



Ombudsman Toronto

Listening. Investigating. Improving City Services.

Susan E. Opler
Ombudsman

Tel: 416-392-7061

Fax: 416-392-7067

TTY: 416-392-7100

susan.opler@toronto.ca

ombudsmantoronto.ca

March 23, 2021

Sent by Email: Chris.Murray@toronto.ca

Chris Murray
City Manager
City of Toronto
100 Queen St., City Hall, 4E
Toronto, ON M5H 2N2

Dear Mr. Murray:

Re: Resources Needed to Carry Out Police Oversight Work

I write further to City Council's November, 2020 decision, directing you to consult with my office, among others, on the resources needed for Ombudsman Toronto to carry out police oversight work for the City of Toronto, as set out in my letter to you of October 28, 2020 (attached.)

Scope of our Review:

In considering this question, my staff and I have consulted with the Toronto Police Service Board and the Toronto Police Service as well as staff in the City Manager's office, the City's Legal Services division, the Ontario Human Rights Commission and the Canadian Civil Liberties Association. We have also assessed our current workload, obligations and operational budget.

Overview:

Ombudsman Toronto already has an established operational infrastructure in place, so we do not need any "set up" resources; a significant cost saving right from the start. However, given the extent of the proposed role and the high-profile nature of police oversight, we do expect a significant increase in workload.

The new Ombudsman will be in a better position to inform Council of the operational resources needed to handle this increased workload in the 2022 budget cycle, once the office has fully scoped the work and it is underway. In the meantime, however, we have determined what we need to get started on it in 2021.

Proposed Role for Ombudsman Toronto:

A key characteristic of Ombudsman Toronto is our independence. We are a trusted and respected voice for fairness.

In my October 28, 2020 letter, I set out my perspective on how Ombudsman Toronto can enhance police oversight in Toronto, without duplicating existing mechanisms, and how expanding my office's role to apply a valuable fairness lens to some high impact Toronto Police Service (TPS) policies and programs will be in the public interest.

Through our consultations, we have already identified several areas that could potentially benefit from our review. This includes Criminal Records Checks, the Vulnerable Persons Registry, Victim Services, and programs designed to reach out to at risk and marginalized communities. This list is not comprehensive; we expect that through our work we will identify other areas to review. The Ombudsman will consult with the TPSB and the TPS before deciding which procedures and programs to review.

Ombudsman Toronto will make public findings and recommendations to improve the way the TPS procedures and programs we review affect people in Toronto. We will also monitor the implementation of our recommendations by TPS, and their impact. We will report on our work to the Toronto Police Services Board (the "Board") and to City Council.

Resources Needed:

Based on our consultations and assessment of this new proposed role, my team and I have considered its potential impact on our operations.

As noted above, we already have the established operational infrastructure needed to provide effective service through our regular processes and systems. We also have dedicated and skilled staff who are experts in gathering information, including by hearing the perspectives of people affected by local government services, and from those who deliver them.

Required Resource #1: Memorandum of Understanding

The *City of Toronto Act, 2006* currently does not give Ombudsman Toronto legal jurisdiction over the TPS, Therefore, our role and authority to carry out this new role will need to be grounded in a Memorandum of Understanding (MOU) with the Board and the TPS. A similar arrangement is already in place among the City's Auditor General, the Board, and the TPS. During our consultations with the Board, the Board has informed us that it is already working on the first draft of a proposed MOU for this purpose.

At this time, we do not foresee any financial impact or resource requirement to put this agreement in place.

Required Resource #2: Funding for Three Temporary Staff Positions

Having carefully considered the anticipated increase in workload and the type of work this expanded role will entail, I am recommending the following:

- **I recommend that City Council increase Ombudsman Toronto's 2021 Operating Budget by \$200,000.00 gross and net.**

This will enable the office to engage three temporary staff in the roles of Ombudsman Investigator, Complaints Analyst, and Outreach and Communications Coordinator, to help handle the initial workload increase while we continue to scope our new police oversight function and get started on it.

- The new Ombudsman will bring a further refined budget recommendation to Council during the 2022 budget cycle, having had time to further assess the resources needed for their office to fulfill this new role.

Closing:

In reviewing TPS procedures and programs through a fairness lens, Ombudsman Toronto will ensure that they provide Fair Process (including giving the opportunity for those affected to be heard), Fair Outcomes (properly based on the rules, policies and procedures), and Fair Treatment (that people are treated in an equitable, inclusive and accessible way).

This will be a unique role for an Ombudsman office in the Canadian policing context and will demonstrate the commitment of City Council, the Board and the TPS to transparent and effective independent civilian police oversight. I am confident that our work in this area will increase public trust in the TPS.

I am very pleased that the Board has expressed enthusiastic support of Ombudsman Toronto playing this role and has informed us that the TPS is aware of all our discussions. The Canadian Civil Liberties Association and the Ontario Human Rights Commission are also supportive of the plan.

Looking forward to continuing our discussions on this important project, I remain,



Susan E. Opler
Ombudsman

c.c. Ciarán Buggle, Deputy Ombudsman, Ombudsman Toronto
Meg Shields, Director, Corporate Policy, City of Toronto
Cory Lynch, Solicitor, City of Toronto
Wendy Walberg, City Solicitor, City of Toronto

Encl: Susan E. Opler, Ombudsman Toronto, Letter to City Manager, October 28, 2020



Ombudsman Toronto

Listening. Investigating. Improving City Services.

Susan E. Opler
Ombudsman

Tel: 416-392-7061

Fax: 416-392-7067

TTY: 416-392-7100

susan.opler@toronto.ca

ombudsmantoronto.ca

October 28, 2020

Sent by Email: Chris.Murray@toronto.ca

Chris Murray
City Manager
City of Toronto
100 Queen St., City Hall, 4E
Toronto, ON M5H 2N2

Dear Mr. Murray:

Re: Response to your Questions on Police Accountability
and a Possible Role for Ombudsman Toronto

I write to respond to your letter of October 19, 2020, seeking my perspective on how police oversight might be enhanced in Toronto, without duplicating existing mechanisms. I wish to suggest a role for Ombudsman Toronto.

As you know, the Ombudsman is an independent Officer of Toronto City Council, who impartially investigates City decisions, acts and omissions from an administrative fairness perspective. The Ombudsman's jurisdiction and mandate come from the *City of Toronto Act, 2006* and the *Toronto Municipal Code*, Chapter 3. Within the City and with the public, the Ombudsman is a trusted and respected voice for fairness.

Currently, the Toronto Ombudsman's jurisdiction does not include the Toronto Police Service (the "TPS"). However, with either a legislative amendment or pursuant to an invitation from the TPS and the Toronto Police Services Board (the "Board"), detailed in a Memorandum of Understanding, I believe that my office could play a valuable role in enhancing fairness in how the TPS serves people.

What Ombudsman Toronto Would Do:

- Ombudsman Toronto would identify on its own initiative TPS administrative policies and programs to review from an administrative fairness perspective, based on their systemic implications for Toronto's communities.
- In deciding which policies and programs to review, Ombudsman Toronto would consider issues that City Council or the TPS Board may identify from time to time, and/or which are reported as being of public concern.

- In keeping with its reputation and expertise, Ombudsman Toronto would review TPS administrative policies and programs in a fair, confidential, impartial, transparent and non-adversarial way. We would ensure that those policies and programs provide administrative fairness to all people: a fair process, fair outcomes and fair treatment, recommending improvements where necessary.
- The Ombudsman would report to City Council and the Board annually on this work, and with the results of individual Enquiries and Investigations.

What Ombudsman Toronto Would Not Do:

- Ombudsman Toronto would not review individual complaints from members of the public.
- It would not review operational decisions or actions of the TPS or its members.
- Ombudsman Toronto would not consider questions of police conduct, or employment/labour relations issues.
- It would not duplicate the oversight provided by any other agency or office.

Please note that it is probable that Ombudsman Toronto would require some additional resources to undertake this new mandate.

I respectfully submit that this arrangement would have many advantages for City Council, and for the public it serves.

Expanding Ombudsman Toronto's role in the way I have described would apply a valuable fairness lens to some high impact TPS policies and programs. City Council and the Board would receive direct, independent and impartial reports on the fairness of TPS administrative policies and programs. And most importantly, given Ombudsman Toronto's reputation as a fair and neutral fact finder, having the office in this role would increase public trust in the TPS.

Thank you for the opportunity to present this suggestion. I would be happy to answer any questions you or City Council may have about it.

Sincerely,



Susan E. Opler
Ombudsman

c.c. Ciarán Buggle, Director, Ombudsman Toronto
Meg Shields, Director, Corporate Policy, City of Toronto
Cory Lynch, Solicitor, City of Toronto
Wendy Walberg, City Solicitor, City of Toronto