

**REVIEW OF COURT SERVICES
TORONTO POLICE SERVICE**

February 28, 2008



Auditor General's Office

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

Auditor General

City of Toronto

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
AUDIT OBJECTIVES, SCOPE AND METHODOLOGY	8
BACKGROUND.....	11
AUDIT RESULTS.....	17
THE FUNDING ARRANGEMENTS PERTAINING TO COURT SECURITY AND PRISONER TRANSPORTATION.....	17
Revisions to Current Funding Arrangements Should Be a Priority.....	17
Funding of Court Security Costs in Ontario	19
Funding of Court Security Costs in Other Canadian Provinces.....	20
Funding of Court Security Costs in the United States	20
Funding of Court Security Costs in Other Jurisdictions	21
How Much Has the Current Funding Arrangement Cost the City of Toronto?	22
ADMINISTRATIVE AND STAFF RESOURCE ISSUES IDENTIFIED WITHIN THE JURISDICTION OF THE TORONTO POLICE SERVICE.....	23
Prisoner Transportation.....	24
Courtroom Security on Weekdays	25
Courtroom Security on Weekends and Statutory Holidays	25
Better Management of Working Lunches	26
Court Officer Training.....	27
ADMINISTRATIVE, STAFF AND FACILITY RESOURCE ISSUES IDENTIFIED OUTSIDE THE JURISDICTION OF THE TORONTO POLICE SERVICE.....	28
Administrative Structure of the Courts.....	28
Specific Issues Impacting Court Security and Prisoner Transportation Costs	32
1) The Number and Location of Courthouses and Courtrooms.....	33
2) The Physical Design of Certain Courthouses	34
3) The Number of Court Appearances.....	35

4) The Need for Increased Use of Video Remands	35
5) The Need for Up-to-Date Management Information Technology Systems	37
CONCLUSION	40
Exhibit 1: Terms of Reference – Court Services Review, Toronto Police Service.....	41
Exhibit 2: Review of Court Services, Toronto Police Service – Funding Arrangements in Canadian Provinces.....	46
Exhibit 3: Review of Court Services, Toronto Police Service – Funding Arrangements in United States Jurisdictions	48
Exhibit 4: Review of Court Services, Toronto Police Service – Funding Arrangements in Other Jurisdictions	49
Exhibit 5: Publications Consulted	50

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.

What were the objectives of this audit?

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.

What did our audit cover?

Our review included an examination of activities conducted by the Toronto Police Service's Court Services Unit during the period January 2006 to August 2007 and focused on the following areas:

- a review of Ontario legislation and funding arrangements;
- a review of factors influencing the delivery of court services to determine the extent to which they impact on the cost-effective delivery of court services in the City; and
- a review of current staff scheduling patterns to determine whether court officers were cost-effectively deployed.

How did we conduct this review?

Our audit methodology included the following:

- discussions with the Chief Justice of Ontario, on behalf of the Ontario Court of Appeals;
- discussions with a judge of the Ontario Superior Court of Justice;
- discussions with Crown attorneys;
- discussions with the Assistant Deputy Attorney General of Ontario;
- discussions with the Auditor General of Ontario;
- interviews with a significant number of the Toronto Police Service and Court Services personnel including the Chief of Police, the Deputy Chief of Police and the Chief Administrative Officer;
- discussions with the Chair of the Police Services Board;
- review and discussions with representatives of the Ministry of the Attorney General in British Columbia;

- review and discussions with representative of courthouses in Peel and York Regions;
- review of processes and procedures at the Ontario Superior Court, Old City Hall, College Park Court, Toronto East Court, Toronto West Court, Toronto North Court, Family and Youth Court, a provincial Offences Court and a local police station;
- review of processes and procedures for transporting prisoners from provincial detention centres to courthouses, and from local police stations to courthouses;
- review of processes and procedures for transporting new arrests from various police stations to central lock up facilities and courthouses; and
- review of a wide range of publications as outlined in Exhibit 5 attached to this report.

Our audit included a review of various studies

In addition, various studies have been conducted in North America on court funding, governance issues, court case management, court security management, architectural design for securing courthouses and other related topics. Certain of these studies include:

- Alternate Models of Court Administration, Canadian Judicial Council, September 2006;
- The Task Force on Court Security, Report to the Chief Judge and Chief Administrative Judge, New York State Unified Court System, October 2005; and
- Funding the State Courts: Issues and Approaches by Robert W. Tobin, July 1996.

Our audit included a review of these studies as well as various other reports on court management in Canada, the U.S., the U.K. and Australia.

The scope of this review did not include a detailed examination of the following areas:

- work processes related to the liaison and document services functions carried out by the Court Services Unit; and
- processes and information systems administered by the Toronto Police Service, the Ontario Ministry of the Attorney General and Ministry of Community and Correction Services in operating Toronto courthouses.

Compliance with generally accepted government auditing standards

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

Toronto Police Service's 2007 budget is \$785 million

The Toronto Police Service provides policing services to a population of 2.7 million residents with an annual budget of \$785 million in 2007.

Court Services' 2007 budget is \$43.7 million

Included in the budget of Toronto Police Service is an amount of \$43.7 million relating to the Service's responsibility for courthouse security, prisoner transportation and other functions related to operating Toronto courthouses. These costs do not include certain costs such as employee benefits, fuel and uniform costs which are not specifically allocated to Court Services. We have not reviewed these costs, but we have been advised that they are in the range of \$6 million. The budget of Court Services represents approximately 5.6 percent of the Toronto Police Service's total budget.

Upon proclamation of Bill C-187 (*The Police and Sheriffs Statute Law Amendment Act*) in 1990, the Ontario government required local municipalities and police services boards to fully fund and provide security to courts in Ontario.

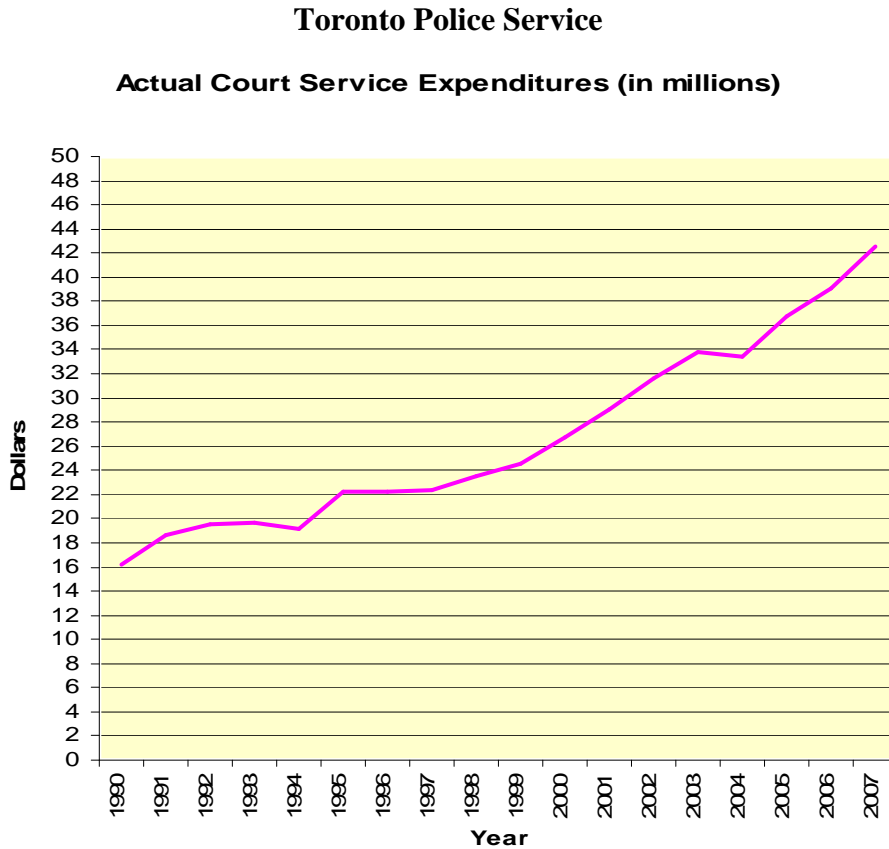
In 1990, Court Services' budget was \$15.5 million

When legislative changes were made in 1990, Toronto operated 138 courtrooms with an annual budget of \$15.5 million. In 2007, an annual budget of \$43.7 million was required to operate 249 courtrooms in 16 courthouses.

Before January 1, 1990, the Province of Ontario shared court service costs with local municipalities. In 1989, the Province paid \$7.2 million or approximately 47 per cent of court services costs to the former Municipality of Metropolitan Toronto. The Municipality of Metropolitan Toronto was responsible for paying \$8.3 million or approximately 53 per cent of the total costs.

Court services expenditures incurred by the Toronto Police Service have increased since 1990 as follows:

Figure 1:



***Court Services
operates with a
staff complement
of 754***

The Toronto Police Service provides courthouse security and transports in-custody offenders with 754 authorized personnel as follows:

- 32 uniform staff;
- 125 civilian staff;
- 416 full-time court officers;
- 165 part-time court officers; and
- 16 document service officers.

The Service recruits, trains and deploys officers to address legislative requirements with respect to:

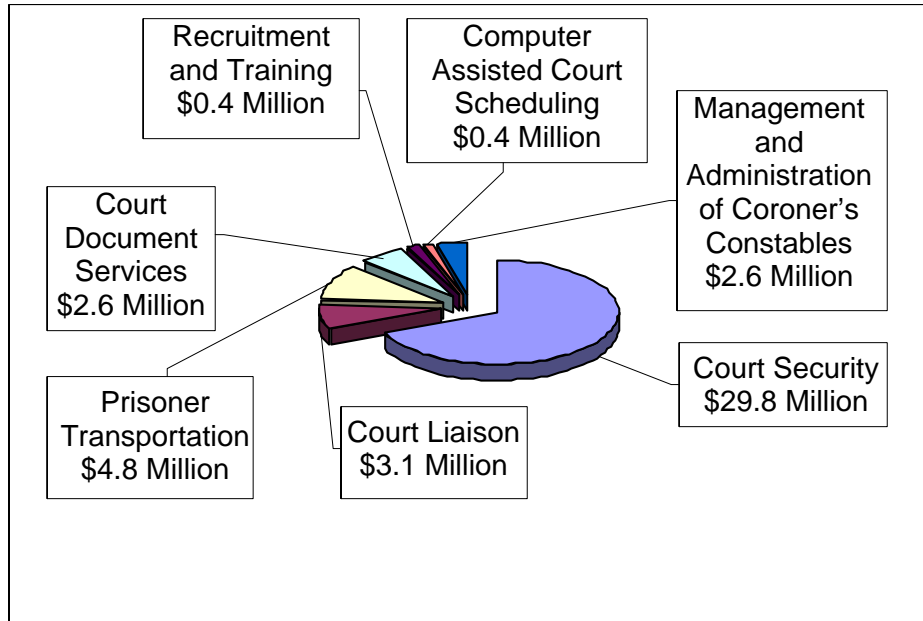
- ensuring the safety and security of the Judiciary, members of the Crown Law Office, Defence Bar, Ministry staff, the general public and persons taking part in judicial proceedings;
- determining the appropriate levels of security for high risk trial court proceedings;
- supervising and transporting persons in custody to and from courts and correctional facilities;
- issuing summonses and subpoenas for the Toronto Police Service and outside agencies; and
- managing Crown briefs and maintaining effective liaison between Toronto Police Service Units, Court Services and the Crown Attorney's Office.

Each business day, court officers secure 249 courtrooms, screen thousands of people entering court buildings throughout the City, and supervise and escort over 400 prisoners. All courthouses are open five days a week except for the Old City Hall Provincial Court which opens on weekends and during statutory holidays for bail hearings.

Operating expenditures for court services for 2007 are as follows:

Figure 2:

**Toronto Police Service –
Court Services Expenditures
2007**



These costs do not include certain costs such as employee benefits, fuel and uniform costs which are not specifically allocated to Court Services. We have not reviewed these costs, but we have been advised that they are in the range of \$6 million.

Toronto is responsible for about 30 per cent of Ontario's total cases

Based on provincial statistics available for 2004/2005, Toronto's caseload represents approximately 30 per cent of total cases in Ontario.

The volume of in-custody appearances supervised by the Toronto Police Service since 2003 have been as follows:

2007 – 104,537
2006 – 111,670
2005 – 103,301
2004 – 104,148
2003 – 99,687

The above statistics do not include a high percentage of court appearances by offenders who have been released on bail and do not require close monitoring in court. In-custody offenders however are considered high risk and must be guarded in courthouse holding cells and in courtrooms.

Reasons for cost increases are varied and are not restricted to inflationary increases

Annual court services costs for the City of Toronto have increased from \$15.5 million in 1990 to a budget of \$43.7 million in 2007, or more than \$28 million over 17 years. During our review, the issue of the large increase in costs from 1990 to 2007 was identified as a concern, particularly as this increase was significantly in excess of the rate of inflation. The significant rise in costs is attributed to three key factors:

- \$10 million or 35 per cent for general inflationary increases;
- \$15 million or 54 per cent for newly mandated provincial directives; and
- \$3 million or 11 per cent for new program implementation and responsibilities transferred from within other Toronto Police Service divisions which are a part of court services costs.

Newly mandated provincial and federal directives which the Toronto Police Service are required to fund include the following:

- Recruitment of 90 new court officers in 2007 to provide court security in 15 new retrofitted provincial crime courts and courtrooms. The costs for this initiative in 2007 were \$3.5 million and, on an annual basis, for 2008 onwards, will be in the range of \$7.1 million;

- Implementation of a disclosure process in 1994 in response to the Supreme Court’s “Stinchcombe” decision which requires the Crown to disclose all relevant information to the defence. These costs are in the range of \$3.8 million;
- Opening new General Division Courts, Mental Health Courts and Child Abuse Courts since 1996. Costs are approximately \$1.2 million;
- Collection of DNA samples as required by the federal government since 2000. Costs are approximately \$0.9 million; and
- Assumption of the RCMP’s responsibility for federal drug court security at the Old City Hall Provincial Court since 1993 - \$1.3 million.

Balancing security, access and funding is a challenge

Striking a balance between security, access and funding constraints is a significant challenge. The Toronto Police Service itself has conducted a number of internal reviews on the operations of court services. These reviews include an audit of Court Services by the Internal Audit and Policing Standards Unit in 1998, and another limited internal review completed by two Toronto Police Service personnel in September 2006. The objectives of the later review were to identify factors contributing to budget over-expenditures in 2005 and over-budget projections for 2006. This review was conducted over a very short time frame and at an extremely high level. Its fundamental theme centered around the need for a further detailed review by an external independent third party.

AUDIT RESULTS

THE FUNDING ARRANGEMENTS PERTAINING TO COURT SECURITY AND PRISONER TRANSPORTATION

Revisions to Current Funding Arrangements Should Be a Priority

Those responsible for making spending decisions should be responsible for paying the costs

It seems logical that the level of government responsible for making spending decisions should be the level of government responsible for paying the costs. This is not the case in relation to the responsibilities of the Toronto Police Service in regard to court security and prisoner transportation. Significant costs relating to the provision of court security are outside the responsibility of the Toronto Police Service.

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 recommendation:

“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.”

Funding of Court Security Costs in Ontario

Funding responsibilities since 1990

Until January 1, 1990, the Province of Ontario and local municipalities shared costs for court security. In 1989, the Province contributed approximately 47 per cent of required funding for court services costs and the former Municipality of Metropolitan Toronto contributed approximately 53 per cent.

In 1990, Bill C-187 (*The Police and Sheriffs Statute Law Amendment Act*) was adopted, and the Province transferred the entire responsibility for the provision of court security to local municipalities. Bill C-187 also resulted in changes to the *Ontario Police Services Act*.

Requirement to ensure safety of judges and the public

Under Section 137 of the *Ontario Police Services Act*, police service boards responsible for policing are required to ensure the security of judges and persons taking part in or attending court proceedings. Police service boards also have the statutory duty to determine the appropriate level of court security for carrying out such obligations.

Requirement to transport prisoners

In addition, section 103 of the *City of Toronto Act* outlines the responsibilities in relation to the transportation of prisoners. This section of the *Act* reads:

“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.”

Municipalities pay for court security

Municipalities in Ontario, by approving budgets of police services boards, pay the costs of court officers hired to provide courthouse security. Court officers are also required to ensure the safety of judges, persons taking part or attending proceedings and persons taken into custody.

The Province pays for certain security related costs

The Province pays court security costs not related to staffing for court security. These include costs related to:

- expenditures and maintenance of security devices such as scanners at entrances and security cameras in public courthouse hallways and holding cells; and
- costs for renting or constructing additional courthouses, modernizing existing court buildings, providing management information systems and technology.

With the opening of the “superjail” located at the Maplehurst and Vanier detention centres in the late 1990’s, the Province agreed to reimburse the Toronto Police Service for prisoner transportation costs from these locations to Toronto.

Funding of Court Security Costs in Other Canadian Provinces

All Canadian provinces other than Ontario pay for court security costs

Ontario is the only Canadian province where local municipalities are responsible for the funding of security relating to court services. Every other province in Canada fully funds and delivers court administration services, including prisoner custody and escort, courthouse security, courthouse facilities maintenance and trial scheduling in provincial courts, the Superior Court and the Ontario Court of Appeals.

Exhibit 2 attached to this report is a summary of funding arrangements in all Canadian provinces.

Funding of Court Security Costs in the United States

In the U.S., more and more court operations are state funded

In the United States, responsibility for funding court operations varies from state to state, although more and more court systems are now state funded. For example:

- In California, the state government fully pays for courthouse security and prisoner transportation services.

- In New York, the appellate courts and 9 of 11 state trial courts are operated with state funds centrally budgeted by the Office of Court Administration. However, court security services are delivered by either uniformed court officers hired by the Judiciary or through contracts with county sheriff’s departments or municipal police departments. The remaining two trial courts are funded and operated by local governments.
- In Texas and Florida, court services are county funded.
- In Oklahoma, trial courts are largely self-supported through the collection of revenues that are specifically earmarked for court operations.

Exhibit 3 attached to this report is a summary of funding arrangements in a number of United States jurisdictions.

Funding of Court Security Costs in Other Jurisdictions

In many other jurisdictions, courthouse operations are funded by the state

In the U.K., the Ministry of Justice (federal government) pays for courthouse security and prisoner transportation services, but private contractors deliver actual services.

In Australia, the state government pays for court security.

In both the U.K. and West Australia, court security and prisoner transportation services are outsourced to private contractors, but with the senior levels of government administering the contracts.

Exhibit 4 attached to this report is a summary of funding arrangements in a number of other jurisdictions.

How Much Has the Current Funding Arrangement Cost the City of Toronto?

Additional costs to the Police Service of \$600 million since 1990.

Estimated savings of over \$280 million since 1990 if the Province had continued to cost-share at 47 per cent

Provincial Municipal Fiscal and Service Advisory Review in progress

If the Ontario government had paid full court security and prisoner transportation costs since 1990, the City of Toronto would have benefited from additional funding totalling \$600 million. Even if the Province had continued to share court service costs at 47 per cent as it did in 1990, the City of Toronto would have benefited by over \$280 million.

In 2006, the Province of Ontario announced a Provincial Municipal Fiscal and Service Advisory Review. In general terms, the review is intended to include funding, service delivery and service governance in order to develop recommendations to ensure that services can be delivered in an affordable way. One of the guiding principles of the review relates to the requirement that the roles and responsibilities of the Ontario government and the various municipalities should be clear in order to avoid duplication and overlap.

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.

Recommendation:

- 1. Toronto City Council, the Toronto Police Services Board and the Chief of Police continue to petition the Ontario Government in connection with the uploading of court security and prisoner transportation costs to the Province. Ongoing efforts be directed to the Provincial Municipal Fiscal and Service Delivery Review Team in connection with the transfer of responsibility for such funding from the Police Services Board to the Province of Ontario.**

ADMINISTRATIVE AND STAFF RESOURCE ISSUES IDENTIFIED WITHIN THE JURISDICTION OF THE TORONTO POLICE SERVICE

Within the current funding and administrative structure, management improvements and cost savings are possible

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 \$1 million on an annual basis. Police Services management are currently evaluating these estimates in order to determine more precise savings.

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 cost savings particularly in the context of the 2008 and the 2009 Toronto Police Service's budget. Consequently, we have had regular meetings 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.

We have provided police management with our documentation supporting estimated 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 supporting the recommended resource realignment.

In order to determine the extent to which Toronto Police Service staff are cost-effectively deployed in providing court security and prisoner transportation services, we selected three weekdays and five weekends and statutory holidays as sample days for analyzing staff deployment patterns at various courthouses. At the same time, we reviewed staff deployment and staff utilization in connection with prisoner transportation.

While we realize that, given the variety of scheduled cases, offenders' criminal history and related security risks, as well as the presiding court judge, it is difficult to select a test sample that is "representative" of the day-to-day occurrences in Toronto courthouses. This small sample, however, has provided a "snapshot" of issues such as staffing patterns, prisoner vehicle movements, number of prisoners requiring supervision and the number of courtrooms staffed.

There are opportunities for cost savings

Based on a detailed analysis of actual operations during the eight sample days, we identified the following opportunities for reducing costs relating to:

- prisoner transportation;
- courtroom security on weekdays;
- courtroom security on weekends and statutory holidays; and
- better management of "working lunches".

Further, we have identified a number of issues in connection with officer training which need to be addressed.

Estimated savings are in the range of \$1 million

We have estimated that annual recurring savings of approximately \$1 million is possible in the following areas:

Prisoner Transportation

Our work flow analysis has identified a number of areas where staff resources could be used more effectively. We have discussed each one of these areas in detail with senior management and have provided them with working papers supporting our conclusions. In certain cases, management concurs with our observations. In other cases, the issues we have identified are being further evaluated. In general terms, our detailed recommendations include the following:

- The reassignment of certain prisoner transportation officers to court security duties after peak transportation duties. This is a common practice in other jurisdictions.
- The staggering of start and finish times of prisoner transportation officers working midnight shifts.
- The reduction of supervisory staff during early morning shifts.

- The possibility of installing fingerprinting equipment at more local police stations in order to reduce prisoner transportation to and from police stations. A business case should be developed in support of any increase in equipment.
- The need to make better use of technology in the management of prisoner transportation.

Courtroom Security on Weekdays

Early opening of courthouses requires reconsideration

Court office hours are 8:30 a.m. to 5:00 p.m. with court hearings scheduled to begin between 9:00 a.m. and 10:00 a.m. A number of Toronto courthouses are open to the public as early as early as 7:00 a.m. Consequently, the presence of one or more officers is required at that time to manage access security. Allowing public access at 8:30 a.m. has the potential to save approximately \$100,000 on an annual basis.

Staffing levels at each court location varies depending on factors such as variations in facility design and size, and the security posed by various cases.

During our review, we noted staffing inconsistencies in areas such as provision of lunch breaks, supervisory ratios and work shift patterns. These inconsistencies existed even when special consideration was given to factors such as workload, prisoner threat profiles and facility design.

We have provided management with detailed information in regard to these inconsistencies. Management is reviewing this information not so much in the area of inconsistencies but rather to ensure that best practices are being utilized throughout the system.

Courtroom Security on Weekends and Statutory Holidays

The Old City Hall Provincial Court operates two bail and remand courts on weekends and statutory holidays. At the same time, prisoner transportation officers are scheduled to provide transportation services at all police central lock-ups and transport prisoners to the Old City Hall Provincial Court for court appearances.

Our review identified possible savings in relation to the possibility of shift changes for both full-time and part-time court officers, including the possibility of staggered start and finish times could save approximately \$160,000 annually.

While we have identified opportunities for cost savings, we appreciate that there may be a requirement to negotiate certain staff shift changes with the Police Association. This is a matter for further consideration by management.

Better Management of Working Lunches

Significant cost reductions are likely possible in regard to better management of “working lunches”

On many occasions, prisoner transportation officers work without a lunch break. This has become a common and generally accepted practice. Officers are compensated either by completing their shift one hour early or booking an additional hour at regular pay. Officers performing courtroom duties may occasionally work without lunch.

Based on our review, it is our view that better management control and supervision in this area could significantly reduce the extent of working lunches. For example, a 75 per cent reduction in working lunches would generate annual cost savings of approximately \$600,000.

Recommendation:

2. The Chief of Police evaluate in detail, and in consultation with the Auditor General, the cost saving opportunities identified in this report in the following areas:

- **prisoner transportation;**
- **courtroom security during weekdays, weekends and statutory holidays; and**
- **court officer working lunches.**

In conducting this evaluation, the Chief of Police review the documentation prepared by the Auditor General supporting these cost reductions. Where appropriate, such cost saving measures be implemented as soon as possible.

Court Officer Training

In 2007, the Auditor General's Office issued a report entitled "Review of Police Training, Opportunities for Improvement, Toronto Police Service".

In this particular report, a significant number of recommendations were made on a wide range of issues relating to the training of police officers. These included the following:

- non-compliance with the *Ontario Police Services Act*;
- non-compliance with internal procedures;
- the training of new court officers;
- the number of coach officers required to be trained;
- the length of classroom and field training; and
- the evaluation of courses.

Recommendations in the 2007 Audit report "Review of Police Training – Opportunities for Improvement" have relevance to court officers

Many of the recommendations in the 2007 police training report have applicability to the training of court officers.

One of the important issues identified in the Review of Police Training related to the non-compliance with mandatory use of force training. We have been advised by the Chief of Police that the Service is now in compliance with the legislation. In regard to this particular review, the 2007 training records of over 500 court officers and police personnel showed that 117 officers or 23 per cent did not receive the required 2007 re-certification training 12 months after their course completion in 2006.

Finally, based on our review of the course teaching schedule, each recruit trainer on average was responsible for 14 days of "stand-up" classroom teaching in delivering three recruit courses each year. Even with classroom time for delivering other courses in 2007, as well as the estimated preparation time for each class, total teaching related activities provided by the recruit trainers accounted for approximately 15 per cent of available staff time. Non-teaching functions such as applicant interview, research, and maintaining the Court Services intranet Web site do not, in our view, fully account for remaining staff time.

Based on the above, it is our view that there are opportunities to realign teaching responsibilities so that they are more in line with demands.

Recommendations:

- 3. The Chief of Police review the recommendations contained in the report entitled “Review of Police Training, Opportunities for Improvement – Toronto Police Service” in order to ensure that the recommendations in the report which have relevance to court officer training are appropriately addressed.**
- 4. The Chief of Police ensure that court officers are trained in use of force requirements every 12 months as required by legislation.**
- 5. The Chief of Police review the training schedule for court officer trainers in order to ensure that the training time is commensurate with training demands.**

ADMINISTRATIVE, STAFF AND FACILITY RESOURCE ISSUES IDENTIFIED OUTSIDE THE JURISDICTION OF THE TORONTO POLICE SERVICE

Administrative Structure of the Courts

Four separate bodies are involved in the administration of justice

Under the current administrative structure, the Toronto Police Service is one of four bodies involved in administering the Ontario justice system within Toronto. The other three bodies are:

- The Judiciary;
- The Ontario Ministry of the Attorney General; and
- The Ontario Ministry of Community Safety and Correctional Services.

Each one of these entities has their own pre-defined roles and responsibilities in the administration of the Ontario court system. It is clear, however, that certain of these roles and responsibilities have a significant impact on the way the Toronto Police Service is able to fulfill its role in connection with court security and prisoner transportation. For instance:

The Judiciary determines the level of courtroom security

1. The *Ontario Police Services Act* requires the Toronto Police Service to determine appropriate court security levels. In practice, the courts have ruled that the presiding judge, having jurisdiction within their individual courtrooms, has the responsibility to determine what constitutes an adequate level of security. The *Courts of Justice Act* also direct courtroom personnel to act at the direction of the presiding judge while court is in session.

We have been advised that the lack of an appropriate level of security as determined by the judge in individual courtrooms has the potential to rule the Police Service in contempt.

The provincial Ministry of the Attorney General makes decisions on court facilities and equipment

2. The Ministry of the Attorney General makes decisions on courthouse locations, the number of courthouses and courtrooms, and pays for costs such as:
 - retrofitting existing courthouses and adding courtrooms;
 - enhancing facility design in areas such as security corridors and holding cells;
 - purchasing security equipment such as cameras and scanners;
 - purchasing and or developing management information systems; and
 - acquiring emerging technology equipment such as video conferencing equipment.

Only one of Toronto's 16 courthouses was designed as a courthouse

The province has made significant investments in new courthouses and courtrooms over the past number of years. Many of these investments have been made in existing locations which were never designed as courthouses. In actual fact only one of 16 Toronto provincial courts was actually designed and built to be a courthouse. The provision of security in such facilities is generally difficult and costly.

The Ministry of Community Safety and Correctional Services determines departure time

3. The safe confinement of offenders is a responsibility of the Ministry of Community Safety and Correction Services. The responsibility of the Toronto Police Service is to transport prisoners to and from correctional institutions, treatment centres and courthouses.

The Ontario Superior Court has the authority to charge police services for contempt of court if prisoner arrival is delayed. We have been advised that this penalty was imposed on the Peel Regional Police and its Board in 2001.

Little progress has been made over the past number of years in establishing a unified administration, management and budgetary structure in Ontario's justice system

The separate and in many cases independent involvement of each of the Judiciary, the Ministry of the Attorney General, the Ministry of Community Safety and Correctional Services and the Toronto Police Service in the administration of the Court Services has made a complex issue even more so.

The absence of clear lines of responsibility and accountability of each one of these bodies is an issue identified in a number of reports prepared on the administration of court services. For instance, this matter was reported to the Chief Justice of the Ontario Court and the Ontario Attorney General in a report dating as far back as 1995 entitled "Ontario Civil Justice Review, First Report".

This particular report was prepared by a special task force comprised of representatives of the Ontario Court of Justice, Ministry of the Attorney General, the Ontario Association of Children's Aid Societies and an external consulting firm. One of the more significant recommendations in this report was:

"In our view, however, the court system can no longer function effectively in Ontario unless and until a single authority, with clear lines of responsibility and accountability, is established to determine all administrative, financial and budgetary, and operational matters relating to court administration in the province. The ship of state must be redirected in this respect."

This special task force recommended that a single issue task force be established to develop an implementable proposal for the creation of "a unified administration, management and budgetary structure for the justice system in Ontario".

In a 1999 audit report relating to the Administration of Court Services prepared by the then Provincial Auditor, a similar recommendation was made as follows:

“To help the justice system function more effectively, the Ministry and the Judiciary should ensure that reform of the management of court services clearly establishes accountability and responsibility for achieving desired results.”

The management response at that time was:

“A project steering committee is currently finalizing proposals for governance structures, reporting mechanisms and organizational structures. The Ministry is continuing its consultation with the Judiciary to develop accountability mechanisms.”

In a follow up report by the Provincial Auditor General in 2003, a further recommendation was made that:

“To help ensure that the justice system functions effectively and to improve the stewardship of funds provided to the courts, the Ministry and Judiciary should improve their administrative and management procedures by establishing:

- a process of greater co-operation in decision-making that addresses long-standing concerns;*
- a better structure of courts administration with greater accountability for achieving desired results such as reducing case backlogs.”*

The management response to the 2003 report indicated that:

“The Ministry has undertaken to work with the Judiciary to build good relationships at all levels and to explore joint management of, and decision-making about, existing institutional challenges and ongoing operational issues. Joint working groups have been established to include representatives of both courts, as well as the bar and relevant agencies, to support ongoing identification and implementation of measures to address long-standing challenges such as backlogs.”

Finally in 2005, the Provincial Auditor General reported that:

“The Ministry has not made any significant changes to the structure of courts administration to achieve greater accountability for desired results.”

We have had discussions with the Provincial Auditor in regards to this matter. While the Provincial Auditor has not yet reported out on this matter this issue appears to be a continuing concern.

Specific Issues Impacting Court Security and Prisoner Transportation Costs

As indicated previously, various factors affecting court security and prisoner transportation costs are outside the control of the Toronto Police Service. Until each one of these is addressed, costs relating to court security and prisoner transportation will continue to increase. At the present time, the province has no incentive to address issues relating to these increasing costs as the costs relating to them have no impact on expenditures incurred by the province. Until the province assumes the costs relating to court security and prisoner transportation, there will not be any impetus or incentive to reduce such costs.

Remedies for each one of the issues impacting court security and prisoner transportation costs are generally long term, likely require significant infrastructure investment and, as a result, short term solutions for the most part are not possible. The Province needs to address each of the following if potential cost savings are to be realized for both the Province and the City:

- 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, court security is difficult and costly;
- The number of court appearances for individuals has increased by fourfold over the years. In 2007 individuals on average appear in court approximately 11 times before a charge is settled;

- The need for increased use of video remands; and
- The need for up to date management information technology systems.

1) The Number and Location of Courthouses and Courtrooms

Each courthouse normally requires a dedicated security team of court officers to operate magnetometers and X-ray machines at main entrances, and a core number of officers to guard holding cells, patrol hallways, attend courts and monitor video surveillance cameras.

Significantly more court officers and equipment required because of the way courthouses are geographically dispersed

A number of courtrooms occupy separate floors “sandwiched” between multiple public commercial buildings and require more than one team of officers to secure the court entrance. For example, the Superior Court at 393 University Avenue is “sandwiched” on five separate floors in a commercial building. Separate security stations are required on each floor in cases where high risk court appearances are scheduled.

Current trend of large “mega” courthouses for flexibility and cost savings

The trend in recent years is towards the construction of large “mega” courthouses. For example:

- The Grenville & William Davis Court House in Brampton, Ontario consists of 340,000 square foot and includes 34 courtrooms.
- The Region of Durham’s Consolidated Courthouse to be opened in 2009 will consolidate eight locations across the region.
- The Calgary Court Centre has 73 courtrooms under one roof. It consolidated five smaller court facilities.

Consolidating court locations costs less due to economies of scale

Consolidating court locations has a significant number of obvious benefits, including savings in the number of court security officers as well as savings for the Province in relation to the need for less surveillance and security equipment. Obviously the consolidation of courthouses is a long-term solution but the constant “patchwork” opening of new courthouses and refurbishment of existing courthouses is likely more costly in the long term. Various discussions have taken place over the last number of years in regard to the construction of a new courthouse facility. However, it is our understanding that these discussions are still in the preliminary stage.

2) The Physical Design of Certain Courthouses

Only one of 16 Toronto courthouses was designed as a courthouse

Of the 16 courthouses in Toronto, only one was designed as a courthouse. Structural changes for the purpose of improved security are limited in certain Toronto courthouses for various reasons. For instance, Old City Hall Provincial Court is located in a heritage property and, as a result, modifications to the original structural design are significantly restricted.

Increasingly more high risk trials requiring extraordinary courthouse security measures in Toronto courthouses

Toronto has experienced an increasing number of high risk trials related to homicides, gang violence, drug related crimes and terrorism. Potential risks relating to these trials include gang on gang violence, threats against members of the Judiciary and witness intimidation. The Toronto Police Service is required to and is responsible for the implementation of additional security measures at courthouses when a high-risk case is scheduled. Some of these measures include:

- retrofitting courtrooms to provide heightened protection to judges, the public, witnesses and staff;
- courthouse perimeter patrol by court officers; and
- increased police presence, including heavily armed officers on site.

The average gang-related trial can incur additional costs of over \$750,000 due to the need to assign additional police and court officers, specially equipped prisoner vehicles and other security devices.

A “band aid” approach to providing a safe and secure judicial environment is not cost-effective

In order to address the increasing number of violent criminal cases, the Province has recently made significant investments to retrofit a number of courthouses for the purpose of holding high risk hearings. As indicated earlier, constructing a new and properly built courthouse would, in the long term, be more cost effective than adopting a patchwork approach to retrofitting existing courthouses. In the long run, this “band aid” approach is not cost-effective.

3) The Number of Court Appearances

Number of court appearances required has increased significantly

Chief Justice Brian W. Lennox in January 2007 stated that an accused person now appears in court in Ontario an average of eight times until all charges are dealt with. Our review found the average number of court appearances in Toronto is in the range of 11 court appearances per case which is significantly higher than the average across Ontario.

Frequent court appearances are caused by a number of factors including:

- complexity of the case and charges;
- actions and decisions of the police, litigants, Crown and defence attorneys; and
- time required for scheduling a pre-trial hearing and trial date.

Each one of these appearances has an impact on police service costs. Until this matter is resolved court security and prisoner transportation costs will continue to escalate.

4) The Need for Increased Use of Video Remands

As indicated, an individual appears in court in Toronto on average 11 times until the charges are dealt with. This represents an increase of 50 per cent over the last seven years.

Most criminal court appearances are for preliminary or remand hearings which only take a few minutes to complete. After a brief remand hearing, an accused returns to custody to await trial.

Prisoner transportation from a correctional facility to a Toronto courthouse costs an estimated \$2,200 per prisoner

Persons detained or remanded to custody are generally considered high risk and therefore require close supervision. Transporting these individuals between correctional facilities and courtrooms for in-person remand and bail hearings takes considerable planning time, resources and involves a certain amount of risk. In addition, it currently costs the Toronto Police Service approximately \$2,200 to transport, escort and supervise an accused for, on average, 11 court appearances.

Video conferencing offers many benefits, especially when dealing with court appearances of high-risk prisoners

The increased use of video remands through video conferencing would allow offenders to “appear in court” from a remote location such as a police station or a correctional facility. Video conferencing offers obvious benefits such as:

- Reducing the level of processing, resulting in significant savings in admitting and discharge staff time, and police transportation time;
- Minimizing the opportunity for escape and assault during transportation; and
- Reducing the pressure on overcrowded court holding cells.

Video conferencing has significant security and cost advantages in the case of high-risk offenders. For example, “Project Pathfinder” which related to the arrest of a significant number of gang members is extremely costly in terms of the number of court appearances by each of the accused. Each court appearance related to this case involved almost 40 officers from the Emergency Task Force, the Community Oriented Response Unit, court officers, and a special prisoner vehicle. The use of video conferencing in this one particular case would have reduced court security and prisoner transportation costs significantly.

Potential for more extensive use of video remands

Video technology has been used on a limited basis in certain Ontario courthouses since 2000. Other jurisdictions have made use of this technology on a far wider scale than Toronto. For example, the Provincial Court of Alberta encourages the use of video conferencing by mandating its application on interim release hearings, appearances, plea entries, application hearings and submissions. In addition, in another Ontario jurisdiction, approximately 40 per cent of accused individuals “attended court” through the use of video remands in 2002. In Toronto, video conferencing accounts for only about 21 per cent of in-custody court appearances in 2006.

Significant cost savings of up to \$5 million are possible from more extensive use of video remands

Potential cost savings from the more extensive use of video conferencing in Toronto would be substantial. Increasing the use of video conferencing to a level of 40 per cent will potentially generate annual cost savings to the Toronto Police Service of approximately \$5 million.

5) The Need for Up-to-Date Management Information Technology Systems

Current court processes require redundant manual processes

Court processes and records are traditionally paper-driven. The Judiciary and the Province have long recognized the need for new information systems and up-to-date technology. The need for more efficient and up-to-date technology has also been an issue raised by the Provincial Auditor General.

The Province has made little progress in developing a fully integrated court information system. In 2002, after investing \$21 million in an Integrated Justice Project, the Province terminated the project due to cost overruns and time delays. Successful completion of this project would have provided a common inquiry system linking information systems maintained by police, Crown attorneys, courts and correction services, a court case management and scheduling system, an electronic document filing system and digital audio recording of official court records.

The absence of a fully integrated court information system has a substantial impact on Police Service’s costs in a number of areas. For example:

Liaison officers re-enter the same data to update several stand alone information systems

- Court liaison officers assist the Crown in court and gather critical information on each case. Liaison officers use a number of information systems, including the RCMP's Canadian Police Information Centre, the Ministry of the Attorney General's Integrated Court Offences Network, and the Toronto Police Service's Criminal Information Processing System. These systems contain police case history and court dispositions. Officers also complete and fax forms on bail and retention orders to police stations daily. These forms, with updated bail information, are also sent separately to the RCMP to update their system.

Procedures for recording prisoners' status are inefficient and results in delays

- Procedures involved in processing in-custody offenders are cumbersome. Every day, offenders from correctional facilities arrive with manual records such as personal profiles, charges, remand warrants and detention orders. Court officers update an internally developed, stand-alone database to track incoming prisoners. Similar data would have been recorded in Toronto Police Service's Criminal Processing Information System as well as information systems maintained by the provincial correctional facilities and federal RCMP.

Due to the fact that provincial staff are required to manually process court decision papers, officers assigned to holding cells and prisoner vehicles have to wait after court is no longer in session. The waiting period could take from 30 minutes to two hours or more.

Delays are costly

Delays are costly. For example, on an average day at the Old City Hall Court, approximately 20 court officers assigned to holding cells and prisoner vehicles are kept waiting, on average, an additional two hours for provincial court documentation. These costs are substantial.

Having an integrated court information system enhances efficiency and reduces costs

Many jurisdictions in North America use integrated court information systems. For example:

- British Columbia's Justice Information System provides a single integrated database comprising almost every aspect of a criminal case. Direct system access is provided to the police service, Crown counsel, court staff and corrections staff. Case tracking information is integrated. Information concerning a case is entered only once and accessed by various agencies as the case moves from initiation through to final disposition.
- A community court in New York City uses the latest technology to distribute information efficiently and quickly from the courtroom to stakeholders on and off sites. As soon as the judge reaches a decision, it is entered by a clerk and displayed on the computers of the judge and counsel. The judge merely confirms the decision, and this information is immediately available to all involved in the case.

The development of an integrated management system has the potential to generate significant cost savings. Until such a system is implemented, cost savings will not be attainable.

CONCLUSION

Responsibilities for the administration of court services is fragmented and unclear

Many of the issues raised in this report are complex and difficult to remedy because of the different governmental jurisdictions involved in the administration of the court process. Each one of these jurisdictions has specific roles in relation to the administration of justice in Ontario. The judiciary, as part of its administrative function, is responsible for the conduct of court proceedings within its courtrooms. The judiciary is responsible for such issues as determining the dates of court sittings, the scheduling of cases, the assignment of judges and the level of security within individual courtrooms. The Ministry of the Attorney General is responsible for court resources such as various staffing decisions, capital projects and the acquisition of security related equipment. The Toronto Police in terms of security of courthouses is required to react to decisions and actions of both the judiciary and the Ministry. In essence, the Toronto Police Service is required to fund court security and prisoner transportation costs which in large measure it has little control of.

Funding arrangements are unique to Ontario

The funding of court security and prisoner transportation costs by Police Services is unique to Ontario. In all other Canadian provinces funding for these services is a responsibility of the provincial government. It is anticipated that the ongoing Provincial-Municipal Fiscal and Service Delivery Review will address the issue of the funding relationship between the province and the City of Toronto.

 **TORONTO** STAFF REPORT

April 4, 2007

To: Toronto Police Services Board
From: Auditor General
Subject: Terms of Reference – Court Services Review, Toronto Police Service

Purpose:

This report presents the Terms of Reference for the Auditor General's audit of the Toronto Police Service's Court Services Unit.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that:

- (1) the attached Terms of Reference for the audit of the Toronto Police Service's Court Services Unit be received for information; and
- (2) the Toronto Police Services Board forward this report to the Audit Committee for information.

Background:

The Auditor General's 2007 Work Plan includes a review of the Toronto Police Service's Court Services Unit. The attached Terms of Reference includes our preliminary assessment of the audit scope for this project. The scope of work may change depending on issues identified during the review.

Comments:

Sections 177 through 182 of the *City of Toronto Act, 2006* formalized the appointment of an Auditor General for the City of Toronto. However, the role of the City's Auditor

General at the Toronto Police Service under the *City of Toronto Act* is restricted. In essence, the Auditor General of the City of Toronto under the new legislation has no authority to access records or conduct audit work at the Toronto Police Service.

At the February 2007 meeting, City Council approved the expansion of the Auditor General's mandate to permit audits of City local boards and agencies at the request of their boards, and that any resulting recommendations be submitted to the respective board.

On January 25, 2007, the Toronto Police Services Board approved the Police Chief's request that the Auditor General consider including in his annual work plan a review of the Toronto Police Service's Court Services Unit. After evaluating other audit priorities, and considering audit risks such as the extent of annual expenditures, budget increases and security concerns, the audit of the Toronto Police Service's Court Services Unit was included in the Auditor General's 2007 Audit Work Plan.

The focus of this audit will be to examine the funding arrangements, deployment of staff resources and related budget implications of the Toronto Police Service's Court Services Unit.

Conclusion:

The attached Terms of Reference provides the background, legislative environment, objectives and scope for our audit of the Toronto Police Service's Court Services Unit. The overall objective of this audit is to determine the extent to which public funds are administered cost effectively for the safe operation of court facilities in the City. In determining these terms of reference, as well as the audit objectives, a number of meetings have been held with both the Chief Administrative Officer and the Deputy Chief responsible for Court Services.

Contact:

Alan Ash, Director
Tel: 416-392-8476
Fax: 416-392-3754
AAsh@toronto.ca

Anne Cheung, Senior Audit Manager
Tel: 416-392-8439
Fax: 416-392-3754
ACheung1@toronto.ca

Jeffrey Griffiths
Auditor General

cg

List of Attachments:

Appendix 1: Terms of Reference – Court Services Review – Toronto Police Service

AUDITOR GENERAL'S OFFICE
TERMS OF REFERENCE

Division/Board: Toronto Police Services Board
Project Name: Court Services Review, Toronto Police Service
Year of Audit: 2007
Project Code: 07-BCS-01

A. Introduction/Background

The Toronto Police Service's Court Services Unit is responsible for the safe operation of all court facilities in the City. The mandate of Court Services is derived from the *Police Service Act of Ontario*, the new *City of Toronto Act, 2006*, *Criminal Code*, *DNA Identification Act*, the *Canada and Ontario Evidence Acts* and various Memorandums of Understanding between the Ontario Association of the Chiefs of Police and the Attorney General.

Until January 1, 1990, the Province of Ontario and former Metropolitan Toronto were involved in a cost sharing agreement for court security. In November 1989, Bill C-187 (The Police and Sheriffs Statute Law Amendment Act) was passed, and responsibility and liability for security and prisoner custody at all court facilities in Ontario were downloaded to local municipalities.

The Toronto Police Chief requested the Auditor General to conduct a review of the management and administration of staff resources in the Court Services Unit. The Toronto Police Services Board approved the Chief's request at its January 25, 2007 meeting. Consequently, the Auditor General's 2007 Audit Work Plan includes a review of the Court Services Unit.

B. Financial/Operational Highlights

The Court Services Unit, with an approved net budget of \$38.5 million in 2006, operates with 33 uniform staff, 457 full-time and 165 part-time civilian staff.

Court Services' responsibilities include:

- securing the transportation of persons in custody throughout Toronto;
- determining appropriate levels of security for court proceedings of a sensitive nature or intense public interest, and ensuring the security of judges and persons taking part or attending court proceedings;

- ensuring the security of related premises when judges and Toronto Police Service members are present;
- ensuring the secure custody of persons in custody on the premises; and
- providing services such as Crown liaison and serving court documents. Activities carried out by court officers include:
 - scheduling pick-ups and providing transportation from detention centres, jails and local police stations for appearance at various court locations;
 - providing courtroom security, including hallway patrol, wandering and metal detection;
 - escorting prisoners on court premises; and
 - providing Crown liaison and serving court documents such as Summonses, Subpoenas and Evidence Act Notices.

In addition, Court Services staff perform Crown liaison, service court documents, processing Provincial Offences Act summonses, as well as staff recruiting, new staff training and in-service training.

C. Key Financial/Operational Issues and Controls

Since the provincial downloading of the responsibility and liability for court security and prisoner custody in 1990, Court Services has experienced significant staffing pressures, increased security concerns from judges, Crown Attorneys, and defence lawyers, increased prisoner volume, more high-risk security offences with trials spanning several months, and a steady increase in the number of court facilities.

In order to staff a new courthouse and expanded operations at two existing courthouses planned by the Province in 2007, Court Services estimates that an additional estimated cost of \$3.5 million (an annualized cost of \$7.1 million) will be required in the 2007 annual budget.

D. Audit Objectives and Scope

The objectives of this review are to assess and determine the extent to which financial resources are deployed cost effectively in meeting legislated responsibilities of the Court Services Unit.

This audit will include, but not be limited to, an examination of current funding arrangements, staff deployment and budget implications.

Our review will cover the period from January 1, 2006 to March 31, 2007.

The audit methodology will include a review of relevant legislation and policies, interviews with Court Services personnel, site visits, examination of documents and records, review of relevant audits and studies completed, analysis of data and any other procedures deemed appropriate. Benchmarking the best practices of other jurisdictions will also be conducted.

**Review of Court Services
Toronto Police Service**

Funding Arrangements in Canadian Provinces

	Who Pays	Administration of the Court Security Function	Administration of the Prisoner Transportation Function
Alberta	Province of Alberta, Alberta Solicitor General and Public Security	Alberta Solicitor General and Public Security's Sheriffs Branch	Alberta Solicitor General and Public Security's Sheriffs Branch
British Columbia	Province of British Columbia, Ministry of Attorney General	Ministry of Attorney General's Court Services Branch	Ministry of Attorney General's Court Services Branch
Ontario	Local municipal governments	Municipal police services boards	Primarily municipal or regional police services boards. Also some services from the federal RCMP
Quebec	Province of Quebec Ministry of Justice (for court services) Ministry of Public Safety (for prisoner transportation service)	Ministry of Public Safety	Ministry of Public Safety
Manitoba	Province of Manitoba, Department of Justice	Department of Justice's Courts Division	Department of Justice's Courts Division
New Brunswick	Province of New Brunswick, Ministry of Justice and Consumer Affairs	Ministry of Justice and Consumer Affairs' Court Services Division	Ministry of Justice and Consumer Affairs' Court Services Division

	Who Pays	Administration of the Court Security Function	Administration of the Prisoner Transportation Function
Newfoundland	Province of Newfoundland, Department of Justice	Provincial Office of the High Sheriff	Provincial Office of the High Sheriff, - for inmate transportation in the St John and surrounding area RCMP and the Royal Newfoundland Constabulary – for inmate transportation in the rest of the province
Nova Scotia	Province of Nova Scotia, Department of Justice	Department of Justice's Court Services Division	Department of Justice's Court Services Division
Prince Edward Island	Province of Prince Edward Island	Office of the Attorney General Legal and Judicial Services Division	Office of the Attorney General, Community and Correctional Services Division

**Review of Court Services
Toronto Police Service**

Funding Arrangements in United States Jurisdictions

	Who Pays	Administration of the Court Security Function	Administration of the Prisoner Transportation Function
State of California, U.S.	State of California, Administrative Offices of the Courts	County Sheriff's Department	County Sheriff's Department
New York State, U.S.	State funds budgeted centrally by the Office of Court Administration and appropriated by the State Legislature	City Sheriff's Office in New York City, and the local sheriff's Office or police department in all other New York State counties and local boroughs	City Sheriff's Office in New York City, and the local sheriff's Office or police department in all other New York State counties and local boroughs
Oklahoma State, U.S.	Self-supporting with revenues going into a special fund earmarked for court operations, and the State making up the difference between revenues and budgeted expenditures	The Protective Services Division of the County Sheriff's Office	The Transportation Services Section of the County Sheriff's Office

Review of Court Services
Toronto Police Service

Funding Arrangements in Other Jurisdictions

	Who Pays	Administration of the Court Security Function	Administration of the Prisoner Transportation Function
United Kingdom	Federal government - Ministry of Justice (formerly known as Department for Constitutional Affairs)	Provincial government oversees services delivered by four private contractors since 1994	Provincial government oversees services delivered by four private contractors since 1994
North Australia	State (Federal) Department of Justice	Directly delivered by provincial government	Directly delivered by provincial government
South Australia	State (Federal) Department of Justice	Sheriff's Department (provincial) oversees contracted services	Sheriff's Department (provincial) oversees contracted services

Publications Consulted

- Annual Report of the Office of the Provincial Auditor of Ontario (2005), Chapter 4 Follow-up Recommendations in 2003 Annual Report
- Annual Report of the Office of the Provincial Auditor of Ontario (2003), Chapter 3 Reports on Value For Money Audits
- Boxwell, C., Phillips, R.S., and Webster, L., Benchmarks, The Journal of the Unified Court System, 12(3), Technologies and Courthouse Design: Challenges for Today and Tomorrow, 1997
- Canadian Judicial Council, Alternate Models of Court Administration, September 2006
- Coo, D., Ontario E Filing Programs – How they Work and What They Do and Do Not Do, October 2002
- Department of Justice Canada, The Final Report on Early Case Consideration of the Steering Committee on Justice Efficiencies and Access to the Justice System
- Fitzgerald, W.D., Benchmarks, The Journal of the Unified Court System, 8(1), Courthouse Security Programs: A Balance of Technology and Personnel, 1993
- Griebel, M and Phillips, T.S., Architectural Design for Security in Courthouse Facilities, July 2001
- GSL Web site: www.gslglobal.com
- Hanser, Ken and St. Vrain, R., Benchmarks, The Journal of the Unified Court System, 12(2), The High-tech Courthouse for the Next Century, 1997
- Her Majesty's Court Service Web site: www.hmcourts-service.gov.uk
- Her Majesty's Court Service, Her Majesty's Courts Service Framework Document, 2006
- Her Majesty's Court Service, The Court Service Annual Report & Accounts 2004/05: Introducing Her Majesty's Courts Service, 2006
- Jourard, R., Criminal Lawyer, Web site: <http://www.defencelaw.com>
- Kasperek, F.D., and Osterud, S.D., Benchmarks, The Journal of the Unified Court System, 10(1), Planning New or Redesigned Court Facilities, 1995

Lennox, B.W., Ontario Court of Justice, Report on the Occasion of the Opening of Courts, January 10, 2007

Metro Toronto Police Services Board, Additional Demands on Court Security Resources, November 13, 1996

Michigan Supreme Court State Court Administrative Office, Court Security Audit Checklist

Ministry of the Attorney General, Ontario, Annual Reports: 2006-2007, 2005-2006, 2004-2005

Ministry of the Attorney General, Ontario, Appendix A: Court Services Division Five-Year Plan, 2004/5 – 2008/09

Ministry of the Attorney General, Ontario, Ontario Civil Justice Review, First Report, March 1995

Ministry of the Attorney General, Ontario, Report Of the Criminal Justice Review Committee, February 1999

Ministry of Attorney General, British Columbia, Annual Service Plan Report: 2005-2006

National Center for State Courts - Protecting Court Staff: Recognizing Judicial Security Needs

New York State Court System, Web site: www.nycourts.gov

Rothenberg, R.G., AIA, Family Courts in California: Models for Practice and Design, January 2007

Schwartz, Howard P., Benchmarks, The Journal of the Unified Court System, 11(3), Kansas Court Productivity Reviews, 1996

State of California Task Force on Court Facilities, Facility Guidelines for Technology in the Courthouse, March 31, 2001

State of New York Unified Court System, Action Plan for the Justice Courts, November 2006

State of New York Unified Court System, Task Force on Court Security, Report to the Chief Administrative Judge, 2005

Statistics Canada, Canadian Centre for Justice Statistics, Custodial Remand in Canada, 1986/87 to 2000/01, Juristat, Statistics Canada – Catalogue no. 85-002-XIE, Vol.23 no.72005

Statistics Canada, Canadian Centre for Justice Statistics, Homicide in Canada, 2005, Juristat, Statistics Canada – Catalogue no. 85-002-XIE, Vol.26 no.6

Stover, Suzanne, Benchmarks, The Journal of the Unified Court System, 11(3), Issues Facing Courts in the Next Decade: Image, Funding, Resources, Spring 1996

The Lectric Law Library. Technology and Justice at the Community Court

The Ontario Court of Justice, Annual Report, 2005

Tobin, Robert W., Funding the State Courts: Issues and Approaches, July 1996

Toronto Police Service, Court Services 30-Day Review, November 2006

Travis, J., National Institute of Justice, Court Security and the Transportation of Prisoners, June 1997

U.S. Department of Justice, Bureau of Justice Assistance Bulletin – Protecting Judicial Officials: Implementing an Effective Threat Management Process, June 2006

U.S. General Services Administration, Transportation and Infrastructure, July 16, 1998

Victorian Auditor General's Report, Administration of Non-judicial Functions of the Magistrates' Court of Victoria, 2007

Womack-Weidner, A., Journal of the New York State Unified Court System, New Courthouse is State-of-the-Art, Fall 2005

Womack-Weidner, A., UCS Benchmarks Journal of the New York State Unified Court System, New York State's Largest Courthouse Opens in Brooklyn, Fall 2006

Womack-Weidner, A., UCS Benchmarks Journal of the New York State Unified Court System, New York Opens Second Mega-Courthouse, Fall 2006

Zaruba, John, E., The Justice System Journal, Courthouse Security – A Direction or a Destination, 2007