

**Supplementary Report: Fees for Vulnerable Sector  
Police Reference Checks**

|                          |                     |
|--------------------------|---------------------|
| <b>Date:</b>             | May 22, 2014        |
| <b>To:</b>               | Executive Committee |
| <b>From:</b>             | City Manager        |
| <b>Wards:</b>            | All                 |
| <b>Reference Number:</b> |                     |

**SUMMARY**

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This supplementary staff report is in response to two reports from the Toronto Police Services Board on the Toronto Police Service's Reference Check Program. The first report advises the Executive Committee that effective June 1, 2014 the Toronto Police Service will end their long standing practice of not charging the City of Toronto for vulnerable sector police reference checks. The second report requests that the Executive Committee approve the Board's recommendation to increase the fees that are currently charged by the Toronto Police Service for vulnerable sector police reference checks and to establish new fees for expedited checks performed by the Service.

City Divisions and Agencies require approximately 4,500 vulnerable sector police reference checks per year for new and existing employees and volunteers, with current processing times by the Toronto Police Service of between four and twelve weeks. The large volume of requests and associated backlog impacted the ability to fill vacant positions in direct service delivery areas. Reducing the processing time to two weeks would improve the time required to fill those vacancies.

This report recommends that the City enter into a memorandum of understanding between the City and Toronto Police Service for the provision of vulnerable sector police reference checks for successful applicants, current employees and volunteers of City Divisions and Agencies for the same fees as charged to the public. It also recommends that the Toronto Police Services Board delay the implementation of charging fees for vulnerable sector screening checks until September 1, 2014 to allow City Divisions and Agencies and Toronto Police Service time to develop administrative process to track requests and reconcile charges.

City Divisions and Agencies will absorb the additional cost of vulnerable sector police reference checks in 2014. For 2015, Divisions and Agencies will submit their full year estimates of these additional costs for consideration during the Operating Budget process.

This report also outlines previous decisions related to the Toronto Police Service's Reference Check Program, provides a review of the proposed fees with respect to the City's User Fee Policy and assesses the financial impacts resulting from the changes proposed by the Toronto Police Service Board.

## **RECOMMENDATIONS**

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### **The City Manager recommends that:**

1. City Council authorize City staff, in consultation with appropriate City Agencies, to enter into a memorandum of understanding between the City and the Toronto Police Service for the provision of vulnerable sector police reference checks for successful applicants, current employees or volunteers of City Divisions and Agencies for the same fees as charged to the public.
2. City Council direct City Divisions and direct or request City Agencies, as appropriate, to fund the full costs of vulnerable sector police reference checks so that the costs for this service are not borne by applicants, employees or volunteers.
3. City Council request Toronto Police Services Board to delay the implementation of charging City Divisions and Agencies fees for vulnerable sector screening until September 1, 2014, to allow City Divisions and Agencies and Toronto Police Services time to develop administrative processes to track requests and reconcile charges.
4. City Council amend the *Municipal Code Chapter 441* as appropriate to reflect any approved changes to user fees charged by the Toronto Police Service for:
  - a. Vulnerable sector screenings for the purposes of employment;
  - b. Vulnerable sector screenings for volunteers;
  - c. An expedited service for vulnerable sector screening for the purpose of employment; and
  - d. An expedited service for vulnerable sector screenings for volunteers.

### **Financial Impact**

The City Divisions and Agencies request approximately 4,500 Vulnerable Sector Police Reference Checks (VSPRC's, also known as Vulnerable Sector Screenings) each year for potential and current employees and volunteers.

### Incremental Costs

| Program                        | VSS per year | 2014 Financial Impact (\$) (Jun 1, 2014 to Aug 31, 2014) | 2014 Financial Impact (\$) (Sep 1, 2014 - Dec 31, 2014) | Full Year Impact (\$) |
|--------------------------------|--------------|--|---|-----------------------|
| PF&R                           | 1,600        | 13,150   | 31,265  | 104,000               |
| Children's Services            | 200          | 2,500  | 5,255   | 15,700                |
| LTCHS                          | 753          | 3,865  | 6,805   | 20,415                |
| SSHA                           | 37           | 1,440  | 2,350   | 3,790                 |
| <b>Subtotal: City Programs</b> | <b>2,590</b> | <b>20,955</b>  | <b>45,675</b>   | <b>143,905</b>        |
| TPL                            | 800          |  | 1,334   | 4,000                 |
| AOCCs                          | 480          | 2,627  | 4,640   | 13,920                |
| TTC                            | 625          | 9,250  | 12,025  | 40,625                |
| <b>Subtotal: City Agencies</b> | <b>1,905</b> | <b>11,877</b>  | <b>17,999</b>   | <b>58,545</b>         |
| <b>TOTAL</b>                   | <b>4,495</b> | <b>32,832</b>  | <b>63,674</b>   | <b>202,450</b>        |

The additional costs of VSPRCs from June 1, 2014 to August 31, 2014 would result in an incremental financial impact to City Divisions and Agencies of approximately \$32,832. Since the Toronto Public Library has a provision in its Base Operating Budget for VSPRCs and already pays \$15 for each request for its volunteers, there will be no financial impact to the Toronto Public Library from June 1 to August 31, 2014.

The additional costs to City Divisions and Agencies for VSPRCs from September 1 to December 31, 2014, at the rates proposed by the Toronto Police Services Board, will result in an incremental financial impact of \$63,674, with the full year impact for 2015 estimated at \$202,450. Since the Toronto Public Library will have to pay an additional \$5 per each request, the incremental impact will be \$1,334 from September 1 to December 31, 2014, with a full year incremental impact of \$4,000.

City Divisions and Agencies will absorb the 2014 costs and submit requests for 2015 funding for consideration as part of the 2015 Operating Budget process.

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

### DECISION HISTORY

On June 9, 2011 the Toronto Police Service Board (TPSB) passed a motion approving a user fee of \$56.50 (\$50 plus GST) for Vulnerable Sector Police Reference Checks that are conducted for current and potential employees of the City of Toronto ([Item # P157, Toronto Police Service Board Minutes, June 9, 2011](#)).

On September 26, 2011 Council approved the User Fee Policy and enacted by-law 1174-2011 pursuant to section 263 of the *City of Toronto Act*, 2006, providing that a user fee of a Local Board for a service or activity offered to the general public, with the exception of the Toronto Transit Commission (the "TTC"), not come into force until it is approved by

City Council, a condition of such approval being compliance with the User Fee Policy (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX10.2>).

Following a request from the City Manager, the Toronto Police Services Board on September 14, 2011 reconsidered and repealed its motion adopted in the June 9, 2011 meeting and directed the Toronto Police Service (TPS) to enter into a memorandum of understanding with the City that provided for no costs for conducting a Police Reference Check for the City and City Agencies. The board also committed to bring through the budget process any proposed measure that would impose, increase or decrease the fees with sufficient notice to the City of such measures ([Item # P242, Toronto Police Service Board Minutes, September 14, 2011](#)).

On November 27, 2012, City Council authorized City staff to enter into a renewal of the memorandum of understanding between the Toronto Police Service Board and the City to provide Vulnerable Sector Police Reference Checks in a timely manner and at no cost for employment purposes and volunteer placements (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX24.24>).

During the March 13, 2014 Toronto Police Services Board, item # P43 was received "Clearing Backlog of Background Check Requests – Police Reference Check Program". Following a discussion of the backlog of police reference checks a motion was introduced that, "effective June 1, 2014, the City of Toronto be charged for all applications that are completed for the City and that those funds be used to bolster the timeliness of conducting the background checks" ([Item # P43, Toronto Police Services Board Minutes, March 13, 2014](#)).

On April 10, 2014, the Toronto Police Services Board adopted the report entitled, "Options to Improve the Efficiency of Responding to Requests for Vulnerable Sector Screening Checks to Within a Two Week Timeline for Completion." The report recommends an increase in the fee effective September 1, 2014 for Vulnerable Sector Police Reference Checks from \$50 to \$65 per request for the purpose of employment and from \$15 to \$20 per request for volunteers. The report also recommended a new fee for an expedited service for VSPRC's within 72 hours effective September 1, 2014 at \$110 per request for the purpose of employment and \$65 per request for volunteers ([Item #P66, Toronto Police Services Board Minutes, April 10, 2014](#)).

## **ISSUE BACKGROUND**

There are two types of Police Reference Checks available in Canada. The first is a Criminal Record Check (or Clearance Letter), which is a search of the RCMP national repositories of criminal records. A search can be made based on the applicants name and date of birth. A simple Criminal Record Check can be requested from any Canadian police service and some third party service providers.

The second type of Police Reference Check is a Vulnerable Sector Police Reference Check. A VSPRC combines a Criminal Record Check with a search for pardoned sexual offences and a search of the applicant's local police service databases. VSPRC's must be

completed by the local police service of the municipality where the applicant lives. These reports cannot be created by third party service providers. VSPRC's can only be requested if there is a bona fide occupational requirement for the information based on the nature of the work and the potential for influence over children and vulnerable adults.

Vulnerable Sector Police Reference Checks are conducted as the final part of the hiring process for employees and volunteers who work closely with children and vulnerable adults. The City must also meet legislative requirements for Police Reference Checks in Long Term Care Homes and Services, Children's Services and Emergency Medical Services. City policy also requires VSPRC's for certain positions in Parks, Forestry and Recreation and Shelters, Support and Housing Administration. There are provisions in collective agreements with City unions requiring the City to pay all costs associated with a Police Reference Check for existing bargaining unit employees.

For entry level positions such as part time recreation workers the cost of a VSPRC can be a barrier to first employment. Council's past direction has been that applicants for employment with City Divisions and Agencies will not be charged a fee to obtain a job with the City. This decision is consistent with other public sector employers.

A memorandum of understanding was in place between the City and Toronto Police Services between 2002 and 2006 which included a provision to waive the fees for VSPRC's for employment and volunteer purposes of City divisions and agencies. In November 2012, Council directed staff to enter into a renewed memorandum of understanding with the Service so that fees would continue to be waived for VSPRC's. While a renewed memorandum was not executed, the Toronto Police Service has continued to provide VSPRC's for current and potential employees and volunteers of City Divisions and some Agencies at no direct cost.

City Divisions and Agencies have been experiencing delays between four and twelve weeks when VSPRC's are required by residents of Toronto. This has impacted the ability of City Divisions and Agencies to fill direct service delivery vacancies in a timely manner. These delays have also impacted other Toronto employers, job-seekers and volunteers that require VSPRC's. Staff and the TPS are aware of cases where employment opportunities have been lost due to the timelines for conducting these checks.

According to the User Fee Policy approved by Council on September 9, 2011, user fees of Local Boards, with the exception of those of the TTC, charged for services or activities being provided to the general public require approval by City Council. Local Boards must comply with the User Fee Policy and report any deviation or non-compliance, along with reasons for such deviation or non-compliance, to City Council.

The User Fee Policy also indicates that Local Boards with user fees should determine cost recovery rates based on direct and indirect costs plus capital charges for all fees, and set fees based on full cost recovery, except where City Council has approved a subsidy or exemption, where services are based on competition in the open market, or where fee

amounts are legislated by the Province. The amount of a fee must not exceed the full cost of providing the applicable service.

All Toronto Police Service's user fees are included in *Chapter 441* of the City of Toronto. *Municipal Code* and *Chapter 441* are frequently updated to reflect the adoption of new fees or changes to existing user fees approved by City Council.

## **COMMENTS**

### **Fees for City Divisions and Agencies**

The Toronto Police Services Board has approved additional staffing to address the volume of requests for Police Reference Checks with the goal of providing a report with no findings within two weeks. Police Reference Checks with findings will take significantly longer to complete. The TPSB proposes to fund the additional staffing through additional fees collected by VSPRC applicants. Fees would be charged for City Divisions and Agency's employment and volunteer purposes and increased for all VSPRC applicants.

The practice of waiving VSPRC fees only exists for City Divisions and Agencies. All other employers or applicants are charged the same fee. The report recommends that City Divisions and Agencies pay fees consistent for the service with other users of the reference check service.

Achieving the goal of two weeks for the completion of a VSPRC without findings would significantly reduce the time required to fill vacant positions in key service delivery areas that work with children and vulnerable adults.

City Divisions and Agencies have worked closely with Toronto Police Services to develop efficient processes for transmitting requests for VSPRC's. Implementing a fee for the provision of these checks will require the creation of a new tracking mechanism and process to be used by all City Divisions and Agencies to identify the source and accounting codes for each of the 4,500 individual requests processed annually by Toronto Police Services for City Divisions and Agencies. Additional time is required for City Division, Agency and TPS staff to develop the administrative process required to support cost recovery charge backs for VSPRC's.

### **User Fee Policy and Full Cost Recovery**

With respect to the Toronto Police Reference Check Program, the Toronto Police Service utilizes a costing model that accounts for direct costs associated with the program, such as salaries, benefits and premium pay and then allocates the indirect costs such as management, administration, computers, facilities, etc. as a percentage of salaries to derive the full cost of the program. As such, the costing model used by the Toronto Police Service is very similar to the Full Costing Model developed by Accounting Services and recommended by the User Fee Policy.

Currently, the Toronto Police Reference Check program sets the fee for VSPRC's for the purpose of employment at \$50 and the fee for VSPRC's for volunteers at \$15 so that the revenue for the entire program equals the cost for the entire program, thus achieving full cost recovery on a program basis. However, individuals applying for VSPRC's for the purpose of employment subsidize the individuals applying for VSPRC's for the purpose of volunteering and the fee for the purpose of employment exceeds the full cost of providing the service.

When the Reference Check Program was first approved in the mid 90s, the Toronto Police Services Board approved a lower fee for volunteers. The rationale given was that volunteers contribute greatly to the community at large and therefore deserve police assistance and support where possible. In addition, it was deemed that the imposition of additional costs may have a significant negative impact on volunteer organizations. Since the introduction of fees for Police Reference Checks, the Board has continued to support a lower fee for volunteers and this is also a generally accepted practice for most police services in Ontario.

At its April 10, 2014 meeting, the Toronto Police Services Board approved an introduction of a new fee for an expedited service for VSPRC's within 72 hours effective September 1, 2014 at \$110 per request for the purpose of employment and \$65 per request for volunteers. The fees are set at rates that will assist in recovering costs for additional permanent positions and estimated premium pay to meet the timeline requirement. These user fees will be reviewed a year after implementation to re-evaluate the assumptions upon which they are based and ensure that they are set at a level of cost recovery. In addition, all user fees are reviewed annually as part of the Operating Budget process in order to confirm their adequacy to recover the full cost of the associated service and, where required, appropriate adjustments will be recommended.

### **User Fee Public Notice and Consultation**

With the exception of City Council approved automatic annual inflation adjustments, the User Fee Policy requires that the public should be provided with five working days' notice of the introduction of new fees or changes to existing fees prior to the meeting of the committee at which the recommended changes are considered. The Toronto Police Service is in compliance with this requirement and submitted a written notice on May 7, 2014 notifying the City Clerk of the changes to the existing user fees and introduction of the new user fees relating to the Police Reference Check Program.

The User Fee Policy also requires that a public consultation, in addition to the opportunity to make presentations to the committee considering a user fee, is undertaken when new user fees are being recommended to City Council for approval outside of the annual budget process. This particular User Fee Policy direction has not been fulfilled and City staff will work with the Toronto Police Service to ensure that User Fee Policy requirements are met in the future.

## CONCLUSION

If recommendations in this report are adopted, City staff, in consultations with agencies, will develop a memorandum of understanding between the City and Toronto Police Service for the provision of Vulnerable Sector Police Reference Checks for successful applicants, current employees and volunteers of City Divisions and Agencies for the same fees as charged to the public, as well as develop administrative process to track requests and reconcile charges.

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## SIGNATURE

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## ATTACHMENTS

Appendix A – City of Toronto User Fee Policy  
Appendix B – City of Toronto Police Reference Check Policy