

April 22, 2024

Sean Weir
Executive Chair
Ontario Civilian Police Commission
25 Grosvenor St,
Toronto ON
M7A 1R1

Dear Mr. Weir

Re: Thunder Bay Police Services Board

The following is a summary report in respect of my appointment as administrator of the Thunder Bay Police Services Board (the Board) since April 19, 2022.

Introduction and overview

In November 2020, the Thunder Bay Police Service (the Service) began a criminal investigation of the conduct of Georjann Morriseau, who was then the Chair of the Thunder Bay Police Services Board (the Board). At issue was suspected disclosure by Ms. Morriseau of a question asked of her in another investigation. In December 2020, the Ontario Provincial Police (the OPP) took over this investigation. The OPP ultimately concluded that there was no basis to lay criminal charges.

In October 2021, Chief Sylvie Hauth reported to the Board with respect to the initial criminal investigation by the Service and the outcome of the OPP investigation. Ms. Morriseau then went to the media about her concerns and made a complaint to the Human Rights Tribunal of Ontario (HRTO). The Board provided information provided by Chief Hauth to the Ontario Civilian Police Commission (OCPC) for its consideration. The Board had previously requested an OCPC investigation into Chief Hauth, Deputy Chief Hughes and Ms. Walbourne in April 2021.

OCPC began an investigation in January 2022. In June 2022, OCPC served a Notice of Hearing under Part V of the *Police Services Act* in which OCPC alleged misconduct by Chief Hauth in respect of the initial criminal investigation of Ms. Morriseau and her October 2021 reporting to the Board. With respect to the October 2021 reporting to the Board, OCPC's Notice of Particulars served in June 2022 alleged that:

On October 12, 2021, Chief Hauth submitted a Confidential Memorandum regarding the OPP investigation into the allegations against Chair Morriseau to the Board. The report contained a number of false statements which would lead the reasonable reader to conclude that she had no knowledge that DC Hughes had initiated a criminal investigation against Chair Morriseau until December 9, 2020. That memo was distributed to the Board members on October 12, 2021 and it was anticipated they could rely upon it for the truth of its contents.

...

... Chief Hauth submitted another Confidential Memo dated October 18, 2021 providing "additional information" to her October 12, 2021 memo. The October 18 amending memo conceded that DC Hughes first informed her that he would be initiating a criminal investigation against Chair Morriseau on

November 23, 2020, and that he first informed her that he would be applying for a Production Order on November 27, 2020, not December 9, 2020. However, it continued to mislead on the date she was informed of the Rybak interview and that a Production Order was imminent, not a mere possibility.

Chief Hauth was suspended in June 2022 following delivery of the OCPC Notice of Hearing. She resigned from the Service in January 2023 as a result of which the scheduled hearing could not proceed.

In January 2022, Holly Walbourne, legal counsel to the Service, made allegations regarding the conduct of Deputy Chief Hughes. Staff Sergeant Michael Dimini had also made allegations regarding Deputy Chief Hughes' conduct. As a result, the Board suspended Deputy Chief Hughes and asked OCPC to assign another police service to investigate these allegations. The Toronto Police Service was assigned and ultimately found these allegations to be generally unsubstantiated. As a result, Deputy Chief Hughes returned to service in February 2023 after resolution of the two relatively less significant substantiated allegations.

In December 2021, the Ontario Provincial Police (OPP) was asked to consider whether certain allegations against members of the Service should be investigated. After conducting a lengthy investigation, the OPP has now laid criminal charges against Chief Hauth, Holly Walbourne and Michael Dimini.

The charges laid by the OPP against Chief Hauth appear to mirror the allegations made by OCPC in respect of her October 2021 reporting to the Board and also to be in respect of her statements made in the following OCPC investigation. The charges against Holly Walbourne appear to be related to Chief Hauth's October 2021 reporting, the allegations made by Ms. Walbourne in January 2022 regarding the conduct of Deputy Chief Hughes as well as Ms. Walbourne's statements made in the OCPC and the Toronto Police Service investigations.

Notably, the alleged criminal misconduct by Chief Hauth and Ms. Walbourne is not in respect of policing in the community but rather is in respect of their communications with the Board, OCPC and the Toronto Police Service. While many in the community will see this as a continuation of problems in community policing, this does not appear to be correct. This is not to suggest that the allegations are not serious and do not compromise confidence in the Service but rather that the substance of the allegations is about matters within the Service and its oversight rather than about community policing and public safety.

When I was appointed as administrator, the Board had experienced significant difficulties arising out of the investigation of Ms. Morriveau and allegations against Chief Hauth and Deputy Chief Hughes. As of June 2022, both Chief Hauth and Deputy Chief Hughes had been suspended. The Board had been distracted from its important work following the 2018 OIPRD *Broken Trust Report* and Senator Sinclair's OCPC report.

As matters now stand, Darcy Fleury is now the Chief of Police, having been recruited from outside of the Service. Deputy Chief Hughes has been returned to service since February 2023. A new Board is now functioning and is focusing on important work without the serious distractions that impeded the work of the prior Board. Chief Hauth and Ms. Walbourne are no longer with the Service. The outcome of the criminal charges against them remains to be determined.

With new leadership, it is important that the Service and the Board are now better able to focus on the important work of providing fair and effective policing in Thunder Bay that can be trusted by Indigenous people and others in Thunder Bay.

Prior events

The 2018 OIPRD and OCPC investigations

In 2018, investigations were conducted by the Office of Independent Police Review Director (OIPRD) and OCPC into, respectively, the Service and the Board. As a result, the OIPRD and the OCPC each made recommendations in their respective reports. The OCPC appointed an administrator of the Board in late 2018 and most of the existing Board members were replaced.

The investigation of Board Chair Morriseau

In late 2020, the Service began an investigation of the conduct of then Board Chair Georjann Morriseau. Ms. Morriseau had been interviewed by the Service in respect of information provided to her by a member of the Service. In issue was that Ms. Morriseau had disclosed information from that interview. After several weeks, the Ontario Provincial Police (the OPP) was asked to take over the investigation given the conflict in a police service investigating a member of its board. In mid-2021, the OPP completed their investigation and found no reasonable and probable grounds to lay charges. In October 2022, Chief Hauth reported to the Board with respect to the original investigation by the Service and the subsequent OPP investigation. The Board provided information provided by Chief Hauth to OCPC having previously requested an OCPC investigation into Chief Hauth, Deputy Chief Hughes and Ms. Walbourne.

In October 2021, Ms. Morriseau made a complaint to the HRTO arising from the investigation of her conduct by the Service and her dissatisfaction with the Board's response. Ms. Morriseau also went to the media with her concerns. This was of concern to the other members of the Board.

In February 2022, OCPC began an investigation into allegations including that:

- Deputy Chief Hughes had instigated a criminal investigation into the conduct of Ms. Morriseau
- Chief Hauth had failed to take appropriate actions to address the actions of Deputy Chief Hughes and provided misinformation to the Board regarding the investigation of Ms. Morriseau

The suspension of Deputy Chief Ryan Hughes

In January 2022, Deputy Chief Ryan Hughes was suspended by the Board following complaints made to the Board by Staff Sergeant Michael Dimini and by Ms. Walbourne. The Board requested that OCPC assign another police service to conduct an investigation into the allegations made against Deputy Chief Hughes. The Toronto Police Service was ultimately assigned to do so.

The harassment complaint against Staff Sergeant Dimini

In the fall of 2021, a workplace investigation was undertaken into alleged harassment of Staff Sergeant Dimini by members of the Service. Following the workplace investigation, Chief Hauth arranged for the Hamilton Police Service to conduct a *Police Services Act* investigation into the same alleged misconduct.

The OPP investigation

In December 2021, the OPP was requested by the Ministry of the Attorney General to independently assess whether a criminal investigation was warranted concerning certain allegations of criminal misconduct involving members of the Service. In February 2022, the OPP

publicly confirmed that a criminal investigation had been launched¹. However, the details of the investigation were not disclosed.

Also, the OPP has also been separately reinvestigating 13 cases related to the 2018 *Broken Trust* report. The OPP has yet to report on these independent reinvestigations.

My appointment

I was appointed as administrator in April 2022. At that time:

- OCPC was investigating the conduct of Chief Hauth and Deputy Chief Hughes relating to the investigation of Ms. Morriseau and the reporting to the Board.
- Deputy Chief Hughes had been suspended by the Board and OCPC had been requested to assign a police service to investigate the complaints of Staff Sergeant Dimini and Ms. Walbourne against him.
- Ms. Morriseau had brought an HRTO complaint against her fellow Board members, as well as Chief Hauth and Deputy Chief Hughes, and had made public allegations of misconduct against them.
- The Hamilton Police Service was dealing with the allegations made by Staff Sergeant Dimini against other members of the Service.
- The OPP was conducting an investigation into certain unspecified allegations of criminal misconduct involving unknown members of the Service.

There was obvious division within the Board. The Board had not materially addressed the recommendations that had been made by Murray Sinclair after his investigation on behalf of OCPC. This may have been because of the difficult circumstances in which the Board found itself.

More broadly, the Service and the Board were under stress. It was not then known what would come of the various investigations then underway. Public confidence in the Service and the Board was compromised in light of the ongoing investigations and complaints.

The appointment of Chief Fleury and new Board members

Shortly after my appointment, three of the five members of the Board resigned. Mayor Mauro and Ms. Morriseau remained on the Board. City Council appointed Councillor Shelby Ch'ng to fill the vacancy arising on the resignation of Councillor Oliver. The two provincial appointments were vacant. With the municipal election taking place in the fall of 2022, new municipal appointments were likely. In addition, Chief Hauth had announced her retirement effective in the spring of 2023.

In August 2022, I appointed a Governance Committee to assist with the recruitment of a new police chief and the development of policies recommended by Senator Sinclair. In addition to members from the Board, the Governance Committee included David Paul Achneepineskum (CEO of Matawa First Nations), Denise Baxter (Lakehead University Vice-Provost, Indigenous Initiatives) and Cora McGuire-Cyrette (Ontario Native Women's Association).

By January 2023, the Board had four members and one vacancy. The municipal members were Mayor Ken Boshkoff, Councillor Shelby Ch'ng and community member Denise Baxter². Karen Machado was appointed as a provincial member. Ms. Machado is a member of the Red Rock

¹ I do not have access to investigative information and findings from the OPP investigation which could affect some of what is said in this report.

² Donna Bain-Smith replaced Ms. Baxter on the Governance Committee when Ms. Baxter became a member of the Board.

Band and the retired Superintendent of the Thunder Bay Correctional Centre. The other provincial position remained vacant until September 2023.

Following a comprehensive recruitment process involving the new Board members and the Governance Committee, Chief Darcy Fleury was appointed as Chief of Police. Chief Fleury is a Métis man, originally from Manitoba. He was previously a Chief Superintendent of the RCMP in Alberta. Chief Fleury was sworn in May 2023.

In September 2023, the Province of Ontario appointed Wayne Bahlleda as the second provincial appointee. Councillor Kasey Etreni replaced Councillor Shelby Ch'ng on the Board.

The Service has been led by Chief Fleury and Deputy Chief Hughes since May 2023. The Board was reconstituted and the new members of the Board regained control of the Board effective July 1, 2023.

Following the appointment of Chief Fleury, the Governance Committee and the Board began work on the OCPC recommendations made by Murray Sinclair in 2018 and on other recommendations including from an Expert Panel³ appointed by the previous Board and from several inquests. Chief Fleury and other members of the Service have worked constructively with Stephen Leach and his staff to fulfill the OIPRD recommendations made in 2018.

Subsequent events involving the investigations

In June 2022, OCPC completed its investigation of Chief Hauth and Deputy Chief Hughes. As a result, OCPC served a Notice of Hearing against Chief Hauth alleging misconduct under the *Police Services Act*. I then suspended Chief Hauth in late June 2022. As a result, both Chief Hauth and Deputy Chief Hughes were then under suspension.

The hearing into the allegations by the OCPC against Chief Hauth was scheduled for February 2023. Chief Hauth resigned in January 2023 as a result of which the hearing could not proceed. Chief Hauth would have resigned in the spring of 2023 in any event as she had indicated to the Board in early 2022.

The Toronto Police Service investigation into the allegations by Staff Sergeant Dimini and Ms. Walbourne against Deputy Chief Hughes was completed in January 2023. All but two of the allegations were found to be unsubstantiated. The two substantiated allegations related to breaches of confidentiality. In February 2023, Deputy Chief Hughes was returned to service from his suspension.

Following completion of the investigation by the Hamilton Police Service, a Notice of Hearing was served on three officers in respect of the complaints by Staff Sergeant Dimini. These allegations of misconduct under the *Police Services Act* were resolved informally in October 2023.

In December 2023, the OPP laid criminal charges against Staff Sergeant Dimini. The charges were comprised of two counts of assault from 2014 and 2016 respectively and counts of breach of trust and obstruction of justice in respect of certain reports made by Staff Sergeant Dimini in November 2020 following arrests made at an apartment on Frederica Street in Thunder Bay. Staff Sergeant Dimini had previously been suspended by Chief Fleury in October 2023 following instigation of a further *Police Services Act* investigation of Staff Sergeant Dimini's conduct.

The OPP has now laid criminal charges against Chief Hauth and Holly Walbourne as mentioned above.

³ The Expert Panel delivered its final report in April 2023. The expert panel had provided an interim report in September 2022.

Current situation

Chief Fleury has now been with the Service for nearly one year. He has been well received by the Service and by the community. Deputy Chief Hughes has been returned to service for over one year. He is working well with Chief Fleury. A second deputy chief is currently being recruited to permit Chief Fleury to delegate internal administrative work ordinarily undertaken by the chief of police and to better take leadership on Indigenous and other issues in the community.

Ms. Machado is the Board Chair. Ms. Baxter is the Vice-Chair. With both being Indigenous women and Chief Fleury being an Indigenous man, Indigenous perspectives are well-established within the Board and the senior command. Mayor Boshkoff, Counsellor Etreni and Mr. Bahlieda bring other important community perspectives to the Board.

Chief Hauth and Ms. Walbourne are no longer employed by the Service having resigned in January and April 2023 respectively. Both face criminal charges laid by the OPP.

Staff Sergeant Dimini is currently suspended. The outcome of the criminal charges laid by the OPP and the *Police Services Act* investigation commenced by Chief Fleury remain to be seen.

There is much work to be done by the Board and the Service. While my appointment assisted in bringing some stability and progress, it is important and proper that civilian oversight be fully returned to people in Thunder Bay.

Closing observations

All of the current members of the Board and its committees appear to me to be dedicated to serving in the public interest, including the interests of Indigenous peoples. But each person naturally comes to this work with a different perspective. The Indigenous members best understand the effect of history and disadvantage and the pressing need for policing in Thunder Bay to be trusted by, and to fully protect, Indigenous people. The non-Indigenous members are supportive but do not have the same practical insight. Understandably, the non-Indigenous members are particularly concerned about Thunder Bay's reputation and the costs of the Service and the Board. In my opinion, these perspectives are reasonably reconcilable if the Board takes a longer-term view. If all of the people of Thunder Bay can reasonably see that policing in Thunder Bay addresses their need for safety and treats them fairly then Thunder Bay will prosper and be respected for what has been achieved. If not, Thunder Bay will continue to pay financial and reputational costs.

The diversity of perspective on the Board and its committees reflects the diversity of Thunder Bay. But while diversity of perspective is valuable, it can be challenging. If a diverse board is to be successful as it needs to be, the Board must work together sharing perspective and working toward shared goals. Without meaning to be critical and recognizing the then challenges facing the Board, division within the last Board was part of what led to my appointment. I urge the new Board to work collaboratively and to act on consensus to the extent possible so that the diverse needs of the population of Thunder Bay are advanced. If the Board does not do so, there is a very real risk that the new Board may again fracture and fail to achieve what is required for the people and communities served in Thunder Bay.

It is also important to recognize that the Board is a part-time board with limited staff resources. It is crucial that the Board have sufficient resources, in order to make sound decisions, and that the Board and its staff work together as a team. Otherwise, the Board will not be able to satisfy its important mandate.

Recommendations

Fair and effective policing in Thunder Bay is challenged by the role of Thunder Bay as the hub for north-western Ontario and by the fraught history of indigenous and non-indigenous people in north-western Ontario. The 2018 OIPRD and OCPC reports provide important insight into these challenges.

While I do not doubt that all members of the Board are committed to this work, I would emphasize that what matters is to ensure that the Police Service and its civilian oversight are organized and funded so that all of the people in Thunder Bay are well, fairly and efficiently served. While there are no doubt some in the community and in the Service who are not-well intentioned, my impression is that the ongoing challenge is not so much about individual good faith but rather is about ensuring collective trust and organizational effectiveness and fairness for everyone, whether Indigenous or non-Indigenous, whether disadvantaged or advantaged.

The Board already has the benefit, and the burden, of a large number of substantive recommendations. I am concerned about the capacity of the Board to effectively address these many recommendations. As a result and given my mandate, I do not propose to add to the list of substantive recommendations. Rather, I simply offer the attached recommendations with a view to helping to ensure that existing important work gets done and so that appointment of a further administrator is avoided:

Best Regards



Malcolm Mercer

cc: Inspector General of Policing
Thunder Bay Police Services Board
Chief of Police, Thunder Bay Police Service

Recommendations

- For the Board:
 - The Board should review its policy work and determine which of the OCPC recommendations remain to be addressed. The anticipated time-table for, and status of, this work be reported periodically at the Board's monthly meetings.
 - Twice-yearly status reporting should be provided by the Board to OCPC, and its successor the Inspector General, until this work is completed.
 - The Board and the Chief should now schedule annual reviews as to satisfaction of the recommendations of the OIPRD Report. The next annual review should be scheduled before the end of 2024.
 - In the fall of 2024, the Board should consider where its work stands with respect to all of the recommendations of all of the reports and inquests and how to proceed. The volume of recommendations is daunting and strategic decisions will need to be made so that the Board is able to move forward with its substantive responsibilities.
 - The Board should continue to work collaboratively and to act on consensus to the extent possible so that the diverse needs of the population of Thunder Bay are advanced.
 - As the Board is a part-time board with limited staff resources, it is crucial that the Board have sufficient resources, in order to make sound decisions, and that the Board and its staff work together as a team. Otherwise, the Board will not be able to satisfy its important mandate.

- For OCPC and the Inspector General of Policing, I recommend that:
 - the Board should be required to provide twice-yearly reports as to the work done, and the work yet to be done, in respect of the recommendations of the 2018 OCPC Report, the 2018 OIPRD Report, the Seven Youths and the Mamakwa McKay inquests and the Expert Panel. The first report should be received by October 31, 2024 with subsequent reports received each six months after that. If the Board decides not to follow any particular recommendation, as it is entitled to do, the Board should say so in its report and should explain its decision.
 - a representative of the Executive Chair of OCPC or of the Inspector General, as the case may be, should meet quarterly, for at least the next two years, with the Board Chair and Vice-Chair to discuss:
 - whether the members of the Board are working effectively together and with the Chief of Police.
 - the progress of the Board in achieving its objectives and whether and how the Board is generally fulfilling its responsibilities.
 - the staffing model that has been adopted by the Board and whether the Board is satisfied with its staffing model.

- For the City, the Province and the Board:
 - Given the nature of policing in Thunder Bay and the diversity of the population in Thunder Bay, it is crucial that there continues to be substantial Indigenous representation on the Board and on its committees.