



STAFF REPORT INFORMATION ONLY

Toronto Police Service: The Auditor General's Second Follow-up Review on the Police Investigation of Sexual Assaults

Date:	August 05, 2010
To:	Toronto City Council
From:	Alok Mukherjee, Chair, Toronto Police Services Board

SUMMARY

The purpose of this report is to provide Toronto City Council with the results of the Auditor General's review that was conducted to determine the extent to which recommendations contained in the 2004 review were implemented by the Toronto Police Service.

RECOMMENDATION

It is recommended that Toronto City Council receive this report.

FINANCIAL IMPACT

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

ISSUE BACKGROUND

At its meeting held on July 22, 2010, the Toronto Police Services Board was in receipt of a report dated April 09, 2010, from Jeffrey Griffiths, Auditor General, City of Toronto, with regard to the "The Auditor General's Second Follow-up Review on the Police Investigation of Sexual Assaults".

COMMENTS

Mr. Jeffrey Griffiths, Auditor General, and Ms. Jane Ying, Audit Manager, City of Toronto – Auditor General's Office, were in attendance and delivered a presentation to

the Toronto Police Services Board. A written copy of the presentation is on file in the Board office.

The following persons were in attendance and delivered deputations to the Board:

- Jane Doe
- Beverly Bain

Prior to delivering her deputation, Chair Mukherjee requested that Ms. Doe not be filmed, taped, photographed or identified by name pursuant to court order.

The Toronto Police Services Board approved the following Motions:

1. THAT the Board receive the presentation and the deputations ;
2. THAT the Board approve the Auditor General's report and forward a copy to the City of Toronto – Audit Committee for information; and
3. THAT the Board request the Chief of Police to submit a report on how media and public warnings are transmitted to marginalized groups and, in particular, linguistic groups, based on actual recent case studies.

CONCLUSION

A copy of Board Minute No. P194/10, in the form attached as Appendix "A", regarding this matter is provided for information. A copy of the Executive Summary to the Auditor General's Follow-Up Report is contained in the Minute. A copy of the Auditor General's complete report has been filed with the Manager, Council Secretariat Support.

Note: Pursuant to correspondence dated July 14, 2010 from the City Clerk, this report is being submitted directly to Toronto City Council for consideration at its meeting on August 25, 2010.

CONTACT

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SIGNATURE

Alok Mukherjee
Chair, Toronto Police Services Board

ATTACHMENT

Appendix A – Board Minute No. P194/10

A: auditor general's second follow-up review on the police investigation of sexual assault
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APPENDIX A

THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE TORONTO POLICE SERVICES BOARD HELD ON JULY 22, 2010

#P194. THE AUDITOR GENERAL'S SECOND FOLLOW-UP REVIEW ON THE POLICE INVESTIGATION OF SEXUAL ASSAULTS

The Board was in receipt of the following report April 09, 2010 from Jeffrey Griffiths, Auditor General, City of Toronto:

SUMMARY

The purpose of this second follow-up review was to determine the extent to which audit recommendations contained in the 2004 review have been implemented by the Toronto Police Service. The results of the current review are presented in the attached report entitled "The Auditor General's Second Follow-up Review on the Police Investigation of Sexual Assaults".

Overall the Toronto Police Service has made significant strides to address issues raised in our 2004 review. The current review determined that 19 of the 25 recommendations from the 2004 review have been fully addressed and implemented. Work is in progress to address the remaining six recommendations. In addition, the current review provides three new recommendations requiring attention by the Police Service.

RECOMMENDATIONS

The Auditor General recommends that:

1. The Toronto Police Services Board adopt the following recommendations in the attached report entitled "The Auditor General's Second Follow-up Review on the Police Investigation of Sexual Assaults":

- "1. The Chief of Police ensure the internal monitoring process for sexual assault reports is implemented consistently and effectively. In particular:
 - a. The Service compliance results should be regularly provided to and reviewed by senior officers in charge of Divisional Policing Command, the Sex Crimes Unit, and the Training and Education Unit. Areas showing below expected compliance level should be identified and adequately addressed through measures including training and disciplinary action.
 - b. Divisions should adhere to the internal monitoring requirements, and the case assessment completion rates are monitored and reported to senior officers.

2. The Chief of Police give consideration to the inclusion of sexual assault reports investigated by the Sex Crimes Unit in the internal monitoring process for sexual assault reports.
 3. The Chief of Police ensure that the new information system acquired by the Toronto Police Service to replace the existing information systems is properly designed to accurately and efficiently track records of supervisory review.”
2. The Toronto Police Services Board forward this report to the Audit Committee for information.

Financial Impact

There are no financial implications resulting from the adoption of recommendations contained in this report and attachment.

DECISION HISTORY

Since 1999, the City’s Auditor General has now conducted three independent reviews on the police investigation of sexual assaults.

In 1999, the Auditor General issued a report entitled “Review of the Investigation of Sexual Assaults – Toronto Police Service”. The review was conducted at the request of City Council in response to the successful civil case of Jane Doe versus the Commissioners of Police of the then Municipality of Metropolitan Toronto. The report contained 57 recommendations. The report and its recommendations were adopted by City Council in February 2000, and they are available at: <http://www.toronto.ca/audit/1999/102599.pdf>

One of the 1999 recommendations was that the Auditor General conduct a follow-up audit in regard to the implementation status of the recommendations. Accordingly, the Auditor General conducted a follow-up review in 2004 and provided a total of 25 recommendations, many of which related to similar issues identified in the original 1999 review. The 2004 report and recommendations are available at:

http://www.toronto.ca/audit/reports2004_sub4.htm

In adopting the Auditor General’s 2004 recommendations, the Toronto Police Services Board in February 2005 requested the Auditor General to conduct a further follow-up review within three years. The Auditor General originally scheduled the review in the 2008 Audit Work Plan. However, subsequent to discussions with the Chair of the Board and senior management at the Police Service, the Auditor General determined that it would be more practical to defer the review until late 2009. The Police Services Board was advised of the deferral in writing by the Auditor General in September 2008.

The Auditor General commenced the second follow-up review in late 2009 and completed the work in early 2010. The review results are provided in the attached report.

COMMENTS

The report entitled “The Auditor General’s Second Follow-up Review on the Police Investigation of Sexual Assaults” is attached as Appendix 1. The report contains three exhibits as follows:

- Exhibit 1 – A list of the 2004 audit recommendations assessed as fully implemented and a summary of findings in support of the audit assessment.
- Exhibit 2 – A list of the 2004 audit recommendations assessed as partially implemented, a summary of audit findings, and responses from the Chief of Police.
- Exhibit 3 – A summary of 2010 audit findings necessitating additional recommendations, the new recommendations from the current review, and responses from the Chief of Police.

CONTACT

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Mr. Jeffrey Griffiths, Auditor General, and Ms. Jane Ying, Audit Manager, City of Toronto – Auditor General’s Office, were in attendance and delivered a presentation to the Board on the foregoing report and an additional report that was also considered at this meeting containing an overview report on changes to sexual assault investigations entitled “A Decade Later” (Min. No. P193/10 refers). A written copy of the presentation is on file in the Board office.

The following persons were in attendance and delivered deputations to the Board:

- **Jane Doe**
- **Beverly Bain**

Prior to delivering her deputation, Chair Mukherjee requested that Ms. Doe not be filmed, taped, photographed or identified by name pursuant to court order.

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The Board approved the following Motions:

- 4. THAT the Board receive the presentation and the depositions ;**
- 5. THAT the Board approve the Auditor General's report and forward a copy to the City of Toronto – Audit Committee for information; and**
- 6. THAT the Board request the Chief of Police to submit a report on how media and public warnings are transmitted to marginalized groups and, in particular, linguistic groups, based on actual recent case studies.**

A copy of the Executive Summary to the Auditor General's Follow-Up Report is appended to this Minute for information. A copy of the complete report is on file in the Board office.

**The Auditor General's Second Follow-up Review
on the Police Investigation of Sexual Assaults**

April 9, 2010



Auditor General's Office

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

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EXECUTIVE SUMMARY

In 1999, the Auditor General issued 57 recommendations to improve police investigation of sexual assaults

In 1999, the Auditor General issued a report entitled “Review of the Investigation of Sexual Assaults – Toronto Police Service”. The review was conducted at the request of City Council in response to the successful civil case of Jane Doe versus the Commissioners of Police of the then Municipality of Metropolitan Toronto. The report contained 57 recommendations.

In 2004 the Auditor General issued 25 recommendations after assessing the implementation status of the 1999 recommendations

The Auditor General conducted a follow-up review in 2004 to determine whether the 1999 recommendations had been implemented by the Toronto Police Service. The review found that not all of the 57 recommendations had been fully implemented. As a result, the Auditor General provided 25 recommendations in the 2004 follow-up review report, many of which pertained to similar issues identified in the 1999 review.

A further follow-up review was requested by the Toronto Police Services Board in 2005

In adopting the recommendations contained in the Auditor General’s 2004 follow-up report, the Toronto Police Services Board in February 2005 requested the Auditor General to conduct a further follow-up review within three years. The Auditor General originally scheduled the review in the 2008 Audit Work Plan. However, subsequent to discussions with the Chair of the Board and senior management at the Police Service, the Auditor General determined that it would be more practical to defer the review until 2009. The Police Services Board was advised of the deferral of the review in writing by the Auditor General in September 2008.

The Auditor General completed the second follow-up review in early 2010

The Auditor General commenced the follow up review in late 2009 and completed the work in early 2010. The purpose of the review was to determine the extent to which the 2004 recommendations have been implemented by the Toronto Police Service. The results of the 2010 follow-up review are presented in this report.

Overall Assessment

19 of the 25 recommendations from 2004 have been fully implemented

The 2010 review determined that 19 of the 25 recommendations contained in the 2004 report have been fully addressed and implemented. In most cases, work is in progress to address the remaining six recommendations.

Overall, it is very clear that the Toronto Police Service has made significant strides in its implementation of the 2004 recommendations. While the current review identified a few remaining areas of work, the review findings by and large attest to the many improvements to police investigations of sexual assault since the original 1999 audit. These improvements have been significant. To highlight the changes over the past 10 years, a separate report has been prepared entitled “The Review of the Investigation of Sexual Assaults – A Decade Later, Toronto Police Service”. This report has also been submitted to the Toronto Police Services Board.

The current review provides 3 new recommendations

During this review, as is the case with most audits, we identified additional areas requiring attention by the Police Service. In this context, this report contains three new recommendations which were discussed with the Chief of Police. Two of the three recommendations pertain to the existing internal review process for sexual assault occurrence reports and one to the need for adequate tracking of supervisory review records.

Finally, it is important to emphasize that our review represents a “snap shot” of activities at one point in time. Our conclusions are also based on a relatively small sample. Nevertheless, the work we have done is appropriate to support the conclusions in our report. We conducted the current review in accordance with generally accepted auditing standards and the review conclusions are substantiated by sufficient and appropriate evidence.

Comments on the 2004 Recommendations Which We Have Determined to Be Partially Implemented

6 of the 2004 recommendations were assessed as partially implemented

Detailed commentary on the six recommendations assessed as partially implemented is outlined in the body of this report. These recommendations relate to:

- Documentation supporting the supervisory review of sexual assault occurrences is in certain cases missing or inadequate. In other cases, documentation substantiating the Service's unfounded conclusions for a sexual assault report or supervisory approval is missing. Finally, documentation of police officers maintaining ongoing contact with women who have been sexually assaulted requires improvement.

Directives issued by the Chief of Police pertaining to the above are clearly outlined in the Police Service Criminal Investigations Procedure 05-05, Sexual Assault. Consequently, there is a need to ensure that Procedure 05-05 is complied with.

- The costs pertaining to the training of sexual assault investigators are not accounted for separately. Consequently, it is not possible to determine the total costs relating to training of sexual assault investigators. As well, it is not possible to benchmark costs with other police services in order to determine the appropriateness of the amount expended on sexual assault investigative training.
- The electronic transmission of the Violent Crime Linkage Analysis System (ViCLAS) data to the provincial ViCLAS data centre in Orillia continues to be outstanding. This requires the co-operation of the provincial ViCLAS Centre.
- In certain instances, investigators did not attend the Sexual Assault Care Centres where the women underwent the forensic examination. Consequently, it would not be possible for the investigators to ensure the women fully understood the legal implications of signing the consent form to release the forensic evidence to police. The requirement for sexual assault investigators to ensure women fully understand the legal implications of signing the consent form is outlined in Procedure 05-05.

The 2010 Report – Additional Recommendations

The 3 new recommendations relate to the existing internal review process for sexual assault reports and the tracking of supervisory review records

This report contains three new recommendations addressing the following issues:

- While the Service has implemented a divisional internal review process for sexual assault occurrence reports, we could find no evidence that areas showing low compliance levels were regularly reported to and addressed by senior management.
- At the present time, the internal review process does not apply to sexual assault occurrences investigated by the Sex Crimes Unit.
- The existing information system is not adequately designed to accurately and efficiently track records of supervisory review of occurrence reports.

Conclusion

The Toronto Police Service in 1999 and prior was the subject of significant criticism both as a result of the 1999 audit by the Auditor General as well as in the judgement in the Jane Doe legal case by Madame Justice MacFarland. This criticism was well founded particularly when the Auditor General was able to identify and articulate 57 recommendations in the 1999 audit report. Further, Madame Justice MacFarland was especially blunt and direct in her views on how the Police Service treated women who had been sexually assaulted. The one comment that received significant attention was the fact that the Police Service had engaged in “*impression management*”. In view of the fact that the 2004 follow-up report identified issues and recommendations which had not been dealt with, the term “*impression management*” continued to have relevance at that time.

The Toronto Police Service has made significant improvements to the investigation of sexual assaults

Since 2004, for the most part, the major recommendations have been addressed. Work continues on those recommendations which remain outstanding. The Police Service, after a decade of criticism, should be recognized for its work and commitment in the way it has improved the investigation of sexual assaults. It is also important to acknowledge, as far as we know, that no other police service in North America has devoted the extent of resources and attention to sexual assault investigations as the Toronto Police Service.