



Toronto Police Services Board

40 College Street, Toronto, Ontario, Canada. M5G 2J3
(416) 808-8080 FAX (416) 808-8082
www.tpsb.ca



January 23, 2020

Budget Committee
City of Toronto
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON
M5H 2N2

Budget Committee Members,

Re: Independent Civilian Review into Missing Persons Investigations – Account for Professional Services and Review's Request for Additional Budget Funding

At its meeting held on January 22, 2020, the Toronto Police Services Board was in receipt of a report dated January 11, 2020 from Chair Jim Hart regarding the Independent Civilian Review into Missing Persons Investigations – Account for Professional Services and Review's Request for Additional Budget Funding as part of the 2020 budget process.

RECOMMENDATIONS

It is recommended that the Budget Committee consider the following recommendation:

1. Approve the request for additional funding in the amount of \$1,000,000 to be allocated to the Review's budget.

FINANCIAL IMPACT

The Review's existing budget is \$3 million. If approved, the Review's total budget would be increased to \$4 million. There are no funds available in the Board's Operating Budget for this additional expenditure.

COMMENTS

When the initial \$3M budget was allocated, the Review was set to complete its work by April 2020, and the McArthur case was not in scope. Given the expansion to the Terms of Reference to include the McArthur case and the updated deadline of January 2021 – which is an additional nine months – the Review undertook its own analysis and determined that an additional \$1,000,000 would be sufficient to complete its work.

The Board approved the report dated January 11, 2020, and agreed to forward a copy to the City's Budget Committee for consideration.

CONTACT

Jim Hart
Chair
Toronto Police Services Board
Telephone No. 416-808-8080
Fax No. 416-808-8082

SIGNATURE



Jim Hart
Chair

ATTACHMENTS

A copy of Board Minute No. P7/20, in the form attached as Appendix "A", regarding this matter is provided for information.

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 22, 2020

- P7. Independent Civilian Review into Missing Persons Investigations – Account for Professional Services and Review's Request for Additional Budget Funding

The Board was in receipt of a report dated January 11, 2020, from Jim Hart, Chair, with regard to this matter.

Recommendations:

It is recommended that the Board:

1. Receive the following invoices for professional services rendered by Honourable Gloria Epstein and Cooper, Sandler, Shime and Bergman LLP:
 - a. Invoice dated December 12, 2019 in the amount of \$231,878.67; and
 - b. Invoice dated January 9, 2020 in the amount of \$216,916.73.
2. Approve the request for additional funding in the amount of \$1,000,000 to be allocated to the Review's budget; and,
3. Refer the Board's approval of this request to the City's Budget Committee for consideration as part of the 2020 City Budget process.

Mark Sandler, Counsel for the Review, attended the meeting and answered questions from Board Members. He advised that the Review has been going very well from his perspective and that the outreach to the community has been extensive, confirming that as an estimate, at least 1200 people have been involved in providing input in a variety of ways the Review has made available to members of the Public. He confirmed that a public forum will take place in June 2020 and that members of the public are invited to submit any written submissions on their website. Mr. Sandler advised that he can "assure the Board with complete confidence that they [the Review team] are on schedule to complete this work on time (by January 2021) or earlier". He further stated that Justice Gloria Epstein is prepared to commit to the Board that there will be no further requests for additional funding as part of this Review, and that, should the additional funding that is currently requested be granted, she will ensure that the Review delivers its report within that ultimate budget. Mr. Sandler reminded the Board that when the initial \$3M budget was allocated, the Review was set to complete its work by April 2020, and that the McArthur case was not in scope. Given the expansion to the

Terms of Reference to include the McArthur case and the updated deadline of January 2021 – which is an additional nine months – the Review undertook its own analysis and determined that an additional \$1,000,000 would be sufficient to complete its work.

Mr. Sandler stated that the Board and the Service have been very cooperative in responding to the Review's extensive requests for documents. He further advised that the Review has met with many police officers and former police officers, as well as civilian employees of the Service and still continues to do so.

Mr. Sandler clarified that the budget item listed in his letter dated January 10, 2020 (attached to this report) has in error identified the amount of \$708,000 allocated to media, communications, and that the correct amount is \$70,000.

Mayor Tory emphasized the importance of the final report the Review will ultimately deliver – to the Board, the Service, Toronto's communities and to other police services and communities who may face similar challenges. Mayor Tory advised that the budget increase request is not just reasonable but necessary in order for this work to be done properly and in a timely manner, and that he strongly supports the request.

The Board approved the foregoing report.

Moved by: F. Nunziata

Seconded by: J. Tory



Toronto Police Services Board Report

January 11, 2020

To: Members
Toronto Police Services Board

From: Jim Hart
Chair

Subject: Independent Civilian Review into Missing Persons Investigations – Account for Professional Services and Review's Request for Additional Budget Funding

Recommendation:

It is recommended that the Board:

1. Receive the following invoices for professional services rendered by Honourable Gloria Epstein and Cooper, Sandler, Shime and Bergman LLP:
 - a. Invoice dated December 12, 2019 in the amount of \$231,878.67; and
 - b. Invoice dated January 9, 2020 in the amount of \$216,916.73.
2. Approve the request for additional funding in the amount of \$1,000,000 to be allocated to the Review's budget; and,
3. Refer the Board's approval of this request to the City's Budget Committee for consideration as part of the 2020 City Budget process.

Financial Implications:

The total amount invoiced to date is \$1,932,404.92.

In addition, if approved, the Board would be required to refer its decision to increase the Review's budget by \$1,000,000 to the City's Budget Committee for consideration, as there are no funds available in the Board's operating budget for this expenditure.

Background / Purpose:

Payment of submitted accounts

The Board established the Independent Civilian Review into Missing Persons Investigations and appointed the Honourable Gloria Epstein as the Reviewer ("the Independent Reviewer"). Ms. Epstein has appointed Cooper, Sandler, Shim and Bergman LLP as Counsel to the Review.

The City has agreed to provide funding to the Board to pay for the cost of the Review (Min. P112/18 refers).

At its meeting on September 19, 2019, the Board delegated to the Chair the authority to approve payment of all future invoices from the Honourable Gloria Epstein and Cooper, Sandler, Shime and Bergman LLP, not to exceed a total amount of \$3.0M, as allocated to the Review's budget (Min. P189/19 refers).

Review's request for additional budget funding

When the Review commenced, its Terms of Reference specifically excluded any examination of the specific circumstances involving the investigations into the disappearances of victims associated with Bruce McArthur. This exclusion was put in place because, at the time the Review commenced, the Bruce McArthur criminal proceedings were active. On January 29, 2019 Bruce McArthur pled guilty to all charges he faced, which brought the criminal proceedings to an end. Subsequently, the Review requested that the Board expand its scope to include matters related to the disappearances of victims associated with Bruce McArthur. On March 26, 2019, the Board considered and approved this expansion to the Review's Terms of Reference (Min. P49/19).

The Review has now assessed this expanded scope and the additional work that will be required to fulfill the expanded Terms of Reference. The Review has determined that it requires an additional \$1,000,000 to complete its work.

The Review has also advised that, despite the expansion to its scope, it will still provide its final report to the Board by January 2021.

Discussion:

Payment of submitted accounts

I have attached a copy of the Review's account approved for services rendered, up to and including December 12, 2019 in the amount of \$231,878.676 and January 10, 2020 in the amount of \$216,916.76. Detailed statements are included on the in-camera agenda for information.

The Review's request for additional funding

In addition, recognizing that the Board expanded the Review's Terms of Reference during the life of the Review to include matters associated with the Bruce McArthur case, it is reasonable to make available additional funds so that the Review is properly resourced to undertake the important work associated with this expansion. There is no doubt that the expanded scope will ensure that the Review's ultimate conclusions and recommendations are more informed, and will be valuable to the Board. The Review's work in this regard will also not interfere with its ability to deliver its report by the original deadline, which should provide comfort to the impacted communities that are awaiting the Review's conclusions.

The Review has provided its own detailed cost breakdown of the additional funds that it has determined will be required to perform the work associated with its expanded scope.

The Board's 2020 Operating Budget, if approved by Toronto City Council, will not include the additional funds requested by the Review. Therefore, if the Board approves this request, it will be necessary to refer the Board's decision to the City's Budget Committee for consideration during the City's 2020 Budget process.

Conclusion:

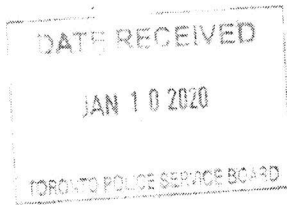
It is, therefore, recommended that Board:

1. receive the following invoices for professional services rendered by Honourable Gloria Epstein and Cooper, Sandler, Shime and Bergman LLP
 - a. Invoice dated December 12, 2019 in the amount of \$231,878.67; and
 - b. Invoice dated January 9, 2020 in the amount of \$216,916.73.
2. Approve the request for additional funding in the amount of \$1,000,000 to be allocated to the Review's budget; and,
3. Refer the Board's approval of this request to the City's Budget Committee for consideration as part of the 2020 City Budget process.

Respectfully submitted,



Jim Hart
Chair



IN ACCOUNT WITH

COOPER, SANDLER
SHIME & BERGMAN LLP
BARRISTERS & SOLICITORS

SUITE 1900
439 University Avenue
Toronto, Ontario
M5G 1Y8

TELEPHONE: (416) 585-9191
FAX: (416) 408-2372

January 9, 2020

PRIVATE AND CONFIDENTIAL

Mr. Ryan Teschner,
Executive Director
Toronto Police Services Board
40 College St.
Toronto, ON M5G 2J3

Re: The Independent Civilian Review into Missing Persons Investigations – Our File
#CTinv001

FOR SERVICES RENDERED: From December 12, 2019 to January 9, 2020

Total Fees	\$71,200.40	✓
HST on Fees (13%)	9,256.05	✓
Total Fees & HST	\$80,456.45	✓
Disbursements Sub-total	\$125,304.47	✓
HST on Disbursements (13%)	11,155.81	✓
Total Disbursements & HST	\$136,460.28	✓
TOTAL FEES AND DISBURSEMENTS	\$216,916.73	
for this account dated	January 9, 2020	
BALANCE OWING	\$216,916.73	✓

THIS IS OUR ACCOUNT HEREIN

Cooper Sandler Shime & Bergman LLP



Mark J. Sandler

E. & O.E.

Total HST \$20,411.86
HST #:122552227

Dec 20/19

DATE RECEIVED


DEC 6 2019

COOPER, SANDLER
SHIME & BERGMAN LLP
BARRISTERS & SOLICITORS

SUITE 1900
439 University Avenue
Toronto, Ontario
M5G 1Y8

TELEPHONE: (416) 585-9191
FAX: (416) 408-2372

Approved By:

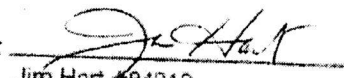

Ryan Teschner #83683
Executive Director
Toronto Police Services Board

December 12, 2019

PRIVATE AND CONFIDENTIAL

Mr. Ryan Teschner,
Executive Director
Toronto Police Services Board
40 College St.
Toronto, ON M5G 2J3

Approved By:


Jim Hart #84312
Chair
Toronto Police Services Board

Re: The Independent Civilian Review into Missing Persons Investigations - Our File
#CTinv001

FOR SERVICES RENDERED: From November 1, 2019 to December 12, 2019

Total Fees	✓ \$54,702.10	
HST on Fees (13%)	✓ 7,111.27	
Total Fees & HST		✓ \$61,813.37
Disbursements Sub-total	\$154,099.57	✓ 154,099.57
HST on Disbursements (13%)	15,965.73	✓ 15,965.73
Total Disbursements & HST		\$170,065.30
TOTAL FEES AND DISBURSEMENTS		\$231,878.67
for this account dated	December 12, 2019	
BALANCE OWING		\$231,878.67

COOPER, SANDLER, SHIME & BERGMAN LLP

BARRISTERS AND SOLICITORS

MARK J. SANDLER, LL.B. *
JONATHAN A. SHIME, B.A., LL.B.
SCOTT D. BERGMAN, B.A., LL.B.
MEGAN M. SCHWARTZENTRUBER, B.A. (Hon.), J.D.
WAYNE A. CUNNINGHAM, B.A., J.D.
AMANDA M. ROSS, B. A. (Hon.), J. D.
BENJAMIN ELZINGACHENG, B.Sc., PhD, J.D.
NAZAMPAL JASWAL B.A. (Hon.), B.C.L., LL.B.

AUSTIN M. COOPER, Q.C., LL.D (1929-2013)
(FOUNDING PARTNER)

*CERTIFIED BY THE LAW SOCIETY AS A
SPECIALIST IN CRIMINAL LAW

SUITE 1900
439 UNIVERSITY AVENUE
TORONTO, ONTARIO
M5G 1Y8

TELEPHONE: (416) 585-9191
FAX: (416) 408-2372

E-MAIL: info@criminal-lawyers.ca
WEBSITE: www.criminal-lawyers.ca

January 10, 2020

Ryan Teschner
Executive Director
Toronto Police Services Board
40 College Street
M5G 2J3

Re: Independent Civilian Review into Missing Person Investigations

Dear Sir,

As you know, the Toronto Police Services Board (the "Board") retained Judge Epstein to conduct the Independent Civilian Review into Missing Person Investigations in Toronto (the "Review"). The Terms of Reference originally provided that the Review would be completed on or before April 2020.¹ They also imposed significant restrictions on the Review's ability to examine and report upon matters that could impact on Mr. McArthur's

¹Although no fixed date was set in April for the completion of the Review, we utilize April 30 for budgetary purposes to ensure that our budget contemplated that the completion of the Review could take up to the end of April.

criminal proceedings. Based on the original time frame and Terms of Reference, a budget of \$3 million was established for the Review.

Subsequently, Mr. McArthur entered guilty pleas to all first degree murder charges he faced. As a result, there was no longer any risk that the Review would interfere with his prosecution, trial or appeal. Based on this important change in circumstances, we asked the Board to amend the Terms of Reference to remove those restrictions that were no longer required – most specifically, those restrictions that limited our ability to examine and report fully upon the police investigations directly connected to Mr. McArthur's crimes. As Judge Epstein's lead counsel, I appeared before the Board in support of that request. A number of community organizations supported that request. The Board granted the request. It also amended the Terms of Reference to extend the Review's completion date to January 31, 2021. This nine month extension reflected the considerable additional work that was required to fulfill the Review's expanded mandate.

I am pleased to report that we are right on schedule to complete our work on or before January 31, 2021. Accordingly, Judge Epstein does not contemplate any request to extend the duration of the Review.

The original budget was based on a 20 month Review. Our work officially commenced on September 1, 2018 though preparatory work preceded that date. As of January 10, 2021, a period of approximately 16 ½ months, we spent a total of \$1,932,404.92. This includes all fees, disbursements and HST relating to the work of the Review team, as well as others engaged or contracted to assist us. The latter included a policing expert/consultant, a research director, our administrator, our communications/media and community outreach teams. It also included payment for multiple academic papers the Review commissioned.

Had our work been completed on or before April 30, 2020, in accordance with our original Terms of Reference, it is apparent that it would have been completed within the originally allocated \$3 million budget (that is, with the remaining balance of

\$1,067,595.08 available for a period of approximately 3 ½ months). So our spending has been well within the existing budget projected over the Review's original term of duration.

When our Terms of Reference were expanded in scope and duration, I indicated to you and the Board that it was likely that we would seek an increase in the budget to reflect that expansion. It was decided to defer that discussion to a point where the anticipated needs for the budget for the expanded Review could be better ascertained. We are now at that point.

On average, we have spent \$117,115.45 per month up to mid-January, 2020. However, that average monthly expenditure does not reflect that, as we contemplated, monthly expenditures would be significantly lower at the early stages of the Review, extensive during the most active months of the Review, and lower from July 2020 to the Review's completion. The active months of the Review involve attending many community engagement meetings, while at the same time conducting many interviews with police officers and civilian employees of the Service and others, and commissioning research papers. It was also an important part of our community outreach to ensure that the public was aware of the Review's outreach and engagement plan, through utilization of print, radio, television and social media. Most recently, we released our on-line survey that generated a robust response.

We are requesting an increase in our budget in the amount of \$1,000,000. This is based on the following estimates, recognizing that there will inevitably be some deviation from these estimates. However, Judge Epstein has committed to making the necessary adjustments to ensure that we do not exceed the budget as requested.

Legal fees (includes fees of lead counsel, three to four other lawyers, and articling student, as needed)	\$812,500
---	-----------

Reviewer (excludes administrator fees currently included as a disbursement to the Reviewer's account)	\$375,000
---	-----------

Policing expertise ²	\$105,000
Administrator ³	\$ 15,000
Community Advisory Group ⁴	\$ 35,000
Research ⁵	\$ 120,000
Policy Roundtables ⁶	\$ 47,500
Public Forum ⁷	\$ 7,000
Survey ⁸	\$ 24,000
Media, communications ⁹	\$ 708,000
Rent	\$ 26,000
Misc ¹⁰	\$ 50,000
Travel expenses ¹¹	\$ 35,000
Report related ¹²	\$ 35,000
	\$1,757,000

² Includes policing expert retained by Review and limited participation by international experts.

³ Based on current role after completion of the stakeholder and related meetings.

⁴ Excludes costs associated with policy roundtables and public forum and is based on role after completion of the stakeholder and related meetings.

⁵ Includes research director and remaining academic papers.

⁶ Includes venue, travel accommodation and costs associated with CAG participation, as well as Jane Farrow (organization).

⁷ Includes Jane Farrow (organizer) and hard costs.

⁸ Includes remaining hosting and reporting costs.

⁹ Includes public rollout of policy roundtables and public forum, website and other media interaction.

¹⁰ Includes interview summaries, transcripts and small disbursement items.


¹¹ Includes costs associated with planned travel to meet with international experts, excluding fees and planned attendance by experts in Canada.

¹² Includes costs associated with creation of report, and its public release, but only includes some limited hard copy printing costs. In fairness, this item has not been subject of price estimates to date.

HST ¹³	\$ 228,410
Total	\$1,985,410
Fees and disbursements To mid January, 2020	\$1,932,404
Budget	\$3,917,814

I would be pleased to elaborate on the above budget, as may be requested.

Yours truly,

A handwritten signature in black ink, consisting of several overlapping loops followed by a long horizontal stroke.

Mark Sandler
Lead Counsel

¹³ Based on total fees and disbursements though a small percentage are not subject to HST.