

March 16, 2005

To: Audit Committee, City of Toronto

From: Councillor Pam McConnell, Chair

Subject: Follow-Up Review on the October 1999 Report Entitled: “Review of the Investigation of Sexual Assaults – Toronto Police Service”

Purpose:

The purpose of this report is to provide the Audit Committee with a copy of the Auditor General’s Follow-Up Review on the October 1999 Report Entitled: “Review of the Investigation of Sexual Assaults – Toronto Police Service”.

Financial Implications and Impact Statement :

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

Recommendation:

It is recommended that the Audit Committee receive this report.

Background :

At its meeting held on February 10, 2005, the Toronto Police Services Board was in receipt of a number of reports, written submissions and deputations pertaining to the Auditor General’s follow-up review of the October 1999 report on the review of investigations conducted by the Toronto Police Service with regard to sexual assaults.

Conclusions:

A copy of Board Minute No. P34/05, in the form attached as Appendix "A" to this report, regarding this matter is provided for information.

Contact:

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Toronto Police Service
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Councillor Pam McConnell
Chair

List of Attachments:

Appendix A - Board Minute No. P34/05

a: sexauditfollowup.doc

APPENDIX "A"

THIS IS AN EXTRACT OF THE MINUTES OF THE PUBLIC MEETING OF THE TORONTO POLICE SERVICES BOARD HELD ON FEBRUARY 10, 2005

#P34. FOLLOW-UP REVIEW ON THE OCTOBER 1999 REPORT ENTITLED: "REVIEW OF THE INVESTIGATION OF SEXUAL ASSAULTS – TORONTO POLICE SERVICE"

The Board was in receipt of the following report DECEMBER 30, 2004 from Jeffrey Griffiths, Auditor General, City of Toronto:

Subject: FOLLOW-UP REVIEW ON THE OCTOBER 1999 REPORT ENTITLED:
"REVIEW OF THE INVESTIGATION OF SEXUAL ASSAULTS – TORONTO
POLICE SERVICE

Purpose:

The purpose of this report is to address the recommendation in the October 1999 report, entitled "Review of the Investigation of Sexual Assaults – Toronto Police Service" that "the City Auditor be requested to conduct a follow-up audit in regard to the status of the recommendations contained in this report, the timing of such audit to be consistent with the time frame outlined in the report of the Chief of Police. The City Auditor be required to report directly to the Toronto Police Services Board in regard to the results of the follow-up audit."

Financial Implications and Impact Statement :

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) the recommendations in the attached report be considered by the Chief of Police; and
- (2) the Chief of Police be requested to respond to the Toronto Police Services Board in regard to the implementation of the recommendations prior to June 30, 2005.

Background:

Background information, in relation to the preparation of this follow-up report, is contained in detail in the report.

Comments:

In 1999, the City Auditor (now the Auditor General) issued a report entitled “Review of the Investigation of Sexual Assaults – Toronto Police Service”. This report is available in its entirety on the following Internet Web site: www.toronto.ca/audit/1999/102599.pdf

The report of the City Auditor issued in 1999 contained 57 recommendations. One of the more important recommendations was that:

“The City Auditor be requested to conduct a follow-up audit in regard to the status of the recommendations contained in this report, the timing of such audit to be consistent with the time frame outlined in the report of the Chief of Police. The City Auditor be required to report directly to the Toronto Police Services Board in regard to the results of the follow-up audit.”

The objectives of this follow-up review were essentially to determine the extent of the implementation of the recommendations made in the 1999 report and to recommend further action, if any, to be undertaken by the Toronto Police Service to achieve the substance of the 1999 recommendations.

Conclusions:

It is our opinion that not all recommendations contained in the 1999 report have been implemented by the Toronto Police Service. On the other hand, it is unfair to suggest that no meaningful improvements have been made to the manner in which the Toronto Police Service conducts sexual assault investigations. This follow-up report is our independent evaluation of the extent of implementation of the 1999 audit recommendations. It contains the results of a significant amount of independent analysis, review and evaluation by audit staff who were involved in the preparation of the original 1999 report and its conclusions are based on substantiated findings.

Contact:

Jeff Griffiths, Auditor General
Tel: 416-392-8461, Fax: 416-392-3754
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Attachment:

The Auditor General’s Follow-up Review on the October 1999 Report Entitled:
“Review of the Investigation of Sexual Assaults – Toronto Police Service”

The Board was also in receipt of the following:

- **report, dated November 01, 2004, from Julian Fantino, Chief of Police, regarding the semi-annual update on the implementation of the recommendations from the October 1999 *Review of the Investigation of Sexual Assaults --Toronto Police Service*;**
- **report, dated January 19, 2005, from Julian Fantino, Chief of Police, containing a response to the Auditor General's October 2004 follow-up review of the October 1999 report on the investigation of sexual assaults by the Toronto Police Service; and**
- **correspondence, dated February 02, 2005, from Jeffery Griffiths, Auditor General, indicating that he will attend the March 08, 2005 to respond to any questions that the Board may have regarding his report.**

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

Mr. Alan Ash, Director, Auditor General's Office, was in attendance and provided the Board with a presentation on the results of the Auditor General's Follow-Up Review on the October 1999 Report Entitled *Review of the Investigation of Sexual Assaults - Toronto Police Service*.

Staff Superintendent Bill Blair, Detective Support, was also in attendance and provided a response on behalf of the Service.

Mr. Ash and Staff Supt. Blair also responded to questions by the Board about the foregoing reports.

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

- **Ms. Beverly Bain, Former Consultant - Sexual Assault Audit**
- **Ms. Cindy Cowan, Nellie's, and Ms. Carol Latchford, Ernestine's ***
- **Ms. Wendy Komiotis, Metropolitan Action Committee on Violence Against Women & Children (METRAC) and Ms. Vivien Green, Woman Abuse Council of Toronto ***
- **Ms. Jane Doe
(Chair McConnell requested that Ms. Doe not be filmed, taped, photographed or identified by name pursuant to court order.)**
- **Ms. Kara Gillies, Maggie's ***
- **Ms. Roxanne Bolton and Ms. Kim McCulloch, Assaulted Women's and Children's Counsellor/Advocate Program, George Brown College ***

- Ms. Peggy-Gail DeHal-Ramson, Parkdale Community Legal Services *
- Ms. Amanda Dale, YWCA-Toronto
- Mr. Don Kearney, Egale Canada – deputation delivered by Ms. Susan Gapka *
- Ms. Caroline Sand, Barbra Schlifer Commemorative Clinic
- Ms. Lorna Moran, Ontario Coalition of Rape Crisis Centres
- Ms. Huong Pham, Assaulted Women’s Helpline, and Ms. Beth Jordan, Adobe Consulting Services *
- Ms. Katie Scott, African Canadian Legal Clinic
- Ms. Noa Ashkenazi, Women’s Counselling Referral and Education Centre
- Ms. Susan Clancy, Sistering *

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

The Board was also in receipt of a written submission, dated February 09, 2005, from John Sewell, Toronto Police Accountability Coalition. A copy of the written submission is on file in the Board office.

Following a discussion, the Board approved the following Motions:

1. THAT the Board adopt the 25 recommendations made by the Auditor-General in his report, “The Auditor General’s Follow-up Review on the October 1999 Report Entitled: *“Review of the Investigation of Sexual Assaults - Toronto Police Service.”*;
2. THAT the Board request the Chief to report to the Board in regard to the implementation of the recommendations prior to June 30, 2005 and that this response include an “action plan, along with a specific timetable for the implementation of the recommendations” as described in Recommendation 24 of the Auditor-General’s report;
3. THAT the Board establish a Steering Committee as recommended by the City of Toronto’s Audit Committee and adopted by City Council at its meeting of February 1, 2 and 3, 2000;
4. THAT the Board ensure that the Steering Committee includes a professional facilitator from St. Stephen’s Community House;

The following Motion was submitted to the Board:

5. THAT the Board ensure that the Steering Committee also includes at least three senior officers from the Service and an equal number of women from the anti-violence community with knowledge of the audit process and that the Chair and the Vice Chair, in consultation with the Chief, be authorized to select the community members of the Steering Committee;

The Board was asked to consider the following amendment to Motion No. 5:

THAT the reference "... that the Chair and the Vice-Chair, in consultation with the Chief, be authorized to select ..." be replaced by "... that the whole Board, in consultation with the Chief, select ..."

Following a request for a recorded vote, the Board voted as follows to the amendment:

For:

Councillor Case Ootes
The Honourable Hugh Locke, Q.C.

Against:

Chair Pam McConnell
Vice-Chair Alok Mukherjee
Mr. Hamlin Grange
Councillor John Filion

The amendment failed. Motion No. 5, as submitted, passed.

The Board also approved the following Motions:

6. THAT the Board ensure that the Steering Committee has appropriate resources allocated to it and that the community members of the Steering Committee be adequately compensated for their work through a fee-for-service contract that provides for any associated childcare and travel costs as well as compensation not to exceed \$100 per person per meeting and, in total, not to exceed \$5000 per year;
7. THAT the Board request the Auditor-General to conduct another follow-up audit on the investigation of sexual assaults by the Service within the next three years;
8. THAT the Auditor-General be asked to attend the March 8, 2005 Board meeting to answer any questions or concerns that have been raised by the deputants, members of the Service or members of the Board;
9. THAT the deputations and the written submissions be received;
10. THAT the report, dated December 30, 2004, and the correspondence, dated February 02, 2005, from Mr. Griffiths be received; and
11. THAT the reports dated November 01, 2004 and January 19, 2005 from Chief Fantino be received.

A list of the 25 recommendations contained in the Auditor General's Follow-Up Report on the October 1999 Report Entitled: "Review of the Investigation of Sexual Assaults – Toronto Police Service", which were approved by the Board, as noted in Motion No. 1, is appended to this Minute for information.

2004 RECOMMENDATIONS
of the Auditor General's Follow-Up Report on the October 1999 Report Entitled:
"Review of the Investigation of Sexual Assaults – Toronto Police Service"

- 1. The Chief of Police re-evaluate the staffing complement in the Sexual Assault Section of the Sex Crimes Unit in order to ensure that the level of staff is commensurate with the increase in workload experienced since 1999.**

- 2. The Chief of Police, in consultation with the City's Internet Web site administrators, consider enhancing the Internet Web Page of the Sex Crimes Unit to include information relevant to those women who have been sexually assaulted. In particular, the Internet Web site include information on:**
 - the roles and responsibilities of the first-response police officer;**
 - the roles and responsibilities of the divisional investigating police officer;**
 - the roles and responsibilities of the Sexual Assault Section within the Sex Crimes Unit;**
 - the availability of police officers of either gender in the interview and investigative process of a sexual assault;**
 - the availability of translation services to women reporting a sexual assault;**
 - the roles of the Sexual Assault Care Centres, the Victim Services Program and various other community support services; and**
 - the ensuing legal process pertaining to a sexual assault.**

- 3. The Chief of Police direct all first-response officers immediately that policies and procedures must be complied with. Consideration be given to the re-issue of Criminal Investigations Procedure 05-05, Sexual Assault. In particular, first-response officers attending incidents of sexual assault be immediately directed that:**

- (a) officers collect only basic information concerning the assault from the woman who has been sexually assaulted;
 - (b) only those officers with specific training in sexual assault investigations be allowed to conduct detailed interviews with the woman who has been sexually assaulted; and
 - (c) interpretation services be provided by the Multilingual Community Interpreter Services or other police officers.

- 4. The Chief of Police give consideration to amending Criminal Investigations Procedure 05-05, Sexual Assault, to clarify the circumstances during which officers in charge are required to attend the scene of a sexual assault. The amendment outline specific criteria and circumstances in terms of when attendance at the scene of a sexual assault is required. Reasons for non-attendance at any scene where a sexual assault has occurred should be documented in writing and approved by appropriate supervisory staff.

- 5. The Chief of Police ensure that whenever possible, only those officers with specific training in sexual assault investigations be allowed to conduct sexual assault investigations.

- 6. The Chief of Police give consideration to the implementation of a supervisory/monitoring/reporting process to identify areas of non-compliance with published procedures. Instances of non-compliance be appropriately dealt with including the imposition of necessary discipline.

- 7. The Chief of Police direct that all occurrence reports relating to sexual assault be reviewed by supervisory staff at the divisional level upon receipt of the initial reports and at the completion of the investigation. Evidence of the review be appropriately documented in the information system. Incomplete or inappropriate occurrence reports be discussed with the officer concerned and amendments made where necessary. Continued deficiencies in the preparation of occurrence reports be dealt with through existing training, and if necessary, discipline. Occurrence reports prepared by members of the Sex Crimes Unit be reviewed and approved by supervisory staff within the Unit.**
- 8. The Chief of Police direct that all sexual assault occurrence reports be promptly forwarded to the Sex Crimes Unit for review and analysis. The Sex Crimes Unit be responsible for the tracking and detailed analysis of all sexual assault occurrences on a City-wide basis.**
- 9. The Chief of Police ensure that under no circumstances should a first-response officer make a determination as to whether a sexual assault is unfounded. The determination of this matter be reviewed and approved by a sexual assault investigator. The Chief of Police further ensure that all occurrence reports contain an appropriate level of information to substantiate conclusions and that all such reports be approved in writing by supervisory officers.**
- 10. The Chief of Police ensure that divisional investigators are in compliance with Criminal Investigations Procedure 05-05, Sexual Assault, as it applies to maintaining consistent and regular contact with women who have been sexually assaulted. Such contact be maintained throughout the investigative and legal process and be appropriately documented.**

- 11. The Chief of Police revise the internal administrative accounting structure in order to accurately account for all costs relating to sexual assault investigative training activities throughout the Toronto Police Service. The accounting for these costs include training expenditures incurred at the C. O. Bick College, expenditures incurred by the Sex Crimes Unit, including all costs relating to attendance at outside training courses and conferences, and any expenditures incurred relating to decentralised training at the divisions.**

- 12. The Chief of Police be requested to conduct an evaluation in regard to the projected long-term requirements for police officers trained in the investigation of sexual assaults. This analysis take into account potential retirees over the next number of years, as well as the anticipated demands for officers trained in sexual assault investigations. This analysis be used to determine the adequacy or otherwise of the current training schedule and, if appropriate, the training program be amended. Information relating to those officers who have attended the Sexual Assault and Child Abuse Course be brought up to date and maintained.**

- 13. The Chief of Police give consideration to amending the mandate of the Sex Crimes Unit to include a general consultative and oversight role relating to the training of sexual assault investigators. The Training and Education Unit, in designing and delivering training activities relating to sexual assault investigations, consult with the Sex Crimes Unit to ensure that the course content is relevant and practical.**

- 14. The Chief of Police, in consultation with the Sex Crimes Unit and the Training and Education Unit, review the current structure, content, and delivery of the Sexual Assault and Child Abuse Course with a view to:**

 - increasing its relevance to course participants; and**
 - involving community organizations who work with women who have been sexually assaulted in the design and delivery of the training program.**

- 15. The Chief of Police direct that a written evaluation of the Annual Sex Crimes Investigations Conference be conducted in order to determine its effectiveness, relevance and costs. Such an evaluation be reviewed by senior staff.**

- 16. The Chief of Police evaluate the training resources available for the Sexual Assault and Child Abuse Course. Such an evaluation determine whether the effectiveness of the course could be improved by integrating into the training process the expertise of those community organizations who support women who have been sexually assaulted. Compensation to these organizations be provided on the same basis as the compensation provided to other third parties. Participants from the community be required to possess an appropriate level of presentation skills.**

- 17. The Chief of Police ensure that detailed staffing objectives and projections are developed prior to the expenditure of significant funds on external courses. Such a process take into account individual staffing requirements and longer term officer commitment to the Unit. Staff attending such courses be required to remain with their Unit for a reasonable period of time in order to take advantage of the training received.**

- 18. The Chief of Police and the City's Commissioner of Corporate Services develop an ongoing protocol and working relationship in order to ensure that:**
 - technology developments do not occur in isolation from each other;**
 - technology developments are in accordance with the long term objectives of both organizations; and**
 - the purchase of any computer hardware and software is co-ordinated.**

- 19. The Chief of Police take immediate action to ensure that the Violent Crime Linkage Analysis System (ViCLAS) reports relating to sexual assaults are completed and submitted within the prescribed time limits of the Toronto Police Service (21 days) and the Police Services Act (30 days). The responsibility for ensuring compliance be clearly defined. Monthly status reports on the extent of compliance by division be prepared and submitted to the Chief of Police and appropriate action be taken for instances of non-compliance.**
- 20. The Chief of Police ensure that the project pertaining to the electronic transmission of ViCLAS data to the Provincial ViCLAS Centre in Orillia is expedited as quickly as possible. Staff responsible for this project be required to provide specific deadlines for completion. Periodic updates regarding the progress of the project be reported to the Chief of Police.**
- 21. The Chief of Police, in consultation with the Sex Crimes Unit, ensure that all police officers have a clear understanding of the revised consent procedures relating to the sexual assault medical evidence kit. In particular, women who have been sexually assaulted be provided with detailed explanations pertaining to the consent form by divisional Sexual Assault Investigators only.**
- 22. The Chief of Police ensure that when the required consent forms have been signed by the woman who has been sexually assaulted, medical evidence kits be collected from the Sexual Assault Care Centres immediately.**

- 23. The Chief of Police review the protocol in connection with the issue of general community warnings contained in the Procedure entitled “Community Safety Notification”. Such a review take into account that such warnings by their nature are meant for the community at large and as a result, and in accordance with the mandate of the Sex Crimes Unit, the development and subsequent issue of such warnings be the responsibility of the Sex Crimes Unit. Such a process would ensure that warnings are consistent, appropriate, accurate and complete and should be issued in consultation with Divisional Unit Commanders.**
- 24. The Chief of Police assign responsibility for the review and evaluation of the recommendations in this report to a Senior Officer within the Sex Crimes Unit. The Chief of Police report to the Toronto Police Services Board on an action plan, along with a specific timetable for the implementation of the recommendations.**
- 25. The Toronto Police Services Board be required to forward this follow-up report to the City’s Audit Committee for information purposes.**

The Auditor General's Follow-up Review

on the October 1999 Report Entitled:

**“Review of the Investigation of Sexual Assaults
Toronto Police Service”**

October, 2004

 **Auditor General**

**The Auditor General's Follow-up Review
on the October 1999 Report Entitled:
"Review of the Investigation of Sexual Assaults
Toronto Police Service"**

Jeffrey Griffiths, C.A., C.F.E.
Auditor General
City of Toronto

October, 2004

9th Floor, Metro Hall, Toronto ON M5V 3C6

EXECUTIVE SUMMARY

In 1999, the City Auditor (now the Auditor General) issued a report entitled “Review of the Investigation of Sexual Assaults – Toronto Police Service”. This report is available in its entirety on the following Internet Web site: www.toronto.ca/audit/1999/102599.pdf

The 1999 report was prepared in response to the successful civil case of Jane Doe versus the Commissioners of Police of the then Municipality of Metropolitan Toronto. Madame Justice Jean MacFarland of the Ontario Court of Justice in her judgement of the case, was critical of the way the Toronto Police Service investigated sexual assaults and indicated that “although the police say they took the crime of sexual assault seriously in 1985-1986, I must conclude, on the evidence before me, that they did not.”

The Toronto Police Service in their defence to the civil case attempted to show that steps had been taken to improve the identified problems within the Toronto Police Service. However, Madame Justice MacFarland rejected this evidence and found the status quo had remained. She said that the police had engaged in “impression management” to attempt to improve their public image, but this effort did not represent an “indication of any genuine commitment for change”.

City Council, in response to the judgement of Madame Justice MacFarland, passed a number of motions, including one that directed that no action be taken to appeal Madame Justice MacFarland’s decision. City Council also passed a motion requiring that the City Auditor conduct an audit regarding the handling of sexual assault cases by the Toronto Police Service.

The report of the City Auditor issued in 1999 contained 57 recommendations. One of the more important recommendations was that:

“The City Auditor be requested to conduct a follow-up audit in regard to the status of the recommendations contained in this report, the timing of such audit to be consistent with the time frame outlined in the report of the Chief of Police. The City

Auditor be required to report directly to the Toronto Police Services Board in regard to the results of the follow-up audit.”

The objectives of this follow-up review were essentially to determine the extent of the implementation of the recommendations made in the 1999 report and to recommend further action, if any, to be undertaken by the Toronto Police Service to achieve the substance of the 1999 recommendations.

This follow-up report contains detailed commentary on the status of the implementation of each one of the 1999 recommendations. In addition, Appendix 1 to this report contains the original 1999 recommendations, the final responses by the Chief of Police to the recommendations and our summarized observations in relation to the implementation of the recommendations.

This follow-up report is our independent evaluation of the extent of implementation of the 1999 audit recommendations. It represents a significant amount of independent analysis, review and evaluation by audit staff who were involved in the preparation of the original 1999 report and its conclusions are based on substantiated findings. It is clear that not all recommendations contained in the 1999 report have been implemented by the Toronto Police Service. On the other hand, it is unfair to suggest that no meaningful improvements have been made to the manner in which the Toronto Police Service conducts sexual assault investigations.

This Executive Summary does not provide commentary on each one of the recommendations but rather focuses on those issues of importance and substance.

During the preparation of the 1999 report, the general consensus of all parties familiar with the way the Toronto Police Service conducted its investigations of sexual assault was the need to change the mandate of the then Sexual Assault Squad. It was generally recognized that the 1999 mandate was too restrictive and narrow and as a result, the Sexual Assault Squad was involved in a minimal number of investigations. The belief that the seriousness of sexual assaults depended on whether or not there had been “penetration” was an outdated concept and consequently was inappropriate.

The requirement for a mandate change was also acknowledged by the Toronto Police Service and soon after the issue of the 1999 report, the mandate of the Sexual Assault Squad was changed. In 2002, the mandate was revisited and further reviewed and improved. In the same year, the Child Prostitution Section (formerly the Juvenile Task Force) and the Child Pornography Section (formerly the Sexual Exploitation Unit) were formally amalgamated with the Sexual Assault Squad. The name was changed from the Sexual Assault Squad to the Sex Crimes Unit to better reflect its expanded mandate and the amalgamation of the sub-units. The Sexual Assault Squad continues to operate as a separate entity (i.e., the Sexual Assault Section) within the newly established Sex Crimes Unit.

The Sex Crimes Unit currently uses a community risk-based approach in assigning sexual assault investigations to the Unit. It is acknowledged that some of the more serious assaults do not involve penetration. In simple terms, where a sexual assault is considered a risk to the community, responsibility for the investigation of the assault is assigned to the Sex Crimes Unit. The change in the mandate of the Sex Crimes Unit has had two significant impacts:

- it has increased the number of sexual assault investigations conducted by the Sex Crimes Unit; and
- sexual assault investigations assigned to the Sex Crimes Unit are based on criteria which are risk-based, appropriate, and relevant.

While the number of sexual assaults assigned to the Sex Crimes Unit has almost doubled since 1999, the resources available within the Sexual Assault Section of the Sex Crimes Unit has not appreciably increased since that time. In this context, it is important that a further evaluation of the resource capabilities within the Sexual Assault Section be conducted in order to ensure that the staff levels are commensurate with its workload.

While acknowledging the appropriateness of the change in mandate of the Sex Crimes Unit, the Toronto Police Service procedure entitled “Community Safety Notification” is inconsistent with the revised mandate. The need for a Community Safety Notification was issued in response to a recommendation in the 1999 report and to Madame Justice MacFarland’s statement that “the police have a positive duty to warn potential victims of a serial rapist operating in the community.”

The Community Safety Notification procedure requires that the Unit Commander of the division in which the sexual assault occurred is responsible for determining whether there is a need to issue a community alert. Presumably, this alert is issued within the community because of the potential risk to the community. In accordance with the mandate of the Sex Crimes Unit, if the sexual assault occurrence is deemed a risk to the community, the assault should be reported to and investigated by the Unit. In these circumstances, it would be appropriate and logical for the Sex Crimes Unit to assume responsibility for the Community Safety Notification. The Sex Crimes Unit is the group most familiar with sexual assault occurrences and investigations and as such, is the Unit best equipped to issue appropriate, accurate, complete and consistent Community Safety Notifications.

Certain recommendations in the 1999 report could be implemented immediately without a great deal of deliberation, for example, the recommendation to change the hours of work of the then Sexual Assault Squad. Soon after the issue of the 1999 report, the hours of work of the Squad were expanded to more accurately coincide with the general timing of sexual assaults. Similarly, the recommendation to improve the content of the Internet Web site of the Sexual Assault Squad was a recommendation, which in our view, was one that required minimal effort to implement.

Our follow-up review concluded that for the most part the Web site has not changed significantly since the issue of the 1999 report. In our opinion, one of the purposes of the site should be to provide specific information to women who have been sexually assaulted. This is not the case, as there is little information which would promote the reporting of sexual assaults to the Toronto Police Service. We have been advised that the reason for the lack of any substantive change has been due to inadequate time and resources.

In response to the 1999 report, as well as the 90-Day review initiated by the Chief of Police in mid-2000, a revised Criminal Investigations Procedure 05-05, Sexual Assault (Procedure 05-05) was issued by the Chief of Police in 2002. This Procedure is a comprehensive document which addresses a number of the 1999 recommendations, such as:

- the requirement for first-response police officers to collect only “basic information” during initial interviews;
- the requirement for first-response police officers to request a supervisor to attend the scene of a sexual assault;
- the provision for delaying detailed interviews by investigators with women who have been sexually assaulted;
- instructions for the timely submission of Violent Crime Linkage Analysis System Reports (ViCLAS);
- the need to consider the gender of the police officer when conducting interviews with women who have been sexually assaulted;
- the requirement for minimizing the number of times women have to repeat their interviews to different police officers;
- the requirement for providing to the woman who has reported a sexual assault with ongoing regular contact. This regular contact should be maintained throughout the investigative and legal process;
- the requirement that any unfounded cases are documented, based on an appropriate level of investigation and reviewed and approved by supervisors; and
- the requirement that occurrence reports are reviewed and approved by senior officers.

Each one of the above issues was identified during the 1999 review and although they were operational in nature, the Chief of Police agreed with the recommendations and took steps to ensure that the issues raised were addressed. As indicated, these recommendations were addressed in the current Procedure 05-05.

While the substance of the recommendations was incorporated in Procedure 05-05, our follow-up review has identified instances of non-compliance with Procedure 05-05 by certain police officers.

The requirement that police officers comply with Procedures is, of course, one of the fundamental and basic duties of all officers and is paramount to an effective and efficient police service. Indeed, in the Chief's response to the 1999 report, he indicated that "there is a clear expectation by the Chief that all members of the Toronto Police Service will comply with all Rules, Regulations, Procedures, Directives and Policies of the Service." The Chief further states that the failure of members to comply with directives "shall be deemed to be disobeying, omitting or neglecting to carry out a lawful order, and such members may, if they are police officers be subject of a complaint under the Police Services Act."

Fundamental to the issue of compliance with Procedures is an independent monitoring process providing assurance to the Chief that officers are in fact complying with Procedures. Instances of non-compliance should be identified through an effective supervisory process, which at the present time particularly in regard to Procedure 05-05, is deficient.

To assist the Chief of Police in addressing those areas of non-compliance, Appendix 2 contains a summary of Procedure 05-05 and our assessment of compliance. This information has been submitted to the Chief of Police so that action can be taken prior to the issue of this report. We understand that the Chief has expressed significant concerns in relation to areas of non-compliance and has ordered his senior staff to address this issue immediately.

Our follow-up review identified concerns in connection with the Violent Crime Linkage Analysis System (ViCLAS) reporting requirements. In simple terms, ViCLAS is a Canada-wide crime reporting information system database which has the ability to link criminal occurrences across Canada. There are strict timelines imposed by both the Province of Ontario and the Toronto Police Service requiring the reporting of crimes through ViCLAS. Our review identified that these timelines are not being consistently met by the Toronto Police Service. There is no allowance for less than 100 per cent compliance and concerted effort is required to ensure that the current backlog is addressed and compliance is kept current. The potential consequences of non-compliant ViCLAS reporting are significant and could in certain circumstances result in legal liability to the Toronto Police Service. We have reported this issue directly to the Chief of Police for his immediate attention.

A significant number of recommendations in the 1999 report related to training of police officers in the area of sexual assault investigations. Training has also been a theme throughout the follow-up review. Whenever there are issues or concerns at the Toronto Police Service, the proposed solution inevitably seems to focus on the need for additional training. With ongoing budgetary restraints, this is not always possible and in any event, it is our view that different training, rather than additional training, would improve the way officers conduct sexual assault investigations.

Training of officers in the area of sexual assault investigations is primarily conducted at a relatively basic level for new recruits and at a more in-depth level through attendance at the 10-day Sexual Assault and Child Abuse Course. This course is the main avenue of training for divisional officers assigned sexual assault investigation responsibilities. In our view, the content of the course requires further evaluation, particularly in terms of its relevance to the officers participating. The course is intended for divisional officers who will assume or in fact, already have responsibility for sexual assault investigations. Such investigations, for the most part, involve “known” offenders. The course content, however, seems to focus more on “unknown” offenders even though the investigation of sexual assaults involving unknown offenders, is generally the responsibility of the Sex Crimes Unit. The use of additional external resources in the training process also needs further consideration.

Our 1999 review identified the lack of a formal complaints process available for employees of the Sexual Assault Care Centres or by members of the public for the reporting of inappropriate police conduct towards the woman who has been sexually assaulted. The Chief of Police's response to this recommendation essentially indicated that a legislated complaints system already existed and as such, there was no need for any additional formal complaint process. While we appreciate and understand the current complaints system, it does not adequately address the concerns raised in our report. For example, the current legislation relating to complaints against police officers does not permit third-party complaints.

Consequently, in the circumstances where someone from a Sexual Assault Care Centre or a third-party wished to make a complaint against a police officer, such reporting is not permissible under current legislation. The complaints process is currently under review by the Province of Ontario and the issue of third-party complaints is one aspect of the system which is being analysed in detail.

Many of the findings in this follow-up report have been based on our review of occurrence reports prepared by police officers. Certain issues identified during our review of these reports have also been independently collaborated by individuals who agreed to be interviewed by us concerning their own experience with the Toronto Police Service following their reporting of a sexual assault. Specific information and comments provided during those interviews are summarized in Appendix 3 in this report.

While the 1999 report was an independent evaluation of police management practices, the research for the 1999 report involved communication with and input from both the Toronto Police Service as well as members of the Women's Anti-violence Community. In general terms, with one or two exceptions, both parties acknowledged and accepted the recommendations as a basis to improve the services provided by the police to women who had been sexually assaulted.

At the time the 1999 report was issued, there appeared to be a commitment that the Toronto Police Service and the members of the Women's Anti-violence Community would work together to address the implementation of the recommendations. Despite the initial commitment, this did not happen and consequently, the issue of community consultation in regard to the implementation of the 1999 recommendations has been a constant theme since the original report was issued.

While the 1999 report recommended a level of community consultation regarding the implementation of seven of the recommendations, the decision as to which should be implemented, and the process for implementation and community consultation, is very clearly the responsibility of the Chief of Police. While City Council, during its deliberation of the 1999 report, specifically recommended a formal structured involvement of the community in the implementation process, this was not endorsed by the Toronto Police Services Board. The Chief of Police initiated an implementation process, which did not involve the extent and the type of community consultation contemplated by City Council and advocated by the anti-violence community, including many of those organizations who support women who have been sexually assaulted. The Auditor General has no authority in terms of how the recommendations are implemented and contrary to certain statements is in no position to "order" public consultation. In any event, there are usually a number of different ways in which recommendations in any audit report may be implemented. The primary concern in this follow-up review is the extent of implementation of the recommendations rather than the way they were implemented.

In this context we were unable to determine whether or not the implementation process would have been more effective, timely and complete with the involvement of the Women's Anti-violence Community. It is clear however, that the expertise of both parties, working together, would be of significant benefit to those women who have had the misfortune to be the subject of the crime of sexual assault.

In conclusion, this follow-up report contains a number of recommendations, many of which are similar to those made in 1999. In our view, the implementation of these recommendations by the

Toronto Police Service will further improve the investigative process in relation to those women who have been sexually assaulted.

Report, dated November 01, 2004, from Julian Fantino, Chief of Police:

Subject: SEMI-ANNUAL REPORT UPDATE ON THE IMPLEMENTATION OF THE CITY AUDITOR'S RECOMMENDATIONS

Recommendation:

It is recommended that:

- (1) the Board receive this report for information, and
- (2) a copy be forwarded to the City of Toronto Audit Committee.

Background :

At its meeting on April 19, 2001, the Board received a comprehensive report responding to the 57 recommendations from the City Auditor's Report entitled "Review of the Investigation of Sexual Assaults – Toronto Police Service." (BM #P121/01 refers).

Current Status:

The Service has addressed all of the recommendations from the City Auditor's Report and has provided the Board with regular status updates. (BM #476/00, BM #P121/01, BM #P289/01, BM #P122/02, BM #P303/02, BM #P111/03, BM #P151/03 and BM #P323/03, BM # P165/04 refers).

On May 27, 2004 the Board received the most recent update report on the status of the recommendations indicating that all recommendations have been implemented with the exception of Recommendation #4. (BM #P323/03).

Recommendation # 4

The City Auditor be requested to conduct a follow-up audit in regard to the status of the recommendations contained in this report, the timing of such audit to be consistent with the time frame outlined in the report of the Chief of Police. The City Auditor be required to report directly to the Toronto Police Services Board in regard to the results of the follow-up audit.

Response: Agree
Status: Ongoing

The Service forwarded a letter dated October 23, 2002, to the City Auditor requesting that he return and conduct a follow-up audit. (BM #P303/02 refers). Jeffrey Griffiths, the City Auditor, responded to the Services correspondence and stated that a follow-up audit is currently ongoing and that he would provide a report to the Police Services Board for its August 3, 2003, meeting. (BM #111/03 refers).

Acting Deputy Chief E. Gilbert, Policing Support Command, will be in attendance to answer any questions the Board may have.

Report, dated January 19, 2005 from Julian Fantino, Chief of Police:

Subject: AUDITOR GENERAL'S REVIEW OF THE INVESTIGATION OF SEXUAL ASSAULTS BY THE TORONTO POLICE SERVICE.

Recommendation:

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

Background :

The following is submitted for the information of the Board. On Thursday, January 6, 2004, I received a copy of the Auditor General's report *"The Auditor General's Follow-up Review of the October 1999 report entitled: "Review of the Investigation of Sexual Assaults Toronto Police Service."* This report details the Auditor's findings in his review of the Service's implementation of 57 recommendations put forward to change and enhance Service investigation of sexual assault. I welcome the Auditor's report and his findings. I found the report to be fair and balanced and his most recent recommendations to be constructive.

Since the Auditor's 1999 report, the Service has submitted an initial response report (BP#486/00 refers) and 7 subsequent update reports to the Board, outlining the progress made in this regard (Board Minutes #P121/01, P289/01, P122/02, P303/02, P151/03, P323/03, P186/04 refer). In our initial response, the Service clearly indicated that we were in agreement or partial agreement with 54 of the 57 recommendations. In our latest report to the Board, I reported that all recommendations have been addressed and implemented (BP#186/04). It is important to remind the Board that beginning with the first report, the Service indicated which portions of recommendations we did not agree with and the extent to which the implementation would be taken by the Service. At all times the Board has been kept fully informed of the Service's progress and the status of the various recommendations as indicated in the original report.

It is also important that the Service acknowledges that there is room for improvement. The Auditor General's report identifies specific issues that need to be addressed, among them the need for compliance with existing procedures. The Auditor General has said there is more which can and should be done. We are committed to addressing those areas identified by the Auditor General. We welcome his constructive input. We believe that his recommendations provide clear direction and will help us in our ongoing process of improving the quality of sexual assault investigations and the support we provide to victims of sexual assault.

Likewise, it is equally important to acknowledge that from the onset, there has been an ongoing, sincere effort by the Service to improve our response. Our efforts and meaningful improvements have been recognised in the Auditor's report.

At this time, it is not my intention to fully respond to the Auditor General's report and his subsequent 25 recommendations. A comprehensive response will be brought back to the Board for its March 2005 meeting. However, I would like to advise the Board of a recent, related

review and the action taken in response to three of the recommendations put forward in the Auditor General's most recent report.

In the fall of 2004, as part of this Service's constant endeavour to provide the best possible service to the public, and in consultation with the Auditor General, I directed Corporate Planning to review the current version of the Service's Sexual Assault procedure. As a consequence of this review, several recommendations were made to further enhance the procedure. However, the Auditor's report identifies additional issues which must be addressed.

As noted above, a full response will be forthcoming to the Board during its March meeting. However, I am prepared to respond to Recommendation 24 of the Auditor's report, which reads,

“The Chief of Police assign responsibility for the review and evaluation of the recommendations in this report to a Senior Officer within the Sex Crimes Unit. The Chief of Police report to the Toronto Police Services Board on an action plan, along with a specific timetable for the implementation of the recommendations.”

I have designated Staff Superintendent William Blair, Detective Support, to co-ordinate the Service's response and to bring back an implementation plan for action. As the Board knows, the Sex Crimes Unit reports to Staff Superintendent Blair.

The Board is also advised that Recommendations 3 and 19, which the Auditor General recommended required immediate action, have been addressed in part through publication of two routine orders. One routine order reminds officers that all procedures must be complied with (R.O. 2005.01.19 – 0060) and another specifically reminds officers of their obligations in the investigation of sexual assault and the completion of Violent Crime Linkage Analysis System (ViCLAS) reports (R.O 2005.01.18 - 0050). Routine Order R.O. 2005.01.18 – 0050 highlights the particular areas noted in the Auditor General's Recommendations 3 and 19.

Finally, I wish to acknowledge the dedication and hard work of the members of this Service to provide a sensitive, thorough and professional service to victims of sexual violence. The Toronto Police Service will continue to work with the entire community, the Auditor General and our Board to move the Service forward.

Conclusion:

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

I will answer any questions concerning this report.

Correspondence, dated February 02, 2005, from Jeff Griffiths, Auditor General:



Jeffrey Griffiths, C.A., C.F.E.
Auditor General

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February 2, 2005

Councillor Pam McConnell
Chair, Toronto Police Services Board
Ward 28, Toronto Centre-Rosedale
Suite A7
Toronto City Hall



Dear Chair McConnell:

Re: The Auditor General's Follow-up Review on the October 1999 Report Entitled: "Review of the Investigation of Sexual Assaults – Toronto Police Service" dated October, 2004

Further to our recent discussions and as you are aware, I am unable to attend the Toronto Police Services Board Meeting of February 10, 2005. It is my understanding that my report, entitled *The Auditor General's Follow-up Review on the October 1999 Report Entitled: "Review of the Investigation of Sexual Assaults – Toronto Police Service"* dated October, 2004, will be on the Agenda of this particular meeting.

Please extend my apologies to the Board for not being available to present the report personally. It was my intent to present the report at the Board meeting of January 2005. However, as you know, this meeting was cancelled due to the scheduling of a Special Policy and Finance Committee meeting to discuss the City of Toronto contribution to the Tsunami Disaster Relief Fund.

Mr. Alan Ash, Director of my office, is available to make a short PowerPoint presentation on the report. However, as much of the work for this review was conducted by myself or under my direct supervision, Mr. Ash's involvement in the project was minimal. Consequently, Mr. Ash is not conversant with the details contained in the report and likely will not be able to address specific questions.

As we have discussed, I will be available to attend the March meeting of the Toronto Police Services Board and answer any questions, which the Board may have.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Jeff Griffiths".

Jeff Griffiths
Auditor General

cg
c: Chief Julian Fantino, Toronto Police Service

