



## STAFF REPORT ACTION REQUIRED

### Compliance with User Fee Policy – Toronto Police Services Proposed Vulnerable Sector Screening (VSS) Fees and New User Fees

<b>Date:</b>	August 15, 2014
<b>To:</b>	Executive Committee
<b>From:</b>	Deputy City Manager and Chief Financial Officer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2014\Internal Services\Fp\Ec14021Fp

#### **SUMMARY**

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This supplementary staff report is in response to the report from the Toronto Police Services Board on the Toronto Police Service's Reference Check Program. The Board's report is responding to the motion approved by City Council during its meeting on June 10, 11, 12 and 13 requesting that the Board work with the Deputy City Manager and Chief Financial Officer to ensure that the Vulnerable Sector Screening fees are in compliance with the City's User Fee Policy and report back to the August 20, 2014 meeting of the Executive Committee.

This report provides information on the Vulnerable Sector Screening (VSS) process and existing backlog, as well as a review of the proposed VSS fees against the City's User Fee policy and full cost recovery principle.

In general, the Vulnerable Sector Screening fees are in compliance with the City's User Fee Policy, except for the public consultation requirement.

#### **RECOMMENDATIONS**

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**The Deputy City Manager and Chief Financial Officer recommends that:**

1. City Council requests the Toronto Police Services Board to ensure that a public consultation is undertaken before any new user fees are recommended to City Council for approval.

2. City Council requests the Toronto Police Services Board to explore opportunities to automate the Vulnerable Sector Screening (VSS) process where possible and, if any changes to the process are introduced, review the full cost recovery model for the VSS Program accordingly.

## Financial Impact

The City Divisions and Agencies request approximately 4,500 vulnerable sector screenings each year for potential and current employees and volunteers.

Program	VSS per year	Full Year Impact (\$)
Parks, Forestry & Recreation	1,600	104,000
Children's Services	200	15,700
Long-Term Care Homes & Services	753	20,415
Shelter, Support & Housing Administration	37	3,790
<b>Subtotal: City Programs</b>	<b>2,590</b>	<b>143,905</b>
Toronto Public Library	800	4,000
Association of Community Centres	480	13,920
TTC	625	40,625
<b>Subtotal: City Agencies</b>	<b>1,905</b>	<b>58,545</b>
<b>TOTAL</b>	<b>4,495</b>	<b>202,450</b>

If the above-noted City Programs and Agencies are charged for the vulnerable sector screenings, the estimated annual cost in 2015 will be \$143,905 for City Programs and \$58,545 for City Agencies, for a total annual cost of \$202,450. This required funding will be submitted for consideration as part of the 2015 Operating Budget process by each respective Program or Agency.

Delaying the implementation of charging City Programs and Agencies fees for vulnerable sector screening until January 1, 2015 will allow City Divisions and Agencies time to develop administrative processes to track requests and reconcile charges.

## DECISION HISTORY

On June 9, 2011 the Toronto Police Service Board (TPSB) passed a motion approving a user fee of \$56.50 (\$50 plus GST) for Vulnerable Sector Police Reference Checks that are conducted for current and potential employees of the City of Toronto ([Item # P157, Toronto Police Service Board Minutes, June 9, 2011](#)).

On September 26, 2011 Council approved the User Fee Policy and enacted by-law 1174-2011 pursuant to section 263 of the *City of Toronto Act*, 2006, providing that a user fee of a Local Board for a service or activity offered to the general public, with the exception of the Toronto Transit Commission (the "TTC"), not come into force until it is approved by City Council, a condition of such approval being compliance with the User Fee Policy (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX10.2>).

Following a request from the City Manager, the Toronto Police Services Board on September 14, 2011 reconsidered and repealed its motion adopted in the June 9, 2011 meeting and directed the Toronto Police Service (TPS) to enter into a memorandum of understanding with the City that provided for no costs for conducting a Police Reference Check for the City and City Agencies. The board also committed to bring through the budget process any proposed measure that would impose, increase or decrease the fees with sufficient notice to the City of such measures ([Item # P242, Toronto Police Service Board Minutes, September 14, 2011](#)).

On November 27, 2012, City Council authorized City staff to enter into a renewal of the memorandum of understanding between the Toronto Police Service Board and the City to provide Vulnerable Sector Police Reference Checks in a timely manner and at no cost for employment purposes and volunteer placements (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX24.24>).

During the March 13, 2014 Toronto Police Services Board, item # P43 was received "Clearing Backlog of Background Check Requests – Police Reference Check Program". Following a discussion of the backlog of police reference checks a motion was introduced that, "effective June 1, 2014, the City of Toronto be charged for all applications that are completed for the City and that those funds be used to bolster the timeliness of conducting the background checks" ([Item # P43, Toronto Police Services Board Minutes, March 13, 2014](#)).

On April 10, 2014, the Toronto Police Services Board adopted the report entitled, "Options to Improve the Efficiency of Responding to Requests for Vulnerable Sector Screening Checks to Within a Two Week Timeline for Completion." The report recommended an increase in the fee effective September 1, 2014 for Vulnerable Sector Police Reference Checks from \$50 to \$65 per request for the purpose of employment and from \$15 to \$20 per request for volunteers. The report also recommended a new fee for an expedited service for VSPRC's within 72 hours effective September 1, 2014 at \$110 per request for the purpose of employment and \$65 per request for volunteers ([Item #P66, Toronto Police Services Board Minutes, April 10, 2014](#)).

On June 10, 11, 12 and 13, City Council referred the report recommending the fee increases for the Vulnerable Sector Screening checks back to the Toronto Police Service Board with a request that the Board work with the Deputy City Manager and Chief Financial Officer to ensure that the Board's user fees are in compliance with the City's User Fee Policy and report back to the August 20, 2014 meeting of the Executive Committee (<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilMinutesReport&meetingId=7853>).

## ISSUE BACKGROUND

The Police Reference Check Program (PRCP) has been established pursuant to the Service's mandated responsibilities under the *Police Services Act* (PSA).

According to the *Police Services Act*, police services shall be provided throughout Ontario in accordance with the following principles:

- The need to ensure the safety and security of all persons and property in Ontario.
- The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms and the Human Rights Code*.
- The need for co-operation between the providers of police services and the communities they serve.

### Police Reference Check Program – History

Commencing in the 1980's, the Ministry of Community and Social Services (MCSS) required that all of its directly operated programs have criminal reference check policies and procedures that would be part of the selection process for persons applying for positions involving direct service to vulnerable persons. The MCSS strongly recommended criminal reference checks as a preferred practice for the programs involving vulnerable persons that it directly or indirectly funded.

“Vulnerable persons” as defined in the *Criminal Records Act*, means persons who, because of their age, a disability or other circumstances, whether temporary or permanent,

- (a) are in a position of dependence on others; or
- (b) are otherwise at a greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.

At that time, the Service provided a small scale criminal reference check program, free of charge.

Effective March 1, 1995, a new mandatory MCSS screening policy was introduced. The policy directed all agencies, funded or licenced by the MCSS, providing direct service to vulnerable persons, be required to have criminal reference check policies and procedures in place. At a minimum, criminal reference checks had to be applied to all successful candidates for full and part time positions and agency volunteers having direct contact with vulnerable persons.

The Service began development of a more robust program to assist the agencies with their screening policy requirements. The PRCP has evolved over several years to incorporate a variety of components into its processes, including federal, provincial and municipal legislations.

## **Police Reference Check Program – Present**

The two main services provided by the PRCP are the facilitation and issuance of Clearance Letters or Criminal Record Check, as well as conducting vulnerable sector checks through the Vulnerable Sector Screening Program.

### Clearance Letter

The Criminal Record Check or Clearance Letter is a formal document issued by the Service indicating that the subject applicant has no criminal convictions in the National Repository of Criminal Records maintained by the Royal Canadian Mounted Police (RCMP). This process is based on conducting a name and date of birth query of Canadian Police Information Centre (CPIC) and then assessing the results.

### Vulnerable Sector Screening

The Vulnerable Sector Screening provides a comprehensive vulnerable sector check that is performed for people who will be working or volunteering with vulnerable sector. The VSS combines a Criminal Record Check with a search for pardoned sexual offences and a search of the applicant's local police service databases. The VSS must be completed by the local police service of the municipality where the applicant lives and cannot be created by third party service providers.

## **The Vulnerable Sector Screening Process**

### Terms & Conditions for VSS Applications

VSS applicants do not apply directly to the Police Reference Check Program (PRCP). The applications must be completed through agencies/organizations that are partnered with the Toronto Police Service through a Memorandum of Understanding (MOU). This mandatory partnership has been a requirement since the Service's introduction of a formal criminal reference check policy that came into effect in 1995. The PRCP is currently partnered with approximately 3,150 agencies/organizations.

The purpose of the MOU is to mitigate Service liability by detailing the obligations and responsibilities of both parties concerning the provision and dissemination of an applicant's information that has been ascertained through the VSS process. In addition, a waiver must be signed by the applicant, giving their authorization that a VSS be conducted.

The MOU articulates that the role of the PRCP is to provide the applicant with a summary of the information available through police databases. The agency/organization that the applicant wants to work or volunteer with is responsible for determining their suitability for the position that they have applied for. The result of any police reference check is just one component of the information available to, and evaluated by the agency/organization.

The PRCP proactively communicates the requirements and conditions of the VSS process via its website, telephone inquiries, and attendance at agencies/organizations in an effort to minimize unnecessary requests.

The PRCP will only provide a VSS upon the following conditions:

1. The agency/organization with whom the applicant wants to work or volunteer with is partnered with the PRCP by way of MOU and certifies that it:
  - a) is only requesting the VSS for the purpose of assisting it to determine the applicant's suitability for employment and/or volunteer duties because the applicant will have direct contact with children or vulnerable persons;
  - b) will only ask for a VSS to be processed after it has completed an initial review of their suitability and has tentatively selected them for employment or a volunteer opportunity;
  - c) understands the provisions in and implications of the *Human Rights Code* as it applies to hiring and/or approval of applicants and/or volunteers;
  - d) has a clear view of what constitutes a *bona fide* occupational or volunteer requirement to seek and receive information relating to the *Mental Health Act* and is obligated to verify the requirement;
  - e) will indicate on the "Consent to Disclosure" form and advise the applicant if it determines that information relating to apprehensions under the *Mental Health Act* is required;
  - f) will advise each applicant that the existence of information provided by the Service does not necessarily mean a disqualification from the position;
  - g) understands the Service is in no way making a recommendation on the suitability of the applicant for the position being sought;
2. The applicant lives in the City of Toronto;
3. The applicant has signed a written authorization ("Consent to Disclosure" form) permitting a VSS be conducted about themselves; and
4. The applicant has paid the necessary fee to the PRCP.
  - VSS applications must be mailed to the PRCP, or placed in the "drop box" at the front desk of Toronto Police Service headquarters, with a certified cheque or money order attached. Applications that are incomplete or contain insufficient payments will be returned to the agency/organization or applicant for correction.

### Processing VSS Requests

There are 13 steps involved in the Vulnerable Sector Screening that are outlined in greater detail in Appendix A.

When a VSS request is submitted, the VSS desk completes a CPIC check on the name and date of birth to determine if there is a possible match to a pardoned sex offence or criminal record. If there is a "hit" for a pardoned sex offence, the applicant is advised by

letter that he/she must attend to have fingerprints and photo taken. The \$25 RCMP administrative fee is waived for volunteers who have a letter from the agency indicating that the applicant is a bona fide volunteer. This application is then temporarily removed from the processing queue until results are returned from the RCMCP. If there is a 'hit' on a criminal record, a letter is sent to the applicant along with the original VSS application form advising that they need to have their fingerprints and photograph taken at a RCMP accredited company and once received back, to return both documents to the Service. The fees for this service are not regulated by the RCMP. The application is temporarily removed from the processing queue until results are returned. The results of a fingerprint search could take up to 120 days.

If there is "no hit" for a pardoned sex offence or criminal record, or any other issues requiring further investigation, the application is processed in a shorter period of time.

### **Police Reference Check Program - Backlog**

As of January 1, 2014 there was no backlog for Clearance Letter requests.

As of January 1, 2014, the carry-over of 2013 Vulnerable Sector Screening applications totalled 16,947. As a result of the temporary redeployment of staff from other areas to VSS processing and utilization of overtime (premium pay), the 2013 carry-over of VSS applications has been reduced to 4,345 VSS applications (approximately a four week turnaround) as of April 10, 2014. At the time of report writing, there is no VSS backlog and the turnaround time for applications with no "hits" is less than 2 weeks. However, this has been achieved at the expense of other areas and processes with the TPS Records Management Services unit from where the staff have been redeployed.

However, since this interim solution is not sustainable and affects customer service in other areas of the Records Management Service, the Toronto Police Services Board has approved additional staffing of 13 permanent positions to address the volume of requests for Police Reference Checks with the goal of providing a report with no findings within two weeks. According to the Service, the proposed fee of \$20 for volunteers (an increase of \$5) and \$65 for purpose of employment (an increase of \$15) will be sufficient to fully fund the costs associated with the additional 13 civilian positions, including related overhead costs (e.g., computers, supplies, office space, etc). The Board also approved introducing an expedited service fee of \$110 for VSS applications for the purpose of employment and \$65 for VSS applications for volunteers.

### **Future Challenges**

The Service has been informed of two large scale events and some future legislative requirements that will have an impact on the Police Reference Check Program's resources:

- 2015 – World Junior Hockey Championship (Toronto) – potential for 300 – 400 volunteers requiring VSS checks;

- 2015 – Pan Am/ParaPan Am Games (Toronto) – potential for a large of volunteers requiring VSS checks;
- Future legislation requiring all Ontario driving instructors to undergo VSS checks – potential for 3,500 driving instructors requiring VSS checks; and
- Future RCMP policy requiring that all VSS applications be supported by fingerprints and submitted in-person (may potentially have significant impact on PRCP business processes).

## COMMENTS

According to the User Fee Policy approved by Council on September 9, 2011, user fees of Local Boards, with the exception of those of the TTC, charged for services or activities being provided to the general public require approval by City Council. Local Boards must comply with the User Fee Policy and report any deviation or non-compliance, along with reasons for such deviation or non-compliance, to City Council.

The User Fee Policy also indicates that Local Boards with user fees should determine cost recovery rates based on direct and indirect costs plus capital charges for all fees, and set fees based on full cost recovery, except where City Council has approved a subsidy or exemption, where services are based on competition in the open market, or where fee amounts are legislated by the Province. The amount of a fee must not exceed the full cost of providing the applicable service.

All Toronto Police Service's user fees are included in *Chapter 441* of the City of Toronto. *Municipal Code* and *Chapter 441* are frequently updated to reflect the adoption of new fees or changes to existing user fees approved by City Council.

### Waiving User Fees

According to the User Fee Policy, user fees may be waived, in whole or in part, for groups of individuals or businesses based on criteria such as ability to pay, City policy or other criteria. The practice of waiving VSS fees currently exists for City Divisions and Agencies as a result of historical practice under the Memorandum of Understanding between the Toronto Police Service and the City that provided for no costs for conducting a Police Reference Check.

However, during its meeting on March 13, 2014 the Board approved a motion that City Divisions and Agencies begin paying VSS fees consistent with other users of the reference check service effective June 1, 2014.

The City Divisions and Agencies request approximately 4,500 Vulnerable Sector Screenings each year for potential and current employees and volunteers.

Implementing a fee for the provision of these checks will require the creation of a new tracking mechanism and process to be used by all City Divisions and Agencies to identify the source and accounting codes for each of the 4,500 individual requests processed



annually by Toronto Police Services for City Divisions and Agencies. Additional time is required for City Division and Agencies to develop the administrative process required to support cost recovery charge backs for VSS's.

### Proposed Changes to the VSS Program

The Toronto Police Services Board has approved additional staffing of 13 permanent positions to address the volume of requests for Police Reference Checks with the goal of providing a two weeks turnaround. As a result, the total staffing complement for the Vulnerable Sector Screening Program will increase from 13.5 FTEs to 26.5 FTEs as outlined in the table below.

<b>Vulnerable Sector Screening Program</b>		
<b>Full Time Equivalents (FTEs)</b>	<b>Current Staffing Levels</b>	<b>Proposed Staffing Levels</b>
Supervisor	0.5	1.5
Senior Clerk	11.0	19
Junior Clerk	1.0	3
Field Clerk	1.0	3
<b>Total FTEs</b>	<b>13.5</b>	<b>26.5</b>

The addition of 13 civilian positions will increase the Vulnerable Sector Screening Program costs by \$1.120 million from \$1.216 million to \$2.337 million. The required additional costs, including related overhead costs (e.g., computers, supplies, office space, etc) are expected to be fully offset by the proposed fee increases of \$5 for volunteers (from \$15 to 20) and \$15 for the purpose of employment (from \$50 to \$65).

<b>Vulnerable Sector Screening Program</b>	<b>Current (13.5 FTEs)</b>	<b>Proposed (26.5 FTEs)</b>
Labour Costs	716,451	1,351,229
Fringe Benefits (28%)	200,606	378,344
Administrative & Operating Overhead (30%)	275,117	518,872
Premium Pay	24,600	88,700
<b>Total Costs</b>	<b>1,216,774</b>	<b>2,337,145</b>
Volunteer Screening Fee	\$15	\$20
Employment Screening Fee	\$50	\$65

### Full Cost Recovery

The formula used by the Service to charge fees for police checks is determined by analysing the staffing resources required to deliver the program. Further, the cost of fringe benefits (28%) and a standard administrative and operation overhead rate (30%) are added to labour costs to take into account indirect costs related to providing the services.

The 28% fringe benefit rate is based on the overall Service-wide average cost of benefits as a percentage of regular salaries. Non salary benefits, such as vacation, are incorporated

into direct cost of the program automatically, as they are included as part of the cost of regular salaries.

The 30% overhead rate accounts for administrative and management salaries (i.e., support staff for computing systems and supervisory staff) and non-salary costs (i.e., maintenance of facilities, costs of supplies, office equipment and other related equipment, contributions to reserves, etc). The overhead rate is based on a detailed analysis of the Service's budget at the cost centre and cost element levels and is a ratio of overhead (non-salary) costs to the salaries and benefits costs. For cost recovery purpose, overhead costs take into account salaries and benefits of all support functions and non-salary costs for the entire Service. This method of calculating the overhead rate is slightly different from the method used by the City as the City determines the overhead rate on a program basis instead of a City-wide basis.

- The gross Service-wide average overhead rate is 34.5%; however, the Service currently assesses a 30% overhead rate as not all costs increase at the same rate when programs are expanded.
- The biggest overhead cost drivers are the direct and indirect infrastructure costs (IT salaries & benefits, IT maintenance and contracted services, caretaking and maintenance, etc.) which account for 3% and 16.4% of the total overhead rate respectively. Human resources, training and education accounted for 4.5% of the total overhead rate, while administration which includes contributions to reserves, financial management and internal audit accounted for 5.4% of the total overhead rate.
- There is a significant IT component to the VSS program due to a requirement that a number of systems and databases be checked to determine whether there is a hit. The databases that are checked include the Canadian Police Information Centre (CPIC) and such local police databases as Versadex, eCOPS, CIPS, NYC.

The Service regularly reviews the fringe benefit and overhead rates and adjusts them as required.

Overall, the costing model used by the Toronto Police Service is very similar to the Full Costing Model developed by the Accounting Services Division and recommended by the User Fee Policy. The proposed costs of the Vulnerable Sector Screening Program organized according to the City's full costing model are represented in the table below:

<b>1 Direct Costs</b>	<b>VSS</b>
Salaries & Benefits	1,818,273
Materials & Supplies	9,300
Equipment	
Utilities	
Purchase of Service	
Other Services	16,800
<b>Total Direct Cost</b>	<b>1,844,373</b>
<b>2 Indirect Costs</b>	
Operating Indirect Cost	
Program Support Cost	
Corporate - Managed Items	476,572
<b>Total Indirect Cost</b>	<b>476,572</b>
<b>3 Capital Costs</b>	
Depreciation	16,200
Interest on Debt	
<b>Total Capital Cost</b>	<b>16,200</b>
<b>Grand Total/ Full Cost</b>	<b>2,337,145</b>

When determining fee levels, the Service attempts to set a price that will match costs with expected revenues as closely as possible. However, fluctuations in volume and temporary reassignment of staff to support other programs can lead to slight differences from year to year between program costs and revenues.

Based on the 2014 projected number of vulnerable sector screening requests of 67,897 (46,431 for employment purposes and 21,466 for volunteers), the VSS Program will generate \$2.324 million in revenue which will almost fully offset the required costs.

In accordance with the City's User Fee Policy, a comprehensive review of user fees should be conducted at least once every four years in order to re-evaluate the assumptions upon which the user fees are based and evaluate the degree to which the User Fee Policy is complied with. Considering that the VSS intake process is very labour intensive and various IT systems and databases are used during the process, it is recommended that Toronto Police Service explore opportunities to automate the VSS process where possible in order to reduce the required staffing resources and, if any changes to the process are introduced, review the full cost recovery model for the VSS Program accordingly.

### **Subsidy**

Currently, the Toronto Police Reference Check program sets the fee for VSS for the purpose of employment at \$50 and the fee for VSS for volunteers at \$15 so that the

revenue for the entire program equals the cost for the entire program, thus achieving full cost recovery on a program basis. The proposed fee increases would result in the VSS fee of \$65 for the purpose of employment and \$20 for volunteers and will offset the costs required for additional staff, thus also achieving cost recovery on a program basis. However, in both instances the individuals applying for VSS for the purpose of employment subsidize the individuals applying for VSS for the purpose of volunteering and the fee for the purpose of employment exceeds the full cost of providing the service.

When the Reference Check Program was first approved in the mid 90s, the Toronto Police Services Board approved a lower fee for volunteers. The rationale given was that volunteers contribute greatly to the community at large and therefore deserve police assistance and support where possible. In addition, it was deemed that the imposition of additional costs may have a significant negative impact on volunteer organizations. Since the introduction of fees for Police Reference Checks, the Board has continued to support a lower fee for volunteers and this is also a generally accepted practice for most Police Services in Ontario.

### **User Fee Public Notice and Consultation**

With the exception of City Council approved automatic annual inflation adjustments, the User Fee Policy requires that the public should be provided with five working days' notice of the introduction of new fees or changes to existing fees prior to the meeting of the committee at which the recommended changes are considered. The Toronto Police Service is in compliance with this requirement and submitted a written notice on May 7, 2014 notifying the City Clerk of the proposed changes to the existing user fees and introduction of the new user fees relating to the Police Reference Check Program.

The User Fee Policy also requires that a public consultation, in addition to the opportunity to make presentations to the Committee considering a user fee, is undertaken when new user fees are being recommended to City Council for approval outside of the annual budget process. This particular User Fee Policy direction has not been fulfilled and City staff will work with the Toronto Police Service to ensure that User Fee Policy requirements are met in the future.

## **CONCLUSION**

A review of the proposed Vulnerable Sector Screening fees against the City's User Fee policy indicated that the fees are in compliance, except for the public consultation requirement.

If recommendations in this report are adopted, the Toronto Police Services Board will ensure that a public consultation is undertaken before new user fees are being recommended to City Council for approval outside the budget process. In addition, the Toronto Police Services Board will be requested to explore opportunities to automate the VSS process where possible in order to reduce the required staffing resources and, if any changes to the process are introduced, review the full cost recovery model for the VSS Program accordingly.

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## **SIGNATURE**

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## **ATTACHMENTS**

Appendix A – Vulnerable Sector Screening Work Flow Process