



STAFF REPORT ACTION REQUIRED

Toronto Police Service: Service Governance Pertaining to the Access to Police Services for Undocumented Torontonians

Date:	March 12, 2015
To:	Community Development and Recreation Committee, City of Toronto
From:	Alok Mukherjee, Chair, Toronto Police Services Board

SUMMARY

The purpose of this report is to provide the Community Development and Recreation Committee with a response to the City Council request for a report regarding “Access to City Services for Undocumented Torontonians” (reference: June 10, 11, 12 and 13, 2014 meeting, item 14-CD29.11).

RECOMMENDATION

It is recommended that the Community Development and Recreation Committee receive this report for information.

FINANCIAL IMPACT

There are no financial implications with regard to the receipt of this report.

ISSUE BACKGROUND

At its meeting held on February 19, 2015 the Toronto Police Services Board (Board) was in receipt of a report dated January 19, 2015 from Chief of Police William Blair with regard to access to police services for undocumented Torontonians.

COMMENTS

The Board received the Chief’s report and agreed to forward a copy to the City of Toronto – Community Development and Recreation Committee for information.

CONCLUSION

A copy of Board Minute No. P30/14, in the form attached as Appendix “A”, regarding this matter is provided for information.

CONTACT

Chief of Police William Blair
Toronto Police Service
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SIGNATURE

Alok Mukherjee
Chair

ATTACHMENT

Appendix A – Board Minute No. P30/15

a: Service Governance Pertaining to the Access to Police Services for Undocumented Torontonians.doc

APPENDIX “A”

THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE TORONTO POLICE SERVICES BOARD HELD ON FEBRUARY 19, 2015

#P30. SERVICE GOVERNANCE PERTAINING TO THE ACCESS TO POLICE SERVICES FOR UNDOCUMENTED TORONTONIAN

The Board was in receipt of the following report January 19, 2015 from William Blair, Chief of Police:

Subject: SERVICE GOVERNANCE PERTAINING TO THE ACCESS TO POLICE SERVICES FOR UNDOCUMENTED TORONTONIANS

Recommendation:

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

Financial Implications:

There are no financial implications relating to the recommendation contained within this report.

Background:

During its meetings on June 10, 11, 12 and 13, 2014, City Council adopted the item entitled “Access to City Services for Undocumented Torontonians” (item 14-CD29.11), containing 13 recommendations, one of which was directed to the Toronto Police Services Board (Board).

Recommendation 12 states:

City Council request the Toronto Police Services Board to work with the Chief of Police, Toronto Police Service and to review existing policies to ensure the Toronto Police Service complies with Toronto’s Access without Fear directives, as recommended by the Solidarity City Network.

The Access without Fear directives were contained in a report entitled “Towards A Sanctuary City” completed by the Solidarity City Network (SCN) organization. Recommendation 2 of this report states:

Following Chicago and San Francisco, we recommend that Toronto insist that Toronto police uphold the principles of Access Without Fear in line with the approved policy. This means urging the City-funded agency not to share information with Federal immigration authorities. In other cities, this has involved targeted cultural sensitivity training for police officers, regular community consultation mechanisms in the first years of the

policy to monitor its implementation, and firm accountability measures in place in cases where the policy is being violated.

On November 14, 2014, the Board Chair requested that the Chief prepare a report providing an assessment of the extent to which the Service policies, procedures, practices, and programs conform to the Access without Fear directives referenced in the SCN report.

The purpose of this report is to inform the Board of current Service Governance and the Service's compliance with Toronto's Access without Fear directives, as recommended by the SCN.

Discussion:

Toronto Police Services Board Policy

At its February 15, 2006, meeting, the Board received a report from Chair Alok Mukherjee which recommended, in part, that: *"The Board adopt a policy directing that the Chief of Police develop procedures to ensure that victims and witnesses of crime shall not be asked their immigration status, unless there are bona fide reasons to do so."* (Min. No. P34/06 refers).

At its meeting on May 18, 2006, the Board approved a new Board policy entitled "Victims and Witnesses Without Legal Status" (Min. No. 140/06 refers).

Toronto Police Service Governance

On February 16, 2007, the Service adopted the following new Service Governance:

- A new Standards of Conduct, Section 1.35 "Persons Without Status", which directs;

Victims and witnesses of a crime shall not be asked their immigration status, unless there are bona fide reasons to do so.

- A new Service Definition, Bona Fide Reasons, which is defined as;
 - *a victim or witness who may possibly require or may seek admission into the Provincial Witness Protection Program*
 - *a Crown Attorney is requesting information for disclosure purposes*
 - *the information is necessary to prove essential elements of an offence*
 - *investigations where the circumstances make it clear that it is essential to public or officer safety and security to ascertain the immigration status of a victim or witness.*

On February 20, 2007, Service Procedure 05-04 entitled "Domestic Violence" was revised to include the definition for Bona Fide Reasons, and the Persons Without Status directive was included in the "Calls for Service" section of the procedure.

The two additions to Service Governance and the amendment to Procedure 05-04 were reported to the Board at its meeting on March 22, 2007 (Min. No. P112/07 refers).

Domestic Violence Training – Toronto Police College

Training on domestic violence is included on the Domestic Violence Investigators, Supervisors, Coach Officers, and Death Investigators courses delivered by the Toronto Police College. During these training opportunities, the importance of complying with and understanding the contents of the Domestic Violence (Procedure 05-04) is emphasized. The specific issue of immigration/legal status is included in several places within the Procedure. It states: “Victims and witnesses of crime shall not be asked their immigration status, unless there are bona fide reasons to do so”. The Bona Fide reasons are explained in the definitions section. It also includes “immigration status of the parties” as a factor that shall not be an influence in the decision to lay charges. These procedural points are brought to the attention of officers during the training.

Immigration/legal status is also addressed when discussing the many dynamics that impact a domestic situation. It is included when talking about vulnerabilities of complainants. It is also included when discussing mechanisms of control and influence.

Toronto’s Access Without Fear Directives

Recommendation 2 of the “Towards A Sanctuary City” report prepared by the SCN states, in part,

Following Chicago and San Francisco, we recommend that Toronto insist that Toronto police uphold the principles of Access Without Fear in line with the approved policy. This means urging the City-funded agency not to share information with Federal immigration authorities...

Subsection 4(1) of the *Immigration and Refugee Protection Act* states that: “...the Minister of Citizenship and Immigration is responsible for the administration of this Act.”

However, subsection 4(2)(b) states that: “The Minister of Public Safety and Emergency Preparedness is responsible for the administration of this Act as it relates to...the enforcement of this Act, including arrest, detention and removal”.

The agency responsible for this enforcement is the Canada Border Services Agency.

The Service believes that police services should be available to all members of the community. Any person, whether resident of or visitor to Toronto, may request police response or police services without being asked about their immigration status. Further, as directed by Standards of Conduct, Section 1.35 “Persons Without Status”; unless there are bona fide reasons to do so, police officers will not ask victims and witnesses of a crime for their immigration status during a call for service.

If, during an investigation, a police officer discovers that an individual is under investigation for, is charged with, or is convicted or found guilty of an offence under the *Criminal Code*, the *Controlled Drugs and Substances Act* or any other federal or provincial Act; subsection 5(1) of Ontario Regulation 265/98 entitled *Disclosure of Personal Information*, made under the *Police Services Act* compels the officer to disclose any personal information about the individual to:

- (a) *any police force in Canada;*
- (b) *any correctional or parole authority in Canada; or*
- (c) *any person or agency engaged in the protection of the public, the administration of justice or the enforcement of or compliance with any federal or provincial Act, regulation or government program,*

...if the circumstances are such that disclosure is required for the protection of the public, the administration of justice or the enforcement of or compliance with any federal or provincial Act, regulation or government program. (subsection 5(2), Ontario Regulation 265/98)

As such, police officers would be in contravention of Ontario Regulation 265/98 if they do not share information about these individuals with the Canada Border Services Agency.

Conclusion:

In summary, the Service has reviewed and assessed its current governance, practices, and programs and has determined that they conform to the “Access without Fear” directives contained in the SCN report.

The Service believes that police services should be available to all members of the community and that any person, whether resident of or visitor to Toronto, may request police response or police services without being asked about their immigration status. Additionally, police officers are trained not to ask victims and witnesses of crime for their immigration status, unless there are bona fide reasons to do so.

Police officers do not share personal information about persons without status unless compelled to do so by law [ss. 5(1), Ontario Regulation 265/98 entitled *Disclosure of Personal Information*, made under the *Police Services Act*].

Deputy Chief Mike Federico, Operational Support Command, will be in attendance to answer any questions that the Board may have regarding this report.

The Board approved the following Motion:

THAT the Board receive the foregoing report and forward a copy to the City’s Community Development and Recreation Committee for information.

Moved by: S. Carroll