

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON SEPTEMBER 17, 2015**

#P234. ACCESS TO POLICE SERVICES FOR UNDOCUMENTED TORONTONIANS

The Board was in receipt of the following report August 12, 2015 from Mark Saunders, Chief of Police:

Subject: ACCESS TO POLICE SERVICES FOR UNDOCUMENTED
 TORONTONIANS

Recommendation:

It is recommended that the Board receive this report for information.

Financial Implications:

There are no financial implications relating to the recommendation contained within this report.

Background:

During its meetings on June 10, 11 and 12, 2015, City Council adopted the item entitled “Toronto Police Service: Service Governance Pertaining to the Access to Police Services for Undocumented Torontonians” (CD4.2), containing four recommendations, of which recommendations 1, 2 and 3 are directed to the Toronto Police Services Board (Board).

On July 15, 2015, the Board Chair requested that the Office of the Chief of Police prepare a report for the September 17, 2015 Board meeting, so that the Board may respond to the City for the October 15, 2015 Community Development and Recreation Committee meeting.

Discussion:

Recommendation 1 a

City Council requested that the Board report to the October 15, 2015 Community Development and Recreation committee meeting on:

statistics related to the number of undocumented residents reported by the Toronto Police Service to the Canada Border Services Agency (CBSA) over the past five years. These statistics are to include a breakdown on instances where individuals were reported to the CBSA due to a pre-existing immigration warrant, and instances where they were reported in the absence of a pre-existing immigration warrant

The Toronto Police Service (Service) does not maintain statistics on persons reported to the CBSA. The general occurrence and arrest report do not contain a field to record this information, so it is not possible to search for this information. However, it is possible to search for the number of times a person was investigated, reported or arrested on an offence related to the *Immigration and Refugee Protection Act (IRPA)*.

Recommendation 1 b

City Council requested that the Board report to the October 15, 2015 Community Development and Recreation committee meeting on:

any protocols or agreements that exist between the Toronto Police Service and Canada Border Services Agency

There are no protocols or agreements in place between the Service and the CBSA regarding the sharing of information of a person's immigration and/or residence status.

Recommendation 1 c

City Council requested that the Board report to the October 15, 2015 Community Development and Recreation committee meeting on:

practical implementation (including further policy development. Police training, evaluation of compliance) of the Access without Fear Policy

Toronto Police Services Board Policy

On May 18, 2006, the Board approved a new Board policy entitled "Victims and Witnesses Without Legal Status" (Min. No. 140/06 refers).

Toronto Police Service Governance

On February 16, 2007, the Service adopted the following new Service Governance:

- A new Standards of Conduct, Section 1.35 "Persons Without Status", which directs; "Victims and witnesses of a crime shall not be asked their immigration status, unless there are bona fide reasons to do so."
- A new Service Definition, Bona Fide Reasons, which is defined as;
 - a victim or witness who may possibly require or may seek admission into the Provincial Witness Protection Program
 - a Crown Attorney is requesting information for disclosure purposes
 - the information is necessary to prove essential elements of an offence
 - investigations where the circumstances make it clear that it is essential to public or officer safety and security to ascertain the immigration status of a victim or witness.

On February 20, 2007, Service Procedure 05-04 entitled “Domestic Violence” was revised to include the definition for Bona Fide Reasons, and the Persons Without Status directive was included in the “Calls for Service” section of the procedure.

Service members are often in need of an interpreter to communicate with a citizen in sign language, or in a language other than English. The Service has contracted Language Line Service since 1991 to provide around-the-clock telephone access to interpreting services in over 140 languages. The Canadian Hearing Society has been contracted to provide around-the-clock access to American Sign Language interpreters. These services are available at no cost to the individual. The access to interpreting services is governed by Service Procedure 04-09 “American Sign Language and Language Interpreters”.

Recommendation 1 d

City Council requested that the Board report to the October 15, 2015 Community Development and Recreation committee meeting on:

the issues raised by deputants at the May 21, 2015 Community Development and Recreation Committee meeting; including but not limited to, enhanced domestic violence training, development of a new survivor informed protocol, and development of a protocol that ensures gender based violence is central to police interactions with immigrants and migrants involved in sex work.

Training – Toronto Police College

Training on domestic violence is included on the Domestic Violence Investigators, Supervisors, Coach Officers, and Death Investigators courses delivered by the Toronto Police College. During these training opportunities, the importance of complying with and understanding the contents of the Domestic Violence procedure is emphasized.

Officers are trained that immigration/legal status of the parties shall not influence the decision to lay charges. Training also addresses the many dynamics that impact a domestic situation, such as the immigration/legal status of the parties involved, the vulnerabilities of complainants, and the mechanisms of control and influence.

The issues around immigration/legal status are addressed in the Sexual Assault Investigators and Domestic Violence Investigators courses. Officers receive training on the Domestic Violence and Sexual Assault procedures when attending the Sexual Assault Investigators, Domestic Violence Investigators, Supervisors, and Coach Officers courses. Officers are trained to conduct an investigation into an allegation of abuse, no matter the person’s immigration status, and that “victims and witnesses of crime shall not be asked their immigration status unless there are bona fide reasons to do so.”

The Sexual Assault Investigators course and the Child and Human Trafficking Abuse Investigators course include presentations on the topic of human trafficking.

One of the Goals identified in the *2014-2016 Priorities and Strategies* is to; “Deliver professional, ethical, bias-free service, both to members of the public and within the organization.”

A Key Strategy to achieving this Goal is to; “Enhance, at the unit level and at the Toronto Police College, learning related to delivery of professional, bias-free service, including Fair and Impartial Policing and the Intercultural Development Program.”

The Toronto Police College delivers a one-day course called “Fair and Impartial Policing” course. Attendance is mandatory for all police officers. Professional, appropriate, respectful behaviour is included and reinforced during all courses.

Deputations

The deputants at the May 21, 2015 Community Development and Recreation committee meeting spoke of many issues, some of which are outside of the focus of the original report on access to municipal services. This report will only respond to deputations that are within the scope of the issue of access to police services for all people, including undocumented Torontonians.

1. A concern was raised that immigrant and migrant sex workers do not have access to “...linguistically accessible services”.

When a Service member language interpreter cannot be located, officers have around-the-clock telephone access to interpreting services in over 140 languages through Language Line Service, and around-the-clock access to American Sign Language interpreters from the Canadian Hearing Society. These services are available at no cost to the individual. Also, Multilingual Community Interpreter Services (MCIS) provides interpretation services during the investigation of all domestic and sexual assault occurrences. MCIS interpretation services are available to all involved parties, including the accused up to the time when a formal charge has been laid.

2. A concern was raised that, when executing immigration warrants, or returning persons wanted on outstanding immigration warrants to the CBSA, the Service is doing “the job of the federal immigration system”. One councillor summarised that “it is not our (the Service’s) job to enforce immigration violations”.

When there is reason to investigate the person, or during an investigation incident to arrest, the police officer conducts a check of the person on the CPIC system.

If there is an outstanding warrant on CPIC, the officer must enforce the warrant as they have a duty to do so pursuant to the *PSA* and the common law.

3. It was recommended that Toronto Police officer not contact the CBSA regarding persons wanted on immigration warrants and removal orders.

Before executing any arrest warrant (including immigration warrants) held by another police service or law enforcement agency, the police officer must confirm that the warrant is still outstanding and whether they will return the person. This necessitates contact with the police service or law enforcement agency holding the warrant. The purpose of this contact is not to report a person's status (it was already reported by the CBSA when they entered the warrant on CPIC), but to confirm the arrest warrant.

Service Procedure 02-01, entitled "Arrest Warrants", directs that:

When processing a person arrested on a warrant held by another police service or law enforcement agency, the police officer shall

- *ensure the person is within the return radius as stipulated on CPIC*
- *contact the police service holding the warrant to confirm that the warrant is still outstanding and whether they will return the person*

Service Procedure 02-01 applies to all arrest warrants. There is no distinction between immigration warrants and any other arrest warrants.

4. A concern was raised that some people fear the police.

The Service recognises that, as a result of their cultural background or country of origin, or through past experience here or elsewhere, some people fear interaction with the police. The Service has programs aimed at improving police/community relations, and work continuously to improve these programs.

Recommendation 2

Recommendation 2 states:

City Council request Toronto Police Services Board for further clarification and possible policy development on Ontario Regulation 265/98 of the Police Services Act, to have police officers report immigration status to the Canada Border Services Agency only when directed by the courts after a conviction has been registered.

The power to disclose personal information is provided by the *Police Services Act (PSA)*. Ontario Regulation 265/98 entitled *Disclosure of Personal Information*, made under the *PSA* states that:

5 (1) A chief of police or his or her designate may disclose any personal information about an individual if the individual is under investigation of, is charged with or is convicted or found guilty of an offence under the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada) or any other federal or provincial Act to,

- (a) any police force in Canada;*
- (b) any correctional or parole authority in Canada; or*

- (c) *any person or agency engaged in the protection of the public, the administration of justice or the enforcement of or compliance with any federal or provincial Act, regulation or government program.*

Further, subsections 41(1.1) and 41(1.2) of the *PSA* states that:

Power to disclose personal information

(1.1) Despite any other Act, a chief of police, or a person designated by him or her for the purpose of this subsection, may disclose personal information about an individual in accordance with the regulations.

Purpose of disclosure

(1.2) Any disclosure made under subsection (1.1) shall be for one or more of the following purposes:

- 1. Protection of the public.*
- 2. Protection of victims of crime.*
- 3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.*
- 4. Law enforcement.*
- 5. Correctional purposes.*
- 6. Administration of justice.*
- 7. Enforcement of and compliance with any federal or provincial Act, regulation or government program.*
- 8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual.*

Recommendation 3

Recommendation 3 states:

City Council, through the Toronto Police Services Board, invite Board representatives and Toronto Police Services Officers to attend the October 15, 2015 Community Development and Recreation Committee meeting.

Conclusion:

In summary, the Service has processes, governance and training on the delivery of police services to all people, including undocumented Torontonians. Any person, whether resident of or visitor to Toronto, may request and will receive police response and police services without being asked about their immigration status. Police officers are trained not to ask victims and witnesses of crime for their immigration status, unless there are bona fide reasons to do so.

All people are encouraged and have a mechanism to report crime. The Service recognises that, as a result of their cultural background or country of origin, or through past experience here or elsewhere, some people fear interaction with the police. However, this fear does not negate the Service's processes, governance and training on the delivery of police services to all people.

Deputy Chief Peter Sloly, Operational Support Command, will be in attendance at the Board Meeting to answer any questions that the Board may have regarding this report.

The Board approved the following Motions:

- 1. THAT the foregoing report be withdrawn and referred back to the Chief of Police so that he may consult with the Deputy City Manager and report to the Board in the future, as may be required.**
- 2. THAT the Board correspond with the Community Development and Recreation Committee to advise it of this motion.**

Moved by: S. Carroll