

# Toronto Police Services Board

## Terms of Reference for the Independent Civilian Review

WHEREAS the Toronto Police Services Board (“the Board”) is responsible, pursuant to section 31(1) of the *Police Services Act*, R.S.O. 1990, c. P.15 (“the Act”), for the provision of adequate and effective police services in the City of Toronto;

AND WHEREAS the Board must, pursuant to section 31(1) of the Act, generally determine after consultation with the Chief of the Toronto Police Service (“the Chief”) objectives and priorities with respect to police services for the City of Toronto, establish policies for the effective management of the Toronto Police Service and direct the Chief and monitor his performance;

AND WHEREAS the Toronto Police Service played a lead role along with other federal, provincial and municipal police agencies and other security agencies in the development and implementation of strategies for policing the G20 meeting of world leaders (“the G20”) that was held in Toronto, from June 25 through June 27, 2010;

AND WHEREAS the Board believes that it would be beneficial and of assistance to the Board in carrying out its responsibilities pursuant to section 31(1) of the Act to conduct a Review of the role played by the Toronto Police Service in developing and implementing the strategies for policing the G20 to determine whether those strategies were adequate and effective police services and to conduct a Review of the role of the Board with respect to the planning for and policing of the G20;

THEREFORE the Board is appointing the Reviewer to conduct an Independent Civilian Review (the “Review”) into the role played by the Toronto Police Service in the development and implementation of the strategies for policing the G20;

AND to conduct the Review the Reviewer shall be provided with such resources as are required, and be authorized by the Board and shall have the authority to engage lawyers, experts, research and other staff as the Reviewer deems appropriate, at reasonable remuneration approved by the Board;

AND the Chief will cooperate fully with the Reviewer in conducting the Review;

AND the Chair and members of the Board will cooperate fully with the Reviewer in conducting the Review and will instruct all personnel employed by the Board to cooperate fully with the Reviewer in conducting the Review;

AND the Reviewer may request any person, organization, the Chief and any personnel employed by the Board to provide relevant information or records, including video recordings, for the Review where the Reviewer believes that the person or organization has such information or records in his, her or its possession, custody or control;

AND the Reviewer may hold such public or private meetings, interviews and consultations, and may make such procedural decisions with respect thereto, as the Reviewer deems advisable in the course of the Review;

AND the Reviewer shall conduct the Review and make a report to the Board without expressing any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization and without interfering in any ongoing criminal, civil or other legal proceedings;

AND the Reviewer may produce an interim report at the Reviewer's discretion and shall produce a final report containing the Reviewer's findings, conclusions and recommendations and deliver it to the Chair and members of the Board for distribution to the public;

AND the reports shall be prepared in a form appropriate for release to the public, pursuant to the Freedom of Information and Protection of Privacy Act;

AND these Terms of Reference shall be interpreted in a manner consistent with the limits of the jurisdiction of the Board;

AND in the event that the Reviewer is unable to carry out any individual term of these Terms of Reference, the remainder of the Terms of Reference shall continue to operate, it being the intention of the Board that the provisions of these Terms of Reference operate independently;

AND the subject matter of the Review shall be:

Pre-G20

1. (a) A review of whether or not after Toronto was selected as the location for the G20, the Toronto Police Service had sufficient time to adequately develop a framework and plan the strategy for policing the G20 and to provide adequate information to the Board so that the Board had sufficient time to discharge its responsibilities pursuant to the Act.

(b) A review of the role that the Toronto Police Service played in developing the framework and plan for policing the G20.

(c) A review of the role played by the Toronto Police Service in the command structure for the policing of the G20, including whether the fact that a number of other police agencies and security agencies were involved with the Toronto Police Service impacted on the Toronto Police Service delivery of police services or created complications in the command structure during the G20.

2. (a) A review of the information given to the Board by the Toronto Police Service and other agencies concerning the framework and plan for policing the G20 and the issues

that were anticipated to arise in connection with the policing of the G20 and whether it was adequate to allow the Board to discharge its responsibilities pursuant to the Act.

(b) A review of any issues or problems faced by Board members with respect to the information that they received, or felt that they ought to have received, having regard to the multi-faceted nature of the responsibilities that Board members had within the City of Toronto governance structure and/or with respect to the community.

(c) A review of the briefings with respect to G20 policing issues that were provided to the Board by the Toronto Police Service and other City of Toronto officials and whether the manner in which the Board received the information was adequate to allow the Board to appropriately consider it.

3. With respect to the following matters, a review of the information that the Board was given, if any, and the role, if any, the Board played in:

- (i) considering and approving the framework and the strategy for the policing of the G20 including the command structure;
- (ii) considering and approving any request of the Ontario government by the Toronto Police Service for additional legal powers to protect an area inside the security fence that resulted in the passing of Ontario Regulation 233/10;
- (iii) erroneously communicating to the public or in failing to correct an erroneous communication to the public by the Toronto Police Service that Regulation 233/10 applied to a five-meter zone outside the security fence;
- (iv) considering and approving directions or instruction that would be given to or by police officers with the Toronto Police Service who were going to be performing policing duties at the G20 with respect to:
  - (a) their obligations under the Charter of Rights and Freedoms and under the Criminal Code,
  - (b) demanding identification from people,
  - (c) their powers to search individuals without a search warrant,
  - (d) their powers to arrest individuals without an arrest warrant, and
  - (e) the use of force on people participating in a demonstration.
- (v) considering and approving the use of a strategy, colloquially known as “kettling”, for detaining and/or arresting people participating in a demonstration;
- (vi) entering into agreements relating to police officers who were not with the Toronto Police Service but who were assisting with the policing of the G20 with respect to whether or not or how they would be held accountable for their conduct while assisting with the policing of the G20;
- (vii) negotiating contracts, setting or approving budgets, making decisions with respect to human resource issues and procurement issues relating to the policing of the G20 and was the role that the Board played appropriate.

- (viii) considering and approving the principles and policies governing the design of and/or the use that would be made of the Prisoner Detention Centre.
4. (a) Was the information given to the Board by the Toronto Police Service and relevant City of Toronto officials sufficient to allow the Board to properly discharge its responsibilities under the Act in relation to the policing services provided to the City of Toronto during the G20.
- (b) Did the Board ask appropriate questions of the Chief and of relevant City of Toronto officials sufficient to allow the Board to properly discharge its responsibilities under the Act in relation to the policing service provided to the City of Toronto during the G20.
5. (a) Did the Board have policies in place prior to the G20 for dealing with crowd control at mass demonstrations and, if so, what were they.
- (b) Did the Board have policies in place prior to the G20 requiring police officers with the Toronto Police Service to wear name badges and/or police badge numbers while on duty and, if so, what were they.
6. (a) Did the Toronto Police Service have procedures in place prior to the G20 for dealing with crowd control at mass demonstrations and, if so, what were they and did the Toronto Police Service monitor compliance with them.
- (b) Did the Toronto Police Service have procedures in place prior to the G20 requiring police officers with the Toronto Police Service to wear name badges and/or police badge numbers while on duty and, if so, what were they and did the Toronto Police Service monitor compliance with them.
7. (a) What role, if any, did the Toronto Police Service play in requesting additional legal powers to protect an area inside the security fence that resulted in the passing of Ontario Regulation 233/10.
- (b) What role, if any, did the Toronto Police Service play in erroneously communicating to the public or in failing to correct an erroneous communication to the public that the additional legal powers contained in Regulation 233/10 applied to a five-meter zone outside the security fence.
8. What policies and principles were used to design the Prisoner Detention Centre on Eastern Avenue with respect to medical care for prisoners, access to lawyers, access to Duty Counsel, housing of prisoners with disabilities, housing of young people, access of young people to their parents, strip searches of prisoners, supply of food and water for prisoners, access to toilet facilities, personal property of prisoners, and releasing prisoners without charge. Were there any difficulties in the implementation of the policies and principles. Was the Prisoner Detention Centre adequate with respect to these policies and principles.

During the G20

9. (a) What were the reasons that the Toronto Police Service gave orders or instructions to disperse demonstrators from the designated demonstration area at Queen's Park on June 26, 2010.

(b) What were the reasons that the Toronto Police Service gave orders or instructions to detain and/or arrest people participating in a demonstration on The Esplanade on June 26, 2010.

(c) What were the reasons that the Toronto Police Service approved of and used a strategy, colloquially known as "kettling", at Queen Street and Spadina Avenue during the evening on Sunday, June 27, 2010 for detaining and/or arresting people participating in a demonstration.

(d) What orders or instructions were given by the Toronto Police Service, and what were the reasons for them being given, in response to the situation that arose when people were destroying Toronto Police Service police cruisers and damaging other property in and around the financial district, and on and around Yonge Street and Queen Street.

(e) What orders or instructions were given by the Toronto Police Service, and what were the reasons for them being given, with respect to the use of tear gas or some similar substance to disperse people outside the Prisoner Detention Centre on the morning of June 27.

(f) What orders or instructions were given by the Toronto Police Service, and what were the reasons for them being given, to police officers with the Toronto Police Service or were given by officers with the Toronto Police Service to police officers who were not with the Toronto Police Service but who were assisting with the policing of the G20 with respect to:

- (i) their obligations under the Charter of Rights and Freedoms and the Criminal Code,
- (ii) demanding identification from people,
- (iii) conducting searches of individuals and their property without a search warrant,
- (iv) arresting people without an arrest warrant, and
- (v) the use of force towards people participating in a demonstration.

10. Did police officers with the Toronto Police Service remove or cover their name badges or police badge numbers during the policing of the G20 contrary to Toronto Police Service and Board policy.

11. Did the nature of the demonstrations and the actions of some people who were demonstrating differ from the previous experience of the Toronto Police Service and

what impact, if any, did it have on the Toronto Police Service management of the policing of the G20.

### Recommendations

12. In addition to reviewing and reporting on policing by the Toronto Police Service during the G20, the Reviewer should make such recommendations as the Reviewer deems fit to assist the Board in discharging its responsibilities pursuant to the Act, including, but not limited to, recommendations:

- i) to assist the Board in formulating policies relating to all aspects of the policing of mass demonstrations, including policies relating to the command and control structure relating thereto;
- ii) to assist the Board in assessing its practices with respect to the manner in which it receives information during Board briefings by the Toronto Police Service and others;
- iii) with respect to the role of the Board in communicating to the public when extraordinary policing measures are being taken as a result of special circumstances; and,
- iv) with respect to whether the Act ought to be amended to clarify the role and responsibilities of the police service boards in Ontario and to clarify the role and responsibilities of police agencies in Ontario with respect to providing information to their respective police service boards, particularly in circumstances where the police agency is interacting with or has interacted with other police and/or security agencies, including the Integrated Security Unit.

Approved at Toronto, Ontario this 23rd day of September, 2010.

\_\_\_"Alok Mukherjee"\_\_\_\_\_  
Dr. Alok Mukherjee,  
Chair, Toronto Police Services Board