

CBC has included clarifications throughout the document on developments since the report was written. See the yellow boxes for further details.

## 1. Business Case General Information

<b>Project Name:</b>	IDA
<b>Project Start Date:</b>	2001/03/24
<b>Project End Date:</b>	2001/06/26
<b>Command:</b>	Professional Standards
<b>Business Case Author:</b>	Inspector Tony Corrie -- Attached Professional Standards 808 7784
<b>Secondary Contact:</b>	Staff Supt. Dave Dicks 808
<b>Original Submission Date:</b>	2001/04/17
<b>Latest Submission Date:</b>	2001/06/06

## 2. Executive Summary

(Below is the original executive summary. Additional material on further developments is added at the conclusion)

The Toronto Police Service presently has 13 officers charged criminally as a result of an internal investigation. They are all formally members of the Central Field Command Drug Squad (CFCDS) and the Repeat Offenders Program Enforcement (ROPE) unit.

The charges surround irregularities in the handling of Confidential Informants (CI) and the monies allegedly paid to the informants.

In preparing these charges for trial investigations continue to reveal concerns about sworn testimony, search warrants and thefts.

Following is a summary of the aggravating side issues linked to these cases:

- In April 1999, another internal investigation was being simultaneously conducted into allegations brought forth from several members of the defence bar. The allegations included theft from accuseds. A lack of co-operation in that investigation made it difficult to proceed with charges.
- The Service is facing a number of civil suits where conduct of the accused officers is in question.
- The Department of Justice has stayed charges in 65 plus cases where the accused officers have material evidence to offer.
- The Crown allowed an appeal in the much-publicised R. V. Morgan case. A preliminary review of that case would indicate there is a strong likelihood that Perjury and Attempt to Obstruct Justice charges will be laid.
- Concerns have been expressed by Service members, the Service legal counsel and Department of Justice regarding the possibility that previously convicted persons, who had been charged by CFCDS, may have been convicted on improper evidence or testimony. It may also be possible that persons may still be in custody.
- A financial audit is not complete but it is likely that the Service may have difficulty in accounting for all informant fees.
- The career of the main accused officer, Staff Sergeant John Schertzer. How did the Service allow this person to be promoted and supervise others when repeated warning signs existed about this officers methods.

- OCCOPS have directed S.I.U. to conduct an investigation into the Mahamoud case where CFCDS members are alleged to have used excessive force and failed to attend to suspect's injuries.
- Det. Cst. Denton, a member of another CFCDS team, was recently arrested when found in possession of marijuana.
- A file is presently under review by the Crown Law Office where Det. Cst. Forrestal may well be charged with Perjury as a result of a Search Warrant information.
- A large public complaint is in the process of being concluded at the PCIB. which has reveal record keeping problems at CFCDS.

It is anticipated that when the events are played out in court, starting with the ROPE Preliminary Hearing scheduled for November 2001, questions in the media will start to be asked of the Service. These questions will include, how did this happen, what did the Service do to prevent it and what has been put in place to prevent it happening again.

It is feared that the inevitable public outcry may lead to a Public Enquiry. Issues that are sure to be addressed will include:

- supervision
- ability of the Service to investigate misconduct(complaints)
- handling of informants
- search warrants
- control of informant funds.
- promotional practices
- organizational structure
- discipline
- 'checks and balances'.

It is possible that the extent of the enquiry will require questions to be asked from the frontline officers to members of the Command and former Chief of Police.

A preliminary review of the situation by the author indicates that members of this Service may well say things that could cause embarrassment to the Service and to other members. While this may be unpleasant it is suggested that it is important that all these facts are brought to the forefront. The Service has to understand what has happened in order to repair the damage and regain any lost public trust that the court hearings may bring.

**CBC Note:**

**In 2002, a judge rules Denton's rights were violated during a search of his vehicle. Charges are dismissed.**

**CBC Note:**

**In June 2001, Forrestal is charged with perjury. The charge was stayed after the Crown says proceeding with the prosecution may compromise an ongoing criminal investigation.**

**Recommendation:** That the Chief of Police immediately order an internal administrative investigation to be conducted in advance of a Public Enquiry. That the investigation has an external component that will provide greater credibility to the results. That the rank of the lead investigator be of the rank of Superintendent or above.

## **Additional Material on Further Developments**

### **Logistics:**

The investigation has been continuing with the assigned staff (a staffing chart is attached). The staff was divided into 3 separate teams to accomplish distinct tasks.

1. Preparation of the R.O.P.E. and CFC cases for court. Includes lengthy disclosure requests. Completion of the R V Morgan investigation.
2. Review cases on all civil suits, the 65 stayed charges and other CFC cases for possibility of improper actions by officers.
3. Administrative Review of how this problem occurred. Includes making recommendations for change.

At present this investigation is being carried out by officers who joined the 2 D/Sgt's from Internal Affairs. The additional staff consists of 1 D/Sgt and 7 Detectives who were assigned from outside TPS units for a 3-month period, which concludes on June 26, 2001. 2 additional D/Sgt.'s from PCIB have been utilized to assist with the Administrative Review.

### **Update:**

#### ROPE/CFC & R V's Morgan

Satisfying lengthy requests from Defence and Crown have absorbed many man-hours. While the case could run today there are still opportunities to discover more information and these are being explored. Tracking down informants to validate payments is also a part of the work of this team. The R.O.P.E. preliminary hearing is set for November.

R V's Morgan has revealed a strong possibility that false testimony and inaccurate information was included in a search warrant. A brief is being prepared. As a spin-off is the informant was a female stripper who at the time of the incident had an affair with a member of CFC. The officer is now a member of Niagara Parks Police. There are suggestions of drug use by officers and this is being explored.

#### Case Review

A review of cases of S/Sgt. Schertzer's team was commenced from 1996 to the present. 1996 was the start of CFC Drugs. Cases were prioritized by the fact that an accused may still be in custody or have the potential to be in custody. There are in excess of 300 cases.

The cases were catalogued and attention was paid to those cases that involved Informants and Search Warrants, as these were the previously discovered indicators of problem areas.

It was noted in this cursory review, many accuseds were purported to have used very similar statements, which officers then used in their 'Grounds to Search'. i.e. "I have half an ounce back at my home".

Only 2 cases were discovered where there was an accused still in custody.

1. R V's Kai-Sum YEUNG

Sentence: 4 yrs. Probable release date: 2002/06/21

2. R V's Ang Ngoc LE

Sentence: 6 yrs. Probable release date: 2002/03/06

In both these cases the same informant was used. A review of the YEUNG case by Legal Services, and in consultation with 720 Bay, indicates there were problems with the conviction. It appears that the C.I. acted as an Agent. This is supported by TPS documentation. None of this information was revealed in court. The accused and informant was also interviewed and corroborate these facts. Further, in testimony the officers denied these facts stating an informant was not used and that their investigation came about as a result of general patrol. In addition to the above information, the accused stated that his wallet an \$2000 was taken from him and never returned.

Legal Services have been in touch with the Department of Justice who have stated that on the evidence provided so far in the YEUNG case there is R & PG to lay charges against the officers with a reasonable prospect of conviction. The charges would likely be Obstruct Justice and Perjury and could involve 3 officers (All 3 are presently charged).

There are additional 16 cases where the same informant was used and indications are that he also acted as an Agent in some of these cases.

The review of cases to date also indicated a trend that on every Search Warrant, Det/Sgt, Schertzer was the seizing officer of all monies. This is significant in viewing the many allegations of theft from prisoners arrested by Schertzer's team. It is felt that successfully conducting investigations into the loss of illegally obtaining money would be most difficult, if not impossible.

There are a further 265 cases from Schertzer's Team that have not been fully reviewed. There are also many cases from the time when Schertzer was at 11 Division that could be problematic.

**CBC Note:**

**On Feb. 13, 2002, the Ontario attorney general's office stays charges, including theft and perjury, against the eight former drug squad officers accused in the fink fund case. The Crown says proceeding with the prosecution may compromise an ongoing criminal investigation.**

In addition to reviewing Shertzer's team, a review was conducted on the other CFC teams. At present there has been no indicators of similar problems existing with other teams.

An interesting fact was discovered that shows that while Schertzer's team was reputed to be an extremely hard working unit, it had an extremely low rate of success in court. Further examination would be required to look discover why and how that compares with other teams.

At a previous meeting with the Department of Justice they committed to send out letters to lawyers on all convictions in cases involving suspect members. To our knowledge this has not been done. Legal Services will meet soon and address this issue. Of interest they said they would only do this with convictions in trial when todate our investigations have revealed problems in 'guilty plea' cases.

#### Administrative Review

After receiving direction on the original Business Case, a 2 D/Sgt. team (from PCIB) has been put together to obtain all the information required for a report. Material has commenced to be gathered and already 6 recommendations have been made.

#### *D/St. Greg Forrestal - Update*

As mentioned in the original summary the Crown was reviewing a brief regarding the conduct of D/Cst. Greg Forrestal. On 2001/06/06 the Crown's office contacted Legal Services and indicates there is evidence to support a charge of Perjury with a 'reasonable prospect of conviction'. This case was originally investigation by D/Sgt. Franks when he was at I.A. A criminal summons has been sworn to and it is anticipated it will be served Tuesday 2001/0612.

Of note this officer is involved in the promotion process of P.C. to Sgt. and was interviewed on Friday 2001/06/08.

**CBC Note:**  
**In June 2001, Const. Gregory Forestall is charged with perjury. The charge is stayed along with others in February 2002 after the Crown says proceeding with the prosecution may compromise an ongoing criminal investigation.**

### 3. Case Review Options

#### Case Review

Aside from the 2 Internal Affairs Investigators and the 2 PCIB D/Sgts, the remainder of the staff is scheduled to return to their units on June 26. Many of these officers have maintained commitments to their units as well as conducting this investigation.

The investigations to date have revealed that there is a potential for many more 'unsafe convictions' in cases handled by Shertzer's Team. There is also the yet proven issue of the many allegations of money disappearing.

Each case takes many hours with tracking down witnesses, interviews, obtaining transcripts, review of informant files and other documents.

It is very clear that the review team has only touched the 'tip of the iceberg' and what has been revealed indicates that there could be many more problems.

The Service has several options:

1. Maintain The Present Staff
2. Assign a Full Time Task Force of TPS Members
3. Request Assistance From Outside Agencies to form A Task Force

The Task Force should include members of the Department of Justice and from 720 Bay.

1. Maintain The Present Staff

Inspector Corrie, D/Sgt. Franks and Det. Anand all have units, offices and staff to supervise while dedicated time to this project. Continuing in this fashion is extremely difficult.

At the present rate with this size of staff it could take many years to conclude this review and as time goes by there is the potential that an accused will have a record that he/she does not deserve or may receive a higher sentence in a new matter.

## 2. Assign A Full Time Task Force of TPS Members

A newly promoted Inspector could be appointed. Separate facilities and equipment would have to be obtained. Present indicators would estimate that a staff of at least 20 would be required.

This would put a severe strain on present low levels of staff and it would require special care in selecting the right officers.

## 3. Outside Agency Task Force

It will be too much to ask one agency to provide this amount of staff. This Service could donate an Inspector and 2 D/Sgts. and the remainder could be a Joint Force commitment. The estimated time will be 12 months.

### Management of the Review

Report to the same assigned individual for the Administrative Review, i.e. Retired Court Judge.

Further details on resources, time can be submitted upon direction.

## 4. Resources

*Staff*  
*Facilities*  
*Equipment*

## **5. Project Impacts**

### Positive Project Impacts

- By assigning a full time team the Service will be seen to be making a commitment to getting to the bottom of all the issues.
- The faster the review is done the less chance there is of committing more damage.
- Taking these steps may avert a Public Enquiry

### Negative Project Impacts

- Loss of staff.
- Costs
- Morale
- More information means more disclosure, bogging down the present trials
- Every problematic case that is revealed has the potential for a law suit
- The publicity surrounding this case will be very damaging to the organisation
- If many more cases are revealed there is the potential for a massive lack of trust in Police Officer testimony and also greater problems in C.I. use and obtaining Search Warrants. A sample audit must take place of other units to attempt to provide some assurance that it was just this one team.