

Review of Court Services - Toronto Police Service

Date:	October 2, 2008
To:	Audit Committee, City of Toronto
From:	Alok Mukherjee, Chair, Toronto Police Services Board

SUMMARY

The purpose of this report is to provide the Audit Committee with a report entitled “Review of Court Services, Toronto Police Service”, prepared by the Auditor General.

Financial Impact

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

ISSUE BACKGROUND

At its meeting held on July 24, 2008, the Toronto Police Services Board was in receipt of a report, dated July 24, 2008, from Jeff Griffiths, Auditor General, regarding the review of Court Services.

COMMENTS

The Auditor General recommended that the report entitled “Review of Court Services, Toronto Police Service” be forwarded to the City’s Audit Committee for information.

Mr. Alan Ash, Director, Auditor General’s Office, was also in attendance and delivered a presentation to the Board on the results of the audit of Court Services. A printed version of Mr. Ash’s Powerpoint presentation is on file in the Board office.

The Board thanked Mr. Ash for his presentation and approved the following Motions:

1. THAT the Board approve the foregoing report;
2. THAT the correspondence to be sent by the Board with regard to recommendation no. 1 in the Auditor General’s report be copied to the Minister of Finance for information;

3. THAT the Chief of Police prepare a response to the Auditor General's report and provide it to the Board; and
4. THAT the Board request the Auditor General to conduct a follow-up audit at a time he determines is appropriate.

A copy of Board Minute No. P194/08, in the form attached as Appendix "A", regarding this matter is provided for information. A copy of the Executive Summary to the "Review of Court Services, Toronto Police Service" is attached to the Board Minute for information and a copy of the complete report has been filed with the Committee Administrator.

CONTACT

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SIGNATURE

Alok Mukherjee
Chair, Toronto Police Services Board

ATTACHMENT

Appendix A – Board Minute No. P194/08
Appendix B - Executive Summary to the "Review of Court Services, Toronto Police Service"

A: city report audit.doc

APPENDIX A

THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE TORONTO POLICE SERVICES BOARD HELD ON JULY 24, 2008

#P194. REVIEW OF COURT SERVICES

The Board was in receipt of the following report dated June 12, 2008 from Jeff Griffiths, Auditor General, City of Toronto:

SUMMARY

Attached is the Auditor General's report entitled "Review of Court Services, Toronto Police Service." This review was conducted as part of the Auditor General's 2007 Annual Work Plan.

The objective of this audit was to assess and determine the extent to which resources of the Toronto Police Service were deployed efficiently and effectively in ensuring courthouse security and prisoner transportation, and to identify potential opportunities for cost savings.

The issues identified in our report center around three separate but related themes. These themes relate to the following areas:

- Funding arrangements pertaining to court security and prisoner transportation;
- Administrative and staff resource issues identified within the jurisdiction of the Toronto Police Service; and
- Administrative, staff and facility resource issues identified outside the jurisdiction of the Toronto Police Service.

Our review identified the need for a fundamental change in the funding relationship between the City of Toronto and the Province of Ontario in relation to court security and prisoner transportation. The Toronto Police Service is in the position of having to adjust to increasing provincial demands in court security and prisoner transportation services without any authority or control over related funding decisions.

Many of the issues raised in this report are complex and difficult to remedy because of the various governmental jurisdictions involved in the administration of the judicial process. While we have identified opportunities for efficiencies and cost savings within the jurisdiction of the Toronto Police Service, the Toronto Police Service under current

funding arrangements has no option but to continue to operate within a system which is inherently inefficient and over which the Police Service has limited control. Changes in funding arrangements will likely provide a catalyst for the Province to consider changes in order to reduce overall court services costs.

During the course of our review, we have met frequently with members of the Toronto Police Service to discuss issues identified during the review. Many of these issues have the potential to reduce Court Services operating costs. Several of the issues identified were acted upon immediately upon notification to management. Other issues are currently being evaluated.

RECOMMENDATIONS

The Auditor General recommends that:

1. the recommendations in the attached Auditor General's report entitled "Review of Court Services, Toronto Police Service" be adopted; and
2. this report be forwarded to the City's Audit Committee for information.

FINANCIAL IMPACT

The implementation of recommendations in this report will improve operational efficiency and result in cost savings related to court services in Toronto. While these initiatives may result in cost savings up to \$1 million, any significant cost savings can only be achieved through a closer coordination of all aspects of court services between the Toronto Police Service and the Province of Ontario.

DECISION HISTORY

The review of the court services function of the Toronto Police Service was requested by the Toronto Police Chief. The Chief expressed concerns relating to the escalating costs of this particular function, and as a result, requested an independent review of this area by the Auditor General in order to determine whether or not there were opportunities to reduce costs.

The Chief's request was approved by the Toronto Police Services Board at its January 2007 meeting. The Terms of Reference for this particular review was presented to the Toronto Police Services Board and to the City's Audit Committee in April 2007.

In view of the significant costs involved in Court Services, the Auditor General included this particular project in his 2007 Annual Work Plan.

COMMENTS

The report entitled “Review of Court Services, Toronto Police Service” is attached as Appendix 1. The Chief of Police, in a separate communication, has prepared a detailed response to the report.

Mr. Alan Ash, Director, Auditor General’s Office, was in attendance and delivered a presentation to the Board on the results of the audit of Court Services. A printed version of Mr. Ash’s Powerpoint presentation is on file in the Board office.

The Board thanked Mr. Ash for his presentation and approved the following Motions:

- 1. THAT the Board approve the foregoing report;**
- 2. THAT the correspondence to be sent by the Board with regard to recommendation no. 1 in the Auditor General’s report be copied to the Minister of Finance for information;**
- 3. THAT the Chief of Police prepare a response to the Auditor General’s report and provide it to the Board; and**
- 4. THAT the Board request the Auditor General to conduct a follow-up audit at a time he determines is appropriate.**

An electronic copy of the Auditor General’s audit of court services is not attached to the electronic Minutes.

Appendix B

EXECUTIVE SUMMARY

INTRODUCTION

The administration of justice in Ontario is the responsibility of the Ontario government

The administration of justice in the Province of Ontario falls under the jurisdiction of the Ministry of the Attorney General. The Province of Ontario operates the largest and busiest court system in Canada, and is one of the largest in North America. Toronto's caseload represents approximately 30 per cent of the total cases in Ontario.

The Toronto Police Service is responsible for court security and transportation of prisoners

The responsibility for the security of courthouses and the transportation of prisoners was transferred from the Ontario government to local municipalities in 1990 upon the proclamation of Bill C-187 (*The Police and Sheriffs Statute Law Amendment Act*) and the *Ontario Police Services Act*.

Section 137 of the *Ontario Police Services Act* states that:

"A board that is responsible for providing police services for one or more municipalities has the following responsibilities, with respect to premises where court proceedings are conducted:

- 1. Ensuring the security of judges and of persons taking part in or attending proceedings.*
- 2. During the hours when judges and members of the public are normally present, ensuring the security of the premises.*
- 3. Ensuring the secure custody of persons in custody who are on or about the premises including persons taken into custody at proceedings.*
- 4. Determining appropriate levels of security..."*

The Toronto Police Service is responsible for all staffing costs relating to the above.

The provincial Ministry of the Attorney General is responsible for court security costs that are not related to staffing. These responsibilities include ensuring that courthouses are designed and maintained in an appropriate manner. The Province is also responsible for purchasing and maintaining security devices such as wand stations at courthouse entrances as well as surveillance cameras.

The Ministry of Community Safety and Correction Services is responsible for the safe confinement of in-custody offenders.

Under the *City of Toronto Act*, section 103, the City of Toronto is responsible for the “conveyance of prisoners” as follows:

“If the attendance of a prisoner in a correctional institution is required at a hearing or proceeding and if the City was responsible for delivering the prisoner to the correctional institution, the City is responsible for conveying the prisoner from the correctional institution to the place of the hearing or proceeding and for the prisoner’s return.”

Court services costs have escalated significantly since the provincial transfer of responsibility in 1990

Since the transfer of responsibilities in 1990, court security and prisoner transportation costs in Toronto have nearly tripled in 17 years. In 2007, Toronto’s annual court services budget was \$43.7 million, compared to \$26.8 million in 2000 and \$15.5 million in 1990. Prior to January 1, 1990, the Province of Ontario shared court services’ costs with local municipalities. In 1989, the Province paid \$7 million or approximately 47 per cent of court services’ costs.

MAJOR THEMES IDENTIFIED IN THIS REVIEW

The major themes identified in this review centre around three separate but interrelated issues:

- The funding arrangements pertaining to court security and prisoner transportation;
- Administrative and staff resource issues identified within the jurisdiction of the Toronto Police Service; and
- Administrative, staff and facility resource issues identified outside the jurisdiction of the Toronto Police Service.

This report includes a number of specific recommendations in relation to the first two themes. These recommendations are directed to the Chief of Police and are within his jurisdiction.

The third theme identified in this report relates to areas which are outside the jurisdiction of the Toronto Police Services Board and the Chief of Police even though they impact significantly on the operation of the Police Service. While the concerns identified are significant, they can not be addressed in any meaningful way by either the Toronto Police Services Board or the Chief of Police. These issues pertain to areas within the jurisdiction of the Province and until these are addressed at the provincial level, significant cost savings will not be realized by the Toronto Police Service in its administration of court security and prisoner transportation.

Discussions have taken place with the Auditor General of Ontario and the Ministry of the Attorney General

While we have not specifically made recommendations relating to those areas outside the Police Service's areas of responsibility, we have nevertheless discussed these issues with the Auditor General of the Province of Ontario who is currently conducting a review of court services. We have also had discussions with representatives from the Ministry of the Attorney General.

1) The funding arrangements pertaining to court security and prisoner transportation

Key Message – The current funding relationship is flawed and should be changed

The key message contained in this report is consistent with messages previously conveyed by the City of Toronto, the Toronto Police Services Board, the Toronto Chief of Police and by the Ontario Association of Chiefs of Police. The message, very simply, relates to the need for a fundamental change in the funding relationship between the City of Toronto and the Province of Ontario in relation to court security and prisoner transportation.

Ontario is the only Canadian province where court security costs are the responsibility of the local municipality

Ontario is the only Canadian province where local municipalities are required to fully pay for court security and prisoner transportation costs. Every other province in Canada pays for these costs. If the Province of Ontario had adopted the same funding model as other Canadian provinces, the City of Toronto, since 1990, would have benefited financially by more than \$600 million. We see no particular reason why the Province of Ontario should be treated differently than all other provinces in Canada. Many of the specific decisions made by the Province in relation to the administration of the courts have a significant impact on the responsibilities of the Toronto Police Service. These responsibilities involve significant funding requirements, which at the present time are provided by the City of Toronto. It seems logical that the level of government responsible for making spending decisions should be the level of government responsible for paying the costs.

The City of Toronto, the Toronto Police Services Board and the Toronto Police Chief have been very clear in various statements directed to the Province of Ontario in regard to this matter. Recently, Toronto City Council approved the following:

“the government of Ontario assume the full responsibility of court security and prisoner transportation costs estimated at \$41.4 million net in 2008 for Provincial courtrooms within the City of Toronto.”

The concern in relation to the responsibilities for court security costs is not one that is unique to the City of Toronto. Other police services across Ontario are experiencing funding challenges in much the same way as the City of Toronto. In this context, the Ontario Association of Chiefs of Police passed a resolution in mid 2007 in relation to court security costs as follows:

The Ontario Association of Chiefs of Police have expressed concerns on a province-wide basis in relation to the funding of court security costs

“WHEREAS police organizations across Ontario having courthouses within their jurisdiction have experienced continuous growing expenditures relative to the costs associated with providing security for those facilities, and

WHEREAS these costs have grown dramatically and today represent an estimated five percent of police budgets, and

WHEREAS the Police Services Act provides the Chief of Police with legislative responsibility to determine the level of court security after consultation with the local Court Security Committee, and

WHEREAS employees of the Ministry of the Attorney General working in these facilities are utilizing the Ministry of Labour to demand increased security levels within the courthouses, and

WHEREAS local Court Advisory Committees established pursuant to the Adequacy Standard Regulation - 03/99 of the Police Services Act are demanding increased levels of security without regard or responsibility for police budgets, and

WHEREAS the core functions for police as established by the Police Services Act do not include court security as a core function, and

WHEREAS police in Ontario have, for many years, called on the Government of Ontario to assume its responsibilities for funding court security costs (including at the OACP's 2006 Annual Conference).

THEREFORE BE IT RESOLVED that the Ontario Association of Chiefs of Police again call upon the Government of Ontario to take immediate steps to provide financial assistance to police services to address these growing fiscal concerns, and

BE IT FURTHER RESOLVED that the Ontario Association of Chiefs of Police call upon the Government of Ontario to assume full responsibility for the provision of court security."

The Provincial-Municipal Fiscal and Service Delivery Review will address the funding issue

The Province of Ontario is currently in the process of conducting a Provincial-Municipal Fiscal and Service Delivery Review. It is anticipated, and we have been advised by City staff, that this Review will address the funding relationship between the Province and the City of Toronto in regard to court security and prisoner transportation costs.

2) Administrative and staff resource issues identified within the jurisdiction of the Toronto Police Service

Senior Staff from the Toronto Police Service are aware of our findings and recommendations

Throughout this review, we have been cognizant of the need to identify opportunities for efficiencies and cost savings particularly in the context of the 2008 and the 2009 Toronto Police Service's budget. Consequently, we have had regular meetings throughout this review with both the Chief Administrative Officer and the Deputy Chief responsible for Court Services to discuss our findings. Our findings and recommendations have also been reviewed in detail with senior staff from the Court Services Unit. We have also discussed these issues in general terms with the Chief of Police.

Even within the current funding and administrative structure, management improvements and cost savings for the Toronto Police Service in the range of \$1 million are possible

As indicated previously, many of the cost saving opportunities in connection with court security and prisoner transportation are outside the control of the Toronto Police Service. Nevertheless, we have identified certain issues within the jurisdiction of the Toronto Police Service that provide an opportunity for cost savings, particularly in the redeployment of staff resources. We estimate that these cost savings could be in the range of up to \$1 million on an annual basis. Police Service management are currently evaluating these estimates in order to determine more precise savings.

We have been working with police management, particularly in terms of the realignment of staff resources in both court security and prisoner transportation and have provided them with details of our analysis and evaluation.

3) Administrative, staff and facility resource issues identified outside the jurisdiction of the Toronto Police Service

Certain of the issues in this report can only be addressed by the Province of Ontario

The Province, Judiciary and the Toronto Police Service have separate control over the different elements essential to the effective delivery of court security and prisoner transportation services. The Toronto Police Service, while being accountable for the security of Toronto courthouses, lacks direct control over most key decisions that drive court service costs. Certain of the issues identified during this review can not be addressed by the Toronto Police Service, even though they have a significant impact on the delivery and cost of services by the Police Service.

These issues include:

- the number and location of courthouses and courtrooms;
- the physical design of certain courthouses. In the majority of cases, these facilities were not originally designed as courthouses. In these circumstances security continues to be a challenge;
- the average number of court appearances in Toronto for an accused is in the range of 11 appearances prior to the case being dealt with. Prisoner transportation costs and related security costs are obviously impacted by the number of court appearances;
- the need for increased use of video remands. The increased use of video remands would significantly reduce prisoner transportation costs and related security costs. We have estimated that the increased use of video remands to a level of 40 per cent (which is commensurate with another Ontario jurisdiction) would generate cost savings to the Toronto Police Service of approximately \$5 million; and
- the need for up-to-date management information technology systems.

The Province will need to invest significant resources in order to address these issues. Even if there is a commitment to make these investments, many of them can only be addressed over the long term. In the meantime, the Toronto Police Service under current funding arrangements has no alternative but to continue to operate within a system which is inherently inefficient and over which it has limited control.

Conclusion

The current funding arrangements generally do not provide any incentive for the Province to address many of the operational issues within its control. As long as the funding of court security staffing continues to be the responsibility of the Toronto Police Service, the Province will unlikely make improvements which do not specifically reduce provincial costs. Currently, there is no cost benefit to the Province in making such changes. Changes in the funding arrangements will likely provide a catalyst for the Province to make significant changes in order to reduce its overall costs.

***An Operational
Standards Review
Committee has
been established***

The Toronto Police Service, while precluded from making significant structural changes, is taking steps to address the more effective delivery of court security and prisoner transportation services in those areas within its jurisdiction. In this context, a number of new initiatives are in progress. For instance, the Service has established an Operational Standards Review Committee to review current practices, manage officer attendance, and implement where possible the audit recommendations identified during the course of this review.

While these initiatives will likely result in cost savings, any significant cost savings can only be achieved through a closer coordination of all aspects of court services by the Toronto Police Service and the Province of Ontario. Without this cooperation, significant efficiencies and cost savings will not be possible.

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

***The Chief of
Police requested
the review. The
request was
endorsed by the
Toronto Police
Services Board***

The review of the court services function of the Toronto Police Service was requested by the Toronto Police Chief. The Chief had expressed concerns relating to the escalating costs of this particular function and, as a result, requested an independent review of this area by the Auditor General in order to determine whether or not there were opportunities to reduce costs.

The Chief's request was approved by the Toronto Police Services Board at its January 2007 meeting.

The review was included in the Auditor General's 2007 work plan in view of the significant costs relating to the Court Services Unit and the potential for cost savings.

The Terms of Reference for this review was presented to the Toronto Police Services Board and to the City's Audit Committee in April 2007 and is included as Exhibit 1 to this report.