibilities to which we will give special emphasis and are presented in the Service's Business Plan.

Our current Priorities were presented in the 2002-2004 Business Plan. Within each general area of priority, there are specific goals we wish to achieve and many strategies are being used to help us work towards achieving our goals. These goals, along with the Performance Objectives/Indicators that were set to measure our success, are presented under each Priority in the pages that follow. The strategies, which are also shown, were written by operational units and submitted through the Senior Officers appointed by the Chief to co-ordinate Service efforts to addressing the Priorities.

The following tables summarise Service performance in 2003 relative to each of the goals within our Priorities. It should be noted again that the Priorities and goals presented will continue through 2004.

**PRIORITY: YOUTH VIOLENCE AND VICTIMISATION OF YOUTH**

<b>Goal</b>	<b>Achieved *</b>	<b>Partially Achieved</b>	<b>Not Achieved</b>
In partnership with the school boards, work to encourage reporting by students of crimes occurring on school premises, particularly violent crimes.		√	
Increase education and outreach efforts targeting 'at-risk' youth to deter and prevent involvement in violent crimes.		√	
Increase enforcement activities and education initiatives to encourage the reporting of sexual exploitation of children and child abuse.		√	
Increase enforcement activities and prevention initiatives that focus on decreasing the <b>victimisation</b> of youth by robberies (in particular, those involving swarming) and sexual assaults.	√		
Focus on disbanding and disrupting the activities of youth street gangs.		√	
Increase efforts to educate Service members about issues relating to youth street gangs, including the link between street gangs and organised crime.			√

\* 'Achieved' means **all** performance objectives for the goal were achieved, 'Partially Achieved' means some performance objectives for the goal were achieved; 'Not Achieved' means **none** of the performance objectives for the goal were achieved.





**PRIORITY: ORGANISED CRIME**

Goal	Achieved	Partially Achieved	Not Achieved
Continue to educate members of the Service, the community, political representatives, and legislators on the actual impact and consequences of organised crime.		√	
Continue to develop and improve the processes by which the Service responds to all organised crime.	√		
Through increased training, improve the Service's ability to respond to organised crime.	√		
Continue partnerships with other law enforcement agencies (international, national, and regional) to work co-operatively to disrupt and dismantle organised crime groups.		√	
Improve the Service's ability to identify and disrupt international and domestic terrorist groups active within the City.	√		

**PRIORITY: TRAFFIC SAFETY**

Goal	Achieved	Partially Achieved	Not Achieved
increase enforcement of aggressive driving offences.		√	
Increase focus on pedestrian safety, especially seniors.			√
Increase education and safety efforts that target high risk drivers.		√	
Use a crime analysis or intelligence-driven approach to identifying traffic safety issues to be addressed.	√		
Form or strengthen partnerships with community and government agencies to improve traffic safety.	√		

**PRIORITY: DRUG ENFORCEMENT AND EDUCATION**

Goal	Achieved	Partially Achieved	Not Achieved
improve quality of life in neighbourhoods through increased enforcement of street-level drug activities.		√	
Broaden Service response to drug enforcement by increasing referrals to diversion programs.			√
Strengthen partnerships with local, regional, and national law enforcement agencies to deal with high-level drug enforcement.		√	
Increase and strengthen partnerships with local agencies to provide a multi-faceted response to drug issues.	√		
Educate community and Service members on the connection between high level drug activities, organised crime, and problems in neighbourhoods.		√	



2003 SERVICE PERFORMANCE – YEAR END REPORT

**PRIORITY: HUMAN RESOURCE DEVELOPMENT**

Goal	Achieved	Partially Achieved	Not Achieved
increase training dealing with ethics and professional behaviour.		√	
Continue efforts to have the membership of the Toronto Police Service reflect the community we serve.			√
Given Service demographics and expected retirement levels, develop succession planning processes for units requiring <b>specialised</b> skills.		√	

**PRIORITY: SERVICE INFRASTRUCTURE**

Goal	Achieved	Partially Achieved	Not Achieved
In partnership with other City emergency services and agencies, improve and expand disaster management response.	√		
Standardise and improve information systems and production of information within the Service.		√	
Improve information available to allow accurate, reliable measurement of response times to emergency calls.		√	
Improve the Service's response to crimes that involve computers.		√	
Develop and implement a formal special event planning process.	√		

**PRIORITY: COMMUNITY SAFETY AND SATISFACTION**

Goal	Achieved	Partially Achieved	Not Achieved
Increase public awareness of crime prevention through environmental design (CPTED) principles.	√		
Increase the visibility of <b>officers</b> in neighbourhoods through directed and proactive patrols.		√	
Ensure officers continue to display a high level of professionalism during any type of contact with members of the public.	√		
Strengthen the <b>confidence</b> of the public and Service members in the impartiality and the integrity of the Service's administration of <b>Part V</b> of the <i>Police Services Act</i> – the complaints system.		√	
Increase public awareness of the Crime <b>Stoppers program</b> to encourage information to police to help solve violent crimes.		√	
Focus resources on addressing residential break & enters, particularly in relation to apartments.		√	
Increase feeling of safety and security within the community by addressing violent crime.		√	
Ensure victims receive assistance and referrals as needed.	√		

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P255. SEMI-ANNUAL REPORT: IMPLEMENTATION OF BOARD'S  
DIRECTIONS: JANUARY – JUNE 2004**

The Board was in receipt of the following report JUNE 24, 2004 from Julian Fantino, Chief of Police:

Subject: SEMI-ANNUAL REPORT: IMPLEMENTATION OF THE BOARD'S  
INSTRUCTIONS: JANUARY – JUNE 2004

Recommendation: It is recommended that: the Board receive the following report.

Background:

To comply with Recommendation #18, from the Ontario Civilian Commission on Police Services (OCCPS) report dated July 1999, a semi-annual report is required from the Chief of Police to update the Board on the status of the Board's directions that otherwise would not require a report to the Board. (Board Minute #156/00 refers).

A review of the Board's public and confidential minutes for the period of January 1 – June 30, 2004, indicates that there were no directions to the Chief of Police for which the aforementioned recommendation would be applicable.

Superintendent Wayne Cotgreave of the Chief's Office will be in attendance at the Board meeting to respond to any questions, if required.

**The Board received the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P256. QUARTERLY REPORT: ENHANCED EMERGENCY MANAGEMENT:  
APRIL – JUNE 2004**

The Board was in receipt of the following report JUNE 17, 2004 from Julian Fantino, Chief of Police:

Subject: QUARTERLY REPORT: APRIL – JUNE 2004,  
ENHANCED EMERGENCY MANAGEMENT

Recommendation:

It is recommended that: the Board receive the following report for information.

Background:

At its meeting of December 13, 2001 (Board Minute P356/01 refers), I was directed by the Board to report quarterly on the progress of Enhanced Emergency Management. This report is in response to that direction. The Board was last updated at the April 29, 2004 Board meeting (Board Minute P119/04 refers).

Major Exercise:

The Toronto Police Service (TPS) Emergency Management Section has been involved in a number of operational activities during the second quarter of 2004. The Joint City CBRN team consisting of TPS, Toronto Fire Service (TFS) and Emergency Medical Services (EMS) continues to develop its response capability. TPS Emergency Management led extensive planning for a major field level exercise involving the Joint Chemical, Biological, Radiological, and Nuclear (CBRN) team. The purpose of the exercise was to test and practice the operational response capability of the Joint CBRN team and the police led joint Incident Management System (IMS). The exercise took place at the Humber Institute of Technology and Advanced Learning (Humber), North Campus, on April 30. The exercise was a combined effort between TPS, TFS, EMS, Sunnybrook Women's Health and Science Centre (Sunnybrook) and Humber. Over 400 joint-services personnel, including observers from across the province, took part in this event. Dr James Young, the Provincial Commissioner of Emergency Management, attended this one-day exercise. TPS participation included responding to a simulated terrorist threat and detonation of a CBRN device. Designated officers from No. 22 and 23 Divisions, the Emergency Task Force (ETF), Forensic Identification Services (FIS) and the Public Safety Unit (PSU) were able to practice their CBRN skills, and test their Personal Protective Equipment (PPE) and procedures.

Police, Fire and EMS personnel worked together to practice joint CBRN and IMS protocols. This exercise proved to be a success and confirmed the importance of multi-service joint training to maintain a joint CBRN response.

TPS received positive media coverage from this exercise, and TPS and other agencies will produce training videos to facilitate multi-service training.

#### Other Exercises:

In May, the Emergency Management Section participated in the Toronto Nuclear Drill, an exercise legislated under the Provincial Nuclear Emergency Response Plan. This year the exercise was held on May 6 at Seneca College. Toronto is located within the 10 kilometre Pickering nuclear primary zone, and as a result, is mandated to undertake activities that will support the evacuation of persons within that 10 kilometre area. This includes traffic management, safety and security, and support to other Toronto agencies. TPS Emergency Management, along with members of No. 33 Division, participated in the exercise. The exercise focused on the set up and operations of a reception centre for displaced persons, resulting from a nuclear event at the Pickering nuclear power station.

In the fall of 2004, the Community Awareness Environment Response (CAER) groups in Toronto will be scheduling multiple exercises. The TPS Emergency Management Section is involved in the planning and preparation of these exercises. CAER is a private organization that consists of representatives from chemical companies. This organization assists with the development of emergency response protocols for chemical spills and other chemical hazards. The exercises allow TPS personnel, together with other agencies, to learn and practice emergency response to hazardous chemical spills.

#### Training:

Recently, the Toronto Transit Commission (TTC) has corresponded with the TPS requesting support in enhancing communication between the two agencies on issues of terrorist threats and emergency preparedness. TPS has participated and supported the TTC in a number of training and preparedness initiatives. The Emergency Management Section will continue to provide advice and guidance to the TTC in the areas of emergency response and emergency mitigation.

Heavy Urban Search and Rescue (HUSAR) is a Toronto Fire Service (TFS) led initiative with a TPS component. Joint HUSAR training with TFS is ongoing. Police Dog Services (PDS) and Public Safety Unit (PSU) form the TPS portion of the team.

The Joint CBRN team, consisting of TPS, TFS and EMS, continues to develop its response capability. Presently, the focus for the TPS component of the CBRN team is to train selected members to operate with upgraded PPE. The TPS target groups include divisional Community Response (CR) and Public Safety Unit (PSU) officers. The purpose of training CR and PSU officers is to allow them to operate within a contaminated 'warm zone'. An advanced level of CBRN training has been completed for ETF and FIS personnel, which enables them to operate in a 'hot zone' environment. The Federal Government has recently committed to providing

financial support for the Joint CBRN team through the Joint Emergency Preparedness Program (JEPP), however no new additional funding has been received.

**Other Activities:**

During the first week of May, Emergency Management participated with other city partners in National Emergency Preparedness Week. The main Toronto event was held at the North York Civic Centre, and included public information displays from all emergency services.

The Emergency Management Section responded to numerous hazardous materials (HAZMAT) incidents that occurred within the city. These incidents included natural gas leaks and small chemical spills. CBRN 'white powder' calls continue to be received, however, no evidence of CBRN agents have been identified.

The TPS continues to meet with members of the Joint Operations Steering Group, consisting of representatives from the TPS, TFS, EMS, City of Toronto Office of Emergency Management (OEM) and Toronto Public Health. Joint emergency planning continues with respect to CBRN, HUSAR, medical pandemic planning, and general joint emergency preparedness, including specific risk and hazard analysis for Toronto.

The City of Toronto has now adopted the revised version of its Municipal Emergency Plan. With this, Toronto is in compliance with the provincial Emergency Management Act that was enacted last year.

Acting Deputy Chief David Dicks, Policing Support Command, will be in attendance to answer any questions.

**The Board received the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P257. QUARTERLY REPORT: REPORT ON THE STATUS OF A DATABASE  
TO RECORD COMPLETE SEARCHES: APRIL – JUNE 2004**

The Board was in receipt of the following report JUNE 23, 2004 from Julian Fantino, Chief of Police:

Subject: QUARTERLY REPORT: APRIL TO JUNE 2004: REPORT ON COMPLETE SEARCHES

Recommendation:

It is recommended that: the Board receive this report.

Background:

At its meeting of December 14, 2000, the Board directed quarterly status reports (Board Minute P529 refers), as follows:

“THAT the Chief provide the Board with quarterly reports on the implementation of CIPS enhancements into the new Records Management System and advise the Board if the Service is unable to provide electronic gathering of statistics by the third quarter of 2001.”

CIPS (Criminal Information Processing System) is the computerized case preparation system used by the Service to record all arrest information and has been identified as the best medium for collecting data relating to complete searches.

Information Technology Services (ITS) advises that CIPS functionality will be incorporated into the Service's new Records Management System called eCOPS (Enterprise Case and Occurrence Management System). The eCOPS project is currently being reviewed as to any added functions required to meet the needs of the Service. The statistical component will be evaluated and assigned a priority within this review at which point a delivery date will be available.

As an interim measure, pending the deployment of eCOPS, a complete search template has been added to the CIPS application. This interim template allows the Service to record complete search events, however, it does not allow for the automatic query and reporting functions requested by the Board.

It is recommended that the Board receive this quarterly status report. Mr. Frank Chen, Chief Administrative Officer, Corporate Support Command, will be in attendance to answer questions from Board members.

**The Board received the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P258.           REQUEST FOR AN INSPECTION OF THE TORONTO POLICE  
SERVICE**

The Board was in receipt of the following:

- copy of correspondence, dated July 09, 2004, from Julian Fantino, Chief of Police, to the Minister of Community Safety and Correctional Services, requesting the Ministry to conduct an inspection of the Toronto Police Service at the earliest possible opportunity; and
- copy of correspondence, dated July 21, 2004, from the Honourable Monte Kwinter, Minister of Community Safety and Correctional Services, to Chief of Police Julian Fantino advising that inspections have already been scheduled for the fall of 2004 and that a representative of the Ministry will contact Chief Fantino in order to determine the scope and timing of an inspection in the future.

Copies of the foregoing correspondence are appended to this Minute for information.

**The Board received the foregoing.**





## Toronto Police Service

40 College Street, Toronto, Ontario, Canada. M5G 2J3  
(416) 808-2222 FAX (416) 808-8202  
Website: [www.TorontoPolice.on.ca](http://www.TorontoPolice.on.ca)



Julian Fantino  
Chief of Police

File Number:

July 9, 2004

The Honourable Monte **Kwinter**  
Minister of Community Safety and Correctional Services  
25 Grosvenor **Street**,  
1<sup>8</sup><sup>th</sup> floor  
Toronto, ON  
**M7A 1Y6**

Dear Minister:

As you may be aware that in the recent past, there has been considerable public debate and media scrutiny regarding general **governance**, accountability and management of the Toronto Police Service. At the **outset** I wish to assure you that the Toronto Police service is committed to excellence in delivering police services to the citizens **of this** great City in the most ethical and professional manner.

*The Adequacy and **Effectiveness Standards Regulation** (O. Reg. 3199) came into effect in January 2001, and since then, the Toronto Police Service has **established** processes to ensure compliance with the **Regulation and the Ministry's** guidelines listed in the Policing Standards Manual (2000). During August 2001, the Ministry conducted a **two-day** on site review of the Police Services Board's policies and the Chief of Police's **procedures**. This review **was limited** to documentary **examination** of policies and procedures and did not involve any substantive assessment of the Police Service,*

I understand that the Policing Services Division has undertaken an inspection programme to inspect all municipal police services in Ontario based on the **Police Services Act** and its **Regulations**, in particular *the Adequacy **Standards Regulation**.*

Under these **circumstances**, I request that the **Ministry** undertake an inspection of the Toronto Police Service at the **earliest** possible **opportunity**. This inspection is not only in

To Serve **and** Protect - Working with the **Community**

keeping with the Ministry's **mandate** but it also assures the **citizens** of Toronto that the **Toronto** Police Service is responsive to professional **oversight**.

As you **can understand** the urgency of this matter, I would **request** this inspection be **completed** before December 2004. However, if the Policing Services Division is unable **to accommodate this request due to other commitments, I am prepared to discuss an inspection** conducted jointly under the auspices of the Ministry. **The** Toronto Police Service **has** qualified **and** Ministry trained staff to assist with this process and will work under the direction of the Ministry **Inspection** Team.

Thank you **for** your attention to this matter **and** I look forward to hearing **from** you.

Yours truly,



**Julian Fantino, C.O.M., O.Ont.**  
Chief of Police

**Cc:** Chair **Allan Heisey**, Toronto Police Police Services **Board**

**Ministry of Community Safety  
and Correctional Services**

Office of the Minister

25 Grosvenor Street  
1<sup>st</sup> Floor  
Toronto ON M7A 1 Y6  
Tel: 416-325-0408  
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**Ministère de la Sécurité communautaire  
et des Services correctionnels**

Bureau du ministre

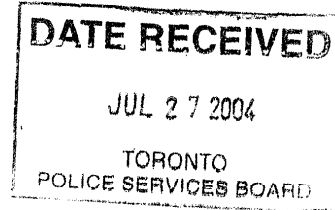
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Tél.: 416-325-0408  
Télééc.: 416-325-6067



CU04-02395

JUL 21 2004

Chief Julian Fantino  
Toronto Police Service  
40 College Street  
Toronto ON M5G 2J3



Dear Chief Fantino:

Thank you for your letter of July 9, 2004, requesting the Ministry of Community Safety and Correctional Services to conduct an inspection of the Toronto Police Service at the earliest opportunity. I am pleased to respond.

As you are aware, the ministry is responsible for community safety throughout the province, including the ongoing development and improvement of policing. The ministry supports the delivery of policing services by providing effective training, professional standards and policies, inspections and reviews, and advisory support to police services.

As part of the Police Services Inspection Program, the ministry conducts inspections and monitors compliance by police services/boards with applicable legislative and regulatory requirements. The inspection program is currently focusing on the following areas: Supervision; Communications and Dispatch Services; Suspect Apprehension Pursuits; Criminal Investigation Management and Procedures; Sexual Assault Investigations; and the Collection, Preservation and Control of Evidence and Property. The scope of our inspections also includes other relevant areas, including policy and procedural systems.

As part of our ongoing commitment to the inspection program, inspections have already been scheduled for the Fall 2004. However, I have asked Mr. Ron Bain, the Assistant Deputy Minister for Policing Services Division, to contact you to discuss how we can best accommodate your request, including both the scope and timing of your inspection.

Again, thank you for writing.

Sincerely,

Monte Kwinter  
Minister

c: Mr. Ron Bain  
Assistant Deputy Minister  
Policing Services Division

2004/07/23  
DS  
2004/07/23

*COPY: CHAIR & MEMBERS TPSSB.  
J. Fantino  
11/04/07/24.*

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P259. SPECIAL CONSTABLES – INCREASED USE OF THE SPECIAL  
CONSTABLES HANDBOOK**

The Board was in receipt of the attached correspondence JUNE 21, 2004 from Mary Smiley, President, Ontario Association of Police Services Boards, regarding the use of the special constables handbook.

**The Board received the foregoing and approved the following Motions:**

- 1. THAT the Board send a copy of this correspondence to each of the organizations who have entered into agreements with the Board to appoint specific employees with special constable status and recommend that they endorse the request of the OAPSB to promote an increased use of the special constables handbook; and**
- 2. THAT the Board request Chief Fantino to ensure that all members of the Toronto Police Service who have been appointed special constables are familiar with the role, responsibilities and authority of special constables as outlined in the handbook.**

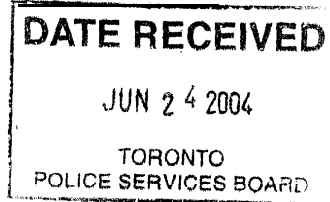


**ONTARIO ASSOCIATION OF  
POLICE SERVICES BOARDS**  
"Commitment to Excellence in Civilian Police Governance"

10 Peel Centre Drive, Brampton, Ontario L6T 4B9  
Tel. 905-458-1488 1-800-831-7727 Fax 905-458-2260

June 21, 2004

Alan Heisey  
Chair  
Toronto Police Services Board  
40 College Street  
7th Floor  
Toronto, ON M5G 2J3



Dear Chairman ,

I am writing to you as President of the Ontario Association of Police Services Boards to follow up on a request from the Ministry regarding the matter of special constables, approved by police services boards. The Ministry has advised the OAPSB that it is concerned that employers who have special constables may be representing them as 'police'.

In 2002 the OAPSB participated in the development of a best practices handbook that was specifically designed to provide guidance and assistance to Boards, Police Services and employers of special constables in their respective roles with regard to special constables. The terminology used to describe special constables as well as their uniforms and equipment was the subject of considerable discussion during the development process of the handbook. Of primary concern was the potential for confusion by the public with regard to the role, responsibilities and most importantly the authority of special constables. For this reason the handbook was very clear, careful and deliberate in its attempt to reinforce that special constables should not be represented as 'police' to the public.

The purpose of my letter to you and your Board is to encourage you to do what you can through your Board's special constable appointment and reappointment processes to promote the use of the handbook as well as use of the best practices outlined in the handbook to help guide employers. As the appointing body for special constables, I know Boards are interested in making every effort to promote and encourage best practices thereby managing any possible exposure to liability or risk that might arise from incidents involving special constables.

In the event that your Board is not aware of the handbook or if you find that some employers of special constables are not aware of it and therefore not yet referring to it as the compendium of special constables best practices in the province, I would encourage you to access this document. The Special Constables: A Practitioner's Handbook is available from the Ministry of Community Safety and Correctional Services - Policing Services Division. I understand it is now available in CD format.

Yours truly,

Mary Smiley  
President

cc. Ron Bain, Assistant Deputy Minister  
Ean Algar, President, OACP  
Chair - Section 3.1 Boards

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P260.           RESPONSE TO BOARD'S RECOMMENDATIONS TO AMEND THE  
*POLICE SERVICES ACT***

The Board was in receipt of the attached correspondence JUNE 12, 2004 from the Honourable Monte Kwinter, Minister of Community Safety and Correctional Services, responding to the Board's earlier recommendations to amend the *Police Services Act*.

**The Board received the foregoing.**

**Ministry of Community Safety  
and Correctional Services**

**Ministère de la Sécurité communautaire  
et des Services correctionnels**



Office of the Minister

Bureau du ministre

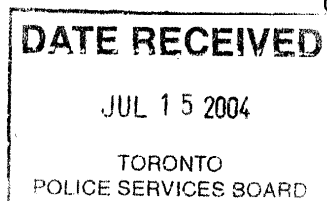
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JUL 12 2004

Mr. A. Milliken Heisey, Q.C.  
Chair  
Toronto Police Services Board  
40 College Street  
Toronto ON M5G 2J3



Dear Mr. Heisey:

Thank you for your correspondence concerning the Toronto Police Services Board's recommendations to review and strengthen the Police Services Act (PSA) and amend the Members of Police Services Boards – Code of Conduct (O. Reg. 421/97).

I understand from ministry staff that your board is engaged in several initiatives concerning the PSA, including the formation of a working group. I also understand that this working group, comprising board staff and members of the police service, is currently reviewing the PSA and its regulations to identify possible amendments. While I encourage your board to continue this important work, I am sure members also appreciate the importance of working within the current system. I encourage you to present the resulting recommendations to the Policing Standards Advisory Committee to work closely with the Ontario Association of Police Services Boards.

Furthermore, I understand that your board recently held a special meeting to receive public deputations on ways to improve the current police complaints system. As you know, my colleague the Honourable Michael Bryant, Attorney General, recently announced the appointment of Mr. Patrick J. LeSage, former Chief Justice of the Superior Court of Ontario, to lead a formal review of the complaints system. This review is aimed at identifying ways to improve the police complaints system. Mr. LeSage will be meeting personally with a variety of police professionals, community groups and concerned citizens, and he is expected to provide his advice to the government later this year. The government is committed to a fair, effective and transparent police complaints system. I encourage you to build upon your successful public meeting by submitting directly to Mr. LeSage your recommendations for improvement to the complaints system.

Again, thank you for writing.

Sincerely,

Monte Kwinter  
Minister

c: The Honourable Michael Bryant  
Attorney General

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P261.           CORRESPONDENCE**

The Board received a summary of the public correspondence received in the Board office between June 04, 2004 and July 13, 2004. A copy of the summary is on file in the Board office.



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P262.            *MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF  
PRIVACY ACT COMPLIANCE***

The Board was in receipt of the following report JULY 26, 2004 from A. Milliken Heisey, Q.C.,  
Chair:

Subject:        *MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF  
PRIVACY ACT COMPLIANCE*

Recommendation:

It is recommended that:

1. The Board communicate its willingness to work with the Information and Privacy Commission to identify strategies to improve its compliance rate,
2. The Chief of Police work in collaboration with the staff of the Information and Privacy Commission to develop a workplan to improve compliance with the objective of achieving a minimum 34% compliance rate in 2004 and a minimum 58% compliance rate in 2005,
3. The Chief of Police provide this workplan to the Board's October 21, 2004 meeting; and,
4. Effective immediately, the Chief of Police adopt the practice of submitting the Year-End Statistical Report for the Information and Privacy Commission to the Board each year and that the Board forward the report to the Commission.

Background:

I have been contacted by Dr. Ann Cavoukian, Commissioner, Ontario Information and Privacy Commission (IPC) with respect to her concerns about the Toronto Police Services Board's poor rate of compliance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). I met with Dr. Cavoukian and her staff last week and, specifically, the Commissioner indicated concern with response rate compliance. The Commission's 2003 Annual Report, which was tabled in the Legislature in June, 2004, highlighted concerns with the Toronto Police Services Board's compliance rate.

Discussion:

The Toronto Police Services Board is designated as the head of the organization for the purposes of MFIPPA. The Board has delegated this responsibility to the Chief of Police, therefore, the Toronto Police Service is responsible for receiving, responding to and processing requests from members of the public for information.

The *Act* requires institutions to respond to requests for information within 30 days, except in limited circumstances where the legislation permits an extension. All institutions must report to the Commission annually on their ability to meet this response rate standard. This information is collated by the IPC and published in its annual report. In the past, this annual statistical report has been compiled internally by the Service's Freedom of Information Unit and forwarded directly to the IPC. The statistical report has not been requested by the Board.

Based on statistical information provided by the IPC, the Toronto Police Service's rate of compliance has declined steadily over the past several years. The following statistics reflect the 3-year performance of the Toronto Police Service in relation to other GTA police services.

Per Cent Requests Processed within 30 Days and  
Number of Requests Processed (in brackets)

	2003	2002	2001
Durham PSB	78.3% (586)	87.1% (527)	81.9% (492)
Halton PSB	100% (617)	100% (552)	100% (542)
Niagara PSB	84.2% (690)	84.6% (664)	93.1% (461)
Hamilton PSB	71% (1245)	67.6% (1132)	75.2% (977)
Toronto PSB	32.5% (2794)	34.3% (2346)	55.1% (2265)

An increase in the number of requests received and processed has been reported in all major police services. However, over the past 5 years the Toronto Police Service's compliance rate has declined steadily.

Toronto Police Service  
30-Day Compliance Rates

2003	2002	2001	2000	1999
32.5%	34.3%	55.1%	61.2%	82.2%

The IPC has also assessed the City of Toronto's compliance with the 30 day response requirement. The City's compliance rate has steadily declined since 1999, as well, with an increasing number of requests. However, its 2003 compliance rate of 58.7% still exceeds that of the Toronto Police Service, as can be seen below.

City of Toronto  
30-Day Compliance Rates

2003	2002	2001	2000	1999
58.7%	67.5%	71.6%	77.2%	70.3%

Conclusion:

There are likely many reasons for the decline in compliance. The Toronto Police Service has the highest volume of requests of any municipal police service, there have been staffing changes in the Toronto Police Service Freedom of Information Unit and resourcing may not have kept pace with workload. Nonetheless, Dr. Cavoukian has indicated to me that she considers the Toronto Police Service's compliance rate to be unacceptable.

In view of the declining rate of response compliance by the Toronto Police Service, the IPC have indicated to me their willingness to work collaboratively with the Service to help identify the causes of delays in processing requests for information and to work together to find a suitable solution. The IPC has worked with other institutions with compliance issues and have been successful in finding solutions to improve compliance rates.

In order to address the IPC Commissioner's concerns I recommend that the Board communicate its willingness to work with the Information and Privacy Commission to identify strategies to improve its compliance rate.

I further recommend that the Chief of Police work in collaboration with the staff of the Information and Privacy Commission to develop a workplan to improve compliance with the objective of achieving a minimum 34% compliance rate in 2004 and a minimum 58% compliance rate in 2005. This rate of 58% is equal to the City of Toronto's 2003 compliance rate and while this is not perfect it would be a great improvement over current compliance results. This workplan should be provided to the Board's October 21, 2004 meeting.

Given that the annual statistical report on compliance has not been provided to the Board in the past, I recommend that the Chief of Police adopt the practice of submitting the Year-End Statistical Report for the Information and Privacy Commission to the Board each year and that the Board forward the report to the Commission.

**The Board deferred consideration of the foregoing report to its September 23, 2004 meeting.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P263. EMPLOYMENT EQUITY REPRESENTATION**

The Board was in receipt of the following report JULY 23, 2004 from A. Milliken Heisey, Q.C.,  
Chair:

Subject: EMPLOYMENT EQUITY REPRESENTATION

Recommendation:

It is recommended that:

1. by August 30, 2004, the Chief work with the Chair to complete an inventory of Toronto Police Service employment equity policies, procedures and programs; and,
2. the Chair review the inventory in light of the motions approved by the Board at its meeting on June 21, 2004 (Board Minute P185/04 refers) and in light of the report on this agenda prepared by the City Solicitor; and
3. the Chair report to the Board's September 23, 2004 meeting as to the appropriate next steps.

Background:

At its meeting on June 21, 2004 the Board approved, among others, the following motions in principle (Board Minute P185/04 refers):

*THAT, in view of the statistical information provided by the Chief regarding visible minorities within the Toronto Police Services, Board staff co-ordinate the preparation of an action plan to improve recruitment, retention and promotion of employees, particularly women, who are members of a racialized group, in order to better meet our obligation under the Police Services Act:*

*THAT the report noted in Motion No. 1 be prepared in consultation with the Association of Black Law Enforcers (ABLE), the Canadian Race Relations Foundation, the Urban Alliance on Race Relations and any other affected stakeholder;*

*THAT a preliminary report on the framework of the action plan noted in Motion No.s 1 and 2 be provided to the Board for its July 29, 2004 meeting;*

Discussion:

Although the Board directed, in principle, that a framework for an action plan be provided on July 29, 2004, it is clear that an action plan cannot be contemplated until the Board has familiarized itself with the employment equity policies, practices and programs that currently shape the manner in which members of racialized groups are recruited, retained and promoted at the Toronto Police Service. For this reason, I recommend that the Board direct that the Chief work with me to complete, no later than August 30, 2004, an inventory of relevant material.

I will undertake to review this material in light of the motions approved by the Board and the advice of the City Solicitor with respect to the Board's obligations under the Police Services Act. I will also consult informally with Board members and report the results of my review to the Board at its September 23, 2004 meeting.

**The Board was also in receipt of the following report JULY 27, 2004 from Albert Cohen, Director, Litigation, City of Toronto – Legal Services Division:**

Subject: EMPLOYMENT EQUITY REPRESENTATION

Recommendation:

It is recommended that the Board receive this report for information.

Background:

At its meeting held on June 21, 2004, the Board received a report from the Chief of Police entitled "Employment Equity Representation" (Minute No. P185 refers).

In receiving the report, the Board approved a number of motions. Through those motions, the Board requested the City Legal Division to:

- (i) provide a report on a police services board's obligations, if any, under the *Police Services Act* to ensure that the employment composition of a police service reflects the demographic composition of the community in which the police service serves; and
- (ii) clarify the Board's role and responsibility with regard to the approval of promotions of Service members recommended by the Chief of Police.

**Discussion:**

- (i) Board Obligation For Demographic Composition

Section 1 of the *Police Services Act* (the "Act") provides that police services shall be provided throughout Ontario in accordance with various stated principles. Principles 4 and 5 in section 1 specify that police services shall be provided in accordance with:

- (a) the need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society; and
- (b) The need to ensure that police forces are representative of the communities they serve.

Given this statement of principles, a board's exercise of its authority to appoint the members of the police force under clause 31(1)(a) of the Act, must be carried out in light of the principles. As well, a board in exercising its authority to establish policies for the effective management of a police service and to set objectives and priorities for a police service in a municipality, would also have to consider the application of these principles. Although no specific, explicit obligation exists to require a police service to reflect the demographic composition of the community in which the service is situated, the provision of police services must take account of the statutory principles, which may involve the consideration of these demographic issues.

In fact, the Board's 2002-2004 Business Plan recognizes these principles. The section of the Plan entitled "Human Resource Development" clearly states the goal of attempting to have the Service membership reflect the community it serves and identifies actions to be taken to achieve the goal and performance indicators to help assess whether the goal has been achieved. As well, I am advised by staff in Human Resources at the Service that the human resources strategy, on which the Board has received periodic reports, attempts to ensure the realization of the Plan's goals and the Act's principles discussed above.

(ii) Board's Role and Responsibility with Regard To Promotions

The City Legal Division has previously provided legal advice to the Board and the Service that it is the Board's responsibility to approve the promotion of members of the Service. This conclusion was reached on the basis that clause 31(1)(a) of the Act gives the Board the responsibility to appoint members of the Police Service, which includes the power to promote. Therefore, it is the Board that promotes the members of the Police Service although, for obvious practical reasons, the Board would be required to evaluate the recommendation for promotion from the Chief of Police based largely on the material that is supplied by the Chief and obtained through the promotional process in place at the Service.

The Board should note that although it is still my opinion that it is the Board's authority to promote members of the Police Service, since the previous opinion was provided, Ontario Regulation 421/97 has been made under the Act. This is the regulation establishing Board members' Code of Conduct. Section 2 of that regulation provides that:

Board members shall not interfere with the police force's operational decisions and responsibilities or with the day-to-day operation of the police force, including the recruitment and promotion of police officers.

There is an argument that as a result of this section of the Regulation, Board members are prohibited from dealing with anything to do with promotion of police officers. While that is one possible view of the effect of the section, in my opinion, the superior view is that this limitation is designed to prevent Board members from becoming involved in the actual promotional process at the Service. For example, a Board member would be prohibited from recommending to the Chief or other members of the Service that a particular officer be promoted or that a particular officer not be considered for promotion. The section does affect the Board's responsibility, as a whole, to appoint and promote the members of the Police Service. This is particularly true when the general power to appoint is contained in the Act itself, while the possible limitation on such power is contained in the Regulation that is subordinate to the Act. Reading both the Act and the Regulation together, in my view the better conclusion is that the Board continues to be responsible for the appointment and promotion of members of the Police Service.

**The Board deferred consideration of the foregoing reports to its September 23, 2004 meeting.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P264. AGREEMENT WITH MICROSOFT CANADA – CHILD EXPLOITATION  
TRACKING SYSTEM**

The Board was in receipt of the following report JULY 28, 2004 from Julian Fantino, Chief of Police:

Subject: AGREEMENTS BETWEEN THE TORONTO POLICE SERVICE AND  
MICROSOFT CANADA CO. IN RESPECT OF THE CHILD EXPLOITATION  
TRACKING SYSTEM (“CETS”)

Recommendation:

It is recommended that:

- (i) the Board approve the Toronto Police Service’s continued involvement in the project with Microsoft Canada Co. (“Microsoft”) in respect of the Child Exploitation Tracking System as described in this report; and
- (ii) the Board authorize the Board Chair to execute all necessary agreements on behalf of the Board, to allow the Toronto Police Service to continue to participate in the project with Microsoft

Background:

Child pornography travels freely through the Internet. Offenders are able to make, sell, distribute and trade child pornography with ease. The Internet has dramatically increased the amount of access sex offenders have to the child population they seek to victimize. It is used by offenders as a tool to contact, groom and “seduce” children into sexual situations. Sexual predators are able to download and trade thousands of images of child abuse in a matter of moments. Real time movies involving the rape of a child are available for live broadcast to child abusers.

Recognizing that Canadian law enforcement agencies do not have the strategies or tools to allow them to share intelligence or collaborate on investigations of internet-based child sexual exploitation, members of the Toronto Police Service, Child Exploitation Section contacted Microsoft to request assistance in its struggle against child pornography. Microsoft acknowledged the magnitude of the situation and the important civic role that the company could play.



## Development of the Child Exploitation Tracking System (“CETS”)

Microsoft and the Toronto Police Service collaborated in developing a computer software program that was effective, intelligence-based and would ultimately support the sharing of information about child exploiters and collaboration between law enforcement agencies. Microsoft and members of the Child Exploitation Section of the Toronto Police Service worked cooperatively and the Child Exploitation Tracking System (“CETS”) was developed. Approximately two million dollars worth of Microsoft’s services will be contributed to the development of CETS by the completion of the project, which is scheduled for January, 2005, which cost will be borne solely by Microsoft.

CETS increases an investigator’s effectiveness by providing the tools to store, search, share and analyze the tremendous volume of information that is generated by child pornography investigations. The software program imports and cross-references information retrieved from seized computers. This tool is essential to the investigative process by capturing and searching information from the point of detection through the investigative phase, arrest and offender management. It matches up investigations that reference the same people or online identities avoiding duplication. Information to be shared includes contact information for investigators, information on suspects and persons of interest, online identities (email addresses, chat rooms, nicknames), and online resources (web sites, news groups).

The current intent is for the Toronto Police Service to share joint ownership of CETS with Microsoft. Joint ownership will give the Service the right to independently exercise all rights of ownership, including the right to use, reproduce, modify and distribute CETS. Distribution of CETS will be restricted to other Canadian police services. Microsoft will have broader rights with respect to CETS and will not have the distribution restrictions placed on the Service, however, Microsoft has confirmed that it will not be seeking any commercial benefit from the development and distribution of CETS.

## Timelines

Significant progress has already been made in the development of CETS. The program has undergone the initial “live” testing (Alpha testing) exclusively with the Child Exploitation Section of the Toronto Police Service. Following some improvements to the program, the second round of testing (Beta testing) is scheduled to begin on August 31, 2004, which will involve four (4) law enforcement agencies, including the Toronto Police Service. The final national roll-out is currently scheduled for January 2005.

## Administration of CETS

In order for the program to reach its full national potential, Microsoft and the Toronto Police Service realized that the Royal Canadian Mounted Police (RCMP) would be in a better position to host and administer the system in Ottawa. It was expected that CETS would operate in much the same way as CPIC currently does, by securely connecting police services, thereby enabling them to exchange information in a clearly defined way.

In March 2004, the RCMP received funding from the Canadian Government for the expansion of the National Child Exploitation Coordination Center (NCECC) to take on this role of CETS administrator. NCECC has given its full support to CETS and part of its funding is specifically designated for full time employees to administer and maintain the system and to purchase the equipment required for its operation. At this time, NCECC is committed to ensuring that every police agency that has committed the resources to a Child Exploitation Unit will have access to the system. This commitment may be expanded in the future to allow access to any Canadian police service, upon request.

Since its early development, CETS has also attracted significant international attention and interest. CETS is being developed with the intention of scaling the project to an international level. Microsoft has indicated that it does not intend to collect any license fee or royalty payments from the international distribution of CETS.

### Agreements

As this project proceeds, both Microsoft and the Toronto Police Service believe that it is essential to formally structure the arrangements for the ongoing administration of CETS and the parties' respective rights to the program. Solicitors from the City of Toronto and counsel for the Toronto Police Service recently became involved in this project and are now working with Microsoft to ensure that the needs of the Board and the Service are adequately addressed in documents being developed to formalize the arrangements in respect of the project. It is expected that the necessary agreements will be finalized and ready for execution before the end of August 2004.

### Conclusion:

Microsoft and the Toronto Police Service have worked together to explore various technical and intelligence-based solutions that address the online sexual exploitation of children. Microsoft committed a team of dedicated resources (funding and personnel) to work with the Service's Child Exploitation Section in order to facilitate the development of this impressive software program. Microsoft has already invested a significant portion of the 2.5 million dollars in software and services that it has dedicated to this project.

CETS was not developed as a commercial enterprise and will be provided to all law enforcement on a no license fee basis. Microsoft has committed to remain involved in this initiative until the initial implementation in Canada is complete.

The collaborative project between the Toronto Police Service and Microsoft has proven beneficial to the community as a whole. As such, it is recommended that the Board approve the Toronto Police Service's continued involvement in the project with Microsoft in respect of the Child Exploitation Tracking System. In order to facilitate that continued involvement, it is further recommended that the Board authorize the Board Chair to execute all necessary agreements on behalf of the Board, to allow the Toronto Police Service to continue to participate in the project, provided those agreements have been reviewed and approved as to form by the City Solicitor.

Acting Deputy Chief David Dicks, Policing Support Command will be in attendance to answer any questions the Board may have.

**The Board approved the foregoing.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P265. EMPLOYMENT AGREEMENT – CHIEF OF POLICE**

Chair Heisey advised the Board that City of Toronto Councillors Doug Holyday and Giorgio Mammoliti had provided written requests (dated July 26, 2004 and July 28, 2004 respectively) to the Board office seeking an opportunity to make a deputation at the meeting today on issues related to the Board's recent decision not to extend the employment agreement of Chief of Police Julian Fantino. Copies of the written requests are on file in the Board office.

Councillors Holyday, Mammoliti and Frances Nunziata were in attendance and, during an address to the Board, requested an opportunity to make a deputation on this matter.

Chair Heisey further advised that, in addition to the fact that this was not a matter before the Board for consideration at its meeting today, this was a personal matter that would not normally be discussed publicly. He inquired whether the Board would agree to adjust the meeting agenda to allow the deputations.

**The Board considered the following Motion:**

**THAT the Board agree to hear deputations by Councillors Holyday, Mammoliti and Nunziata.**

**Following a vote by the Board, the foregoing Motion failed.**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P266. REPORTING PROCESS – REQUESTS FOR LEGAL  
INDEMNIFICATION**

The Board noted that, at its meeting today, it considered a number of reports pertaining to requests by members of the Service for the payment of legal fees under the legal indemnification clause of the Collective Agreement.

The Board further noted that it has been the practise of the Service to provide two separate reports for each individual legal indemnification request. A public report is submitted identifying the member's name, the name of the member's legal counsel, the total amount of legal fees incurred, and a recommendation from the Chief of Police on whether the request for payment of the legal fees should be approved or denied. A confidential report is also submitted which contains detailed information about the circumstances for which legal counsel was required by the member and, where necessary, specific details on the results of the internal review that would have been conducted.

The Board requested that City of Toronto – Legal Services review the manner in which the Service is currently reporting legal indemnification requests to the Board and, if the current practise is not consistent with the requirements for reporting issues as set out in the *Police Services Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, recommend an appropriate reporting process whereby legal indemnification requests will be considered in a manner that ensures the Board is meeting its legislative reporting obligations.

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE  
TORONTO POLICE SERVICES BOARD HELD ON JULY 29, 2004**

**#P267.        ADJOURNMENT**

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A. Milliken Heisey, Q.C.  
Chair