



## Policing Reform Update - Input on Accountability Mechanisms

**Date:** November 18, 2020

**To:** City Council

**From:** City Manager, City Solicitor

**Wards:** All

### SUMMARY

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This report responds to direction from City Council at its meeting of September 30, 2020 for the City Manager to seek input from stakeholders on police accountability as part of item EX16.1, *Changes to Policing in Toronto - Update*. The input will be considered alongside other public and stakeholder submissions being gathered through the broader engagement strategy on police reform, to inform a report from the City Manager in 2021.

### RECOMMENDATIONS

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The City Manager and City Solicitor recommend that:

1. City Council forward the responses (Attachments 1 to 6) to the new Inspector General of Policing.

### FINANCIAL IMPACT

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There are no current or known future year financial impacts arising from the recommendations contained in this report. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

### DECISION HISTORY

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At its meeting of September 30, October 1 and 2, 2020, City Council directed the City Manager, in consultation with the City Solicitor, to report back to the November 25 and 26, 2020 meeting of City Council on:

- a. those areas of accountability currently not being overseen by either the Ontario Civilian Police Commission nor the Office of the Independent Police Review Director, in consultation with the Toronto Ombudsman and a coalition of independent NGOs —

such as the Canadian Civil Liberties Association, the Black Legal Action Clinic (funded by Legal Aid Ontario), and the Criminal Lawyers Association of Ontario; and

b. information from the City Solicitor disclosing the specific feedback from the Ontario Civilian Police Commission, the Office of the Independent Police Review Director and the Special Investigations Unit on the question of whether all areas of police accountability relevant to Toronto Police Service are being exhausted by those agencies.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX16.1>

## COMMENTS

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### Feedback from Organizations

On October 19, the City Manager's Office distributed a survey to the organizations identified in recommendation 3 of item EX 16.1, *Changes to Policing in Toronto – Update*.

The survey asked:

1. In your view, are there gaps or deficiencies in the current oversight or complaints processes or bodies for policing in Toronto?
2. Currently, the Ontario Civilian Police Commission, the Office of the Independent Police Review Director and the Special Investigations Unit provide oversight on certain policing matters. What additional or different accountability mechanisms could improve the oversight of policing in Toronto?
3. Is there anything else you would like to tell the City of Toronto about oversight and accountability in policing?

Responses were received from the following organizations:

- Black Legal Action Centre (Attachment 1)
- Canadian Civil Liberties Association (Attachment 2)
- Criminal Lawyers' Association (Attachment 3)
- Office of the Independent Police Review Director (Attachment 4)
- Special Investigations Unit (Attachment 5)

The Ontario Civilian Police Commission determined that it would not be appropriate to respond to this request, but expressed interest in receiving an update following the City Council meeting.

The responses set out both a diversity of viewpoints and proposals, and some common ideas. Three of the responses spoke to the importance of increased transparency and awareness of oversight entities and processes. Three also identified the need for impartial investigators and adjudicators, and noted that trust and perceived fairness are eroded when current and former police officers carry out oversight roles. Two of these

cited Justice Tulloch's comprehensive 2017 review of Ontario's police oversight system and its findings on how investigations of police complaints are carried out. Three responses also highlighted the need to better serve and respond to the disproportionately impacted Black, Indigenous, racialized and equity-seeking communities, and proposals that would help to better represent and meet those needs including improved mechanisms for complaints and reporting, and increased systemic reviews and audits. Three responses also expressed concerns about the outcomes of complaints, noting the small percentage of complaints that result in further hearings or that are successfully prosecuted.

In addition to the responses received above, the Ontario Human Rights Commission also provided the City Manager with a copy of the submission it made in August to the Toronto Police Services Board. Their written deputation on a report titled *Police Reform in Toronto: Systemic Racism, Alternative Community Safety and Crisis Response Models and Building New Confidence in Public Safety* spoke to a range of issues regarding addressing and eliminating systemic discrimination in the Toronto Police Service (TPS). Their submission is available online at <http://www3.ohrc.on.ca/en/ohrc-written-deputation-toronto-police-services-board-re-police-reform-toronto-systemic-racism>.

The responses suggest areas of improvement for bodies currently having oversight of policing in Toronto to increase transparency, trust and confidence.

## **Feedback from the Ombudsman**

The City Manager also invited the Ombudsman to provide her perspective on any areas of accountability currently not being overseen by either the Ontario Civilian Police Commission or the Office of the Independent Police Review Director. Her response proposes a role for the Ombudsman's office with respect to TPS' administrative policies and programs, and is included as Attachment 6. As the letter indicates, the Toronto Ombudsman's jurisdiction does not currently include the TPS. As a result, additional work with the Ombudsman and the TPSB would be required to examine this option further, along with any additional resource implications.

As these submissions engage matters that are of interest to the Toronto Police Services Board (TPSB) and the TPS, these responses will be shared with both the TPSB and the TPS for their information. This input will also be considered alongside other public and stakeholder submissions being gathered through the broader engagement strategy on police reform, to inform a report from the City Manager in 2021.

## **Current and future accountability mechanisms**

The Ontario Civilian Policing Commission, the Office of the Independent Police Review Director, and the Special Investigations Unit provide oversight of policing and/or police boards in Ontario. Once the Community Safety and Policing Act, 2019 and the Special Investigations Unit Act, 2019 are proclaimed into force, some changes to policing and police board oversight will occur, including the creation of a fourth oversight mechanism, the Inspector General of Policing. A brief overview of these accountability mechanisms is provided below.

*a) The Ontario Civilian Policing Commission ("Commission")*

The Commission carries out several functions, including: hearing appeals to police disciplinary penalties; adjudicating disputes between municipal councils and police boards involving budget matters; conducting hearings into requests for reduction, abolition, creation or amalgamation of police services; conducting investigations and inquiries into the conduct of chiefs of police, police officers and members of police boards; and, reviewing the adequacy and effectiveness of policing services.

*b) The Ontario Independent Police Review Director*

The Office of the Independent Police Review Director ("OIPRD") is responsible for receiving, managing and overseeing all public complaints about the police in Ontario. The OIPRD is a civilian arm's-length agency.

When the Community Safety and Policing Act, 2019 is proclaimed into force, the OIPRD will be replaced by the Law Enforcement Complaints Agency ("LECA"), headed by a Complaints Director. The LECA will receive complaints from the public about the conduct of police officers. While the LECA may assign investigations to police services, which may be completed by their professional standards units, the LECA will also allow the Complaints Director to retain and investigate complaints directly. Where police conduct is reviewed by a police service and no misconduct is found, a complainant will be able to seek a review of the investigation by the Complaints Director. The LECA will be able to initiate an investigation without a public complaint if the Complaints Director believes it is in the public interest to do so.

Additionally, the LECA will be able to review issues of a systemic nature that have been the subject of public complaints or investigations, or that may contribute or otherwise be related to misconduct.

*c) The Special Investigations Unit*

The Special Investigations Unit ("SIU") is a civilian law enforcement agency, independent of the police, that conducts criminal investigations into circumstances involving police and civilians that have resulted in serious injury, death or allegations of sexual assault. In the course of its investigations, the SIU gathers and assesses evidence, and the Director of the SIU decides whether or not the evidence leads to the reasonable belief that a criminal offence has been committed. Changes to the SIU will occur when the Special Investigations Unit Act, 2019 is brought into force.

*d) Inspector General of Policing*

The Province of Ontario has appointed an Inspector General of Policing. Once the Community Safety and Policing Act, 2019 is brought into force, the Inspector General will, independent from the government, provide policing oversight and ensure effective policing services are provided. Part of the Inspector General's responsibilities will be to: monitor and inspect police services and police boards to ensure compliance with the

new legislation; monitor and inspect police boards to prevent board member misconduct; and investigate complaints about adequate and effective policing.

This report recommends forwarding the responses received through the development of this report, Attachments 1 to 6, to the Inspector General of Policing.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

Chris Murray  
City Manager

## **ATTACHMENTS**

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Attachment 1 - Response from the Black Legal Action Centre  
Attachment 2 - Response from the Canadian Civil Liberties Association  
Attachment 3 - Response from the Criminal Lawyers' Association  
Attachment 4 - Response from the Office of the Independent Police Review Director  
Attachment 5 - Response from the Special Investigations Unit  
Attachment 6 - Letter from the Ombudsman