

August 11, 2010

To: Executive Committee

From: Employee and Labour Relations Committee

Subject: **Police Reference Checks for Prospective Employees for Shelter, Support and Housing Administration Division**

**Recommendation:**

**The Employee and Labour Relations Committee recommends to the Executive Committee that:**

- 1. The General Manager, Shelter, Support and Housing Administration, and/or his designate, implement a process of pre-employment Police Reference Checks for all qualified, external applicants selected for employment with the Division; and all selected applicants for volunteer or student placements whose work involves unsupervised contact with, or proximity to, vulnerable clients.**
- 2. The General Manager, Shelter, Support and Housing Administration, and/or his designate, develop and implement the Police Reference Checks process, including policies and procedures, no later than March 2011, in conjunction with Human Resources Division and Legal Services Division.**
- 3. The Executive Director, Human Resources notify Toronto Police Services that Shelter, Support and Housing Administration has City Council approval to be included in the existing memorandum of understanding to conduct Police Reference Checks for qualified, external employee and volunteer candidates at no cost.**
- 4. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.**

**Background:**

The Employee and Labour Relations Committee on August 11, 2010, considered a report (July 21, 2010) from the Executive Director, Human Resources and the General Manager, Shelter, Support and Housing Administration seeking approval to conduct Police Reference Checks on prospective new Shelter, Support and Housing Administration Division (SSHA) staff, volunteers and students whose work may involve unsupervised contact with, or close proximity to, vulnerable clients, as one part of the applicant screening process.

City Clerk

Patsy Morris/tk

Item EL22.5

Att.

c:     Executive Director, Human Resources  
       Barbara Shulman, Director, Staffing, Compensation and Employment Equity  
       Anne Longair, Director, Hostel Services  
       Phil Brown, General Manager, Shelter, Support and Housing Administration



## STAFF REPORT ACTION REQUIRED

### Police Reference Checks for Prospective Employees for Shelter, Support and Housing Administration Division

<b>Date:</b>	July 21, 2010
<b>To:</b>	Employee and Labour Relations Committee
<b>From:</b>	Executive Director, Human Resources, and General Manager, Shelter, Support and Housing Administration
<b>Wards:</b>	All
<b>Reference Number:</b>	

#### SUMMARY

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This report seeks approval to conduct Police Reference Checks on prospective new Shelter, Support and Housing Administration Division (SSHA) staff, volunteers and students whose work may involve unsupervised contact with, or close proximity to, vulnerable clients, as one part of the applicant screening process.

SSHA's primary client group are under-housed or homeless youth, adults, and families with children who rely on the various forms of shelter and support services that are administered by the Division. Some homeless clients have severe mental illness, health issues, addiction issues, or have been victims of violence and can be considered to be 'vulnerable' adults.

In order to safeguard the health and safety of under-housed or homeless clients, SSHA seeks to amend its hiring process to include Police Reference Checks for qualified, external applicants who are selected for any paid, voluntary or student placement positions who work within homeless shelters, clients' homes, or other locations where clients are located, including on the street. SSHA recognizes the importance of balancing the need to safeguard the health and safety of clients, with the need to ensure that opportunities for employment within the Toronto Public Service are not inadvertently limited as an unintended consequence.

Police Reference Checks of qualified, external applicants who are selected for such positions will introduce an extra measure of security with respect to the suitability of the applicant to work in a position of trust with vulnerable populations.

## **RECOMMENDATIONS**

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The Executive Director, Human Resources, and General Manager, Shelter, Support and Housing Administration, recommend that:

1. the General Manager, Shelter, Support and Housing Administration, and/or his designate, implement a process of pre-employment Police Reference Checks for all qualified, external applicants selected for employment with the Division; and all selected applicants for volunteer or student placements whose work involves unsupervised contact with, or proximity to, vulnerable clients;
2. the General Manager, Shelter, Support and Housing Administration, and/or his designate, develop and implement the Police Reference Checks process, including policies and procedures, no later than March 2011, in conjunction with Human Resources Division and Legal Services Division;
3. the Executive Director, Human Resources notify Toronto Police Services that Shelter, Support and Housing Administration has City Council approval to be included in the existing memorandum of understanding to conduct Police Reference Checks for qualified, external employee and volunteer candidates at no cost; and
4. the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

### **Financial Impact**

Staff anticipate no additional annual cost to obtaining Police Reference Checks on qualified, external staff, volunteer, and student placement applicants. Therefore, no net impact to SSHA's approved budget is anticipated. Should there be additional costs arising from the pre-employment Police Reference Checks, SSHA will absorb these costs within its 2011 Approved Operating Budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

At its meeting of June 9, 10, and 11, 1999, City Council adopted, as amended, Clause No. 6 of Report No. 8 of the Economic Development Committee entitled "Police Reference Checks and the Hiring Process." The Report gave approval to the Parks and Recreation Services Division, of the Economic Development, Culture and Tourism Department, to enter into an agreement with the Toronto Police Service to conduct a Police Reference Check as the final stage in the hiring process where primary employment or volunteer duties involve working directly with children, youth, and/or other vulnerable populations. The Report further provided that the policy to conduct Police Reference Checks was to be implemented in the Parks and Recreation Services

Division, of the Economic Development, Culture and Tourism Department, as a first step in implementing the policy city-wide where appropriate. An electronic copy of the report can be found at:

<http://www.toronto.ca/legdocs/1999/agendas/council/cc/cc990609/ed8rpt/cl006.htm>

At its meeting of November 23, 24, and 25, 1999, City Council adopted recommendations from the Community Services Committee and gave approval to implement a similar policy of Police Reference Checks in the Children's Services Division, for all applicants for employment and volunteering with Children's Services and for home child care providers. An electronic copy of the report can be found at:

<http://www.toronto.ca/legdocs/1999/agendas/council/cc/cc991123/cms5rpt/cl009.htm>

At its meeting of April 12, 13 and 14, 2005, City Council adopted recommendations from the Community Services Committee and gave approval to implement a similar policy of Police Reference Checks in the Homes for the Aged Division, for all applicants for employment and volunteering with Homes for the Aged. An electronic copy of the report can be found at:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050412/cms3rpt/cl008.pdf>

## **ISSUE BACKGROUND**

### **A. Police Reference Checks**

Police Reference Checks (or Criminal Reference Checks) are a precautionary measure designed to ascertain whether qualified applicants selected to work in positions that come into direct contact with client groups have a criminal history which could potentially make them unsuitable for certain positions of trust. As such, Police Reference Checks assist City divisions in attempting to ensure the safety and well-being of those who will receive services from them, by helping to screen such staff and volunteer applicants.

Police Reference Checks are generally conducted by the police service in the area in which the applicant resides. The Police Reference Check indicates whether qualified external applicants have been convicted of a criminal offence, have criminal backgrounds (i.e. charged, but not convicted of an offence), notes any pardons that have been granted, or notes that there are no findings.

### **B. Provincial Context**

There is an absence of explicit provincial guidelines or direction requiring shelter operators or homeless service providers to complete Police Reference Checks, as part of their hiring process. However, Police Reference Checks have been recognized as a useful screening tool, and have been incorporated into provincial directives, regulations and legislation by two provincial ministries that work with vulnerable populations.

## Ministry of Community and Social Services

The *Developmental Services Act*, which authorizes the funding of institutional services and facilities, group homes, respite services, community participation supports, specialized services, and Special Services at Home for people with developmental disabilities came into force on April 1, 1974.

The *Developmental Services Act* R.R.O 1990, Regulation 272, contains a number of important provisions for the health, safety and well-being of people with a developmental disability living in ministry-funded facilities, including provisions that require a group home to complete a personal reference check and a criminal reference check before hiring as a member of the staff or taking on as a volunteer a person who will have direct contact with residents.

In 1995, the Ministry of Community and Social Services (MCSS) issued a directive, dated March 1<sup>st</sup>, requiring all agencies funded or licensed by MCSS, and which provide direct services to children (including child care) or vulnerable adults, to incorporate criminal reference checks as a mandatory component of their hiring processes.

## Ministry of Health and Long-Term Care

The *Long-Term Care Homes Act, 2007*, which establishes a new system of governance for long-term care homes in Ontario, by replacing the three separate pieces of governing legislation that existed before, namely, the *Nursing Homes Act*, the *Charitable Institutions Act* and the *Homes for the Aged and Rest Homes Act*, received Royal Assent on June 4, 2007 and came into effect on July 1, 2010.

Part V of the *Long-Term Care Homes Act, 2007* deals with the operation of the homes, and includes screening measures for staff (i.e. criminal reference checks), which is found under Section 75.(2).

While the scope of each provincial directive, regulation, or legislation is limited to their respective agencies, the underlying policy intent is to require each agency to take the necessary precautions in screening potential staff prior to their hiring or placement, in order to safeguard the health and safety of the clients who would be served by the potential staff member or volunteer.

### **C. City of Toronto Context**

The City of Toronto recognized that this same rationale should extend to municipal services that work with other vulnerable groups.

City Council, at its meeting of June 9, 10, and 11, 1999, adopted, as amended, Clause No. 6 of Report No. 8 of the Economic Development Committee entitled "Police Reference Checks and the Hiring Process" of Toronto, which recommended:

1. authority be granted for the City of Toronto to enter into an agreement with Toronto Police Service to conduct a police reference check as the final stage in the hiring process where employment or volunteer duties involve working directly with children, youth and/or other vulnerable populations as required;
2. the policy to conduct a police reference check as outlined in Recommendation No. 1 be implemented in the Parks and Recreation Services Division of the Economic Development, Culture and Tourism Department as a first step in implementing the policy city-wide where appropriate;
3. the appropriate City Officials be authorized and directed to take the necessary actions to give effect thereto; and
4. a further report be submitted by the Executive Director of Human Resources, in consultation with the City Solicitor, with respect to the issues of police reference checks on current employees who work with children, youth and vulnerable adults.

This provision was enacted through By-Law No. 297-1999.

At the time, the scope of this initial approval was applied solely to the Parks and Recreation Services Division (now Parks, Forestry and Recreation Division), and did not apply to other City Divisions that also served '*children, youth and vulnerable adults*'.

Since then, Children's Services Division and Homes for the Aged (now Toronto Long-Term Care Homes and Services Division) have also requested and received Council approval to implement Police Reference Check policies, as part of their hiring process.

**D. Shelter, Support and Housing Administration Division**

While various SSHA staff positions work directly with, or in close proximity to '*children, youth and vulnerable adults*', SSHA does not currently include Police Reference Checks as part of its hiring process.

SSHA, through the Hostel Services Unit, directly operates nine of the 57 emergency shelter sites that make up Toronto's shelter system. These City-operated sites represent a capacity of more than 1,200 beds and employ over 640 employees to serve 'vulnerable' client groups that include homeless men, women and families with children, with some sites also including child care services.

SSHA also operates the Streets to Homes program, which helps homeless people living outdoors to get a safer place to sleep and find long-term housing. Streets to Homes employs over 70 employees to serve client groups that include homeless youth, men, and women who live outdoors and may require significant supports or who have been housed and require follow up supports.

The Emergency Planning Unit works with relevant City services and community partners to help evacuees and their pets with shelter, food, clothing, registration and inquiry, and personal services in the event of disaster. As well, this Unit routinely provides key services such as opening cooling centres during episodes of extreme hot weather and administration of the extreme cold weather alert program. Currently, the Emergency Planning Unit employs four employees to coordinate these activities.

## **COMMENTS**

### **The Need for SSHA Police Reference Checks**

Since providing the authority for Parks, Forestry and Recreation Division to implement a Police Reference Check policy in 1999, City Council has approved similar Police Reference Check policies for Children's Services Division, and Toronto Long-Term Care Homes and Services Division, recognizing that staff in these divisions met the criterion of "working directly with children, youth and/or other vulnerable populations as required".

SSHA staff, volunteers and students also meet this criterion. Staff, volunteers and students work with under-housed and homeless clients, whose lives tend to be more stressful and isolating, whose physical and mental health are generally worse than the general population, who may suffer developmental delay and who may have been victims of violence.

Unlike child care facilities, and long-term care facilities, there is no specific provincial legislation, regulation, or policy directive that requires providers of housing and homelessness-related services (e.g., emergency shelters, homeless outreach workers) to conduct Police Reference Checks on staff, volunteers or students.

Notwithstanding the absence of provincial requirements to conduct Police Reference Checks for staff and volunteers in the emergency shelter sector, SSHA recognizes its obligation to protect the clients that it serves, by incorporating such measures. Some shelter providers (e.g., Salvation Army in Peel) and municipalities (e.g., City of Kingston, City of Ottawa) already incorporate Police Reference Checks on new employees, volunteers and students working in their shelter facilities, either through internal policy or by-law.

As part of the continuous improvement of hiring policies within the Division and as a proactive and precautionary measure, SSHA is seeking approval to conduct Police Reference Checks on qualified, prospective new staff, volunteer and student applicants who are selected to work within the Division.

### **Development of SSHA Police Reference Checks**

Subject to City Council approval, SSHA will develop and implement a Police Reference Check policy and related procedures based on existing policies from Parks, Forestry and Recreation Division, Children's Services Division, and Toronto Long-Term Care Homes and Services Division.

SSHA will consult with Human Resources Division and Legal Services Division about relevant administrative, legal and labour management issues that warrant consideration. SSHA will also consult with the City's Corporate Access and Privacy Office on any relevant and applicable access and privacy provisions. All policies and procedures for Police Reference Checking would be developed in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

Subject to Council approval, SSHA intends to have the necessary policy and procedures in place to incorporate Police Reference Checks into the hiring process by the end of March 2011.

### **Amended SSHA Hiring/Selection Process**

Once a Police Reference Check policy and procedures have been developed, the Police Reference Check will be used as one of the tools in SSHA's hiring process to determine the suitability of a qualified external applicant for any paid, voluntary or student placement positions with the Division.

The Police Reference Check will be used to determine if the qualified, external staff, volunteer, or student applicant has been convicted of any criminal offence or has a criminal background that may be relevant to the position or volunteer activity involved. Offences that could potentially be relevant and worthy of consideration will be determined in consultation with Human Resources Division and Legal Services Division. Should the Police Reference Check report confirm that there are no findings of offences, then SSHA will receive written confirmation of this fact and can continue to proceed with the selection / hiring process.

Should the reference check confirm that there are findings of offence, the applicant will be notified in writing. SSHA recognizes the importance of balancing the need to safeguard the health and safety of clients, with the need to ensure that opportunities for employment within the Toronto Public Service are not inadvertently limited. As such, if the applicant still wishes to pursue employment with SSHA, he/she will be asked to sign a 'Consent to Verify Police Reference Check Information' form. When SSHA has had an opportunity to review the results of this more detailed report, a decision will be made as to whether the conditional offer of employment (or voluntary / student placement) can be confirmed, based on relevant facts and degree of risk. An appeal process will be established for applicants whose conditional offers of employment have been withdrawn on the basis of the results of a Police Reference Check.

Police Reference Checks of qualified, external applicants selected for employment, volunteer or student placements in the City's SSHA will introduce an extra measure of security regarding the suitability of the applicant to work in a position of trust with vulnerable populations.

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## **SIGNATURE**

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Bruce Anderson  
Executive Director  
Human Resources

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Phil Brown  
General Manager  
Shelter, Support and Housing Administration