

**An Investigation into the
Administration of the Public Appointments Policy
Addendum Report**

Fiona Crean
Ombudsman



1.0 Introduction

1. On September 25, 2012, I issued an investigation report regarding the administration of the City's Public Appointments Policy (Policy). Included in that report were allegations that at a Civic Appointments Committee meeting on July 18, 2011, a list of names was circulated by the Mayor's staff to members of the Committee.¹
2. Accounts of the Mayor's staff activities during that meeting varied. My report at paragraph 191 stated the following:

The Mayor's staff told my investigator that they had a list of applicants which was for their own purposes. The list had been generated from the names of applicants provided by Councillors from their respective wards. The Mayor's staff [stated that they] did not share the list with anyone except the CMO [City Manager's Office] when the issue of a "confidential" list was raised by an attendee.

3. In my investigative findings at page 39 of the report, I reached no determination on this matter as the evidence was mixed. Specifically at paragraph 293 I stated:

During the investigation, some attendees at the July 18 Committee meeting stated that Mayor's staff provided lists of preferred appointees to Committee members. Based on the evidence, I cannot make a determination that this in fact occurred.

4. The recommendations from this investigation were accepted and are being implemented by the City Manager and the City Clerk. At its October 4, 2012 session, City Council adopted the report unanimously.

2.0 Additional Facts

5. During my investigation, we requested and received many forms of documentary evidence from the City, both hard copy and electronic records. This included the physical evidence related to the civic appointments process in the CMO's possession.
6. We had asked the CMO to provide my office with copies of all civic appointments related electronic files from the senior manager responsible and then deduced the documents' relevance thereafter. The CMO's electronic search was conducted by the name of the manager and the topic of 'civic appointments'.

¹ Pages 27 and 28 at paragraphs 186-191 of the report.

7. On October 4, 2012, in a separate search on a related matter, a CMO administrative support staff person located an e-mail and attached PDF document containing a list of names and agencies. The document had been delivered on July 21, 2011 to the senior manager responsible for civic appointments and subsequently scanned and e-mailed to the manager by the administrative assistant.
8. The CMO contacted me as soon as this matter was discovered and a letter from the City Manager, dated October 5, 2012, along with the document was delivered to my office.
9. A review of this matter reveals that when the document was delivered to the CMO on July 21, 2011, the administrative assistant scanned the one page list and e-mailed it to the manager with the subject heading of "List from Mayor's Office.pdf" and a note which says: "This was delivered to you in an envelope".
10. The document is one page and consists of names attached to a specific agency with the application number associated to each applicant as follows:
 - 10 names under Library
 - 2 names under Toronto Port Authority
 - 2 names under Toronto Police Services Board
 - 8 names under Toronto Parking Authority
 - 4 names under MTCC

3.0 Ombudsman Conclusions

11. During my investigation many documents were requested from the CMO. In the case of electronic documents from the senior manager who was responsible for civic appointments at the time, a search of the manager's system yielded many bankers' boxes of material that were delivered to our office. I believe the material submitted was in order and complete for purposes of our investigation.
12. When the additional document was discovered by the CMO on October 4, it was identified only because a search had been initiated on a related matter for another purpose. The subject heading of the e-mail had no obvious relationship to civic appointments in that the title of the e-mail was "list from Mayor's office" and the author's name was that of an administrative assistant not the manager in question.
13. As soon as the CMO established the existence of the document, I received a telephone call alerting me to the fact, followed by the City Manager's correspondence attaching the document.

14. While the timing of the document's discovery is unfortunate, it is my view that the CMO's conduct in this matter has been blameless. The timing I believe is purely coincidental. There was no error or oversight because the document on its face was not the subject matter of the investigation and did not emanate from any public servant directly involved in the matter. Furthermore, the CMO provided the information immediately upon discovery.
15. I have provided this addendum report at my earliest possible opportunity to meet the requirements of full disclosure. In the final analysis, the existence of the e-mail and attached document makes no material difference to the outcome of my investigation, its findings or its recommendations.

(Original signed)

Fiona Crean
Ombudsman
October 22, 2012